

**** Per Section 3 of Anacortes [Resolution 2082](#) Ratifying Proclamation of Emergency and Providing Temporary Procedures to Respond to the COVID-19 Epidemic, adopted by the Anacortes City Council on March 16, 2020, and [Resolution 3038](#), adopted June 28, 2021, extending the duration of portions of Resolution 2082 through September 30, 2021, City Council meetings may be held partially or entirely virtually.**

- Meetings may be viewed on the [City of Anacortes website](#), on the City of Anacortes [YouTube](#) Channel, or on TV [Channel 10](#).
- The public may also watch, listen to, or participate in the meeting live by visiting <https://us02web.zoom.us/j/89255646791> or by telephoning 1-253-215-8782 and entering Meeting ID 892 5564 6791.
- The public is encouraged to comment via email to cityclerk@cityofanacortes.org or via written comment addressed to City Clerk, P.O. Box 547, Anacortes, WA 98221. Public comments received by the [City Clerk](#) prior to 3:00 p.m. the day of the meeting will become part of the record for the meeting, just as if presented in person.
- Complete guidelines for virtual participation in Anacortes City Council meetings are available [here](#). View the quick video example for connecting to the meeting [here](#).



Anacortes City Council

Municipal Building Council Chambers

**** Attendees in Council Chambers must comply with [Dept. of Health orders](#) in effect on the date of each meeting ****

July 26, 2021
6:00 PM

PRELIMINARY AGENDA

[Packet Materials](#) / [Watch Meeting](#)

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Announcements and Committee Reports**
 - a. COVID-19 Update (Discussion)
 - b. Housing Affordability and Community Services Committee (Discussion)
 - c. Fiber Committee (Discussion)
 - d. Planning Committee (Discussion)
- 4. Public Comment**
- 5. Consent Agenda**
 - a. Minutes of July 19, 2021 (Action)
 - b. Approval of claims in the amount of \$656,199.23 (Action)
 - c. Agreement Approval: Data Sharing Agreement for City of Anacortes #21-161-FIN-001 (Action)
 - d. Agreement Approval: Data Sharing Agreement for Anacortes Economic Development Corporation #21-169-FIN-001 (Action)
 - e. Street Fair Application: Free Movie Night (Action)
- 6. Other Business**
 - a. * Finance Update (Discussion)

Per Resolution 2044, citizens wishing to comment on items not on the agenda may do so under the Public Comment portion of the agenda. Citizens wishing to comment on agenda items indicated with an asterisk (*) may do so as those items are considered by Council during the course of the meeting.

The City of Anacortes is committed to making public meetings available and accessible to all members of the community. For assistance with special needs, please contact the City Clerk at 360-299-1960 in advance of the meeting.

- b. * Ordinance 3093: Amending the 2021 Budget (Discussion)
- c. * Ordinance 3094: Amending the Capital Facilities Plan 2021 - 2026 (Discussion)
- d. Contract Award: School Zone Flashing Beacons #21-175-ENG-001 (Discussion/Action)
- e. Ordinance 3064: Critical Area Ordinance Update (Action)

7. **Adjournment**

Per Resolution 2044, citizens wishing to comment on items not on the agenda may do so under the Public Comment portion of the agenda. Citizens wishing to comment on agenda items indicated with an asterisk () may do so as those items are considered by Council during the course of the meeting.*

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Anacortes City Council Minutes - July 19, 2021

Call to Order

Mayor Laurie Gere called to order the Anacortes City Council meeting of July 19, 2021 at 6:00 p.m. Councilmembers Ryan Walters, Christine Cleland-McGrath, Carolyn Moulton, Bruce McDougall and Matt Miller were present. Councilmembers Jeremy Carter and Anthony Young were absent.

Mr. Carter had been excused in advance at the May 24, 2021 regular City Council meeting.

Ms. Moulton moved, seconded by Mr. McDougall, to excuse the absence of Mr. Young. The motion carried unanimously by voice vote.

Pledge of Allegiance

The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

COVID-19 Update: Mayor Gere shared current case statistics and vaccination progress for Anacortes, Skagit County and Washington State.

Skagit County Law & Justice Council: Mr. Miller advised that the July committee meeting had been rescheduled for August 10, 2021.

Public Works Committee: Ms. Moulton reported from the Committee meeting held earlier in the evening. The topics discussed included grants being pursued for storm water projects and Commercial Avenue improvements, an update to the Water System Plan, staffing in the Public Works Department, the potential acquisition of the South Fidalgo Water System by the City of Anacortes, and the status of design for the CSO project.

Proclamation of Dinosaur Week: Parks and Recreation Director Jonn Lunsford introduced the new Dinosaur Week of activities being coordinated between the Parks, Museum and Library Departments to encourage reading and learning among young people in Anacortes. Mayor Gere read a statement proclaiming the week of July 26, 2021 as the celebration of Dinosaur Week in Anacortes and encouraging citizens to enjoy summer reading and the study of dinosaurs, history, and science.

Public Comment

No one present wished to address the Council on any topic not already on the agenda. Public comment submitted in writing by Ian Munce prior to the meeting was added to the packet materials for the meeting.

Consent Agenda

Mr. Miller moved, seconded by Mr. McDougall, to approve the following Consent Agenda items. The motion carried unanimously by voice vote.

- a. Minutes of July 12, 2021
- b. Approval of claims in the amount of \$658,127.51
 - The following vouchers/checks were approved for payment:
 - EFT numbers: 100621 through 100669, total \$361,462.15
 - Check numbers: 100670 through 100687, total \$16,938.63
 - Wire transfer numbers: 286978 through 287319, total \$279,726.73

OTHER BUSINESS

Resolution 3044: Disposition of Tommy Thompson Train

City Attorney Darcy Swetnam introduced Resolution 3044 declaring the Thomas G. Thompson, Jr. Train and related equipment to be surplus to the needs of the City of Anacortes and directing the return of the Train and equipment to the Thompson family. The resolution had been prepared pursuant to Council direction to staff at the July 12, 2021 regular City Council meeting.

Mr. Walters identified a typo in the second recital. Ms. Swetnam indicated an "and" would be corrected to a "that" before the resolution was routed for signature.

CAROLYN MOULTON moved, seconded by RYAN WALTERS, to approve Resolution 3044 with the one correction noted by Mr. Walters. Vote: Ayes - RYAN WALTERS, CHRISTINE CLELAND-MCGRATH, CAROLYN MOULTON, BRUCE MCDUGALL, MATT MILLER. Nays - None. Result: Passed

Access Anacortes Fiber Internet Update

Administrative Services Director Emily Schuh provided the regular monthly update on Access Anacortes Fiber Internet. Ms. Schuh's slides were added to the packet materials for the meeting. Ms. Schuh responded to councilmember questions about increased staffing in the fiber department and installation methodology in the west end of Anacortes.

Wim Houppermans asked why his home at 3402 K Avenue right in the middle of town did not yet have Access Anacortes Fiber service. Ms. Schuh explained that service installation in that area would be pursued as soon as the EDA grant processing was complete and that installation was expected in 2022.

Ordinance 3064: Critical Area Update Draft 3 Discussion

Planning Director Don Measamer introduced Senior Planner Tess Cooper to present Draft 3 of the 2016 critical areas regulations update with comments on final changes. Mr. Measamer explained that the final ordinance would come back to Council for action on July 26, 2021. Ms. Cooper's slide presentation was added to the packet materials for the meeting. Individual councilmembers expressed their preferences to Ms. Cooper on the final proposed changes.

At councilmember request, Marlene Finley, representing Evergreen Islands, defined "essential public services".

Mr. Measamer asked if any councilmembers had any other aspects of the critical areas regulations update that they wished to discuss. Mr. Miller mentioned page 12 and page 21 regarding ADUs vs. garages. Mr. Walters asked that the chapter be titled "Critical Areas".

Andrea Doll expressed concern about clearly defining trails vs. roads.

Marlene Finley, representing Evergreen Islands, said the CAO needs to first and foremost avoid impacts to existing critical areas. Ms. Finley spoke against allowing stream relocations and emphasized the importance of stream buffers.

Brian Wetcher thanked the staff and elected officials who had worked so hard for the past several years on the critical areas regulations. He noted the extended duration of the process and said something needed to change to allow updating to best available science in a more timely fashion.

Kathleen Flanagan said Section 19.70.045 appeared to give a green light to a trail going through the buffer at Ship Harbor which is a critical area. Ms. Flanagan added that a multi-modal corridor did not seem to her to be in

the same category as public services such as gas, sewer and storm water so it should not be a permitted alteration.

Adjournment

There being no further business, at approximately 7:15 p.m. the Anacortes City Council meeting of July 19, 2021 was adjourned.

The following claims against the City of Anacortes have been preaudited and certified by the Clerk-Treasurer as ready for City Council approval at the July 26, 2021 City Council meeting:
[Download this file in OpenDocument spreadsheet format.](#)

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
287756	1/12/2021	68694	CODE PUBLISHING COMPANY	CODIFICATION SERVICES	\$ 119.41	legal
287757	1/12/2021	68695	CODE PUBLISHING COMPANY	CODIFICATION SERVICES	\$ 119.41	legal
287762	2/4/2021	21-042	COASTAL GEOLOGIC SERVICES, INC	GUEMES CHANNEL TRAIL TALL WALL REPLACEMENT DESIGN	\$ 292.50	pw1
287755	3/31/2021	69226	CODE PUBLISHING COMPANY	CODIFICATION SERVICES	\$ 238.82	legal
287616	5/27/2021	1373	VARIUS INC.	2021 EARTHQUAKE EARLY WARNING EQUIPMENT MONITORING FEES	\$ 10,227.20	dwtp
285830	6/9/2021	ReimbBrunk	BRUNK, ISAAC	REIMBURSEMENT TANK SPRAYER - ISAAC PERSONAL CC	\$ 43.44	dwtp
287716	6/25/2021	9322129221	GRAYBAR ELECTRIC COMPANY, INC	VAULTS FOR FIBER EXPANSION	\$ 92,918.62	fiber
287727	6/27/2021	5006376772	FERRELLGAS, LP	JULY PROPANE INVOICE - AUTOGAS ACCOUNT	\$ 299.88	finance
287602	6/28/2021	1623794	RAIN FOR RENT	PUMP RENTAL INFLUENT BYPASS	\$ 6,032.47	dwwtp
287722	6/29/2021	210629	H2O SOLUTIONS, LLC	2021 DIVE, CLEAN & INSPECT WATER RESERVOIRS	\$ 15,884.80	dwtp
287493	6/30/2021	193689	INFOSEND, INC.	JUNE 2021 PROCESSING	\$ 3,298.83	finance
287490	6/30/2021	3093313276	LEXISNEXIS	LEGAL RESARCH CONTRACT JUNE 2021	\$ 332.93	legal
287746	6/30/2021	IN941400	NOANET	MUNICIPAL FIBER NETWORK COORDINATED SERVICES - JUNE 2021	\$ 4,823.00	fiber
287748	6/30/2021	IN941417	NOANET	TRAVEL EXPENSES - MUNICIPAL FIBER NETWORK COORDINATED SERVICES - JUNE 2021	\$ 948.14	fiber
287759	6/30/2021	5446538673	SIEMENS INDUSTRY, INC	HVAC CONTROL SYSTEMS DESIGO CC MIGRATION	\$ 4,274.63	pw1
287747	7/1/2021	1027	BRICK & BRINE DESIGN LLC	A-TOWN FALL 2021 - 20% DEPOSIT	\$ 1,600.00	executive
287758	7/1/2021	29380	COMMERCIAL ALARM & DETECTION	LIBRARY FIRE ALARM MONITORING AGREEMENT	\$ 97.92	pw1
287617	7/1/2021	AFD 21	ISLAND HOSPITAL	MAY & JUNE AMBULANCE SUPPLIES	\$ 1,664.00	medic
287763	7/1/2021	1657	THE CLEAN TEAM	JANITORIAL SERVICES - JUNE 2021	\$ 3,750.00	pw1
287750	7/1/2021	424831	THE LANGUAGE EXCHANGE INC	INTERPRETER SERVICES ON COURT DAY	\$ 288.75	court
287443	7/1/2021	386000156	US BANK NA - CUSTODY TREAS DIV	INVESTMENT FEES 6/1-6/30/21	\$ 42.00	finance
287741	7/2/2021	53654929	INGRAM LIBRARY SERVICES, LLC	ADULT BOOKS	\$ 644.01	publib
287765	7/2/2021	Pay App 2	SUMMITX CONTRACTORS, INC	2021 WATERLINE REPLACEMENT	\$ 112,009.60	pw1
287699	7/5/2021	2443	NORTHWEST CORROSION	SKAGIT RIVER RAW WATER PIPELINE AND CLEARWELL PROJECT - COATING INSPECTIONS	\$ 2,217.42	pw1
287444	7/7/2021	11360	SKAGIT PUBLISHING LLC	PUBLISH AA-117198	\$ 174.58	finance
287445	7/7/2021	11361	SKAGIT PUBLISHING LLC	PUBLISH AA-117375	\$ 117.74	finance

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
287761	7/7/2021	2601	SOUND LAW CENTER, LLC	HEARING EXAMINER SERVICES	\$ 437.50	plan
287697	7/7/2021	2021APR-1	USA SOFTBALL OF WASHINGTON	USA SOFTBALL TEAM REGISTRATION FEES	\$ 418.00	pkrec
287597	7/8/2021	S010315978.001	CONSOLIDATED SUPPLY CO.	CONCRETE METER BOXES	\$ 3,213.32	wdist
287692	7/8/2021	2	GRAY & OSBORNE INC	ON-CALL STORMWATER ENGINEERING SERVICES CONSULTANT:	\$ 78.55	pw1
287618	7/8/2021	18307186	MCKESSON MEDICAL-SURGICAL	REGULATOR	\$ 35.93	medic
287752	7/9/2021	21-817	EQUINOX RESEARCH AND	CULTURAL RESOURCES STUDY FOR EDA GRANT 5/1/21 - 6/30/21	\$ 3,762.33	fiber
287766	7/9/2021	300	SKAGIT PUBLIC UTILITY	MUTUAL ASSISTANCE ON PROJECTS	\$ 2,333.41	pw1
287600	7/9/2021	11398	SKAGIT PUBLISHING LLC	PUBLISH SVH-119847	\$ 59.18	finance
287717	7/9/2021	13087	TELECOM SURPLUS RESOURCES, INC	TELECOM CABINET FOR FIBER EXPANSION	\$ 16,337.40	fiber
287599	7/9/2021	INV039914	TRAFFIC SAFETY SUPPLY CO. INC	BARRICADES	\$ 584.59	dshop
287451	7/10/2021	166651	LAKESIDE INDUSTRIES, INC.	ROCK SALES / DUMP FEES	\$ 522.50	dshop
287706	7/10/2021	ContractSABA	SEAHAWK ATHLETIC BOOSTER ASSOC	PAYMENT TO GIRLS BASKETBALL TEAM FOR CAMP	\$ 1,526.00	pkrec
287723	7/11/2021	8498 30 017 0464628	COMCAST	WA PARK INTERNET 7/21-8/20/21	\$ 106.16	finance
287619	7/11/2021	18312933	MCKESSON MEDICAL-SURGICAL	PHARMA: FENTANYL	\$ 36.05	medic
287438	7/12/2021	227436	NAPA	NAPA OIL FILTER #7904	\$ 5.34	dshop
287439	7/12/2021	227433	NAPA	OIL FILTER #7902, #7903	\$ 10.60	dshop
287705	7/12/2021	13303	NORTHWEST CLEAN AIR AGENCY	AIR OPERATING PERMIT PROGRAM FEE FY22	\$ 15,256.71	dwwtp
287437	7/12/2021	00102484	OWEN EQUIPMENT COMPANY	DEFLECTOR PLATES #610	\$ 1,067.85	dshop
287440	7/12/2021	300000305007	PUGET SOUND ENERGY INC	SKYLINE ST LIGHTS 6/2 - 6/30/21	\$ 410.87	dshop
287703	7/12/2021	300000290019	PUGET SOUND ENERGY INC	ALL STATIONS: 6/4 - 7/6/21	\$ 1,042.47	medic
287736	7/12/2021	300000290035	PUGET SOUND ENERGY INC	MUSEUM 6/5-7/6/21	\$ 186.55	museum
287739	7/12/2021	300000290027	PUGET SOUND ENERGY INC	WTP RESERVOIR & PUMP STATION 6/5/21-7/6/21	\$ 4,495.10	dwwtp
287740	7/12/2021	300000300008	PUGET SOUND ENERGY INC	PUMP STATIONS 6/5-7/6/21	\$ 3,159.85	dwwtp
287450	7/12/2021	0271361-IN	REISNER DISTRIBUTOR INC	DIESEL EXHAUST FLUID	\$ 327.27	dshop
287707	7/12/2021	ContractSABA	SEAHAWK ATHLETIC BOOSTER ASSOC	PAYMENT TO GIRLS SOCCER TEAM FOR CAMP	\$ 4,162.00	pkrec
287698	7/12/2021	2021-1136	THE WATERSHED COMPANY	PERIODIC REVIEW OF SHORELINE MASTER PROGRAM	\$ 2,977.50	plan
287441	7/13/2021	303276C	BAY CITY SUPPLY	FACILITY SUPPLIES	\$ 304.11	pwfac
287442	7/13/2021	304238A	BAY CITY SUPPLY	FACILITY SUPPLIES	\$ 387.72	pwfac
287743	7/13/2021	53795695	INGRAM LIBRARY SERVICES, LLC	062321A ADULT BOOKS	\$ 793.82	publib
287620	7/13/2021	18320951	MCKESSON MEDICAL-SURGICAL	SAM SPLINTS	\$ 52.98	medic
287436	7/13/2021	MV257555	MOTOR TRUCKS, INC	PUMP ASSEMBLY #609	\$ 905.04	dshop
287452	7/13/2021	227675	NAPA	CLEANING SUPPLIES	\$ 68.20	dshop
287709	7/13/2021	105176419	RICOH USA, INC	S/N C32029555 CITY HALL COPIER 3RD 7/1-7/31/31	\$ 378.35	finance

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
287749	7/13/2021	3rd QTR JUDICIAL	SKAGIT COUNTY DISTRICT COURT	3RD QTR JUDICIAL SERVICES	\$ 19,473.50	court
287715	7/13/2021	331 0584611	UNIFIRST CORPORATION	UNIFORM LAUNDRY - FIBER	\$ 40.76	fiber
287733	7/14/2021	978 800 0000 1	CASCADE NATURAL GAS CORP.	STA 3: 6/12 - 7/12/21	\$ 23.72	medic
287742	7/14/2021	53815258	INGRAM LIBRARY SERVICES, LLC	062221 MULTI REPLACE	\$ 404.04	publib
287732	7/14/2021	18324418	MCKESSON MEDICAL-SURGICAL	BP CUFF	\$ 129.10	medic
287448	7/14/2021	227766	NAPA	OIL FILTERS FOR STOCK	\$ 102.81	dshop
287595	7/14/2021	227890	NAPA	HYD HOSE FITTINGS, SS CLAMP	\$ 25.25	dshop
287596	7/14/2021	227865	NAPA	OIL FILTER	\$ 11.60	dshop
287065	7/14/2021	251437	SIGNATURE FORMS, INC	#10 ENVELOPES IWTH WINDOWS	\$ 390.71	finance
287611	7/14/2021	145	SKAGIT DOMESTIC VIOLENCE &	SKAGIT DV & SA SERVICES; 4/1-6/30/21	\$ 1,370.90	apd
287449	7/14/2021	280487	U.S. MOWER	ISO RING-EX50 #704	\$ 103.90	dshop
287720	7/14/2021	331 0584756	UNIFIRST CORPORATION	WTP LAUNDRY SERVICE	\$ 95.61	dwtp
287446	7/14/2021	JULY 2021	WELCH, REBECCA	TRAINING ICM	\$ 495.00	court
287714	7/15/2021	0001130	CITY OF BURLINGTON	DARK FIBER & RACK FEE	\$ 275.00	fiber
287708	7/15/2021	ContractConnon	CONNON, JULENE	PAYMENT TO INSTRUCTOR SUMMER ART CAMPS	\$ 4,185.00	pkrec
287724	7/15/2021	WAANA135327	FASTENAL COMPANY	BATTERIES, FLASHLIGHTS	\$ 235.38	medic
287738	7/15/2021	BINV0009047	GOBLE SAMPSON ASSOCIATES, INC	DYNAJET HEAD OUTLET TUBE, GASKET	\$ 550.12	dwtp
287532	7/15/2021	85813	MCCULLOUGH HILL LEARY, PS	A AVENUE LANDFILL MATTER NO. 200	\$ 2,508.00	legal
287606	7/15/2021	52764	MT BAKER OVERHEAD DOORS INC	GARAGE DOOR REPAIR OPS #12	\$ 179.52	pwfac
287593	7/15/2021	228029	NAPA	BATTERY #7905	\$ 517.78	dshop
287594	7/15/2021	228028	NAPA	HYD HOSE FITTINGS	\$ 62.88	dshop
287751	7/15/2021	51717	ROBINSON BROTHERS	MUNICIPAL BROADBAND NETWORK - 2021 WESTSIDE BACKBONE EXPANSION	\$ 29,246.31	fiber
287754	7/15/2021	51641	ROBINSON BROTHERS	MUNICIPAL BROADBAND NETWORK - 2021 WESTSIDE BACKBONE EXPANSION	\$ 209,196.60	fiber
287719	7/15/2021	113940	WALTON BEVERAGE COMPANY, INC	WTP BREAKROOM SUPPLIES	\$ 56.50	dwtp
287725	7/15/2021	113936	WALTON BEVERAGE COMPANY, INC	CITY HALL BREAK ROOM SUPPLIES	\$ 105.00	finance
287613	7/16/2021	03343	ANCHOR QEA, LLC	A AVENUE LANDFILL MATTER NO. 200	\$ 12,474.24	legal
287614	7/16/2021	03344	ANCHOR QEA, LLC	WTP CLEANUP & DEMO MATTER NO. 96	\$ 32,171.05	legal
287607	7/16/2021	304653	BAY CITY SUPPLY	FACILITY SUPPLIES	\$ 300.61	pwfac
287609	7/16/2021	304238B	BAY CITY SUPPLY	FACILITY SUPPLIES	\$ 290.04	pwfac
287603	7/16/2021	P209741	CORE & MAIN LP	8 MJXFLG C153 IMP	\$ 660.72	wdist
287604	7/16/2021	P236546	CORE & MAIN LP	FC2W-6 6 CPLG EPXY	\$ 2,183.70	wdist
287693	7/16/2021	228179	NAPA	AIR FILTER	\$ 16.58	dshop
287721	7/16/2021	666087	USA BLUE BOOK	FLUORIDE REAGENT SET	\$ 148.54	dwtp
287734	7/17/2021	8498 30 017 0543538	COMCAST	DEPOT INTERNET 611 R AVENUE - 7/22-8/21/21	\$ 186.16	finance
287696	7/19/2021	144644	COMPULINK MANAGEMENT CENTER, D/B/A LASERFICHE	LASERFICHE RIO 10 PARTICIPANT USER	\$ 3,906.20	finance
287610	7/19/2021	07/19/2021	FIDALGO CLEANING	APD CLEANING & SUPPLIES 7/19-8/1/21	\$ 800.00	apd

Invoice Doc #	Transaction Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
287695	7/19/2021	PC302121770:01	FREIGHTLINER NORTHWEST	5" BAND CLAMP	\$ 26.05	dshop
287726	7/19/2021	1117078	LIFE ASSIST, INC	SHARPS CONTAINERS	\$ 111.30	medic
287728	7/19/2021	1117206	LIFE ASSIST, INC	EXAM GLOVES	\$ 467.84	medic
287691	7/19/2021	85812	MCCULLOUGH HILL LEARY, PS	WTP DEMO MATTER NO. 96	\$ 646.00	legal
287702	7/19/2021	RefundStenson	STENSON, ANNE	CAMPING REFUND ANNE STENSON B15 07/23-07/24	\$ 37.00	parks1
287729	7/20/2021	6591147	CARDINAL HEALTH 110, INC.	PHARMA: ADENOSINE, GLUCANGEN, NAHCO3,	\$ 1,030.90	medic
287730	7/20/2021	6591264	CARDINAL HEALTH 110, INC.	GLUTOSE 15	\$ 38.38	medic
287744	7/20/2021	2014640129	FERRELLGAS, LP	PROPANE 52.5 GALLONS	\$ 81.58	dwtp
287760	7/20/2021	JULY 2021	KORTERUD, WAYNE D	INDIGENT SCREENING JULY	\$ 375.00	court
287700	7/20/2021	RefundMcHie	MCHIE, ARCH	CAMPING REFUND ARCH MCHIE A22 AND A8	\$ 39.00	parks1
287712	7/20/2021	17777203-000204750	WATER ENVIRONMENT FEDERATION	MEMBERSHIP FEE	\$ 120.00	dwwtp
287701	8/1/2021	20210801	CHOWANEC, WILLIAM	STA 3 RENT - AUGUST	\$ 2,400.00	medic

Total **\$656,199.23**



City Council Agenda Bill

Meeting Date: July 26, 2021

Agenda Item: 5.c.

Agenda Item Title: Agreement Approval: Data Sharing Agreement for City of Anacortes #21-161-FIN-001

Staff Contact(s): STEVE HOGLUND

<u>Approved for Submittal to Council by</u>	<u>Action Type</u>
TIFFANY MATSON	Contract Award
STEVE HOGLUND	

Item Summary: New agreement that meets Washington state statutes on data sharing for audit proposes.

Budget Impact:

This is a non cost agreement with the SAO to allow data flow between the City and SAO for audit purposes.

Previous Action: N/A

Recommended Motion: I move that City Council authorize the Mayor to sign the Interagency Data Sharing Agreement #21-161-FIN-001 with the Office of the Washington State Auditor.

Alternative Actions: Not approve the agreement.

Attachments (listed in order presented):

1. 21-161-FIN-001

INTERAGENCY DATA SHARING AGREEMENT

Between

City of Anacortes

And the Office of the Washington State Auditor

This Interagency Data Sharing Agreement (DSA) is entered into by and between Agency City of Anacortes hereinafter referred to as “Agency”, and the Office of the Washington State Auditor, hereinafter referred to as “SAO”, pursuant to the authority granted by Chapter 39.34 RCW and 43.09 RCW.

AGENCY PROVIDING DATA: Agency

Agency Name:	City of Anacortes
Contact Name:	Laurie Gere
Title:	Mayor
Address:	PO Box 547 Anacortes, WA 98221
Phone:	360.293.1906
E-mail:	laurieg@cityofanacortes.org

AGENCY RECEIVING DATA: SAO

Agency Name:	Office of the Washington State Auditor
Contact Name:	Deena Garza
Title:	Audit Manager
Address:	11 Bellwether Way, Suite 211
Phone:	(360) 676-2165
E-mail:	Deena.Garza@sao.wa.gov

1. PURPOSE OF THE DSA

The purpose of the DSA is to provide the requirements and authorization for the Agency to exchange confidential information with SAO. This agreement is entered into between Agency and SAO to ensure compliance with legal requirements and Executive Directives (Executive Order 16-01, RCW 42.56, and OCIO policy 141.10) in the handling of information considered confidential.

2. DEFINITIONS

“Agreement” means this Interagency Data Sharing Agreement, including all documents attached or incorporated by reference.

DSA Agreement between Agency and SAO
Agency DSA: 21-01

“Data Access” refers to rights granted to SAO employees to directly connect to Agency systems, networks and/ or applications combined with required information needed to implement these rights.

“Data Transmission” refers to the methods and technologies to be used to move a copy of the data between systems, networks and/ or employee workstations.

“Data Storage” refers to the place data is in when at rest. Data can be stored on removable or portable media devices such as a USB drive or SAO managed systems or OCIO/ State approved services.

“Data Encryption” refers to enciphering data with a NIST-approved algorithm or cryptographic module using a NIST-approved key length. Encryption must be applied in such a way that it renders data unusable to anyone but the authorized users.

“Personal Information” means information defined in RCW 42.56.590(10).

3. PERIOD OF AGREEMENT

This agreement shall begin on July 1, 2021, or date of execution, whichever is later, and end on June 30, 2024, unless terminated sooner or extended as provided herein.

4. JUSTIFICATION FOR DATA SHARING

SAO is the auditor of all public accounts in Washington State. SAO’s authority is broad and includes both explicit and implicit powers to review records, including confidential records, during the course of an audit or investigation.

5. DESCRIPTION OF DATA TO BE SHARED

The data to be shared includes information and data related to financial activity, operation and compliance with contractual, state and federal programs, security of computer systems, performance and accountability for agency programs as applicable to the audit(s) performed. Specific data requests will be limited to information needed for SAO audits, investigations and related statutory authorities as identified through auditor requests.

6. DATA ACCESS

If desired, with the Agency’s permission, the Agency can provide direct, read-only access into its system. SAO will limit access to the system to employees who need access in support of the audit(s). SAO agrees to notify the agency when access is no longer needed.

7. DATA TRANSMISSION

Transmission of data between Agency and SAO will use a secure method that is commensurate to the sensitivity of the data being transmitted.

8. DATA STORAGE AND HANDLING REQUIREMENTS

Agency will notify SAO if they are providing confidential data. All confidential data provided by Agency will be stored with access limited to the least number of SAO staff needed to complete the purpose of the DSA.

9. INTENDED USE OF DATA

The Office of the Washington State Auditor will utilize this data in support of their audits, investigations, and related statutory responsibilities as described in RCW 43.09.

10. CONSTRAINTS ON USE OF DATA

The Office of the Washington State Auditor agrees to strictly limit use of information obtained under this Agreement to the purpose of carrying out our audits, investigations and related statutory responsibilities as described in RCW 43.09.

11. SECURITY OF DATA

SAO shall take due care and take reasonable precautions to protect Agency's data from unauthorized physical and electronic access. SAO complies with the requirements of the OCIO 141.10 policies and standards for data security and access controls to ensure the confidentiality, and integrity of all data shared.

12. NON-DISCLOSURE OF DATA

SAO staff shall not disclose, in whole or in part, the data provided by Agency to any individual or agency, unless this Agreement specifically authorizes the disclosure. Data may be disclosed only to persons and entities that have the need to use the data to achieve the stated purposes of this Agreement. In the event of a public disclosure request for the Agency's data, SAO will notify the Agency

- a. SAO shall not access or use the data for any commercial or personal purpose.
- b. Any exceptions to these limitations must be approved in writing by Agency.
- c. The SAO shall ensure that all staff with access to the data described in this Agreement are aware of the use and disclosure requirements of this Agreement and will advise new staff of the provisions of this Agreement.

13. OVERSIGHT

The SAO agrees that Agency will have the right, at any time, to monitor, audit, and review activities and methods in implementing this Agreement in order to assure compliance.

14. TERMINATION

Either party may terminate this Agreement with 30 days written notice to the other party's Agreement Administrator named on Page 1. However, once data is accessed by the SAO, this Agreement is binding as to the confidentiality, use of the data, and disposition of all data received as a result of access, unless otherwise amended by the mutual agreement of both parties.

15. DISPUTE RESOLUTION

In the event that a dispute arises under this Agreement, a Dispute Board shall determine resolution in the following manner. Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review facts, contract terms, and applicable statutes and rules and make a determination of the dispute.

16. GOVERNANCE

- a. The provisions of this Interagency Data Sharing Agreement are severable. If any provision of this Agreement is held invalid by any court that invalidity shall not affect the DSA Agreement between Agency and SAO
- Agency DSA: 21-01

other provisions of this Interagency Data Sharing Agreement and the invalid provision shall be considered modified to conform to the existing law.

- b. In the event of a lawsuit involving this Interagency Data Sharing Agreement, venue shall be proper only in Thurston County, Washington.

17. SIGNATURES

The signatures below indicate agreement between the parties.

Agency

Office of the Washington State Auditor

Signature

Date

Signature

Date

Title: Mayor

Title: _____



City Council Agenda Bill

Meeting Date: July 26, 2021

Agenda Item: 5.d.

Agenda Item Title: Agreement Approval: Data Sharing Agreement for Anacortes Economic Development Corporation #21-169-FIN-001

Staff Contact(s): STEVE HOGLUND

<u>Approved for Submittal to Council by</u>	<u>Action Type</u>
TIFFANY MATSON	Contract Award
STEVE HOGLUND	

Item Summary: New agreement that meets Washington state statutes on data sharing for audit proposes.

Budget Impact:

This is a non cost agreement with the SAO to allow data flow between the City's EDC and SAO for audit purposes.

Previous Action: N/A

Recommended Motion: I move that City Council authorize the Mayor to sign the Interagency Data Sharing Agreement #21-169-FIN-001 with the Office of the Washington State Auditor.

Alternative Actions: Not approve the agreement.

Attachments (listed in order presented):

1. 21-169-FIN-001

INTERAGENCY DATA SHARING AGREEMENT

Between

Anacortes Economic Development Corporation

And the Office of the Washington State Auditor

This Interagency Data Sharing Agreement (DSA) is entered into by and between Anacortes Economic Development Corporation hereinafter referred to as “Agency”, and the Office of the Washington State Auditor, hereinafter referred to as “SAO”, pursuant to the authority granted by Chapter 39.34 RCW and 43.09 RCW.

AGENCY PROVIDING DATA: Agency

Agency Name:	<u>Anacortes Economic Development Corporation</u>
Contact Name:	<u>Laurie Gere</u>
Title:	<u>Mayor</u>
Address:	<u>PO Box 547 Anacortes, WA 98221</u>
Phone:	<u>360.293.1906</u>
E-mail:	<u>laurieg@cityofanacortes.org</u>

AGENCY RECEIVING DATA: SAO

Agency Name:	<u>Office of the Washington State Auditor</u>
Contact Name:	<u>Deena Garza</u>
Title:	<u>Audit Manager</u>
Address:	<u>11 Bellwether Way, Suite 211</u>
Phone:	<u>(360) 676-2165</u>
E-mail:	<u>Deena.Garza@sao.wa.gov</u>

1. PURPOSE OF THE DSA

The purpose of the DSA is to provide the requirements and authorization for the Agency to exchange confidential information with SAO. This agreement is entered into between Agency and SAO to ensure compliance with legal requirements and Executive Directives (Executive Order 16-01, RCW 42.56, and OCIO policy 141.10) in the handling of information considered confidential.

2. DEFINITIONS

“Agreement” means this Interagency Data Sharing Agreement, including all documents attached or incorporated by reference.

DSA Agreement between Agency and SAO
Agency DSA: 21-01

“Data Access” refers to rights granted to SAO employees to directly connect to Agency systems, networks and/ or applications combined with required information needed to implement these rights.

“Data Transmission” refers to the methods and technologies to be used to move a copy of the data between systems, networks and/ or employee workstations.

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7. DATA TRANSMISSION

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Agency will notify SAO if they are providing confidential data. All confidential data provided by Agency will be stored with access limited to the least number of SAO staff needed to complete the purpose of the DSA.

9. INTENDED USE OF DATA

The Office of the Washington State Auditor will utilize this data in support of their audits, investigations, and related statutory responsibilities as described in RCW 43.09.

10. CONSTRAINTS ON USE OF DATA

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- a. The provisions of this Interagency Data Sharing Agreement are severable. If any provision of this Agreement is held invalid by any court that invalidity shall not affect the DSA Agreement between Agency and SAO
- Agency DSA: 21-01

other provisions of this Interagency Data Sharing Agreement and the invalid provision shall be considered modified to conform to the existing law.

- b. In the event of a lawsuit involving this Interagency Data Sharing Agreement, venue shall be proper only in Thurston County, Washington.

17. SIGNATURES

The signatures below indicate agreement between the parties.

Agency

Office of the Washington State Auditor

Signature

Date

Signature

Date

Title: Mayor

Title: _____



City Council Agenda Bill

Meeting Date: July 26, 2021

Agenda Item: 5.e.

Agenda Item Title: Street Fair Application: Free Movie Night

Staff Contact(s): DON MEASAMER

Approved for Submittal to Council by **Action Type**

Joann Stewart

Motion

DON MEASAMER

Item Summary: Street Fair Application - Free Movie Night - August 20, 2021, 5408 Kingsway, Anacortes

Budget Impact:

None

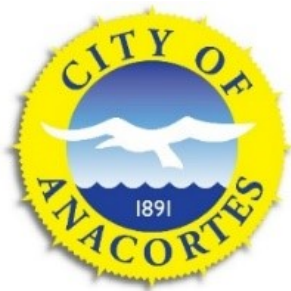
Previous Action: None

Recommended Motion: I move to approve this Street Fair Application as submitted.

Alternative Actions: Deny the application.

Attachments (listed in order presented):

1. Application
2. Street Fair Event Map
3. Street Fair Event Petition
4. Street Fair Indemnification Agreement



Street Fair Application Processing

Administrator reviews the application for completeness. Administrator contacts the applicant to obtain any missing information and updates the application accordingly, including a legible copy of the Indemnification Agreement if that was not provided. It is recommended that the Administrator also verify that the applicant has entered phone and email correctly! Administrator then sets the target City Council date and routes the application for review by department heads.

View Anacortes Municipal Code [Chapter 7.04, Special Events](#)

Application

Application Date *

7/16/2021

Event Name *

Free Movie Night on Kingsway

Mailing Address *

5408 Kingsway

Event Contact Email *

david.schmelke@gmail.com

Event Website**Applicant/Organization Name ***

David Schmelke

Event Contact Person *

David Schmelke

Event Contact Phone *

(206) 745-2046

Estimated Number of Participants/Attendees *

50

Event Description *

A free outdoor family-friendly movie night on Friday August 20. I propose to close the cul-de-sac in front of my house at 5408 Kingsway in the Skyline neighborhood to vehicle traffic so that people can use the area for seating.

It will be a bring-your-own-seat-and-movie-snacks event. It will be completely free and open to the public.

Residents of the neighborhood might gather before the movie (between 8 and 9) to visit and get to know one another.

Proposed movie start time is 9 pm, (after dark). The movie will end by 11:30 and event will be cleaned up and completed by 11:59 pm.

I am considering either "Back to the Future" or "The Princess Bride" as the movie. Only one movie will be shown but will be preceded by music and movie trivia on the big screen. The Movie will be shown on a 10' x 16' inflatable movie screen. A multimedia projector and quality speakers will be used to ensure an enjoyable viewing experience.

Will food vendors participate in this event? *

All Food Vendors must be inspected by the Fire Marshall on site prior to the start of the event.

☐ Yes ☒ No

Date Event Starts *

8/20/2021

Time Event Starts *

9:00:00 PM

Date Event Ends *

8/20/2021

Time Event Ends *

12:00:00 AM

Date Street Closure Starts *

Include requested closures before and after the event hours if required for set up and tear down.

8/20/2021

Time Street Closure Starts *

8:00:00 PM

Date Street Closure Ends *

8/20/2021

Time Street Closure Ends *

12:00:00 AM

Event Location *

List end points of each street that will be closed (e.g. 6th Street from O Ave to Q Ave). Also include location and dimensions of any structures that will be erected and locations of the event that will not be on city street right of way.

The cul-de-sac directly in front of my house at 5408 Kingsway. Event map attached. Red line on map indicated proposed closure location.

Parking Location

List any public parking areas that the event requests to use for dedicated event parking, including handicapped parking.

Most of the participants are expected to be local residents within walking distance. However, there is typically plenty of available parking up and down Kingsway without blocking anyone's driveway or causing any congestion at all.

Event Map (optional)

Upload one or more maps of the event

free movie night neighbor si... 541.17KB

Movie Night Map proposed ... 9.23MB

Indemnification Agreement *

Upload scan of SIGNED indemnification agreement

Indemnification.pdf

318.58KB

Download the Indemnification Agreement here.**Signage**

Street closure signs will be provided by the City of Anacortes. Applicants must contact City staff one week prior to the event to arrange sign delivery. Event sponsor personnel are responsible for placing street closure signs, which may not be posted more that 48 hours prior to the approved closure, must be removed immediately following the event, and must be returned to city staff the first business day following the event.

Insurance

The applicant may be required to provide public liability insurance subject to the provisions of AMC 7.04.100. Applicants will be notified following application approval of insurance requirements for the specific event.

Electronic Signature Agreement

By checking the "I agree" box below, you agree and acknowledge that 1) your application will not be signed in the sense of a traditional paper document, 2) by signing in this alternate manner, you authorize your electronic signature to be valid and binding upon you to the same force and effect as a handwritten signature, and 3) you may still be required to provide a traditional signature at a later date.

I state that I am over the age of 18, that I agree to assume responsibility for the above-described event and to abide by all conditions stipulated by the approval of the application. *

☒ Yes**Signature***DAVID SCHMELKE***Admin Review****Council Meeting Date ***

Target date for presentation to City Council; no later than 30 days prior to event

7/26/2021

Staff Review Deadline *

Staff review/approval required no later than 7 days prior to City Council meeting to allow packet preparation

7/19/2021

Administrator comments and conditions of approval

All looks good!

[Original application 12598 was submitted on 7/6/2021]

Insurance Certificate

Insurance certificate may be required by staff or as a condition of Council approval

Departmental Review

Building Department will provide the following services for this event:**Building Department concerns, objections, or conditions of approval ***

None - Approved by Don Measamer 7/7/21

Fire Department will provide the following services for this event:**Fire Department concerns, objections, or conditions of approval ***

None

Parks Department will provide the following services for this event:**Parks Department concerns, objections, or conditions of approval ***

None - Approved by Jonn Lunsford 7/7/2021

Police Department will provide the following services for this event:**Police Department concerns, objections, or conditions of approval ***

None - Approved by Captain Chris Fuller 7/12/21

Public Works Department will provide the following services for this event:**Public Works Department concerns, objections, or conditions of approval ***

None - Approved by WiL Ludemann 7/12/21

Departmental attachments

Upload any staff memos, guidelines, or requirements that will be in effect for this event.



Free Movie Night on Kingsway (August 20, 2021)

I, a resident near the proposed movie site of August 20, 2021, understand that parking on Kingsway may get congested and noise levels will be much higher than normal between the hours of 8:30 PM and 11:30 PM, and I am Okay with that.

Address	Printed Name	Signature
5408 Kingsway	David Schmelke	David Schmelke
5406 Kingsway	Dana Kane	Dana Kane
5410	WAYNE WATSON	Wayne Watson
5411 Kingsway	Wendy McBay	Wendy McBay
5501 Kingsway	DAVID YOUNG	David Young
5503 Kingsway	Kelly Bruhman	Kelly Bruhman
5506 SUGARLOAF	Alan Hogan	Alan Hogan
5404 Kingsway	Kathy Kleisath	Kathy Kleisath
5401 Kingsway	Lauren James	Lauren James
5314 STERLING DR.	SHELBY D. HAIR	Shelby D. Hair
5311 Kingsway	Nancy Bagley	Nancy Bagley



SPECIAL EVENT INDEMNIFICATION AGREEMENT

The undersigned applicant, by signing below, certifies that the applicant is the authorized officer of the sponsoring organization and agrees as follows:

Pursuant to Anacortes Municipal Code Title 7.04.090, the undersigned applicant agrees to defend, indemnify and hold the City of Anacortes, its agents, employees and officers, harmless from any and all claims, injuries, suits, damages, losses, demands and judgments including the attorneys' fees and other costs of their defense, arising out of in whole or in part, the activities, omissions or appliances of the applicant, his employees, agents, volunteers or otherwise, except any claims arising from the sole negligence of the City. The applicant further agrees to comply with all provisions of pertinent laws, rules and regulations, and agrees that any failure to so comply may lead to revocation of an applicant's permit. This Indemnification Agreement constitutes substantial adequate consideration in return for the City's issuance of a special event permit.

Date: 7/6/2021

DAVID SCHMELKE

Name and Title – Printed

[Signature]

Signature

Name and Title – Printed

Signature



City Council Agenda Bill

Meeting Date: July 26, 2021

Agenda Item: 6.a.

Agenda Item Title: Finance Update

Staff Contact(s): STEVE HOGLUND

<u>Approved for Submittal to Council by</u>	<u>Action Type</u>
STEVE HOGLUND	Presentation

Item Summary: Revenues and expenditures across all funds and departments are meeting expectations.

Budget Impact:
NA

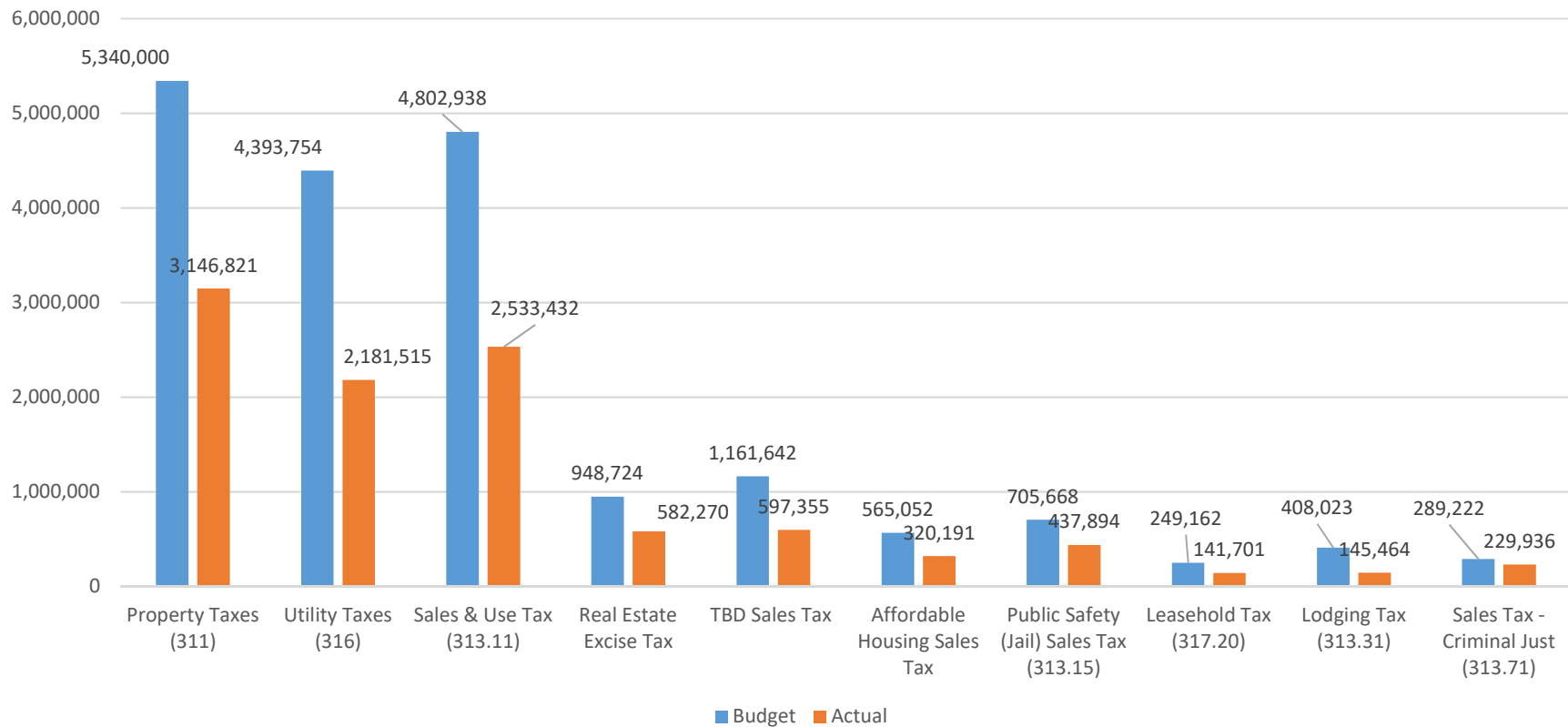
Previous Action: NA

Recommended Motion: NA

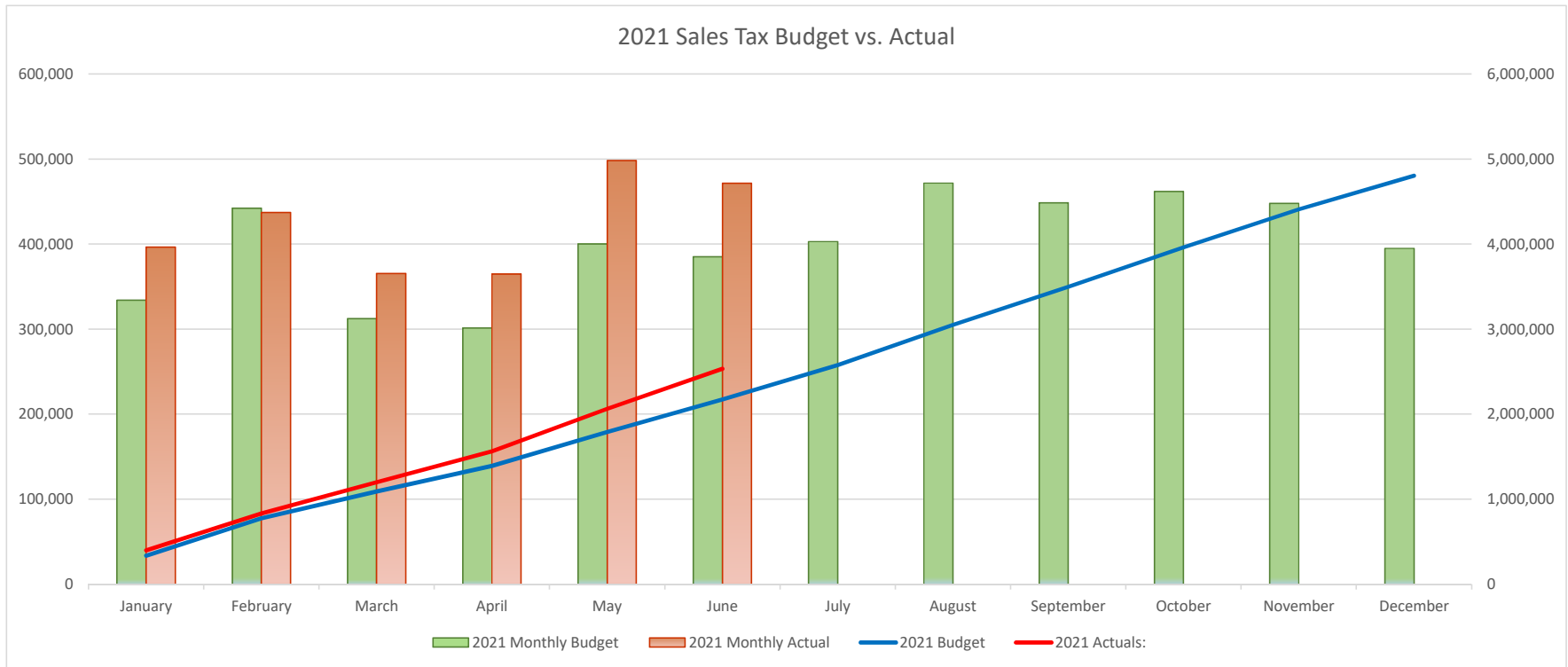
Alternative Actions: NA

Attachments (listed in order presented):
1. Finance Update Charts

2021 Tax Revenue Budget to Actual

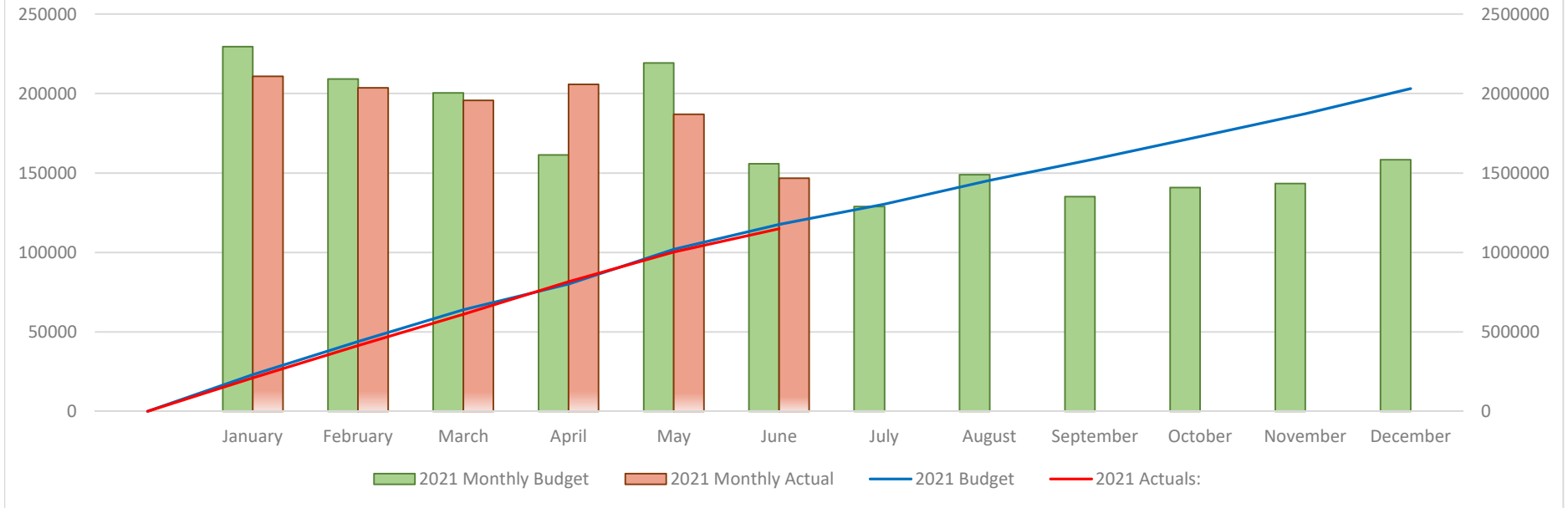


Taxes	Budget	Actual	Jan - May 2021	50.0%
Property Taxes (311)	5,340,000	3,146,821	58.9%	% through the year June 2021
Utility Taxes (316)	4,393,754	2,181,515	49.7%	
Sales & Use Tax (313.11)	4,802,938	2,533,432	52.7%	
Real Estate Excise Tax	948,724	582,270	61.4%	
TBD Sales Tax	1,161,642	597,355	51.4%	
Affordable Housing Sales Tax	565,052	320,191	56.7%	
Public Safety (Jail) Sales Tax (313.15)	705,668	437,894	62.1%	
Leasehold Tax (317.20)	249,162	141,701	56.9%	
Lodging Tax (313.31)	408,023	145,464	35.7%	
Sales Tax - Criminal Just (313.71)	289,222	229,936	79.5%	
Totals Taxes:	18,864,184	10,316,578	54.7%	



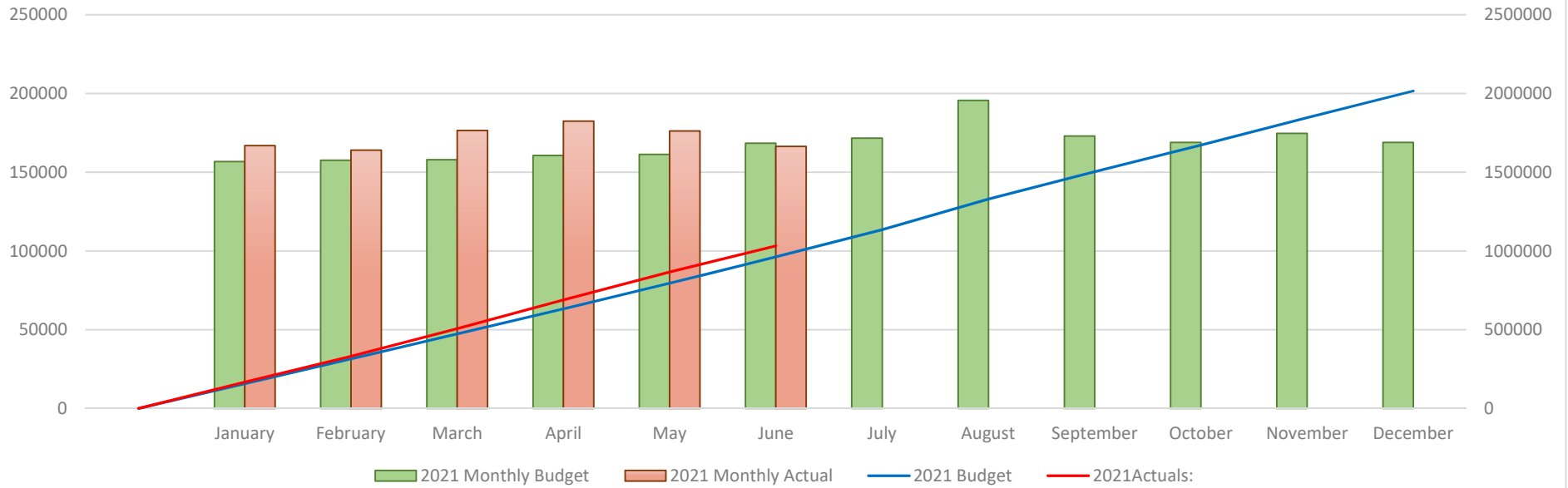
	January	February	March	April	May	June	July	August	September	October	November	December
2021 Budget	333,868	776,148	1,088,493	1,389,754	1,789,956	2,175,185	2,578,121	3,049,854	3,498,491	3,960,273	4,407,999	4,802,938
2021 Actuals:	396,463	833,609	1,199,073	1,563,803	2,061,924	2,533,432						
Year to budget amount:	62,595	57,461	110,580	174,049	271,969	358,247						
Year to budget %:	18.7%	7.4%	10.2%	12.5%	15.2%	16.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
2021 Monthly Budget	333,868	442,280	312,344	301,261	400,202	385,229	402,936	471,732	448,637	461,782	447,725	394,939
2021 Monthly Actual	396,463	437,146	365,464	364,730	498,122	471,508						
Month to budget	18.7%	-1.2%	17.0%	21.1%	24.5%	22.4%						
2021 Total:	396,463	437,146	365,464	364,730	498,122	471,508						
Month % change:	-0.9%	3.3%	5.4%	18.5%	48.5%	71.1%						
2020 monthly	400,099	423,337	346,823	307,729	335,461	275,574	391,368	439,209	447,841	477,759	510,712	431,157
	-3,636											

Private Utility Tax Revenue Budget vs. Actual

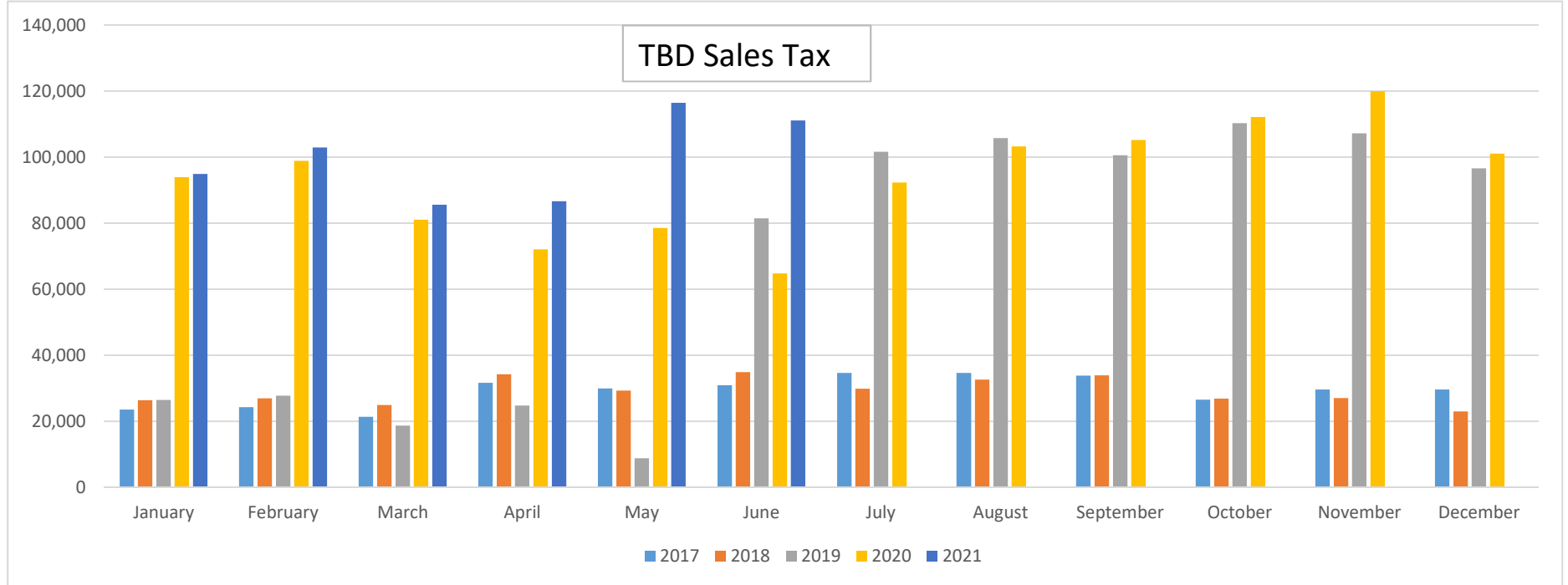


	January	February	March	April	May	June	July	August	September	October	November	December
2021 Budget	229,516	438,626	638,965	800,360	1,019,679	1,175,447	1,304,259	1,453,189	1,588,223	1,729,002	1,872,300	2,030,642
2021 Actuals:	210,833	414,323	609,950	815,740	1,002,602	1,149,264						
2020 Actuals:	202,313	421,491	614,501	816,851	997,160	1,138,713	1,286,849	1,428,736	1,560,575	1,692,649	1,839,054	2,011,485
Year to prior year:	4.2%	-1.7%	-0.7%	-0.1%	0.5%	0.9%	-100.0%	-100.0%	-100.0%	-100.0%	-100.0%	-100.0%
Year to budget:	-8.1%	-5.5%	-4.5%	1.9%	-1.7%	-2.2%	-100.0%	-100.0%	-100.0%	-100.0%	-100.0%	-100.0%
2021 Monthly Budget	229,516	209,110	200,339	161,395	219,319	155,768	128,812	148,930	135,035	140,778	143,299	158,342
2021 Monthly Actual	210,833	203,490	195,627	205,790	186,862	146,662						
Month % change:	4.2%	-7.2%	1.4%	1.7%	3.6%	3.6%						
2020 Total:	202,313	219,178	193,011	202,350	180,309	141,553	148,136	141,887	131,839	132,075	146,404	172,431

Public Utility Tax Revenue Budget vs. Actual



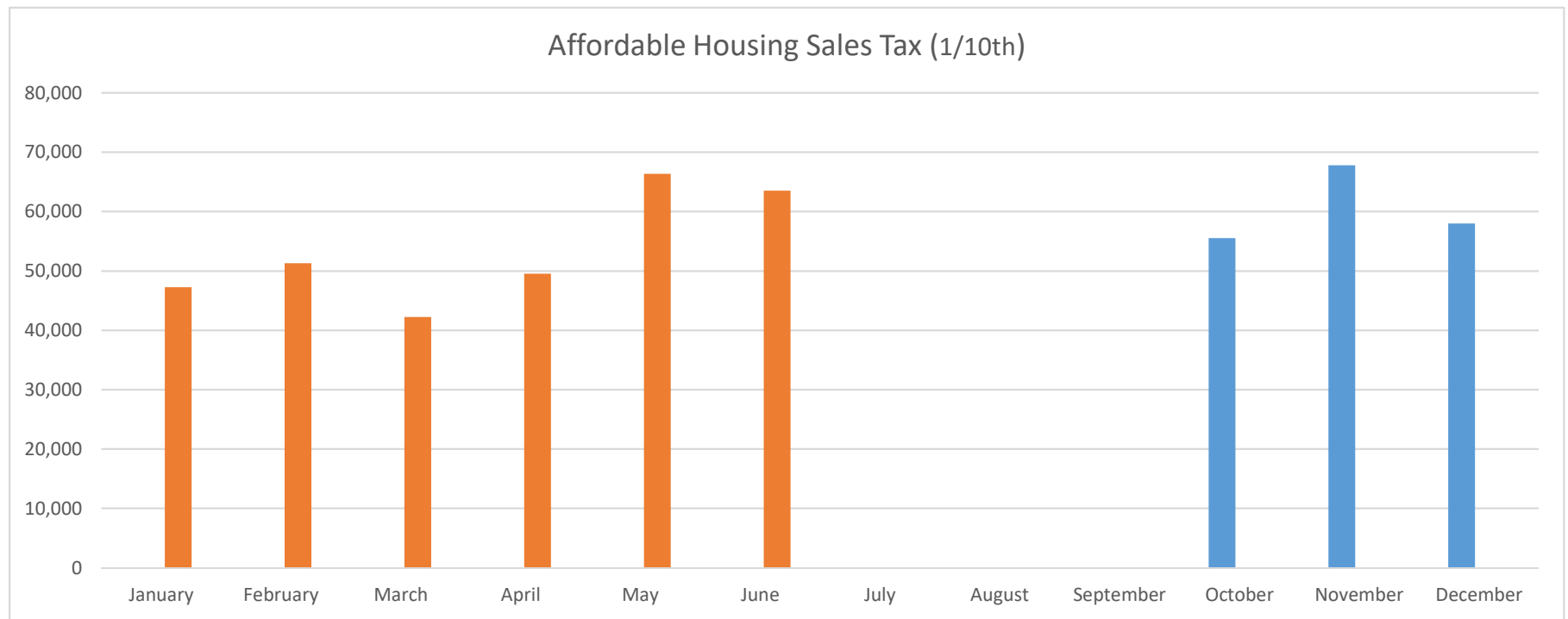
	January	February	March	April	May	June	July	August	September	October	November	December
2021 Budget	156,835	314,491	472,448	633,107	794,426	962,932	1,134,591	1,330,273	1,503,255	1,672,270	1,847,039	2,015,902
2021 Actuals:	166,845	330,799	507,373	689,848	865,933	1,032,251						
2020 Actuals:	166,039	330,234	491,792	656,401	824,265	990,583	1,158,564	1,337,087	1,513,474	1,705,535	1,866,222	2,052,775
Year to prior year:	0.5%	0.2%	3.2%	5.1%	5.1%	4.2%	-100.0%	-100.0%	-100.0%	-100.0%	-100.0%	-100.0%
Year to budget:	6.4%	5.2%	7.4%	9.0%	9.0%	7.2%	-100.0%	-100.0%	-100.0%	-100.0%	-100.0%	-100.0%
2021 Monthly Budget	156,835	157,656	157,957	160,659	161,319	168,506	171,659	195,682	172,981	169,016	174,769	168,863
2021 Monthly Actual	166,845	163,954	176,574	182,475	176,085	166,318						
Month % change:	0.5%	-0.1%	9.3%	10.9%	4.9%	0.0%						
2020 Total:	166,039	164,195	161,558	164,608	167,864	166,318	167,981	178,523	176,387	192,061	160,687	186,553



2020 Budget

1,136,379

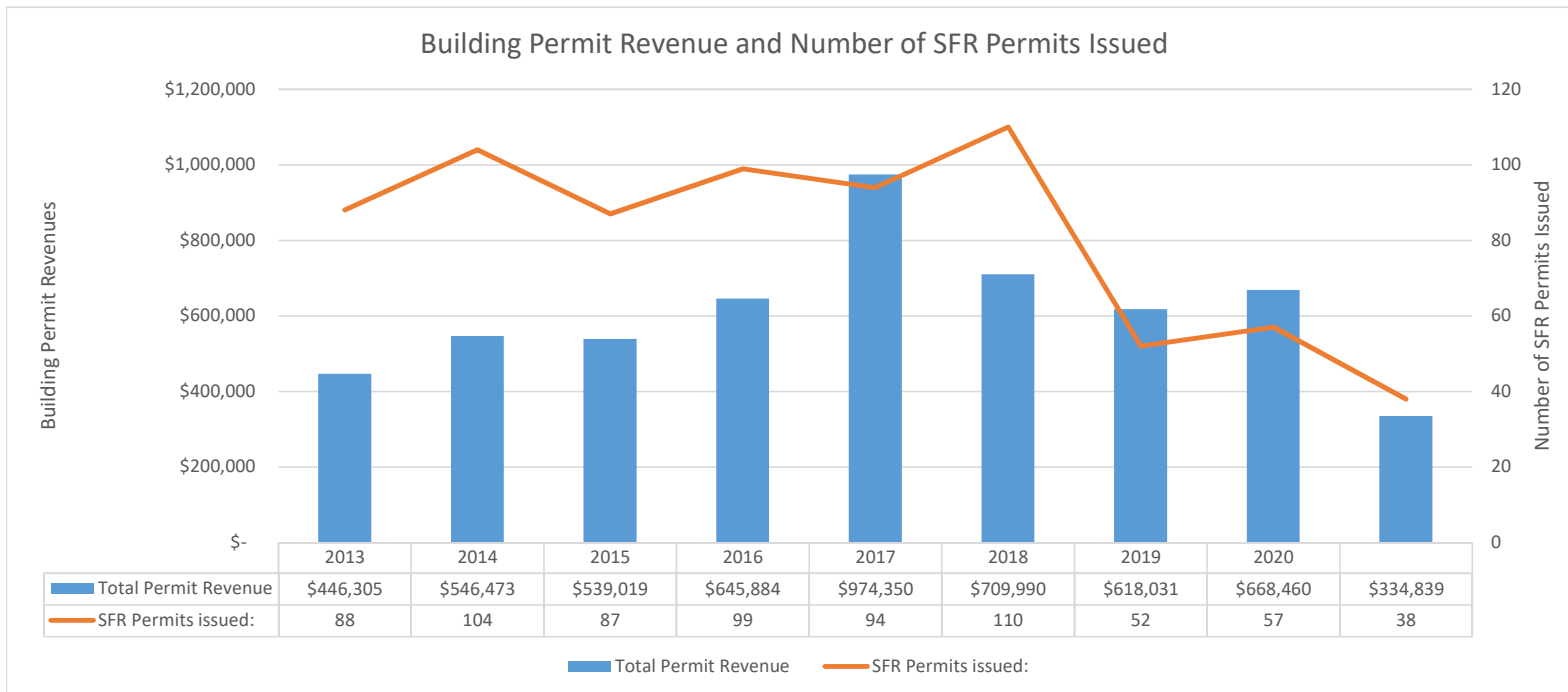
	2017	2018	2019	2020	2021
January	23,582	26,354	26,423	93,886	94,852
February	24,255	26,928	27,779	98,863	102,871
March	21,344	24,948	18,671	81,075	85,550
April	31,640	34,195	24,730	72,018	86,601
May	29,918	29,264	8,811	78,490	116,425
June	30,908	34,888	81,431	64,760	111,056
July	34,670	29,898	101,649	92,272	
August	34,670	32,630	105,751	103,243	
September	33,799	33,945	100,542	105,176	
October	26,532	26,829	110,304	112,158	
November	29,581	27,047	107,157	119,883	
December	29,581	22,968	96,594	101,040	
	350,480	349,894	809,843	1,122,864	597,355



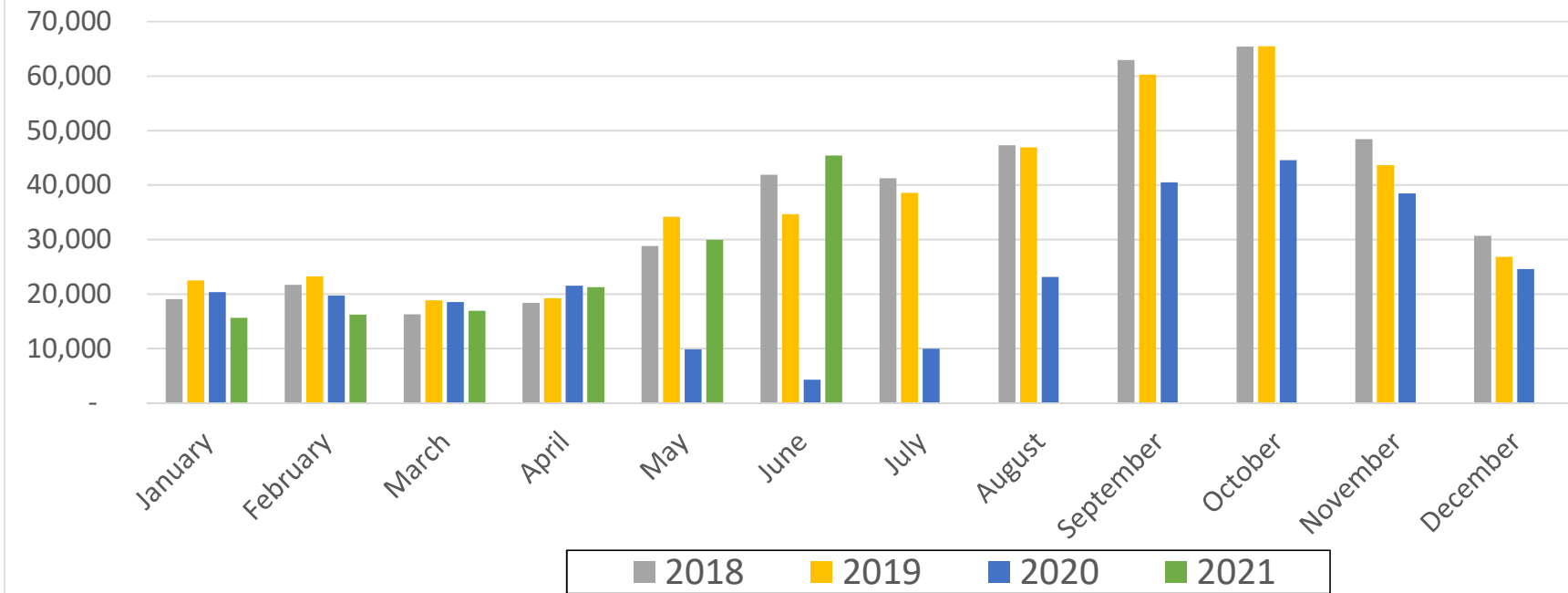
Budget Year	2020	2021		
	Total	State Credit	Sales Tax	
January	47,266			
February	51,308			
March	42,234			
April	49,536	6,359	43,177	
May	66,344	8,542	57,802	
June	63,503	8,165	55,337	
July				
August				
September	35			
October	55,492			
November	67,789			
December	57,964			

BUILDING PERMIT REVENUES

Year	2013	2014	2015	2016	2017	2018	2019	2020	2021
January	28,841	32,823	42,370	40,543	37,646	50,909	49,435	30,146	22,012
February	27,298	35,500	37,608	59,400	22,296	36,824	23,424	58,146	41,759
March	43,193	54,017	46,117	62,836	417,281	97,950	17,289	67,837	63,770
April	29,932	61,243	90,131	66,401	70,171	49,316	102,494	70,047	104,849
May	54,417	26,370	39,880	91,587	76,816	51,462	52,645	42,837	55,790
June	46,064	51,989	62,135	69,296	68,217	80,324	51,172	54,137	46,659
July	31,586	47,646	37,835	49,642	71,066	56,868	57,444	70,663	
August	57,429	48,008	55,805	64,252	60,555	99,921	88,115	31,103	
September	32,946	58,395	19,478	32,719	19,003	77,574	29,884	30,517	
October	39,243	44,476	26,812	38,917	47,880	32,541	52,695	128,550	
November	20,680	34,684	49,130	32,710	38,720	37,865	45,641	41,113	
December	34,675	51,321	31,718	37,582	44,698	38,436	47,794	43,363	
Total Permit Revenue	\$ 446,305	\$ 546,473	\$ 539,019	\$ 645,884	\$ 974,350	\$ 709,990	\$ 618,031	\$ 668,460	\$ 334,839
SFR Permits issued:	88	104	87	99	94	110	52	57	38
Jan-May Revenue:	229,747	261,943	318,241	390,063	692,427	366,785	296,458	323,150	\$ 334,839
									(Jan-June)



Lodging Tax Receipts



	2016	2017	2018	2019	2020	2021	Change 2020 - 2021	
January	17,536	17,886	19,062	22,489	20,342	15,670	(4,672)	-20.8%
February	19,794	23,002	21,713	23,227	19,723	16,233	(3,490)	-15.0%
March	14,723	15,558	16,304	18,886	18,518	16,946	(1,572)	-8.3%
April	18,327	17,694	18,402	19,242	21,562	21,268	(293)	-1.5%
May	23,959	26,059	28,812	34,187	9,880	29,926	20,046	58.6%
June	28,702	33,354	41,909	34,634	4,300	45,421	41,121	118.7%
July	34,718	34,696	41,262	38,593	9,969			
August	42,774	49,671	47,304	46,945	23,170			
September	56,371	60,826	62,948	60,259	40,472			
October	59,795	59,541	65,386	65,474	44,595			
November	44,510	55,567	48,402	43,665	38,478			
December	24,792	37,117	30,722	26,845	24,579			
Total:	386,002	430,970	442,226	434,445	275,588	145,464		
% Change year over year		11.6%	2.6%	-1.8%	-36.6%			

GENERAL FUND
Primary Revenue Streams
January - June 2021

308 FUND BALANCE	BUDGET	% of TOTAL	YTD	50%
Total General Fund cash reserve reliance:	396,391	2.0%	0	
310 TAXES				
Total General fund taxes:	11,283,535	56.5%	6,059,095	53.7%
320 LICENSE & PERMITS				
Franchise Fees	285,939		133,691	46.8%
Business Licenses	64,217		34,140	53.2%
Building Permits	606,387		346,387	57.1%
Other	10,460		13,403	128.1%
TOTAL LICENSES & PERMITS	967,003	4.8%	527,622	54.6%
330 SHARED REVENUES				
Marijuana excise tax	32,968		14,937	45.3%
Liquor/Beer Excise Tax	100,918		32,818	32.5%
Liquor Control Board Profits	140,857		70,455	50.0%
County Public Safety Sales tax rebate	120,639		140,303	116.3%
Grants and other	199,367		124,667	62.5%
TOTAL SHARED REVENUES	594,749	3.0%	383,181	64.4%
340 CHARGES FOR GOODS & SERVICES				
General fund:	825,073	4.1%	494,019	59.9%
350 FINES & FORFEITS				
General fund:	102,476	0.5%	55,138	53.8%
360 MISCELLANEOUS REVENUES				
General fund:	140,411	0.7%	47,876	34.1%
370 CONTRIBUTED CAPITAL				
General fund:	5,440	0.0%	6,179	113.6%
380 OTHER SOURCES				
Overhead Accruals	1,220,774		610,386	50.0%
DIS reimbursements	906,930		453,465	50.0%
Other	361,000		23,311	6.5%
TOTAL OTHER SOURCES	2,488,704	12.5%	1,087,162	43.7%
390 NON REVENUES				
Transfers, Insurance, Dispo of Capital	3,164,336		307,310	9.7%
TOTAL GENERAL FUND REVENUES	19,968,117		8,967,582	45%

CITY OF ANACORTES
GENERAL FUND
Expenditures
January - June 2021

Dept #	Description	% of Total	2021 Adj Budget	2021 Actuals	50% % Exp
				-1,809	
110	Legislative	1.6%	310,476	162,010	52%
120	Executive	1.0%	199,949	103,648	52%
130	Judicial	4.0%	790,847	378,680	48%
210	Finance	3.7%	745,878	354,523	48%
220	Data Processing	6.5%	1,298,665	721,548	56%
230	HR	1.9%	370,136	131,415	36%
240	Planning	8.0%	1,592,181	816,439	51%
250	Legal	2.9%	575,313	237,641	41%
260	Fiber	20.4%	4,082,114	1,685,920	41%
310	Police	31.0%	6,194,150	3,154,451	51%
320	Medic/Fire	12.9%	2,577,370	1,141,197	44%
450	Museum	1.9%	372,066	185,804	50%
712	Engineering	0.3%	61,772	30,976	50%
713	Facilities	3.8%	758,178	550,849	73%
714	Resource Consv.	0.2%	39,019	16,785	43%
	Total Expenses	100%	19,968,117	9,671,884	48%
	Total Revenues			<u>8,967,582</u>	
	Profit / (Loss)			<u>(704,303)</u>	

CITY OF ANACORTES
ALL FUNDS
Revenues/Expenditures
January - June 2021

		2021 Adj Budget	Year to date Actuals	50.0%
001	GENERAL FUND			
	Revenue	19,968,117	9,043,029	45%
	Expenditure	19,968,117	9,670,075	48%
	Difference	0	-627,046	
101	PARK & RECREATION			
	Revenue	2,126,397	1,179,103	55%
	Expenditure	2,126,397	781,046	37%
	Difference	1	398,057	
102	CEMETERY			
	Revenue	229,537	139,253	61%
	Expenditure	229,537	93,881	41%
	Difference	-1	45,371	
103	LIBRARY			
	Revenue	1,493,393	862,605	58%
	Expenditure	1,493,393	712,141	48%
	Difference	0	150,464	
104	STREET MAINTENANCE			
	Revenue	2,976,561	328,084	11%
	Expenditure	2,976,561	1,395,355	47%
	Difference	-1	-1,067,271	
105	STREET CONSTRUCTION			
	Revenue	1,745,404	74,718	4%
	Expenditure	1,745,404	295,115	17%
	Difference	0	-220,397	
106	TBD			
	Revenue	1,130,103	597,355	53%
	Expenditure	1,130,103	0	0%
	Difference	0	597,355	
107	WASHINGTON PARK			
	Revenue	273,439	191,185	70%
	Expenditure	273,439	118,963	44%
	Difference	1	72,223	
108	PARKS CAPITAL			
	Revenue	700,000	259,399	37%
	Expenditure	700,000	462,833	
	Difference	0	-203,434	
109	AFFORDABLE HOUSING			
	Revenue	565,052	341,015	60%
	Expenditure	565,052	259,510	
	Difference	0	81,505	
110	AMBULANCE FUND			
	Revenue	3,995,412	2,193,084	55%
	Expenditure	3,995,412	1,947,151	49%
	Difference	0	245,933	
112	DEVELOPMENT IMPACT FEES			
	Revenue	575,000	177,688	
	Expenditure	575,000	0	
	Difference	0	177,688	

CITY OF ANACORTES

ALL FUNDS

Revenues/Expenditures

January - June 2021

		2021	Year to date		
		Adj Budget	Actuals	50.0%	
113	ACFL MANAGEMENT FUND				
	Revenue	54,899	121,968	222%	
	Expenditure	54,899	30,884	56%	
	Difference	0	91,084		
135	LODGING TAX				
	Revenue	413,988	141,392	34%	
	Expenditure	413,988	91,459	22%	
	Difference	0	49,934		
335	REET				
	Revenue	2,132,500	569,158	27%	
	Expenditure	2,132,500	0	0%	
	Difference	0	569,158		
401	WATER				June = 6/12 = 50%
	Revenue	21,271,696	10,474,704	49%	Chgs budg 11,123,955
	Expenditure	21,271,696	6,174,096	29%	Actuals: 5,517,733
	Difference	0	4,300,608		% collected: 50%
					Cap Budg: 6,406,272
					Actuals: 4,638,911
					% collected: 72%
440	SEWER				
	Revenue	7,613,725	3,702,233	49%	Chgs budg 6,395,153
	Expenditure	7,613,725	4,155,584	55%	Actuals: 3,305,492
	Difference	0	-453,351		% collected: 52%
445	STORM DRAIN				
	Revenue	1,684,740	978,695	58%	Chgs budg 1,741,829
	Expenditure	1,684,740	569,672	34%	Actuals: 873,833
	Difference	0	409,023		% collected: 50%
450	SANITATION				
	Revenue	4,744,561	2,392,569	50%	
	Expenditure	4,744,561	2,267,906	48%	
	Difference	0	124,663		
501	EQUIPMENT RENTAL FUND				
	Revenue	2,636,980	1,028,165	39%	
	Expenditure	2,636,980	1,032,713	39%	
	Difference	0	-4,547		
611	FIREMEN'S PENSION FUND				
	Revenue	44,931	28,862	64%	
	Expenditure	44,931	19,072	42%	
	Difference	0	9,789		

Cash June month end: 2,919,469 1,700,801

2021 PROJECTS								Interfund transfers				Actuals YTD	
Fund	Projects	Total Cost	Grants	Impact Fees	REET I	REET II	TBD 2/10ths	Total Funding	Amount	From fund	To fund	Type	June
	104 Operations and Overlay	1,850,000			300,000	800,000	1,130,103	2,230,103	1,100,000	335	104	REET 1, 2	733,621
								-	1,130,103	106	104	TBD	2,230,103
	105 ADA ramps	100,000				100,000		100,000	100,000	335	105	REET 2	105
	105 Sidewalks	200,000				200,000		200,000	200,000	335	105	REET 2	682,500
	105 Non motorized	15,000				15,000		15,000	15,000	335	105	REET 2	
	105 32nd and M	300,000		300,000				300,000	300,000	112	105	Impact fees	52,050
	105 R avenue improvements	500,000	432,500			67,500		500,000	67,500	335	105	REET 2	139,386
	105 S Commercial Ave Phas	500,000	500,000					500,000	Grant				71,160
													288,158
	Cemetery												108
	108 improvements	175,000		175,000				175,000	175,000	112	108	Impact fees	250,000
	108 Cemetery Road	75,000				75,000		75,000	75,000	335	108	REET 1	130,948
	108 Causeway	350,000	350,000					350,000	Grant				
	Washington Park												
	108 infrastructure	75,000			75,000			75,000	75,000	335	108	REET 1	61,986
	108 Cap Sante Lookout	25,000	25,000					25,000	Donation				
	108 Depot (Rollover)												264,840
													457,774
001.230	Fiber infrastructure												
	City Hall Facilities												
001.713	Projects				400,000			400,000	400,000	335	001	REET 1	001
	Direct Digital Control												
001.713	HVAC software				100,000			100,000	100,000	336	002	REET 1	600,000
001.320	Fire Station 3			100,000				100,000	100,000	112	001	Impact fees	
								-					
Total use in 2021:				575,000	875,000	1,257,500	1,130,103	3,837,603	3,837,603				3,762,603
Balance after uses:					2,044,469	443,301			-				
Estimated Revenues 2021:					474,362	474,362							
Balance at YE 2021:					2,518,831	917,663							



City Council Agenda Bill

Meeting Date: July 26, 2021

Agenda Item: 6.b.

Agenda Item Title: Ordinance 3093: Amending the 2021 Budget

Staff Contact(s): STEVE HOGLUND

Approved for Submittal to Council by **Action Type**

STEVE HOGLUND

Ordinance

DARCY SWETNAM

Item Summary: A new legislative requirement is driving the need for body cameras for Anacortes Police Officers.

Hiring additional staff has exhausted the supply of additional Laserfiche licenses.

School speed zone beacons are frequently failing and there is an opportunity to replace them before the next school year starts.

Elimination of fund 106 would reduce the double budget effect in the City budget by over \$1M annually in both budgeted revenues and expenditures.

The ordinance is presented for first read. Council will be asked to take action at the August 9, 2021 regular City Council meeting, following a public hearing on and simultaneous with adoption of an ordinance amending the Capital Facilities Plan.

Budget Impact:

NA

Previous Action: Ordinance [3078](#), Ordinance [2926](#), Ordinance [2967](#)

Recommended Motion: N/A

Alternative Actions: N/A

Attachments (listed in order presented):

1. Ordinance 2926 establishing TBD
2. Ordinance 2967 assuming the TBD
3. Ordinance 3078 adopting 2021 budget
4. Ordinance 3093
5. Staff Slide Presentation

CITY OF ANACORTES ORDINANCE NO. 2926

AN ORDINANCE OF THE CITY OF ANACORTES ESTABLISHING THE ANACORTES TRANSPORTATION BENEFIT DISTRICT AND SPECIFYING THAT THE BOUNDARIES OF THE DISTRICT WILL COINCIDE WITH CITY BOUNDARIES

WHEREAS, RCW 35.21.225 authorizes the legislative authority of a city to establish a transportation benefit district (“TBD”), for the purpose of acquiring, constructing, improving, providing, and funding transportation improvements within the TBD, subject to the provisions of Chapter 36.73 RCW; and

WHEREAS, transportation improvements are defined in RCW 36.73.015 to include projects contained in the transportation plan of a city, and which also includes investment in new or existing highways of statewide significance, principal arterials of regional significance, high capacity transportation, public transportation, and other transportation projects and programs of regional or statewide significance including transportation demand management (“TBD Projects”); and

WHEREAS, TBD Projects may also include the operation, preservation, and maintenance of the previously mentioned facilities or programs; and

WHEREAS, the City of Anacortes’ (“City”) Capital Facilities Plan (“CFP”), as now existing and as it may exist in the future, constitutes and will constitute a “transportation plan” as contemplated by RCW 36.73.015; and

WHEREAS, the City’s CFP currently includes evidence indicating a need for a coordinated cost efficient approach to street resurfacing improvements and other improvements that may be funded by a TBD (“CFP Projects”); and

WHEREAS, the Capitol Assets & Pavement Services’ report dated October, 2013, describes the need for street resurfacing in the City and sets forth strategies for street resurfacing programs, including funding alternatives; and

WHEREAS, the City Council finds that the CFP Projects are transportation improvements within the meaning of RCW 36.73.015 and therefore also are TBD Projects; and

WHEREAS, on April 21, 2014, and July 7, 2014, the City Council conducted public hearings in accordance with RCW 36.73.050, after giving proper notice describing the TBD Projects and activities to be funded by the TBD; and

WHEREAS, as part of its review of the of the merit of establishing a TBD, the City Council considered various funding options for a number of CFP/TBD Projects and based on that review adopted Resolution No. 1895 establishing a long-term funding plan for certain CFP/TBD Projects, a part of which is the establishment of a TBD; and

WHEREAS, the Council finds that the City can most effectively undertake CFP Projects if it works in conjunction with a TBD; and

WHEREAS, the City Council finds that establishment of a TBD would enable the City, in conjunction with the process for the adoption of its annual updates to the CFP, to consider and adopt mechanisms to fund required City street resurfacing in a coordinated, efficient manner; and

WHEREAS, the City Council finds it to be in the best interests of the City to establish a citywide TBD to fund and implement TBD Projects consistent with Chapter 36.73 RCW and the City's CFP to enable the TBD to contract with the City for management and staffing of the TBD's operations, and for the mutual undertaking and/or funding of CFP/TBD Projects; and

WHEREAS, the City Council wishes establish a governing body for the TBD comprised of the City Council acting in an *ex officio* and independent capacity and to provide for the continuing operations of the TBD;

NOW THEREFORE, THE CITY OF ANACORTES DOES ORDAIN:

Section 1: Findings

The City Council finds it is in the public interest to help provide an adequate level of funding for transportation improvements through establishment of a TBD.

Section 2: Formation of a Transportation Benefit District

The City, pursuant to RCW 35.21.225 and Chapter 36.73 RCW, hereby establishes and creates a TBD to be known and referred to as Anacortes Transportation Benefit District No. 1 ("ATBD No. 1"), subject to the following:

1. Establishment the Anacortes Transportation Benefit District – General Authority. There is hereby created ATBD No. 1 with geographical boundaries comprised of the corporate limits of the City, as those boundaries may be adjusted in the future. ATBD No. 1 shall be a quasi—municipal corporation and an independent taxing "authority" within the meaning of Article VII, section 1 of the Washington State Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the Washington State Constitution. ATBD No. 1 shall constitute a body corporate and possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, to acquire, hold, and dispose of real and personal property, and to sue and be sued. Public works contract limits applicable to the City of Anacortes shall apply to the district.

2. Powers and Operations of ATBD No. 1.

- a.** ATBD No.1 shall possess all of the powers of a transportation benefit district authorized pursuant to Chapter 36.73 RCW, including without limitation, the power to request voter approval of, and thereafter impose and collect, a sales and use tax in accordance with RCW 82.14.0455, a vehicle fee in excess of \$20.00 up to \$100.00 as allowed by RCW 82.80.140. The TBD may impose an *ad valorem* tax pursuant to RCW 36.73.060, issue general obligation and/or revenue bonds in the manner and subject to the restrictions set forth in RCW 36.73.070 and form a local improvement district and impose assessments therefor, take those actions allowed, and subject to the limitations of, RCW 36.73.0810, contract for street and highway improvements, and for its operations, exercise the power of eminent domain in the same manner as authorized for the City and accept and use gifts and grants.
- b.** Consistent with RCW 36.73.020(4), the secretary/treasurer of ATBD No. 1 shall be the City Finance Director. As such, the Finance Director shall establish those funds and accounts on behalf of ATBD No. 1 as required and shall disburse funds and pay claims as approved by the ATBD Board and prepare and maintain such accounts are appropriate and/or required by state or federal law.
- c.** The City Attorney will serve as legal advisor to the ATBD Board, except where separate counsel is engaged by ATBD No. 1.
- d.** Other City employees shall carry out the operations of ATBD No. 1 as agreed by ATBD No. 1 and the City. Such employees and the contracts of ATBD No. 1 shall be overseen and administered by the Mayor and/or her/his designee.
- e.** ATBD No. 1 may contract with the City for operations services and materials, office space and equipment, and to undertake and/or fund CFP/TBD Projects undertaken jointly or by one entity or the other.

3. Governing Board.

- a.** Consistent with RCW 36.73020(3), the governing board of ATBD No. 1 (the "ATBD Board") shall be the members of Anacortes City Council acting in an independent capacity. The ATBD Board shall have the authority to exercise the statutory powers set forth in Chapter 36.73 RCW and other applicable provisions of Washington State law. The ATBD Board shall also include a Chairperson, who shall be the City's Mayor and whom shall have those duties, rights and obligations of a Mayor as set forth in RCW 35A.12.100.

b. To carry out the purposes of this chapter, and subject to the provisions of RCW 36.73.065, the ATBD Board is authorized to impose the following taxes, fees, charges, and tolls:

(i) A sales and use tax in accordance with RCW 82.14.0455;

(ii) A vehicle fee in accordance with RCW 82.80.140;

(iii) A fee or charge in accordance with RCW 36.73.120. However, if the City is levying a fee or charge for a transportation improvement, the fee or charge shall be credited against the amount of the fee or charge imposed by the district. Developments consisting of less than twenty (20) residences would be exempt from the fee or charge under RCW 36.73.120; and

(v) An *ad valorem* property tax as provided in RCW 36.73.060.

c. The ATBD Board may authorize and issue general obligation and/or revenue bonds in the manner and subject to the restrictions set forth in RCW 36.73.070.

d. The ATBD Board may form a local improvement district and impose assessments therefor and take those actions allowed, and subject to the limitations of RCW 36.73.0810.

e. As required by RCW 36.73.160(1), as the same may be amended from time to time, the ATBD Board shall develop a material change policy to address major plan changes that affect ATBD Project delivery or the ability to finance the plan for funding and implementing the ATBD Projects.

f. Meetings of the ATBD Board shall be governed by the procedural rules applicable to meetings of the City Council, as those rules may be amended by the City Council from time to time. ATBD Board actions shall be taken by motion or resolution in the same manner and following the same procedure as for the adoption of City Council resolutions. Meetings of the ATBD Board shall, whenever possible, take place on the same dates scheduled for City Council meetings; *provided*, that the ATBD No. 1 meeting shall take place pursuant to its own agenda during a recess or otherwise outside of any regular business meeting or special meeting of the City Council. The ATBD Board meetings shall comply with the state Open Public Meetings and Public Records Acts and the officials of ATBD No. 1 shall be subject to Chapter 42.23 RCW, Code of Ethics for Municipal Officers – Contract Interests; *provided*, that the fact that ATBD Board members and officials and Council members and City officials are simultaneously employed by both entities shall not be deemed a conflict of interest where ATBD No. 1 and City are parties to contracts and/or agreements.

4. Transportation Improvements Funded. The funds generated by ATBD No. 1 shall be used for the ATBD Projects described in this ordinance and/or allowed by state law. The ATBD Projects may be amended in accordance with the material change policy described in Section 2(c) of this ordinance and in accordance with the notice, hearing and other procedures described in chapter 36.73 RCW, including RCW 36.73.050(2)(b), as the same may be amended from time to time.

5. Annual Report to Public. As required by RCW 36.73.160(2), as the same may be amended from time to time, ATBD No. 1 shall issue an annual report, indicating the status of transportation improvement costs, transportation improvement expenditures, revenues, and construction schedules, to the public and to newspapers of record in ATBD No. 1.

6. Dissolution of ATBD No. 1. ATBD No. 1 shall be dissolved pursuant to the procedures set forth in chapter 36.73 RCW, when all indebtedness, if any, of ATBD No. 1 has been retired and when all of ATBD No. 1's anticipated responsibilities have been satisfied.

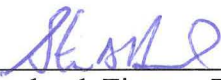
Section 3. Severability; Construction. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with the provisions of the Anacortes Municipal Code, this ordinance is deemed to control. This ordinance shall be liberally construed to permit the accomplishment of ATBD No. 1's purposes and objectives.

Section 4. This ordinance will be codified as AMC Chapter 3.70.

APPROVED by me this 21st day of July, 2014

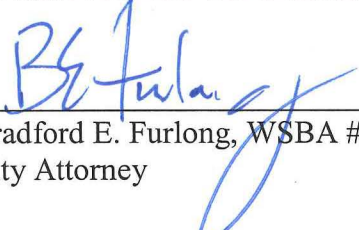


Laurie Gere, Mayor

ATTEST: 

Hoglund, Finance Director

APPROVED AS TO FORM:



Bradford E. Furlong, WSBA #12924
City Attorney

ORDINANCE NO. 2926
ANACORTES TRANSPORTATION BENEFIT DISTRICT

Page 5 of 5

ORDINANCE NO. 2967

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
ANACORTES, WASHINGTON, ASSUMING THE RIGHTS, POWERS,
FUNCTIONS, AND OBLIGATIONS OF THE ANACORTES
TRANSPORTATION BENEFIT DISTRICT NUMBER 1; AND
PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

WHEREAS, the City Council of the City of Anacortes passed Ordinance 2926 on July 21, 2014, which established the Anacortes Transportation Benefit District Number 1 and specified that the District's boundaries coincide with City boundaries; and

WHEREAS, the 2015 Washington Legislature adopted Second Engrossed Substitute Senate Bill ("2ESSB") 5987, the majority of which became effective July 15, 2015; and

WHEREAS, Section 301 of 2ESSB 5987 authorizes any city in which a transportation benefit district ("TBD") has been established pursuant to Chapter 36.73 RCW with boundaries that coincide with the boundaries of the city to assume the rights, powers, functions, and obligations of the TBD by adoption of an ordinance or resolution of the city legislative authority; and

WHEREAS, Section 302 of 2ESSB 5987 requires any city wishing to assume the rights, powers, functions, and obligations of the TBD to set a public hearing by ordinance or resolution at which all interested parties may appear and be heard and at which the city considers the proposed assumption of rights, powers, functions, and obligations of the TBD; and

WHEREAS, on December 7, 2015, the Anacortes City Council adopted Resolution number 1937, which declared the City Council's intention to consider the assumption of the rights, powers, functions, and obligations of the Anacortes TBD, and set a public hearing for January 4, 2016; and

WHEREAS, pursuant to section 3.70.070 AMC, all indebtedness of the Anacortes Transportation Benefit District Number 1 has been retired and all of responsibilities of the Anacortes Transportation Benefit District Number 1 have been satisfied; and

WHEREAS, on January 4, 2016, the City Council held a public hearing at which all interested parties were invited to appear and be heard; and

WHEREAS, following the conclusion of the public hearing, the City Council determined that the public interest and welfare would be satisfied by the City's assumption of the rights, powers, functions, and Obligations of the TBD, because such assumption would provide for more efficient administration of transportation maintenance and improvement funds previously authorized to be collected and expended by the TBD;

NOW THEREFORE, BE IT HEREBY ORDAINED, by the City Council of the City of Anacortes, Washington, as follows:

Section 1. Assumption of the Anacortes Transportation Benefit District Number 1.

Pursuant to Section 303, subsection (1) of 2ESSB 5987, the City of Anacortes does hereby assume all the rights, powers, immunities, functions, and obligations of the Anacortes Transportation Benefit District Number 1, and the City of Anacortes is hereby vested with each and every right, power, immunity, function and obligation currently granted to or possessed by the Anacortes Transportation Benefit District Number 1 as of the effective date of this Ordinance. The rights, powers, functions, and obligations previously exercised and/or performed by the governing body of the Anacortes Transportation Benefit District Number 1 are hereby assumed by and transferred to the City of Anacortes City Council.

Section 2. New Section 3.70.025 AMC Adopted.

Section 3.70.025. Assumption of ATBD No. 1.

From and after the effective date of this Ordinance, the City of Anacortes assumes all the rights, powers, immunities, functions, and obligations of the Anacortes Transportation Benefit District Number 1 previously established in this Chapter, and the City of Anacortes is hereby vested with each and every right, power, immunity, function, and obligation granted to or possessed by the Anacortes Transportation Benefit District Number 1 under Chapter 36.73 RCW, this Chapter, and/or any other applicable law as of the effective date of this Ordinance. The rights, powers, functions and obligations previously exercised and/or performed by the governing body of the Anacortes Transportation Benefit District pursuant to Section 3.70.030 of this Chapter are hereby assumed by and transferred to the City of Anacortes City Council.

Section 3. Section 3.70.030 AMC Amended.

Section 3.70.030 of the Anacortes Municipal Code is hereby abolished, and Section 3.70.030 of the Anacortes Municipal Code is hereby adopted to read as follows:

3.70.030 Powers and operations.

- A. The city council shall possess all of the powers of a transportation benefit district authorized pursuant to Chapter 36.73 RCW, including without limitation, the power to request voter approval of, and thereafter impose and collect, a sales and use tax in

accordance with RCW 82.14.0455, and a vehicle fee in excess of twenty dollars up to one hundred dollars as allowed by RCW 82.80.140. The city may impose an ad valorem tax pursuant to RCW 36.73.060, issue general obligation and/or revenue bonds in the manner and subject to the restrictions set forth in RCW 36.73.070 and form a local improvement district and impose assessments therefor, take those actions allowed, and subject to the limitations of, RCW 36.73.0810, contract for street and highway improvements, and for its operations, exercise the power of eminent domain in the same manner as authorized for the city and accept and use gifts and grants.

- B. Consistent with RCW 36.73.020(4), the secretary/treasurer shall be the city finance director. As such, the finance director shall establish those funds and accounts on behalf of the city council as required and shall disburse funds and pay claims as approved by the city council and prepare and maintain such accounts as are appropriate and/or required by state or federal law.
- C. The city attorney will serve as legal advisor to city council, except where separate counsel is engaged.
- D. Other city employees shall carry out the operations of city council in exercising the rights, powers, functions, and obligations authorized in this Chapter as agreed by city council and the city. Such employees and the contracts of city council hereunder shall be overseen and administered by the mayor and/or her/his designee.

Section 4. Section 3.70.040 AMC Amended.

Pursuant to Section 303, subsection (2) of 2ESSB 5987, the governing body of the Anacortes Transportation Benefit District Number 1 established in Section 3.70.040 of the Anacortes Municipal Code is hereby abolished, and Section 3.70.040 of the Anacortes Municipal Code is hereby adopted to read as follows:

3.70.040 Governing Board.

- A. The Anacortes city council shall have the authority to exercise the statutory powers set forth in Chapter 36.73 RCW and this Chapter.
- B. To carry out the purposes of this Chapter, and subject to the provisions of RCW 36.73.065, the city is authorized to impose the following taxes, fees, charges, and tolls:
 - 1. A sales and use tax in accordance with RCW 82.14.0455;
 - 2. A vehicle fee in accordance with RCW 82.80.140;
 - 3. A fee or charge in accordance with RCW 36.73.120. Developments consisting of less than twenty residences would be exempt from the fee or charge under RCW 36.73.120; and
 - 4. An ad valorem property tax as provided in RCW 36.73.060.

ORDINANCE NO. 3078

AN ORDINANCE ADOPTING THE BUDGET FOR ALL MUNICIPAL PURPOSES
AND USES FOR THE YEAR 2021

Section 1. The 2021 Budget for the City of Anacortes, Washington as established by the City Council and made available for distribution to the general public through the office of the City Clerk-Treasurer, is hereby adopted by reference.

Section 2. The total estimated revenues and appropriations for each budgeted fund and the aggregate total for all such funds combined is itemized below. Estimated revenues and expenditures include overhead accruals to the General fund from the utility funds as authorized by state law. As the City of Anacortes utilizes the Mayor in a fulltime capacity overseeing all funds including the utility funds, such accruals provide for inclusion of the Mayor's office to recover associated costs. All revenues and expenditures for all budgeted funds are summarized and set forth as follows:

Fund		2021 Revenues / Expenditures
001	General Fund	19,571,726
101	Parks and Recreation	2,027,757
102	Cemetery	229,537
103	Library	1,493,393
104	Road Maintenance	2,963,901
105	Road Construction	1,732,444
106	Anacortes TBD #1	1,130,103
107	Washington Park	273,439
108	Parks Construction	700,000
109	Affordable Housing	565,052
110	Ambulance Service	3,926,301
112	Impact Fees	575,000
113	ACFL Management	54,899
135	Lodging Tax	413,988
335	Real Estate Excise Tax	2,132,500
401	Water	20,975,693
440	Sewer	7,566,472
445	Storm	1,659,421
450	Solid Waste	4,744,561
501	Equipment Rental	2,636,980
611	Firemen's Pension	44,931
	Total	75,418,398

Section 3. The City Clerk-Treasurer of the City of Anacortes is hereby authorized to transmit a complete copy of the final budget, as herein above adopted by reference, to the

Division of Municipal Corporations in the Office of the State Auditor, to the Association of Washington Cities, and to the Municipal Research & Services Center of Washington.

Section 4. A hiring freeze remains in effect until December 31, 2021, prohibiting any new hire (including new positions or filling vacant positions) that is funded in any part from any City governmental fund without approval by City Council resolution. The Police and Fire Departments, and the position of HR Director, are not subject to this hiring freeze.

Section 5. No general revenue (e.g., funds derived from sales tax, property tax, utility tax) may be expended as match for the Department of Commerce Electrification of Transportation Systems Program grant.

Section 6. The City Council Finance Committee is directed to investigate and evaluate options for an interactive data platform with the objective of improving transparency, accountability, and governance by providing the City Council and the public with useful self service access to the City budget, the City's financial performance, City employee salaries, and a running list of all transactions. The Council Finance Committee must report its findings and recommendation to the City Council by April 30, 2021.

Section 7. The City Council Housing Affordability & Community Services Committee is directed to work with existing community services providers, city departments, and the public to identify the social services needs of city residents in financial, emotional, or mental health crisis and develop a plan to strengthen and ensure those services or resources are provided by city or third-party providers. The plan must be data-driven and must identify appropriate and sustainable funding sources. The HACS Committee must report its findings and recommendation to the City Council and community by June 30, 2021.

Effective date. This Ordinance shall take effect from and after five (5) days after its passage and publication, as required by law.

PASSED AND APPROVED this 21st day of December, 2020

CITY OF ANACORTES, WASHINGTON

By: Laurie Gere
Laurie Gere, Mayor

ATTEST

Steven D. Hoglund
Steven D. Hoglund, City Clerk

APPROVED AS TO FORM

Darcy Swetnam

Darcy J. Swetnam, WSBA # 40530
City Attorney

ORDINANCE 3093

AN ORDINANCE AMENDING ORDINANCE NO. 3078 ADOPTED ON DECEMBER 21, 2020, ENTITLED "AN ORDINANCE ADOPTING THE BUDGET FOR ALL MUNICIPAL PURPOSES AND USES FOR THE YEAR 2021"

WHEREAS, Ordinance 3078 was adopted on December 21, 2020 that established the annual budget for fiscal year 2021, and

WHEREAS, The state legislature enacted HB 1223 which requires electronic recording of Police Officers interaction with certain citizens effective January 1, 2022 thereby necessitating the purchase of 28 body cameras, and

WHEREAS, Various school zone speed limit beacons in the City of Anacortes have become antiquated and are failing and therefore require replacement and the grant the City applied for was not awarded and now school is starting in less than two months and the Public Works department is desirous of replacing these failing beacons before then, and

WHEREAS, When the City's Transportation Benefit District was established by Ordinance 2926 state law directed that the ensuing TBD was a separate legal entity known as a blended component unit which is why a separate accounting fund (Fund 106) was established, so that TBD revenue stream was clearly identifiable to the public and the State Auditors, but that requirement changed in 2015 when the State Legislature adopted 2ESSB 5987 which allowed the City to assume the rights, powers, functions, and obligations of the Anacortes TBD which City Council did when they adopted Ordinance 2967 and now Fund 106 creates accounting and budgeting confusion with the double budget effect of transferring the TBD sales tax out of Fund 106 and into Fund 104 (Street Maintenance) so it now is logical and reasonable to close fund 106 and deposit the TBD revenue stream directly into Fund 104.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Anacortes, Washington, as follows:

Section 1. Ordinance No. 3078 dated December 21, 2020 adopting the Budget for all Municipal purposes and Uses for the fiscal year 2021 is hereby amended to reflect the aforementioned revisions to expenditures and revenues in the following areas:

BARS #	Description	Expense (DR)	Revenue (CR)
001.310.521.70.31	Police Body Cam Hardware	26,630	
001.000.308.90.00	Cash Reserves		26,630
106.711.597.00.00	Interfund Transfer Out		1,130,103
106.000.313.21.00	TBD 2/10th sales tax	1,130,103	
104.720.313.10.00	TBD sales tax		1,130,103
104.720.3.97.00.00	Interfund transfer in	1,130,103	
105.720.595.30.63	School Zone Beacons	112,000	
105.720.397.00.00	REET transfer in		112,000
335.711.597.00.00	REET 1 Transfer Out	112,000	
335.240.308.10.00	REET 1 Cash Reserves		112,000

Section 2. Fund 106 is hereby decommissioned and the TBD tax revenue deposited directly to Fund 104 the Street Maintenance fund.

Section 3. Effective date. This Ordinance shall take effect from and after five (5) days after its passage and publication, as required by law.

PASSED AND APPROVED THIS 9th day of August, 2021.

CITY OF ANACORTES, WASHINGTON

BY: _____
Laurie Gere, Mayor

ATTEST:

(Corporate Seal)

Steven D. Hoglund, City Clerk

APPROVED AS TO FORM

Darcy Swetnam, WSBA #40530
City Attorney

Budget Amendment

Ordinance 3093

Police Department

- HB 1223 from the 2021 Legislative Session enacted requirements for Electronic Recordings of Custodial Interrogations for law enforcement agencies.
 - Effective Date is January 1, 2022
- The most effective and efficient way to meet the new legislative requirement has been determined to be with body cameras.
- PD obtained a quote for 28 cameras on a 5 year contract
 - Total contact cost \$100,262 (includes delivery and training)
 - First year, 2021, payment: \$26,630
 - Years 2-5: \$18,408

Budget Amendment

Ordinance 3093

Fund 106 / Fund 104

- The Transportation Benefit District (TBD) was established with Ord 2926
- Fund 106 was setup in the Accounting System for the TBD to receipt and transfer revenues to Road Maintenance Fund 104.
- A change in legislature allowed the City to assume all rights and obligations of the TBD, which it did with Ord 2967
- The Accounting System was never updated, and Fund 106 still receipts and transfers money to 104.
- This results in an unnecessary double budget effect of over \$1M annually in both revenues and expenditures.
- We can change the receipting system to book TBD revenues directly to fund 104, and eliminate fund 106 altogether.

Budget Amendment Ordinance 3093

Street Department

- Many School Zone speed limit flashing beacons within the City are have entered the end of useful life and are experiencing failures.
- The existing beacons are obsolete, so repair is not effective.
- The grant that was pursued was not awarded
- Funding source will have to be REET
 - REET use requires inclusion on CFP
 - See Ordinance 3094
- Public Works obtained a quote to replace 20 units.
- Total quoted cost is \$111,675.80
- These Beacons are available on State Contract so don't need to be formally bid

CFP Amendment

Ordinance 3094

Transportation CFP

- The CFP may be amended but it needs to be in conjunction with the City budget amendment.
- AMC 19.16.030(C) requires:
 - Public Hearing to amend the CFP
 - 2 week notice of Public Hearing
 - Consistency with City budget
- The notice of Public Hearing currently being advertised
- Comment period is already open
 - Comments can be made to myself, or the Planning Manager
 - steveh@cityofanacortes.org, libbyB@cityofanacortes.org
- CFP amendment material may be viewed at:
 - <https://www.anacorteswa.gov/175/Capital-Facilities-Plan-CFP>



City Council Agenda Bill

Meeting Date: July 26, 2021

Agenda Item: 6.c.

Agenda Item Title: Ordinance 3094: Amending the Capital Facilities Plan 2021 - 2026

Staff Contact(s): STEVE HOGLUND

Approved for Submittal to Council by **Action Type**

STEVE HOGLUND

Ordinance

DARCY SWETNAM

Item Summary: The CFP is being amended to add \$112,000 in REET 1 use to replace the aging and obsolete School Zone flashing beacons.

The ordinance is presented for first read. Council will be asked to take action at the August 9, 2021 regular City Council meeting, following a public hearing on this ordinance and simultaneous with adoption of an ordinance amending the 2021 budget.

Budget Impact:

\$112,000

Previous Action: Ordinance [3080](#) adopted the 2021-2026 Capital Facilities Plan

Recommended Motion: N/A

Alternative Actions: N/A

Attachments (listed in order presented):

1. Ordinance 3094 Amending 2021-2026 CFP
2. CFP amendment worksheet

ORDINANCE NO. 3094

AN ORDINANCE AMENDING ORDINANCE NO. 3080 ENTITLED "AN ORDINANCE ADOPTING THE CAPITAL FACILITIES PLAN (CFP) FOR THE 6-YEAR PERIOD 2021-2026

WHEREAS, RCW 36.70A.070(3) requires jurisdictions operating under the Growth Management Act to include a capital facilities element in their comprehensive plan, which the City of Anacortes is, and does, so therefore needs to amend the Capital Facilities Plan (CFP) in conjunction with the City Budget, and

WHEREAS, in advocating the City's business a project emerged that was unanticipated at the time of budget development that meet the requirements of inclusion in the City's CFP, and

WHEREAS, there is one unanticipated project which is in the Road department, and consists of the replacing speed zone flashing beacons that exist in schools zones within the City of Anacortes, which are aging to the point of becoming obsolete and can no longer be repaired, the cost of replacing 20 of them has an estimated cost of \$112,000, and these beacons are available off the State contract maintained by the Washington State Department of Enterprise Services, and being such are not required to go out to bid so the project can be started as soon as the CFP amendment is complete.

NOW, Therefore be it ordained by the City Council of the City of Anacortes, Washington:

Ordinance No. 3080 dated December 21, 2020 adopting the Capital Facilities Plan for the six year period 2021 – 2026 is hereby amended to reflect the following revisions to expenditures and revenues in the departments:

Transportation	\$112,000
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The total estimated expenditures/revenues for each major category and the aggregate total for all such categories combined are summarized and set forth as follows:

Department:	Summary of Projects:
Parks	\$16,125,000
General Government	\$6,756,639
Fiber	\$12,155,000
Fire	\$7,306,921
Transportation	\$37,589,850
Water	\$23,326,000
Wastewater	\$41,807,000
Stormwater	\$2,081,000
Solid Waste	\$265,000
Total	<u>\$147,412,410</u>

This Ordinance shall take effect from and after five (5) days after its passage and publication, as required by law.

PASSED AND APPROVED this 9th day of August, 2021
CITY OF ANACORTES, WASHINGTON

BY:

Laurie Gere, Mayor

ATTEST:

Steven D. Hoglund, City Clerk

APPROVED AS TO FORM:

Darcy J. Swetnam, WSBA # 40530
City Attorney

ADOPTED TRANSPORTATION CFP

TRANSPORTATION

Project Costs:	2021	2022	2023	2024	2025	2026	Total
ADA Ramps	\$100,000	\$125,000	\$150,000	\$175,000	\$200,000	\$200,000	\$950,000
Sidewalk and Trip Hazard Repairs	200,000	225,000	250,000	250,000	250,000	250,000	1,425,000
R Avenue Safety and Mobility Improvements	500,000	3,557,250	0	0	0	0	4,057,250
12th Street and K Avenue Intersection	0	0	100,000	900,000	0	0	1,000,000
SR 20 Spur (Oakes Ave) Sidewalk Improvements	0	0	0	5,690,000	0	0	5,690,000
Non-Motorized Improvements	15,000	15,000	20,000	20,000	25,000	25,000	120,000
17th Street Q Ave to R Ave	0	0	0	535,600	0	0	535,600
32nd Street and M Avenue Improvements	300,000	800,000	0	0	0	0	1,100,000
South Commercial Avenue Corridor Plan -- Phase I Commercial Avenue from 11th to 13th	500,000	3,000,000	0	0	0	0	3,500,000
Safe Routes To School (SRTS) AHS Vicinity Intersection and Sidewalk Improvements			550,000	0	0	0	550,000
37th Street Paving and Stormwater Upgrades	0	50,000	1,950,000	0	0	0	2,000,000
Annual Pavement Maintenance	1,850,000	1,800,000	1,800,000	1,800,000	1,800,000	1,800,000	10,850,000
Guemes Channel Trail Phases II, III, & VI	0	0	0	5,700,000	0	0	5,700,000
Totals	\$3,465,000	\$9,572,250	\$4,820,000	\$15,070,600	\$2,275,000	\$2,275,000	\$37,477,850

Project Funding Sources:	2021	2022	2023	2024	2025	2026	Total
Taxes	\$550,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$5,550,000
REET	1,315,000	1,915,000	3,020,000	945,000	975,000	975,000	9,145,000
Utility Tax	300,000	300,000	300,000	300,000	300,000	300,000	1,800,000
Impact Fees	300,000	600,000	100,000	7,325,600	0	0	8,325,600
Grants	1,000,000	5,757,250	400,000	5,500,000	0	0	12,657,250
Rates/User Fees	0	0	0	0	0	0	0
Contributions	0	0	0	0	0	0	0
Fund Balance	0	0	0	0	0	0	0
Totals	\$3,465,000	\$9,572,250	\$4,820,000	\$15,070,600	\$2,275,000	\$2,275,000	\$37,477,850

AMENDED TRANSPORTATION CFP

TRANSPORTATION

Color coding represents new project

Project Costs:	2021	2022	2023	2024	2025	2026	Total
ADA Ramps	\$100,000	\$125,000	\$150,000	\$175,000	\$200,000	\$200,000	\$950,000
Sidewalk and Trip Hazard Repairs	200,000	225,000	250,000	250,000	250,000	250,000	\$1,425,000
R Avenue Safety and Mobility Improvements	500,000	3,557,250	0	0	0	0	\$4,057,250
12th Street and K Avenue Intersection	0	0	100,000	900,000	0	0	\$1,000,000
SR 20 Spur (Oakes Ave) Sidewalk Improvements	0	0	0	5,690,000	0	0	\$5,690,000
Non-Motorized Improvements	15,000	15,000	20,000	20,000	25,000	25,000	\$120,000
17th Street Q Ave to R Ave	0	0	0	535,600	0	0	\$535,600
32nd Street and M Avenue Improvements	300,000	800,000	0	0	0	0	\$1,100,000
South Commercial Avenue Corridor Plan -- Phase I Commercial Avenue from 11th to 13th	500,000	3,000,000	0	0	0	0	\$3,500,000
Safe Routes To School (SRTS) AHS Vicinity Intersection and Sidewalk Improvements			550,000	0	0	0	\$550,000
37th Street Paving and Stormwater Upgrades	0	50,000	1,950,000	0	0	0	\$2,000,000
Annual Pavement Maintenance	1,850,000	1,800,000	1,800,000	1,800,000	1,800,000	1,800,000	\$10,850,000
Guemes Channel Trail Phases II, III, & VI	0	0	0	5,700,000	0	0	\$5,700,000
School Zone Beacon Replacement	112,000						112,000
Totals	\$3,577,000	\$9,572,250	\$4,820,000	\$15,070,600	\$2,275,000	\$2,275,000	\$37,589,850

Project Funding Sources:	2021	2022	2023	2024	2025	2026	Total
Taxes	\$550,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$5,550,000
REET	1,427,000	1,915,000	3,020,000	945,000	975,000	975,000	9,257,000
Utility Tax	300,000	300,000	300,000	300,000	300,000	300,000	1,800,000
Impact Fees	300,000	600,000	100,000	7,325,600	0	0	8,325,600
Grants	1,000,000	5,757,250	400,000	5,500,000	0	0	12,657,250
Rates/User Fees	0	0	0	0	0	0	0
Contributions	0	0	0	0	0	0	0
Fund Balance	0	0	0	0	0	0	0
Totals	\$3,577,000	\$9,572,250	\$4,820,000	\$15,070,600	\$2,275,000	\$2,275,000	\$37,589,850

Summary Sheet - All Departments (non-linked)

Summary of Project Expenditures - Department Type							
Type	2021	2022	2023	2024	2025	2026	Total
Parks	\$700,000	\$400,000	\$750,000	\$1,650,000	\$10,950,000	\$1,675,000	\$16,125,000
General Government	500,000	825,835	716,420	3,227,166	738,073	749,145	6,756,639
Fiber	3,155,000	4,000,000	4,000,000	1,000,000	0	0	12,155,000
Fire	100,000	1,518,994	3,068,498	1,517,667	645,000	456,762	7,306,921
Transportation	3,577,000	9,572,250	4,820,000	15,070,600	2,275,000	2,275,000	37,589,850
Water	5,767,000	4,463,000	5,811,000	7,085,000	100,000	100,000	23,326,000
Wastewater	1,470,000	23,210,000	9,302,000	2,875,000	2,420,000	2,530,000	41,807,000
Stormwater	440,000	309,000	318,000	328,000	338,000	348,000	2,081,000
Solid Waste	100,000	33,000	33,000	33,000	33,000	33,000	265,000
	\$15,809,000	\$44,332,079	\$28,818,918	\$32,786,433	\$17,499,073	\$8,166,907	\$147,412,410

Summary of Projects:		Revenues by Department	Variance
Parks	\$16,125,000	\$16,125,000	\$0
General Government	\$6,756,639	6,756,639	0
Fiber	\$12,155,000	12,155,000	0
Fire	\$7,306,921	7,306,921	0
Transportation	\$37,589,850	37,589,850	0
Water	\$23,326,000	23,326,000	0
Wastewater	\$41,807,000	41,807,000	0
Stormwater	\$2,081,000	2,081,000	0
Solid Waste	\$265,000	265,000	0
Total	\$147,412,410	\$147,412,410	\$0

Summary of Revenue by Type	2021	2022	2023	2024	2025	2026	Total
Taxes	\$550,000	\$1,097,134	\$1,003,692	\$1,197,251	\$1,000,000	\$1,000,000	\$5,848,077
Real Estate Excise Tax	2,077,000	2,794,195	3,740,742	2,845,526	1,713,073	1,874,145	15,044,681
Utility Tax	300,000	300,000	300,000	300,000	300,000	300,000	1,800,000
Impact Fees	575,000	1,342,500	1,760,484	7,799,128	895,000	515,881	12,887,993
Grants	3,350,000	7,817,250	2,800,000	6,750,000	10,650,000	725,000	32,092,250
Rates/User Fees	7,777,000	28,315,000	16,064,000	11,221,000	2,891,000	3,011,000	69,279,000
Developer Contributions	1,180,000	1,800,000	1,450,000	2,500,000	0	0	6,930,000
Fund Balance/Reserves	0	866,000	1,700,000	173,528	50,000	740,881	3,530,409
Total Revenues	\$15,809,000	\$44,332,079	\$28,818,918	\$32,786,433	\$17,499,073	\$8,166,907	\$147,412,410

Cost of Projects Beyond 2026	Total
Parks	\$0
General Government	0
Fire	0
Transportation	6,000,000
Water	24,724,000
Wastewater	11,026,000
Stormwater	9,097,000
Solid Waste	0
	\$50,847,000

Summary of Revenue by Fund Type	2021	2022	2023	2024	2025	2026	Total
Parks	\$700,000	\$400,000	\$750,000	\$1,650,000	\$10,950,000	\$1,675,000	\$16,125,000
General Government	500,000	825,835	716,420	3,227,166	738,073	749,145	6,756,639
Fiber	3,155,000	4,000,000	4,000,000	1,000,000	0	0	12,155,000
Fire	100,000	1,518,994	3,068,498	1,517,667	645,000	456,762	7,306,921
Transportation	3,577,000	9,572,250	4,820,000	15,070,600	2,275,000	2,275,000	37,589,850
Water	5,767,000	4,463,000	5,811,000	7,085,000	100,000	100,000	23,326,000
Wastewater	1,470,000	23,210,000	9,302,000	2,875,000	2,420,000	2,530,000	41,807,000
Stormwater	440,000	309,000	318,000	328,000	338,000	348,000	2,081,000
Solid Waste	100,000	33,000	33,000	33,000	33,000	33,000	265,000
Total Revenues	\$15,809,000	\$44,332,079	\$28,818,918	\$32,786,433	\$17,499,073	\$8,166,907	\$147,412,410



City Council Agenda Bill

Meeting Date: July 26, 2021

Agenda Item: 6.d.

Agenda Item Title: Contract Award: School Zone Flashing Beacons #21-175-ENG-001

Staff Contact(s): FRED BUCKENMEYER

<u>Approved for Submittal to Council by</u>	<u>Action Type</u>
TIFFANY MATSON	Contract Award

Item Summary: Summary: City staff seeks City Council consent to award a contract in the amount of \$111,675.80 to Traffic Safety Supply for the School Zone Flashing Beacons Purchase. The contract piggybacks on Washington State contract [04616](#).

Background:

1. History: This agreement provides for the purchase of forty (40) new solar-powered BlinkerBeacon Flashing LED beacons and BlinkLink cloud-based software that will allow individual schools within the Anacortes School District to remotely manage and monitor the beacons.

The beacons will be mounted on twenty (20) poles installed in school zones throughout the district. Each pole will have a solar panel at the top, below it a beacon, followed by a sign indicating the school zone speed limit is 20 mph when flashing, and a second beacon below it. The local schools where these will be installed are Anacortes High School, Anacortes Middle School, Island View Elementary, Mount Erie Elementary and Whitney Early Childhood Education Center. Fidalgo Elementary is excluded from the list because it is located outside the city limits. In addition, Skagit County has already recently purchased and installed new TAPCO beacons from Traffic Safety Supply of Portland for Fidalgo Elementary.

The equipment we intend to purchase includes two beacons, one modem, a cabinet bracket set, solar panel and three batteries for each of 20 poles we would install with this project. BlinkLink, a cloud-based application, will also be purchased. The BlinkLink system allows users to program a school timeclock, monitor device battery life and other system vitals, collect activation data, and keep others informed through alert notifications delivered to any mobile device or email inbox.

The city already owns the poles and school zone speed limit signs for this project, and its public works staff can install the new equipment.

2. Key Terms:

- Total contract price of \$111,675.80 which includes \$9,032.60 in sales tax.

3. Competitive Bidding: The City has a cooperative purchasing agreement with the State of Washington and is procuring this purchase through Washington State contract [04616](#).

Budget Impact:

Contractor	Traffic Safety Supply
Contract Amount	\$111,675.80
Earmarked Funds	\$0
BARS #	
Budget Amendment Required?	Yes
Funds Source?	REET

Previous Action: N/A

Recommended Motion: I move that City Council authorize the Mayor to sign a contract 21-175-ENG-001 with Traffic Safety Supply in the amount of \$111,675.80 for the School Zone Flashing Beacons Purchase.

Alternative Actions: Not approve the contract.

Attachments (listed in order presented):

1. 21-175-ENG-001



City of Anacortes
Accounts Payable
PO Box 547
Anacortes, WA 98221

PURCHASE ORDER 21-175-ENG-001

VENDOR: Traffic Safety Supply
2324 SE Umatilla Street
Portland, OR 97202
Phone: (503) 235-8531

Date: 7/26/21
Contact: Eric Shjarback
Department: Public Works Department
Engineering Division
(360) 299-1980
erics@cityofanacortes.org

Contact: Brittnee Hernandez
Email: bhernandez@tssco.com
Quote: SQN00029975

Ship to: City of Anacortes
Operations Division
2201 37th Street
Anacortes, WA 98221

DESCRIPTION	Amount
School Zone Flashing Beacons as specified in Exhibit A. This Work is subject to: • Specifications as detailed in Exhibit A; and • Attached and incorporated Exhibit B, Special Provisions which details the other terms applicable to this Purchase Order; and • Washington State Contract #04616, which is incorporated as Exhibit C. The aforementioned Exhibits A through C are hereby incorporated by reference and made a part hereof.	As specified in Exhibit A
Sum Total	\$101,869.00
DES Fee	\$774.20
Sales Tax @ 8.8%	\$9,032.60
Total Price	\$111,675.80

The parties acknowledge that there has been an opportunity to negotiate the terms and conditions of this Agreement and agree to each bind itself, its partners, successors, assigns, and legal representatives to the other party hereto, in respect of all covenants, agreements, and obligations contained in the Contract Documents. Each of the persons signing below on behalf of any party hereby represents and warrants that s/he or it is signing with full and complete authority to bind the party on whose behalf of whom s/he or it is signing, to each and every term of this Agreement.

CITY OF ANACORTES

TRAFFIC SAFETY SUPPLY

Mayor

Date

Date

EXHIBIT A



Traffic Safety Supply
2324 SE Umatilla Street
Portland, OR 97202
Phone: (503) 235-8531
Fax: (503) 235-5112

CSR: Brittnee Hernandez

SALES QUOTE

Quote Number	Date	Customer Number
SQN00029975	04-21-21	C000505
Quote valid for 30 days.		

Bill To:

City of Anacortes
PO Box 547
Anacortes, WA 98221

Ship To:

City of Anacortes - City Shops
2201 A 37th St
Del Hours: M-F 8-5
Anacortes, WA 98221

Contact Name: Joan Pringle
Phone Number: (360) 299-1506

Project: SCHOOL ZONE BEACONS

Freight Terms: Prepaid

***WA STATE CONTRACT #04616**

****PRICING IS BASED ON QTY OF 20 UNITS, IF QTY CHANGES PRICING WILL BE
SUBJECT TO CHANGE**

Product	Description	Quantity	Price	Extended Price
DP06343	CONTROLLER, 12V, PROSTAR-15, 120652, HOLLOW, MODEM	20.00 EA	\$2,275.00	\$45,500.00
DP03736	LARGE CABINET BRACKET SET, FITS ROUND POLES 2-3/8 & UP, STD HDW, SNAP LOCKS FOR 120652	20.00 EA	\$40.95	\$819.00
DP00904	85W/12V SOLAR PANEL PACKAGE, TOP OF POLE MOUNT, 4.5 DIA	20.00 EA	\$865.00	\$17,300.00
DP06004	BATTERY, 35 AHR, 12V AGM LEAD ACID *THREE BATTERIES PER CABINET	60.00 EA	\$227.50	\$13,650.00



Traffic Safety Supply
2324 SE Umatilla Street
Portland, OR 97202
Phone: (503) 235-8531
Fax: (503) 235-5112

CSR: Brittnee Hernandez

SALES QUOTE

Quote Number	Date	Customer Number
SQN00029975	04-21-21	C000505
Quote valid for 30 days.		

***WA STATE CONTRACT #04616**

****PRICING IS BASED ON QTY OF 20 UNITS, IF QTY CHANGES PRICING WILL BE
SUBJECT TO CHANGE**

Product	Description	Quantity	Price	Extended Price
DP03771	BEACON, SINGLE HEAD, 12", AMBER, VERTICAL MOUNT, YELLOW HOUSING, YELLOW ARMS	40.00 EA	\$470.00	\$18,800.00
DP00931	BLINKLINK WEB ACTIVATION SERVICE, ANNUAL, NON-ALERT SYSTEMS, REQ. PER EACH MODEM	20.00 EA	\$290.00	\$5,800.00

Total Before Tax	\$101,869.00
DES Fee	\$774.20
Tax	\$9,032.60
Order Total	\$111,675.80

1. PRICING REFLECTS DISCOUNT ALLOWED ON WA STATE CONTRACT #04616 FOR INTELLIGENT TRANSPORTATION SYSTEM EQUIPMENT. THIS IS A DELIVERED PRICE TO ANACORTES, WA.
2. FURNISH ONLY, INSTALLATION NOT INCLUDED
3. SOLAR POWERED EQUIPMENT REQUIRES NO SHADING OR OBSTRUCTIONS
4. EQUIPMENT HAS NOT BEEN U.L TESTED. CUSTOMER SHALL ACCEPT RESPONSIBILITY OF CERTIFYING EQUIPMENT SHOULD IT BE REQUIRED
5. LEAD TIME IS 6-8 WEEKS ARO
6. LEAD TIME MAY BE SUBJECT TO CHANGE ARO



**PURCHASE ORDER #21-175-ENG-001
SPECIAL PROVISIONS
EXHIBIT B**

1. **Delivery.** Advance coordination of the work shall be made with the Project Manager Eric Shjarback, (360) 299-1980.

2. **Supplier Bears Risk.** Shipping shall be Freight-On-Board (FOB) Destination, Freight Prepaid. The risk of loss or damage shall be borne by Supplier at all times until the Acceptance of the Goods or Services by City.

3. **Taxes.** The City will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Supplier must pay all other taxes including, but not limited to: Business and Occupation Tax, taxes based on the Supplier's gross or net income, or personal property to which the City does not hold title. The City is exempt from Federal Excise Tax. Where applicable the City shall furnish a Federal Excise Tax Exemption certificate.

4. **Invoicing.** All invoices shall include: Company Name, Invoice Date, Net 30 terms, Invoice Number, Invoice Period, Project Title, PO Number and Price, or Amended Price. Invoices may be sent by US mail to City of Anacortes, Accounts Payable, PO Box 547, Anacortes, WA 98221, or by email to accountspayable@cityofanacortes.org. Suppliers may complete a City furnished ACH/EFT form to receive electronic payments directly to their financial institution.

The City shall notify the Supplier within fifteen (15) calendar days from receipt of invoice if there are any objections or disputes with the invoice. The Supplier shall then resubmit a new invoice less the disputed amount and payment shall be made within 30 calendar days. Any disputed amounts may be submitted under the Disputes clause contained herein.

5. **Withholding Payment.** In the event the City determines that the Supplier has failed to perform any obligation under this PO within the times set forth in this PO, then the City may withhold from amounts otherwise due and payable to Supplier the amount determined by the City as necessary to cure the default, until the City Attorney determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Supplier to terminate or damages, provided that the City promptly gives notice in writing to the Supplier of the nature of the default or failure to perform, and in no case more than 8 days after it determines to withhold amounts otherwise due. A determination of the City Attorney set forth in such notice to the Supplier of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Supplier acts within the times and in strict accord with the provisions of the Disputes clause of this PO. The City may act in accordance with any determination of the City Attorney which has become conclusive under this clause, without prejudice to any other remedy under the PO, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Supplier, (3) to set off any amount so paid or incurred from amounts due to become due the Supplier. In the event the Supplier obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Supplier by reason of good faith withholding by the City under this clause.

6. **Final Payment: Waiver Of Claim** the Supplier's acceptance of final payment shall constitute a waiver of claims, except those previously and properly made and identified by the Supplier as unsettled at the time request for final payment is made.

7. **New and Unused.** All units, equipment, parts and material shall be new, unused, manufacturer's current model year and in current production. All materials shall have physical and chemical properties to withstand the intended purpose. Equipment design shall have sufficient excess capacity for durability and safety.

8. **Warranty.** The Supplier shall return to the project and repair or replace all defects in workmanship and material discovered within one year after delivery of all items, including any necessary labor and materials. The Supplier shall start work to remedy any such defects within 7 calendar days of receiving City's written notice of a defect, and shall complete such work within the time stated in the City's notice. In case of an emergency, where damage may result from delay or where loss of services may result, such corrections may be made by the City's own forces or another Supplier, in which case the cost of corrections shall be paid by the Supplier. In the event the Supplier does not accomplish corrections within the time specified, the work will be otherwise accomplished and the cost of same shall be paid by the Supplier. When corrections of defects are made, the Supplier shall then be responsible for correcting all defects in workmanship and materials in the corrected work for one year after acceptance of the corrections by City. In addition, the Supplier shall obtain and submit to the City any necessary documentation to secure any extended manufacturer's warranty and warranty terms. This guarantee is supplemental to and does not limit or affect the requirements that the Supplier's work comply with the requirements of the Contract or any other legal rights or remedies of the City.

9. Inspection.

A. **Of the Work:** All materials furnished and work done shall be subject to inspection. The City Project Manager administering the PO shall at all times have access to the work wherever it is in progress or being performed, and the Supplier shall provide proper facilities for such access and inspection. Such inspection shall not relieve the Supplier of the responsibility of performing the work correctly, utilizing the best labor and materials in strict accordance with the Specifications of the PO. All material or work approved and later found to be defective shall be replaced without cost to the City.

B. **Project Manager's Authority:** The Project Manager shall have power to reject materials or workmanship which do not fulfill the requirements of these Specifications, but in case of dispute the Supplier may appeal to the City Attorney whose decision shall be final. The PO shall be carried out under the general control of the representative of the City administering the PO, who may exercise such control over the conduct of the work as may be necessary, in his or her opinion, to safeguard the interest of the City. The Supplier shall comply with any and all orders and instructions given by the representative of the particular Department administering the PO in accordance with the terms of the PO. Nothing herein contained, however, shall be taken to relieve the Supplier of his/her obligations or responsibilities under the PO.

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

11. Insurance Requirements

A. **Insurance Term:** The Supplier shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with products and materials supplied to the City.

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

C. **Minimum Scope of Insurance:** The Supplier shall obtain insurance of the type and coverage described below:

Commercial General Liability insurance shall be at least as broad as Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover products liability. The City of Anacortes shall be named as an additional insured under the Supplier's Commercial General Liability insurance policy using ISO Additional Insured-Vendors Endorsement CG 20 15 04 13 or a substitute endorsement providing at least as broad coverage.

D. **Minimum Amounts of Insurance:** The Supplier shall maintain the following insurance limits:

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

E. **Other Insurance Provision:** The Supplier's Commercial General Liability insurance policy or policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Supplier's insurance and shall not contribute with it.

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

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

H. **Notice of Cancellation:** The Supplier shall provide the City with written notice of any policy cancellation, within two business days of their receipt of such notice.

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

J. **City Full Availability of Supplier Limits:** If the Supplier maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Supplier, irrespective of whether such limits maintained by the Supplier are greater than those required by this contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Supplier.

12. **Discrimination Prohibited.** During the performance of the PO, the Supplier and subSuppliers shall not discriminate in violation of any applicable federal, state and/or local law or regulation on the basis of age, sex, race, creed, religion, color, national origin, marital status, disability, honorably discharged veteran or military status, pregnancy, sexual orientation, gender identity, or any other classification protected under federal, state, or local law. This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, and the provision of services under the PO. Supplier agrees to comply with the applicable provisions of State and Federal Equal Employment Opportunity and Nondiscrimination statutes and regulations.

13. **Supplier is an Independent Supplier.** The parties intend that an independent Supplier relationship will be created by this PO. No agent, employee or representative of the Supplier shall be deemed to be an agent, employee or representative of the City for any purpose. Supplier shall be solely responsible for all acts of its agents, employees, representatives and Sub-Suppliers during the performance of this PO.

14. **Assistance Regarding Patent and Copyright Infringement.** In the event of any claim or suit against City on account of any alleged patent or copyright infringement arising out of the performance of this PO or out of the use of any material furnished or work or services performed hereunder, Supplier shall defend City against any such suit or claim and hold City harmless from any and all expenses, court costs, and attorney's fees in connection with such claim or suit.

15. **The City's Right to Terminate PO.**

A. **Termination for Default:** If the Supplier defaults by failing to perform any of the obligations of the PO or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the City may, by depositing written notice to the Supplier in the U.S. mail, postage prepaid, terminate the PO, and at the City's option, obtain performance of the work elsewhere. If the PO is terminated for default, the Supplier shall not be entitled to receive any further payments under the PO until the Scope of Services under this PO has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Supplier. The Supplier shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default. If a notice of termination for default has been issued and it is later determined for any reason that the Supplier was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

B. **Termination for Public Convenience:** The City may terminate the PO in whole or in part whenever the City determines, in its sole discretion that such termination is in the best interests of the City. Whenever the PO is terminated in accordance with this paragraph, the Supplier shall be entitled to payment for actual work performed at unit PO prices for completed items of work through the date of termination. An equitable adjustment in the PO price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this PO by the City at any time during the term, whether for default or convenience, shall not constitute a breach of PO by the City.

16. **Changes/Additional Work.** The City may engage Supplier to perform services in addition to those listed in this PO, and Supplier will be entitled to additional compensation for authorized additional services or materials. The City shall not be liable for additional compensation until and unless any and all additional work and compensation is approved in advance in writing and signed by both parties to this PO. If conditions are encountered which are not anticipated in the Scope of Services, the City understands that a revision to the Scope of Services and fees may be required. Provided, however, that nothing in this paragraph shall be interpreted to obligate the Supplier to render or the City to pay for services rendered in excess of the Scope of Services unless or until a modification to this PO is approved in writing by both parties.

17. **Non-waiver.** Waiver by the City of any provision of this PO or any time limitation provided for in this PO shall not constitute a waiver of any other provision.

18. **Covenant Against Contingent Fees.** The Supplier warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Supplier, to solicit or secure this PO, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Supplier, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award of making of this PO. For breach or violation of this warranty, the City shall have the right to annul this PO without liability or, in its discretion to deduct from the PO price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

19. **Disputes**

A. **General:** Differences between the Supplier and the City, arising under and by virtue of this PO shall be brought to the attention of the City at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. The provisions of this Clause shall survive the expiration or termination of this PO.

B. **Notice of Potential Claims:** The Supplier shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the City, or (2) the happening of any event or

occurrence, unless the Supplier has given the City a written Notice of Potential Claim within 10 days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the City. The written Notice of Potential Claim shall set forth the reasons for which the Supplier believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Supplier shall keep full and complete daily records of the Work performed, labor and all costs and additional time claimed to be additional.

C. **Detailed Claim:** The Supplier shall not be entitled to claim any such additional compensation, or extension of time, unless within 30 days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the City, the Supplier has given the City a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

D. **Dispute Resolution:** In the event of a dispute between the City and the Supplier arising out of this PO, or any obligation hereunder the dispute shall first be referred to the representatives designated by the City and the Supplier to have oversight over the administration of this PO. Said representatives shall meet within thirty (30) calendar days of receipt of detailed claim, and the parties shall make a good faith effort to achieve a resolution of the dispute. In the event the parties are unable to resolve the dispute under the procedure set forth above, then the parties hereby agree that the matter shall be referred to mediation. The parties shall mutually agree upon a mediator to assist them in resolving their differences. Any expenses incidental to mediation shall be borne equally by the parties. If either party is dissatisfied with the outcome of the mediation, that party may then pursue any available judicial remedies.

20. **Force Majeure.** Neither party shall be liable to the other or deemed in breach or default for any failure or delay in performance under this Agreement during the time and to the extent its performance is prevented by reasons of Force Majeure. For the purposes of this Agreement, Force Majeure means an occurrence that is beyond the reasonable control of and without fault or negligence of the party claiming force majeure and which, by exercise of due diligence of such party, could not have been prevented or overcome. Force Majeure shall include natural disasters, including fire, flood, earthquake, windstorm, avalanche, mudslide, and other similar events; acts of war or civil unrest when an emergency has been declared by appropriate governmental officials; acts of civil or military authority; freight embargoes; epidemics; quarantine restrictions; labor strikes; boycotts; terrorist acts; riots; insurrections; explosions; and nuclear accidents. A party claiming suspension or termination of its obligations due to force majeure shall give the other party prompt written notice, but no more than two (2) working days after the event, of the impediment and its effect on the ability to perform; failure to provide such notice shall preclude recovery under this provision. Such delay shall cease as soon as practicable and written notification of same shall be provided. The time of completion shall be extended by Agreement modification for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Agreement. Rights Reserved: The City reserves the right to cancel the Agreement and/or purchase materials, equipment or services from the best available source during the time of force majeure, and Contractor shall have no recourse against the City

21. **Governing Law.** This PO shall be governed by and construed under the laws of the State of Washington. Any action brought under the PO or relating to the Project shall be brought in the Superior Court of the State of Washington in Skagit County Washington.

22. **Compliance with Laws.** The Supplier in the performance of this PO shall comply with all applicable Federal, State or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in the PO to assure quality of services.

23. **Severability.** If any term or condition of this PO or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this PO are declared severable.

24. **Survival of PO Termination.** The provisions of the following paragraphs and the liability of the Supplier for default during the term of the PO shall survive, notwithstanding the termination or invalidity of this PO for any reason: The City's Right to Terminate PO; Governing Law; Disputes; Defense & Indemnity.

25. **Notices.** Receipt of any notice shall be deemed effective three days after deposit of written notice in the U.S. mail, with proper postage and properly addressed. Notices shall be sent to the following addresses:

CITY:

City of Anacortes
Tiffany Matson
904 6th Street
PO Box 547
Anacortes, WA 98221

CONTRACTOR:

Traffic Safety Supply
Brittnee Hernandez
2324 SE Umatilla Street
Portland, OR 97202



City Council Agenda Bill

Meeting Date: July 26, 2021

Agenda Item: 6.e.

Agenda Item Title: Ordinance 3064: Critical Area Ordinance Update

Staff Contact(s): TESS COOPER

Approved for Submittal to Council by **Action Type**

TESS COOPER

Ordinance

LIBBY GRAGE

DARCY SWETNAM

DON MEASAMER

Item Summary: Final review and approval of the Critical Area Regulations

Budget Impact:

N/A

Previous Action: Recommendation from Planning Commission, Public Hearing, City Council work sessions and revisions.

Recommended Motion: Approve

Alternative Actions:

Attachments (listed in order presented):

1. Ordinance 3064
2. AMC Chapter 19.20 FINAL
3. AMC Chapter 19.78 FINAL
4. Staff Slide Presentation

Ordinance No. 3064
An Ordinance adopting, repealing, and amending AMC Chapter 17.70 and Chapter 19.70 relating to critical areas regulations.

Whereas, RCW 36.70A.130(1) requires that cities and counties take action to review and revise, if necessary, their comprehensive plans and development regulations, including their critical areas ordinances, every eight years; and

Whereas, on July 18, 2016, the City Council adopted Ordinance 2982, completing the required periodic review and revision of the Comprehensive Plan; and

Whereas, on July 22, 2018, the City Council adopted ordinance 3040, completing the required review and revision of the development regulations; and

Whereas, the Anacortes Planning Commission reviewed proposed amendments to the critical area ordinance consistent with the process outlined in AMC 19.16.080, and subsequent to a public hearing on December 18, 2019, and deliberated on the proposal on January 8, 2020 and January 22, 2020; entered findings of fact, reasons for action, and recommendations to the City Council in a recorded motion dated January 22, 2020; and

Whereas, the City Council considered the Planning Commission's recommendation pursuant to AMC 19.16.090 at meetings on February 18, 2020, August 10, 2020, August 17, 2020, August 24, 2020, April 19, 2021, May 3, 2021, May 10, 2021, June 7, 2021, July 19, 2021; and

Whereas, an additional public comment opportunity was provided for certain changes to the Planning Commission's recommendation identified during City Council's review; and

Whereas, the City Council considered the additional comments received at a meeting on July 19, 2021;

Now, therefore, the City Council of the City of Anacortes does ordain as follows:

With the adoption of this ordinance completing the required review and revision of the critical areas regulations, the City declares the Growth Management Act required periodic review and update under RCW 36.70A.130 complete.

Section 1. **Findings.** The above recitals are hereby adopted by reference as legislative findings in support of this ordinance. The City Council further enters the following findings:

- A. The Findings of Fact contained within Section A of the *Anacortes Planning Commission Recorded Motion Regarding Amendments to the Critical Area Regulations* (approved January 22, 2020), analyze the proposal's consistency with the Growth Management Act, Anacortes Comprehensive Plan, and the Anacortes Municipal Code, and are hereby adopted by reference.

- B. The following findings are entered where the Council adopted substantial changes to the Planning Commission's recommendation:
1. Critical Area Mapping. The City Council finds that maintaining an inventory of online interactive critical area maps made available to the public is of great value to both staff and citizens, these maps will be maintained and updated by the City GIS department.
 2. Outdoor Recreation Activities. The City Council finds that it is appropriate to exempt from regulatory oversight outdoor recreation activities that do not involve modifying the land or vegetation, and that will not adversely affect the functions and values of critical areas in general without the specifications of passive or listed by type.
 3. Public Services. The City Council finds that "Public services" include, but are not limited to, water supply, sewer and stormwater management facility; electric power, telecommunication and natural gas lines; and public road and multimodal transportation corridors (e.g., the Tommy Thompson Trail and Guemes Channel Trail). The approval of such amenities are subject to strict performance standards.
- C. In adopting substantial changes to the Planning Commission's recommendation, City Council considered public comments, staff recommendations, and relevant goals and policies of City planning documents, including the 2016 Comprehensive Plan.
- D. Other changes made by the City Council to the Planning Commission's recommendation conform substantially to the proposal as made available for public comment, correct typographical errors, correct cross-references, clarify language without changing its effect, or preserve the status quo.
- E. The amendments to the critical area regulations set forth herein bear a substantial relation to the public health, safety, and welfare.
- F. The amendments to the critical area regulations and critical area map set forth herein are in the best interest of the City of Anacortes residents.
- G. The amendments to the critical area regulations set forth herein have been processed, reviewed, considered, and adopted in material compliance with all applicable state and local procedural requirements, standards and criteria, including but not limited to the requirements of Chapter 36.70A RCW.
- H. All relevant procedural requirements of the State Environmental Policy Act have been satisfied with respect to this ordinance.
- I. Notice of intent to adopt these development regulations has been provided to the Washington Department of Commerce.

- Section 2. The Anacortes Municipal Code is amended as shown in Attachment A.
- Section 3. **Production and Publication of Critical Area Ordinance.** Staff is hereby directed to perform any minor, non-substantive text edits, syntax error corrections, and other minor modifications to the format of the development regulations as necessary to provide for accurate and correct publication of said document both in printed and electronic format for accessibility of the general public.
- Section 4. **Transmittal to State.** Pursuant to RCW 36.70A.106, a copy of this ordinance shall be submitted to the State Department of Commerce.
- Section 5. **Severability.** If any section, sentence, clause, phrase, or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase, or word of this ordinance.
- Section 6. **Effective Date.** Consistent with RCW 35A.12.130, this ordinance takes effect on August 2, 2021.

PASSED and APPROVED this ____ day of _____, 2021.

CITY OF ANACORTES:

Laurie Gere, Mayor

Attest:

Steve Hoglund, City Clerk-Treasurer

Approved as to Form:

Darcy Swetnam, City Attorney

Attachment A

Amendments to the Anacortes Municipal Code

Chapter 17.70 Critical Areas Regulations are repealed except that

Recodify Article II. – Frequently Flooded Areas (FEMA Approved), AMC 17.70.020 through AMC 17.70.070 to Chapter 19.74 and retitle “Floodplain Management”.

Table 19.20.030-1 Permit Processes added.

19.78 Clearing and Grading section reference to Critical Area activities not subject to C&G thresholds.

Chapter 19.70 Critical Areas

The following chapter and sections in Title 19 are created or amended:

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DIVISION 7 – ENVIRONMENT

CHAPTER 19.70 CRITICAL AREAS

INTRODUCTION: GENERAL PROVISIONS

19.70.010 Purpose.

- A. The purpose of this chapter is to designate critical areas and to establish standards for the protection of their functions and values, in compliance with the provisions of the Washington State Growth Management Act of 1990 (Ch. 36.70A RCW), and consistent with the goals and policies of the Anacortes Comprehensive Plan.
- B. By identifying and regulating development and alterations to critical areas and their buffers, this chapter seeks to accomplish the following goals:
 - 1. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, or flooding;
 - 2. Protect, maintain and restore healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including, but not limited to ground and surface waters, wetlands, and fish and wildlife and their habitats, and to conserve the biodiversity of plant and animal species;
 - 3. Direct activities not dependent on critical area resources to less environmentally sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas;
 - 4. Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and habitat conservation areas;
 - 5. Alert owners, potential purchasers, real estate agents, appraisers, lenders, builders, developers and other members of the public to natural conditions that pose a hazard or may otherwise limit development;
 - 6. Serve as a basis for exercise of the City's substantive authority under the State Environmental Policy Act (SEPA).
- C. The regulations of this Chapter are intended to protect critical areas in accordance with the Growth Management Act, through the application of best available science, as determined according to [WAC 365-195-900](#) through [365-195-925](#), and in consultation with state and federal agencies and other qualified professionals.

- D. This Chapter is intended to be administered with limited flexibility and attention to site-specific characteristics. It is not the intent of this Chapter to make a parcel of property unusable by denying its owner reasonable economic use of the property, or to prevent the provision of public facilities and services necessary to support existing development and that planned for by the community without decreasing current service levels below minimum standards.
- E. The City's enactment or enforcement of this Chapter must not be construed for the benefit of any individual person or group of persons other than the general public.

19.70.015 Applicability.

- A. Unless explicitly exempted, the provisions of this chapter apply to all land uses, development activity, and all structures and facilities within the City of Anacortes that are within the critical area, within the maximum buffer distance of, or likely to affect the functions and values of, one or more critical areas. Relationship to other regulations.
 - 1. Shorelines of the state and shorelands as defined in [RCW 90.58.030](#), and critical areas occurring within the jurisdiction of shorelines of the state and shorelands ("shoreline jurisdiction"), are regulated and protected through the Anacortes Shoreline Master Program, (AMC Title 19.72), as amended. Activities occurring within shoreline jurisdiction are reviewed through the shoreline permit review and issuance process; a separate critical areas permit is not required. The Shoreline Master Program incorporates by reference portions of this Chapter (Ch. 19.70); however, certain provisions of this chapter that are not consistent with the Shoreline Management Act, 90.85 RCW and supporting Washington Administrative Code chapters, do not apply in shoreline jurisdiction.
 - 2. These critical areas regulations apply in addition to zoning and other regulations adopted by the City. Notwithstanding AMC 19.12.040(E), in the event of any conflict between these regulations and any other regulations of the City, the regulations apply that provide greater protection to the critical areas' functions and values, as determined by the Director.
 - 3. When any provision of this chapter or any existing easement, covenant, or deed restriction conflicts with this chapter, that which provides more protection to the critical areas applies.
 - 4. Compliance with the provisions of this Chapter does not constitute compliance with other federal, state, or local regulations and permit requirements that may be required. The applicant is responsible for complying with other agency requirements, apart from the process established in this Chapter.

19.70.020 Identification, classification, and rating of critical areas.

- A. **Critical Areas Maps.** The general locations of many critical areas in Anacortes are displayed on the City of Anacortes' Critical Areas Maps. The maps are used to alert the public of the potential location of critical areas in Anacortes. As new environmental information related to critical areas becomes available, the City is authorized to make changes as necessary to the Critical Areas

Maps. The City Geographic Information Systems office must maintain an interactive, publicly available online map containing the location of known and potential critical areas and must make pdf maps available to the public upon request.

- B. **Actual site conditions.** Regardless of whether a critical area is shown on the Critical Areas Map, the actual presence or absence of the features defined in this code as critical areas will govern. Prior to acting on any development permit the City may require an applicant to submit technical information to indicate whether critical areas actually exist on or adjacent to the applicant's site based on the definitions of critical areas in this code. This will be administered as a critical area identification form AMC 19.70.110 included with appropriate permit forms.
- C. **Classification and rating.** To promote consistent application of the standards and requirements of this chapter, critical areas within the City will be rated or classified using best available science according to their characteristics, function and value, and/or their sensitivity to disturbance.
 - 1. Classification of critical areas will be determined by the City using the following tools:
 - a. Application of the criteria contained in these regulations;
 - b. Consideration of the critical area reports submitted by qualified professionals in connection with applications subject to these regulations; and
 - c. Review of maps and other resources adopted pursuant to this chapter.
 - 2. Rating categories will not change due to illegal modifications. If the development proposal site contains or is within a critical area suspected of illegal modifications the rating will be based on pre-modification conditions of the critical area. Abatement of the unauthorized modification will be required prior to authorization of the current development proposal being processed for the subject site. 19.70.025 Protection of critical areas.
- A. Critical areas and their required buffers may not be altered except as allowed by this Chapter.
- B. Any action taken pursuant to this chapter must result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the best available science.
- C. All actions and development must be designed and constructed in accordance with mitigation sequencing per AMC 19.70.125 to achieve no net loss of critical area functions and values.
- D. Applicants must first demonstrate an actual inability to avoid or reduce impacts before restoration and compensation of impacts will be allowed.
- E. No activity or use may be allowed that results in a net loss of the functions or value of critical areas.
- F. Any individual critical area adjoined by another type of critical area must have the buffer and meet the requirements that provide the most protection to the critical areas involved.

- G. Violations of this chapter are subject to AMC 20, Civil Enforcement and Penalties. Where a violation occurs within a suspected protected critical area or as depicted on city mapping, the property owner must provide an appropriate critical areas report to determine impacts. The report may be subject to third party review at the property owner's expense.

19.70.030 Project Evaluation

- A. As part of the review, the city will:
 - 1. Verify the information submitted by the applicant;
 - 2. Evaluate the project area and vicinity for critical areas;
 - 3. Determine whether the proposed project is likely to impact the functions or values of critical areas; and
 - 4. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.
- B. If the proposed project is within, adjacent to, or is likely to impact a critical area, the city will:
 - 1. Require a critical area report from the applicant that has been prepared by a qualified professional, to be reviewed and evaluated;
 - 2. Determine whether the development proposal conforms to the purposes and performance standards of this chapter, including the criteria in AMC 19.70.035, Review criteria;
 - 3. Assess the potential impacts to the critical area and determine if they can be avoided or minimized; and
 - 4. Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of this chapter.
 - 5. The City may require third party review of any critical area report, at the expense of the applicant.

19.70.035 Critical Areas Review.

- A. **When required.** A proposal to modify any critical area and/or required buffer including, but not limited to, clearing, grading, draining, removal or alteration of vegetation, construction of structures, utilities and related infrastructure must require a critical area permit unless it qualifies as an exemption, as provided in AMC 19.70.040. Except for within shoreline jurisdiction, administration of this chapter shall be through the SMP and appropriate Shoreline Permit administration process.
- B. **Best Management Practices.** All activities, including those allowed without critical areas review, must be conducted using the best management practices appropriate for that activity that result in the least amount of impact to the critical areas. Best management practices must be used for

tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The use of best management practices is required to ensure that the activity does not result in degradation to the critical area. Appropriate BMP sources include Ecology's Construction Storm Water General Permit and NRCS Conservation Practices. Any incidental damage to, or alteration of, a critical area and/or buffer must be restored, rehabilitated, or replaced at the responsible party's expense.

- C. **Modifications to Existing Nonconforming Structures and Uses.** In these provisions the burden of proof is on the applicant to bring evidence in support of their position. Existing structures, activities, and uses that were established legally but do not meet the current critical area, buffer, or buffer setback requirements may continue in accordance to AMC 19.49.040, and may be modified as follows:
1. Routine maintenance and repairs;
 2. Structural modifications or additions that do not intensify the nonconformity of the structure or increase the area of hardscape lying within the critical area or buffer. The Director may require an updated critical areas report to confirm location of buffers and that the addition is located entirely outside the critical area or buffer;
 3. Vertical additions above the ground floor that do not encroach further into the critical area or buffer beyond the existing exterior walls, except that critical areas review is required for additions in landslide hazard areas or buffers;
 4. Restoration or replacement of a structure that is damaged by fire, natural disaster or other calamity when:
 - a. A complete application for reconstruction or replacement is submitted within one year of the damage; and
 - b. The restoration or replacement is made to conform to the current critical areas regulations, or if such regulations cannot be physically met without reducing the size of the building, the restoration or replacement may not intensify any nonconformity that existed prior to the damage.
 - c. Except that critical areas review is required for restoration and replacement in landslide hazard areas or buffers.
 5. State Ferry Terminal. The existing developed footprint, except for infill between the toll booth area in the lowest parking lot, hillside walking paths, and a hillside side slope along the western side of the main terminal parking lot, and including all associated parking, at the Washington State Ferry Terminal facility. Redevelopment may occur within the existing footprint only, provided there is no net loss of ecological function and value in the adjacent buffer areas for Cannery Pond and Ship Harbor Interpretive Preserve wetlands.
- D. **Demolition.** Demolition of structures located within critical areas or their buffers is permitted, excluding demolition of structures necessary to support or stabilize landslide hazard areas and

will be subject to approval of a stormwater pollution prevention plan consistent with the adopted stormwater management manual and clearing limits that will adequately protect the critical area.

19.70.040 Exempt Activities.

- A. General requirements for all exempt activities. Activities listed in this section are exempt from the rest of the provisions of this chapter only if they meet the specific terms of this section.
- B. To be exempt from this chapter does not give permission to degrade a critical area or buffer or to ignore risk from natural hazards. All exempt activities must use reasonable methods to avoid potential impacts to critical areas and buffers. In every case, disturbance to the critical area must be minimized through best management practices and the use of low-impact equipment.
- C. Any incidental damage to, or alteration of, a critical area or buffer that is not a necessary outcome of the exempted activity must be restored, rehabilitated, or replaced at the responsible party's expense.
- D. This chapter may not exempt an activity from the provisions of other City permits such as Clearing and Grading for vegetation removal and ground disturbing activities, or agency permit requirements such as Washington Department of Fish and Wildlife Hydraulic Permit, or Army Corp of Engineers regulatory requirements.
- E. Burden of proof. The burden of proof is on the applicant to bring forth evidence that the activity meets the precise description of Exemption.
- F. Table 19.70.040 Exempt Activities

Table 19.70.040 (A) describes activities that must meet the precise description to be allowed without following a critical area process. Activities are divided into the categories of permitted in the Critical Area and permitted in the Buffer, marked by a yes or no in the appropriate column.

EXEMPT ACTIVITIES: (No review required, must strictly meet standards)	Critical Area	Buffer
Emergencies. Alterations in response to emergencies which threaten the public health, safety, and welfare or which pose an imminent risk of damage to private property, and that require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this chapter, if the following requirements are met: a. Only the minimum intervention necessary to reduce the risk to public health, safety, or welfare and/or the imminent risk of damage to private property may be authorized by this exemption. b. The alteration undertaken must be reported to the Director no later than 30 days after the alteration has occurred. Once notified, the Director must confirm that an emergency existed	Yes	Yes

EXEMPT ACTIVITIES: (No review required, must strictly meet standards)	Critical Area	Buffer
and determine what, if any, additional applications and/or measures are required of the property owner to protect the critical area(s) consistent with the provisions of this chapter, and to repair any damage to a pre-existing resource. c. After the emergency, the person or agency undertaking the action must fully fund and conduct necessary site evaluations and critical area reports, mitigation plans, and restoration for any impacts to the critical area and buffers resulting from the emergency action. The person or agency undertaking the action must meet the review procedures contained herein. Mitigation activities must be initiated within one year of the date of the emergency or as directed by the Department. d. If the Director determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, or any required mitigation, the Director may take action to enforce this chapter consistent with AMC Title 19 and AMC Title 20.		
Yard and garden activities. Maintenance or repair activities including, but not limited to, cutting, mowing, weeding, hand removal of noxious and invasive species, harvesting and replanting of garden crops, pruning and planting of noninvasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas; provided, that such maintenance or repair activities are limited to legally existing landscaping improvements and do not further expand into critical areas or associated buffers, do not alter topography, do not destroy or clear native vegetation, do not remove non-hazard trees in the buffer or critical area, and do not diminish water quality or quantity. a. Native growth protection areas, mitigation sites, or other areas protected via permit conditions, conservation easements or similar restrictive covenants (as defined in AMC 19.70.135) are not covered by this exemption. b. If an activity has ceased for one year or more any future use of such land, building or structure must thereafter be in conformity with this chapter and the zone in which it is located.	No	Yes
Site Investigation. Minimal site investigative work and studies necessary for preparing land use applications, including, but not limited to, surveys, soil logs and borings, percolation tests, water quality studies, scientific research, wildlife studies, and similar tests and investigations; provided that such activities do not require clearing, fill, construction of new roads, or heavy equipment, and only minimal amounts of excavation and disturbed areas must be immediately restored.	Yes	Yes

EXEMPT ACTIVITIES: (No review required, must strictly meet standards)	Critical Area	Buffer
Outdoor Recreation Activities. Outdoor recreation activities that do not involve modifying the land or vegetation, and that will not adversely affect the functions and values of critical areas.	Yes	Yes

Table 19.70.040 (B)

EXEMPTIONS That require a letter of exemption be obtained from the Director prior to construction or initiation of activities. Subject to conditions by the Director to ensure compliance with this chapter.	Critical Area	Buffer
Utility Operation, Maintenance, Repair, or Replacement. Public water, electric, and natural gas distribution, public stormwater and sewer collection, cable communications, telephone, utility and related activities undertaken pursuant to City-approved best management practices, and best available science with regard to protection of threatened and endangered species, as follows: a. Normal and routine maintenance or repair of existing utility structures or rights-of-way; when the activity does not involve the expansion of facilities or improvements into a previously unimproved portion of critical areas or required buffers; b. Replacement, operation, repair, modification, installation or construction in an improved City road right-of-way or City authorized private roadway of all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less; to include relocation only when required by the City of Anacortes, which approves the new location of the facilities; c. Relocation of public sewer or stormwater local collection, public water local distribution, natural gas, cable communication or telephone facilities, lines, pipes, mains, equipment or appurtenances, only when required by the City of Anacortes, which approves the new location of the facilities; d. Replacement, operation, repair, modification, relocation, installation or construction of public sewer or stormwater local collection, public water local distribution, natural gas, cable communication, or telephone facilities, lines, pipes, mains, equipment or appurtenances when such facilities are located within an improved public right-of-way or City-authorized private roadway;	Yes	Yes

EXEMPTIONS That require a letter of exemption be obtained from the Director prior to construction or initiation of activities. Subject to conditions by the Director to ensure compliance with this chapter.	Critical Area	Buffer
e. Repair and maintenance of existing private connections to public utilities and private stormwater management facilities; f. Regular maintenance of stormwater facilities that are within a segment of a regulated stream, such as conveyance ditches/swales within the right of way or within public drainage easements		
Transportation Infrastructure Operation, Maintenance, Repair, or Replacement. Maintenance, operation, repair, modification, or replacement of publicly improved roadways or City-authorized private roadways, including the road prism and associated stormwater management systems; as long as any such alteration does not involve expansion of roadways or related improvements into previously unimproved rights-of-way or portions of rights-of-way, and does not alter a critical area or required buffer, or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater. Retention and replanting of native vegetation must occur whenever possible along the right-of-way improvement and resulting disturbance	Yes	Yes
Recreation Areas Operation, Maintenance, Repair, or Replacement. Maintenance, operation, repair, modification, or replacement of existing trails, and existing facilities within publicly improved recreation areas, such as the Anacortes Community Forest Lands and public parks, may be performed subject to the following: a. The activity does not involve the expansion of facilities and disturbance to adjacent areas is minimized and disturbed areas must be immediately restored; b. Work is conducted using best management practices; c. Flow and circulation patterns and biological characteristics are not impaired and adverse impacts are minimized; d. Where trail relocation is the least impactful method of repair, trail relocation further away from the Critical Area is not to be considered a new trail but is included in the exemption for operation, maintenance, repair, or replacement.	Yes	Yes
Vegetation Management, including: 1. Removal of noxious weeds or invasive vegetation, as identified by the Washington State or Skagit County Noxious Weed Control Board, in a wetland buffer, stream buffer, other fish and wildlife habitat conservation areas and buffers, is allowed when:	Yes	Yes

EXEMPTIONS That require a letter of exemption be obtained from the Director prior to construction or initiation of activities. Subject to conditions by the Director to ensure compliance with this chapter.	Critical Area	Buffer
a. Undertaken with hand labor, including handheld mechanical tools, and integrated pest management; b. Plants that appear on the Washington State or Skagit County Noxious Weed Control Board lists must be handled and disposed of in accordance with the best management practices appropriate to that species and approved by the City when permit review is applicable; c. Areas cleared by removal of noxious and/or invasive plant species must be revegetated with site-appropriate native species at natural densities and the site must be stabilized against erosion in accordance with the stormwater manual adopted by the City; d. All work performed is above the ordinary high water mark and above the top of a stream bank; and e. The following limits may not be exceeded: Within City-owned property, no more than 3,000 square feet of soil may be exposed at any one time; and within private property, not more than 500 square feet of area may be cleared, as calculated cumulatively, over one year, without a permit and critical area report prepared by a qualified professional. 2. Vegetation management consistent with a previously approved critical area mitigation, restoration, remediation, or enhancement plan that requires ongoing maintenance and vegetation management beyond final inspection and the required monitoring period for the permitted project. 3. Hazard Trees. a. The felling of hazard trees may be permitted when necessary to: i. Control fire; or ii. Halt the spread of disease or damaging insects consistent with 76.09 RCW; or iii. Avoid a threat to existing structures, above ground utility lines or other facilities. iv. Remove an actual threat to life or property from slope instability that would be caused by toppling. b. Unless there is an emergency pursuant to Emergency Exemptions above, the landowner must first obtain prior written approval from the Department. A tree risk assessment prepared by an ISA certified Arborist must be		

EXEMPTIONS That require a letter of exemption be obtained from the Director prior to construction or initiation of activities. Subject to conditions by the Director to ensure compliance with this chapter.	Critical Area	Buffer
submitted by the applicant to the Department that includes the following information: i. Identification of the tree(s) proposed to be removed; ii. A conclusion that the condition constitutes an actual threat to life or property; iii. An assessment of whether a portion of the tree suitable for a snag for wildlife habitat may be safely retained. iv. If a tree to be removed provides priority habitat, such as an eagle perch or occupied nest, a description of timing and methods of removal that will minimize and mitigate impacts. v. If a tree to be removed is located within a landslide hazard area or buffer, an evaluation of potential impacts on slope stability must be completed by a qualified professional, including recommendations for replanting and other measures to avoid adverse impacts to slope stability. c. All work must be done using handheld implements only, unless the property owner requests and the Director approves otherwise in writing. d. Any removed tree or vegetation must be replaced in-kind, with similar or appropriate native species, within 1 year in accordance with an approved restoration plan including species, size, and maintenance plan including species, size, and maintenance plan.		
Clearing, grading, and the construction of fences and arbors are allowed within the required 10-foot stream setback for a piped stream segment if no other critical area or buffer is present.	No	Yes

19.70.045 Permitted Alterations.

- A. **Applicability.** An applicant may seek an alteration of a critical area and/or critical area buffer through a permitted alteration when application of the standards in this chapter would result in the denial of all reasonable and economically viable use of the property and the proposed development meets the specific terms of this section.
- B. **General requirements.** The actions in the permitted alteration table below, must be considered permitted alterations, unless as otherwise specified under AMC 19.70.240 Specific Wetland

Category Development Standards, and provided they are consistent with the general standards for mitigation sequencing and other applicable requirements established in this chapter.

C. Review Process:

1. A critical area permit must be required for all permitted alterations. Requests for such permits must be reviewed using the procedures outlined in chapter 19.20, table 19.20.030. No permit must be issued unless it can be shown that the proposed development is fully consistent with the requirements of this chapter.
2. In addition to other project related documents, all permitted alterations must require a critical area assessment report per section 19.70.115 to evaluate the permitted alteration. The report must include:
 - a. A description of the function and condition of the critical area and or buffer that would be altered;
 - b. An analysis of the effect of the development proposal on the critical area and or buffer;
 - c. A description of actions that can be taken to modify the development proposal to avoid or reduce the alteration of the critical area and/or buffer and a discussion of whether these modifications are practical and reasonable;
 - d. A mitigation plan as required by this chapter.
3. Burden of proof. The burden of proof is on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application.
4. Public comment. Consistent with AMC 19.20.030 the City must ensure the opportunity for public comment, including that from appropriate Federal, State, and Tribal natural resource agencies, to ensure the use of best available science before deciding on approval.

D. Decision criteria. A permit for alterations of a critical area and/or buffer width requirements of this Chapter may only be issued if the applicant demonstrates that all of the following criteria are met:

1. Special circumstances applicable to the subject property, including size, shape, or topography, and the strict application of this chapter is found to deprive the subject property of rights and privileges enjoyed by other properties in the vicinity; provided, however, that the fact that those surrounding properties have been developed under regulations in force prior to the adoption of this chapter may not be the sole basis for granting approval;
2. The issuance of a variance to zoning requirements (setback, height, coverage, etc.) by itself will not provide sufficient relief to avoid the need for a permitted alteration to the critical area and/or buffer and other requirements for the critical areas regulated by this Chapter;
3. Mitigation sequencing per AMC 19.70.125(A) has been applied;

4. The proposed alteration is supported by best available science; and
 5. The proposed alteration allows for development of the subject parcel with the least impact on critical areas while providing a reasonable use of the property.
- E. Conditions may be required. In granting any approval, conditions and safeguards may be prescribed as are necessary to secure adequate protection of critical areas from adverse impacts, protect adjacent property, and to ensure conformity with this chapter.
- F. Table 19.70.045 Permitted Activities.

Table 19.70.045 describes activities that must meet the precise description to be allowed following the prescribed critical area process. Activities are divided into the categories of permitted in the Critical Area and permitted in the Buffer, marked by a yes or no in the appropriate column.

Permitted Alterations: (Critical Area Permit Required – Type 2 Administrative Decision)	Critical Area	Buffer
Buffer Modifications, including: increased buffer width, buffer averaging, and buffer alterations as described specifically in this chapter.	No	Yes
Public Services. To protect wetlands, streams, wildlife habitat and other sensitive critical areas while allowing services when the strict application of the standards in this Chapter would otherwise unreasonably prohibit the provision of public services and amenities. 1. “Public services” include, but are not limited to, water supply, sewer and stormwater management facility; electric power, telecommunication and natural gas lines; and public road and multimodal transportation corridors (e.g., the Tommy Thompson Trail and Guemes Channel Trail). 2. Public services may be allowed to alter critical areas and buffers when: a. Mitigation sequencing per AMC 19.70.125(A) has been applied; b. The application of the critical areas regulations would unreasonably restrict the ability to provide public services; c. There is no other practical alternative to the proposed development with less impact on the critical area; d. The proposed development does not create a health or safety hazard on or off the development site, and must not be detrimental to the properties or improvements in the vicinity; e. Where feasible, development is located on existing road grades, utility corridors, or previously disturbed areas. f. Designs for crossings, boardwalks, bridges, and culverts are consistent with Washington Department of Fish and Wildlife and National Marine Fisheries Service best available science for the protection of fish and wildlife habitat. These structures shall not interfere with fish passage, the flow and circulation of water, or other wetland or stream processes,	Yes	Yes

Permitted Alterations: (Critical Area Permit Required – Type 2 Administrative Decision)	Critical Area	Buffer
and shall be located at a 90-degree angle, or as close as possible thereto, to the stream, wetland, or buffer. In streams with salmonid habitat, bridges, bottomless culverts, or other alternatives that will allow for fish passage are required. Bridge piers or abutments may not be placed within wetlands, streams, or stream banks unless there is no feasible alternative. g. Construction of crossings will occur during work windows and time limits established by state and federal agencies with jurisdiction to decrease impacts to protected species. h. Any alterations permitted to the critical area and buffer are mitigated in accordance with AMC 19.70.135 and relevant mitigation standards for the impacted critical areas(s) type; i. The proposal is consistent with the Anacortes Comprehensive Plan and other applicable regulations. j. Conditions authorized. Conditions may be established as necessary to mitigate impacts to critical areas and to conform to the standards required in this Chapter. 3. It will be a condition of any alteration granted a public agency and services exception that only the portion of the alteration that must be located in a critical area may be so located.		
Conservation, Restoration, and Fish Habitat Enhancement Projects. Conservation or restoration activities aimed at protecting or enhancing the soil, water, vegetation, or wildlife; including voluntary fish, wildlife, and wetland restoration or enhancement activities not required as project mitigation that have been approved by the U.S. Fish and Wildlife Service, the Washington State Department of Ecology, Washington State Department of Fish and Wildlife, or other appropriate local, state, federal, or tribal jurisdiction and/or that meet the criteria of RCW 77.55.181(1) and that are reviewed and approved according to the provisions of RCW 77.55.181. A Biological Evaluation Report is required to determine whether the proposal would conserve, preserve, or enhance critical area functions in the long-term to minimize temporary environmental impacts.	Yes	Yes
Chemical Applications. Chemical applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary for the control of nuisance weeds and algae; except that their use will be restricted in accordance with the State Department of Ecology and State Department of Fish and Wildlife Management recommendations, and regulations of the State Department of Agriculture and the U.S. Environmental Protection Agency.	Yes	Yes

Permitted Alterations: (Critical Area Permit Required – Type 2 Administrative Decision)	Critical Area	Buffer
Recreational Areas / Facilities. Low impact activities which are consistent with the purpose and function of the critical area buffer (not to include the ACFL) and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the critical area. 1. Limited public park or public recreational access including trails, viewing platforms, fishing access (no wider than 6 foot), and foot bridges, provided that all of the following are satisfied: a. The area/facility is part of a public park that is dependent on its location for recreational function; and b. The area/facility is limited to the minimum necessary to accomplish the recreational function; and c. The removal of trees and native vegetation is minimized; and d. The balance of the development is consistent with other requirements of this chapter; and e. The project is identified in the Anacortes Comprehensive Plan or Parks Master Plan. 2. Private pedestrian walkways and public trails must meet the following standards: a. The trail is generally parallel to the perimeter of the critical area; b. The trail is located in the outer 25% of the buffer area and is designed to avoid removal of trees and native vegetation; c. The trail does not exceed 6 feet in width, and is limited to native soils or pervious surfaces. Raised boardwalks utilizing non-treated pilings may be acceptable; and d. The trail may be subject to closure during critical spawning, migration or breeding time periods of sensitive species that are present. 3. Informational signs. Construction and placement of informational signs or educational demonstration facilities no more than 9 square feet surface area and 4 feet high, as long as there is no permanent infringement on hydrology or stream flow and non-treated wood is used; 4. Limited excavating and filling necessary for the repair and maintenance of piers, walkways, observation decks, wildlife management shelters, boathouses, and other similar water related structures, provided they are built on pilings to allow unobstructed flow of water and preserve the natural contour of the critical area.	No	Yes
Single family Residences and Normal Appurtenances. New single family dwellings on existing legal lots may intrude into critical areas or their buffers when all of the following conditions are met:	Yes	Yes

Permitted Alterations: (Critical Area Permit Required – Type 2 Administrative Decision)	Critical Area	Buffer
a. It is demonstrated that it is not feasible to avoid the critical area or buffer through avoidance or buffer averaging, or reconfiguration of lots in the same ownership at the date of adoption of this Ordinance, and the development is the minimum necessary to achieve reasonable use of the lot as determined by the Decision-maker; and b. Alteration of critical areas and their buffers including all clearing, grading, structures, and appurtenances, has not and will not exceed cumulatively 2800 square feet of disturbance; and c. This action does not allow critical areas or their buffers to be converted to lawn or residential landscaping beyond a minimal area needed to maintain an approved structure; and d. Mitigation sequencing provided in this Chapter under AMC 19.70.125 is applied and the proposal includes on-site mitigation to the extent feasible as determined by the Critical Area Report. e. Normal appurtenances included in this provision include garages, decks, and walkways incidental to residential living and that do not constitute a special privilege.		
Anacortes Community Forest Lands. Given the unique qualities of the community forest, all properties designated as ACFL have been nominated as a regulated critical area. Any and all new uses and development of new facilities within the ACFL must meet the requirements of the Conservation Easements/Deed Restrictions of the land, Anacortes Comprehensive Plan, The ACFL Comprehensive Plan, AMC 19.70 Critical Areas, and AMC 12.18 ACFL.	Yes	Yes
Critical Area Aquifer Recharge Areas. All regulated activities listed under AMC 19.70.540.	Yes	Yes

19.70.050 Reasonable Use Exception and Critical Area Variance.

- A. **Applicability.** If the application of this Chapter would result in denial of all reasonable and economically viable use of a property, and if such reasonable and economically viable use of the property cannot be obtained by consideration of a permitted alteration pursuant to AMC 19.70.045, then a landowner may seek a reasonable use exception from the standards of this Chapter. Reasonable use exceptions are considered a critical area variance and are intended as a last resort and only when a variance can meet the requirements of this Chapter.
- B. **General Requirements.** Reasonable use is a legal concept articulated by federal and state courts in regulatory takings cases. Within the context of these cases and for the purposes of this title, reasonable use means uses allowed by the underlying zoning designation and subdivision of property is not allowed. When no possible alternative exists, a reasonable use

exceptions must be considered a critical area variance, provided they are consistent with the general standards for variances under 19.38.040 and other applicable requirements established in this chapter.

C. Procedures for Review:

1. A variance permit must be required for all reasonable use exceptions. Requests for such permits must be reviewed using the procedures applicable to Type 3 Hearing Examiner decisions outlined in chapter AMC 19.20.030. A permit may not be issued unless it can be shown that the proposed development is fully consistent with the variance approval criteria enumerated in AMC Section 19.38.040 (variance criteria) as well as all of the requirements of this chapter.
2. In addition to other project related documents, all critical area variances must require a critical area assessment report per section AMC 19.70.115 to evaluate the proposed disturbance. The report must include:
 - a. A description of the function and condition of the critical area and or buffer that would be altered;
 - b. An analysis of the effect of the development proposal on the critical area and or buffer;
 - c. A description of actions that can be taken to modify the development proposal to avoid or reduce the alteration of the critical area and/or buffer and a discussion of whether these modifications are practical and reasonable;
 - d. A mitigation plan as required by this chapter.
3. Burden of proof. The burden of proof is on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application.
4. Public Comment. Consistent with AMC 19.20.030 The City must ensure the opportunity for public comment, including that from appropriate Federal, State, and Tribal natural resource agencies, to ensure the use of best available science before a decision is made.

D. Variance criteria. A reasonable use exception may be granted only if the applicant demonstrates that all of the requested action is consistent with all of the variance approval criteria as set forth:

1. The application of this chapter would deny all reasonable economic use of the property and that there is no reasonable economically viable use with a lesser impact on the critical area than that proposed; and
2. Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land, and that are not applicable to other lands subject to the provisions of this chapter; and

3. The inability of the applicant to derive reasonable use of the property is not the result of actions by the current or previous owner in subdividing the property or adjusting a boundary line, thereby creating the undevelopable condition, after the effective date of the ordinance codified in this Chapter; and
 4. Any proposed modification to a critical area will be evaluated through consideration of a critical areas report and mitigation plan prepared by a qualified professional pursuant to the requirements of this Chapter, and will be the minimum necessary to allow reasonable and economically viable use of the property. The critical areas report and mitigation plan must be prepared utilizing best available science; and
 5. Mitigation sequencing per AMC 19.70.125(A) has been applied, and the proposal mitigates impacts on the critical area to the maximum extent possible, while still allowing reasonable use of the lot; and
 6. The proposed development does not pose a threat to adjacent property or to the public health and safety; and
 7. The applicant has demonstrated that the criteria in AMC 19.38.040 (variance criteria) are met; and
 8. Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings under similar circumstances; and
 9. The granting of the variance is consistent with the general purpose and intent of the Anacortes Comprehensive Plan, and planning policies.
- E. **Conditions.** Conditions of approval may be included as part of the decision, including modifications to the size and placement of structures and facilities to minimize impacts to critical areas and associated buffers and mitigation requirements that ensure that all impacts are mitigated to the maximum extent feasible utilizing best available science.
- F. **Variances – Geologically hazardous areas.** A variance must not authorize development within a geologically hazardous area or required setback or buffer from a geologically hazardous area unless a Qualified Professional has determined the development will not pose a threat to public safety or property.

PART 1: CRITICAL AREAS REVIEW PROCEDURES

19.70.110 Critical area identification form.

Prior to the City's consideration of any proposed activity found not to be exempt under AMC 19.70.040, the applicant must submit to the Department a completed form identifying suspected critical areas on, and within 300 feet, of the site.

19.70.115 Critical Area Report.

- A. Report required.** When the Director determines a proposed development is within, abutting, or is likely to adversely affect a critical area or buffer pursuant to the provisions of this chapter, the Director may require a critical areas assessment report that is prepared by a Qualified Professional. The assessment of critical areas and analysis of impacts must be commensurate with the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity. This provision is not intended to expand or limit an applicant's other obligations under [WAC 197-11-100](#).
- B. Third Party Review of Critical Area Reports.** The Director may require, at the applicant's expense, a third-party review of a critical area report by a Qualified Professional under contract with or employed by the City in any of the following circumstances:
1. The project requires a critical area permit, or critical area variance; or
 2. Third party review is specifically required by the provisions of this chapter for the critical area(s) or critical area buffer(s) potentially being impacted; or
 3. When the Director determines that such services are necessary to demonstrate compliance with the standards and guidelines of this chapter or other appropriate regulations.
- C. Critical Area Report Types or Sections.** Critical area report requirements may be met in stages through multiple reports or combined in one report. A critical area report must include one or more of the following sections or report types unless exempted by the Director based on the extent of the potential critical area impacts. The scope and location of the proposed project will determine which report(s) alone or combined are sufficient to meet the critical area report requirements for potentially impacted critical area type(s). The typical sequence of required sections or reports that will fulfill the requirements of this section include:
1. **Reconnaissance.** The existence, general location, and type of critical areas on, adjacent to, or likely to be impacted by activities on a project site. Determination of whether the project will adversely impact or be at risk from the potential critical areas based on maximum potential buffers for the particular critical area type. Possible application of exemptions should also be addressed;
 2. **Delineation.** The extent, boundaries, rating or classification, and applicable standard buffers of critical areas where the project area could potentially impact the critical area or its buffer including an assessment of the characteristics of or functions and values of the critical area and buffers identified;
 3. **Analysis.** The proposal and impact assessment report documenting the potential project impacts to the critical area and buffers including a discussion of the efforts taken to avoid, minimize, and reduce potential impacts to those areas per AMC 19.70.125(A);

4. **Mitigation.** The measures that prevent or compensate for the potential impacts of the project designed to meet the requirements of this chapter, AMC 19.70.125, Mitigation Plan Requirements, and the standards for the specific critical areas impacted. Mitigation includes, but is not limited to, adjustments to required buffer sizes, best practices to minimize impacts, and critical area or buffer enhancement, restoration, or preservation plans. Mitigation plans include but are not limited to habitat management plans, revegetation or replanting plans, and restoration plans;
5. **Maintenance and Monitoring.** The goals of the mitigation proposed, performance standards for success, monitoring methods and reporting schedule, and contingency actions. Maintenance and monitoring plans must be consistent with the mitigation performance standards and requirements of this chapter, including the specific mitigation plan requirements outlined in each critical area type section.

D. Minimum Report Requirements. At a minimum, critical area reports must contain the following information:

1. The names and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
2. A description of the proposal, proposal location including address and parcel number(s), and a vicinity map for the project;
3. Identification and characterization of all critical areas, water bodies, shorelines, and buffers on or within 300 feet of the proposed project area, The Director may require critical area and buffer dimensions be accurately surveyed, depending on the scope of the project;
4. Documentation of any fieldwork performed on the site, including field data sheets, for delineations, rating system forms, baseline hydrologic data, site photos, etc.;
5. A statement specifying the accuracy of the report and all assumptions made and relied upon;
6. A description of methodologies used to conduct the critical areas investigation, including references;
7. A scaled drawing of critical areas and buffer identified in the report including buffers for off-site critical areas that extend onto the project site.

E. Existing reports. Critical areas assessment reports must generally be valid for a period of five years. Unless otherwise provided, a critical areas report may incorporate, be supplemented by, or composed of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Director. At the discretion of the Director, reports previously compiled or submitted as part of a proposal for a development may be used as a critical areas report to the extent that the requirements of this section and the requirements for each specific critical area type are met. Supplemental critical area report(s) may be required to provide information or analysis to address changes to the

project scope, potential impacts or to changes to applicable regulations that have been made subsequent to existing, valid critical area reports, or other circumstances.

F. Modifications to Report Requirements. The applicant may consult with the Director, prior to or during preparation of the critical areas report, to obtain approval of modifications to the required contents of the report where, in the judgement of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

1. In some cases, such as when it is determined that no specific critical area is present, a full report may not be necessary to determine compliance with the critical area regulations, and in those cases a letter or reconnaissance only report may be required.
2. Limitations to study area. The Director may limit the required geographic area of the critical areas report as appropriate if:
 - a. The applicant, with assistance from the City of Anacortes, cannot obtain permission to access properties adjacent to the project area; or
 - b. The proposed activity will affect only a limited part of the project site.

19.70.120 Application Requirements.

- A. A complete application for a Permitted Alteration permit or Reasonable Use Exception/Variance permit must include the following information and materials on a form provided by the Director. For the purpose of this section, a complete application includes:
 1. The name and contact information of the applicant;
 2. Adequate information to determine compliance with the requirements of the critical area regulations, including a critical area report, impact and hazard assessment, and mitigation requirements specific to each critical area type, as indicated in the corresponding sections of this chapter;
 3. Identification of the development permit(s) requested and all other local, State, and/or Federal critical area-related permits required for the project;
 4. Site plan, a scaled drawing of the development proposal including:
 - a. Property and project site boundaries.
 - b. An accurate depiction of all critical areas, including off-site critical areas and buffers that extend onto the project site, a desk survey is acceptable when access to the adjacent property has been denied.
 - c. The development proposal, including grading and clearing limits and areas of proposed impacts to critical areas and/or buffers (include square footage estimates).

- d. A scaled depiction and description of the proposed stormwater pollution prevention plan consistent with the adopted stormwater manual, for the development and consideration of impacts to critical areas due to drainage alterations;
 - e. An assessment of probable impacts to the critical areas resulting from the proposed development of the site based upon identified findings;
 - f. A description of reasonable efforts made to apply mitigation sequencing pursuant to AMC 19.70.135, Mitigation requirements, to avoid, minimize, and mitigate impacts to critical areas; and
 - g. Plans for mitigation required to offset any critical areas impacts, in accordance with AMC 19.70.140, Mitigation plan requirements, and the corresponding mitigation performance standards sections of this chapter, including a discussion of the applicable development standards and cost estimates for determination financial guarantee requirements.
- B. **Additional Requirements.** The Director may require additional information to be included in the critical areas permit submittal when determined to be necessary to the review of the proposed activity in accordance with this chapter. Additional information that may be required includes, but is not limited to:
- 1. Historical data, including original and subsequent mapping, historical aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site;
 - 2. Grading and stormwater management plans; and
 - 3. Information specific to the type, location, and nature of the critical area.

19.70.125 Mitigation requirements.

Mitigation must be sufficient to restore impacted functions and values, or compensate for the impacted functions and values of the critical area and to prevent risk from a hazard posed to a critical area by the proposed activity. Mitigation must not be implemented until after the Decision-maker has provided approval of a critical areas report that includes a mitigation plan.

- A. **Mitigation sequencing.** This section applies to mitigation required with all critical areas reviews, approvals, and enforcement pursuant to this chapter. This section is supplemented with specific measures under parts for particular critical area types. Mitigation for specific development proposals may include a combination of the measures below and must be designed and constructed in accordance with the provisions of this section. Before impacting any critical areas, an applicant must demonstrate that the following actions have been taken in the following sequential order:
- 1. Avoiding the impact altogether by not taking a certain action or parts of actions;

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment or by restoring or stabilizing the critical area through natural, engineering, or other methods;
 4. Reducing or eliminating the impacts or hazard 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, measuring and reporting the impact to the Decision-maker and taking appropriate corrective measures.
- B. Applicants must first demonstrate an inability to avoid or reduce impacts before the use of actions to mitigate potential impacts will be allowed. No activity or use may be allowed that results in a net loss of the functions or values of a critical area.
- C. **Type, Location and Timing of Mitigation.** Unless it is demonstrated that higher level of ecological functioning or greater reduction of hazard risk would result from an alternative approach or as otherwise allowed in this chapter, mitigation for adverse impacts must be based on best available science and must be in-kind, on-site, and prior to the activities that will disturb the critical area. Mitigation measures that cannot be implemented prior to the critical area impacts must be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects must be timed to reduce impacts to existing fisheries, wildlife, and flora.
1. The Decision-maker may authorize a one-time temporary delay in completing construction or installation of the mitigation when the applicant provides a written explanation from a Qualified Professional as to the rationale for the delay and satisfactory financial guarantee that the installation will occur. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g. project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay must not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay must not be injurious to the health, safety, or general welfare of the public.
 2. **Alternative mitigation approaches.** If the applicant can demonstrate that off-site concurrent or advance mitigation would provide a higher level of ecological function or a greater reduction of hazard risk, off-site mitigation that occurs on Fidalgo Island will be considered by the Decision-maker.

19.70.130 Mitigation plan requirements

When mitigation is required, the applicant must submit for approval by the City a mitigation plan as part of the critical area report. The mitigation plan must include:

A. Environmental Goals and Objectives. The mitigation plan must identify environmental goals and objectives of the mitigation proposed and including:

1. A description of the anticipated impacts to the critical areas, the mitigating actions proposed, and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives must be related to the functions and values of the impacted critical area; and
2. A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed.

B. Performance Standards. The mitigation plan must include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained at the end of the required monitoring period and whether or not the requirements of this chapter have been met.

C. Detailed Construction Plans. In order to convey proposed construction techniques and anticipated final outcome, the mitigation plan must include written specifications, descriptions, and drawings of the mitigation propose, including:

1. The proposed construction sequence, timing, and duration;
2. Best management practices including erosion and sediment control features to be implemented;
3. Site plans showing grading and excavation details, slope gradient, and final grade elevations with minimum two-foot contour intervals;
4. Cross-sectional drawings;
5. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
6. Measures to protect and maintain plants until established.

D. Monitoring Program and Contingency Plan. A monitoring and contingency plan is required for all projects requiring mitigation.

1. The mitigation plan must include a monitoring program to be implemented by the applicant to determine the success of the mitigation project and any necessary corrective

actions. This program must determine if the original goals and objectives of the mitigation plan are being met.

2. A contingency plan must be established for indemnity in the event that the mitigation project is inadequate or fails. Contingency plans include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met. Corrective measures must be taken when the qualified professional indicates, in a monitoring report, that the contingency actions are needed to ensure project success by the end of the monitoring period. A performance and maintenance bond, or other acceptable financial guarantee, is required to ensure the applicant's compliance with the terms of the mitigation agreement consistent with AMC 19.70.160, financial guarantee requirements.
3. Monitoring programs prepared to comply with this section must include the following requirements:
 - a. Best available scientific procedures must be used to establish the success or failure of the project. A protocol outlining the schedule for site monitoring (for example, monitoring must occur in years zero (as-built), one, three, and five after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met.
 - b. For vegetation determinations, permanent sampling points must be established.
 - c. The monitoring program must include measurable specific criteria, or performance standards, for evaluating whether or not the goals and objectives of the mitigation plan have been successfully attained.
 - d. A monitoring report must be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. Monitoring reports on the current status of the mitigation project must be submitted, consistent with Subsection (e) of this section, to the City on the schedule identified in the monitoring plan, but not less than every other year. The reports are to be prepared by a qualified professional and reviewed by the City, or a qualified professional retained by the City, and should include monitoring information on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation, as applicable.
 - e. Monitoring programs must be established for a period necessary to establish that performance standards have been met, but not for less than a minimum of five years without approval from the Decision-maker. A longer monitoring period may be required depending on the mitigation goals.
 - f. If necessary, failures in the mitigation project must be corrected.
 - g. Dead or undesirable vegetation must be replaced with appropriate plantings.

- h. Damage caused by erosion, settling, or other geomorphological processes must be repaired.
 - i. The mitigation project must be redesigned (if necessary) and the new design must be implemented and monitored, as in subsection (D)(3)(d) of this section.
 - j. Correction procedures must be approved by the Decision-maker; the Decision-maker may request review by a qualified professional.
 - k. If the mitigation goals are not obtained within the initial monitoring period, the applicant remains responsible for restoration of the impacted values and functions or hazard risk reduction until the mitigation goals agreed to in the mitigation plan are achieved.
- E. **Monitoring Reports.** Monitoring reports must be submitted to the City consistent with the approved monitoring plan.
- 1. The as-built report, required prior to final inspection, must, at a minimum, include documentation of the following:
 - a. Departures from the original approved plans;
 - b. Construction supervision provided by the qualified professional;
 - c. Approved project goals and performance standards;
 - d. Baseline data for monitoring per the approved monitoring methods;
 - e. Photos from established photo points; and
 - f. A site plan showing final mitigation as constructed or installed, monitoring points, and photo points.
 - 2. Subsequent monitoring reports must, at a minimum, include:
 - a. Monitoring visit observations, documentation, and analysis of monitoring data collected;
 - b. Photos from established photo points;
 - c. Determination whether performance standards are being met; and
 - d. Maintenance and/or contingency action recommendations to ensure success of the project at the end of the monitoring period.
 - 3. The applicant is responsible for reimbursement of the cost of review of monitoring reports and site inspections during the monitoring period which are completed by the City or a qualified professional under contract with or employed by the City.
- F. **Cost Estimates.** The mitigation plan must include cost estimates that will be used by the City to calculate the amounts of financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project,

monitoring program, and any contingency measures must be posted in accordance with AMC 19.70.160, financial guarantee requirements.

- G. **Approved Mitigation Projects – Signature.** On completion of construction, an as-built report for any approved mitigation project must be prepared and signed off by the applicant’s qualified professional and approved by the City. Signature of the qualified professional on the required as-built report and approval by the Director indicates that the construction has been completed as planned.

19.70.135 Title Notification.

- A. **Generally.** A critical area notice on title is required, as a condition of permit issuance or project approval, when a permit or development application is submitted for development on any property containing a critical area or buffer. The purpose is to inform subsequent purchasers of real property of the existence of critical areas.

1. The title notice requirement can be met through recording of a title notice on forms prepared by the City, establishment of a critical area tract, or recording of a native growth protection area easement, consistent with AMC 19.70.145(B) through (D) below, as applicable.
2. The following must be noted on all critical area title notice documents:
 - a. Identification of ownership and long term maintenance responsibility of critical areas, buffers, and permanent field markings (e.g. fencing, signage);
 - b. Restrictions on development, vegetation removal, and application of hazardous substances (pesticides, herbicides, fertilizers) within the critical areas and buffers;
 - c. The right of the City to enforce the terms of the restrictions.

- B. **Title Notice.** The title notice applicable to the property must be approved by the Decision-maker and City Attorney for compliance with this provision and be filed by the property owner, at their expense, with the Skagit County Auditor’s Office. The title holder will have the right to challenge this notice and to have it extinguished if the critical area designation no longer applies. However, the titleholder is responsible for completing a critical area report, subject to approval by the Decision-maker, before the notice on title can be extinguished. The title notice runs with the land.

- C. **Critical Area Tract.** Subdivisions, short subdivisions, and binding site plans must establish a separate critical areas tract as a permanent protective measure for wetlands, fish and wildlife habitat conservation areas, and geological hazard areas and their buffers. The plat or binding site plan for the project must note the long-term ownership/maintenance responsibility as well as clearly depict the critical areas tract, including all of the subject critical area, any required buffer, and any additional lands included voluntarily as part of the project. Should the critical area tract include several types of critical areas, separate critical areas tracts must be identified.

D. Native Growth Protection Easements (NGPE). NGPE easements are required on a property where no subdivision, short subdivision, or binding site plan is proposed or required. Unless otherwise required in this chapter, NGPE easements must be recorded on title for all affected parcels prior to approval of a development application or building permit, when two or more dwelling units and/or nonresidential development are proposed on one parcel, to delineate and protect critical areas and their buffers. The easement to be recorded must clearly depict the critical area(s), required buffer(s) and the limits of the NGPE easement.

19.70.140 Field marking.

A. Temporary field marking during construction. The outer perimeter of the critical area buffer and the clearing limits identified by an approved permit or authorization must be marked in the field with temporary “clearing limits” fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the Director prior to the commencement of permitted activities. This temporary marking and fencing must be maintained throughout construction and may not be removed until permanent fencing and/or signs, if required, are in place.

B. Permanent field marking. The Decision-maker may require installation of permanent signs, markers, and fencing along the outer perimeter of a critical area or its buffer when it is determined necessary to protect the critical areas’ functions and values. Permanent markings must be installed prior to final project approval or occupancy, as determined by the Decision-maker.

1. **Signs.** All critical areas tracts, easements, and dedications, should be clearly marked on the site using permanent markings, as follows:

a. Signs must be placed at least every 50 feet, with a minimum of one per lot, which include the following text, or similar, as approved by the Decision-maker:

City of Anacortes Designated Critical Area. Activities, including clearing and grading, removal of vegetation, pruning, cutting of trees or shrubs, planting of nonnative species, and other alterations may be prohibited. Help protect and care for this area. Please contact the City of Anacortes with questions or concerns.

b. Signs must be made of an enamel-coated metal face and attached to a metal post or another non-treated material of equal durability.

2. **Fencing.** Permanent fencing should be designed so as not to interfere with species migration or wildlife movement, unless exclusion fencing is more pertinent, and constructed in a manner that minimizes impacts to the critical areas and buffers. Proposed fencing type and materials will be determined on a case by case basis and must be approved by the Decision-maker prior to installation.

C. Maintenance and replacement. It is the responsibility of the landowner, successors, or as otherwise assigned to maintain in perpetuity and replace, if necessary, all permanent fencing and field markings.

19.70.145 Construction plan review, monitoring, and inspection.

- A. The Director may require project building and construction plans be reviewed by a qualified professional for confirmation of consistency with the critical areas report and recommendations prior to approval of construction plans.
- B. The Director may require monitoring by a qualified professional during site alteration activities within, or adjacent to, critical areas or buffers, and/or a final inspection report by the qualified professional stating that construction has or has not implemented the design recommendations provided in the project critical areas report, and evaluation of any deviation from the recommendations.
- C. When the Director determines that such services are necessary to demonstrate compliance with the standards and guidelines of this chapter, they will be at the applicant's expense.

19.70.150 Financial Guarantee Requirements.

When determined necessary by the Director, bonds, and other financial guarantees, and associated performance agreements or maintenance/defect/monitoring agreements are required for projects with required mitigation or restoration of impacts to critical areas or critical area buffers consistent with the following:

- A. A performance agreement and bond, or other acceptable financial guarantees, are required from the applicant when mitigation required pursuant to a development proposal is not completed prior to final permit approval, such as final plat approval or final building inspection. The amount of the performance bond(s) must equal 125 percent of the cost of the mitigation project.
- B. A performance agreement and bond, or other acceptable financial guarantees, are required from the applicant when restoration is required for remediation of a critical area violation. The amount of the performance bond(s) must equal 125 percent of the cost of the mitigation project.
- C. A maintenance/defect/monitoring agreement and bond, or other acceptable financial guarantees, are required to ensure the applicant's compliance with the conditions of the approved mitigation plan pursuant to a development proposal or restoration plan for remediation of a violation. The amount of the maintenance bond(s) must equal 125 percent of the cost of the mitigation project in addition to the cost for monitoring for a minimum of five years. The monitoring portion of the financial guarantee may be reduced in proportion to work successfully completed over the period of the bond. The bonding period must coincide with the monitoring period.

19.70.165 Unauthorized Critical Area Alterations.

- A. When a critical area or its buffer has been altered in violation of this chapter, all work must stop and the critical area and buffer must be restored. The Director may issue a stop work order to cease all work, and order restoration measures at the owner's or other responsible party's expense to remediate the impacts of the violation of the provisions of this chapter. The City may take formal enforcement action under AMC 20.10 to ensure the violation is abated.

B. Requirement for Restoration Plan.

1. All work must remain stopped until a restoration plan is provided by the responsible party and approved by the City. Such a plan must be prepared by a Qualified Professional using the best available science and must describe how the actions proposed meet the minimum requirements described in subsection C of this section.
2. The Director may, at the responsible party's expense, seek expert advice, including but not limited to third party review by a qualified professional under contract with or employed by the City, in determining if the plan meets the minimum performance standards for restoration.
3. Submittal, review, and approval of required restoration plans for remediation of violations of this chapter must be completed through a site development permit application process, either after-the-fact for regulated activities, or as a restoration permit for activities not allowed under these provisions.

C. Minimum Performance Standards for Restoration.

1. For alterations to critical aquifer recharge areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards must be met for the restoration:
 - a. The pre-violation function and values of the affected critical areas and buffers must be restored, including but not limited to hydrologic, water quality and habitat functions;
 - b. The pre-violation soil types and configuration must be replicated;
 - c. The critical area and buffers must be replanted with a native vegetation community that reproduces the structure, species content and condition of the pre-violation vegetation community. Based on the historical or pre-violation vegetation community, native plant species must be replaced at minimum of a 5:1 ratio or installed at a density of 5 foot-on-center unless approved by the Decision-maker. The pre-violation functions and values should be replicated at the location of the alteration; and
 - d. Information demonstrating compliance with the requirements in AMC 19.70.125, Mitigation plan requirements, and the applicable mitigation sections for the affected type(s) of critical area(s) and their buffer(s) must be submitted to the Decision-maker with a complete site development permit application.
 - e. These standards may be modified by the Decision-maker when it can be demonstrated that greater functional and habitat values can be obtained.
2. For alterations to special flood hazard and geologically hazardous areas, the following minimum performance standards must be met for the restoration of a critical area:

- a. The hazard must be reduced to a level equal to, or less than, the pre-violation hazard;
- b. Any risk of personal injury resulting from the alteration must be eliminated or minimized; and
- c. The hazard area and buffers must be replanted with native vegetation sufficient to minimize the hazard.
- d. These standards may be modified by the Decision-maker if the violator can demonstrate that greater safety can be obtained.

D. Site Investigation. The Director is authorized to take such actions as are necessary to enforce this chapter. The Director (or Director's authorized representative) must present proper credentials and obtain permission before entering onto private property.

E. Penalties. Any responsible party violating the provisions of this chapter may be subject to applicable penalties per AMC Title 20 Civil Enforcement and Penalties plus the following:

- 1. A square footage cost of \$3.00 per square foot of impacted critical area buffer; and a square footage cost of \$15.00 per square foot of impacted critical area; and
- 2. A per tree penalty in the amount of \$3,000 per non-significant tree and \$9,000 per Significant Tree, for trees removed, or otherwise damaged, within a critical area or buffer in violation of the provisions of this chapter.

19.70.170 Final Decision and Appeals.

- A. **Completion of the critical area review.** The city's determination regarding critical areas pursuant to this chapter is final concurrent with the final decision to approve, condition, or deny the underlying permit for the development proposal or other activity involved.
- B. **Appeals.** Any decision to approve, condition, or deny a development activity proposal or other activity based on the requirements of this chapter may be appealed according to, and as part of, the appeal procedure for the underlying permit or approval involved.

PART 2: WETLANDS

19.70.210 Wetlands – Description and Purpose.

It is the purpose of this Chapter to protect the functions and values of wetlands, which serve many important ecological and environmental functions and help to protect public health, safety, and welfare by providing flood storage and conveyance, and erosion control, while also providing fish and wildlife habitat, recreation, water quality protection, water storage, education, scientific research opportunities and other public benefits.

19.70.215 Wetlands - Designation and Rating.

A. Designation. All areas meeting the definition of a wetland and the wetland identification criteria pursuant to this chapter, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

B. Rating. Wetlands must be rated by a qualified professional according to the Washington State Department of Ecology Wetland Rating System for Western Washington - 2014 Update (Ecology Publication #14-06-029, October 2014), or as revised. Wetland rating categories will be applied as the wetland exists on the date of adoption of the rating system by the City, as the wetland naturally changes in accordance with permitted activities.

1. **Category I.** Category I wetlands are those that represent unique or rare wetland types, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime, or provide a high level of functions. The following types of wetlands are Category I:
 - a. Relatively undisturbed estuarine wetlands larger than one acre;
 - b. Wetlands of high conservation value identified by scientists of the Washington Natural Heritage Program/Department of Natural Resources (DNR);
 - c. Bogs;
 - d. Mature forested wetlands larger than one acre;
 - e. Wetlands in coastal lagoons; and
 - f. Wetlands that perform many functions well and have a total score of 23 points or more in the wetland rating.
2. **Category II.** Category II wetlands are those wetlands that are difficult, though not impossible, to replace, and provide high levels of some functions. The following types of wetlands are Category II:
 - a. Estuarine wetlands smaller than 1 acre or disturbed estuarine wetlands larger than 1 acre;

- b. Wetlands with a moderately high level of functions and a total score of 20 to 22 points in the wetland rating.
 - c. Wetlands in coastal lagoons that are relatively undisturbed and equal to or smaller than 1/10 ac (4350 square feet).
- 3. **Category III.** Category III wetlands are those with a moderate level of functions, generally have been disturbed in some ways, can often be adequately replaced with a well-planned mitigation project, and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands. The following types of wetlands are Category III:
 - a. Wetlands with a moderate level of functions with a total score of 16 to 19 points in the wetland rating.
- 4. **Category IV.** Category IV wetlands have the lowest levels of functions and are often heavily disturbed, with a total score of 15 points or less in the wetland rating. The functions provided by Category IV wetlands are generally easier to replace, and in some cases can be improved. However, experience has shown that replacement of functions cannot be guaranteed in any specific case. These wetlands may provide some important functions that need protected.
- B. **Illegal Modifications.** When a violation occurs wetland rating categories do not change due to illegal modifications or alterations. A wetland's category must be based on the pre-violation condition of the wetland.

19.70.220 Wetlands – Mapping and delineation.

- A. **Mapping.** The approximate location and extent of potential wetlands are shown in the wetland data layer maintained in the City of Anacortes geographic information system (GIS). In addition, the following maps and inventories, that depict areas of hydric soils and potential wetland areas, are hereby adopted by reference as amended:
 - 1. Soils maps produced by the U.S. Department of Agriculture, National Resources Conservation Service; and
 - 2. The National Wetlands Inventory, produced by the U.S. Fish and Wildlife Service.
- B. **Reference Only.** The maps and resources cited above are to be used as a guide for the Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.
- C. **Identification and Delineation.** Identification of wetlands and delineation of their boundaries pursuant to this chapter must be done in accordance with the adopted Federal wetland delineation manual and applicable regional supplements per WAC [173-22-035](#). The exact location of a wetland's boundary must be determined through the performance of a field investigation by a qualified professional. Evidence documenting the results of the

boundary survey, including evidence of a lack of wetland indicators if no wetlands are identified, must be submitted to the City.

19.70.225 Wetlands – General Development Standards.

- A. All development activities and uses are prohibited in wetlands and wetland buffers, unless administered through the permit procedures above, and the performance standards described herein, and only when it is demonstrated that the activity will not result in a loss of the functions and values of the wetland through the application of mitigation sequencing in AMC 19.70.135.
- B. **Exemptions.** Exemptions to this chapter are listed in the provisions established in AMC 19.70.040 Exemption activities.
- C. **Subdivisions.** The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:
 - 1. Land that is located wholly within a wetland and/or its buffer may not be subdivided; and
 - 2. Land that is located partially within a wetland and/or its buffer may be subdivided; provided each lot will meet all zoning standards in AMC 19.42 without encroaching into the wetland or buffer.

19.70.230 Wetlands – Specific Wetland Category Development Standards.

- A. **Category I Wetlands.** Development activities and uses that result in alteration of Category I wetlands and their associated buffers are prohibited, unless the denial will prevent all reasonable economic use of the property. The development may be permitted through a Critical Area Variance if it is determined to be the minimum impact possible and a Reasonable Use as prescribed in AMC 19.70.045.
- B. **Category II, III and IV Wetlands.** Development activities that result in alteration of Category II, III or IV wetlands may be permitted upon demonstration, through a critical areas report meeting the requirements of this Chapter, that:
 - 1. Mitigation sequencing has been applied per AMC 19.70.125(A);
 - 2. The proposed alteration will not degrade the quantitative and qualitative functioning of the wetland, or that any degradation can be adequately mitigated to protect or compensate for the wetland functions that are lost;
 - 3. Small, Hydrologically Isolated Category IV Wetlands (less than 1,000 sq. ft.). The Decision-maker may allow small, hydrologically isolated Category IV wetlands to be exempt from the requirement to avoid impacts (AMC 19.70.125(A)(1) Mitigation requirements) and allow alteration of such wetlands if all of the following conditions are met:

- a. The remaining mitigation sequencing actions of AMC 19.70.125(A) (2)-(6) are followed;
 - b. The wetland is less than 1,000 square feet in area;
 - c. The wetland does not have unique characteristics that would be difficult to replace through standard compensatory mitigation practices.
 - d. The wetland is a low quality Category IV wetland with a habitat score of less than 5 points in the adopted rating system;
 - e. The wetland does not provide significant suitable breeding habitat for native amphibian species. Suitable breeding habitat may be indicated by adequate stable and seasonal inundation that is persistent from February to at least through April and presence of thin-stemmed emergent vegetation and/or clean water;
 - f. The wetland does not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife or species of local importance which are regulated as fish and wildlife habitat conservation areas in Part 3 FWHCA;
 - g. The wetland is not associated with shorelines of the state or their associated buffers;
 - h. The wetland is not associated with riparian areas or buffers;
 - i. The wetland is not part of a wetland mosaic; and
 - j. A mitigation plan to replace lost wetland functions and values is developed, approved, and implemented consistent with AMC 19.70.125.
 - k. In order to verify that the wetland meets these exemption conditions, a critical area report for wetlands meeting the requirements in this chapter must be submitted.
4. Small, Hydrologically Isolated Category IV Wetlands (less than 1,000 sq. ft.). Wetlands less than 1,000 square feet that meet the criteria in subsection (B)(3) of this section (above) and that do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this Chapter. In order to verify that the wetland meets this exemption, a critical area report for wetlands meeting the requirements in this chapter must be submitted.

19.70.235 Wetlands – Required buffer areas.

- A. **Buffer Requirements.** Wetland buffers must be established to protect the integrity, functions and values of the wetland. The standard buffer widths in Tables 19.70.235 (B) (C) and (D) have been established in accordance with the best available science. The buffer widths must be determined based on the category of wetland, surrounding land use

intensity, and the habitat score as assigned by a qualified wetland professional using the most up to date version of the Washington State Wetland Rating System for Western Washington.

1. **Measurement of Wetland Buffers.** All buffers must be measured horizontally from edge of the wetland boundary as surveyed in the field. The width of the wetland buffer must be determined according to Tables 19.70.235(B), (C) and (D).
2. **Buffer Standards.** The buffer standards required by this chapter presume the existence of a dense vegetation community in the buffer adequate to protect the wetland functions and values. When a buffer lacks adequate vegetation, the Decision-maker may increase the standard buffer, require buffer planting or other enhancements, and/or deny a proposal for buffer reduction or buffer averaging.

B. For the purposes of buffer determination below, Land Use Intensity rating is as follows:

Table 19.70.235 (A)

High Land Use Intensity	Land use that includes the following uses or activities: commercial, industrial, institutional, retail sales, nonresidential use in zones where the primary intent is residential, residential, high-intensity recreation (such as golf courses, ball fields), and hobby farms.
Moderate Land Use Intensity	Land use that includes the following uses or activities: moderate-intensity open space (parks, paved trails, and logging roads).
Low Land Use Intensity	Land use that includes the following uses or activities: forestry (cutting of trees only), low-intensity open space (such as passive-outdoor recreation activities and natural resources preservation), unpaved trails.

C. There are three sets of buffer standards, based on these parameters:

1. **Buffer Widths** for wetlands that have a high level of function for wildlife habitat as indicated by a habitat function score of 8 or 9 points on the wetland rating form:

Table 19.70.235 (B).

Wetland Category	Buffer Width (feet)		
	High Intensity	Moderate Intensity	Low Intensity
Category I	300	225	150
Category II	300	225	150

Category III	150	110	75
Category IV	50	40	25

2. Buffer Widths for wetlands that have a moderate level of function for wildlife habitat as indicated by a habitat function score of 6 or 7 points on the wetland rating form:

Table 19.70.235 (C).

Wetland Category	Buffer Width (feet)		
	High Intensity	Moderate Intensity	Low Intensity
Category I	150	110	75
Category II	150	110	75
Category III	150	110	75
Category IV	50	40	25

3. Buffer Widths for wetlands that have a low level of function for wildlife habitat as indicated by a habitat function score of 3 to 5 points on the wetland rating form:

Table 19.70.235 (D).

Wetland Category	Buffer Width (feet)		
	High Intensity	Moderate Intensity	Low Intensity
Category I	100	75	50
Category II	100	75	50
Category III	80	60	40
Category IV	50	40	25

D. Reducing Buffer Widths.

1. For wetlands that score 6 points or more for habitat function, buffer widths for high intensity may be reduced to moderate intensity if both of the following criteria are met:
 - a. A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other relatively undisturbed area, as defined in the 2014 wetland rating system, or any other Priority Habitat as defined by the Washington State Department of Fish and Wildlife. The latest definitions of Priority Habitats and their locations are available on the WDFW web site at: <http://wdfw.wa.gov/hab/phshabs.htm>).
 - b. The corridor must be protected for the entire distance between the wetland and the relatively undisturbed area or 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.

2. The measures in Table 19.70.235(E) are implemented, where applicable, to minimize the impacts of the adjacent land uses.
3. For wetlands that score 3-5 habitat points, only the measures in Table 19.70.250(E) are required for the use of moderate intensity buffer widths.
4. If an applicant chooses not to apply the mitigation measures in Table 19.70.250(E), or is unable to provide a protected corridor where available, then high intensity buffer widths must be used

Table 19.70.235 (E)

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' heavily vegetated buffer strip immediately adjacent to the outer 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 ft 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 techniques (for more information refer to the stormwater manual)
Change in water regime (increase or decrease in the frequency, duration, timing, extent, depth or variability of water in a wetland)	• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns

Disturbance	Required Measures to Minimize Impacts
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. Increasing buffer widths. Buffer widths may be increased, on a case-by-case basis, as determined by the Decision-maker. This determination must be supported by appropriate documentation showing that it is necessary to protect wetland functions and values. Documentation must include, but is not limited to, any of the following:

1. The wetland is used by a plant or animal species listed by the Federal government or the State as endangered, threatened, candidate, sensitive, monitored, or documented priority species or habitats, or the wetland is essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or
2. The adjacent land has slopes greater than 15 percent and is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or
3. The adjacent land has minimal vegetative cover on slopes greater than 30%. In lieu of increasing the buffer width where existing buffer vegetation is inadequate to protect the wetland functions and values, development and implementation of a wetland buffer restoration/enhancement plan in accordance with AMC 19.70.270 may be substituted.

F. Averaging buffer widths. The Decision-maker may allow averaging of wetland buffer widths on a case-by-case basis when the critical areas report demonstrates that the following criteria are met:

- a. There is not a feasible alternative to the site design that could be accomplished without buffer averaging;
- b. The buffer averaging improves the functions or values of the wetland, either through preservation of total buffer area or enhancement of buffer areas including the creation of connectivity and corridors;
- c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer.
- d. The wetland contains variation in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrow buffer in other places;
- e. The buffer width at its narrowest point is not reduced to less than 75 percent of the standard width, for Category I and II. For Category III and Category IV is no less than 75 percent unless for the purpose of creating connectivity and corridors, in which case no less than 50 percent.

G. Measurement of Wetland Buffers. All buffers must be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as a compensation for approved wetland alterations must be the same as the buffer required for the category of the created, restored, or enhanced wetland.

H. Buffers on mitigation sites. Buffer widths must be applied to mitigation sites consistent with the wetland ratings and buffer requirements of this chapter for subsequent development proposals based on expected category of the wetland once the mitigation actions are taken. Only fully vegetated buffers with predominantly native plants will be included in the new buffer area. Lawns, walkways, driveways, and other mowed or paved areas will not count towards the required buffer calculations.

I. Buffer Maintenance. Except as otherwise specified or allowed in accordance with this Chapter, wetland buffers must be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive nonnative weeds is required for the duration of the mitigation bond.

J. Buffer impacts. When buffer impacts occur, compensatory mitigation must be provided at a minimum ratio of 1:1 for the area impacted. The mitigation must occur on the same site when feasible or within the same wetland system preferably. The mitigation must ensure that the wetland functions and values are not diminished due to the buffer impacts.

K. Stormwater management facilities. Stormwater management facilities may be allowed in Category III and IV wetland buffers if they meet all of the criteria identified below:

4. The wetland is classified as a Category III or a Category IV wetland with a habitat score of 3-5 points or less, and
5. There will be “no net loss” of functions and values of the wetlands, and
6. The wetland does not contain a breeding population of any native amphibian species, and
7. The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, 5 of Chart 4 and questions 2, 3, 4 of Chart 5 in the “Guide for Selecting Mitigation Sites Using a Watershed Approach,” (available here: <http://www.ecy.wa.gov/biblio/0906032.html>); or the wetland is part of a priority restoration plan that achieves restoration goals identified in a Shoreline Master Program or other local or regional watershed plan;
8. The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing, and
9. All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits, and
10. Modifications will require permits. Existing functions and values that are lost would have to be compensated/replaced through an approved mitigation plan.

L. Setbacks from buffers. Buildings, structures, paving, and other hard surfacing must be set back a minimum distance of 10 feet from the edge of the wetland buffer, or edge of the wetland if no buffer is required, unless otherwise determined by the Decision-maker that a smaller distance would meet the intent of this subsection. This setback is to avoid conflicts with tree branches and/or critical root zones of trees that are in the buffer or will be planted in the buffer. The following may be allowed in the building setback from the buffer if they do not cause damage to the critical root zone of trees in the buffer:

1. Landscaping;
2. Uncovered decks, roof eaves and overhangs, unroofed stairways and steps;
3. Pervious ground surfaces, such as driveways, patios, and parking may be allowed; provided that it is engineered as a permeable pavement system as defined in AMC 19.12.020. Such improvements may be subject to the requirements in AMC 19.76, Stormwater Management.

M. Functionally Separated and Isolated Buffers. Consistent with the definition of “buffer” AMC 19.12.020, areas that are functionally isolated and physically separated from a wetland due to existing, legally established roadways, railroads or other legally established structures or paved areas eight feet or more in width that occur between the area in question and the wetland must be considered physically isolated and functionally separated buffer. Once determined by the Director, based on a submitted critical area report, to be a physically separated and functionally isolated wetland buffer, development proposals are allowed in these areas.

19.70.240 Wetlands - Critical areas report additional requirements

A. Additional Report Contents for Wetlands. In addition to the minimum report contents required per AMC 19.70.125 wetland reports must also include;

1. For each wetland identified on site and off site within 300 feet of the project site provide: the wetland rating, including a description of and score for each function, per wetland ratings (AMC 19.70.210) required buffers (AMC 19.70.250); hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlet/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site;
2. A discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project;
3. A description of the proposed actions, including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and an analysis of site development alternatives, including a no-development alternative;
4. An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development;
5. A description of reasonable efforts made to apply mitigation sequencing pursuant to AMC 19.70.130 to avoid, minimize, and mitigate impacts to critical areas and a discussion of measures, including avoidance, minimization, and compensation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land-use activity;
6. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions; and
7. An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and data sheets.

B. Additional Information. When appropriate due to the proposed impacts or the project area conditions, the Director may also require the critical area report to include:

1. A request for consultation with the Washington State Department of Fish and Wildlife (DFW), Washington State Department of Ecology (Ecology), local Native American tribes, and/or other appropriate agency;

2. Copies of the Joint Aquatic Resource Permit Application (JARPA) and related approvals, such as a Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife (WDFW), when applicable to the project; and
3. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

19.70.245 Wetlands – Compensatory mitigation performance standards and requirements.

- A. **Compensatory Mitigation Plan.** When a project involves wetland and/or buffer impacts, a compensatory mitigation plan must be included as part of the required critical area report. Compensatory wetland mitigation plans must meet the minimum requirements of AMC 19.70.140 and demonstrate compliance with AMC 19.70.135. Full guidance can be found in Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication No. 06-06-011b, March 2006, or as revised). The mitigation plan must meet the following additional standards:
1. Description of the existing wetland and buffer areas proposed to be impacted. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding land uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based on wetland ratings (AMC 19.70.210(B));
 2. Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation actions are not undertaken (i.e., how would this site progress through natural succession);
 3. A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, categories of wetlands, and mitigation ratios applied (if ratio approach used);
 4. A description of the proposed mitigation construction activities, construction/installation notes, and timing of activities;
 5. A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands);
 6. Proof of establishment of notice on title for the wetlands and buffers on the project site, including the compensatory mitigation areas; and
 7. The scaled plan sheets for the compensatory mitigation must contain, at a minimum

- a. An accurate depiction of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions;
- b. Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of on-site wetland areas that are proposed to be impacted and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation;
- c. Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions;
- d. Conditions expected from the proposed actions on site, including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes;
- e. Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this chapter;
- f. A plant schedule for the compensation area, including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, typical plant installation details and notes, total number of each species by community type, timing of installation; and
- g. Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring plan, contingency plan, and maintenance schedule, and actions. Standards for success must be established based on the performance standards identified and the functions and values being mitigated based on the guidance in Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication No. 06-06-011b, March 2006, or as revised).

B. Requirements for Compensatory Mitigation.

- 1. Compensatory mitigation for alterations to wetlands may be used only for impacts that cannot be avoided or minimized, except as otherwise exempted in this chapter AMC 19.70.240, and must achieve equivalent or greater biologic functions. Compensatory

mitigation plans must be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1), (Ecology Publication No. 06-06-011b, March 2006, or as revised).

2. Mitigation ratios must be consistent with subsection I of this section.
 3. Mitigation requirements may also be determined using the credit/debit tool described in “Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final Report March 2012” (Ecology Publication No. 10-06-011, March 2012, or as revised) consistent with subsection H of this section.
- C. **Compensating for Lost or Impacted Wetland Functions.** Compensatory mitigation must address the functions and values affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions and values. The goal for the compensatory mitigation must be to provide similar wetland functions and values as those lost, except when either:
1. The lost wetland provides minimal functions and values, and the proposed compensatory mitigation action(s) will provide equal or greater functions and values or will provide functions and values shown to be limiting within a watershed through a formal Washington State watershed assessment plan or protocol; or
 2. Out-of-kind replacement of wetland type or functions and values will best meet watershed goals formally identified by the City, such as replacement of historically diminished wetland types.
- D. **Preference of Mitigation Actions.** Methods to achieve compensation for wetland functions and values must be approached in the following order of preference:
1. **Restoration.** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. Restoration of wetlands includes re-establishment and rehabilitation.
 - a. **Re-establishment.** Returning natural or historic functions to a former wetland. Re-establishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.
 - b. **Rehabilitation.** Repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.
 2. **Creation.** Creation (establishment) of wetlands on disturbed upland sites, such as those with vegetative cover consisting primarily of nonnative species. This should be attempted only when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive to the wetland community that is anticipated in the design.

3. **Enhancement.** Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement alone will result in a loss of wetland acreage and is less effective at replacing the functions and values lost. Enhancement should be part of a mitigation package that includes replacing the impacted area and meeting appropriate ratio requirements.
 4. **Preservation.** Preservation of high-quality, at-risk wetlands as compensation is generally acceptable when done in combination with restoration, creation, or enhancement; provided, that a minimum of 1:1 acreage replacement is provided by reestablishment or creation. Preservation of high-quality, at-risk wetlands and habitat may be considered as the sole means of compensation for wetland impacts when the following criteria are met:
 - a. Proposed wetland impacts will not have a significant adverse impact on habitat for listed fish, or other ESA-listed species;
 - b. There is no net loss of habitat functions within the watershed or basin;
 - c. Mitigation ratios for preservation as the sole means of mitigation must generally start at 20:1. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost;
 - d. The impact area is small (generally less than one-half acre) and/or impacts are occurring to a low-functioning system (Category III or IV wetland); and
 - e. All preservation sites must include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.
 5. **Wetland Bank or Advanced Wetland Mitigation.** For future use since no current banks have a service area in Anacortes.
- E. **Type and Location of Compensatory Mitigation.** Unless it is demonstrated that a higher level of ecological functioning would result from an alternative mitigation approach, compensatory mitigation for ecological functions should be either in kind and on site, or in kind and within the same stream reach, sub-basin, or drift cell (if estuarine wetlands are impacted). Compensatory mitigation actions must be conducted within the same sub-basin or on the site of the alteration, except when the following apply:
1. The conditions in AMC 19.70.270(B) are met.
 2. There are no reasonable opportunities on site or within the sub-basin (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the sub-basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include:
 - a. Anticipated replacement ratios for wetland mitigation;
 - b. Buffer conditions and proposed widths;

- c. Available water to maintain anticipated hydrogeomorphic classes of wetlands when restored; and
 - d. Proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity);
 - e. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland;
 - f. Off-site locations must be in the same sub-basin, unless watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the City and strongly justify location of mitigation at another site; and
 - g. The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland refers to a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). Likewise, it should not provide exaggerated morphology or require a berm or other engineered structures to hold back water. For example, excavating a permanently inundated pond in an existing, seasonally saturated or inundated wetland is one example of an enhancement project that could result in an atypical wetland. Another example would be excavating depressions in an existing wetland on a slope, which would require the construction of berms to hold the water.
- F. **Wetland Mitigation Banks.** Credits from a wetland mitigation bank certified under [WAC 173-700](#) may be used to compensate for impacts located within the service area specified in the mitigation bank instrument, if:
- 1. The proposal would provide appropriate compensation for the proposed impacts; and
 - 2. The impact site is located in the service area of the bank.
 - 3. The proposed use of credits is consistent with the terms and conditions of the certified mitigation bank instrument.
 - 4. Replacement ratios using bank credits are consistent with replacement ratios specified in the certified mitigation bank instrument.
- G. **In-Lieu Fee Mitigation.** Credits from an approved in-lieu fee (ILF) program may be used when all of the following apply:
- 1. The Decision-maker determines that it would provide environmentally appropriate compensation for the proposed impacts.

2. The proposed use of credits is consistent with the terms and conditions of the approved ILF program instrument.
 3. Projects using ILF credits must have debits associated with the proposed impacts calculated by the applicant's qualified wetland professional using the credit assessment method specified in the approved instrument for the ILF program.
 4. The impacts are located within the service area specified in the approved ILF instrument.
- H. **Permittee-responsible mitigation.** This type of mitigation is defined in 33 CFR 332 as "an aquatic resource restoration, establishment, enhancement and/or preservation activity undertaken by the permittee (or an authorized agent or contractor) to provide compensatory mitigation for which the permittee retains full responsibility." The permittee performs the mitigation either before the project impact occurs and before any project impact permit is issued (Advance Permittee-Responsible Mitigation) or at the same time as the project impact is occurring after the project impact permit is issued (Concurrent Permittee-Responsible Mitigation). The permittee is ultimately responsible for implementation and success of the mitigation. For advance mitigation, the permittee generates mitigation credits that may be used to compensate for future wetland or buffer impacts. Only the permittee may use the advance mitigation credits. Permittee-responsible mitigation may occur at the site of the permitted impacts or at an off-site location within the same watershed. Permittee-responsible mitigation must be used only if the applicant's qualified wetland professional demonstrates to the Decision-maker's satisfaction that the proposed approach is ecologically preferable to use of a bank or ILF program, consistent with the criteria in this section.
- I. **Alternative Mitigation Plan.** The Decision-maker may approve an alternative wetland mitigation plan that is based on best available science. Proposed alternative mitigation plans must provide an equivalent or better level of protection of wetland functions and values than would be provided by the strict application of this chapter.
1. The following will be considered in the approval of an alternative mitigation plan:
 - a. The plan uses a watershed approach consistent with [Selecting Wetland Mitigation Sites Using a Watershed Approach \(Western Washington\)](#) (Ecology Publication #09-06-032, Olympia, WA, December 2009).
 - b. Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual small habitat areas.
 - c. Mitigation according to Section D is not feasible due to site constraints including but not limited to parcel size, stream type, wetland category, or geologically hazardous areas.
 - d. There is a clear potential for success of the proposed compensation at the identified site.
 - e. The Plan must contain clear and measurable standards for achieving compliance with the specific provisions of the plan, consistent with AMC 19.70.135.

- f. The plan must be reviewed and approved as part of the overall approval of the proposed use.
 - g. A wetland of a different type may be justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative.
 - h. Mitigation guarantees must meet the minimum requirements as outlined in AMC 19.70.160.
 - i. Qualified professionals in each of the critical areas addressed must prepare the plan.
 - j. The City may consult with agencies with expertise and jurisdiction over the critical areas during the review to assist with analysis and identification of appropriate performance measures that adequately safeguard critical areas.
- J. **Wetland Mitigation Ratios.** The ratios below are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.

Table 19.70.245 – Wetland Mitigation Ratios

Category and Type of Wetland	Creation or Reestablishment	Rehabilitation Only	Re-Est or Creation (R/C) and Re-hab (RH)	Re-Est or Creation (R/C) and Enhancement (E)	Enhancement Only
Category I Mature Forested	6:1	12:1	1:1 R/C & 10:1 RH	1:1 R/C & 20:1 E	24:1
Category I – based on score for functions	4:1	8:1	1:1 R/C & 6:1 RH	1:1 R/C & 12:1 E	16:1
Category I Natural Heritage Site	Not allowed	6:1 Rehabilitation of a Natural Heritage Site	Not allowed	Not allowed	Case-by-case

Category and Type of Wetland	Creation or Reestablishment	Rehabilitation Only	Re-Est or Creation (R/C) and Re-hab (RH)	Re-Est or Creation (R/C) and Enhancement (E)	Enhancement Only
Category I Bog	Not allowed	6:1 Rehabilitation of a bog	Not allowed	Not allowed	Case-by-case
Category I Estuarine	Case-by-case	6:1 Rehabilitation of an estuarine wetland	Case-by-case	Case-by-case	Case-by-case
Category II	3:1	6:1	1:1 R/C & 4:1 RH	1:1 R/C & 8:1 E	12:1
Category III	2:1	4:1	1:1 R/C & 2:1 RH	1:1 R/C & 4:1 E	8:1
Category IV	1.5:1	3:1	1:1 R/C & 1:1 RH	1:1 R/C & 2:1 E	6:1

- K. **Buffer Mitigation Ratios.** Impacts to buffers must be mitigated at a 1:1 ratio. Compensatory buffer mitigation must replace those buffer functions lost from development.
- L. **Mitigation Performance Standards.** Wetland mitigation plans must be consistent with AMC 19.70.130 Mitigation requirements and 19.70.135 Mitigation plan requirements and Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance (Version 1, Ecology Publication #06-06-011a), or as amended, and best available science.
- M. **Minimum Standards.** The design standards in this section must be incorporated into mitigation plans submitted to the City for impacts to wetlands and/or wetland buffers. The following standards apply to any mitigation proposed within Category I, II, III and IV wetlands and their buffers. Modifications to these design standards consistent with the guidance in Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication No. 06-06-011b, March 2006, or as revised) may be considered for approval by the Decision-maker as alternatives to the following standards:
1. Plants native to the region (not introduced, non-native or exotic species) must be used.
 2. Plant species selection must be consistent with the existing or projected hydrologic regime, including base water levels and stormwater event fluctuations.

3. Plant species selection must be consistent with the site environmental conditions such as slope, aspect, soils and exposure to sun, wind and rain.
4. Plants should be commercially available or available from local sources.
5. Native plant species high in food and cover value for fish and wildlife should be prioritized, as appropriate for the site.
6. Plant selection must be approved by a qualified professional.
7. The following standards apply to wetland design and construction:
 - a. For wetland creation sites, preliminary investigations of existing hydrology at the site must be completed to confirm that the site has adequate source hydrology (e.g., high groundwater, precipitation or riverine flooding) to support wetland conditions.
 - b. Water depth in areas of seasonal or occasional inundation must not exceed three feet (0.914 meters), unless the proposed mitigation is compensating for impacts to unvegetated/open water areas.
 - c. If creating or rehabilitating a slope wetland, the grade or slope within the wetland must not exceed 6 percent, unless otherwise approved by the Decision-maker.
 - d. Slopes within the wetland contributing basin and the buffer zone must not be steeper than 3:1 (horizontal to vertical).
 - e. The wetland (excluding the buffer area) should not contain more than 20 percent unvegetated/open water areas as measured at the seasonal high water mark, unless the mitigation is compensating for vegetated.
 - f. Site soils must be free of contamination and/or hazardous materials, and must have adequate organic content and porosity to support the proposed native plant community.
 - g. Planting densities and placement of plants should be determined by a qualified professional and shown on the design plans.
8. The planting plan must be approved by the City.
9. Stockpiling soil and construction materials should be confined to upland areas and contract specifications should limit stockpiling of earthen materials to durations in accordance with City clearing and grading standards, unless otherwise approved by the City.
10. Planting instructions must be submitted which describe placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock.
11. Controlled release fertilizer (if required) must be used in upland areas only (buffers and other non-wetland areas) and must be installed into the planting hole only at the time of planting. No fertilizer must be applied to the ground surface.

12. An irrigation system must be installed or watering afforded by trucks or hoses to provide water for installed plants and seeded areas to supplement rainfall to ensure that plants receive approximately 0.5 inches of water per week during the dry season of the first two years after plant installation.
13. All construction specifications and methods must be approved by a qualified professional and the City.
14. Construction management provided must be provided by a qualified professional. Ongoing work on site must be inspected by the City.

PART 3: FISH AND WILDLIFE HABITAT CONSERVATION AREAS

19.70.310. Fish and wildlife habitat – Description and Purpose

- A. Fish and wildlife habitat conservation areas are lands managed for maintaining populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created. In addition to their intrinsic value, certain species of fish and wildlife represent important historic, cultural, recreational and economic resources.
- B. It is the purpose of this Chapter to protect fish and wildlife populations and their associated habitats and provide special consideration to conservation or protection measures necessary to preserve or enhance anadromous species.

19.70.315 Fish and wildlife habitat – Designation.

- A. Fish and Wildlife Habitat Conservation Areas (FWHCAs) are designated as follows:
 1. Critical saltwater habitats, which include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sand lance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association.
 2. Naturally occurring ponds under 20 acres with submerged aquatic beds that provide fish or wildlife habitat as further defined in [WAC 365-190-130\(4\)\(e\)](#);
 3. Waters of the State, including streams as classified in WAC [222-16-030](#), including but not limited to Whistle Creek, Happy Valley Stream, Ace of Hearts Creek, Beaver Brook, Cranberry Creek, Clyde Creek, Anaco Bourn, Morrison Run, Cedar Springs, Weaverling Rill, Miller Creek, Aqua Creek, Howard Creek, Summit Creek, and March's Run;
 4. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
 5. Areas with which anadromous fish species have a primary association;

6. State natural area preserves, natural resource conservation areas, and state wildlife areas as established by WA DNR;
7. Areas of rare plant species and high quality ecosystems as identified by the Washington State Department of Natural Resources through the Natural Heritage Program in Chapter [79.70](#) RCW.
8. State priority habitats and areas associated with State priority species defined and listed by the State Department of Fish and Wildlife in the Priority Habitats and Species List Updated January 2019. Priority habitats and species known to be identified and mapped by WDFW (<http://apps.wdfw.wa.gov/phsontheweb/>) in Anacortes include, but may not be limited to, the following:
 - a. Biodiversity areas;
 - b. Bald eagle habitat protected pursuant to the Federal Bald and Golden Eagle Protection Act;
 - c. Chinook/fall chinook salmon;
 - d. Coho salmon;
 - e. Great blue heron nest sites and breeding areas;
 - f. Osprey nest sites;
 - g. Peregrine falcon nest sites and breeding areas;
 - h. Purple martin breeding areas;
 - i. Resident coastal cutthroat trout;
 - j. Winter steelhead trout;
 - k. Water fowl concentrations.
9. The following Habitats and Species of Local Importance have been designated by the City:
 - a. The Anacortes Community Forestlands.
 - b. The March Point Heronry.
 - c. The one and one-half acre “Park Reserve” at Cap Sante bounded by 3rd Street, East Park Drive, and Curtis Drive.
 - d. Ship Harbor Wetland.
 - e. Cannery Pond Wetland.
 - f. Category II wetlands within the watersheds of Little Cranberry Lake, Whistle Lake, and Hearth Lake and with seasonal surface water connections.
 - g. Smiley’s Bottom Wetland.

- B. In addition to the FWHCAs identified in Subsection (A)(11) of this section, additional habitats and species of local importance may be designated by the City using the following process:
1. Designation process. The city may consider nominations for habitat areas and species to be designated as locally important on an annual basis as part of the annual comprehensive plan and development regulation update process, based on the following criteria:
 - a. Local populations of native species that are in danger of extirpation based on existing trends, likely to become endangered, or are vulnerable or declining;
 - b. The habitat represents either a high quality native habitat, or the habitat has a high potential to recover to a suitable condition and which is of limited availability, is highly vulnerable to alteration, or provides landscape connectivity which contributes to the integrity of the surrounding landscape;
 - c. The species or habitat has recreation, commercial, game, tribal, or other intrinsic value;
 - d. Long-term persistence of a species is dependent on protection, maintenance, and/or restoration of the nominated habitat;
 - e. Protection by other county, state, or federal policies, laws, regulations, or non-regulatory tools is not adequate to prevent degradation of the species or habitat; and
 - f. Without protection, there is a likelihood that the species or habitat will be diminished.
 2. The nomination must indicate whether specific habitat features are to be protected (for example, nest sites, breeding areas, and nurseries) or whether the habitat or ecosystem is being nominated in its entirety.
 3. The nomination may include management strategies for the species or habitats, which must be supported by best available science. Where restoration of habitat is proposed, a specific plan for restoration must be provided.
- C. All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

19.70.320 Fish and wildlife habitat – Mapping.

- A. **Mapping.** The approximate location and extent of some FWHCA's are shown in the data layers maintained in the City of Anacortes geographic information system (GIS). In addition, the following maps and inventories are hereby adopted by reference, as amended:
1. [Washington Department of Fish and Wildlife Priority Habitat and Species maps](#);
 2. Washington Department of Natural Resources, [Official Water Type Reference maps](#);

3. Washington Department of Natural Resources [Puget Sound Intertidal Habitat Inventory maps](#);
 4. Washington Department of Natural Resources [Shore Zone inventory](#);
 5. Washington Department of Natural Resources [Natural Heritage Program mapping data](#);
 6. Washington Department of Health Annual [Inventory of Shellfish Harvest Areas](#);
 7. Anadromous and resident fish distribution maps contained in the habitat limiting factors reports published by the Washington Conservation Commission and others;
 8. Washington Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area maps; and
 9. NOAA Northwest Region Critical Habitat Mapper or equivalent source:
<http://www.nmfs.noaa.gov/pr/species/criticalhabitat.htm>
- B. **Reference Only.** The maps and resources cited above are to be used as a guide for the City of Anacortes Planning, Community & Economic Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

19.70.325 Fish and wildlife habitat – General Development Standards for all FWHCAs.

- A. All new development activities and uses are prohibited from habitat conservation areas and their buffers except in accordance with this Chapter unless within shoreline jurisdiction and hereby regulated by the AMC 19.72 Shoreline Regulations and Shoreline Master Program. Alterations of FWHCA's or their buffers is prohibited except as otherwise allowed by this chapter and may occur only if the proposed alteration of the habitat and any associated mitigation proposed does not degrade the functions and values of the habitat.
- B. **Exemptions.** Exemptions to this chapter are listed in the provisions established in AMC 19.70.040 Exemption Activities.
- C. Approvals and the Best Available Science. Any approval of alterations or impacts to a FWHCA area must be supported by the best available science as described in the required Critical Area Report.
- D. Approvals of Activities may be conditioned. The Decision-maker may condition approvals of activities allowed within or adjacent to a fish and wildlife habitat conservation area as necessary to minimize or mitigate any potential adverse impacts. Conditions will be based on the best available science and may include, but are not limited to, the following:
 1. Establishment of buffers;
 2. Preservation of important vegetation and/or habitat features such as snags and downed wood specific to the priority wildlife species in the fish and wildlife habitat conservation area;

3. Limitation of access to the habitat area, including fencing to deter unauthorized access;
 4. Seasonal restriction of construction activities;
 5. Establishment of a duration and timetable for periodic review of mitigation activities; and
 6. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.
- E. **Seasonal Restrictions.** When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.
- F. **Subdivisions.** The subdivision and short subdivision of land in FWHCA's and associated buffers is subject to the following:
1. Land that is located wholly within a FWHCA or its buffer may not be subdivided;
 2. Land that is located partially within a FWHCA may be subdivided only if an accessible and contiguous portion of each new lot that meets the minimum lot size requirements for the zone is located outside of the FWHCA and its buffer.
 3. Access roads and utilities serving a proposed subdivision may be permitted within the FWHCA and associated buffers only if the applicant's qualified professional(s) demonstrate, and the Decision-maker determines, that no other feasible alternative exists, all unavoidable impacts are fully mitigated, and the use is consistent with this chapter.
 4. This paragraph does not authorize new access roads and utilities in FWHCA's and associated buffers for existing subdivisions.
- G. **Non-indigenous species.** No plant, wildlife, or fish species not indigenous to Fidalgo Island may be introduced to a FWHCA unless authorized by a state or federal permit approval.

19.70.330 Fish and wildlife habitat – Specific Standards for Streams

- A. **Typing.** Stream types must be classified according to WAC 222-16-030. Stream classifications must include the following:
1. Type F streams are those that provide fish habitat;
 2. Type Np streams are perennial waters that do not contain fish habitat; and
 3. Type Ns streams are seasonal waters that do not contain fish habitat, but are physically connected by an above-ground channel system to Type F, or Np waters.
 4. In the case that available information on stream typing is unclear, stream typing will be performed by a qualified professional, provided by the applicant, using a site visit, mapping, and all available information.

B. **Required Buffer Areas.** Protective riparian buffers must be required to preserve stream/riparian functions and values. The purpose of riparian buffers is to protect riparian functions that influence in-stream and near-stream habitat quality

1. **Measurement of Stream Buffers.** Stream buffers are measured from the ordinary high water mark (OHWM), or the top of the bank if the OHWM cannot be determined. Buffers must be measured with rounded ends where streams enter or exit piped segments. Piped stream setbacks should be measured from the centerline of the pipe.
2. **Standard Stream Buffer Widths.** Buffer widths must reflect the sensitivity of the stream type, the risks associated with development and, in those circumstances permitted by these regulations, the type and intensity of human activity and site design proposed to be conducted on or near the stream area. The following standard buffers are established for streams:

Table 19.70.330 Stream Buffers

DNR Water Type (WAC 222-16-030)	Standard Buffer Width
Type F Streams that are known to be used by fish, or meet the physical criteria to be potentially used by fish.	50 feet
Type Np Streams that have year round flow and do not meet the physical criteria of a Type F. This also includes streams that have been proven not to contain fish using methods described in Forest Practices Board Manual Section 13.	50 feet
Type Ns Streams that do not have surface flow during at least some portion of the year, and do not meet the physical criteria of a Type F stream.	50 feet
Piped Streams and Roadside Ditched Segments Those segments of streams, regardless of their type, that are fully enclosed in an underground pipe or culvert, or conveyed through a public roadside ditch as part of the City stormwater infrastructure.	10 feet

3. **Increased Stream Buffer Widths.** The stream buffer widths may be increased by the Decision-maker as follows:
- a. When the qualified professional determines that the minimum width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area as a result of a habitat assessment required pursuant to AMC 19.70.360;
 - b. When the frequently flooded area exceeds the minimum stream buffer width, the stream buffer must extend to the outer edge of the frequently flooded area;
 - c. When a channel migration zone is present, the stream buffer must extend to the outer edge of the channel migration zone;
 - d. When the habitat area is in an area of high blowdown potential, the stream buffer width must be expanded an additional 50 feet on the windward side;
 - e. When the habitat area is within an erosion or landslide hazard area, or buffer, the stream buffer width must be the recommended distance, or the erosion or landslide hazard area or buffer, whichever is greater.
- C. **Buffer Reduction Standards.** The Decision-maker may allow the reduction of buffer widths on a case-by-case basis when the critical areas report demonstrates the following criteria are met:
1. There is no feasible alternative to the site design that could be accomplished without buffer reduction;
 2. The total buffer width is not reduced to less than 35 feet in stretches of natural stream channel with intact native vegetation within the buffer, and the buffer reduction does not reduce the functions or values of the stream or buffer;
 3. The total buffer width is not reduced to less than 25 feet in stretches of modified stream channel with little to no intact native vegetation within the buffer, and the buffer reduction plan must include an enhancement plan to increase the functions or values of the stream or buffer.
 4. A buffer enhancement plan is proposed to improve the overall function of the buffer.
- D. **Building setbacks from stream buffers.** Buildings, structures, paving, and other hard surfacing must be setback a minimum distance of 10 feet from the edge of the stream buffer unless determined by the Decision-maker that a smaller distance would meet the intent of this subsection. This setback is to avoid conflicts with tree branches and/or critical root zones of trees that are in the buffer or will be planted in the buffer. The following may be allowed in the building setback from the buffer if they do not cause damage to the critical root zone of trees in the buffer:
1. Landscaping;
 2. Uncovered decks, roof eaves and overhangs, unroofed stairways and steps;

3. Pervious ground surfaces, such as driveways, patios, and parking may be allowed; provided that they are engineered as a permeable pavement system as defined in AMC 19.12.020. Such improvements may be subject to the requirements in AMC 19.76, Stormwater Management.
- E. **Functionally Separated and Isolated Stream Buffers.** Consistent with the definition of “buffers” in this chapter, areas that are functionally isolated and physically separated from a stream due to existing, legally established public roadways, railroads or other legally established structures or paved areas eight feet or more in width that occur between the area in question and the stream must be considered physically isolated and functionally separated stream buffers. Once determined by the Decision-maker, based on a submitted critical area report, to be a physically separated and functionally isolated stream buffer, development proposals are allowed in these areas.
- F. **Additional Allowed Activities in streams.** Activities, uses and alterations of streams are prohibited unless otherwise listed as exempt or allowed according to the provisions of 19.70.040, 19.70.045, and 19.70.050. No alteration to a stream buffer may be permitted unless consistent with the provisions of this section and the specific standards for development outlined below.
1. **When allowed.** Relocation of Type F, Np, and Ns streams may be permitted only when the proposed relocation is part of an approved rehabilitation/restoration plan and will result in equal or better habitat and water quality, and will not diminish the flow capacity of the stream. The applicant must demonstrate proper mitigation sequencing.
 2. **Stream Crossing.** Crossing of streams may be permitted and are required to be designed to allow fish passage based on state and federal fish passage criteria.
- G. **Piped Watercourses and Roadside Ditches.** It is recognized that within the urban environment many historical streams have been substantially modified to accommodate development. Many of the regulated and mapped streams within the City of Anacortes pass through natural reaches, modified reaches, piped reaches, and sometimes along manmade roadside ditches.
1. Development along piped watercourses and roadside ditched segments of regulated streams are subject to a 10 foot setback from the centerline of the stream course and is subject to the recording of a utility easement granted to the city for access and maintenance of the watercourse infrastructure.
 2. The voluntary opening and restoration or rehabilitation of previously channelized, culverted, or piped streams is highly encouraged and may be approved by the Decision-maker, when the following is demonstrated within a critical areas report:
 - a. The restoration will result in a net gain in FWHCA functions, including an improvement in water quality and ecological functioning;

- b. Opened channels must be designed to support fish and wildlife habitat and uninhibited fish access, unless demonstrated to be infeasible;
- c. A reduction to the standard buffer is allowed to a minimum of 25 feet, or as recommended by a qualified professional in the Critical Area Report. Measured from the Ordinary High Water Mark (OHWM) and which includes habitat improvements, and measures to prevent erosion, landslide and water quality impacts;
- d. The proposal will not significantly increase the threat of erosion, flooding, slope stability or other hazards on the site or on adjacent properties.
- e. The proposal must demonstrate that there conveyance will maintain the flow capacity and not create flooding elsewhere in the drainage basin.

H. **Stream Enhancement Measures.** Only those enhancement measures deemed most applicable and/or appropriate for stream channel or buffer enhancement projects will be considered in a buffer modification proposal, and must be supported by best available science and a critical area report. These include, but are not limited to:

- 1. Removal of fish barriers to restore accessibility to fish.
- 2. Enhancement of fish habitat using log structures incorporated as part of a fish habitat enhancement plan.
- 3. Enhancement of fish and wildlife habitat structures that are likely to be used by wildlife, including wood duck houses, bat boxes, nesting platforms, snags, rootwads/stumps, birdhouses, and heron nesting areas.
- 4. Planting native vegetation within the buffer area, especially vegetation that would increase value for fish and wildlife, increase stream bank or slope stability, improve water quality, or provide aesthetic/recreational value; or
- 5. Creation of a surface channel where a stream was previously underground, in a culvert or pipe. Surface channels which area “daylighted” must be located within a buffer area and must be designed with energy dissipating functions or channel roughness features such as meanders and rootwads to reduce future bank failures or nearby flooding;
- 6. Removal or modification of existing stream culverts (such as road crossings) to improve fish passage, stream habitat, and flow capacities; or
- 7. Upgrading of retention/detention facilities or other stormwater management facilities beyond required levels.

19.70.335 Fish and wildlife habitat – Specific Standards for Other FWHCAs

- A. **Endangered, Threatened, and Sensitive Species.** Fish and wildlife habitat conservation areas or buffers with which species that are State or Federally listed as endangered, threatened, or sensitive species, and anadromous fish species are subject to the following:
1. No development is allowed within a fish and wildlife habitat conservation area or buffer with which State or Federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by the Washington Department of Fish and Wildlife or applicable State or Federal agency.
 2. Whenever activities are proposed adjacent to a fish and wildlife habitat conservation area with which State or Federally endangered, threatened, or sensitive species have a primary association, such area must be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the City. Approval for alteration of the fish and wildlife habitat conservation area or its buffer may not occur prior to consultation with the Washington Department of Fish and Wildlife for animal species, the Washington State Department of Natural Resources for plant species, and other appropriate Federal or State agencies.
- B. **Other Priority Habitats and Species.** Fish and wildlife habitat conservation areas or buffers with which species that are not State or Federally listed as endangered, threatened, or sensitive species, and are not anadromous fish species are subject to the following:
1. Development activities and uses that result in unavoidable impacts is prohibited except as otherwise allowed by this chapter and may occur in priority species habitat areas and associated buffers only if the proposed alteration of the habitat does not degrade the functions and values of the habitat. in accordance with an approved critical area report with habitat assessment/management plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant’s objectives. Full compensation for the loss of acreage and functions of habitat and buffer areas must be provided in compliance with the mitigation performance standards and requirements of these regulations.
- C. **City-Designated Habitats and Species of Local Importance**
1. **Anacortes Community Forest Lands:**
Purpose. The Anacortes Community Forest Lands include three lakes and their watersheds, numerous wetlands, rock bluffs, old growth forests, grassy knolls, windswept hilltops, sheltered caves, and a variety of other habitats and microclimates that provide a unique and irreplaceable habitat for both imperiled and commonplace species. This land has been dedicated by the City for the preservation of forest lands and species, as described in the Conservation Easement documents, the ACFL Comprehensive Plan, and in AMC Title 12.

- a. Recreation and Recreation-Related Facilities. Construction of public recreation-related facilities such as trails, benches, interpretive displays, and viewing platforms, may be allowed in fish and wildlife habitat conservation areas or buffers
- b. Proposed alterations must be consistent with the adopted Anacortes Community Forest Lands Comprehensive Plan, as amended.
- c. Noxious and Invasive Plants. The Skagit County noxious weed ordinance and the ACFL invasive plant control program must be carefully considered in any adjacent development decision. Nonnative plants known to be invasive into the ACFL must be prohibited in landscaping plans of adjacent developments. Where such developments have CC&Rs, reference to this requirement must be included therein.
- d. Right of Way Vacations. In the case of street or alley vacations contiguous with an ACFL boundary, the half of the area vacated which is adjacent to the ACFL must be incorporated into the ACFL and subject to all ACFL related requirements.
- e. Private Access to ACFL. No new accesses will be established to the ACFL without prior request for such access to the parks and recreation department and the forest advisory board and approval by the city council.
- f. Burning. No burn piles or outdoor fires must ever be left unattended while ignited and in the event sparks or flames come within three hundred feet of the ACFL, the fire must immediately be brought under control or extinguished.
- g. Boundary Identification. City staff will work closely with property owners and developers to ensure that survey lines adjacent to the ACFL boundary are clearly and correctly marked before any timber and/or vegetation is removed from adjacent property. The forest manager will be involved in the final inspection of boundary lines.
- h. ACFL Buffers. City staff will work closely with builders to secure thirty-foot ACFL buffers using all available incentives.

2. March Point Heronry:

Purpose. Because Skagit County is home to the greatest concentration of nesting Great Blue Heron in the Salish Sea, March Point being the largest, the City has identified the March Point Heronry as a habitat of local importance.

- a. Proposed development activities within 1,000 feet, or that is likely to impact the colony, must provide a critical areas assessment report and habitat management plan that follows at a minimum the guidelines provided by WDFW's Management Recommendations for Washington's Priority Species (March 2012).
https://wdfw.wa.gov/publications/00026/abbreviated_great_blue_heron.pdf.
- b. Buffers will be implemented as described in the buffer section below.

- c. Colony protection is required for minimum 10-years after abandonment.
- D. Required Buffer for Non-Stream FWHCA's:
 - 1. **Marine FWHCA's Buffers.** Buffer for all designated fish and wildlife habitats or species within marine shorelines must be regulated by AMC 19.72 Shoreline Regulations and the Shoreline Master Program..
 - 2. **All Other Non-Stream FWHCA Buffers.** Buffers from fish and wildlife habitat conservation areas must be established to protect the functions and values of the critical area from the impacts of proposed adjacent activities.
 - a. Buffer widths for fish and wildlife habitat areas must be based on consideration of the following factors: species-specific recommendations of the Washington State Department of Fish and Wildlife; recommendations contained in a habitat management plan submitted by a qualified professional; and the nature and intensity of land uses and activities occurring on the land adjacent to the site. Buffers must:
 - i. Consist of an undisturbed area of native vegetation, or areas identified for restoration, sufficient to protect the integrity, functions, and values of the affected habitat;
 - ii. Reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby;
 - iii. Be consistent with the applicable species-specific management recommendations issued by the Washington Department of Fish and Wildlife.
 - b. Nesting bald eagles and bald eagle habitat must be protected consistent with the U.S. Fish and Wildlife Service (USFWS) National bald eagle management guidelines, or the state or federal regulations in place at the time of application. Whenever activities are proposed adjacent to a confirmed nest territory or communal roost, a bald eagle habitat management plan must be developed by a qualified professional. Activities are adjacent to managed bald eagle sites when they are within 660 feet of a nest or within one-half mile (2,640 feet) of a shoreline foraging area. Approval of the activity must not occur prior to consultation with the state or federal agency with authority on bald eagle pairs and their nest.
 - c. Great Blue Heron nesting and breeding areas: Development near a verified heron breeding habitat including nesting colony areas, former nesting colonies;

- i. A year-round urban buffer of 197 feet,
- ii. For unusually loud activities that occur during breeding season (February – September) a seasonal buffer of 656 feet, and a Blasting buffer of 1,320 feet.
- iii. For properties without an existing and approved management plan; a management plan developed by a qualified professional to follow, at a minimum, WDFW’s Management Recommendations for Washington’s Priority Species (March 2012) and that identifies the nesting and breeding site as well as pre-nesting staging area, and breeding season foraging habitat
- iv. For the March’s Point Colony, given the observed and documented sensitivity of this mega-colony to human intrusion and the fact that the colony is in a rare, isolated, but tight location, a year-round buffer of 984 feet.

19.70.340 Fish and wildlife habitat – Buffer Width Averaging.

- A. Approval Criteria. The Decision-maker may allow the averaging of FWHCA buffer widths for FWHCAs other than those designated by the City as habitats and species of local importance, when the critical areas report demonstrates the following:
 - 1. In-stream or buffer habitat functions, will be increased or maintained where native buffer vegetation is generally intact, or increased where existing buffer vegetation is inadequate to protect functions and values; and
 - 2. The buffer averaging does not reduce the functions or values of the stream or FWHCA buffer; and
 - 3. The total area contained in the buffer area after averaging on the development proposal site is no less than that which would be contained within the standard buffer, and all increases in buffer dimension for averaging must be parallel to the FWHCA buffer; and
 - 4. The stream or FWHCA buffer contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation; and
 - 5. The buffer width is not reduced in any location to less than 50 percent of the standard width or 35 feet, whichever is greater, on a case-by-case basis as a result of a habitat assessment pursuant to AMC 19.70.380 (B)(4); and
 - 6. The buffer has not been reduced in accordance with this section. Buffer averaging is not allowed if the buffer has been reduced; and
 - 7. There were no feasible alternatives to the site design without buffer averaging; and
 - 8. Buffer enhancement will be provided.
 - 9. The buffer width reduction will not be located within another critical area or associated buffer; and

10. Only those portions of the FWHCA buffer within the project area or subject parcel may be considered in the total buffer area for buffer averaging.

19.70.345 Fish and wildlife habitat – Stormwater Management Facilities.

Establishment of low-impact stormwater management facilities, such as stormwater dispersion outfalls and bioswales, may be allowed within fish and wildlife habitat conservation area buffers consistent with the adopted stormwater manual; provided, that:

- A. No other location is feasible; and
- B. There will be “no net loss” of functions and values of the fish and wildlife habitat conservation area; and
- C. The critical area lies in the natural routing of the runoff, and the discharge follows the natural routing; and
- D. Stormwater dispersion outfalls, bioswales, bioretention facilities, and other low-impact facilities consistent with the adopted stormwater manual may be allowed within the outer 25% of the buffer when determined by a qualified professional that the location of the facilities will enhance the buffer area and protect the stream; and
- E. Such facilities are designed consistent with the requirements of AMC 19.76.

19.70.350 Fish and wildlife habitat – Critical area report additional requirements.

- A. **Additional Report Contents for FWHCA’s.** In addition to the minimum report contents required per AMC 19.70.125 FWHCA reports must also include;
 1. Documentation of any fieldwork performed on the site, including field data sheets for delineations, water typing and other habitat conservation area classification, baseline hydrologic data, site photos, etc.;
 2. A description of the methodologies used to conduct the delineations, classifications, or impact analyses, including reference;
 3. A discussion of the potential impacts to the critical area or buffer associated with the proposed development including an assessment of cumulative impacts.
- B. **Habitat Assessment /Management Plan.** A habitat assessment /management plan is an investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. A critical area report for a fish and wildlife habitat conservation area must contain an assessment of habitats including the following site- and proposal-related information at a minimum:
 1. Detailed description of vegetation on and adjacent to the project area and its associated buffer;

2. Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;
 3. A discussion of any Federal, State, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;
 4. A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;
 5. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with AMC 19.70.135, Mitigation Requirements;
 6. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.
- C. **Additional Technical Information Requirements for Streams.** If no project impacts are anticipated and standard stream buffer widths are retained, a stream delineation report, general critical areas report or other reports, alone or in combination, may be submitted as consistent with the specific requirements of this section. In addition to the general critical area report requirements for fish and wildlife habitat conservation areas provided in subsections A through D of this section, technical information on streams must include the following information at a minimum:
1. A written assessment and accompanying maps of the stream and associated hydrologic features on and off site within 300 feet of the project area, including the following information at a minimum: Stream survey showing the field delineated ordinary high water mark(s);
 - a. Standard stream buffer boundary as determined by AMC 19.70.340;
 - b. Boundary for proposed stream buffers averaging, if applicable;
 - c. Vegetative, faunal, and hydrologic characteristics;
 - d. Soil and substrate conditions; and
 - e. Topographic elevations, at two-foot contours;
 2. A detailed description and functional assessment of the stream channel and stream buffer under existing conditions pertaining to the protection of stream functions, fish habitat and, in particular, potential anadromous fisheries;

3. A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and stream functions;
4. Proposed buffer enhancement, if needed, including a written assessment and accompanying maps and planting plans for buffer areas to be enhanced, including the following information at a minimum:
 - a. A description of existing buffer conditions;
 - b. A description of proposed buffer conditions and how proposed conditions will increase buffer functions in terms of stream and fish habitat protection;
 - c. Performance standards for measuring enhancement success through a monitoring period of at least five years; and
 - d. Provisions for monitoring and submission of monitoring reports documenting buffer conditions, as compared to performance standards, for enhancement success;
 - e. A discussion of ongoing management practices that will protect stream functions and habitat value through maintenance of vegetation density within the stream buffer.

D. Additional Technical Information for Heron Habitat.

1. The Report must identify the Heron Management Area (HMA). A HMA consist of the nesting colony, year-round and seasonal buffer, foraging habitat, and when present, a pre-nesting congregation area.
2. All survey activity such as nest tree identification and flagging **should occur in the non-breeding season (mid-September to mid-February)**, and preferably right after breeding season ends.
3. Identify the nesting colony's boundary. To do this flag all nest trees at the colony's outer perimeter. Mark each of these trees on a map. If a nest tree's canopy overlaps the canopy of an adjacent tree, flag the adjacent tree and consider this to be a nest tree. The outermost nest trees will be used to map the nesting colony boundary.
4. Map outer perimeter of the 197 foot year-round buffer. Using the buffer radius, draw a circle around each peripheral nest tree.
5. Map seasonal buffer if any unusually loud activities will occur during breeding season (February – September). Measure the seasonal buffer starting at the outer edge of the year-round buffer.
6. Locate potential foraging habitat by mapping all waterbodies within a 1.9 mile radius of the colony. The perimeter and shallow portions are especially important for foraging.

- E. **Additional FWHCA information.** When appropriate due to the type of habitat or species present, or the project area conditions, the Decision-maker may also require the critical area report to include:
1. A request for consultation with the Washington State Department of Fish and Wildlife (DFW), Washington Department of Ecology (Ecology), local Native American tribes or other appropriate agency;
 2. Copies of the Joint Aquatic Resource Permit Application (JARPA) and related approvals, such as a Hydraulic Project Approval (HPA) from the WDFW, when applicable to the project; and
 3. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

19.70.355 Fish and wildlife habitat – Mitigation performance standards and requirements.

- A. Compensatory mitigation for FWHCA's must follow the plan requirements described under AMC 19.70.135.

PART4: GEOLOGICALLY HAZARDOUS AREAS

19.70.410 Geologically Hazardous Areas– Description and Purpose.

- A. Geologically hazardous areas include areas susceptible to the effects of erosion, landslides, earthquake, or other geologic events. They pose a threat to health and safety of citizens when incompatible development is sited in areas of significant hazard.
- B. The primary purpose of these regulations is to avoid and minimize potential impacts to life and property from geologic hazards, conserve soil resources, and minimize structural damage relating to these hazards. The purpose is accomplished through appropriate levels of study and analysis, application of sound engineering principles, and regulation or limitation of land uses, including maintenance of existing vegetation, regulation of clearing and grading activities, and control of stormwater.

19.70.415 Geologically Hazardous Areas - Designation.

- A. Areas susceptible to one or more of the following types of hazards are designated as a geologically hazardous area:
1. **Erosion Hazard Areas.** Erosion hazard areas include areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils. The following are considered known or suspected erosion hazards:
 - a. Areas located within the following soil map units: Nos. 46 and 47 Dystric Xerochrepts; No. 90 Lithic Haploxerolls-Rock outcrop complex (LH), or mapped severe erosion hazard, as identified in the U.S. Department of Agriculture Natural Resources Conservation Service Soil Survey of Skagit County Area, WA (1989).

- b. Coastal, erosion-prone areas such as beaches or marine bluffs.
 - c. Areas susceptible to rapid stream incision and stream bank erosion.
2. **Landslide Hazard Areas.** Landslide hazard areas are those areas subject to landslide activity based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. The following are known or suspected landslide hazards:
- a. Areas designated in the Washington State Department of Ecology Coastal Zone Atlas, Washington, Volume Two Skagit County (1978) as U (Unstable), UB, (Unstable Bluff), URS (Unstable Recent Slide), or UOS (Unstable Old Slide).
 - b. Areas of previous failure such as earth slumps, earthflows, mudflows, lahars, debris flows, rock slides, landslides or other failures as observed in the field or as indicated on maps or in technical reports published by the U.S. Geological Survey, the Geology and Earth Resources Division of the Washington Department of Natural Resources, or other documents authorized by government agencies.
 - c. Slopes having gradients of 15% or greater:
 - i. That intersect geologic contacts with permeable sediments overlying low-permeability sediment or bedrock and springs or groundwater seepage are present; or
 - ii. That are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.
 - d. Areas that have shown movement during the Holocene epoch (from ten thousand years ago to the present) or that are underlain or covered by mass wastage debris of that epoch.
 - e. Slopes having gradients steeper than 80% subject to rock fall during seismic shaking.
 - f. Potentially unstable areas resulting from rapid stream incision, stream bank erosion, and undercutting by wave action.
 - g. Slopes with a gradient of 40% or more with a vertical relief of 10 feet or more, including marine bluffs, except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least 10 feet of vertical relief.
3. **Seismic Hazard Areas.** Seismic hazard areas are lands that, due to a combination of soil and groundwater conditions, are subject to risk of damage as a result of earthquake induced ground shaking, slope failure, settlement or subsidence, soil liquefaction, or surface faulting. The following are known or suspected seismic hazards:

- a. Areas having “high” and “moderate to high” risk of liquefaction as mapped on the Liquefaction Susceptibility and Site Class Maps of Western Washington State by County published by the Washington State Department of Natural Resources. These are typically underlain by cohesionless soils of low density typically and must have a low groundwater table.
 - b. Areas located within ¼ mile of an active fault as indicated on investigative maps or described in studies by the United States Geologic Survey, Geology and Earth Resources Division of the Washington Department of Natural Resources, or other documents authorized by government agencies, or identified during site inspection.
 - c. Those known or suspected landslide hazards referenced in Subsection (2) of this Section.
4. **Mine Hazard Areas.** Mine hazard areas are those areas underlain by or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts, and those areas of probable sink holes, gas releases, or subsidence due to mine workings. Factors that should be considered include: proximity to development, depth from ground surface to mine working, and geologic material.
5. **Volcanic Hazard Areas.** Volcanic hazard areas are areas subject to pyroclastic flows, lava flows, debris avalanche, and inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity. Though there are no significant risks identified for the City and immediate surrounding area, other than airborne particulate impacts from an eruptions
6. **Tsunami hazard areas.** Tsunami hazard areas include coastal areas and lake shoreline areas susceptible to flooding, inundation, debris impact, and/or mass wasting as the result of coastal wave action generated by seismic events or other geologic events. Suspected tsunami hazard areas are indicated on the Tsunami Hazard Map of the Anacortes-Whidbey Island Area, Washington: Modeled Tsunami Inundation from a Cascadia Subduction Zone Earthquake.
7. **Other Hazard Areas.** Geologically hazardous areas may also include areas determined by the Director to be susceptible to other geological events including mass wasting, debris flows, rock falls, and differential settlement.
- B. All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

19.70.420 Geologically Hazardous Areas – Mapping.

- A. The approximate location and extent of geologically hazardous areas are shown on the City of Anacortes geologically hazardous data layers maintained in the City of Anacortes geographic information system (GIS). In addition, the following maps and resources providing information

on the location and extent of geologically hazardous areas are hereby adopted by reference as amended:

1. Skagit County, Skagit County Potential Landslide and Erosion Areas, 2016;
 2. Washington Department of Ecology Coastal Zone Atlas (for marine bluffs);
 3. U.S. Geological Survey geologic maps, landslide hazard maps, and seismic hazard maps;
 4. Washington State Department of Natural Resources seismic hazard maps for Western Washington, including, but not limited to, the Liquefaction Susceptibility and Site Class Maps of Western Washington State by County;
 5. Washington State Department of Natural Resources slope stability maps;
 6. Soils maps produced by the U.S. Department of Agriculture, National Resources Conservation Service;
 7. National Oceanic and Atmospheric Administration tsunami hazard maps;
 8. Washington Department of Natural Resources Tsunami Hazard Map, or as updated, of the Anacortes-Whidbey Island Area, Washington: Modeled Tsunami Inundation from a Cascadia Subduction Zone Earthquake.
- B. **Reference Only.** The maps and resources cited above are to be used as a guide for the City of Anacortes Planning, Community & Economic Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

19.70.425 Geologically Hazardous Areas – General Development Standards.

- A. All development activities and uses are prohibited in geologically hazardous areas and their buffers, except as provided for in this chapter, and only when it is demonstrated that the activity will not create undue risk to life, health, and safety.
- B. **Exemptions and Allowed Activities.** Exemptions are listed in the provisions established in AMC AMC 19.70.040 Exempt Activities.
- C. **Approvals.** Alterations of geologically hazardous areas or associated buffers may only occur pursuant to this chapter, and as determined by a qualified professional with concurrence by a 3rd party review, for activities that:
 1. Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;
 2. Will not adversely impact other critical areas;
 3. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and

4. Are determined to be safe as designed and under anticipated conditions by a qualified professional, licensed in the state of Washington.
- D. **Mitigation.** Proposed mitigation techniques are considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may be required to avoid any increase in risk above the preexisting conditions, including following abandonment of the activity.
- E. **Critical Facilities Prohibited.** Critical facilities may not be sited within geologically hazardous areas unless there is no other practical alternative.
- F. **International Building Code.** All development must conform to the provisions of the currently adopted International Building Code as amended by the City of Anacortes, including submittal of a critical areas report.

19.70.430 Geologically Hazardous Areas – Specific Development Standards

- A. **Erosion or Landslide Hazard Areas.** Except as otherwise provided in this Chapter, only those activities approved and permitted consistent with an approved critical area report in accordance with this Chapter are allowed in erosion or landslide hazard areas. Activities must meet the standards of AMC 19.70.430, General development standards, in addition to the specific requirements contained in this subsection.
 1. **Standard Buffer.** A standard buffer of 50 feet is required from the closest edge of a landslide hazard area. The buffer must be maintained as undisturbed native vegetation, except when alteration of vegetation is approved by the Decision-maker as part of the project.
 2. **Buffer reduction.** The Decision-maker may reduce the standard buffer by a maximum of 25% when the critical area report demonstrates that all of the following criteria are met:
 - a. No reasonable alternative to the buffer reduction exists;
 - b. Modified or reduced buffers, through design and engineering solutions, will provide protection to the proposed development and adjacent properties equal to that of the standard buffer;
 - c. The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;
 - d. The development will not decrease slope stability on adjacent properties;
 - e. The proposed reduction will not adversely impact other critical areas;
 - f. The critical areas report makes recommendations regarding planting of vegetation or other measures to minimize impacts and resist erosion.

- g. When a buffer reduction is requested the Decision-maker may require, at the applicant's expense, a third-party review of a critical area report by a Qualified Professional under contract with or employed by the City.
3. **Increased buffer.** The standard buffer may be increased by the Decision-maker based on a critical areas report prepared by a qualified professional that indicates a greater buffer is necessary to protect the proposed development and/or adjacent properties.
4. **Alterations.**
- a. Alterations of a marine bluff or its buffer are prohibited except that minor development to provide public access (e.g. public trails, stairs or view points) may be permitted as regulated in the Shoreline Master Program, provided that impacts are mitigated and the development can be shown to be safe.
 - b. Alterations of an erosion or landslide hazard area and/or buffers may only occur for activities for which a critical areas report that contains a hazards analysis is submitted which determines that:
 - i. The activity will not increase surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions;
 - ii. The activity will not decrease slope stability on adjacent properties;
 - iii. Such alteration will not adversely impact other critical areas or pose a potential threat risk to life, health, and safety.
 - c. Alterations must be designed to meet the following basic requirements:
 - i. The proposed alteration must not decrease the slope stability. The factor of safety against landslide occurrences for residential and commercial developments must be 1.5 for static conditions and 1.2 for dynamic conditions, unless approved by the Decision-maker. Analysis of dynamic conditions must be based on a minimum horizontal acceleration as established by the current version of the International Building Code.
 - ii. Structures and improvements must be clustered to avoid geologically hazardous areas and other critical areas,
 - iii. Structures and improvements must minimize alterations to the natural contour of the slope, and foundations must be tiered where possible to conform to existing topography,
 - iv. Structures and improvements must be located to preserve the most critical portion of the site and its natural landforms and vegetation,
 - v. The proposed development must not result in greater risk or a need for increased buffers on neighboring properties;
 - vi. Development must be designed to minimize impervious lot coverage;

- vii. The Decision-maker may accept an alternative design that deviates from one or more of these standards if a report by a qualified professional demonstrates that greater long-term slope stability can be achieved while meeting all other provisions of this title. The requirement for long-term slope stability must exclude designs that require regular and periodic maintenance to maintain their level of function.
 - d. **Additional Requirements for Alteration of Landslide hazard areas and buffers.**
Prior to permit issuance, the property owner must sign and record a notice on title, at the owner's sole expense, a covenant in a form acceptable to the City, which:
 - i. Acknowledges and accepts the risks of development in the landslide hazard area;
 - ii. Waives any rights to claims against the City;
 - iii. Indemnifies and holds harmless the City against claims, losses, and damages;
 - iv. Informs subsequent owners of the property of the risks and the covenant; and
5. **Vegetation Retention and Maintenance.** Removal of vegetation from a landslide hazard area or related buffer is prohibited, except when allowed as follows:
- a. As part of an approved alteration, that follows the criteria and process outlined in AMC 19.70.430(A)(4).
 - b. Normal nondestructive pruning and trimming of vegetation for maintenance purposes or thinning of limbs of individual trees to provide a view corridor when a plan prepared by an ISA-certified arborist is provided and approved by the Decision-maker and there are no other critical areas present.
 - c. All activity proposed on Marine Bluffs must be regulated and reviewed under the SMP and required shoreline permitting.
6. **Seasonal Restriction.** Clearing within an erosion or landslide hazard area or buffer may be allowed only from May 1st to October 1st of each year provided that the Decision-maker may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions and other factors deemed relevant.
7. **Utility Lines and Pipes.** Utility lines and pipes may be permitted in landslide hazard areas and buffers only when the applicant demonstrates that no other practical alternative is available. The line or pipe must be located aboveground and properly anchored and/or designed with the intent to function in the event of an underlying slide.
8. **Stormwater management.** Prior to any development activity, a plan for the collection, transport, treatment, and discharge of stormwater in accordance with the requirements of AMC Chapter 19.76, or as amended, and in accordance with the adopted Stormwater

Management Manual for Western Washington, must be submitted meeting the following requirements:

- a. All infiltration systems, such as stormwater detention and retention facilities, and curtain drains utilizing buried pipe or French drains, are prohibited in landslide hazard areas and their buffers unless the critical areas report determines such facilities or systems will not adversely affect slope stability.
 - b. Stormwater may not be directed across the face of a landslide hazard or related buffer (including marine bluffs or ravines) except as follows:
 - i. Stormwater may be discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state;
 - ii. Stormwater may be dispersed upslope of the landslide hazard area onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff, if the critical areas report determines such facilities or systems will not adversely affect slope stability;
 - iii. If demonstrated that no other practical alternative is available, stormwater may be discharged from the hazard area into adjacent waters, provided it is collected above the hazard and directed to the water by a tight line drain (constructed of high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior) and provided with an energy dissipating device at the point of discharge.
9. **Prohibited development.** On-site sewage disposal systems, including drain fields, are prohibited within erosion and landslide hazard areas and related buffers.
10. **Subdivisions.**
- a. The division of land in landslide hazard areas and associated buffers is subject to the following:

- i. Land that is located wholly within a landslide hazard area or its buffer may not be subdivided. Land that is located partially within a landslide hazard area or its buffer may be divided provided that each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer;
 - ii. Access roads and utilities may be permitted within the landslide hazard area and associated buffers if the Decision-maker determines that no other feasible alternative exists, and if the critical areas report determines such development will not adversely affect slope stability
- b. Division of land within erosion hazard areas must comply with the following additional requirements:
 - i. Except as otherwise provided in this section, existing vegetation must be retained on all lots until building permits are approved for development on individual lots;
 - ii. If any vegetation on the lots is damaged or removed during construction of the subdivision infrastructure, the applicant must implement a revegetation plan in those areas that have been impacted prior to final inspection of the site development permit or the issuance of any building permit for the subject property;
 - iii. Clearing of vegetation on individual lots may be allowed prior to building permit approval if the Decision-maker determines that:
 - 1. Such clearing is a necessary part of a large-scale grading plan,
 - 2. It is not feasible to perform such grading on an individual lot basis, and
 - 3. Stormwater output from the graded area will meet established water quality standards.

B. Seismic Hazard Areas.

- 1. Activities proposed to be located in seismic hazard areas must meet the standards of AMC 19.70.430(B) and (E).

C. Mine Hazard Areas.

- 1. Activities proposed to be located in mine hazard area must meet the standards of AMC 19.70.430 General development standards, and the specific following requirements:
 - a. **Alterations.** Alterations of a mine hazard area and/or buffer are allowed, as follows:

- i. All alterations are permitted within a mine hazard area with a low potential for subsidence,
 - ii. Within a mine hazard area with a moderate potential for subsidence and at coal mine by-product stockpiles, all alterations are permitted subject to a mitigation plan to minimize risk of structural damage using appropriate criteria to evaluate the proposed use, as recommended in the hazard analysis, and
 - iii. Within a mine hazard area with a severe potential for subsidence only those activities allowed in AMC 19.70.040 **Exempt activities** of this chapter will be allowed.
- b. **Subdivisions.** The division of land in mine hazard areas and associated buffers is subject to the following:
 - i. Land that is located within two hundred feet of a mine hazard area with a severe potential for subsidence may not be subdivided. Land that is located partially within a mine hazard area may be divided provided that each resulting lot has sufficient buildable area that is two hundred feet away from the mine hazard area with a severe potential for subsidence. Land that is located within a mine hazard area with a low or moderate potential for subsidence may be subdivided;
 - ii. Access roads and utilities may be permitted within two hundred feet of a mine hazard area with a moderate or severe potential for subsidence if the city determines that no other feasible alternative exists.
- c. **Reclamation Activities.** Reclamation activities must conform to the provisions in Chapter 332-18 WAC Excavations For all reclamation activities, including grading, filling, and stockpile removal, as-built drawings must be submitted to the city in a format specified by the Decision-maker.

D. Tsunami Hazard Areas.

- 1. Non-residential activities on sites containing areas susceptible to inundation due to tsunami hazards must provide an evacuation and emergency management plan
- 2. The construction of structures designated Risk Categories III and IV as specified under currently adopted IBC are prohibited within a tsunami hazard area, except that:
 - a. A vertical evacuation tsunami refuge may be permitted to be located in a tsunami hazard zone provided it is constructed in accordance with FEMA P646;

- b. Community critical facilities may be permitted to be located within a tsunami hazard zone when such a location is necessary to fulfill their function, provided suitable structure and emergency evacuation measures have been incorporated.

19.70.435 Geologically Hazardous Areas - Critical Area Report Additional Requirements

- A. **Additional Report Contents for Geologically Hazardous Areas.** In addition to the minimum report contents required per AMC 19.70.125 reports must also include;
- B. **Third Party Review Required.** Critical areas reports on geologically hazardous areas are subject to third party review at the owner's sole expense as provided in AMC 19.70.125 (B) and in any of the following circumstances:
 - 1. A buffer reduction or alteration of a landslide hazard area is proposed.
- C. **Minimum Report Contents for Geologically Hazardous Areas.** The written critical area report(s) must contain the following information, at minimum:
 - 1. The report must generally follow the Washington State Department of Licensing Guidelines for Preparing Engineering Geology Reports in Washington (2006) and at a minimum report contents required per AMC 19.70.125;
 - 2. A detailed overview of the field investigations, exploration locations, site photos, published data and references; data and conclusions from past assessments of the site; investigations or studies that support the identification of geologically hazardous areas;
 - 3. A description of the methodologies used to conduct the geologically hazardous areas evaluations, classification, hazards assessments, and/or analyses of the proposal impacts, including references.
 - 4. **Assessment of Geological Characteristics.** The assessment must include the following:
 - a. Classification of the type of geologic hazard(s) present in accordance with AMC 19.70.410.
 - b. An assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis must be accomplished in accordance with accepted classification systems in use in the region.
 - c. A description of load intensity, surface and groundwater conditions, public and private sewage disposal systems, fills, excavations, and all structural development; and
 - d. A description of the extent and type of vegetative cover;
 - e. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion;

5. **Analysis of Proposal.** The report must include a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the project, the subject property, and affected adjacent properties.
6. **Minimum Buffer and Building Setback.** The report must make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis.
7. **Additional Technical Information Requirements for Specific Hazards:**
 - a. **Erosion and Landslide Hazard Areas.** The technical information required in a critical area report for a project within an erosion or landslide hazard area must also include the following:
 - i. An estimate of the present stability of the subject property, the stability of the subject property during construction, the stability of the subject property after all development activities are completed, and a discussion of the relative risks and slide potential relating to adjacent properties during each stage of development, including the effect of construction and placement of structures, clearing, grading, and removal of vegetation will have on the slope over the estimated life of the structures. Quantitative analysis of static and seismic slope stability, modeling, and/or seismic displacement analysis may be required by the Decision-maker.
 - ii. A trend analysis of prior rates of erosion, if available.
 - iii. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on downslope properties;
 - iv. Recommendations for stormwater improvements, locations and methods of erosion control, vegetation management, and/or other means for maintaining long-term soil stability;
 - v. Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;
 - vi. Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and
 - vii. Recommendations for mitigation measures to be implemented in order to minimize the risk to the site and adjacent properties, including slope stabilization measures, if appropriate.
 - b. **Seismic Hazard Areas.** The technical information required in a critical area report for a project within a seismic hazard area must also include the following:

- i. A complete discussion of the potential impacts of seismic activity on the site (for example, liquefaction, lateral spreading, fault rupture);
 - ii. An evaluation of the subsurface soil and groundwater profile, physical properties of the subsurface profiles, and the liquefaction potential of the site;
 - iii. Recommendations for mitigation measures to be implemented in order to minimize the risk to the project, and adjacent properties if appropriate.
 - c. **Tsunami Hazard Areas.** The technical information required in a critical area report for a project within a tsunami hazard area must also include:
 - i. A discussion of the potential impacts of the tsunami hazard on the site; and
 - ii. Recommendations as to structure construction techniques including but not limited to the use of coastal high hazard performance standards.
 - iii. For all development other than single lot, single family residences, an emergency management plan including plans for emergency building exit routes, site evacuation routes, emergency training, notification of local emergency management officials, and an emergency warning system.
 - d. **Marine Bluffs** A geotechnical engineering report will be required when development is proposed within 50 feet (in all directions) of or to the crest of a marine bluff, or a distance equal to the height of the slope up to a distance of 100 feet from the crest (measured from the top), whichever is greater.
 - i. The report must be based on best available science, existing and proposed uses, risks of slope failure, and coastal erosion rates over the last 75 years, if applicable.
 - ii. All proposed development on a marine bluff or in the required buffer must be prohibited, except as may be allowed per AMC 19.72 and DR-6.9.1 of the Shoreline Master Program, or minor development to provide public access (e.g., public trails, stairs or view points), provided that impacts are mitigated and the development can be shown to be safe.
- D. **All Geologically Hazardous Areas.** The Director may require additional information deemed necessary to adequately review the proposal.
1. **Site and Construction Plans.** The critical area submittal for geologically hazardous areas must include a copy of the site plans for the proposal, drawn at an engineering scale, showing:

- a. The type and extent of geological hazard areas, any other critical areas, and recommended and required buffers on, adjacent to, off site within 200 feet of, or that are likely to impact or be affected by the proposal;
- b. Proposed development, including the location of existing and proposed structures, fill, clearing limits, significant trees to be removed, vegetation to be removed, proposed material stock pile locations, and stormwater management facilities;
- c. The topography, in two-foot contours, of the project area and all hazard areas addressed in the report;
- d. Height of slope, slope gradient, and cross-section of the project area indicating the stratigraphy of the site;
- e. The location of springs, seeps, or other surface expressions of groundwater on or off site within 200 feet of the project area or that have the potential to affect or be affected by the proposal;
- f. The location and description of surface water on or off site within 200 feet of the project area or that has the potential to be affected by the proposal.

PART 5: CRITICAL AQUIFER RECHARGE AREAS

19.70.510 Critical Aquifer Recharge Areas – Description and Purpose.

- A. Critical aquifer recharge areas provide the public with clean, safe, and available drinking water and contribute base flows to protect aquatic resources. Once groundwater is contaminated or depleted, it is difficult, costly, and sometimes impossible to clean up or to recharge.
- B. The purpose of this section is to protect critical aquifer recharge areas from degradation or depletion resulting from new and redeveloping land use activities. Due to the potential vulnerability of groundwater underlying certain aquifer recharge areas to contamination and the importance of such groundwater as sources of public water supply, it is the intent of this section to safeguard groundwater resources by mitigating or precluding future discharges of contaminants from new development activities and redevelopment activities.

19.70.515 Critical aquifer recharge areas - Applicability and hazardous materials questionnaire.

- A. **Applicability.** The provisions of this section apply to regulated facilities that are within or adjacent to those portions of the City of Anacortes designated as critical aquifer recharge areas on the City of Anacortes Critical Areas Map. Regulated activities/facilities are defined as those commercial, industrial and home occupation uses that:
 - 1. Process or handle hazardous materials in regulated quantities; and

2. Treat or store regulated quantities of hazardous materials.

- B. **Hazardous materials questionnaire required.** Applications for development or redevelopment of regulated facilities within the boundaries of critical aquifer recharge areas must be accompanied by a completed hazardous materials questionnaire to determine the regulatory status of the applicant facility. The Decision-maker must review the questionnaire to determine whether the facility is regulated under this chapter. If it is determined that the proposal includes a regulated facility that processes, handles, treats, and/or stores hazardous substances as defined by this chapter, the applicant must submit a critical areas report pursuant to this Chapter.

19.70.520 Critical Aquifer recharge areas – Designation.

A. Critical aquifer recharge areas include:

1. Areas served by groundwater which have been designated as a “Sole Source Aquifer Area” under the Federal Safe Drinking Water Act;
 - a. Areas within a “closed” or “low-flow” stream watershed designated by the Department of Ecology pursuant to RCW 90.22;
 - b. Areas designated as “Wellhead Protection Areas” pursuant to [WAC 246-290](#) and the groundwater contribution area pursuant to [WAC 246-291-125\(3\)\(d\)\(iii\)](#) or otherwise recognized by the Director as needing wellhead protection. Wellhead protection areas include, for the purpose of this regulation, the identified recharge areas associated with:
 - i. The 10-year groundwater time-of-travel for all Group A public water supply wells; or
 - i. The 5-year groundwater time-of-travel for all Group B public water supply wells with a wellhead protection plan filed with the Skagit County Health Department; or
 - ii. Plats serviced by five or more individual wells where the average lot size is equal to or less than two acres for which a wellhead protection plan has been completed and filed with the Skagit County Health Department; or
 - iii. The 1,000-foot radius for individual private drinking water supply wells, as identified by map criterion in section 10.70.530.
- B. All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

19.70.525 Critical Aquifer Recharge Areas – Mapping.

- A. The approximate location and extent of critical aquifer recharge areas are shown on the City of Anacortes critical aquifer recharge area data layers maintained in the City of Anacortes geographic information system (GIS). In addition, the following maps and resources providing information on the location and extent of critical aquifer recharge areas are hereby adopted by reference as amended:
 - 1. Areas with soils that have moderate to rapid permeability (>2 inches per hour) as listed in Table 14 of the Soil Survey of Skagit County.
 - 2. Source for identifying drinking water supply wells identified by Agencies such as Washington Department of Ecology and Skagit County Health Department.
- B. **Reference Only.** The maps and resources cited above are to be used as a guide for the City of Anacortes Planning, Community & Economic Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

19.70.530 Critical Aquifer Recharge Areas – General Development Standards

- A. Regulated activities/facilities may be permitted in a critical aquifer recharge area only if the applicant can demonstrate that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer.
- B. The proposed regulated activity must comply with the water source protection requirements and recommendations of the federal Environmental Protection Agency, State Department of Health, and the Skagit County Health Department.
- C. **Storage tank permits.** The City of Anacortes specifically regulates and authorizes permits for underground storage tanks pursuant to the International Fire Code and this chapter. The Washington Department of Ecology also regulates and authorizes permits for underground storage tanks (WAC 173-360). The Anacortes Fire Department regulates and authorizes permits for the removal of underground storage tanks.
- D. Owners and operators of facilities with existing underground storage tanks that are located within a critical aquifer recharge area must comply with all release detection requirements as specified in WAC 173-360.
- E. **Spreading or injection of reclaimed water.** Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the Washington Department of Ecology and Skagit County Health Department.
 - 1. Surface spreading must meet the groundwater recharge criteria given in RCW 90.46.080 and 90.46.010(10).
 - 2. Direct injection must be in accordance with the standards developed by authority of RCW 90.46.042.

F. **Prohibited activities and land uses.** The following land uses and activities for new development or redevelopment are prohibited within or adjacent to critical aquifer recharge areas:

1. Landfill activities as defined in WAC 173-304 and WAC 173-351;
2. All underground injection wells as defined in Chapter 173-218 WAC;
3. Disposal of hazardous or dangerous wastes;
4. Mining, including:
 - a. Metals and hard rock mining;
 - b. Sand and gravel mining are prohibited in critical aquifer recharge areas determined to be highly susceptible or vulnerable unless a stormwater quality management plan is approved and followed by the applicant;
5. Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);
6. Storage, processing, or disposal of radioactive substances;
7. Dry cleaning establishments using the solvent perchlorethylene; and
8. Other:
 - a. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source;
 - b. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream;
 - c. Activities that are not connected to an available sanitary sewer system are prohibited from critical aquifer recharge areas associated with sole source aquifers.

19.70.535 Critical Aquifer Recharge Areas – Specific Development Standards for Regulated Facilities

- A. The following mitigation measures, as applicable, are required for development of regulated facilities within a critical aquifer recharge area:
1. Floor drains must not be allowed to drain to the stormwater system and must be designed and installed to meet the Uniform Plumbing Code (UPC) Section 303.
 2. If any roof venting carries contaminants, then the portion of the roof draining this area must go through pretreatment pursuant to UPC Section 304(b).
 3. All nonresidential vehicle washing must be self-contained or be discharged to a sanitary sewer system, if approved by the sewer utility, and is subject to UPC Sections 708 and 711.

4. Utilize Integrated Pest Management (IPM) practices for pest control and Best Management Practices (BMPs) for the use of fertilizers as described by the Skagit County Local Hazardous Waste Management Program.
5. Facilities installing new underground tanks. All new underground storage facilities used or to be used for the underground storage of hazardous substances or hazardous wastes must meet the requirements of WAC 173-360 and be designed and constructed so as to:
 - a. Prevent releases due to corrosion or structural failure for the operational life of the tank;
 - b. Be protected against corrosion, constructed of non-corrosive material, steel clad with a non-corrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substance; and
 - c. Use material in the construction or lining of the tank which is compatible with the substance to be stored.
6. Aboveground tanks. All new aboveground storage facilities/tanks containing hazardous substances within a critical aquifer recharge area must be constructed, installed, used and maintained to:
 - a. Prevent the release of a hazardous substance to the ground, or groundwater;
 - b. Include an impervious containment area enclosing or underlying the tank or part thereof;
 - c. Include a secondary containment system either built into the tank structure or a dike system built outside the tank. The secondary containment system or dike system must have a capacity of at least 110 percent of the primary tank and conform to the requirements of UFC Chapter 7902.2.
7. Vehicle repair and servicing.
 - a. Commercial vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.
 - b. Dry wells are not allowed on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the state Department of Ecology prior to commencement of the proposed activity.
8. Additional protective measures may be required if deemed necessary by the City of Anacortes.

9. State and federal regulations – The uses listed below will be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations.

Statutes, Regulations and Guidance Pertaining to Groundwater Impacting Activities

Activity	Statute – Regulation – Guidance
Above Ground Storage Tanks	Chapter 173-303-640 WAC
Animal Feedlots	Chapter 173-216 WAC , Chapter 173-220 WAC
Automobile Washers	Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (WDOE WQ-R-95-56)
Below Ground Storage Tanks	Chapter 173-360 WAC
Chemical Treatment Storage and Disposal Facilities	Chapter 173-303 WAC
Hazardous Waste Generator (Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, etc.)	Chapter 173-303 WAC
Injection wells	Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC
Junk Yards and Salvage Yards	Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicle Recycler Facilities (WDOE 94—146)
Oil and Gas Drilling	WAC 332-12-450, Chapter 173-218 WAC
Wastewater Facilities	Chapter 173-240 WAC
On-Site Sewage Systems (<3,500 gal/day)	Chapter 246-272A WAC, Local Health Ordinances
Large On-Site Sewage Systems (3,500 to 1000,000 gal/day)	Chapter 246-272B WAC, State Health Ordinances
Pesticide Storage and Use	Chapter 17.21 RCW
Sawmills	Chapter 173-303 WAC, Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (WDOE 95-53)
Solid Waste Handling and Recycling Facilities	Chapter 173-304 WAC
Surface Mining	Chapter 332-18 WAC

Wastewater Application to Land Surface	Chapter 173-216 WAC, Chapter 173-200 WAC, WDOE Land Application Guidelines, Best Management Practices for Irrigated Agriculture
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19.70.540 Critical Aquifer Recharge Areas – Critical area report additional requirements.

- A. **Additional Report Contents for CARA's.** In addition to the minimum report contents required per AMC 19.70.125 CARA reports must also include;
- B. **Minimum Report Contents.** A critical areas report must include a hydrogeologic assessment including, but not limited to, the following:
 - 1. Information sources;
 - 2. Geologic and hydrologic setting including available recharge, permeability/transmissivity information;
 - 3. Available well logs, borings, seeps/springs within 1,000 feet of the project area;
 - 4. Available water quality information;
 - 5. Groundwater depth, flow direction and gradient based on available information;
 - 6. Surface water location and recharge potential;
 - 7. Water source supply to the site;
 - 8. Any sampling schedules necessary;
 - 9. Discussion of the effects of the proposed project on the groundwater resources;
 - 10. Description of potential mitigation measures, should it be determined that the proposed project may have an adverse impact on groundwater resources; and
 - 11. Other information as required by the City.
- C. If the hydrogeologic assessment determines that the facility will have no effect on groundwater resources, the facility is exempt from the development standards requirements in section 19.70.540 of this Chapter.
- D. If the hydrogeologic assessment determines that the facility could have an effect on groundwater resources, the Decision-maker will require implementation of applicable development standards in sections 19.70.540.

PART 6: FREQUENTLY FLOODED AREAS

19.70.610 Frequently Flooded Areas – Description and Purpose.

- A. Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property.
- B. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas caused by flooding, while protecting the functions and values of floodplains, including special consideration for anadromous fish habitat in combination with the provisions for Fish and Wildlife Habitat Conservation Areas in this chapter.

19.70.615 Frequently Flooded Areas – Designation.

- A. Frequently flooded areas include those areas established as special flood hazard areas under AMC 19.74 Floodplain Management, including those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for the City of Anacortes” dated March 17, 2003, and any revisions thereto, with accompanying flood insurance rate maps (FIRM), and any revisions thereto. The best available information for flood hazard area identification as outlined in AMC 19.74 Use of Other Base Flood Data in A and V zones is the basis for regulation until a new FIRM is issued that incorporates the data utilities under AMC 19.74 Use of Other Base Flood Data in A and V zones.
- B. Tsunami hazard areas are designated as geologically hazardous areas per AMC 19.70.410 and are subject to applicable development regulations outlined in AMC 19.70.430.
- C. Climate change and sea level rise are affecting many coastal communities and some within Puget Sound. Applicants are urged to become familiar with potential impacts of climate change and sea level rise if development is proposed near the marine shoreline or associated low-lying areas.

19.70.620 Frequently Flooded Areas – Mapping.

- A. **Reference Only.** The maps and resources cited above are to be used as a guide for the City of Anacortes Planning, Community & Economic Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

19.70.625 Frequently flooded areas – General Development Standards

- A. All development proposals must comply with AMC 19.74 Floodplain Management for general and specific flood hazard protection.

- B. Development may not reduce the base flood water storage ability. Construction, grading or other regulated activities that would reduce the flood water storage ability must be mitigated by creating compensatory storage on or off site.
- C. Alteration of Watercourses.
 - 1. Projects that will relocate a watercourse must also submit a request for Conditional Letter of Map Revision, where required by FEMA. The project may not be approved unless FEMA issues the CLOMR (which requires ESA consultation) and the provisions of the letter are made part of the permit requirements.
 - 2. The Decision-maker must notify adjacent communities (if applicable) and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
 - 3. Maintenance must be provided within the altered or relocated portion of said watercourse so that flood carrying capacity is not diminished. If the maintenance program does not call for cutting of native vegetation, the system must be oversized at the time of construction to compensate for said vegetation growth or any other natural factor that may need future maintenance.
- D. Base flood data and flood hazard notes must be shown on the face of any recorded plat or binding site plan, including, but not limited to, base flood elevations, flood protection elevation, boundary of floodplain, and zero rise floodway.
- E. All development must conform to the provisions of the currently adopted International Building Code, including submittal of a critical areas report.

19.70.630 Frequently Flooded Areas – Critical Areas Report Additional Requirements

- A. Additional Report Contents for FFA's. In addition to the minimum report contents required per AMC 19.70.125 FFA reports must also include;
- B. Minimum Report Contents. A critical areas report must include a habitat assessment prepared in accordance with [Regional Guidance for Floodplain Habitat Assessment and Mitigation](#) (FEMA Region X, 2013), or as hereafter amended. The assessment must determine if the project would adversely affect:
 - 1. The primary constituent elements identified when a species is listed as threatened or endangered;
 - 2. Essential fish habitat designated by the National Marine Fisheries Service;
 - 3. Fish and wildlife habitat conservation areas;
 - 4. Vegetation communities and habitat structures;
 - 5. Water quality;

6. Water quantity, including flood and low flow depths, volumes and velocities;
 7. The channel's natural planform pattern and migration processes;
 8. Spawning substrate, if applicable; and/or
 9. Floodplain refugia, if applicable.
- C. If the assessment concludes that the activity is expected to have an adverse effect on water quality and/or aquatic or riparian habitat or habitat functions, the project must be designed in a way to off-set those impacts. Project mitigation will not be permitted in accordance with Regional Guidance for Floodplain Habitat Assessment and Mitigation, FEMA Region X, 2013.
- D. The following activities do not require completion of a habitat assessment:
1. Repair of existing building in its existing footprint, including damage by fire or other casualties unless the repair constitutes substantial improvement or is necessitated by substantial damage;
 2. Removal of noxious weeds;
 3. Replacement of nonnative vegetation with native vegetation;
 4. Ongoing activities such as lawn and garden maintenance;
 5. Removal of hazard trees;
 6. Normal maintenance of public utilities and facilities;
 7. Restoration or enhancement of floodplains, riparian areas and streams that meets federal and state standards.

DEFINITIONS

“Adjacent” means areas adjacent to critical areas must be considered to be within the jurisdiction of these requirements and regulations to support the intent of this title and ensure protection of the functions and values of critical areas. Adjacent must include lands within a distance equal to the required buffer for the critical area as determined by the provisions of this chapter.

“Anadromous fish” means fish that spawn and rear in freshwater and mature in the marine environment. While Pacific salmon die after their first spawning, adult char (bull trout) can live for many years, moving in and out of saltwater and spawning each year. The life history of Pacific salmon and char contains critical periods of time when these fish are more susceptible to environmental and physical damage than at other times. The life history of salmon, for example, contains the following stages: upstream migration of adults, spawning, inter-gravel incubation, rearing, smoltification (the time period needed for juveniles to adjust their body functions to live in the marine environment), downstream migration, and ocean rearing to adults.

“Aquifer” means a body of soil or rock that contains sufficient saturated material to conduct groundwater and yield usable quantities of groundwater to wells or springs.

“Averaging” means establishing the required buffer setback from a critical area, within the permitted parcel of land only, so that areas within the parcel determined to be more environmentally sensitive than others will have a larger buffer than the less sensitive areas. For every increase in setback for one area of the parcel, there will be an equal corresponding decrease in another area of the parcel. The total land area within the buffer must remain the same as if the buffer were a uniform width. “Aquifer” means a body of soil or rock that contains sufficient saturated material to conduct groundwater and yield usable quantities of groundwater to wells or springs.

“Base flood” means a flood having a one percent chance of being equaled or exceeded in any given year, often referred to as the “100-year flood”.

“Base flood elevation” means the water surface elevation of the base flood in relation to the North American Vertical Datum of 1988. The Anacortes FIRMs still make reference to the 1929 National Geodetic Vertical Datum (NGVD). While using NAVD is acceptable, please recognize that surveyors and designers will need to convert the datum when preparing plans. FEMA Elevation Certificates require the use of the datum utilized on the FIRMs.

“Best available science” means current scientific information used in the process to designate, protect, or restore critical areas that is derived from a valid scientific process as defined by WAC 365-195-900 through 925. Sources of best available science are included in “Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas” published by the Washington State Department of Commerce.

“Best management practices (BMPs), critical areas” means physical or structural tools and/or management practices which, when used singularly or in combination, prevent or reduce adverse impacts to critical areas or their buffers.

“Buffer” is an area contiguous to a critical area that is required to protect the critical area and provide for the continued maintenance, functioning, and/or structural stability of a critical area.

“Critical aquifer recharge areas” are areas with a critical recharging effect on aquifers used for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.

“Critical areas” means critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, streams, and wetlands, as defined in this Chapter.

“Development” means any human-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.

“Ditches” are artificial drainage features created through purposeful human action, such as irrigation and drainage ditches, grass-lined swales, and canals. Purposeful creation from uplands must be demonstrated through documentation, photographs, statements, and/or other evidence in order to be unregulated by this chapter.

“Enhancement” means an action which increases the functions and values of a stream, wetland, or other critical area or buffer.

“Erosion” means the process by which soil particles are mobilized and transported by natural agents such as wind, rain-splash, frost action or surface water flow.

“Erosion hazard areas” are those areas containing soils which, according to the United States Department of Agriculture Natural Resources Conservation Service Soil Survey Program, may experience significant erosion. Erosion hazard areas also include coastal erosion-prone areas and channel migration zones.

“Federal Emergency Management Agency (FEMA) floodway” means the channel of the stream and that portion of the adjoining floodplain which is necessary to contain and discharge the base flood flow without increasing the base flood elevation more than one foot.

“Fish and wildlife habitat conservation areas” are areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. As defined in AMC 19.70.310.

“Floodway, zero rise” means the channel of a stream and that portion of the adjoining floodplain which is necessary to contain and discharge the base flood flow without any measurable increase in flood height. A measurable increase in base flood height means a calculated upward rise in the base flood elevation, equal to or greater than .01 foot, resulting from a comparison of existing conditions and changed conditions directly attributable to development in the floodplain. This definition is broader than that of the FEMA floodway, but always includes the FEMA floodway. The boundaries of the 100-year floodplain, as shown on the current Flood Insurance Study for , are considered the boundaries of the zero-rise floodway unless otherwise delineated by a critical area study.

“Floodplain” means the total area subject to inundation by the base flood.

“Frequently flooded areas” are lands in the floodplain subject to at least a one percent or greater chance of flooding in any given year, or within areas subject to flooding due to high groundwater, high tides, with strong winds, sea level rise, and extreme weather events resulting from global climate change. These areas include, but are not limited to streams, rivers, lakes, coastal areas, wetlands, and areas where high groundwater forms ponds on the ground surface.

“Functions and values” means the beneficial services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains, reducing flooding and erosive flows, wave attenuation, historical or archaeological importance, educational opportunities, and recreation. These beneficial roles are not listed in order of priority.

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

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

“Habitats of local importance” designated as fish and wildlife habitat conservation areas include those areas found to be locally important by the City of Anacortes.

“Hazard tree” means any tree determined by an International Society of Arboriculture (ISA)-certified arborist to be a hazard to people or property as a result of a risk assessment conducted according to ISA guiding principles.

“In-lieu-fee program” means an agreement between a regulatory agency (state, federal or local) and a single sponsor, generally a public natural resource agency or non-profit organization. Under an in-lieu-fee agreement, the mitigation sponsor collects funds from an individual or a number of individuals who are required to conduct compensatory mitigation required under a wetland regulatory program. The sponsor may use the funds pooled from multiple permittees to create one or a number of sites under the authority of the agreement to satisfy the permittees’ required mitigation.

“Landslide” means an episodic downslope movement of a mass including, but not limited to, soil, rock or snow.

“Landslide hazard areas” are areas at risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

“Mine hazard areas” are those areas directly underlain by, adjacent to, or affected by mine workings such as adits, tunnels, drifts, or airshafts, and those areas probable to sink holes, gas releases, or subsidence due to mine workings.

“Mitigation” means the use of any or all of the following actions listed in descending order of preference:

1. Avoiding the impact by not taking a certain action;
2. Minimizing the impact by limiting the degree or magnitude of the action by using appropriate technology or by taking affirmative steps to avoid or reduce the impact;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected critical area or buffer;
4. Reducing or eliminating the impact over time by preserving or maintenance operations during the life of the development proposal;
5. Compensating for the impact by replacing, enhancing or providing substitute critical areas and environments;
6. Monitoring the impact and taking appropriate corrective measures.

“Mitigation” means avoiding, minimizing, or compensating for adverse critical areas impacts, using the sequential order of preference listed in 19.70.130, Mitigation requirements.

“Monitoring” means evaluating the impacts of development proposals on biologic, hydrologic and geologic systems and assessing the performance of required mitigation through the collection and analysis of data for the purpose of understanding and documenting changes in natural ecosystems, functions and features including, but not limited to, gathering baseline data.

“Native Growth Protection Area/ Easement” (NGPA/E) means an easement granted for the protection of native vegetation within a sensitive area or its associated buffer. The easement should be recorded on the appropriate documents of title and filed with the county records division.

“Native vegetation” means plant species that occur naturally in a particular region or environment and were present before European colonization.

“Normal Appurtenances” means those structures secondary to a primary use that are common to and do not constitute a special privilege. Examples for residential uses include garages, deck, driveways, utilities, and fences.

“Noxious weed” means any plant which is highly destructive, competitive, or difficult to control by cultural or chemical practices, limited to those plants on the state noxious weed list contained in Chapter [16-750 WAC](#) and those regulated by Skagit County.

“Primary association” means the fundamental link between a species and land or aquatic area where anadromous fish, endangered, threatened or sensitive species breed or feed.

“Repair or maintenance” means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

“Restoration” means measures taken to restore an altered or damaged natural feature, including: (a) Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and (b) Actions performed to re-establish structural and functional characteristics of a critical area that have been lost by alteration, past management activities, or catastrophic events.

“Seismic hazard areas” are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, debris flows, lahars, or tsunamis.

“Shoreline jurisdiction” means all marine waters along Puget Sound, streams and rivers with an annual mean flow of more than 20 cubic feet per second, lakes greater than 20 acres in size, shorelands adjacent to these water bodies, and associated wetlands.

“Significant tree” means a deciduous or evergreen [tree](#) greater than six inches in diameter at five feet above [grade](#).

“Slope” means an inclined ground surface, the inclination of which is expressed as a ratio or percentage of vertical distance to horizontal distance by the following formula: $((\text{vertical distance} / \text{horizontal distance}) \times 100) = \% \text{ Slope}$

“Special Flood Hazard Area” means the land in the floodplain that is subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

“Species of local importance” are those species that are of local concern designated by the City due to their population status or their sensitivity to habitat manipulation.

“Stream” means an area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse naturally occurring prior to construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

“Unavoidable impacts” means adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

“Volcanic hazard areas” include areas subject to pyroclastic flows, lava flows, and inundation by debris flows, lahars, mudflows, or related flooding from volcanic activity.

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

“Wetland Mitigation Bank” means a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved, expressly for the purpose of providing compensatory mitigation in advance of unavoidable impacts to wetlands or other aquatic resources that typically are unknown at the time of certification to compensate for future, permitted impacts to similar resources.

“Wetland mosaic” means an area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50% of the total area of the entire mosaic, including uplands and open water.

Chapter 19.20

APPLICATION PROCEDURES

Sections:

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19.20.010 Policy.

This chapter establishes standard procedures for review of development permit applications and appeals. These procedures are designed to promote timely and informed public participation, eliminate redundancy in the process, minimize delay and expense, and result in approvals that further the goals and policies of the Anacortes comprehensive plan. These procedures are intended to be consistent with the provisions of Chapter [36.70B](#) RCW and integrate the land use permit process with the environmental review process. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016)

19.20.020 Applicability.

A. This chapter applies to all applications and all development permits issued per AMC Titles [16](#), [17](#), and this title.

B. *Exemptions.* Consistent with RCW [36.70B.140](#), the following permits are exempt from the procedural requirements of this chapter:

1. Sidewalk use permits.
2. Development agreements.
3. Final approval of short subdivisions and subdivisions.
4. Landmark designations and street vacations. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016)

19.20.030 Types of review.

A. Decisions on applications are governed by several types of review processes, described and distinguished in this section. The types of review are generally organized in ascending order of significance, amount of public process, and level of discretion exercised by the decision-maker.

B. The Director must determine the proper review type for all permit applications. If there is a question as to the required type of process, the Director must resolve it in favor of the higher type number. A Type 3-PC review is considered a higher level than a Type 3-HE review.

C. Table 19.20.030-1 identifies the types of review for all applications, and describes the process for each type of review.

1. The types of applications that are subject to each type of review are listed in the column immediately beneath the heading for each type.
2. The processes required for each type of review are further described by the remainder of the column beneath the heading for each type.
3. The remainder of this chapter describes the required processes for each type of review.

Table 19.20.030-1

Review classification and process matrix.

Types of Review	Type 1 Administrative Ministerial Actions	Type 2 Administrative Decisions	Type 3-HE Hearing Examiner Decisions	Type 3-PC Planning Commission Decisions	Type 4 City Council Decisions
Types of Applications	• Accessory dwelling units • Assessment of impact fees per AMC Chapter 3.93 • Boundary line adjustments • Building, mechanical, and plumbing permits • Clearing and grading permits • Extension of time for approval • Fence permits • Minor permit revisions • Shoreline exemptions • Sign permits • Site plan review, less than 10 dwelling units, less than 12,000 sq. ft. of nonresidential gross floor area, or less than 20,000 sq. ft. of nonresidential site improvements • Critical Area Letter of Exemption	• Administrative conditional use permits, including home occupation permits • Binding site plans, less than 10 lots • Level 1 variances • Preliminary short subdivisions • SEPA threshold determinations • Site plan review, 10 or more dwelling units, 12,000 sq. ft. or more of nonresidential gross floor area, or 20,000 sq. ft. or more of nonresidential site improvements • Stormwater Management Manual exceptions • Critical Area Permit - Permitted Alteration	• Level 2 variances • Zone boundary determination • Critical Area Variance – Reasonable Use	• Shoreline conditional use and variance permits • Shoreline substantial development permits (SSDP) for projects valued less than \$1,000,000 on site less than three acres	• Binding site plans, 10 or more lots • Conditional use permits, except administrative CUPs • Essential public facilities, Types 1 and 2 • Framework development plans • Preliminary long subdivisions • Site-specific rezones authorized by the comprehensive plan • Shoreline substantial development permits (SSDP) for projects valued at \$1,000,000 or more or on site of three acres or more
Pre-Application Conference	At discretion of Director	At discretion of Director	Yes	Yes	Yes
Pre-Application Neighborhood Meeting	No	No, except may be required for short subdivisions, binding site plans, and site plan review at	Yes	Yes	Yes

Types of Review	Type 1 Administrative Ministerial Actions	Type 2 Administrative Decisions	Type 3-HE Hearing Examiner Decisions	Type 3-PC Planning Commission Decisions	Type 4 City Council Decisions
		discretion of Director			
Notice of Application	No	Yes	Yes	Yes	Yes
Comment Period	None	14 days	21 days	21 days (30 for shoreline permits)	21 days (30 for shoreline permits)
Recommendation By	None	None	Director	Director	Planning Commission
Pre-Decision Open Record Public Hearing	No	No	Yes, before Hearing Examiner	Yes, before Planning Commission	Yes, before Planning Commission
Closed Record Decision Hearing	No	No	No	No	Yes, before City Council
Decision By	Director	Director	Hearing Examiner	Planning Commission	City Council
Notice of Decision	No	Yes	Yes	Yes	Yes
Local Appeal Available To	Hearing Examiner	Hearing Examiner	City Council	City Council	None
Appeal Hearing Type	Open record	Open record	Closed record	Closed record	N/A

(Ord. 3040 § 2 (Att. A), 2019; Ord. 3022 § 5 (Att. A), 2018; Ord. 3017 § 1 (Att. A), 2018; Ord. 2992 § 1 (Att. A), 2016)

19.20.040 Consolidated review.

A. *Optional Consolidated Application Processing.* All projects that involve two or more application processes may, at the applicant's written request, be processed collectively under the highest numbered type procedure required for any part of the application or may be processed individually under each of the review procedures. If the application is processed under the individual procedures option, the highest numbered type procedure must be processed prior to the subsequent lower numbered procedure.

B. *Integration of Environmental Review.* An application for a development permit that is subject to the State Environmental Policy Act (SEPA) must be reviewed per AMC Chapter [18.04](#), State Environmental Policy Act, concurrently with review of the development permit application except where exempted by that chapter.

C. Per RCW [36.70B.050](#), review of an application is allowed only one open record hearing and one closed record appeal hearing.

D. The appeal of a SEPA procedural determination is not subject to this section. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016)

19.20.050 Eligibility for permits.

A. All development permits require a lot of record as described in AMC [19.20.060](#).

B. The Department may not issue any development permit for a lot created through a division, conveyance, or segregation that was illegal or contrary to city subdivision laws or Chapter [58.17](#) RCW. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016)

19.20.060 Lots of record.

A. In any zone in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this title, a single-family dwelling and customary accessory buildings may be erected on any single substandard lot of record at the effective date of adoption of the 1978 zoning ordinance. Such lot must have been in separate ownership and not of continuous frontage with other lots in the same ownership continuously since April 19, 1978. This provision applies even when such lot fails to meet the requirements for area or width, or both, that are generally applicable in the zone; provided, that setback dimensions and other requirements not involving area or width, or both, of the lot conform to the current regulations for the zone in which such lot is located.

B. If two or more contiguous substandard lots, or combination of contiguous substandard lots and portions of lots, were in single ownership of record as of April 19, 1978, or at any time since that date, they must be aggregated and considered a single parcel for purposes of meeting current area and dimensional standards for lots in the zone in which they are located. If all such contiguous land under single ownership still constitutes a substandard lot once aggregated, a single-family dwelling and customary accessory buildings may be erected thereon (or other uses generally permitted in the zone), provided setback, lot coverage, and other requirements are met. No portion of land or lots thus aggregated may be used or sold in a manner which creates or leaves remaining a substandard lot.

C. Any residential lot or lots, which were used as residential prior to April 19, 1978, and have been in continual residential use since April 19, 1978, in a zone that is now zoned light manufacturing must be considered a conforming, permitted residential use within the nonresidential designation. Other requirements of the nonresidential designation, such as lot size, setbacks, density, land coverage, building height, and parking, apply to such residential lots. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016)

19.20.070 Vesting.

A. An application for a building permit or land division vests at the time a complete application is filed with the Department and all application fees are paid, consistent with RCW [19.27.095\(1\)](#) and [58.17.033\(1\)](#).

Applications for site plans do not vest at the time a complete application is filed.

1. An application is complete on the date a complete application is filed, as subsequently determined in the letter of completeness.
2. An application vested under this section is not subject to laws or regulations that become effective after the date of vesting, except as provided below.

B. This section may not be construed to restrict the city from imposing conditions on development permits pursuant to the State Environmental Policy Act, Chapter [43.21C](#) RCW, or Chapter [197-11](#) WAC, as long as such conditions do not change any of the requirements of the underlying code section pertinent to the particular development permit.

C. This section may not be construed to prevent the city from imposing new regulations necessary to protect the public health and safety, including, but not limited to, the requirements of the building, health, and fire codes, as now adopted or as subsequently amended. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016)

19.20.080 Requirement for public notices.

A. *Applicability.* This section applies whenever one of the following is required by this chapter:

1. Notice of application.
2. Notice of public hearing.
3. Notice of decision, including any revised notice of decision.

B. *Distribution.* The Department must timely distribute the notice by:

1. Publication in the city's official newspaper.
2. Electronic mail or first class mail to:
 - a. The applicant.
 - b. Any appellant.
 - c. Any parties of record.
 - d. Any person who, prior to rendering the decision, has requested a copy of the notice of decision.

e. Any agencies with jurisdiction over the application or any agencies that commented on the application.

f. Washington State Department of Transportation, if the project is located adjacent to the right-of-way of a state highway.

g. Skagit County, if the project is located adjacent to a city boundary.

3. For a notice of application, via first class mail to owners of property within 300 feet of the subject property.

4. For a notice of decision, to the county assessor.

5. Posting on at least two notice boards on or near the subject property, and on the notice board at City Hall and the public library. The Director may establish standards for size, color, layout, design, wording, and placement of the signs and notice boards.

C. *Errors.* Errors in precise compliance with the rules contained in this section do not require repeating the public notice if the notice was reasonable and adequate. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016. Formerly 19.20.090)

19.20.090 Pre-application conference.

A. *Purpose.* The pre-application conference is intended to:

1. Provide the city and other agency staff with information about the proposed development.
2. Enable staff to advise the applicant of applicable approvals and requirements.
3. Acquaint the applicant with the applicable requirements of the AMC and other laws.
4. Identify issues and concerns in advance of a formal application.

B. *When Required.*

1. *Generally.* A pre-application conference is required when shown in AMC [19.20.030](#).
2. *Exception.* The Director may waive the pre-application conference if the proposal has few development-related issues, involves subsequent phases of an approved development, or is substantially similar to a prior proposal affecting substantially the same property.

C. To schedule a pre-application conference, the applicant must submit a request on forms provided by the Department and pay any applicable fees.

D. The advice the city provides at pre-application meetings is not binding upon the city and does not prevent the city from enforcing all applicable regulations. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016. Formerly 19.20.110)

19.20.100 Pre-application neighborhood meeting.

A. *Purpose.* The purpose of the neighborhood meeting is to:

1. Inform citizens about the potential project at an early stage.
2. Foster communication between the applicant and the public regarding potential issues and opportunities for solutions related to the project.

B. *When Required.*

1. A pre-application neighborhood meeting is required when shown in AMC [19.20.030](#).
2. The applicant must hold a neighborhood meeting before submitting an application and after any required pre-application conference.
3. The Director may require the applicant to hold another neighborhood meeting if the applicant's plans change significantly from those described at the neighborhood meeting.

C. *Meeting.*

1. The meeting must be held in a public meeting place, such as the public library meeting room, Depot Arts Center, or City Hall or similar room as approved by the Director.
2. The meeting may be facilitated by a third-party facilitator approved by the Director.
3. The meeting must be held Tuesday, Wednesday, or Thursday at six or seven p.m. and may not overlap with any other city meeting or city holiday.

D. *Notices.*

1. The Director may provide standard notice formats and guidelines for conducting the meeting.
2. The notice must include:
 - a. A brief description of the project;
 - b. Date, time, and location of the neighborhood meeting;
 - c. Name and phone number of the applicant or their representative.

3. The notice must be mailed at least 10 days prior to the meeting to all of the following:
 - a. The Department.
 - b. The list of property owners that must receive the notice of application.
 4. The notice must be published in the local newspaper at least 10 days prior to the meeting.
 5. The applicant must also post the notice on the project site at least 10 days prior to the meeting.
- E. The applicant is responsible for all fees and costs associated with the pre-application neighborhood meeting. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016. Formerly 19.20.120)

19.20.110 Application—Contents and completeness—Revisions.

A. *Contents of Applications.*

1. *Application Requirements.*
 - a. Applications must be submitted on forms provided by the Department.
 - b. Applications must be signed by the owners of the property subject to the application, or include the owner's notarized authorization for the applicant to submit the application.
 - c. Applications must include fees, as calculated by the Director following the adopted fee schedule.
 - d. Applications must include all the information specified in any applicable code section as well as the application checklist provided by the Department.
2. The applicant must apply for all permits identified in the pre-application meeting and required by law.

B. *Complete Applications.*

1. A permit application is complete for the purposes of this section when it meets the requirements of subsection [A](#) of this section.
2. When the Director makes a determination on completeness of an application, the Director must provide to the applicant either:
 - a. A written determination that the application is complete; or
 - b. A written determination that the application is incomplete, a request for information necessary to make the application complete, and a notice that the requested information must be submitted within 90 days.

3. A determination of completeness is not required if the Director issues the permit prior to the deadlines in subsection [C](#) of this section.
4. A determination of completeness does not preclude the Director from requesting additional information or studies either at the time of the determination of completeness or later, if the information is required to complete review of the application or substantial changes in the permit application are proposed.

C. *Timing.*

1. *Initial Receipt of Application.* Upon initial receipt of an application, the Director must provide the applicant a determination of completeness within 28 days. If the Director does not provide a written determination within 28 days, the application is deemed complete at the end of the twenty-eighth day.
2. *Receipt of Additional Information.* When the applicant submits the requested information, the Director must evaluate the application for completeness within 14 days. If the Director does not provide a written determination within 14 days, the application is deemed complete at the end of the fourteenth day.
3. *Incomplete Applications.*
 - a. The applicant may submit a written request for extension of the deadline to submit the requested information for an additional 90 days. The Director may grant up to two such extensions.
 - b. If the applicant has not provided the requested information by the deadline, the Director must reject and return the application along with any unspent application fees.

D. *Revisions to Applications.*

1. The applicant may make minor revisions to the application after the determination of completeness and before the closure of an open public hearing.
2. A “minor revision” to an application is one that does not:
 - a. Involve more than a 10 percent increase in area or intensity of the use.
 - b. Increase the number of lots, dwelling units, or density.
 - c. Decrease the quality or amount of open space.
 - d. Result in any significant environmental impact not adequately reviewed or mitigated by previous documents.
 - e. Expand onto property not included in the original proposal.
3. Any revision other than a minor revision requires a new application. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016. Formerly 19.20.130)

19.20.120 Application—Notice.

- A. *When Required.* A notice of application is required when shown in AMC [19.20.030](#), Types of review.
- B. *Contents.* The notice of application must include all of the following:
1. The application number.
 2. The name of the applicant.
 3. The date of application, the date of the notice of completion for the application, and the date of the notice of application.
 4. Identification of the location of the project, by address if available.
 5. A description of the proposed application, a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW [36.70B.070](#).
 6. The identification of other permits not included in the application, to the extent known by the city.
 7. The identification of existing environmental documents that evaluate the proposed project and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed.
 8. A statement of the public comment period, which lasts the number of days specified for the application type in AMC [19.20.030](#), Types of review; except all shoreline permits subject to the comment period as outlined in WAC [173-27-110\(2\)\(e\)](#), which allows for a 30-day comment period.
 9. A statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights.
 10. The date, time, place and type of hearing, if applicable, and scheduled at the date of notice of the application.
 11. A statement of the preliminary determination of consistency, if one has been made at the time of notice, and of those development regulations that will be used for project mitigation and consistency.
 12. If the city is using the optional DNS process (WAC [197-11-355](#)), additional information will be added to the notice as required by WAC [197-11-355\(2\)](#).
 13. Any other information determined necessary by the city, such as the city's likely threshold determination, if complete at the time of issuance of the notice of application.
- C. *Timing.*

1. The Department must distribute a notice of application within 14 days of determination that an application is complete and at least 15 days prior to any open record hearing.
2. Within seven days after the end of the public comment period, the Department must transmit to the applicant a copy of public comments timely received in response to the notice of application, together with a statement that the applicant may submit a written response to these comments within seven days from the date the comments are transmitted. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016. Formerly 19.20.140)

19.20.130 Application—Department review.

A. The Department has a duty to review each application for compliance with applicable city codes and to deny, or recommend denial of, or approve, or recommend approval of, an application based on its compliance with applicable city codes.

B. If the Department is required to provide a recommendation to the decision-maker or body making a recommendation on an application, the Department's recommendation must include all of the following:

1. The date of determination of completeness.
2. Identification of city codes relevant to evaluation of the application.
3. A statement of facts necessary for the decision-maker to evaluate the application's compliance with applicable city codes.
4. The Department's evaluation of whether the application complies with applicable city codes.
5. A description of the public process the application is subject to.
6. A description of any environmental review related to the application.
7. Draft findings of fact for the decision-maker.
8. Any other information that is necessary to make a decision regarding the application.

C. *Requirement to Consider Comments.*

1. In making its recommendation or decision, the Department must consider written comments, and applicant's responses, that are timely received.
2. Except for a determination of significance, the Department may not issue its SEPA threshold determination or issue a decision or recommendation on the application until the expiration of the public comment period on the notice of application. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016. Formerly 19.20.150)

19.20.140 Public hearings and meetings.

A. All hearings and meetings conducted as part of processing a permit application must be conducted consistent with this section.

Table 19.20.140

Types of hearings and meetings.

	Open Record Pre-decision	Closed Record Decision	Open Record Appeal	Closed Record Appeal
Participation	Any interested party	Applicant and any party of record	The applicant, any appellant, and any party of record	The applicant, any appellant
Facts allowed outside the record	Yes	No	Yes	No
Standard of review	Compliance with AMC Titles 16 , 17 , 18 , 19	De novo	Clearly erroneous	Clearly erroneous
Burden of proof	Applicant	Applicant	Appellant	Appellant

B. *Swearing-In Required.* Before testifying, any witness, including city staff, must be required to declare that he or she will testify truthfully, by oath or affirmation.

C. *Continuations.* If, for any reason, a meeting or hearing on a pending action cannot be completed on the date set in the public notice, the meeting or hearing may be continued to a specified date and no further notice under this section is required. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016. Formerly 19.20.160)

19.20.150 Public hearing—Notice.

A. *When Required.* A notice of public hearing is required for any public hearing held on a permit application pursuant to this chapter.

B. *Contents.* The public notice must include all of the following:

1. The application number.
2. Project summary/description of each project permit application.
3. The designation of the hearing body.

4. The date, time, and place of the hearing and a statement that the hearing will be conducted in accordance with the rules of procedure adopted by the hearing body.
5. General project location, vicinity, address, and parcel number(s), if applicable.
6. The name of the applicant or applicant's authorized representative and the name, address and telephone number of a contact person for the applicant, if any.
7. The SEPA threshold determination, or description thereof, will be contained in the notice, along with any appropriate statement regarding any shared or divided lead agency status and phased review and stating the end of any final comment period.
8. A statement regarding the appeal process.
9. The date when the staff report will be available and the place and times where it can be reviewed.

C. *Timing.* The Department must distribute, including by publishing in the city's official newspaper, a notice of public hearing at least 15 days prior to the date of public hearing. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016. Formerly 19.20.170)

19.20.160 Decision—Timing.

A. *Time Limits.*

1. The decision-maker may not issue its decision on an application until the expiration of the public comment period on the notice of application.
2. The final decision on an application for a development permit must be made within the time limits from determination of completeness listed in Table 19.20.160.

Table 19.20.160

Decision timing.

Type of Application	Time Limit
Preliminary subdivisions and binding site plans (RCW 58.17.140)	90 days
Final subdivisions (RCW 58.17.140)	30 days
All other development permits (RCW 36.70B.080)	120 days

3. The following time periods are excluded from the calculation of the time limits:
 - a. Any time required to correct plans, perform studies, or provide additional information.

- b. Any time during which substantial project revisions are made or requested by an applicant, in which case the 120 days will be calculated from the time that the city determines the revised application to be complete.
- c. Any time required for the preparation and review of an environmental impact statement.
- d. Any time required to complete the process for the siting of an essential public facility.
- e. Any time required to obtain any necessary variance.
- f. Any time required for any administrative appeals.
- g. Any time required for any administrative appeal of SEPA threshold determination, if applicable.
- h. Any time required for any remand to the hearing body.
- i. Any extension of time mutually agreed upon by the city and the applicant.
- j. Any specific amount of additional time that the city determines is necessary for the processing of a specific complete project permit application.

4. *Extension of Time.* If the city is unable to issue its final decision on an application within the time limits provided for in this section, it must provide written notice to the applicant. The notice must include a statement of the reasons why the time limits cannot be met and an estimated date for issuance of the notice of decision.

B. *Effective Date.* The decision is effective on the date stated in the decision, resolution, or ordinance. The date from which appeal periods may be calculated is the date of issuance of the decision. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016. Formerly 19.20.180)

19.20.170 Decision—Notice.

A. *When Required.* When a final decision is made that requires a notice of decision per AMC [19.20.030](#) or a decision is made on appeal, the Department must issue a notice of decision.

B. *Contents.* The notice of decision must include all of the following:

- 1. The application number.
- 2. The name of the applicant.
- 3. The name of the project.
- 4. The street address of the project site.

5. A description of the application.
6. The date of final decision on the application.
7. The date the notice of decision was issued.
8. The decision on the application.
9. Any threshold determination made pursuant to Chapter [43.21C](#) RCW.
10. A notice that affected property owners may request a change in valuation from the county assessor for property tax purposes notwithstanding any program of revaluation.
11. The procedure for appeal and the deadline for filing an appeal. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016. Formerly 19.20.190)

19.20.180 Appeals.

A. *Standing*. The following parties have standing to appeal final decisions:

1. The Director.
2. The applicant.
3. Any owner of the property subject to the application.
4. Any party of record.

B. *Necessary Parties*. The following are parties to any appeal:

1. The Director.
2. The applicant.
3. Any owner of the property subject to the application.

C. *Permissive Joinder*. The hearing body may add a party with standing to the appeal, after the appeal deadline has passed, upon the request of the party.

D. *Time to File*. An appeal is timely only if it is:

1. Filed with the City Clerk within 14 calendar days after written notice of the decision is mailed; and
2. Accompanied by the required appeal fee.

E. *Method of Service.* Appeals must be delivered to the City Clerk by mail or personal delivery before five p.m. on the last business day of the appeal period. Appeals received by mail after five p.m. on the last day of the appeal period will not be accepted, regardless of when such appeals were mailed or postmarked.

F. *Contents.* Appeals must be submitted on forms provided by the Department and contain the following:

1. Appellant's name, address, and phone number.
2. A description of the appellant's standing to appeal.
3. Identification of the application or decision that is the subject of the appeal.
4. Appellant's statement of grounds for appeal and the facts upon which the appeal is based, with specific references to the facts in the record.
5. The specific relief sought.
6. A statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature or the signature of the appellant's agent, provided such agent's authorization is in writing and accompanies the appeal.

G. *Automatic Stay.* Except for administrative appeals of SEPA threshold determinations, the timely filing of an appeal will stay the decision until such time as the appeal is concluded or withdrawn.

H. *Procedures.* The appellate body may provide in its procedures for a decision on the appeal after a hearing where the parties present argument, or new evidence when allowed by this chapter; or after the parties submit written arguments.

I. *Decision on Appeal.* The appellate body must issue a written decision on the appeal supported by written findings and conclusions, and the Department must distribute a revised notice of decision incorporating the decision on appeal. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016. Formerly 19.20.210)

19.20.190 Remand.

A. In the event that the appellate body determines that the public hearing record is insufficient or otherwise flawed, the appellate body may remand the matter back to the original decision-maker to correct the deficiencies.

1. The appellate body must specify the items or issues to be considered and the time frame for the additional work.
2. The original public hearing may be reopened if necessary for the limited purpose of addressing specific questions articulated by the appellate body.

3. Only the parties of record to the open record hearing or, in the case of an appeal, the parties to the appeal may participate in the remand.

B. The original decision-maker must affirm, modify, or reverse its original action based on the revised public record. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016. Formerly 19.20.220)

19.20.200 Reconsideration.

A. A party to the underlying decision may seek reconsideration only of a final decision by filing a written request alleging specific errors on a form provided by the Department within 10 days of the date of decision.

B. The decision-maker must consider the request without public comment or argument by the party filing the request. Reconsideration may be granted only when a material legal error has occurred or a material factual issue has been overlooked that would change the previous decision.

1. If the request is denied, the previous action will become final.

2. If the request is granted, the decision-maker may revise and reissue its decision or may call for argument in accordance with the procedures for closed record appeals. If the decision is revised and the decision requires a notice of decision, the Department must distribute the revised notice. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016. Formerly 19.20.230)

19.20.210 Exhaustion of administrative remedies.

A. No further administrative appeals are available when the final appeal shown in AMC [19.20.030](#) has been heard.

B. A request for reconsideration is not required to exhaust administrative remedies. (Ord. 3040 § 2 (Att. A), 2019; Ord. 2992 § 1 (Att. A), 2016. Formerly 19.20.240)

19.20.220 Departures.

A. *Overview and Purpose.* This title provides for a number of specific departure opportunities to development standards. The purpose is to provide applicants with the option of proposing alternative design treatments, provided such departures meet the purpose of the particular standard and any additional departure criteria established for the particular departure opportunity.

B. *Departures Are Voluntary.* This provision allows the flexibility for applicants to propose alternative designs on a voluntary basis, provided they meet the purpose of the standard and applicable departure criteria as noted above.

C. *Applicability.* Departure opportunities are available only where noted for specific standards.

D. *Procedures.* Permit applications that include departure requests go through the standard review procedures in this chapter, depending on the application type.

E. *Approval Criteria.* Project applicants must successfully demonstrate to the decision-maker how the proposed departure meets the purpose(s) of the standard and other applicable departure criteria that apply to the specific standard.

F. *Documentation.* The decision-maker must document the reasons for approving all departures (to be maintained with project application records) for the purpose of providing consistency in decision-making by the city. The Department must provide a report on departures, which include departure applications and decisions, at a minimum interval of every two years. (Ord. 3040 § 2 (Att. A), 2019)

19.20.230 Framework development plans.

A. *Purpose and Applicability.* Framework development plans apply to proposals for any of the following:

1. Establishing block frontage designations as established in AMC [19.61.180](#).
2. Obtaining preliminary approval for a large or phased development proposal that depicts its major development and design parameters (i.e., major circulation and infrastructure systems, open spaces, block frontage designations, allocation of categories of land uses and development intensities among portions of the development site, and phasing of development over time).
3. Adjusting the list of permitted uses in the MMU zone east of Q Avenue, as provided in the following sections:
 - a. Townhomes: AMC [19.43.010\(G\)\(3\)\(c\)](#).
 - b. Multifamily: AMC [19.43.010\(H\)\(3\)\(b\)](#).
 - c. Assisted living facility: AMC [19.43.020\(C\)\(3\)](#).

B. *Procedures.* Framework development plan applications are subject to review procedures as established in this chapter. A framework development plan may be submitted and reviewed concurrently with other applications.

C. *Application Requirements.* An application must be submitted on forms provided by the Department and must demonstrate compliance with the approval criteria described in this section.

D. *Changes to Approved Framework Development Plan.* Subsequent development applications may incorporate minor changes to locations of circulation routes, provided they meet the purposes of the plan, the Anacortes comprehensive plan, and applicable code sections. This also means that the changes would not significantly alter the development's general function, form, intensity, character, demand on public facilities, and impact on adjacent properties.

E. *Review Criteria.*

1. Plans must meet the goals and policies of the Anacortes comprehensive plan.
2. Plans must meet the purposes and standards in AMC [19.61.180](#).
3. Proposed layouts and circulation routes are consistent with the purposes and standards of AMC [19.54.020](#) (Block design and connectivity standards), AMC [19.62.050](#) (Internal pedestrian access and design), and AMC [19.62.060](#) (Vehicular circulation and parking).

F. *Conditions Authorized.* In approving a framework development plan, the decision-maker may impose, in addition to regulations and standards expressly specified in this code, other conditions necessary to ensure compatibility with the review criteria associated with the specific proposal(s). These conditions must be associated with the specific land use, site planning, or building design element proposed to be altered through the framework development plan. These conditions may include, but are not limited to:

1. Placing restrictions on permitted uses.
2. Integrating design parameters on circulation and streetscape design elements.
3. Integrating supplemental building massing standards.
4. Integrating supplemental screening and landscaping standards.

G. *Recording.* The framework development plan must be recorded with the Skagit County Auditor's office prior to the issuance of a building permit for any development on the site. The recorded framework development plan must be a covenant running with the land and shall be binding on the assigns, heirs and successors of the applicant. The framework development plan must be in a form approved by the Director and the City Attorney.

H. *Expiration.* The decision-maker must develop an appropriate expiration date for an approved framework development plan. (Ord. 3040 § 2 (Att. A), 2019)

The Anacortes Municipal Code is current through Ordinance 3090, passed June 9, 2021.

Disclaimer: The city attorney's office has the official version of the Anacortes Municipal Code. Users should contact the city attorney's office for ordinances passed subsequent to the ordinance cited here.

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Chapter 19.78

CLEARING AND GRADING

Sections:

- 19.78.010 Policy.
- 19.78.020 Applicability.
- 19.78.030 Application requirements.
- 19.78.040 Development standards.
- 19.78.050 Subdivision prohibited after clearing.

19.78.010 Policy.

These regulations are adopted for the following purposes:

- A. To promote the public health, safety, and general welfare of the citizens of the city;
- B. To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover on undeveloped and partially developed property;
- C. To promote building and site planning practices that are consistent with the city's natural topographical and vegetation features while at the same time recognizing that certain factors such as condition (e.g., disease, danger of falling, etc.), proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require the removal of certain trees and ground cover;
- D. To minimize surface water and groundwater runoff and diversion, to reduce siltation of lakes and streams and to deter erosion due to removal of trees and ground cover and reduce the risk of slides;
- E. To minimize the need for additional storm drainage facilities;
- F. To retain clusters of trees for the abatement of noise and wind protection;
- G. To ensure prompt development, restoration, and replanting, and effective erosion control of property after land clearing;
- H. To implement the goals and objectives of the State Environmental Policy Act. (Ord. 2991 § 1 (Att. A), 2016)

19.78.020 Applicability.

- A. This chapter applies to all clearing, grubbing, and grading.
- B. *Exemptions.* This chapter does not apply to the following actions, unless in the vicinity of a Critical Area:
1. The installation and maintenance of fire hydrants, water meters, and pumping stations, and street furniture by the city or its contractors;
 2. Removal of trees and ground cover in emergency situations involving immediate danger to life or property or substantial fire hazards;
 3. Removal of dead or diseased trees or ground cover;
 4. Removal of six thousand square feet or less of trees or groundcover on a lot that contains an existing permitted building and is capable of being divided into two or more lots, for purposes of general property and utility maintenance or landscaping except that:
 - a. Any land clearing that includes the use of a bulldozer or similar mechanical earthmoving equipment is not exempt; and
 - b. Land clearing for the purpose of developing the property with substantial permanent improvements such as roads, driveways, utilities or buildings is not exempt. (Ord. 2991 § 1 (Att. A), 2016)
 5. Clearing, grubbing, and grading activities described herein including any level of vegetation or ground disturbing action within a Critical Area or Buffer is subject to AMC Chapter 19.20 Critical Area Regulations. If a proposed activity is Exempt from Critical Area permit requirements, the Director has the discretion to require a Clearing and Grading permit even if the proposed activity is exempted in this section.

19.78.030 Application requirements.

- A. All activity to which this chapter applies requires an application and permit consistent with this chapter. A separate permit is not required if an application has been approved for a building permit, preliminary plat, or a final planned unit development.
- B. Applications must be on forms provided by the department and must include:
1. A site plan showing location, type, and size of existing significant trees and native vegetation; designation of clearing limits; and other requirements identified by the director;

2. If excavated material is to be wasted off-site, a description of the location and the route to the disposal site;
3. Demonstration of compliance with AMC Chapter [19.76](#), Stormwater Management;
4. A construction site sediment transport potential worksheet which will guide city staff on the need for a site inspection prior to permit issuance. (Ord. 2991 § 1 (Att. A), 2016)

19.78.040 Development standards.

A. All activity to which this chapter applies must comply, and the director may condition a permit issued per this chapter to ensure compliance, with all of the following:

1. AMC Chapter [17.70](#), Critical Areas Regulations;
2. AMC Chapter [18.04](#), State Environmental Policy Act;
3. AMC Chapter [19.76](#), Stormwater;
4. The Anacortes Shoreline Master Program;
5. The International Building Code provisions for “Excavation and Grading.”

B. *Performance Bond.* The director may require, as a condition to the granting of a permit, that the applicant furnish a performance bond to the city to secure the applicant’s obligation, after the approved land clearing has been accomplished, to complete the restoration and replanting of the property in accordance with the terms of the permit. The bond may be in an amount equal to two hundred percent of the estimated cost of such restoration and replanting and with surety and conditions satisfactory to the director.

C. When grading a site, whether a single lot or a larger tract, the owner of the site being graded must protect adjacent property from the effects of the grading. If a cut or excavation is made near a property line, it must be supported by a retaining wall, or sloped or terraced away from the property line sufficiently to prevent the adjacent property from sliding toward the cut. If fill such as soil, gravel, rock, or other material is placed near a property line, it must be supported by a retaining wall, or sloped or terraced away from the property line sufficiently to prevent the fill material from sliding onto the adjacent property.

D. The director may require cuts, fill, and retaining walls to be designed by a licensed structural engineer, due to slope steepness, soil types, geological stability, or other factors.

E. If there are structures on the adjacent property at the time a cut is made, or if a building permit has been issued to build such structures, the effect of the weight of these structures must be taken into account when determining the support required for the cut, in order to avoid undermining or damaging the structures. If a structure is built after a permit for cut or fill has been issued, the structure must be designed so that it does not

create additional stresses on a properly designed cut or fill or retaining wall which would be likely to cause it to fail, based on standard structural engineering principles. (Ord. 2991 § 1 (Att. A), 2016)

19.78.050 Subdivision prohibited after clearing.

No land division for a property may be approved within five years after clearing. (Ord. 2991 § 1 (Att. A), 2016)

The Anacortes Municipal Code is current through Ordinance 3090, passed June 9, 2021.

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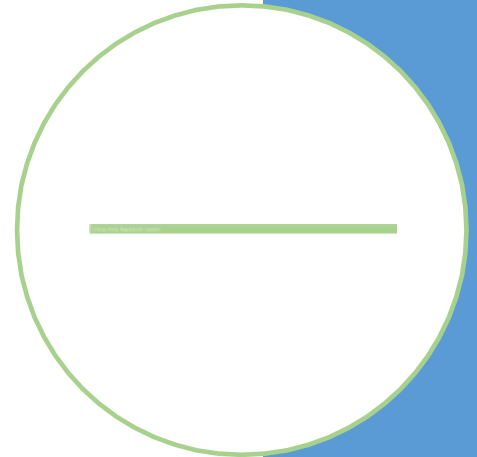
ANACORTES

Critical Areas Regulations Update

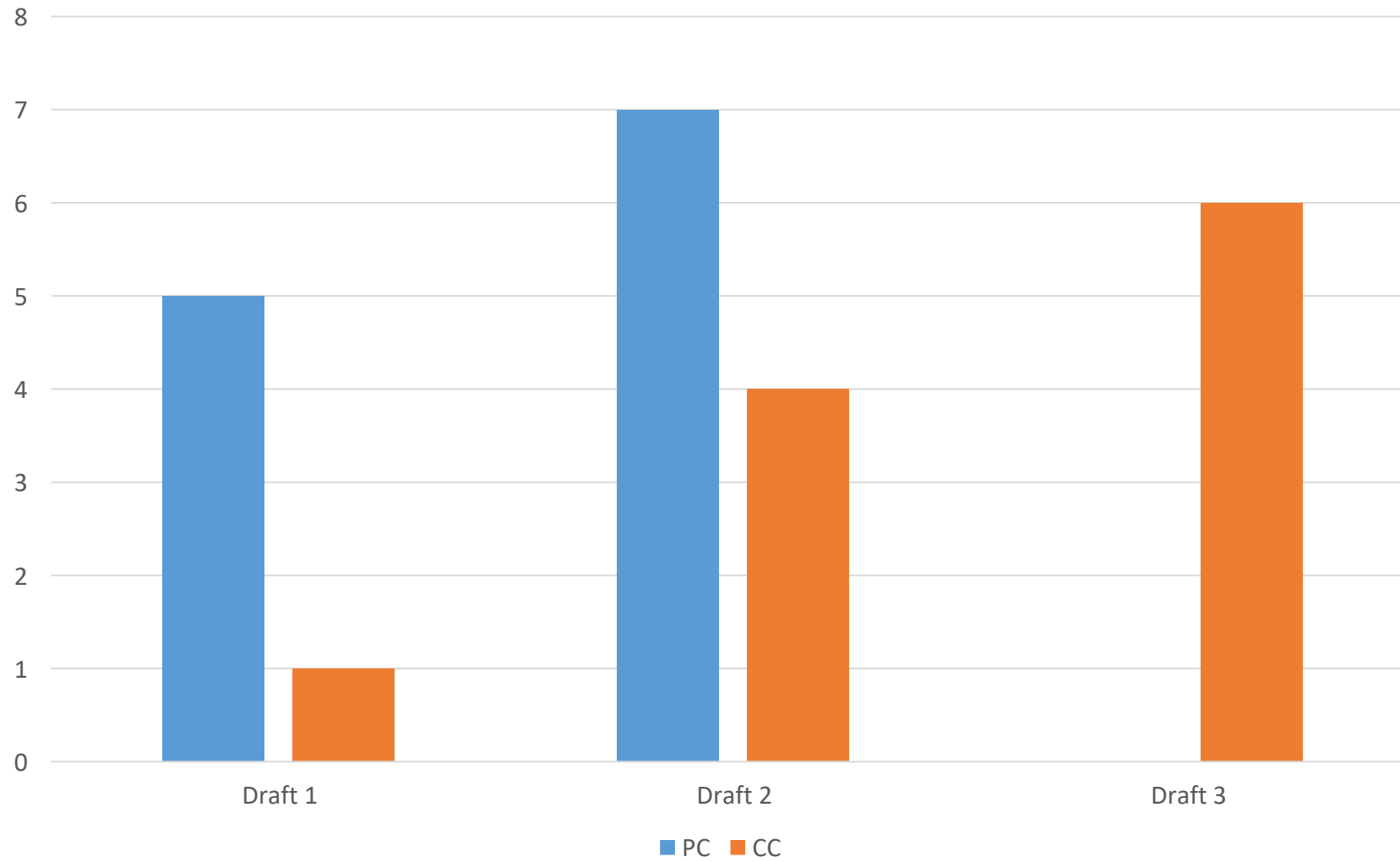
Draft 3 Final Discussion— July 26, 2021

Tonight:

- Final approval for Adoption of Ordinance 3064
- After 12 Planning Commission and 11 City Council meetings



Public Meetings



Edits have been made to the regulations text (Attachment A) per Council direction

Findings supporting Council's changes are incorporated into draft Ord. 3064 (p. 2-3)

Minor, non-substantive text edits can continue to be made if needed (cross-reference corrections, syntax errors, etc.)

Ready to adopt

Potential effective date – updated to August 2, 2021



Ordinance No. 3064
An Ordinance adopting, repealing, and amending AMC Chapter
17.70 and Chapter 19.70 relating to critical areas regulations.

Whereas, RCW 36.70A.130(1) requires that cities and counties take action to review and revise, if necessary, their comprehensive plans and development regulations, including their critical areas ordinances, every eight years; and

Whereas, on July 18, 2016, the City Council adopted Ordinance 2982, completing the required periodic review and revision of the Comprehensive Plan; and

Whereas, on July 22, 2018, the City Council adopted ordinance 3040, completing the required review and revision of the development regulations; and

Whereas, the Anacortes Planning Commission reviewed proposed amendments to the critical area ordinance consistent with the process outlined in AMC 19.16.080, and subsequent to a public hearing on December 18, 2019, and deliberated on the proposal on January 8, 2020 and January 22, 2020; entered findings of fact, reasons for action, and recommendations to the City Council in a recorded motion dated January 22, 2020; and

Whereas, the City Council considered the Planning Commission's recommendation pursuant to AMC 19.16.090 at meetings on February 18, 2020, August 10, 2020, August 17, 2020, August 24, 2020, April 19, 2021, May 3, 2021, May 10, 2021, June 7, 2021, July 19, 2021; and

Whereas, an additional public comment opportunity was provided for certain changes to the Planning Commission's recommendation identified during City Council's review; and

Whereas, the City Council considered the additional comments received at a meeting on July 19, 2021;

Now, therefore, the City Council of the City of Anacortes does ordain as follows:

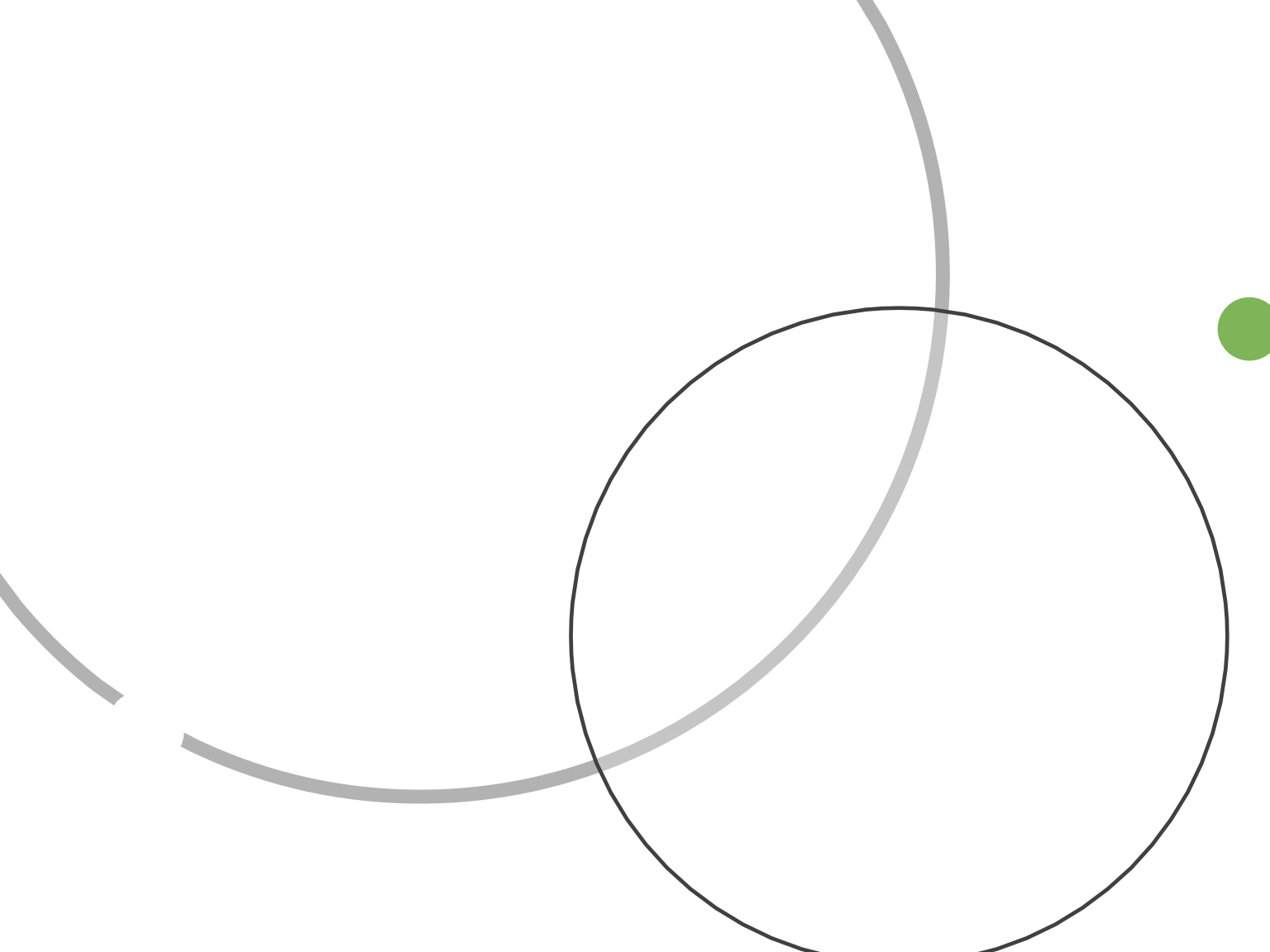
With the adoption of this ordinance completing the required review and revision of the critical areas regulations, the City declares the Growth Management Act required periodic review and update under RCW 36.70A.130 complete.

Section 1. Findings. The above recitals are hereby adopted by reference as legislative findings in support of this ordinance. The City Council further enters the following findings:

- A. The Findings of Fact contained within Section A of the *Anacortes Planning Commission Recorded Motion Regarding Amendments to the Critical Area Regulations* (approved January 22, 2020), analyze the proposal's consistency with the Growth Management Act, Anacortes Comprehensive Plan, and the Anacortes Municipal Code, and are hereby adopted by reference.

ORDINANCE 3064

Staff recommends Council
Adopt ordinance 3064



Additional Discussion