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- 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.
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Anacortes City Council
Municipal Building Council Chambers
904 6th Street

July 11, 2022
6:00 PM

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

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Announcements and Committee Reports**
 - a. Housing Affordability and Community Services Committee (Report)
 - b. Planning Committee (Report)
 - c. 4th of July Parade Marching Group and Float Winners (Discussion)
4. **Public Comment**
5. **Consent Agenda**
 - a. Minutes of July 5, 2022 (Action)
 - b. Approval of claims in the amount of \$447,482.55 (Action)
 - c. Contract Award: Oak Harbor Aerial Fiber Installation #20-033-TLM-002 (Action)
 - d. Contract Award: WTP CAT Generator Switchgear Maintenance #22-181-WTR-001 (Action)
 - e. Contract Award: WTP Electrical System: Intake Transformer Purchase #22-133-WTR-006 (Action)
 - f. Interlocal Agreement #22-180-PRK-001 with City of Marysville for Outdoor Video Services (Action)
6. **Closed Record Decision Hearing**
7. **Other Business**
 - a. Ordinance 4016: Floodplain Management Code Amendments AMC Chapter 19.74 (Discussion/Possible Action)
 - b. * Ordinance 4024 An Interim Ordinance Extending Ordinance 3091 and Ordinance 4008 declaring Daycare II Facilities as a permitted use in the R4 Use Zone (Discussion/Action)

Per Resolution 3051, citizens wishing to comment on items not on the agenda may do so under Public Comment. Citizens wishing to comment on 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.

- c. * Community Paramedic Agreement (Discussion/Action)
- 8. **Adjournment**

Per Resolution 3051, citizens wishing to comment on items not on the agenda may do so under Public Comment. Citizens wishing to comment on 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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4th of July Marching Group and Float Winners 2022

Best Marching Group

1st Place – Soroptimist International of Anacortes

2nd Place – OARS

3rd Place – Anacortes Twisted Pixies

Best Float

1st Place – Anacortes Rotary Centennial Float

2nd Place – Mermen of Anacortes

3rd Place – Anacortes Masonic Lodge



City of Anacortes

Independence Day Parade

7-4-2022







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Denis Law
ANACORTES, WA



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City Council Agenda Bill

Meeting Date: July 11, 2022

Agenda Item: 5.a.

Agenda Item Title: Minutes of July 5, 2022

Staff Contact(s): GREG FRANCIOCH

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

Item Summary:

Budget Impact:

Previous Action:

Recommended Motion:

Alternative Actions:

Attachments (listed in order presented):

1. 2022-07-05 Minutes draft

Anacortes City Council Minutes - July 5, 2022

Call to Order

Mayor Matt Miller called to order the Anacortes City Council meeting of July 5, 2022 at 6:00 p.m. Councilmembers Jeremy Carter, Ryan Walters, Christine Cleland-McGrath, Carolyn Moulton, Bruce McDougall and Amanda Hubik were present.

Councilmembers Carter, Cleland-McGrath and McDougall participated in the meeting remotely via Zoom.

Councilmember Anthony Young was absent.

Pledge of Allegiance

The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

Mayor Miller shared current COVID-19 case statistics in Anacortes and Skagit County, reporting a decrease in case numbers from last month and an increase in hospitalizations county-wide to 10 per 100,000, including 1 in Island Hospital. He then provided a recap of the Independence Day festivities including the winning groups from the parade, including the best marching group winners: Twisted Pixies - 3rd place, OARS - 2nd place, Soroptimist International of Anacortes - 1st place. He then announced the awards for best floats: Anacortes Masonic Lodge - 3rd place, Mermen of Anacortes - 2nd place, Anacortes Rotary Centennial Float - 1st place. All six groups will be recognized at the July 11th City Council meeting.

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

Housing Affordability and Community Services Committee

Ms. Cleland-McGrath reported from the Committee meeting held the previous Thursday. The topics discussed included the influx of RV's into Old Town, using surplus church property for affordable housing or addressing homelessness. Preliminary results of a survey of Skagit County churches show some churches in Skagit Valley hosting RVs with no participation thus far in Anacortes. Ms. Cleland-McGrath mentioned that previous Councilmember Eric Johnson, a member of the Episcopal Church, reported that they are looking at options for converting the Gentry House to assist the homeless, which is currently closed due to recent water damage. Other items discussed included the possible purchase of a shower trailer to be positioned at the Salvation Army in Anacortes for public use in late July, committee member participation in a recovery-based model of behavioral health presentation hosted by the City of Mount Vernon, a rapid re-housing grant application to be submitted in August, low barrier shelters in Skagit County, and the 22 North project in Bellingham. Ms. Cleland-McGrath concluded by mentioning the committee is considering holding meetings on a weekly or bi-weekly basis.

Public Works Committee

Ms. Moulton reported from the Committee meeting held earlier in the evening. The topics discussed included the Whistle Lake Dam and possible solutions for site improvement, including a Department of Ecology recommendation to apply for a disaster mitigation grant from the Federal Emergency Management Agency (FEMA) to perform a planning study that will assess current conditions and recommend possible courses of action. Additional topics included a contract modification to be presented and discussed later on the agenda, an update on the June 22nd Fifth Street water main emergency, and a pending contract with Robinson Brothers Construction for aerial fiber construction on State Route 20 near Campbell Lake.

Anacortes City Council Minutes - July 5, 2022

Public Safety Committee

Mr. Carter reported from the Committee meeting held earlier during the day. Topics discussed related to the Fire Department included no injuries from fireworks or fires, Chief Kennedy's announced retirement at the end of July, an imminent budget amendment, and the Community Paramedic agreement with Island Hospital. Topics related to the Police Department included all recent promotions settling in and earning accreditation for their new roles and a new hire eligibility list coming soon.

Personnel Committee

Ms. Moulton reported from the Personnel Committee meeting held the previous week. The topics discussed included labor relations and the Police collective bargaining update moving forward with mediation, changes of outdated job titles and descriptions for Teamster positions, and current employment openings.

Port - City Liaison

Ms. Hubik reported from the Port-City Liaison meeting held earlier during the day. The topics discussed included the Wastewater Treatment Plant Outfall Project, the Economic Development Plan and the establishment of the Economic Development Committee, recreational vehicles being used for housing, an update on summer events, fiber expansion, the ferry system, and MJB property development.

Public Comment

Mayor Miller invited the public to comment on any item not on the agenda.

Pat Gardner thanked the City and Mother Nature for a beautiful 4th of July celebration and commended the teamwork that went in to putting on a successful event. She then commented on the waterfront development, recommending that a billboard sign describing the development in statistical and geographic terms, including height limits, be posted at the end of the roundabout on 22nd Street and the end of 17th Street to help defray misleading or false information about the project.

Mayor Miller responded that the Planning Department has issued curb-gutter-sidewalk permits thus far and that there are no known identified businesses for the area. He continued that the City has platted the area and that the area is zoned as Marine Mixed Use.

Consent Agenda

Ms. Moulton moved, seconded by Ms. Hubik, to approve the following Consent Agenda items. The motion carried unanimously by voice vote.

- a. Minutes of June 27, 2022
 - b. Approval of claims in the amount of \$655,538.40
- The following vouchers/checks were approved for payment:

EFT numbers: 103568 through 103608, total \$445,276.08

Check numbers: 103609 through 103616, total \$24,861.56

Wire transfer numbers: 306048 through 306347, total \$185,400.76

- c. Street Fair Application - Rock Ridge Chili Cook Off
- d. Street Fair Application - Anacortes Gut Run
- e. Interlocal Agreement: Economic Development Grant Award for Guemes View Fiberoptic Expansion Project #22-175-FBR-001
- f. Resolution 3094: Updating Council Procedures to include new Council Committees

Other Business

Contract Modification: Wastewater Treatment Plant Outfall Permitting Services #20-032-SEW-003

Engineering Services Manager, Tim Hohmann, introduced Jordan Widener, President of Widener and Associates, who provided a presentation on her business, including its history and development as an environmental consultant firm. She detailed the company's project history with the City of Anacortes and associated permitting and emergency response services they provide. Mr. Hohmann then pointed out how Widener and Associates' expertise helps the City respond to disasters or emergency events through coordination FEMA funding and the associated documentation and environmental permitting requirements. These services help to ensure reimbursement for emergency construction projects subsequent to a disaster. He then detailed the contract modification for the Wastewater Treatment Plant Outfall Permitting Services (#20-032-SEW-003) with Widener and Associates, explaining that that this contract is for the marine portion of the project. He added that the project was recently selected by FEMA for reimbursement, and thus there will be multiple contracts coming before Council for design, construction management, and permitting. He concluded that the current modification was an expected change in contract scope and corresponding fee increase, and recommended Council approve the contract modification.

Mayor Miller reminded the public and Council that the City does not have adequate funds to execute these multimillion dollar projects without federal assistance. He invited members of Council to comment on this agenda item.

Ms. Moulton commented that they had discussed project timing and received details on the amount of FEMA funding coming to support the project at the recent Public Works Committee meeting. She asked Mr. Hohmann to provide more details on federal funding. Mr. Hohmann responded that FEMA approved the new outfall alignment and will fund \$16.1 million for the project plus project cost overruns, which comprises approximately 90 percent of the project cost and will be supplemented by an additional 5 percent from the state.

CAROLYN MOULTON moved, seconded by JEREMY CARTER, to Approve contract modification to Wastewater Treatment Plant Outfall Permitting Services (20-032-SEW-003) with Widener and Associates. Vote: Ayes - JEREMY CARTER, RYAN WALTERS, CHRISTINE CLELAND-MCGRATH, CAROLYN MOULTON, BRUCE MCDOUGALL, Amanda Hubik. Nays - None. Result: Passed

Ordinance 4023: Source Control Program

Stormwater Program Manager, Diane Hennebert, presented draft Ordinance 4023 establishing a Source Control Program. Ms. Hennebert reviewed the plan and the schedule for adoption, which had been included in the packet materials for the meeting.

Mayor Miller invited the public to comment on the agenda item. No one present wished to address the Council on the Source Control Program.

Mr. Walters commented that the draft ordinance looked good overall, and mentioned desired revisions including a new definition of 'illicit discharge', code numbering reference changes and other changes specified in committee. He expressed concern about citizens reading the code changes who are not familiar with the Stormwater Management Manual might be unaware that their activity or business might be affected by the code section. He also clarified that the Source Control Program is not a change to development regulations and that there will be no 'grandfathering' for concerns that do not comply with the new code.

Adjournment

There being no further business, at approximately 6:44 p.m. the Anacortes City Council meeting of July 5, 2022 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 11, 2022 City Council meeting:
[Download this file in OpenDocument spreadsheet format.](#)

Invoice Doc #	Invoice Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
306806	4/10/2022	6000001064	SKAGIT REGIONAL HEALTH	PHYSICALS	\$ 1,380.50	medic
306794	5/2/2022	297877	DEPT OF LABOR & INDUSTRIES	WTP DUMBWAITER OPERATING CERT	\$ 36.80	dwtp
306787	5/12/2022	6002337043	ENDRESS + HAUSER, INC	PRESSURE TRANSMITTER	\$ 1,459.73	dwtp
306485	5/17/2022	2022490	GATEWAY CONTROLS, INC	OPS GATE REPAIR	\$ 1,159.81	pwfac
306467	5/18/2022	WA07-00203996	MOTION INDUSTRIES, INC	MAINTENANCE SUPPLIES - INCINERATOR	\$ 319.81	dwwtp
306786	6/2/2022	111495	WALTON BEVERAGE COMPANY, INC	WTP BREAKROOM SUPPLIES	\$ 127.50	dwtp
306799	6/6/2022	124239	CASCADE FIRE EQUIPMENT CO	REPLACEMENT FIRE HOSE	\$ 7,474.56	medic
305420	6/8/2022	ReimbMcCunn	MCCUNN, MIKE	REIMBURSEMENT FOR NON-ETHANOL GAS	\$ 74.83	finance
306780	6/9/2022	19476528	MCKESSON MEDICAL-SURGICAL	ULTRASOUND GEL	\$ 148.19	medic
306804	6/13/2022	1218577	LIFE ASSIST, INC	LUBRICATING JELLY	\$ 9.62	medic
306808	6/13/2022	22-1723	IMS ALLIANCE	PASSPORT COLLECTORS, NAME TAGS	\$ 282.88	medic
306781	6/13/2022	6061	FIRE SERVICE REPAIR, LLC	ANNUAL PUMP TESTING: 4 ENGINES AND AERIAL	\$ 2,110.72	medic
306801	6/15/2022	3520	SKAGIT 911	3RD QTR RADIO MAINTENANCE	\$ 8,241.00	medic
306814	6/15/2022	ESO-82949	ESO SOLUTIONS, INC	ANNUAL 7/15/22 - 7/14/23 MED/FIRE	\$ 7,583.64	medic
306431	6/15/2022	RS-000000299	DEPARTMENT OF ECOLOGY	SAM INVOICE - DEPT OF ECOLOGY	\$ 7,848.00	pw1
306382	6/16/2022	E 202206160009	SIMPLIFILE, LC	STITTWOOD DIVISION I, II AND IV FIBER EASEMENT	\$ 216.38	fiber
306475	6/20/2022	9909308197	VERIZON WIRELESS	SCADA COMMUNICATION 5/21-6/20/22	\$ 1,204.86	dwwtp
306775	6/20/2022	IN1726241	MUNICIPAL EMERGENCY SERVICES	SCBA REPAIR	\$ 194.22	medic
306811	6/21/2022	22-32766	NORTHWEST SAFETY CLEAN	PPE REPAIR	\$ 50.74	medic
306374	6/21/2022	661785	BLADE CHEVROLET, INC	CONNECTOR FOR ERR1001	\$ 44.39	dshop
306777	6/22/2022	19516753	MCKESSON MEDICAL-SURGICAL	FETAL HEART DOPPLERS	\$ 2,849.04	medic
306778	6/22/2022	19517696	MCKESSON MEDICAL-SURGICAL	VASCULAR PROBES	\$ 822.01	medic
306796	6/22/2022	220763	T-SHIRTS BY DESIGN	UNIFORMS	\$ 215.42	dwtp
306466	6/22/2022	23143	SKAGIT PUBLISHING LLC	PUBLISH AA-247855	\$ 48.72	finance
306465	6/22/2022	23144	SKAGIT PUBLISHING LLC	PUBLISH AA-249640	\$ 105.56	finance

Invoice Doc #	Invoice Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
306469	6/22/2022	266655	ENNIS-FLINT, INC, FLINT TRADING DIVISION	ROAD STRIPING LINES	\$ 1,482.14	wdist
306810	6/22/2022	INV17033	SEAWESTERN, INC.	REPLACEMENT THERMAL IMAGING CAMERA	\$ 4,477.12	medic
306807	6/23/2022	72020474214	UL, LLC	ANNUAL LADDER TESTING	\$ 2,678.80	medic
306386	6/24/2022	E 202206240050	SIMPLIFILE, LC	RECORDING FEES-PORT-CITY 2ND STREET ROW USE AGREEMENT	\$ 223.38	pw1
306383	6/24/2022	E 202206240051	SIMPLIFILE, LC	STAEHLING FAMILY TRUST FIBER EASEMENT - 3710 LEEWARD LANE	\$ 216.38	fiber
306486	6/24/2022	S3833986.002	BUILDERS' HARDWARE & SUPPLY	WATER CORMAX KEY CORES	\$ 1,958.61	pwfac
306427	6/25/2022	200500	LAKESIDE INDUSTRIES, INC.	ASPHALT- STREET DEPT	\$ 782.70	dshop
306428	6/25/2022	200760	LAKESIDE INDUSTRIES, INC.	5/8" & 3/4" / 1-1/4" & 1-1/2" ROCK SALES- WATER DEPT	\$ 1,234.29	wdist
306812	6/25/2022	220778	T-SHIRTS BY DESIGN	REMOVE & REPLACE EMBROIDERED NAME (3)	\$ 58.75	medic
306782	6/25/2022	JUNE 2022	KORTERUD, WAYNE D	INDIGENT SCREENING	\$ 415.00	court
306791	6/26/2022	9909805398	VERIZON WIRELESS	WTP SCADA 5/27-6/26/22	\$ 514.12	dwtp
306565	6/27/2022	06/27/2022	CHAPMAN'S TOP & UPHOLSTERY	UPHOLSTER BOAT CUSHIONS- #2003	\$ 483.72	dshop
306432	6/27/2022	1943377	MILES SAND & GRAVEL CO.	5/8" CSTC	\$ 198.02	wdist
306479	6/27/2022	51876	KRIEG CONSTRUCTION, INC	ASPHALT DISPOSAL- WATER DEPT	\$ 179.18	wdist
306372	6/27/2022	RefundJohnson	JOHNSON, STEVE	WA PARK REFUND	\$ 151.00	parks1
306429	6/28/2022	220015149234	PUGET SOUND ENERGY INC	8147 S MARCHS PT RD STREET LIGHTS: 05/28- 06/28/22	\$ 139.81	dshop
306375	6/28/2022	266513	NAPA	ANTIFREEZE VEH #143	\$ 27.94	dshop
306772	6/28/2022	360-293-4900-0912865	ZIPLY FIBER	APD BAC LINE 6/28-7/27/22	\$ 87.82	apd
306472	6/28/2022	360-293-6427-0218975	ZIPLY FIBER	CITY HALL 911 6/28-7/27/22	\$ 81.40	finance
306470	6/28/2022	360-293-9063-0926075	ZIPLY FIBER	STATION 3 WIFI 6/28-7/27/22	\$ 90.13	medic
306473	6/28/2022	360-299-0813-1017915	ZIPLY FIBER	WWTP 6/28-7/27/22	\$ 314.55	dwwtp
306474	6/28/2022	360-299-3674-0214175	ZIPLY FIBER	OPS 6/28- 7/27/22	\$ 73.43	dshop
306770	6/28/2022	360-299-6615-0615165	ZIPLY FIBER	APD 911 LINE 6/28-7/27/22	\$ 75.09	apd
306771	6/28/2022	360-588-9248-0619005	ZIPLY FIBER	APD BACKUP LINE 6/28-7/27/22	\$ 203.91	apd

Invoice Doc #	Invoice Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
306760	6/28/2022	7215754669	CARDINAL HEALTH 110, INC.	PHARMA: DILTIAZEM, EPINEPHRINE. ASPIRIN	\$ 443.51	medic
306571	6/28/2022	9909872147	VERIZON WIRELESS	City Cell Phones 5/29-6/28/22	\$ 11,133.54	finance
306769	6/29/2022	021524237	GALLS, LLC.	UNIFORM PANT; OFC WILSON	\$ 75.83	apd
306426	6/29/2022	11824	PARTNER CONSTRUCTION PRODUCTS	MELTER RENTAL FOR CRACK SEALANT	\$ 6,364.80	dshop
306377	6/29/2022	21-172-SEW-0011	BECKWITH & KUFFEL	RETAINAGE RELEASE	\$ 1,548.45	pw1
306792	6/29/2022	248 984 6277 5	CASCADE NATURAL GAS CORP.	WTP 6/1-6/28/22	\$ 2,234.21	dwtpt
306425	6/29/2022	266664	NAPA	HOSE FITTINGS #304	\$ 100.80	dshop
306795	6/29/2022	50358107	UNIVAR USA INC	SODIUM HYDROXIDE	\$ 4,508.45	dwtpt
306471	6/29/2022	E 202206290191	SIMPLIFILE, LC	STITTWOOD DIVISION THREE FIBER EASEMENT	\$ 216.38	fiber
306793	6/30/2022	007M6926	HARRINGTON INDUSTRIAL	STRAINERS, SCREEN MESHES, SEAL KIT - CHEM PIPING PROJECT	\$ 792.49	dwtpt
306556	6/30/2022	111616	WALTON BEVERAGE COMPANY, INC	CITY HALL BREAK ROOM SUPPLIES	\$ 290.00	finance
306800	6/30/2022	111622	WALTON BEVERAGE COMPANY, INC	WTP BREAKROOM SUPPLIES	\$ 127.50	dwtpt
306555	6/30/2022	2022 Q2-Ana	SKAGIT COUNTY DEM	2ND QTR SHARED COSTS	\$ 13,696.59	medic
306750	6/30/2022	2060119	UTILITIES UNDERGROUND LOCATION	LOCATES JUNE	\$ 286.38	dshop
306574	6/30/2022	220025931985	PUGET SOUND ENERGY INC	STREET LIGHTS: 6/2- 6/30/22	\$ 7.79	dshop
306551	6/30/2022	227308	NORTHSTAR CHEMICAL INC.	SODIUM BISULFITE 38% SOLUTION	\$ 2,354.98	dwtpt
306566	6/30/2022	266799	NAPA	FLASHER- SHOP	\$ 84.17	dshop
306562	6/30/2022	266907	NAPA	MIRROR- #016	\$ 116.10	dshop
306779	6/30/2022	323109	BAY CITY SUPPLY	FACILITY SUPPLIES	\$ 531.43	pwfac
306783	6/30/2022	323386	BAY CITY SUPPLY	FACILITY SUPPLIES	\$ 506.54	pwfac
306577	6/30/2022	812-27318	GCR TIRES & SERVICE	TIRE- SHOP STOCK	\$ 461.55	dshop
306576	6/30/2022	812-27319	GCR TIRES & SERVICE	TIRE- SHOP STOCK	\$ 445.56	dshop
306788	6/30/2022	9020577002	LANGUAGE LINE SERVICES, INC	TELEPHONE INTERPRETATION COURT DAYS	\$ 10.09	court
306573	6/30/2022	AN 873711	CENTRAL WELDING SUPPLY CO, INC	O2 FOR AMBULANCE	\$ 66.39	medic
306480	6/30/2022	Chamber Exper Inv #2	ANACORTES CHAMBER OF COMMERCE	LTAC CHAMBER EXPERIENCE	\$ 46,612.38	plan
306481	6/30/2022	CHAMBER VIC #2	ANACORTES CHAMBER OF COMMERCE	LTAC CHAMBER VIC INVOICE #2	\$ 18,202.15	plan
306578	6/30/2022	CL45589	REISNER DISTRIBUTOR INC	VEHICLE FUEL - JUNE 2022	\$ 43,074.26	finance
306483	6/30/2022	FB-1922	CITY OF MOUNT VERNON	DARK FIBER	\$ 350.00	fiber
306484	6/30/2022	RefundBrown	BROWN, RON	CEMETERY LOT BUY BACK	\$ 690.00	parks1



City Council Agenda Bill

Meeting Date: July 11, 2022

Agenda Item: 5.c.

Agenda Item Title: Contract Award: Oak Harbor Aerial Fiber Installation #20-033-TLM-002

Staff Contact(s): BRIAN MCDANIEL

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

Item Summary: City staff seeks City Council consent to award a contract in the amount of \$47,064.54 to Robinson Brothers Construction, LLC. to perform the Oak Harbor Aerial Fiber Installation Project.

Background:

1. **History:** The Oak Harbor Aerial Fiber Installation project was designed by NoaNet under agreement [21-271-TLM-001](#) signed 1/28/2022 by Mayor Matt Miller. The work is part of the larger goal to install fiber optic cables from Sharpes Corner to Deception Pass.
2. **Key Terms:**
 - Contract is for a firm fixed price of \$47,064.54.
 - The Contractor shall complete the work within thirty (30) calendar days from the Notice to Proceed issue date.
3. **Competitive Bidding:** In accordance with competitive bid requirements set forth under RCW 35.23.352 the project cost is under the competitive requirements and thus the Project Manager evaluated contractors and chose to contract with Robinson Brothers Construction, LLC.

Budget Impact:

Contractor	Robinson Brothers Construction, LLC.
Contract Amount	\$47,064.54
BARS #	401.000.594.34.63
Budget Amendment Required?	No
Start Date	Notice to Proceed

End Date

30 calendar days

Previous Action: N/A

Recommended Motion: I move that City Council authorize the Mayor to sign contract 20-033-TLM-002 with Robinson Brothers Construction, LLC. in the amount of \$47,064.54 to perform the Oak Harbor Aerial Fiber Installation Project.

Alternative Actions: Not approve the agreement.

Attachments (listed in order presented):

1. 20-033-TLM-002



CONTRACT 20-033-TLM-002
AGREEMENT WITH
Robinson Brothers Construction, LLC.

This Contract is between the City of Anacortes, Washington, a Municipal Corporation (herein after referred to as "City") and Robinson Brothers Construction, LLC., a private contractor at PO Box 29960, Bellingham, WA 98226 (herein after referred to as "Contractor").

PROJECT
Oak Harbor Aerial Fiber Installation

1. **Scope of Work:** Contractor shall furnish all materials, equipment, and labor to perform the Oak Harbor Aerial Fiber Installation Project which includes:

- a. aerial fiber installation on existing PSE poles along SR20, starting at MP 45.31 to 45.38 and MP 44.74 to 44.69.
- b. strand and lash 144C Fiber on (15) poles total, starting at pole # 453187/157112 headed south on SR20 for 12 poles to pole #452960/156995 and then crosses over SR20 80' to pole # 4452934/156991.
- c. next SEC is a 2-pole strand and lash (237') from pole # 452607/156923 to pole # 452597/156924.
- d. leave fiber coils at each riser pole.
- e. fiber coil amount will be determined by the COA Water Dept.

Work includes traffic control, TCP, strand, anchors, pole line hardware. Work shall be performed as directed by the Project Manager and as detailed in Exhibit A, which is hereby incorporated by reference and made a part hereof.

2. **Contract Price:** The Contractor will perform the scope of work above for a firm fixed price of **Forty-Seven Thousand Sixty-Four Dollars and Fifty-Four Cents (\$47,064.54)**. This includes all labor, materials, standard freight, and applicable sales tax for the project. Before any payment is made by the City of Anacortes of sums under this contract, the contractor must provide a copy of the statement of *Intent to Pay Prevailing Wage* approved by the Department of Labor and Industries. Pursuant to RCW Chapter 60.28, a sum of five percent (5%) of the monies earned by the contractor will be retained.

3. **Bonds:** Pursuant to RCW 39.08.010, the Contractor shall provide the City a performance bond and payment bond for the full contract amount to be in effect as detailed in the incorporated General Provisions. The City may at its option release the bonds once all the conditions of RCW 39.08.010-1a have been discharged.

4. **Time of Completion:** The Contractor shall complete the work within thirty (30) calendar days from the Notice to Proceed issue date, and as scheduled and directed by the Project Manager.

5. **Project Management.** Coordination and scheduling of the work, materials, and equipment shall be made with the Project Manager Brian McDaniel (360) 428-1598.

6. **Contract Requirements:** Contractor must have a contractor license number, insurance, and City of Anacortes business license. **Prevailing Wage Law Applies.** Forms Needed: 1) Proof of Insurance with Additional Insured Endorsement (see General Provisions); 2) Intent to Pay Prevailing Wage; 3) Affidavit of Wages Paid; 4) Performance Bond; 5) Payment Bond; 6) Certification of Compliance with Wage Payment Statutes.

7. **Contract Documents:** The attached General Provisions are Exhibit A are included in this Contract Agreement.

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 they are signing with full and complete authority to bind the party on whose behalf of whom they are signing, to each and every term of this Agreement.

Owner:

City of Anacortes

Mayor

Date

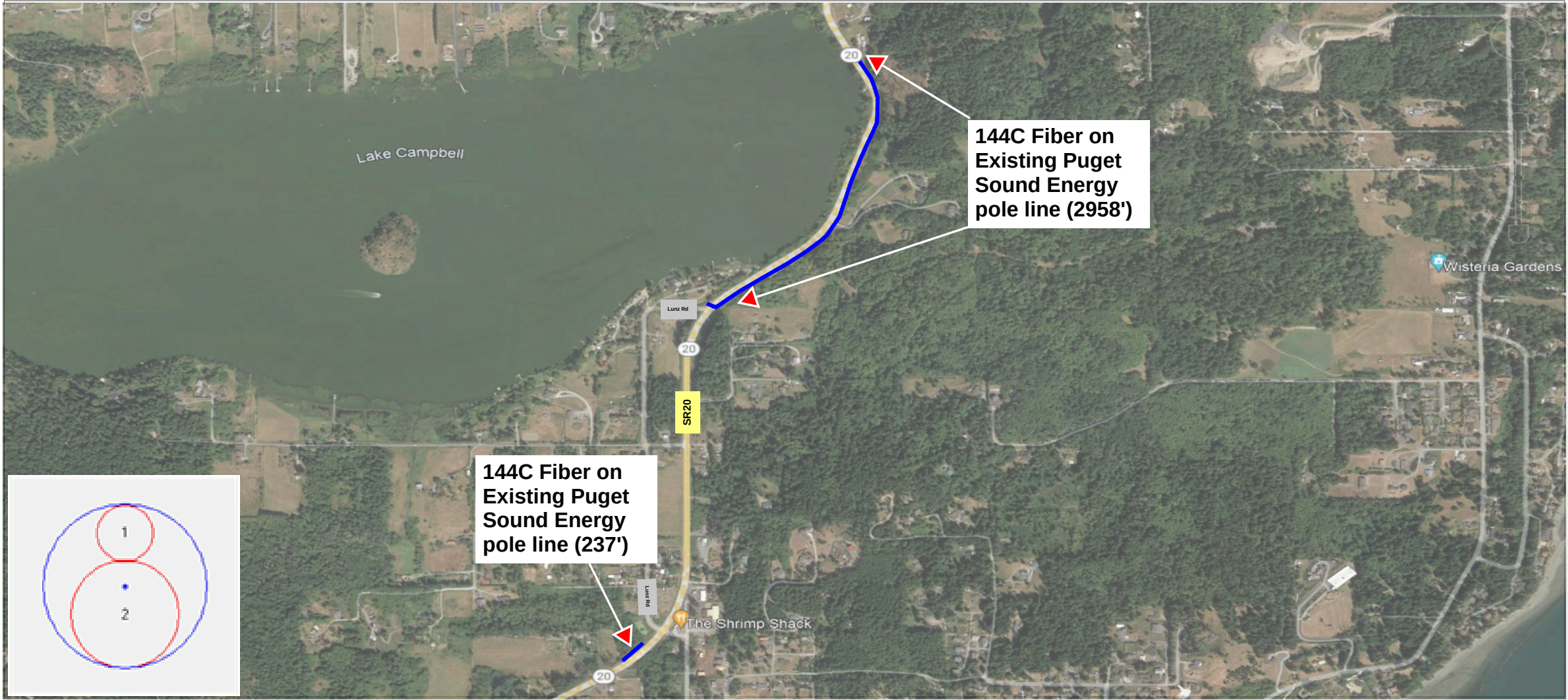
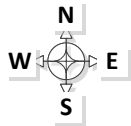
Contractor:

Robinson Brothers Construction, LLC.

Date

Contractor License #

PROJECT ROUTE MAP



Construction Notes:

Aerial fiber optic cable placement to be strand and lash method.
6.6M EHS to be used for all strand and guying.
Anchors – ¾' rod, 66" length, 8,000#
Cable Arm - 18" fiberglass, 1500# vertical load limit.
Cable and Strand Weight per foot, .3320
Bundle size for 144 Count Fiber (2) .75" and Strand (1) .25" Total 1.00"
Risers - 2" schedule 40, Gray UV resistance
Riser Stand Off Brackets, Mofab - 10"
Each pole to have NoaNet approved cable marker attached to the cable.
All guys to have insulators no closer than 8' from pole
PLUG Any Unused Bolt Holes Caused by Make Ready Items.

Scope of Project:

Construct strand and lash aerial Fiber (144C) on existing Puget Sound Energy pole line (14 poles are Transmission) on SR20. Starting @ pole # 453187/157112 heading south on SR20 2898' to pole # 452930/156995 and then cross over SR20 (80') to pole # 452934/156991. Next section is a 2 pole strand and lash (237') south of the previous build at Lunz Rd. (See drawings for details).

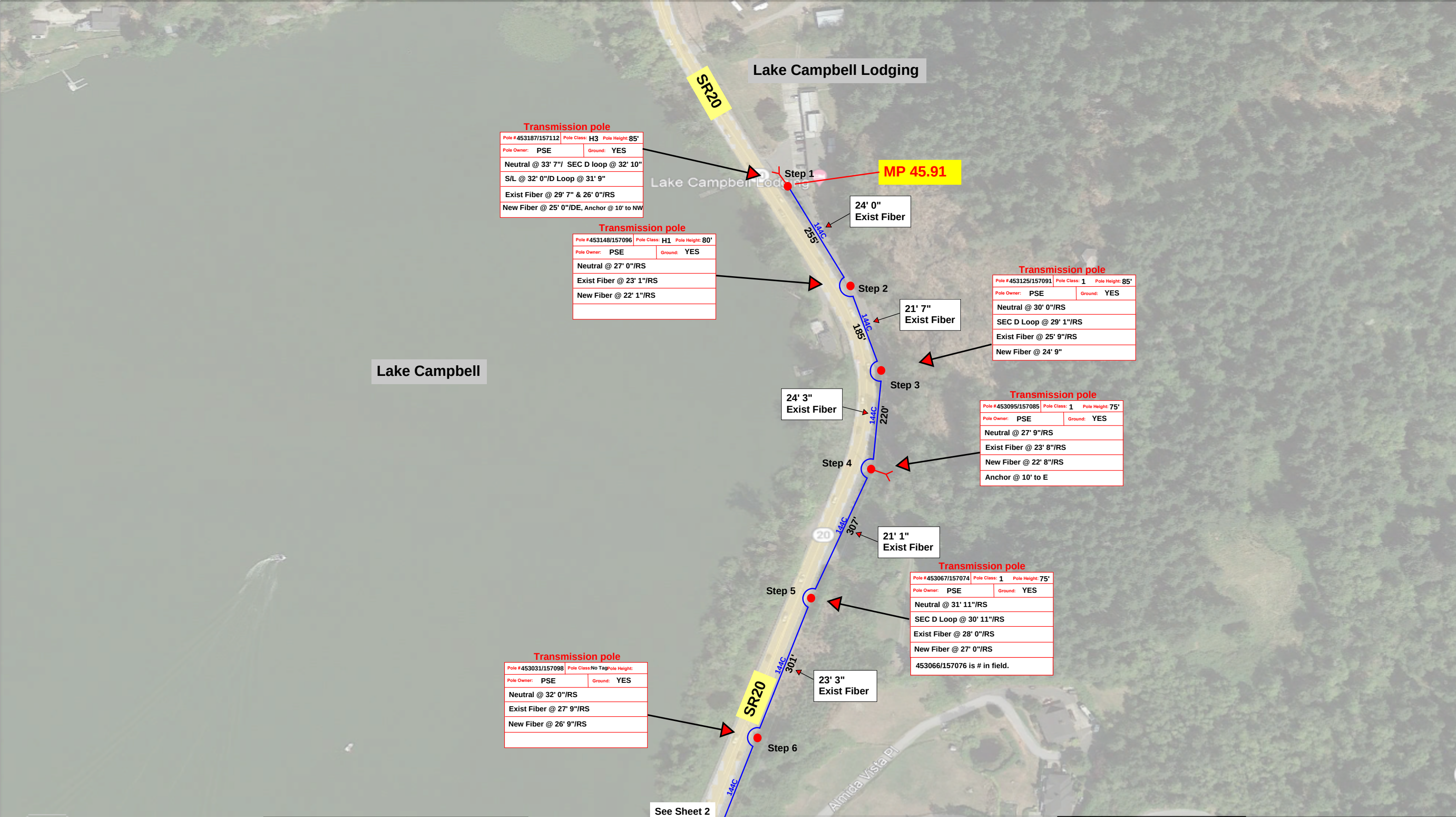
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Drawn By:	Date:	Project Contacts:				Revision:			
MLaFond	11/4/2021								



NORTHWEST OPEN ACCESS NETWORK		
Cover Page		
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SCALE	N/A	SHEET
		Cover Sheet



See Sheet 2

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DRAWN BY

MLaFond

DATE

11/4/2021



NORTHWEST OPEN ACCESS NETWORK

Oak Harbor aerial route SR20

FILENAME

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TEMPLATES/NEW DWG TEMPLATE W NEW LOGO.VSD

SIZE

11 x 17

DWG NUMBER

1 of 3

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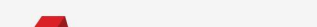
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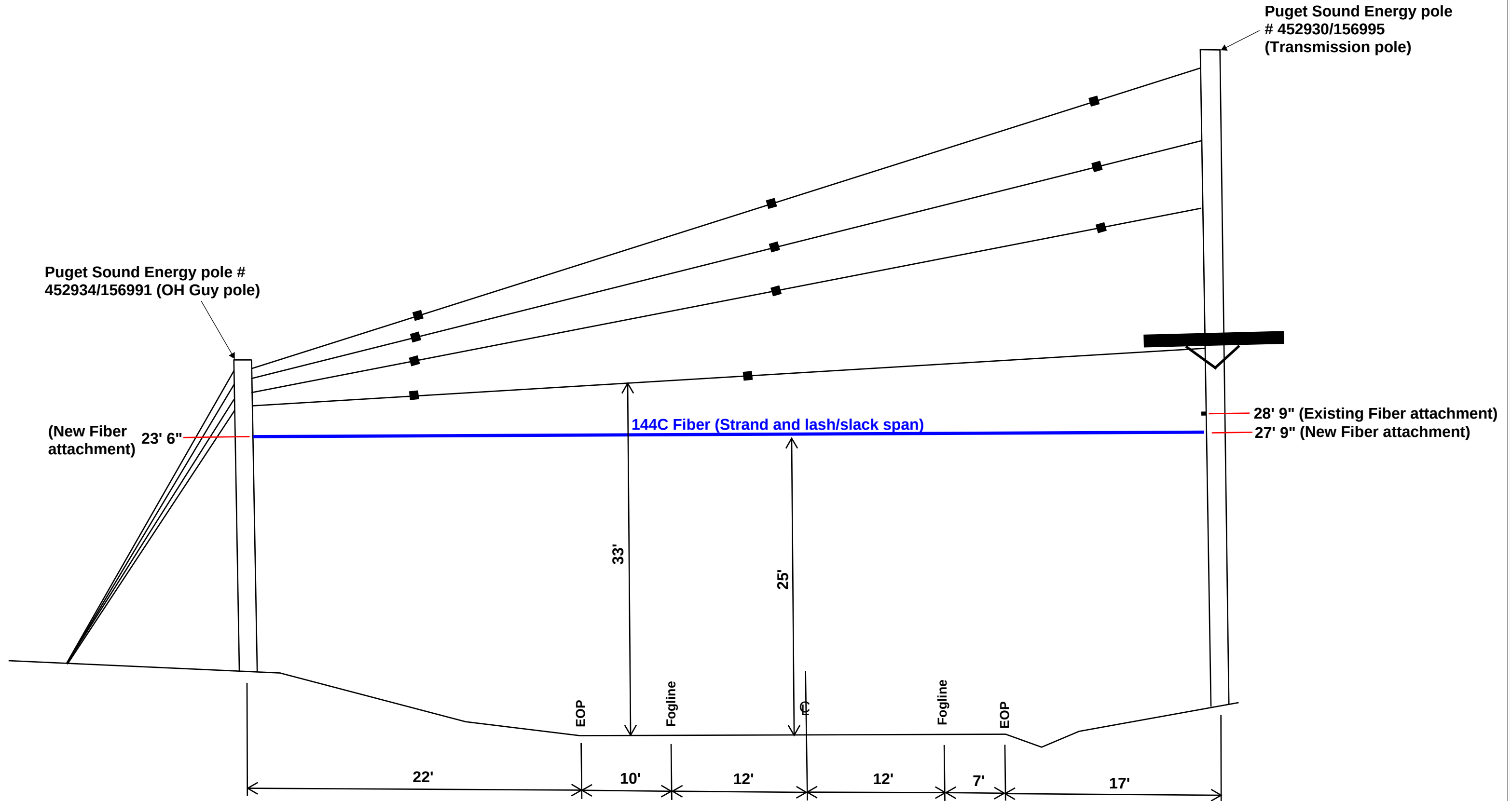
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1 of 3



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												Oak Harbor aerial route SR20		
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View looking NE (SR20) @ MP 45.38

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 NOANET Northwest Open Access Network	NORTHWEST OPEN ACCESS NETWORK		
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25'

A diagram showing a triangle with a side length of 10'.

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1. WASHINGTON STATE PREVAILING WAGES: Washington State Prevailing Wages apply to all Work. The Contractor and any of its Subcontractors are required to pay their laborers and mechanics minimum wage in compliance with Washington State Prevailing Wage Laws. Before any payment is made by the City of Anacortes of any sums under this contract, the contractor and each subcontractor must provide the City with a copy of the statement of *Intent to Pay Prevailing Wages* approved by the Washington State Department of Labor and Industries (L&I) (*ONE (1) filed per contractor and each subcontractor per contract*). Following contract completion, the City will not release any funds retained, according to the provisions of RCW 60.28.010, until the contractor and each subcontractor has provided the City a copy of the *Affidavit of Wages Paid* approved by L&I (*ONE (1) filed per contractor and each subcontractor per contract*). L&I provides the wage forms. ***All costs associated with such fees shall be included in the Contract price as part of the fixed costs of overhead for this Contract, including any anticipated subcontractor filing fees. Any change in the fee by L&I will not be grounds for revision in the Contract Amount. The City will only pay for the actual cost charged by L&I for the filing of the intent and affidavit.***

For contracts in excess of \$10,000, the contractor must post in a conspicuous place at the job site, a copy of the statement of *Intent to Pay Prevailing Wages* approved by L&I and the address and phone number of the Industrial Statistician where complaints or inquires may be made. The City will refer any dispute regarding the prevailing rate of wage to L&I for arbitration.

The State of Washington prevailing wage rates applicable for this public works project, which is located in Skagit County, may be found at the following website address of the Department of Labor and Industries: <https://secure.lni.wa.gov/wagelookup/>. The prevailing wage schedule in effect for the work under the contract will be the one in effect upon the date of execution of the contract. A copy of the applicable prevailing wage rates are also available for viewing at the office of the Owner, located at 904 6th Street, Anacortes, WA. Upon request, the Owner will mail a hard copy of the applicable prevailing wages for this project.

At least once a month Contractor must file weekly certified payroll reports online with the Washington Department of Labor and Industries as required by RCW 39.12.120.

2. Performance and Payment Bonds. The City is required by RCW 39.08.010, with limited exceptions, to obtain both a Performance and a Payment bond for each public works project. The City requires separate Performance and Payment bonds for 100% of the contract amount furnished on bond forms standardized by the City Attorney's office. The bonds must meet the following provisions:

- Be for the full amount of the project, including tax.
- Name City of Anacortes as the obligee.
- List the correct Project Name and Project Number.
- Be signed by both the surety (the Attorney in Fact) and the Contractor.
- Be issued by a surety authorized to do business in the State of Washington (listed on the Insurance Commissioners website) and which meets the AM Best Rating required in the Contract Documents. If no requirement exists, a minimum of AM Best Rating A-7 or better will be required.

Release of Bonds

Bonds will not be released until the project has been completed and finally accepted.

Performance Bonds – Performance Bonds will be released at the end of the warranty period or twelve months after the date of final acceptance, whichever is later. The City may at its option release the bond once all the conditions of RCW 39.08.010-1a have been discharged.

Payment Bonds – Payment Bonds will be released either 45 days after final acceptance of the project or upon receipt of releases from the Washington Department of Revenue, Washington Employment Security Department, and the Washington Department of Labor and Industries, whichever is later. Release is contingent on the fact that no claims against the bond have been filed prior to the 45 day mark. If claims have been filed against the bond, it will not be released until the claims have been resolved.

Exceptions – On projects \$150,000 and under, the Contractor can, in lieu of providing a performance and payment bond, request to have the City withhold 10% of monies earned on the project for a period of 30 days after final acceptance of the completed work or until receipt of all necessary releases from the Washington Department of Revenue, Washington Employment Security Department, and the Washington Department of Labor and Industries and settlement of any liens filed under Chapter 60.28 RCW, whichever is later. This exception is dependent on pre-approval by the City Attorney, and the City reserves the right to reject requests to waive the bond requirements.

3. Retainage. Pursuant to RCW Chapter 60.28, a sum of five percent (5%) of the monies earned by the Contractor will be retained. The Contractor may elect to execute a Retainage Bond. The bond must be furnished on a bond form standardized by the City Attorney's office and issued by a surety currently authorized by the State Insurance Commissioner to do business in Washington State. Retainage will be released **45 days after final acceptance**, provided that the following has occurred:

1. All liens placed against the project have been released. For projects over \$35,000, releases from the Washington Department of Revenue, Washington Employment Security Department, and the Washington Department of Labor and Industries will also be required.

2. Affidavits of Wages paid for the final correct contract amount are approved and on file for the Contractor and any subcontractors.
3. Worker's Compensation Premiums for the Contractor and any subcontractors are current.

Note: If the City has approved the Contractor's request to waive the bond requirements, the City will withhold a total of 10% of the monies earned for a period of 30 days after final acceptance of the completed work or until receipt of all necessary releases from the Washington Department of Revenue, Washington Employment Securities Department, and the Washington Department of Labor and Industries, and settlement of any liens filed under Chapter 60.28 RCW, whichever is later.

4. Subcontracts. The Contractor shall not subcontract the Scope of Work ("Work") unless the Project Manager approves in writing. If the Project Manager requests, the Contractor shall provide proof that the Subcontractor has the experience, ability, and equipment the Work requires. "Subcontractor" means an individual, partnership, firm, corporation, or joint venture who is sublet part of the Contract by the Contractor. Each request to subcontract shall include the following information (i) a description of the supplies or services to be subcontracted, (ii) identification of the type of subcontract to be used (iii) identification of the proposed subcontractor, (iv) proposed subcontract price, (v) identification of the percentage of work to be performed by subcontract. Approval of subcontract shall not:

- a. Relieve the Contractor of any responsibility to carry out the Contract,
- b. Relieve the Contractor of any obligations or liability under the Contract and the Contractor's bond,
- c. Create any contract between the City and the Subcontractor, or
- d. Convey to the Subcontractor any rights against the City.

As required by RCW 39.06.020, the Contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification is to include that, at the time of subcontract execution, each subcontractor meets the responsibility criteria listed in RCW 39.04.350(1) and additionally - if applicable - possesses an electrical contractor license or an elevator contractor license. This verification requirement, as well as the responsibility criteria, must be included in every public works contract and subcontract of every tier. The Contractor shall give immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the City.

If dissatisfied with any part of the subcontracted Work, the Project Manager may request in writing that the Subcontractor be removed. The Contractor shall comply with this request at once and shall not employ the Subcontractor for any further Work under the Contract.

5. Job Safety & COVID-19 Safety Requirements Compliance. The Contractor, and its subcontractors of any tier, shall comply with all Washington Dept. of Labor & Industries safety standards, as well as comply with all current and future COVID-19 proclamations, regulations, requirements and/or related guidance issued by the Office of the Governor of Washington State and Office of the Mayor of the City of Anacortes as it may relate to City of Anacortes projects.

6. Taxes. The City will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes including, but not limited to: Business and Occupation Tax, taxes based on the Contractor'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.

7. Invoicing. All invoices shall at a minimum include: Company Name, Invoice Date, Due Date (30 days), Invoice Number, **Agreement Number**, and Price. The Contractor must allow 30 calendar days from receipt of the invoice for payment. ***If requested by the City the Contractor shall provide a cost breakdown of charges.*** 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. Contractors may complete a City furnished ACH/EFT form to receive electronic payments directly to their financial institution. The City shall notify the Contractor within fifteen (15) calendar days from receipt of invoice if there are any objections or disputes with the invoice. The Contractor 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.

8. Withholding Payment. In the event the City determines that the Contractor has failed to perform any obligation under this Contract within the times set forth in this Contract, then the City may withhold from amounts otherwise due and payable to Contractor the amount determined by the City as necessary to cure the default, until the Contracting Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to terminate or damages, provided that the City promptly gives notice in writing to the Contractor 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 Contractor 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 Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Contract. 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 Contract, 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 Contractor, (3) to set off any

amount so paid or incurred from amounts due to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the City under this clause.

9. Final Payment: Waiver of Claim. The contractor's acceptance of final payment (excluding withheld retainage) shall constitute a waiver of claims, except those previously and properly made and identified by the contractor as unsettled at the time request for final payment is made.

10. Inspection.

A. Of the Work

All materials furnished and work done shall be subject to inspection. The City Project Manager administering the Contract shall at all times have access to the work wherever it is in progress or being performed, and the Contractor shall provide proper facilities for such access and inspection. Such inspection shall not relieve the Contractor of the responsibility of performing the work correctly, utilizing the best labor and materials in strict accordance with the Specifications of the Contract. 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 Contractor may appeal to the City Attorney whose decision shall be final. The Contract shall be carried out under the general control of the representative of the City administering the Contract, 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 Contractor shall comply with any and all orders and instructions given by the representative of the particular Department administering the Contract in accordance with the terms of the Contract. Nothing herein contained, however, shall be taken to relieve the Contractor of his/her obligations or responsibilities under the Contract.

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

12. Warranty. The Contractor shall return to the project and repair or replace all defects in workmanship and material discovered within one year after Final Acceptance of the Work, including any necessary labor and materials. The Contractor 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 contractor, in which case the cost of corrections shall be paid by the Contractor. In the event the Contractor does not accomplish corrections within the time specified, the work will be otherwise accomplished and the cost of same shall be paid by the Contractor. For one year after acceptance of any corrections by the City the Contractor shall be responsible for correcting all defects in workmanship and materials in the corrected work. In addition, the Contractor 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 Contractor's work comply with the requirements of the Contract or impact any other legal rights or remedies of the City.

13. Indemnification / Hold Harmless. The Contractor 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. However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

14. Insurance.

A. Insurance Term: The Contractor shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Contractor's work through the term of the contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein.

B. No Limitation: The Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor 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 Contractor's required insurance shall be of the types and coverage as stated below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.

2. Commercial General Liability insurance shall be as least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. **The City of Anacortes and its officers, elected officials, employees, agents, and volunteers shall be named as an additional insured** under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.
3. Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

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

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit.

E. City Full Availability of Contractor Limits: If the Contractor 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 Contractor, irrespective of whether such limits maintained by the Contractor 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 Contractor.

F. Other Insurance Provision: The Contractor's Automobile Liability and Commercial General Liability insurance 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 Contractor's insurance and shall not contribute with it.

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

H. Verification of Coverage: The Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the insurance requirements of the Contractor **within 10 days of contract execution and before scheduling of the work**. Upon request by the City, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this contract and evidence of all subcontractors' coverage.

I. Subcontractors' Insurance: The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Contractor shall ensure that the City is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement at least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

J. Notice of Cancellation: The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation within two (2) business days of their receipt of such notice.

K. Failure to Maintain Insurance: Failure on the part of the Contractor 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 Contractor 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 Contractor from the City.

15. Acceptance. Contractor acknowledges and agrees that these General Provisions are incorporated in, and are a part of, each purchase order or other agreement relating to the provision of goods and/or related services by Contractor. These General Provisions supersede all conflicting or additional terms pre-printed on any purchase order, quote, invoice, or otherwise set forth on any release, acknowledgement, confirmation, requisition, work order, shipping instruction, specification and similar document or communication.

16. Registered or Licensed Contractor. The City is prohibited by RCW 39.06.010 from executing an Agreement with a Contractor who is not registered or licensed as required by the laws of the state. In addition, Anacortes Municipal Code requires that every person engaging in business within the city limits of Anacortes register their business with the state and include a City of Anacortes Endorsement. Businesses from outside city limits with a gross annual income of \$2,000 in Anacortes are also required to obtain a city endorsement. Business licenses and city endorsements can be obtained through the State of Washington Department of Revenue (DOR) Business Licensing Service (BLS) at bls.dor.wa.gov.

17. Standard Title VI / Non-Discrimination Assurances. During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest agrees to the clauses in "Appendix A" and "Appendix E" of the Standard Title VI Assurances (USDOT1050.2A), which are hereby incorporated by reference and made a part hereof.

18. Contractor is an Independent Contractor. The parties intend that an independent Contractor relationship will be created by this Agreement. No agent, employee or representative of the Contractor shall be deemed to be an agent, employee or representative of the City for any purpose. Contractor shall be solely responsible for all acts of its agents, employees, representatives and Subcontractors during the performance of this Agreement.

19. No Third-Party Beneficiary Rights. This Agreement is not intended to and shall not be construed to give any Third Party any interest or rights (including, without limitation, any Third-Party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby, except as otherwise expressly provided for in this Agreement.

20. The City's Right to Terminate Agreement.

A. Termination for Default: If the Contractor defaults by failing to perform any of the obligations of the Agreement 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 Contractor in the U.S. mail, postage prepaid, terminate the Agreement, and at the City's option, obtain performance of the work elsewhere. If the Agreement is terminated for default, the Contractor shall not be entitled to receive any further payments under the Agreement until the Scope of Services under this Agreement 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 Contractor. The Contractor 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 Contractor 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 Agreement 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 Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit Agreement prices for completed items of work through the date of termination. If the City exercises its option under this Paragraph, the City shall not be responsible for payment for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the City at any time during the term, whether for default or convenience, shall not constitute a breach of Agreement by the City.

21. Changes/Additional Work. The City may engage Contractor to perform services in addition to those listed in this Agreement, and Contractor 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 Agreement. 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 Contractor to render or the City to pay for services rendered in excess of the Scope of Services unless or until a modification to this Agreement is approved in writing by both parties.

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

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

24. Disputes

A. General: Differences between the Contractor and the City, arising under and by virtue of this Agreement 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 Agreement.

B. Notice of Potential Claims: The Contractor 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 Contractor 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 Contractor 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. Contractor 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 Contractor 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 Contractor 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 Contractor arising out of this Agreement, or any obligation hereunder the dispute shall first be referred to the representatives designated by the City and the Contractor to have oversight over the administration of this Agreement. 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.

25. 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; pandemics; 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 of the impediment and its effect on the ability to perform, with such notice to be provided no more than two (2) working days after the force majeure event or reasonable discovery of the event's impact on performance. 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.

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

27. Compliance with Laws. The Contractor in the performance of this Agreement 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 Agreement to assure quality of services. Contractor will follow all applicable laws and requirements for excavation and disposal of material.

28. Severability. If any term or condition of this Agreement 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 Agreement are declared severable.

29. Survival of Contract Termination. The provisions of the following paragraphs, the provisions of the non collusion affidavit, and the liability of the Contractor for default during the term of the Contract shall survive, notwithstanding the termination or invalidity of this Contract for any reason: Taxes; Warranty; The City's Right to Terminate Contract; Governing Law; Indemnification / Hold Harmless; Disputes.

30. 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:

Robinson Brothers Construction, LLC
Hope White
6150 NE 137th Avenue
Vancouver, WA 98682

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Washington State Department of Transportation, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Washington State Department of Transportation to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Washington State Department of Transportation, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Washington State Department of Transportation may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment,

unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Washington State Department of Transportation may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).



City Council Agenda Bill

Meeting Date: July 11, 2022

Agenda Item: 5.d.

Agenda Item Title: Contract Award: WTP CAT Generator Switchgear Maintenance #22-181-WTR-001

Staff Contact(s): BRIAN MCDANIEL

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

Item Summary: City staff seeks City Council consent to award a contract in the amount of \$87,623.58 to NC Power Systems Co. to perform the Preventive Maintenance Service ("PM") on the CAT generator switchgear at the WTP.

Background:

1. **History:** The generator switchgear is in need of preventive maintenance to ensure the gear is in proper operation. The switchgear opens and closes breakers that supply emergency power from the generators to the WTP. Performing the recommended maintenance will alleviate possible system failures.
2. **Key Terms:**
 - Contract is for a fixed price of \$87,623.58.
 - The Contractor shall complete the work within 180 calendar days from the contract execution date.
3. **Competitive Bidding:** In accordance with competitive bid requirements set forth under RCW 35.23.352 the project cost is under the competitive requirements and thus the Project Manager evaluated contractors and chose to contract with NC Power Systems Co.

Budget Impact:

Contractor	NC Power Systems Co.
Contract Amount	\$87,623.58
BARS #	401.730.534.10.48
Start Date	Notice to Proceed

End Date

180 calendar days

Previous Action: N/A

Recommended Motion: I move that City Council authorize the Mayor to sign contract 22-181-WTR-001 with NC Power Systems Co. in the amount of \$87,623.58 to perform the WTP CAT Generator Switchgear Maintenance.

Alternative Actions: Not approve the contract.

Attachments (listed in order presented):

1. 22-181-WTR-001



CONTRACT 22-181-WTR-001
AGREEMENT WITH
NC POWER SYSTEMS CO.

This Contract is between the City of Anacortes, Washington, a Municipal Corporation (herein after referred to as "City") and NC Power Systems Co., a private contractor at PO Box 88338, Seattle, WA 98138 (herein after referred to as "Contractor").

PROJECT
WTP CAT Generator Switchgear Maintenance

1. **Scope of Work:** Contractor shall furnish all materials, equipment and labor to perform the Preventive Maintenance Service ("PM") on the CAT generator switchgear at the Anacortes Water Treatment Plant (WTP) 14489 River Bend Rd, Mount Vernon, WA 98273. Work is detailed in Exhibit A, which is hereby incorporated by reference and made a part hereof.
2. **City Responsibilities:** The City is responsible for:
 - a. Identifying someone with site authority to allow the following - (A) switching and outages as required with safe lock out and tag out of equipment being worked upon, (B) free and clear access and egress to the worksite, (C) provide communication and sanitation facilities, and (D) someone to be able to control and shift loads.
 - b. Obtaining all permits, permissions, and required acceptances necessary per Federal/State/or Local codes and regulations.
 - c. Familiarizing Contractor personnel with the City's safety practices, regulations in effect at the jobsite, and any chemical and physical hazards, including process safety issues associated with the work environment. As a safety precaution, prior to the commencement of work, access to a nearby telephone with the ability to call outside the facility will be provided by the City, as well as telephone numbers for local emergency services.
 - d. Disposing of all wastes generated at the job site. City will be responsible for environmental conditions and will keep the equipment free of contaminants that would be detrimental to the performance of the equipment.
3. **Contract Price and Payment Terms:** The Contractor will perform the scope of work above for a firm fixed price of **Eighty-Seven Thousand Six Hundred Twenty-Three Dollars and Fifty-Eight Cents (\$87,623.58)**, which includes \$6,938.88 in 8.6% sales tax. The City will only pay the actual fees charged by Washington State L&I for the filing of one Intent/Affidavit to Pay Prevailing Wages for the project. Price includes all labor, materials, sales tax, and standard freight for the project. Before any payment is made by the City of Anacortes of sums under this contract, the contractor and subcontractors must provide a copy of the statement of *Intent to Pay Prevailing Wage* approved by the Department of Labor and Industries. Pursuant to RCW Chapter 60.28, a sum of five percent (5%) of the monies earned by the contractor will be retained.
4. **Bonds:** Pursuant to RCW 39.08.010, the Contractor shall provide the City a performance bond and payment bond for the full contract amount to be in effect as detailed in the incorporated General Provisions. The City may at its option release the bonds once all the conditions of RCW 39.08.010-1a have been discharged.
5. **Time of Completion:** The Contractor shall perform all work as scheduled with the Project Manager and within one hundred eighty (180) calendar days from the contract execution date.
6. **Project Management.** Coordination and scheduling of the work, materials, and equipment shall be made with the Project Manager Mario Gonzalez, (360) 428-1598
7. **Contract Requirements:** Contractor must have a contractor license number, insurance, and City of Anacortes business license. **Prevailing Wage Law Applies.** Forms Needed: 1) Proof of Insurance with Additional Insured Endorsement (see General Provisions); 2) Intent to Pay Prevailing Wage; 3) Affidavit of Wages Paid; 4) Performance Bond; 5) Payment Bond; 6) Certification of Compliance with Wage Payment Statutes.
8. **Contract Documents:** The attached General Provisions and Exhibit A are included in this Contract Agreement.

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 they are signing with full and complete authority to bind the party on whose behalf of whom they are signing, to each and every term of this Agreement.

Owner:

City of Anacortes

Mayor

Date

Contractor:

NC Power Systems Co.

Date

Contractor License #

CITY OF ANACORTES ACCOUNTS PAYABLE
PO BOX 547
ANACORTES 98221-0547

Proposal No: 182405 - 1

CUSTOMER NO.	CONTACT	PHONE NO.	FAX NO.	Work Order No.
9996001	MARIO GONZALEZ	360-661-3684		
QUOTE NO.	P.O. NO.	DATE	Email	
182405		2022-05-19	mariog@cityofanacortes.org	
MAKE	MODEL	SERIAL NO.	UNIT NO.	
AA				
NOTES				

SEGMENT: 01 PERFORM SWITCHGEAR (540 4491)
 NOTES:
 ESTIMATE FOR CAT SWITCHGEAR TO PERFORM A ONE TIME
 PM AND FOR EATON TO COME OUT AND ADJUST SETTINGS
 AND PERFORM CLEANING.
 *
 AN N C POWER TECHNICIAN WILL BE ONSITE FOR THE
 DURATION OF THE WORK (1 WEEK).
 *
 LABOR RATES QUOTED AT PREVAILING WAGE.

Labor

Item Number	Description	Qty	Unit Price	Ext Price
FLD	LABOR FOR N C TECHNICIAN	40	222.00	8,880.00
Total Labor:				8,880.00

Misc

Item Number	Description	Qty	Ext Price
OS	CAT SWITCHGEAR PM	1	70,604.70
Total Misc:			70,604.70

Segment 01 Total: 79,484.70

SEGMENT: 99 TRAVEL TO/FROM SWITCHGEAR (056 4491)
 NOTES:

Misc

Item Number	Description	Qty	Ext Price
PTV	TRAVEL LABOR/MILEAGE	1	1,200.00
Total Misc:			1,200.00

Segment 99 Total: 1,200.00

Total Segments: 80,684.70

SUB TOTAL (BEFORE TAXES) 80,684.70

SCOPE OF WORK

1 Time PM, Revision of Relay Settings & a 5-year Update to Existing Arc Flash Hazard Analysis at City of Anacortes WTP. This Preventative Maintenance proposal will include Caterpillar Switchgear and Eaton working together. This will include Caterpillar Switchgear project number 36390 and Eaton Lineup (MSE004903 and MSE004903E).

Tasks to be included:

- Verify enclosures are clean and free from all dust or other foreign debris
- Clean as needed (do not use compressed air) - Structures must be completely de-energized prior to cleaning each structure
- **Sequence of Operations to be tested prior and after the preventative maintenance is performed.**

Service Inspection Controls

- Verify control wiring and connections, perform pull test and fastener check
- Inspect system fuses and fuse holder(s) for proper size and integrity
- Verify system metering is accurate
- Verify generator metering is accurate
- Verify tie metering is accurate
- Verify manual switches for free movement and contact continuity
- Perform Visual inspection of all wiring connections in the front of the switchgear only.
- Verify control wiring and connections, perform pull test and fastener check

Service Inspection Circuit Breakers

- Remove Breakers
- Perform pre-cleaning inspection
- Test Circuit Breakers Accordingly (charge, close & open)
- Perform Hi Pot where applicable.
- Clean and lubricate each breaker
- Perform DLRO test for contact resistance
- Perform Hi Pot where applicable
- Return Breaker to service

Service Inspection Protective Relays

- Record Model #, Serial #, Firmware rev and control voltage
- Verify protective settings are in accordance with Coordination Study (provided by customer)
- Download event logs
- Using the test button on the relay test each relay if applicable

Service Inspection Grounds

- Verify all common and ground wire connections (integrity and continuity)
- Tighten Control wiring and terminals as needed
- Verify 24VDC negative is grounded to earth ground

Service Inspection Batteries

- Verify Station battery connection
- Verify connections are corrosion free and properly torqued
- Inspect 24VDC best source

System Test Requirements**Mode Testing**

- Reference system "Sequence of Operations" Page in the "G" Drawing Package; discuss Mode testing, including overall system impact, with City. Advise the equipment owner that the utility must be removed from service to test the E-Mode and Load Shed

1. WASHINGTON STATE PREVAILING WAGES: Washington State Prevailing Wages apply to all Work. The Contractor and any of its Subcontractors are required to pay their laborers and mechanics minimum wage in compliance with Washington State Prevailing Wage Laws. Before any payment is made by the City of Anacortes of any sums under this contract, the contractor and each subcontractor must provide the City with a copy of the statement of *Intent to Pay Prevailing Wages* approved by the Washington State Department of Labor and Industries (L&I) (*ONE (1) filed per contractor and each subcontractor per contract*). Following contract completion, the City will not release any funds retained, according to the provisions of RCW 60.28.010, until the contractor and each subcontractor has provided the City a copy of the *Affidavit of Wages Paid* approved by L&I (*ONE (1) filed per contractor and each subcontractor per contract*). L&I provides the wage forms. ***All costs associated with such fees shall be included in the Contract price as part of the fixed costs of overhead for this Contract, including any anticipated subcontractor filing fees. Any change in the fee by L&I will not be grounds for revision in the Contract Amount. The City will only pay for the actual cost charged by L&I for the filing of the intent and affidavit.***

For contracts in excess of \$10,000, the contractor must post in a conspicuous place at the job site, a copy of the statement of *Intent to Pay Prevailing Wages* approved by L&I and the address and phone number of the Industrial Statistician where complaints or inquiries may be made. The City will refer any dispute regarding the prevailing rate of wage to L&I for arbitration.

The State of Washington prevailing wage rates applicable for this public works project, which is located in Skagit County, may be found at the following website address of the Department of Labor and Industries: <https://secure.lni.wa.gov/wagelookup/>. The prevailing wage schedule in effect for the work under the contract will be the one in effect upon the date of execution of the contract. A copy of the applicable prevailing wage rates are also available for viewing at the office of the Owner, located at 904 6th Street, Anacortes, WA. Upon request, the Owner will mail a hard copy of the applicable prevailing wages for this project.

At least once a month Contractor must file weekly certified payroll reports online with the Washington Department of Labor and Industries as required by RCW 39.12.120.

2. Performance and Payment Bonds. The City is required by RCW 39.08.010, with limited exceptions, to obtain both a Performance and a Payment bond for each public works project. The City requires separate Performance and Payment bonds for 100% of the contract amount furnished on bond forms standardized by the City Attorney's office. The bonds must meet the following provisions:

- Be for the full amount of the project, including tax.
- Name City of Anacortes as the obligee.
- List the correct Project Name and Project Number.
- Be signed by both the surety (the Attorney in Fact) and the Contractor.
- Be issued by a surety authorized to do business in the State of Washington (listed on the Insurance Commissioners website) and which meets the AM Best Rating required in the Contract Documents. If no requirement exists, a minimum of AM Best Rating A-7 or better will be required.

Release of Bonds

Bonds will not be released until the project has been completed and finally accepted.

Performance Bonds – Performance Bonds will be released at the end of the warranty period or twelve months after the date of final acceptance, whichever is later. The City may at its option release the bond once all the conditions of RCW 39.08.010-1a have been discharged.

Payment Bonds – Payment Bonds will be released either 45 days after final acceptance of the project or upon receipt of releases from the Washington Department of Revenue, Washington Employment Security Department, and the Washington Department of Labor and Industries, whichever is later. Release is contingent on the fact that no claims against the bond have been filed prior to the 45 day mark. If claims have been filed against the bond, it will not be released until the claims have been resolved.

Exceptions – On projects \$150,000 and under, the Contractor can, in lieu of providing a performance and payment bond, request to have the City withhold 10% of monies earned on the project for a period of 30 days after final acceptance of the completed work or until receipt of all necessary releases from the Washington Department of Revenue, Washington Employment Security Department, and the Washington Department of Labor and Industries and settlement of any liens filed under Chapter 60.28 RCW, whichever is later. This exception is dependent on pre-approval by the City Attorney, and the City reserves the right to reject requests to waive the bond requirements.

3. Retainage. Pursuant to RCW Chapter 60.28, a sum of five percent (5%) of the monies earned by the Contractor will be retained. The Contractor may elect to execute a Retainage Bond. The bond must be furnished on a bond form standardized by the City Attorney's office and issued by a surety currently authorized by the State Insurance Commissioner to do business in Washington State. Retainage will be released **45 days after final acceptance**, provided that the following has occurred:

1. All liens placed against the project have been released. For projects over \$35,000, releases from the Washington Department of Revenue, Washington Employment Security Department, and the Washington Department of Labor and Industries will also be required.

2. Affidavits of Wages paid for the final correct contract amount are approved and on file for the Contractor and any subcontractors.
3. Worker's Compensation Premiums for the Contractor and any subcontractors are current.

Note: If the City has approved the Contractor's request to waive the bond requirements, the City will withhold a total of 10% of the monies earned for a period of 30 days after final acceptance of the completed work or until receipt of all necessary releases from the Washington Department of Revenue, Washington Employment Securities Department, and the Washington Department of Labor and Industries, and settlement of any liens filed under Chapter 60.28 RCW, whichever is later.

4. Subcontracts. The Contractor shall not subcontract the Scope of Work ("Work") unless the Project Manager approves in writing. If the Project Manager requests, the Contractor shall provide proof that the Subcontractor has the experience, ability, and equipment the Work requires. "Subcontractor" means an individual, partnership, firm, corporation, or joint venture who is sublet part of the Contract by the Contractor. Each request to subcontract shall include the following information (i) a description of the supplies or services to be subcontracted, (ii) identification of the type of subcontract to be used (iii) identification of the proposed subcontractor, (iv) proposed subcontract price, (v) identification of the percentage of work to be performed by subcontract. Approval of subcontract shall not:

- a. Relieve the Contractor of any responsibility to carry out the Contract,
- b. Relieve the Contractor of any obligations or liability under the Contract and the Contractor's bond,
- c. Create any contract between the City and the Subcontractor, or
- d. Convey to the Subcontractor any rights against the City.

As required by RCW 39.06.020, the Contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification is to include that, at the time of subcontract execution, each subcontractor meets the responsibility criteria listed in RCW 39.04.350(1) and additionally - if applicable - possesses an electrical contractor license or an elevator contractor license. This verification requirement, as well as the responsibility criteria, must be included in every public works contract and subcontract of every tier. The Contractor shall give immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the City.

If dissatisfied with any part of the subcontracted Work, the Project Manager may request in writing that the Subcontractor be removed. The Contractor shall comply with this request at once and shall not employ the Subcontractor for any further Work under the Contract.

5. Job Safety & COVID-19 Safety Requirements Compliance. The Contractor, and its subcontractors of any tier, shall comply with all Washington Dept. of Labor & Industries safety standards, as well as comply with all current and future COVID-19 proclamations, regulations, requirements and/or related guidance issued by the Office of the Governor of Washington State and Office of the Mayor of the City of Anacortes as it may relate to City of Anacortes projects.

6. Taxes. The City will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes including, but not limited to: Business and Occupation Tax, taxes based on the Contractor'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.

7. Invoicing. All invoices shall at a minimum include: Company Name, Invoice Date, Due Date (30 days), Invoice Number, **Agreement Number**, and Price. The Contractor must allow 30 calendar days from receipt of the invoice for payment. ***If requested by the City the Contractor shall provide a cost breakdown of charges.*** 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. Contractors may complete a City furnished ACH/EFT form to receive electronic payments directly to their financial institution. The City shall notify the Contractor within fifteen (15) calendar days from receipt of invoice if there are any objections or disputes with the invoice. The Contractor 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.

8. Withholding Payment. In the event the City determines that the Contractor has failed to perform any obligation under this Contract within the times set forth in this Contract, then the City may withhold from amounts otherwise due and payable to Contractor the amount determined by the City as necessary to cure the default, until the Contracting Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to terminate or damages, provided that the City promptly gives notice in writing to the Contractor 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 Contractor 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 Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Contract. 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 Contract, 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 Contractor, (3) to set off any

amount so paid or incurred from amounts due to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the City under this clause.

9. Final Payment: Waiver of Claim. The contractor's acceptance of final payment (excluding withheld retainage) shall constitute a waiver of claims, except those previously and properly made and identified by the contractor as unsettled at the time request for final payment is made.

10. Inspection.

A. Of the Work

All materials furnished and work done shall be subject to inspection. The City Project Manager administering the Contract shall at all times have access to the work wherever it is in progress or being performed, and the Contractor shall provide proper facilities for such access and inspection. Such inspection shall not relieve the Contractor of the responsibility of performing the work correctly, utilizing the best labor and materials in strict accordance with the Specifications of the Contract. 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 Contractor may appeal to the City Attorney whose decision shall be final. The Contract shall be carried out under the general control of the representative of the City administering the Contract, 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 Contractor shall comply with any and all orders and instructions given by the representative of the particular Department administering the Contract in accordance with the terms of the Contract. Nothing herein contained, however, shall be taken to relieve the Contractor of his/her obligations or responsibilities under the Contract.

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

12. Warranty. The Contractor shall return to the project and repair or replace all defects in workmanship and material discovered within one year after Final Acceptance of the Work, including any necessary labor and materials. The Contractor 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 contractor, in which case the cost of corrections shall be paid by the Contractor. In the event the Contractor does not accomplish corrections within the time specified, the work will be otherwise accomplished and the cost of same shall be paid by the Contractor. For one year after acceptance of any corrections by the City the Contractor shall be responsible for correcting all defects in workmanship and materials in the corrected work. In addition, the Contractor 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 Contractor's work comply with the requirements of the Contract or impact any other legal rights or remedies of the City.

13. Indemnification / Hold Harmless. The Contractor 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. However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

14. Insurance.

A. Insurance Term: The Contractor shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Contractor's work through the term of the contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein.

B. No Limitation: The Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor 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 Contractor's required insurance shall be of the types and coverage as stated below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.

2. Commercial General Liability insurance shall be as least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. **The City of Anacortes and its officers, elected officials, employees, agents, and volunteers shall be named as an additional insured** under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.
3. Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

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

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit.

E. City Full Availability of Contractor Limits: If the Contractor 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 Contractor, irrespective of whether such limits maintained by the Contractor 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 Contractor.

F. Other Insurance Provision: The Contractor's Automobile Liability and Commercial General Liability insurance 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 Contractor's insurance and shall not contribute with it.

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

H. Verification of Coverage: The Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the insurance requirements of the Contractor **within 10 days of contract execution and before scheduling of the work**. Upon request by the City, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this contract and evidence of all subcontractors' coverage.

I. Subcontractors' Insurance: The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Contractor shall ensure that the City is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement at least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

J. Notice of Cancellation: The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation within two (2) business days of their receipt of such notice.

K. Failure to Maintain Insurance: Failure on the part of the Contractor 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 Contractor 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 Contractor from the City.

15. Acceptance. Contractor acknowledges and agrees that these General Provisions are incorporated in, and are a part of, each purchase order or other agreement relating to the provision of goods and/or related services by Contractor. These General Provisions supersede all conflicting or additional terms pre-printed on any purchase order, quote, invoice, or otherwise set forth on any release, acknowledgement, confirmation, requisition, work order, shipping instruction, specification and similar document or communication.

16. Registered or Licensed Contractor. The City is prohibited by RCW 39.06.010 from executing an Agreement with a Contractor who is not registered or licensed as required by the laws of the state. In addition, Anacortes Municipal Code requires that every person engaging in business within the city limits of Anacortes register their business with the state and include a City of Anacortes Endorsement. Businesses from outside city limits with a gross annual income of \$2,000 in Anacortes are also required to obtain a city endorsement. Business licenses and city endorsements can be obtained through the State of Washington Department of Revenue (DOR) Business Licensing Service (BLS) at bls.dor.wa.gov.

17. Standard Title VI / Non-Discrimination Assurances. During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest agrees to the clauses in "Appendix A" and "Appendix E" of the Standard Title VI Assurances (USDOT1050.2A), which are hereby incorporated by reference and made a part hereof.

18. Contractor is an Independent Contractor. The parties intend that an independent Contractor relationship will be created by this Agreement. No agent, employee or representative of the Contractor shall be deemed to be an agent, employee or representative of the City for any purpose. Contractor shall be solely responsible for all acts of its agents, employees, representatives and Subcontractors during the performance of this Agreement.

19. No Third-Party Beneficiary Rights. This Agreement is not intended to and shall not be construed to give any Third Party any interest or rights (including, without limitation, any Third-Party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby, except as otherwise expressly provided for in this Agreement.

20. The City's Right to Terminate Agreement.

A. Termination for Default: If the Contractor defaults by failing to perform any of the obligations of the Agreement 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 Contractor in the U.S. mail, postage prepaid, terminate the Agreement, and at the City's option, obtain performance of the work elsewhere. If the Agreement is terminated for default, the Contractor shall not be entitled to receive any further payments under the Agreement until the Scope of Services under this Agreement 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 Contractor. The Contractor 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 Contractor 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 Agreement 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 Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit Agreement prices for completed items of work through the date of termination. If the City exercises its option under this Paragraph, the City shall not be responsible for payment for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the City at any time during the term, whether for default or convenience, shall not constitute a breach of Agreement by the City.

21. Changes/Additional Work. The City may engage Contractor to perform services in addition to those listed in this Agreement, and Contractor 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 Agreement. 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 Contractor to render or the City to pay for services rendered in excess of the Scope of Services unless or until a modification to this Agreement is approved in writing by both parties.

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

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

24. Disputes

A. General: Differences between the Contractor and the City, arising under and by virtue of this Agreement 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 Agreement.

B. Notice of Potential Claims: The Contractor 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 Contractor 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 Contractor 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. Contractor 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 Contractor 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 Contractor 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 Contractor arising out of this Agreement, or any obligation hereunder the dispute shall first be referred to the representatives designated by the City and the Contractor to have oversight over the administration of this Agreement. 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.

25. 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; pandemics; 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 of the impediment and its effect on the ability to perform, with such notice to be provided no more than two (2) working days after the force majeure event or reasonable discovery of the event's impact on performance. 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.

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

27. Compliance with Laws. The Contractor in the performance of this Agreement 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 Agreement to assure quality of services. Contractor will follow all applicable laws and requirements for excavation and disposal of material.

28. Severability. If any term or condition of this Agreement 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 Agreement are declared severable.

29. Survival of Contract Termination. The provisions of the following paragraphs, the provisions of the non collusion affidavit, and the liability of the Contractor for default during the term of the Contract shall survive, notwithstanding the termination or invalidity of this Contract for any reason: Taxes; Warranty; The City's Right to Terminate Contract; Governing Law; Indemnification / Hold Harmless; Disputes.

30. 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:

NC Power Systems
CVA Service Representative
PO Box 88338
Seattle, WA 98138

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Washington State Department of Transportation, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Washington State Department of Transportation to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Washington State Department of Transportation, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Washington State Department of Transportation may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment,

unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Washington State Department of Transportation may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).



City Council Agenda Bill

Meeting Date: July 11, 2022

Agenda Item: 5.e.

Agenda Item Title: Contract Award: WTP Electrical System: Intake Transformer
Purchase #22-133-WTR-006

Staff Contact(s): BRIAN MCDANIEL

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

Item Summary: City staff seeks City Council consent to award a contract in the amount of \$72,701.18 to Maddox Industrial Transformer for the purchase of a transformer for the WTP's Intake Station.

Background:

1. **History:** On April 6, 2022, the Water Treatment Plant Intake transformer experienced a phase to phase fault, resulting in the transformer blowing. Potelco was able to provide a 1000 Kva Wye Wye transformer to get the Intake back up and operational from the west bank. Unfortunately, the original transformer was a Delta Wye which allowed the generators at the WTP to supply power to the Intake station in the event of a power loss. Purchasing a new 2000 Kva Delta Wye transformer will avoid having to run a neutral wire from the WTP substation and across the river to the Intake, which will be required to continue using the Wye Wye transformer and supply power from the generators at the WTP.
2. **Key Terms:**
 - Contract is for a fixed price of \$72,701.18.
 - Ships within 22-24 weeks ARO
3. **Competitive Bidding:** This project was declared an emergency and state competitive bidding requirements were waived pursuant to RCW 39.04.280.

Budget Impact:

Contractor	Maddox Industrial Transformer
Contract Amount	\$72,701.18
BARS #	401.730.534.10.48

Previous Action: At the [May 2, 2022](#) meeting City Council approved [Resolution 3083](#) which declared an emergency and waived state competitive bidding requirements for the repair of the electrical system at the Water Treatment Plant (WTP), pursuant to RCW 39.04.280.

Recommended Motion: I move that City Council authorize the Mayor to sign contract 22-133-WTR-006 with Maddox Industrial Transformer in the amount of \$72,701.18 for the WTP Electrical System: Intake Transformer Purchase.

Alternative Actions: Not approve the contract.

Attachments (listed in order presented):

1. 22-133-WTR-006



Quote To:
City of Anacortes

Ship To:
City of Anacortes
WTP Intake Station
14301 Avon Allen Rd.
Mount Vernon, WA 98273

Pay Terms: Net 30

#	Description	Qty	Price Each	Amount
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1	3-Phase Padmount Transformer	1	66,944.00	66,944.00
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New 2000 kVA 3-Ph Padmount Transformer
High Voltage: 12470 D, 95 kV BIL
Low Voltage: 480 Y 277, 30 kV BIL
HV Taps: 14400, 13800, 13200, 12870, 12470, 12000, 11700
HV Bushings: (6) 200A Wells & Inserts (dead front, loop feed)
LV Bushings: (4) 10-Hole Spades
Fluid: Mineral Oil
Frequency: 60 Hz
Temperature Rise: 65°C
Conductor: Al / Al
Fusing: Bayonet w/ ISO Links
Switch: 4 pos. LBOR T-blade
Features & Accessories
-Drain and sample valve
-Dial-Type Thermometer w/ Contacts
-Liquid Level Gauge w/ Contacts
-Pressure Vacuum Gauge w/ Contacts
-Pressure Relief Valve
-Gray Paint
-UL Listed



Shipping: Free within contiguous US, FOB Desintation Prepaid
Warranty: 3 Years
Lead-time: Ships within 22-24 weeks ARO

Quote Lines		Additional Cost		Total Quote	
Before Tax	66,944.00	Before Tax	0.00	Before Tax	66,944.00
Tax	5,757.18	Tax	0.00	Tax	5,757.18
Total	72,701.18	Total	0.00	Total	72,701.18

Notes:

Pricing is based on the quantities above. Price to be reviewed if partial order is placed.

Price Adjustment Clause: To accommodate potential material cost adjustments, Maddox may reprice the quoted units each (3) months after the order is released. In such price change event, Buyer shall have the option to either accept the price change, or cancel any portion of the order on which the price has changed.

Customer: City of Anacortes

Maddox Industrial Transformer, LLC

Mayor

Date

Date

Subject to prior sale. Payment terms offered on this quote are contingent on an established account in good standing. SALES TAXES, if applicable, may be added unless an exemption certificate is provided with purchase order. Enclosed photos may not represent finished product. Made-to-Order units are not refundable. The Negotiated Terms & Conditions between Maddox Industrial Transformer and the City of Anacortes apply and are attached hereto and incorporated by reference.

It is the buyer's responsibility to verify conformity to any and all customer-provided specifications or bid documents. Exceptions and clarifications provided by MIT are not confirmations of conformity to any written, or verbally communicated specifications.

Negotiated Terms & Conditions

Maddox Industrial Transformer, LLC
865 Victor Hill Rd Greer, SC 29651
1-800-270-2011 maddoxtransformer.com

1. **DEFINITIONS.** As used in these Terms and Conditions (hereinafter, "Terms"), "MIT" means Maddox Industrial Transformer, LLC and its employees, agents, officers, assigns, and representatives. "Customer" means the party purchasing a product directly from MIT. MIT and Customer may be referred to herein individually as "Party" or collectively as the "Parties". "Quote" or "Quoted" refers to only the written quotation document provided by MIT to the Customer.

2. **TERMS OF SALE/RENTAL.** Should Customer offer to purchase and/or rent any equipment, services, or other items (hereafter, "Equipment") from MIT, MIT's acceptance of such is conditioned upon Customer's assent to these Terms. Any term, provision, or condition in conflict with, in addition to, or in modification of these Terms shall not be binding upon MIT unless such is accepted in writing by an authorized officer of MIT. These Terms are not an acceptance of any offer of Customer to purchase and/or rent, and all offers to purchase and/or rent made by Customer must be approved and accepted by MIT. These Terms shall be applicable whether or not they are enclosed with Equipment received by the Customer.

3. **PRICES, PAYMENT TERMS and SECURITY INTEREST.** Unless agreed to in writing by the Parties, prices quoted by MIT are current at the date of Quote and shall be subject to revision. Prices shall expire thirty (30) days from the date of Quote unless MIT receives a valid and complete purchase order before such time. The amount due shall be paid within the time period specified on the Quote. To secure the purchase price of the Equipment purchased by Customer from MIT, and any other amounts due by Customer to MIT, Customer grants and MIT retains a security interest in the Equipment until such time that any amounts due to MIT by Customer are paid in full. MIT reserves the right to file such appropriate UCC financing statements to perfect its security interest in the Equipment.

4. **TITLE AND DELIVERY.** All deliveries shall be FOB destination freight prepaid. If delivered ("destined") to port, to a freight forwarder, whether arranged by MIT or by Customer, the freight forwarder will be defined as a representative of MIT and not of Customer. Risk of loss and title to all Equipment (if paid in full) furnished by MIT shall pass directly to Customer after delivery and acceptance at the Customer's location. All Delivery dates are estimates and under no circumstances does MIT guarantee date of Delivery.

5. **RENTAL.** Should Customer rent Equipment from MIT: Customer shall be liable for the return of the Equipment to MIT's location in the same condition as it was sent, ordinary wear excepted. In the event that any of MIT's Equipment is lost or damaged after the time the Equipment is delivered and accepted at the Customer's location, MIT shall provide Customer with a detailed statement demonstrating damage or loss and allow 15 calendar days for Customer to dispute MIT's assessment. Customer shall pay reasonable cost to repair the Equipment.

6. **CANCELLATION OR REVISIONS.** Customer may terminate for Public Convenience the Agreement, in whole or in part, with 30 days written notice to MIT whenever the Customer determines in its sole discretion that such termination is in the best interests of the Customer. Customer will pay all rental fees and charges due during the 30 day notification period.

7. **WARRANTY.** The only warranty applicable to the Equipment shall be such written warranty provided for on the Quote and set forth on corresponding MIT Warranty document(s). Any warranty provided by MIT with respect to the Equipment shall have no force or effect unless and until full payment for such Equipment has been received by MIT.

8. **INDEMNITY AND RELEASE.** Customer agrees to indemnify MIT and hold it harmless from any and all claims and expenses, including attorney's fees and costs, arising out of Customer's sole negligence.

- continues -

9. **FORCE MAJEURE.** MIT shall not be liable for failures in performance due to acts beyond its control, including, but not limited to, acts of God, embargo, stoppage of labor, failure to secure materials or labor from usual sources of supply, riots, acts of war, fire, and acts of governmental or military authorities.

10. **MEDIATION, ATTORNEY'S FEES, and GOVERNING LAW.** In the event of any dispute with respect to these Terms or performance of the Parties hereunder which cannot be reasonably settled by the Parties, MIT and Customer agree to submit the dispute to mediation prior to initiating any litigation. The site of mediation shall be Greenville, South Carolina, unless another site is mutually agreed to between both parties. If any action or proceeding shall be commenced to enforce these Terms, or any right arising in connection with these Terms, the prevailing Party shall be entitled to recover from the other Party, reasonable attorneys' fees, costs, and expenses incurred. The Parties agree that the Terms are to be governed and construed in accordance with the laws of the state of South Carolina, and Customer agrees to submit to the jurisdiction of South Carolina courts in connection with the contractual relationship embodied in these Terms.

11. **SEVERABILITY, NO-ASSIGNMENT, NON-WAIVER, and ENTIRE AGREEMENT.** Every provision of these Terms is intended to be severable. If any term or provision is illegal, invalid, or unenforceable, such shall not affect the remainder. In lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically, as part of these Terms, provisions similar in terms as necessary to render such provision legal, valid, and enforceable. MIT's failure to enforce any or all of these Terms shall not constitute a waiver of its rights with respect to the same or any subsequent breach. Customer agrees not to assign or otherwise transfer its rights or obligations under these Terms without written consent of MIT. These Terms state the entire agreement between the Parties, are binding and controlling, and supersedes all prior proposals and understandings, whether oral or written and all other prior communications between the Parties relating to the subject matter of these Terms.



City Council Agenda Bill

Meeting Date: July 11, 2022

Agenda Item: 5.f.

Agenda Item Title: Interlocal Agreement #22-180-PRK-001 with City of Marysville for Outdoor Video Services

Staff Contact(s): JONN LUNSFORD

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

Item Summary: City staff seeks City Council consent to enter into an interlocal agreement with the City of Marysville to provide outdoor video services on 9/2/22. Marysville will provide the video and audio equipment including movie screen, personnel and vehicles to transport the equipment to Anacortes, as well as operate the video equipment, in exchange for \$750.00. The funds for this service will come out of the Outdoor Movie Fund account with the Parks Foundation.

Background: For several years now Anacortes has partnered with Marysville to provide an outdoor movie screen, projector, sound system and staff to put on our outdoor movie.

Key Terms:

- The City of Anacortes will pay the City of Marysville \$750.00 with funds from the Parks Foundation.
- Movie is scheduled to take place on 9/2/22.

Budget Impact:

Funds will be provided by the Parks Foundation.

Previous Action: N/A

Recommended Motion: I move that City Council authorize the Mayor to execute the Interlocal Cooperation Agreement 22-180-PRK-001 between the City of Anacortes and the City of Marysville.

Alternative Actions: Not approve the interlocal.

Attachments (listed in order presented):

1. 22-180-PRK-001

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF ANACORTES
AND THE CITY OF MARYSVILLE
FOR OUTDOOR VIDEO SERVICES**

This Interlocal Agreement effective _____, between the City of Anacortes, a Washington municipal corporation, herein after referred to as “ANACORTES” and the City of Marysville, a Washington municipal corporation, herein after referred to as “MARYSVILLE”, pursuant to the authority granted by Chapter 39.34 RCW.

WHEREAS, the City of ANACORTES is the organizer/host jurisdiction of outdoor movie presentations which shall be selected, provided and licensed by City of ANACORTES and presented on September 2, 2022; and

WHEREAS, the City of ANACORTES is the owner of the property where the movie will be shown to the community for free; and

WHEREAS, the City of MARYSVILLE has sufficient OUTDOOR VIDEO equipment, staff and vehicles to provide OUTDOOR VIDEO SERVICES for public events within the City of Marysville and for other Cities as well; and

WHEREAS, the City of ANACORTES desires to utilize the City of MARYSVILLE’S OUTDOOR VIDEO SERVICES; and

WHEREAS, this Agreement between Parties is made pursuant to Chapter 39.34 RCW, the Interlocal Cooperation Act, for the City of MARYSVILLE to provide OUTDOOR VIDEO SERVICES to the City of ANACORTES to exercise their powers jointly and thereby maximize their abilities to provide services and facilities that will best fulfill common needs and achieve common goals.

NOW, THEREFORE, in consideration of the terms and conditions contained herein, ANACORTES and MARYSVILLE agree as follows:

1. SCOPE OF SERVICES

- A. MARYSVILLE agrees to provide OUTDOOR VIDEO SERVICES to ANACORTES as defined in this Agreement. MARYSVILLE’S performance of said services under this Agreement may be limited by the availability of MARYSVILLE’S personnel and equipment. MARYSVILLE will notify the City of ANACORTES at least 48 hours before the event if it is not able to provide personnel and/or equipment.

- 1. MARYSVILLE will provide OUTDOOR VIDEO SERVICES to ANACORTES.

- 2. MARYSVILLE will provide the video and audio equipment including movie screen, personnel and vehicles to transport the equipment and personnel to ANACORTES. MARYSVILLE personnel will operate the video equipment and

vehicles.

- B. ANACORTES will provide the following:
 - 1. An authorized location.
 - 2. Two (2) 20 amp circuits for event power.
 - 3. Other services/personnel.
- C. The date for video services (FILM) will be:
 - 1. Friday, September 2nd, 2022
- E. It is understood and agreed by all parties that MARYSVILLE staff providing services pursuant to this Agreement are acting in their official capacity as employees of MARYSVILLE and shall be under the exclusive direction and control of MARYSVILLE.

It is understood and agreed by all parties that ANACORTES staff providing services pursuant to this Agreement are acting in their official capacity as employees of ANACORTES and shall be under the exclusive direction and control of ANACORTES.
- F. ANACORTES and MARYSVILLE agree to cooperate with all terms and conditions of this Agreement, and shall furnish any information, or other material available to it as may be required in the course of the performance of this Agreement.
- G. ANACORTES, by this Agreement, and to the extent contained herein, delegates on an as needed, as requested basis to MARYSVILLE the authority to perform on ANACORTES' behalf those services as provided in this Agreement.

2. COMPENSATION/FEES

- A. ANACORTES will pay MARYSVILLE per performance for the use of the employees, equipment and vehicles in the amount of \$750.00 per date.
- B. ANACORTES will pay MARYSVILLE 25% of the event fee in the event ANACORTES cancels an event with less than 12 hours phone notice to MARYSVILLE as provided in Section 8 (C) (2) of this Agreement.
- C. MARYSVILLE shall bill ANACORTES and ANACORTES shall pay MARYSVILLE within thirty (30) days receipt of the bill.

3. AMENDMENTS/MODIFICATION

Provisions within this Agreement may be amended with the mutual consent of the parties hereto. No additions to, or alterations of, the terms of this Agreement shall be valid unless made in writing, formally approved and executed in the same manner as this Agreement.

4. INDEMNIFICATION AND LIABILITY

A. Indemnification:

1. ANACORTES will at all times indemnify and hold harmless and defend MARYSVILLE, their elected officials, officers, employees, agents and representatives, from and against any and all lawsuits, damages, costs, charges, expenses, judgments and liabilities, including attorney's fees (including attorney's fees in establishing indemnification), collectively referred to herein as "losses" resulting from, arising out of, or related to one or more claims arising out of negligent acts, errors, or omissions of ANACORTES in performance under this agreement.
2. MARYSVILLE will at all times indemnify and hold harmless and defend ANACORTES, their elected officials, officers, employees, agents and representatives, from and against any and all lawsuits, damages, costs, charges, expenses, judgments and liabilities, including attorney's fees (including attorney's fees in establishing indemnification), collectively referred to herein as "losses" resulting from, arising out of, or related to one or more claims arising out of negligent acts, errors, or omissions of MARYSVILLE in performance under this agreement.
3. The term "claims" as used herein shall mean all claims, lawsuits, causes of action, and other legal actions and proceedings of whatsoever nature, involving bodily or personal injury or death of any person or damage to any property including, but not limited to, persons employed by MARYSVILLE, ANACORTES, or other person and all property owned or claimed by MARYSVILLE, ANACORTES, or affiliate of thereof, or any other person; except for those losses or claims for damages solely caused by the negligence or willful misconduct of MARYSVILLE or ANACORTES, their elected and appointed officials, officers, employees or agents.

B. NOTHING HEREIN SHALL REQUIRE OR BE INTERPRETED TO:

1. Waive any defense arising out of RCW Title 51
2. Limit or restrict the ability of any City or employee or legal counsel for any City or employee to exercise any right, defense or remedy which a party to a lawsuit may have with respect to claims or third parties, including, but not limited to, any good faith attempts to seek dismissal or legal claims against a party by any proper means allowed under the civil rules in either state or federal court.
3. Cover or require indemnification or payment of any judgment against any

individual or Party for intentional or wrongful conduct outside the scope of employment of any individual or for any judgment for punitive damages against any individual or city. Payment of punitive damage awards, fines or sanctions shall be the sole responsibility of the individual against whom said judgment is rendered and/or his or her municipal employer, should that employer elect to make said payment voluntarily. This agreement does not require indemnification of any punitive damage awards or for any order imposing fines or sanctions.

C. The provisions of this section shall survive the expiration or termination of the Agreement.

5. INSURANCE

- A. Both parties to this Agreement shall maintain public liability insurance either through the Washington Cities Insurance Authority (WCIA) or through an equivalent combination of self-insurance and appropriate insurance coverage and shall maintain their membership in WCIA or their insurance policies throughout the term of this Agreement.
- B. Such insurance shall not be reduced or canceled without forty-five (45) days written notice from the other party. Reduction or cancellation of the insurance shall render this Agreement void.
- C. Upon request by one party to the other, the party receiving such request shall provide to the party making such request proof of insurance coverage or membership in WCIA verifying that party is a covered member in good standing.

6. INDEPENDENT CONTRACTOR

- A. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between ANACORTES and MARYSVILLE or any of ANACORTES' or MARYSVILLE's agents or employees.

ANACORTES shall retain all authority for rendition of services, standards of performance, control of personnel, and other matters incident to the performance of services by ANACORTES pursuant to this Agreement.

MARYSVILLE shall retain all authority for rendition of services, standards of performance, control of personnel, and other matters incident to the performance of services by MARYSVILLE pursuant to this Agreement.

- B. Nothing in this Agreement shall make any employee of ANACORTES a MARYSVILLE employee for any purpose, including, but not limited to, withholding of taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded ANACORTES or employees by virtue of their employment.

Nothing in this Agreement shall make any employee of MARYSVILLE an

ANACORTES employee for any purpose, including, but not limited to, withholding of taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded MARYSVILLE employees by virtue of their employment.

7. LEGAL RELATIONS

- A. The prevailing Party in any action to enforce any provision of this Agreement or to redress any breach hereof shall be entitled to recover from the other party its costs and reasonable attorney's fees incurred in such action.
- B. The Parties shall comply with all federal, state and local laws and ordinances applicable to work to be done under this agreement. This Agreement shall be interpreted and construed in accordance with the laws of Washington. Venue for any action commenced relating to the interpretation, breach or enforcement of this agreement shall be in Snohomish County Superior Court.
- C. The parties agree that, following reasonable attempts at negotiation and compromise, any unresolved dispute arising under this contract may be resolved by a mutually agreed upon alternative dispute resolution of arbitration or mediation.

8. DURATION/TERMINATION/NOTICE/EMERGENCY NOTICE

- A. This Agreement will become effective on the date of affixing the last signature hereto and shall remain in effect for a period of six months, subject to renewal.
- B. Either party may terminate this Agreement, for any reason, upon providing thirty (30) days written notice to the other party, in which case each City shall pay the other City for all services provided up to and including the date of termination.
- C. Notices

- 1. Required notices, with the exception of legal process, shall be given in writing to the following respective addresses:

City of MARYSVILLE:
6915 Armar Road
Marysville, WA 98270

City of ANACORTES:
904 Sixth Street
Anacortes, WA 98221

- 2. Event Cancellation Notice via Phone/Emergency Contact:

The below named individuals are designated as the representatives of the respective parties. The representatives shall be responsible for administration of this Agreement.

In the event a representative is changed, the party making the change shall notify the

other party.

MARYSVILLE:

Name: Chris Taylor, Cultural Arts Supervisor

Phone Number: 360-363-8408, ctaylor@marysvillewa.gov

ANACORTES:

Name: Travis Anderson, Recreation Coordinator

Phone Number: 360-299-1969, Travisa@cityofanacortes.org

- D. Termination shall not affect the rights and obligations of the parties under Sections 4, 5, 6 and 11 of this Agreement.

9. WAIVER

No term or provision herein shall be waived and no breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented.

10. ENTIRE AGREEMENT

This Agreement, including any exhibits and documents referenced herein, constitutes the entire agreement between the parties, and supersedes all proposals, oral or written, between the parties regarding plan review and inspection services.

11. PRIVILEGES AND IMMUNITIES

All privileges and immunities from liability, exemption from ordinances, rules, laws, all pension, disability, workers compensation and other benefits which apply to the activities of MARYSVILLE employees while performing their functions within the territorial limits of MARYSVILLE shall apply to them to the same degree and extent while they are engaged in the performance of any of their authorized functions and duties within ANACORTES under the provisions of this Agreement.

12. THIRD PARTY BENEFICIARY STATUS

The parties agree that this Agreement shall not confer third-party beneficiary status on any non-party to this Agreement.

13. SEVERABILITY

If any provision of this Agreement or its application to any person or circumstance is held invalid, the remainder of the provision and/or the application of the provisions to other persons or circumstances shall not be affected.

14. APPROVAL AND FILING

APPROVAL AND FILING. Each party shall approve this Agreement pursuant to the laws of the governing body of said party. The attested signature of the officials identified below shall constitute a presumption that such approval was properly obtained. A copy of this Agreement shall be filed with the Snohomish County Auditor's office pursuant to RCW 39.34.040.

(REMAINDER OF PAGE LEFT INTENTIONALLY BLANK)

IN WITNESS WHEREOF, the parties have signed this Agreement, effective on the date indicated on page 1.

CITY OF MARYSVILLE

JON NEHRING Mayor

Date:_____, 2022

Attest:

GENEVIEVE GEDDIS Deputy City Clerk

Approved as to form:

JON WALKER City Attorney
Attorney for the City of MARYSVILLE

CITY OF ANACORTES

MATT MILLER Mayor

Date:_____, 2022

Attest:

STEVEN D. HOGLUND City Clerk

Approved as to form:

DARCY SWETNAM City Attorney
Attorney for City of ANACORTES



City Council Agenda Bill

Meeting Date: July 11, 2022

Agenda Item: 7.a.

Agenda Item Title: Ordinance 4016: Floodplain Management Code Amendments AMC Chapter 19.74

Staff Contact(s): DON MEASAMER

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

DON MEASAMER

Discussion

LIBBY GRAGE

Item Summary: Previously titled Frequently Flooded Areas under AMC 17.17.020 was first established approximately 1994 and updated with minor changes in 2005 and 2008 and established by the Flood Insurance Study for Anacortes dated March 17, 2003 with accompanying Flood Insurance rate Maps (FIRM) and has not been updated since. In early 2021, the City was contacted by David Radabaugh, National Flood Insurance Program (NFIP) Coordinator, Department of Ecology, regarding updates to the Cities' Flood Management Regulations. Mr. Radabaugh reviewed the existing code sections and provided several updates to ensure consistency with current FEMA and NFIP guidelines.

The Planning Commission reviewed the materials, which included a Sea Level Rise Report, completed by Coastal Geologic Services, and Draft Ordinance 4016 and strike through and underline version of the proposed amendments. The Planning Commission held Public Hearings on August 25, 2021, October 27, 2021, and March 9, 2022 recommending approval of the Amendments including a minimum of Two Foot above base flood elevation to account for Sea Level Rise.

Attachment A Version 2A indicates one foot above base flood elevation and Attachment A Version 2B indicates two feet above base flood elevation.

The Planning Commission also reviewed the Port Townsend Flood Damage Prevention code that requires a minimum of two feet above base Flood Elevation for residential and non-residential construction, Section 16.08.170 A-1 and B-1a, page 15 and 16.

A few changes required by Mr. Radabaugh are:

1. Changes to definitions, such as, Floodplain, Flood Elevation Study, Highest Adjacent grade, New Construction and Substantial Improvement.

2. Clarify Variance review criteria.
3. Specific standards for Residential construction and Non-residential Construction.
4. Address Appurtenant Structures (Detached Garages and Small Storage Structures)

Budget Impact:

NA

Previous Action: Planning Commission Recommendation of Approval with modification of two feet above base flood elevation instead of one foot.

Recommended Motion: I move to approve Ordinance 4016 as presented.

Alternative Actions: Revise ordinance as needed

Attachments (listed in order presented):

1. Coastal Geologic Services SLR Report
2. Planning Commission Motion
3. Ordinance 4016 Floodplain Management Chapter 19.74
4. Port Townsend Flood Damage Code
5. FLOODPLAIN MANAGEMENT VERSION 2 A
6. FLOODPLAIN MANAGEMENT VERSION 2 B
7. Floodplain Management Code Amendments PowerPoint

memorandum

Date: October 19, 2021

To: City of Anacortes Planning, Community & Economic Development Department,
Don Measamer, Director

From: Coastal Geologic Services, Inc.

Re: **City of Anacortes Critical Areas Ordinance Update: Frequently Flooded Areas – DRAFT Update**

Introduction and Purpose

Coastal Geologic Services, Inc. (CGS) was recently contracted by the City of Anacortes to update the City of Anacortes Critical Areas Ordinance Update: Frequently Flooded Areas technical memo written by CGS for the City of Anacortes in January 2017. The original memo was to assist with updating Article II of The City's Critical Areas Ordinance (Anacortes Municipal Code Chapter 19.70, formally 17.70) — Frequently Flooded Areas and included considerations related to sea level rise (SLR). For this update, specifically, CGS has updated the 2017 technical memo using current, best available science for projected SLR rates for the years 2050 and 2100, vertical land motion for the City, other anticipated effects of climate change other than SLR, updated the *Effects of Sea Level Rise* section of the memo and updated COA regulations within this document¹. This update does not constitute a complete rewrite of the previous memo.

Sea level rise (SLR) is difficult to incorporate into planning documents because of the wide range of projections and the long-term time frame. While planning for the short term may involve more time-intensive updates, costly damage to infrastructure may incur if proper preventative measures are not taken. The City of Anacortes Critical Areas Ordinance (CAO) does not currently address specific levels of projected sea level rise. By incorporating SLR into official planning code, Anacortes is taking important steps toward preparing for the effects of climate change on their frequently flooded areas and creating a safer and more resilient community and environment.

Review of Current CAO

Washington State enacted the Growth Management Act in 1990 requiring each city and county to identify and protect five Critical Areas within their jurisdiction. One of the five critical areas is Frequently Flooded Areas and is characterized as areas within the floodplain that are subject to flooding due to high groundwater, high tides, strong winds, sea level rise and extreme weather events.

Sea level rise is of primary importance for City planning because much of the local floodplain within City limits lies within the coastal zone. A recent ordinance, codified on August 2021, was added to the CAO and includes brief mentions of sea level rise in Chapter 19.70, Article VI Frequently Flooded Areas (FFA). This inclusion states that Washington's coastal areas are impacted by climate change and implores

¹ https://anacortes.municipal.codes/AMC/19_Div7

people seeking development or permit approval within the vicinity of the marine shorelines to become versed with sea level rise and climate change.

This memo briefly examines the significance of floodplains but does not discuss these factors at length because as the Anacortes Shoreline Master Program (SMP) also addresses these issues where floodplains and coastal zones overlap.

Sea Level Rise Best Available Science

Flooding in the City of Anacortes occurs primarily within the coastal zone, which is at the forefront of SLR planning. To understand how these areas could change in the future, it is imperative to consider the most up-to-date research on SLR projections for the region. Below is a review of the best available science from a global, regional, and local perspective.

Global

The Intergovernmental Panel on Climate Change (IPCC) argues that global sea level rose at an increasing rate during the past century, and that this trend will continue over the next century. The IPCC has determined that it is very likely that sea level rose at a rate of 0.67 inches/decade between 1901 and 2010. Observed rates from 1971–2010 and 1993–2010 are roughly 0.79 and 1.26 inches/decade (respectively), whereas predicted rates for high emissions scenarios are between 3.15 to 6.23 inches/decade for 2081–2100 (IPCC, 2014). In the 2007 Synthesis Report, the IPCC projected sea level to rise 7–15 inches for their lowest CO₂ emissions scenario and to rise 10–23 inches for their highest emissions scenario by the end of the 21st century (IPCC, 2007). Their 2014 report projects a low estimate of 10–22 inches and a high estimate of 18–32 inches by 2081–2100 (IPCC, 2014).

In the 2014 IPCC Fifth Assessment Report, all climate predictions were based on four emissions scenarios:

1. **RCP2.6** predicts CO₂ concentrations between 430 and 580 ppm by 2100, and incorporates strict policies that significantly cut emissions by as much as 70% by 2050
2. **RCP 4.5** predicts more moderate CO₂ levels between 580 to 720 ppm by 2100
3. **RCP 6.0** predicts a higher moderate concentration of 720 to 1,000 ppm by 2100
4. **RCP 8.5** predicts the highest concentrations of CO₂ at over 1,000 ppm by 2100

The current baseline, with no additional measures to cut emissions or reduce impacts, lies between RCPs 6.0 and 8.5 (IPCC, 2014). All four scenarios are plausible by 2100 but largely depend on critical policy decisions over coming decades.

Another study by the Columbia University Earth Institute and others (Hansen et al., 2016), paints a different picture than the ICPP 2014 report. This report states that if emissions continue to grow, multi-meter sea level rise would become “practically unavoidable, probably within 50-100 years.” They found that sea levels 130,000 years ago were +6-9 m higher than current conditions when temperatures were no more than a few tenths of a degree warmer than today.

The most recent IPCC report, the 2021 IPCC Sixth Assessment Report, is approved but still not approved for citation, quotation or distribution as it is still subject to final edits (IPCC et al., 2021a). However, the Summary for Policymakers for this report is available to cite (IPCC et al., 2021b). This summary indicates that global mean sea level increased by 0.2 m (7.9 inches) between 1901 and 2018 and that the average

rate of sea level rise was 1.3 mm/YR (0.05 IN/YR) between 1901 and 1971, increasing to 1.9 mm/YR between 1971 and 2006, and further increasing to 2.7 mm/YR (0.1 IN/YR) between 2006 and 2018 with high confidence. Figure 1 shows the global mean sea level in meters relative to 1900 from the 2021 Summary for Policymakers. Ranges that are “likely” are shown for SSP1-2.6 and SSP3-7.0, with “likely” defined as a 66-100% chance. The dashed line for SSP5 8.5 indicates the potential impacts of “deeply uncertain processes” that constitute a low-likelihood, high-impact ice sheet processes that cannot be ruled out.

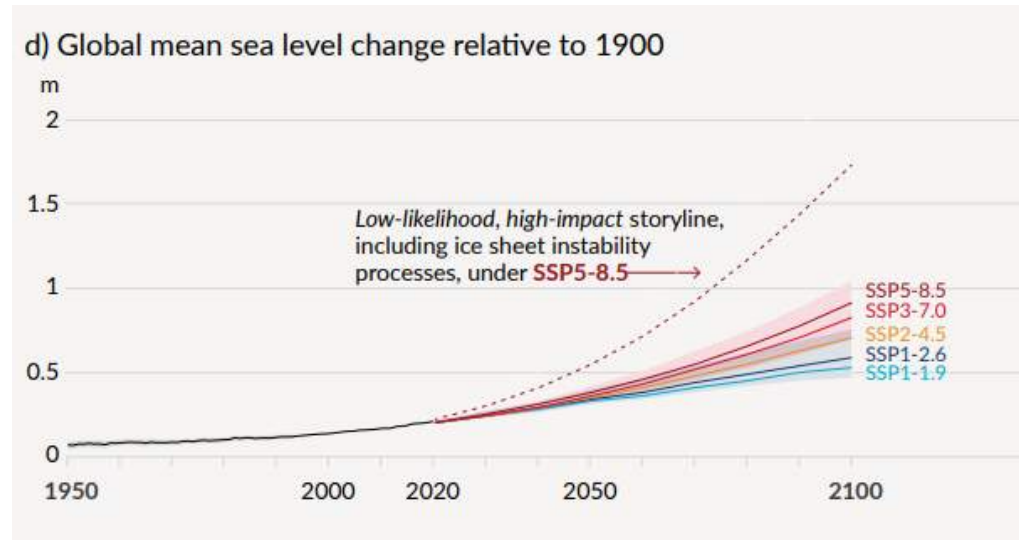


Figure 1. Global mean sea level change in meters relative to 1900 from the 2021 IPCC Sixth Assessment Report Summary for Policy Makers (IPCC et al., 2021b).

The 2007 Fourth Assessment Report did not include certain future effects of ice sheet melting in their projections of sea level rise (SLR) because there was not enough information or understanding of ice sheet dynamics to maintain an acceptable level of confidence (IPCC, 2007, Table SPM.1). The 2014 Fifth Assessment Report incorporated these potential impacts with low confidence levels, but there was still a significant amount of uncertainty, explaining the wide range for each SLR scenario.

There is a huge amount of variability in SLR projections from many regions, but the 2021 Summary for Policy Makers states that “it is virtually certain that global mean sea level will continue to rise over the 21st century” and gives these figures relative to 1995-2014 as likely global mean sea level rise by 2100:

- ◆ 0.28-0.55 m (11.0 – 21.65 IN) under the very low greenhouse gas (GHG) emissions scenario (SSP1-1.9)
- ◆ 0.32-0.62 m (12.6 – 24.4 IN) under the low GHG emissions scenario (SSP1-2.6)
- ◆ 0.44-0.76 m (17.3 – 29.9 IN) under the intermediate GHG emissions scenario (SSP2-4.5)
- ◆ 0.63-1.01 m (24.8 – 39.8 IN) under the very high GHG emissions scenario (SSP5-8.5)

And by 2150:

- ◆ 0.37-0.86 m (14.6 – 33.9 IN) under the very low scenario (SSP1-1.9)
- ◆ 0.46- 0.99 m (18.1 – 39.0 IN) under the low scenario (SSP1-2.6)
- ◆ 0.66-1.33 m (26.0 – 52.4 IN) under the intermediate scenario (SSP2-4.5)
- ◆ 0.98-1.88 m (38.6 – 74.0 IN) under the very high scenario (SSP5-8.5) (medium confidence).

They also note that “global mean sea level rise above the likely range – approaching 2 m (6.6 FT) by 2100 and 5 m (16.4 FT) by 2150 under a very high GHG emissions scenario (SSP5-8.5) (low confidence) – cannot be ruled out due to deep uncertainty in ice sheet processes” (IPCC et al., 2021b).

Given the large amount of variation attributed to ocean circulation and atmospheric circulation (e.g., El Niño Southern Oscillation (ENSO) and Pacific Decadal Oscillation (PDO)), many regions may differ from the global mean in terms of SLR — the Eastern Pacific has been largely at or below the rates of global mean sea level rise since 1993, while projections for the Western Pacific have been significantly higher, sometimes by a factor of three (IPCC, 2014), section 1.1.4). A “medium” estimate presented by Mote et al. (2008) was that these global SLR estimates will be generally consistent with those expected in Puget Sound during this century.

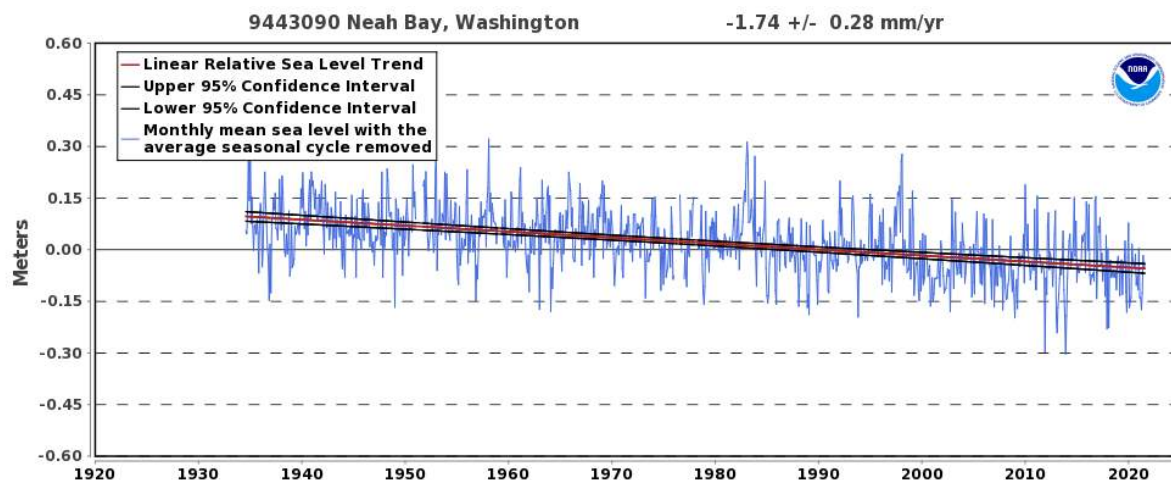
Puget Sound and the Pacific Northwest

Sea level rise estimates for Puget Sound are influenced by a variety of factors, primarily: thermal expansion of the world’s oceans, rapid melting of ice-caps and glaciers, local atmospheric impacts such as wind, and local vertical land motion due to plate tectonics (Mote et al., 2008). If sea level rise continues at a constant rate, an extrapolation of tidal gauge records from 1899–2015 would project 6.6 inches of SLR by 2100

(https://tidesandcurrents.noaa.gov/sltrends/sltrends_station.shtml?stnid=9447130), which does not include any acceleration of local SLR.

Sea level rise effects can vary considerably within Puget Sound due to vertical land motion (VLM). Studies show that Neah Bay is being uplifted as the Juan de Fuca Plate subducts under the North American Plate along the Cascadia Subduction Zone, literally pushing the western Olympic Peninsula upwards (National Research Council, 2012). Uplift is happening at over 0.79 inches/decade — faster than SLR — in Neah Bay. Therefore, relative SLR projections at Neah Bay are negative (Mazzotti et al., 2008). By contrast, Olympia is subsiding, causing sea level rise to have a greater local effect. the City of Olympia is currently planning for 50 inches of sea level rise by 2100. The City of Olympia completed a Sea Level Response Plan that in 2019 ([SLR Plan Exec Summary.pdf \(revize.com\)](#)).

SLR trend data through 2020 is presented in Figure 2 for these 2 stations.



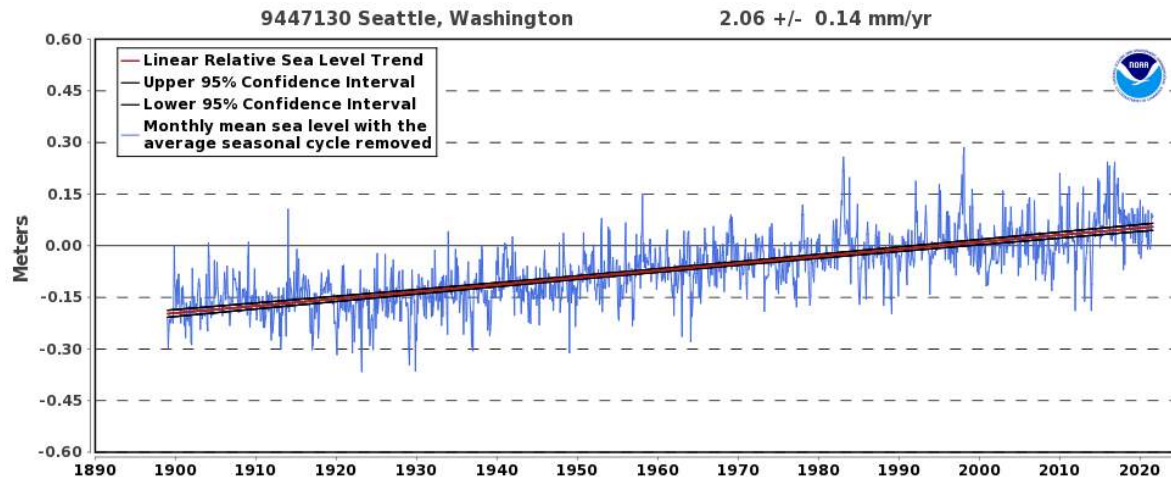


Figure 2. Mean Sea Level (MSL) trend for Neah Bay (top image) and Seattle (bottom image). Neah Bay is experiencing falling sea levels due to the local impact of vertical land motion, whereas in Seattle, relative sea level is rising (NOAA CO-OPS Tides and Currents: <https://www.tidesandcurrents.noaa.gov/sltrends/sltrends.html>).

In 2018, the Washington Coastal Resilience Network (WCRN) published localized SLR projects in a probabilistic framework for Washington State (Miller et al., 2018). This report provided an updated set of absolute and relative sea level rise projects, out to 2150, at 171 locations across Washington State. Changes in absolute sea level are relative to a “geocentric” reference frame or the center of the earth rather than the elevation of the land surface. Combining absolute sea level change with estimates of vertical land motion (uplift and subsidence) quantifies changes in relative sea level, which is more applicable to community planning as the relative change is what will determine the impacts to land.

These projections incorporated the latest sea level rise science drawing from more recent comprehensive assessment of global and regional sea level rise (Kopp et al., 2014) and recent research indicating the potential for higher SLR in the 21st century. These projections are also spatially variable account for vertical land movement and are probabilistic. The probabilistic approach means that all projections are in terms of probability of exceedance, or the likelihood that SLR will meet or exceed a particular elevation relative to contemporary sea level.

The WCRN projections were developed based on a low (RCP 4.5) and a high (RCP 8.5) greenhouse gas scenario, as shown in Figure 3.

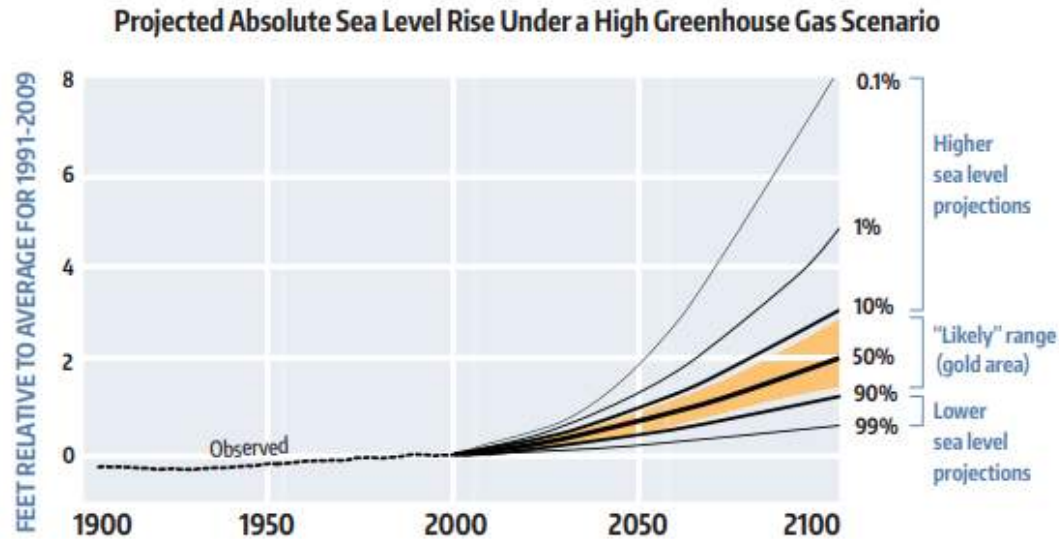


Figure 3. Absolute Sea level rise projections (Figure 2; Miller et al. 2018).

Comparing these projections for 2100, the central estimate of the 2018 projections is lower than the central estimate from the last regional report on sea level rise, 1.6 – 2.0 FT compared to 2.3 FT (National Research Council, 2012). However, the high end (1% probability of exceedance) from the 2018 WCRN report is higher than the 2012 National Research Council, 7.2 – 8.3 FT compared to 4.5 FT.

Anacortes

Skagit County is predicted to experience a similar SLR to the global and regional estimates discussed above, but local impacts may vary. It is helpful to visualize, using data from the NOAA Sea Level Rise Visualization Tool (<https://coast.noaa.gov/slr/>), how national predictions will impact the City of Anacortes (Figures 3 and 4). It is important to note that this tool is helpful for initial visualization but may not depict how SLR will manifest in this area.

The Geological Survey of Canada used the CAS3D-2 model to predict that Anacortes is experiencing a VLM subsidence rate of -0.34 inches/decade (National Research Council, 2012), with negative values representing subsidence. The VLM reported for Anacortes from the newer, 2018 WCRN report is -0.1 +/- 0.3 FT/century or -0.12 inches/decade (Miller et al., 2018). According to a study by Verdonck (2006), Anacortes is situated roughly between the boundaries of an uplift zone and subsidence zone in Puget Sound, explaining the small rate of vertical land motion.



Figure 3. Low-lying areas currently subject to shallow coastal flooding. The wastewater treatment plant is in a particularly vulnerable area. Note: data are based on local tidal height thresholds from a three year average between 2007 and 2009; current conditions may be different for specific areas (NOAA, 2016).

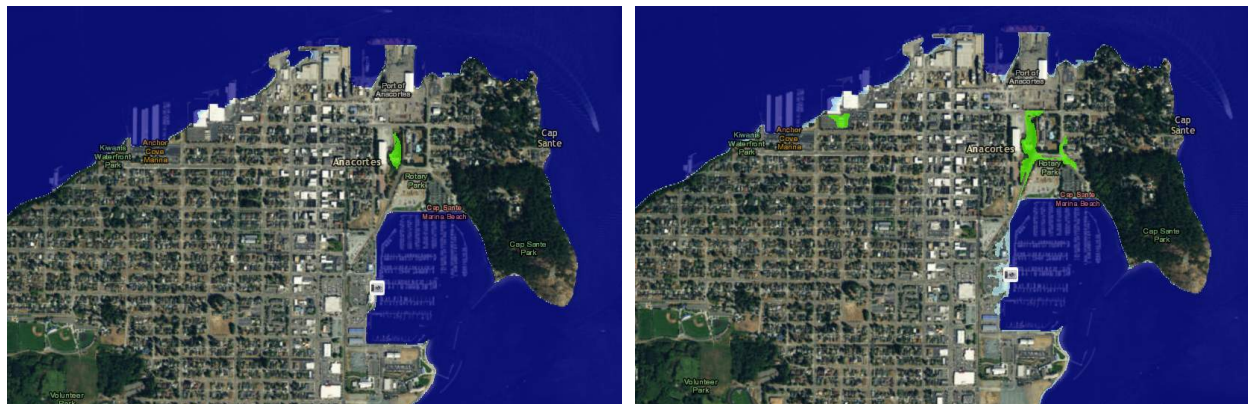


Figure 4. A simulation for downtown Anacortes based on higher sea level rise projections for Puget Sound in the Mote et al. (2008) study: Left panel shows the relative land elevation conditions (green=hydrologically unconnected low-lying areas where water may collect) if sea level rose 2 FT; right panel shows the relative land elevation conditions if sea level rose 4 FT, with much of the port, marina and the wastewater treatment plant in low-lying areas at risk for inundation (light blue=extent of actual inundation). There is not 100% confidence in the mapping techniques or the exact extent of flooding, and the maps do not consider habitat migration or stormwater infrastructure. Simulation from NOAA's Sea Level Rise Visualization Tool.

For this updated analysis, we assessed two scenarios from the 2018 WCRN study based on high greenhouse gas emissions scenario RCP 8.5 for 2050 and 2100. We assessed the 50% and 1% probability of exceedance, or the percent chance that absolute sea level will rise by at least that amount.

We also opted to calculate the inundation during a current extreme coastal water level event for Anacortes and settled on the use of the 20-yr return frequency still water level of 2.9 FT as calculated in Miller et al., 2019 on top of the local mean higher high water (MHHW; Figures 5 and 6).

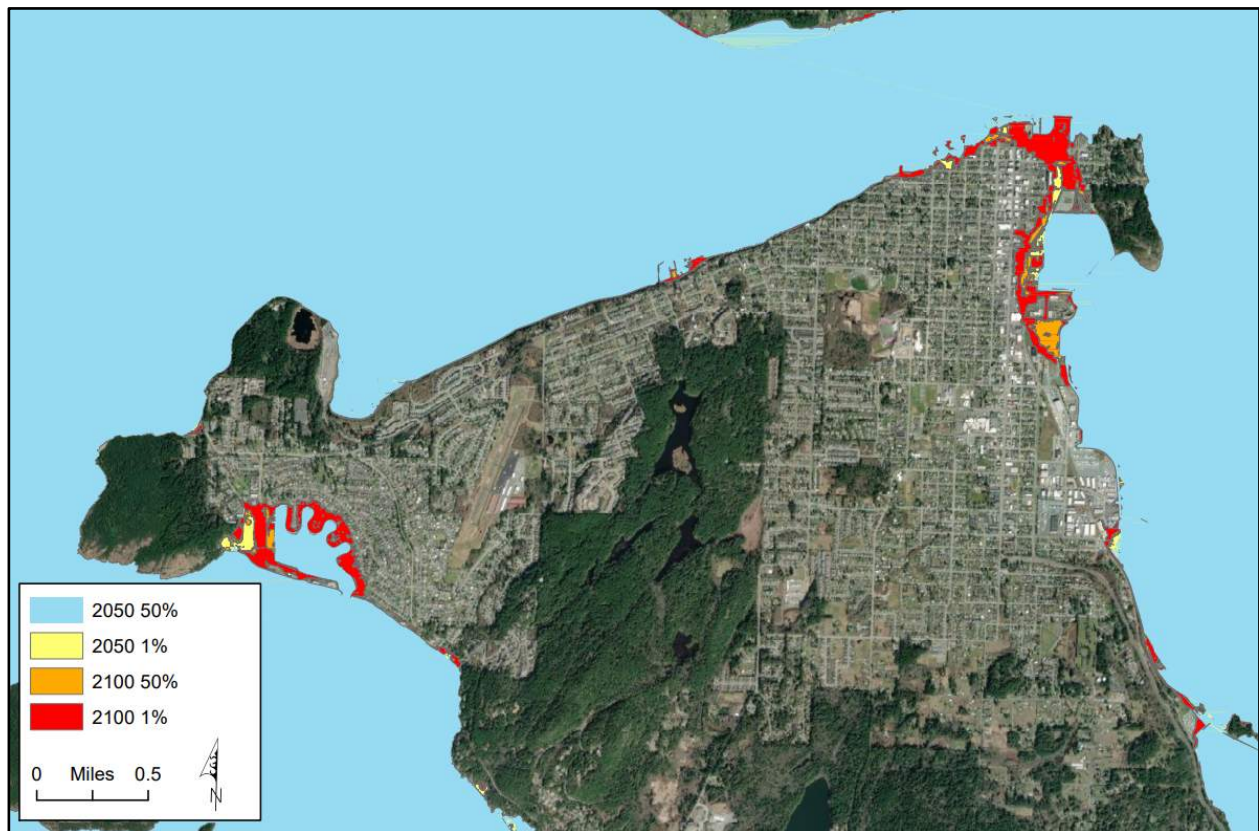


Figure 5. Modeled inundation for the City of Anacortes area for extreme water levels for 2050 and 2100 for low (50%) and high (1%) exceedance probability scenarios. Extreme water levels here are defined as mean higher high water plus the 20-year storm surge (2.9 FT; (Miller et al., 2019), plus localized relative sea level rise projections (Table 1; (Miller et al., 2018)).

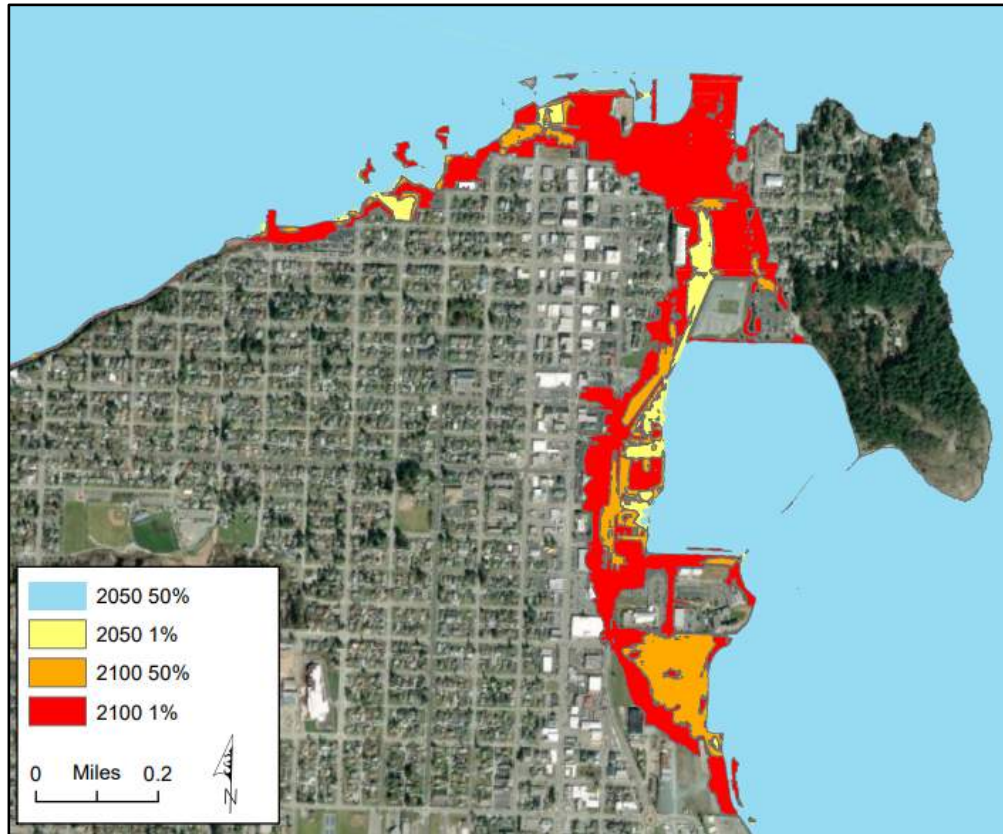


Figure 6. Modeled inundation for the Anacortes downtown area for extreme water levels for 2050 and 2100 for low (50%) and high (1%) exceedance probability scenarios. Extreme water levels here are defined as mean higher high water plus the 20-year storm surge (2.9 FT; (Miller et al., 2019), plus localized relative sea level rise projections (Table 1; Miller et al., 2018).

Table 1. Summary of global and regional sea level rise estimates for 2050 and 2100. Values are in inches.

Region	Source	Scenario	2050	2100
Anacortes	Miller et al. 2018	Medium (RCP 8.5) 50% Exceedance	8.4	25.2
		High (RCP 8.5) 1% exceedance	16.8	58.8
Global	Rahmstorf 2007	-	-	20–55*
Global	IPCC 2007	Low (B1 scenario)	-	7–15
		Med (A1B scenario)	-	8.3–18.9
		High (A1FI scenario)	-	10.2–23.2
Global	IPCC 2014	Low (RCP2.6 scenario)	6.6–12.6	10.2–21.6
		High (RCP8.5 scenario)	8.7–15	17.7–32.3
Global	IPCC 2021	Low (SSP1-2.6)	-	12.6–24.4**
		Intermediate (SSP2-4.5)	-	17.3–29.9**
		Very High (SSP5-8.5)	-	24.8–39.8**
Global	NAS 2012	-	7–19	20–55
Puget Sound	Mote et al. 2008	Low	3.0	6.0
		Med	6.0	13.0
		High	22.0	50.0
Seattle	NAS 2012	-	6.5 ± 4.1	24.3 ± 11.5
Seattle	Mazotti et al. 2008	-	-	13.4–15.4 (RSL)
Olympia	City of Olympia 2010	-	-	50.0
Vancouver	BC Govt, (Bornhold, 2008)	High	-	35.0–40.5

*Above the 1990 level; relationship of SLR to sea temperatures applied to IPCC estimates.

**Above the 1995-2014 level.

Summary

Sea level rise estimates are highly variable and difficult to predict given the wide range of local and global factors involved, and the uncertainty surrounding those factors. The best available data with global and regional considerations are the most recent 2018 WCRN projections that are both localized to Washington State and incorporate estimates of local vertical land movement. In general, more recent publications are better, but global SLR is still uncertain. Global estimates offer a baseline, but “rates of sea-level rise calculated with climate and ice sheet models are generally lower than observed rates” (Rahmstorf, 2007). Due to this discrepancy, it is highly recommended for local jurisdictions to plan ahead for SLR with some flexibility and consider site-specific conditions in planning for increased flood risk.

Effects of Sea Level Rise

Frequency of Coastal Flooding

Current low-lying areas are subject to yearly flooding events, which are predicted to increase in both number and duration. In Port Townsend, for example, flooding of land begins at 11.5 FT MLLW a few times each year but is expected to increase to approximately 300 times (events) per year if sea level rises 3.3 feet (NOAA 2016). Current 100-year flood events could occur once every 10 years, and annual events could happen daily.

Habitat Response

Regional SLR in the Pacific Northwest is predicted to shift coastal habitats inland, potentially contributing to losses or creation of new habitat where land was previously dry year-round. In a 2007 study of Puget Sound, Glick et al. (2007) used the Sea Level Affecting Marshes Model (SLAMM) to estimate impacts to habitat and found that marshes near Anacortes (in Padilla Bay, Skagit Bay, and Port Susan Bay, including the eastern portion of Anacortes city limits) may lose up to 77% of brackish marsh and 91% of estuarine beaches by 2100. This is mostly due to a concept known as “The Coastal Squeeze”, where intertidal habitats are trapped by bulkheads/seawalls or other features such as roads as they shift inland in response to SLR (Pontee, 2013). This could also potentially impact zoning codes as jurisdictional boundary lines shift and land cover adapts to an increased presence of water.

Landward migration of the shore was originally thought to be an equal give-and-take process, whereby a beach profile would maintain its original geometry as it shifted landward and upwards. This theory is known as the Bruun Rule. New knowledge on the behavior of beaches and bluffs experiencing SLR discredits parts of this theory, namely that such conditions do not exist in real life due to the complexities of the nearshore environment. The rule also assumes no accretion, but there are shorefaces that experience accretion under SLR conditions (Cooper and Pilkey, 2004). This adds further uncertainty when planning for the effects of SLR in frequently flooded areas but should be acknowledged in the code as a possible risk factor for new development in coastal floodplain areas.

The NOAA SLR viewer also has a Marsh Migration tool built in which spatially maps how habitat migration may occur based on topography and sea level rise magnitude. This tool maps land cover classes with 0.5 FT increments of SLR. The process to create the Marsh Migration dataset can be described generally as a modified bathtub inundation approach that attempts to account for local and regional tidal variability. Their methodology consisted of creating several tidal surfaces (MLLW, MTL,

MHHW, MHHWs, plus a surface above MHHWs) at each 0.5 FT increment, then combining those with the C-CAP landcover data to model the potential changes. The changes to the land cover are driven directly by those surface thresholds shown in Figure 7.

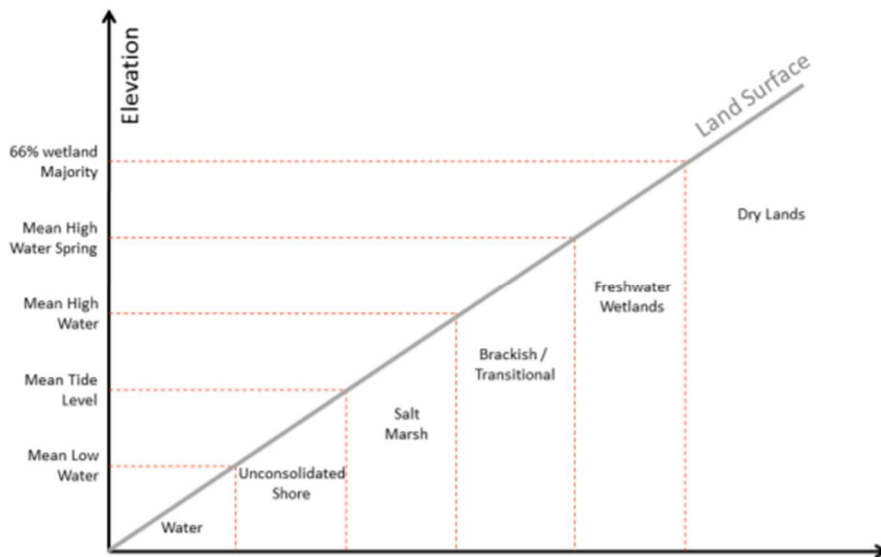


Figure 7. Wetland and landcover elevation thresholds used to model landcover migration with sea level rise in the NOAA Marsh Migration tool.

Comparing the modeled land cover class distribution for current conditions (at MHHW) to 1.5 FT sea level rise and 5.0 FT sea level rise (closest to predicted high emissions scenarios SLR), shows how the shoreline will lose habitat space to open water (Figures 8-10). There are some areas where habitats are modeled to expand with SLR, such as in the Ship Harbor area. These data support that based on the elevation of surrounding the shore, there is not abundant room for unconsolidated shores (beaches) to migrate landward with sea level rise.

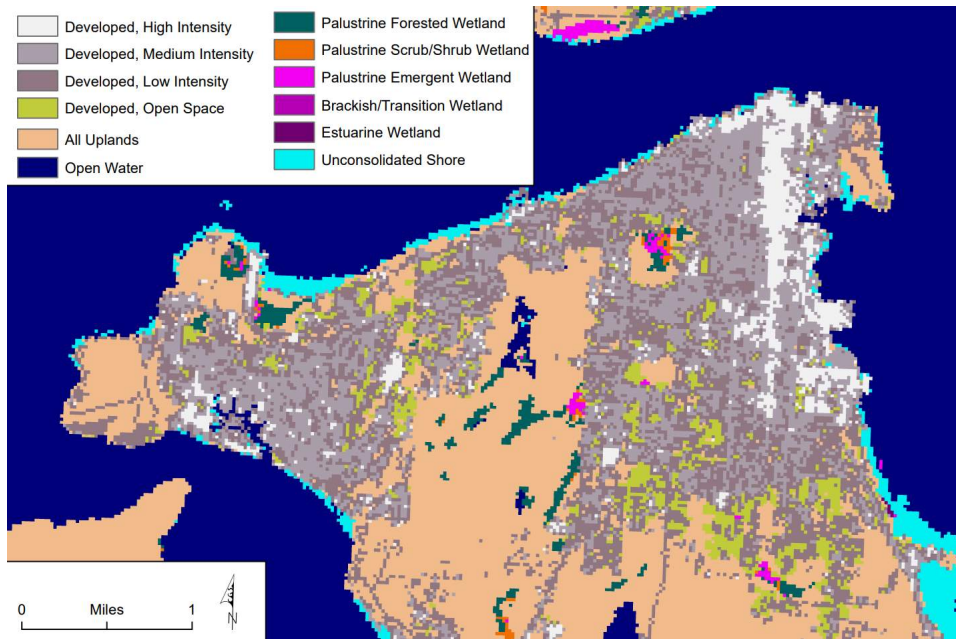


Figure 8. Marsh Migration landcover layer for mean higher high water scenario from NOAA's Marsh Migration tool.

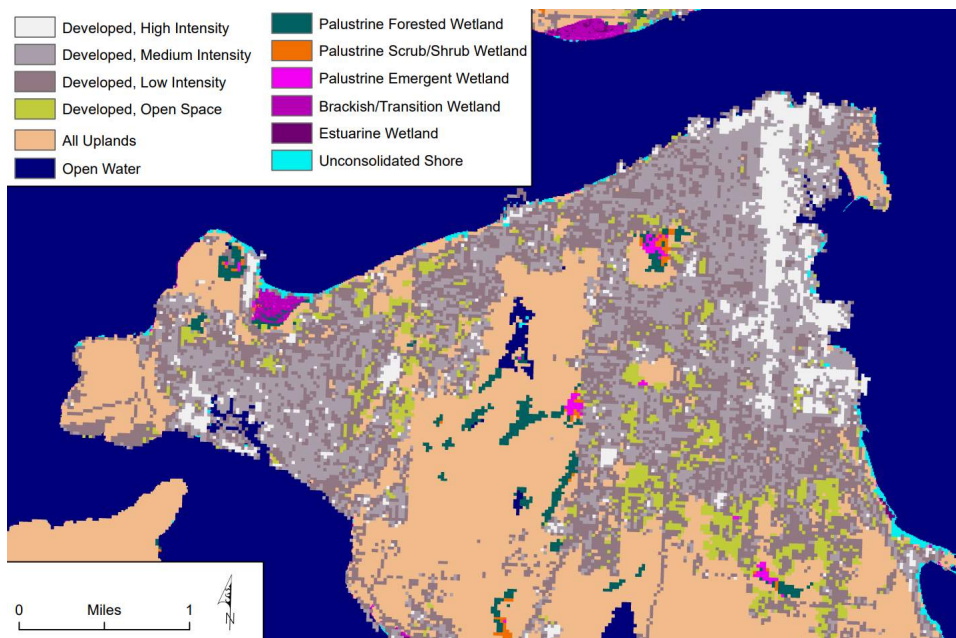


Figure 9. Marsh Migration landcover layer for MHHW plus 1.5 FT SLR scenario from NOAA's Marsh Migration tool.

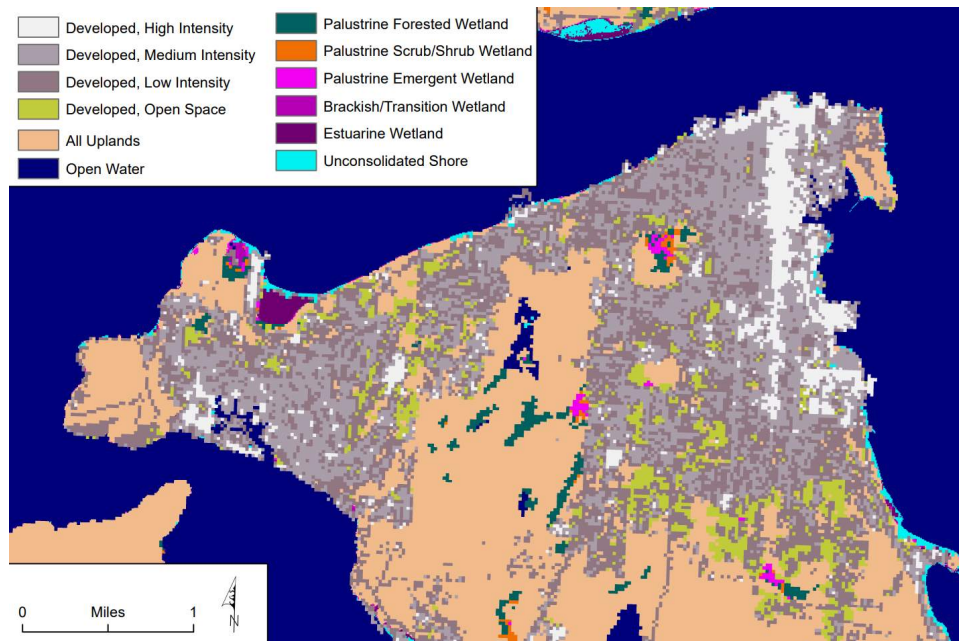


Figure 10. Marsh Migration landcover layer for MHHW plus 5.0 FT SLR scenario from NOAA’s Marsh Migration tool.

Storminess

Locations along the Pacific Northwest Coast may be more likely to see extreme storm events exceed historical trends due predominantly to sea level rise (Tebaldi et al., 2012). A study by Ruggiero et al. (2010) supported that significant wave heights in the nearby Pacific Ocean had increased significantly in the latter part of the 20th century. However, there is currently not enough information to broadly predict an increase in extreme tides, surges, or flood risks in the Pacific Northwest or around the world (IPCC, 2014; National Research Council, 2012). Many nuances exist within Puget Sound that contribute to the difficulty of estimating the impacts of sea level rise on storms.

The 2021 IPCC Summary for Policy makers states “Region-specific changes include intensification of tropical cyclones and/or extratropical storms (medium confidence), increases in river floods (medium to high confidence), reductions in mean precipitation and increases in aridity (medium to high confidence), and increases in fire weather (medium to high confidence). There is low confidence in most regions in potential future changes in other CIDs, such as hail, ice storms, severe storms, dust storms, heavy snowfall, and landslides²” (IPCC et al., 2021b). While there is not high confidence in an increase in storminess for our region, defined by extratropical storms, the report makes it clear that “in coastal cities, the combination of more frequent extreme sea level events (due to sea level rise and storm surge) and extreme rainfall/river flow events will make flooding more probable (high confidence).”

Predicted Anacortes king tide events for the 2015/2016 winter season were around 9.1–9.2 FT above MLLW (NOAA 2016 tide publications). Actual peak king tide events are often higher than predicted due to low pressure storm systems. During the March 10, 2016, southerly windstorm and low pressure system, the peak water level at the Cherry Point NOAA station (nearest station) was 11.94 FT MLLW at 6:15am, while the predicted water level was 9.47 FT MLLW. Therefore, the tide that morning ran about

² The specific level of confidence or likelihood depends on the region considered. Details can be found in the Technical Summary and the underlying Report (IPCC et al., 2021b).

2.5 FT high and came close to a 10-year event for the Cherry Point Station (<https://tidesandcurrents.noaa.gov/est/stickdiagram.shtml?stnid=9449424>). The water level at the Port Townsend NOAA station was running 2.25 FT above predicted tide at the same time. On December 20, 2018 another storm event impacted the region. The peak water level at the Cherry Point NOAA station was 11.72 FT MLLW at 2:06pm, or 2.58 FT above the predicted tide. For the Cherry Point station, that is measured at between a 10-year and 50-year storm event.

Tsunamis

Sea level rise is not projected to change the size or prevalence of tsunamis, but will increase their base elevation and thus potential for flood damage. In general, tsunamis in Anacortes are not projected to be nearly as large as on coasts exposed directly to major fault zones such as the Pacific coast of Washington. Based on a Washington Department of Natural Resources 2005 report, Skyline Marina and Flounder Bay may experience inundation between 1.6 to 6.6 FT in the event of a large Cascadia subduction zone earthquake and corresponding tsunami (WDNR, 2005).. Tsunami wave amplitudes approaching western Fidalgo Island are estimated to be between 4.9 and 5.9 FT, but downtown Anacortes is not expected to experience much inundation (Venturato et al., 2004).

In 2018, NOAA's Center for Tsunami Research modeled tsunami generation and propagation and its impacts in the Anacortes region (Eungard et al., 2018). The study considered an extreme tsunami scenario generated by an L1 CSZ earthquake, which was estimated to have occurred in the top three CSZ earthquake events impacting the area in the last approximately 10,000 years, or a recurrence interval between 2,500 and 5,000 years. This is a similar probability of occurrence as the International Building Code seismic standard of 2 percent probability of exceedance in 50 years (Eungard et al., 2018).

Tsunami induced inundation was modeled (Figure 11) with the still water level set at the mean high water (MHW). Tidal variations and future sea level rise were not taken into consideration. Inundation depths were defined in three categories:

- ◆ 0 – 2.5 ft, less than knee high
- ◆ 2.5 – 6 ft, knee to head high
- ◆ > 6 ft, above head height

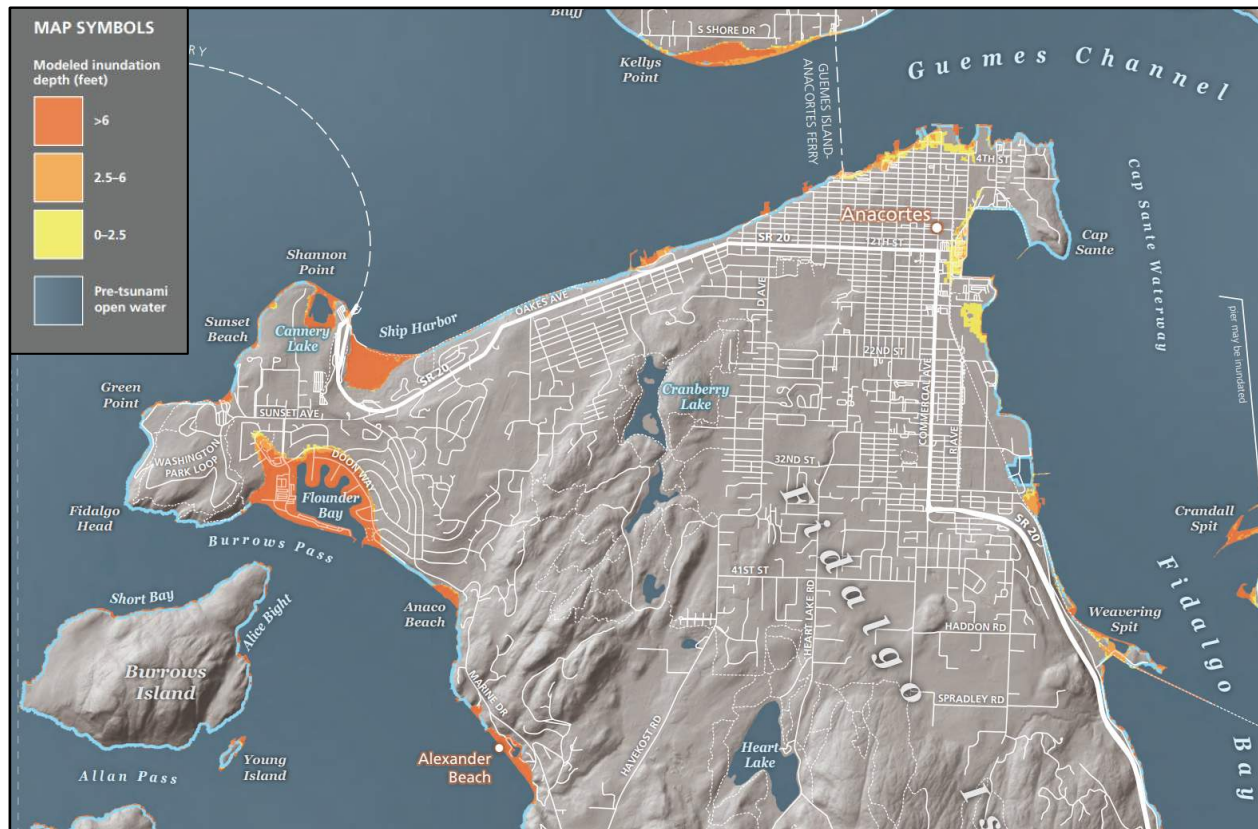


Figure 11. Tsunami inundation map for Anacortes area. Data from Eungard et al. (2018) for the CSZ L1 magnitude 9.0 earthquake scenario.

Along Anacortes shores, inundation of 1-2.5 FT is expected in the nearshore area of the downtown area, with some discrete areas of greater inundation depth (Figure 11). Larger areas with modeled inundation depths of greater than 6 FT include Ship Harbor, Shannon Point, and Flounder Bay. The DNR mapping also included tsunami current speed which was separated into four ranges (Eungard et al., 2018):

- ◆ 0 – 3 knots
- ◆ 3 – 6 knots
- ◆ 6 – 9 knots
- ◆ > 9 knots

Modeled current speeds with a large tsunami are strongest in narrower waterway channels such as Guemes Channel and Burrows Pass where local bathymetry and geometry may play a role. Within Fidalgo Bay, Burrows Bay, and Ship Harbor current speeds are relatively slow (>6 knots; Figure 12).

Tsunami waves approach the shore in the form of a series of pulsive surge waves. Arrival times were estimated from the time of earthquake to the first surge water front that rises above high tide. This first surge wave does not necessarily correlate with the maximum inundation. The initial disturbance along Fidalgo Bay was modeled as a gradual 5 to 6.5 FT fall in water levels approximately 1 hour to 1 hour and 45 minutes after the earthquake followed by a rapidly rising wave arriving after about 2 hours. Along

Fidalgo Bay, the second wave is expected to be the largest (Figure 13). The largest waves in the region are expected to see a peak surge height of 6.9 FT at the entrance to Fidalgo Bay.

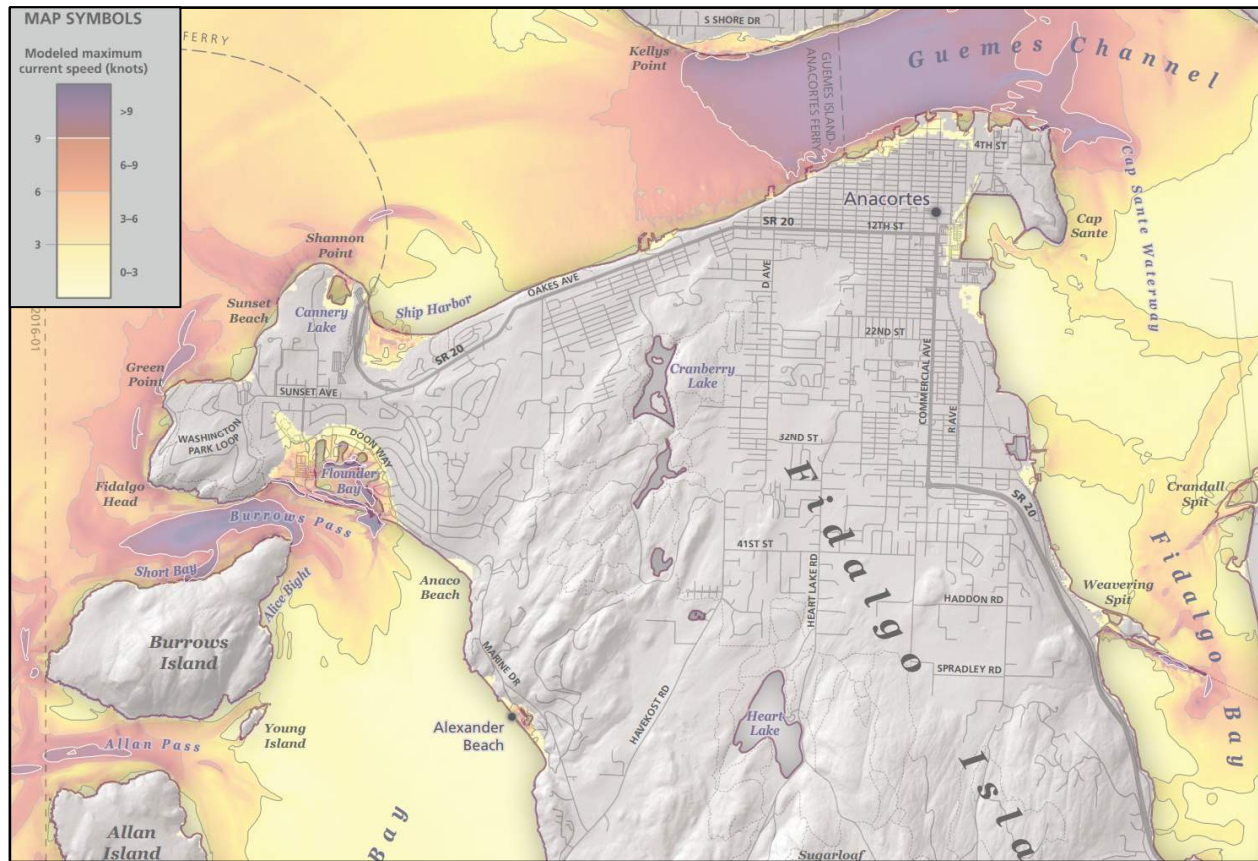


Figure 12. Tsunami current speed map for Anacortes area. Data from Eungard et al. (2018) for the CSZ L1 magnitude 9.0 earthquake scenario.

To put this into context, the 1964 magnitude 9.2 earthquake in Alaska produced a tsunami on the outer coast of Washington that lasted for about 12 hours (Walsh et al., 2000).

It is important to note that normal tides around Anacortes may rise and fall around 8 FT per day. Therefore, an incoming tsunami wave measuring 2.5–3 FT will not likely have a noticeable effect during normal conditions. Unless a tsunami coincides with an extreme high tide, such as a king tide, the inundation risk from a tsunami is relatively low and would be short-lived.

Modeling results outlined in Eungard et al. (2018) represent an approximately 2,500-year recurrence interval scenario or approximately the 2 percent probability of exceedance in 50 years. The exact earthquake scenario for the next large earthquake will likely differ causing the tsunami to differ as well. Studies have suggested that most likely the next earthquake will be about two-thirds the size of the L1 scenario creating a smaller tsunami than the modeled one (Witter et al., 2011).



Figure 13. Tsunami inundation map of Anacortes with estimated arrival time and predicted inundation depth points. Data from Eungard et al. (2018) for the CSZ L1 magnitude 9.0 earthquake scenario. Purple line indicates where shoreline inundation is inferred but not quantified.

Higher water level than normal is expected to last for at least 8 hours (Figure 14) and minor inundation and strong currents may occur. However, even under these extreme circumstances only low-lying discrete locations will be inundated >6 FT above water levels. At inundation depths of 2.5 FT or less, survival is likely if steps are taken to avoid the direct force of a surge wave (Eungard et al., 2018). Current speeds of 3 knots or less are expected to cause no structural damage to hard outdoor structures, or paved features such as a trail. However, debris impact coming and going with the surge water may potentially result in certain structural damage and other property destruction at the immediate waterfront.

Additionally, with an approximately 2-hour lag time between the triggering CZA earthquake and tsunami inundation for the Anacortes Area, there would likely be sufficient warning for people to leave low-lying areas and move to higher ground or further inland.

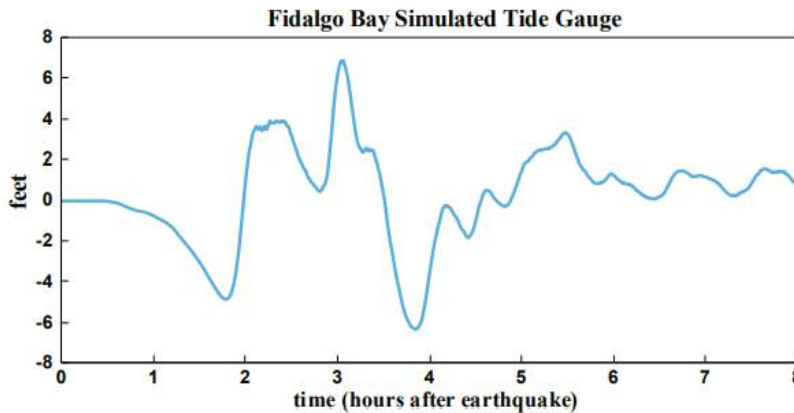


Figure 14. Modeled tsunami wave variations over time for the area near Fidalgo Bay. Data from Eungard et al. (2018) for the CSZ L1 magnitude 9.0 earthquake scenario.

Flood Risk Management

Development Standards

Current Anacortes CAO aims to reduce methods of flood losses by “controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters” and by “preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas” (19.74.010(A)(3)(C)(E)). Currently, new development in floodplains must obtain a special floodplain development permit and adhere to strict building regulations or obtain a variance. “Development” is currently defined as:

“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 located within the area of special flood hazard .” (19.74.020)

New construction within special flood hazards must adhere to standards described in the revised Chapter 19.74 Floodplain Management, which details provisions for flood hazard reduction (19.74.050) and relies on base flood elevation where available. The City should plan for higher-end projection(s) to set development standards against, as the base flood elevation is projected to change. All codified actions in the current Frequently Flooded Areas (FFA) are intended to be interpreted as “minimum requirements” (17.74.030(E)(1)), so this gives a well-positioned platform from which to build flexibility in SLR responses.

The City might consider establishing a setback from special flood hazard areas (SFHA) that reflects projected inland migration of the shoreline and disconnected low-land areas at risk of flooding. This reduces the need to erect flood protection barriers which may be costly and require maintenance, sometimes at the expense of the public. Setbacks are advised to also account for the accelerated erosion rates at beaches and bluffs in response to SLR (Shipman 2009; Johannessen and MacLennan, 2007).

Ecosystem and Floodplain Protection

“Flood risk management and ecosystem recovery are not mutually exclusive goals yet have been historically pursued independent of one another” (Puget Sound Partnership, 2012). Integrating and balancing these different goals is the key to smart and sustainable management of frequently flooded areas.

Anacortes does not have an extensive 100-year floodplain like Skagit Valley. However, it is still important to restrict new development in areas on or near the current 100-year floodplain (which is subject to move or expand due to SLR). Groundwater flooding will occur in areas but hard surfaces may increase pressure and cause damage to underground infrastructure. The inland lakes in Anacortes are expected to expand in a 100-year flood event, but base flood elevations are not known for these lakes (according to the FIRM mapping updated in September 2003).

The Skagit County Planning Commission and the Board of County Commissioners adopted proposed changes to their Critical Areas Ordinance and Flood Damage Prevention in 2011 (Ordinance #O20110008). The changes were suggested by the Biological Opinion, originally conducted by the National Marine Fisheries Service (NMFS) to require compliance with the Endangered Species Act when communities prepared for flood damage prevention. One important proposal was the expanded definition of “Development” (mentioned above) to include “removal of substantial amounts of vegetation, or alteration of natural site characteristics” (BiOp Checklist). By expanding this definition, more activities fall within floodplain development permit requirements, thereby further controlling floodplain development in order to preserve natural ecological functions. These revisions previously appeared in Title 14, chapters 24 (CAO) and 34 (Flood Damage Prevention) in the Skagit County Code, have been reviewed by FEMA and have been accepted.

New and substantial improvements to development within the floodplain currently require a special permit and may also require a habitat assessment (BiOp review 2011). Variances must demonstrate that ecological functions within the floodplain will not be impacted (“no net loss”). The FFA also recognizes that construction of flood barriers may exacerbate flooding and damage in other areas, potentially impacting homes as well as habitats for important fish and bird species.

Surf smelt, sand lance, and herring have documented spawning locations on several beaches in Anacortes, including the Washington Park boat launch, Ferry Beach, and the Anacortes Marina (http://wdfw.wa.gov/conservation/research/projects/marine_beach_spawning/). It has been documented that these forage fish and juvenile salmon rely on gently sloped beaches and coastal marshes to provide nursery functions and protection from predators, but these important habitats are at risk of being eliminated due to the continued construction of hard armor in response to flooding and sea level rise (Munsch et al., 2016).

Shallow intertidal zones and other coastal habitats may act as protection against higher waters and wave action. Along with their ecological significance to forage fish and juvenile salmon, these areas can dissipate incoming wave energy and lessen damaging impact on the backshore (Cooper, 2003). Common strategies for managing high water and wave action are constructing bulkheads such as riprap revetments or rockery walls, but a heavily armored shore may require costly maintenance and can eliminate the natural buffer function of coastlines.

Critical Infrastructure

The City of Anacortes is listed as one of several especially vulnerable areas in Skagit County to tidal flooding and severe storm events due to its low elevation and northern aspect — severe storms and high tides occur together mostly during the winter months when strong winds from the north push water toward the coastlines of downtown Anacortes (Skagit County, 2014). The Port is of particular concern, located in a high risk, Flood Zone “A” area (i.e. area of special flood hazard), where portions of the filled shore may become inundated in a 100-year flood event (Coastal Zone Atlas flood maps).

Additionally, a few other critical sites are near or within the 2100 high emissions scenario SLR scenario, as modeled by MHHW plus the 20-year storms surge (2.9 FT) plus sea level rise (Figure 15). As mentioned earlier, the Anacortes Waste Water Treatment Plant is within the inundation level. Other facilities such as the two ferry terminals within the city, Skagit Valley College, and a public school are also potentially vulnerable to sea level rise.



Figure 15. Critical infrastructure within or near the 2100 high emissions sea level rise scenario. Light blue areas would be inundated in this scenario, and the “low-lying area” is not mapped as connected to saltwater (due to the old railroad causeway at Ship Harbor). Data from HAZUS and WA Geospatial Open Data portal.

Managed Realignment

Managed realignment, or managed retreat, is becoming a preferred engineering approach to addressing SLR on the coast of England and elsewhere. Managed realignment is the process of “deliberately breaching, entirely removing, or relocating landward” existing coastal structures designed to defend against flood or erosion, however this definition does not adequately cover all aspects of the approach (Cooper, 2003). A good number of coastal roads have been relocated landward in the past 15 years in

north Puget Sound counties, such as Deer Harbor Road on Orcas Island, Lummi View Drive west of Bellingham, and Cook Avenue near Port Townsend. While managed realignment may be a viable option for mitigating SLR, the key element is inland space, and the shores of Anacortes are fairly heavily developed with limited room to easily retreat. This tactic may be considered by the City for planning over longer time horizons. Further feasibility research is needed before specific recommendations can be made.

Updated Mapping Techniques

FEMA flood mapping of Anacortes was last released in 2003, and features hand-drawn mapping techniques that do not take advantage of the computerization of mapping. Current efforts by FEMA to revise these maps are on indefinite hold due to difficulties or disagreements in mapping Skagit River levees (new FIRM maps will not have separate maps for cities). These updated maps are “nowhere near being ready” (David Radabaugh, NFIP State Coordinator, pers. comm.).

High-resolution aerial laser scanning (light detection and ranging; LiDAR) has recently become more affordable, and new LiDAR mapping would enable Anacortes to better prepare for coastal flooding.

LiDAR

According to Dalton et al. (2013), one of the main obstacles in assessing how communities will be impacted by climate change and SLR is “limited site-specific elevation data for quantifying the exposure of critical infrastructure to sea level rise and other hazards.” Increased mapping accuracy of floodplain areas and sea level rise extent can inform stronger planning decisions and development standards. The most recent LiDAR survey was in 2017 and had a relatively high spatial resolution (3 FT). For the City of Anacortes, obtaining updated, high-resolution elevation data is essential in determining the risk of flooding. Small changes in sea level may not be reflected in coarser data but could have broad impacts in both coastal areas and inland lakes or where the water table is high.

LiDAR, with respect to older satellite- and ground-based mapping techniques, produces significantly less uncertainty and tighter representations of SLR inundation risk (see Figure 3 in: Gesch, 2009). Cooper et al. (2013) evaluate three methods of GIS-based LiDAR mapping for determining risk of flooding and inundation in coastal areas, and suggest best practices for sea level rise mapping. They argue that modeling must not assume areas in direct connection to marine waters are the only areas that will experience flooding in the event of high water. Because ground-water is disconnected, water seepage in low-lying areas may also lead to flooding.

Map Products

Currently, the Anacortes CAO aims to “ensure that potential buyers are notified that property is in an area of special flood hazard” (19.74.010(A)(2)(g)). One possible application of updated LiDAR mapping is to extend this provision to require potential landowners to be notified if they plan to build in a *future floodplain* that may occur as a result of the City’s accepted SLR scenario. Where NFIP requires landowners to sign off on higher rates if they build in a flood zone, individuals could face an increase in rates if their property becomes subject to the special flood hazard area.

Potential Actions

As cities and counties prepare for the uncertain effects of sea level rise, it is important to consider both short-term and long-term scenarios. What may seem like unnecessary action now may become critical during this century: “Protecting against flooding and erosion [now] is considered economically rational for most developed coastlines in many countries under all . . . sea level rise scenarios analyzed” (IPCC 2014). We offer the following recommendations for potential action in terms of addressing the current CAO, analyzing and mapping effects of SLR, and integrating SLR planning into the CAO.

Developing a SLR Standard

- ◆ Choose a sea level rise projection that is appropriate for the City of Anacortes, considering all best available science and potential unknowns. Selecting projections for both 2050 and 2100 is recommended to develop shorter- and longer-term plans.
- ◆ Revisit SLR projections regularly (every 5 years is prudent) and revise them if necessary. Sea level is projected to rise at an increasing rate in this century.
- ◆ Reference all elevations to the North American Vertical Datum (NAVD) of 1988 for consistency with tide gauges and professional surveyors.

Addressing the Current CAO

- ◆ Increase the lowest floor level elevation from 1 foot to 3–4 feet above the base flood elevation for new development or improvements in current floodplains.
- ◆ Adapt the applications for a floodplain development permit to reference all structure elevations to projected mean sea level (using SLR estimates) instead of current mean sea level, or modify to reference the elevation of mean higher high water.
- ◆ Continue to inform permit applicants that their property is within the current floodplain, and if it is within the **future floodplain**.
- ◆ Enhance and/or promote the section of the FFA code titled “Coastal High Hazard Areas”, as most floodplains in Anacortes are in direct contact with the coastline.
- ◆ Create language that differentiates cautious planning from legal minimums.
- ◆ Tsunamis are currently referenced in the Frequently Flooded Areas chapter and described in Geologically Hazardous Areas (19.70.415 (A)(6)). However, future code language could address the potential risk of a large Cascadia earthquake event that would likely be exacerbated by SLR. The Washington State Department of Natural Resources³ and Washington Department of Ecology⁴ have published online resources to help prepare for tsunami events.

Development Standards

- ◆ Protect public health and safety as well as public access and enjoyment of coastal flood zones: “Rising sea level does not inherently increase or decrease public access to the shore, but the response to sea level rise can” (US Climate Change Science Program Synthesis and Assessment Product 4.1, 2009).
- ◆ It is recommended to decrease the amount of hard, impervious surfaces near floodplain or risk areas, as these may intensify flood depths and velocities.

³ <https://www.dnr.wa.gov/programs-and-services/geology/geologic-hazards/tsunamis>

⁴ <https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Hazards/Earthquakes-tsunamis>

- ◆ Keep a detailed inventory of all houses on or near the current **and projected** 100-year floodplain.
- ◆ Flood insurance rates should reflect changing risks.
- ◆ Do encourage resilient building material and design while also considering softer techniques for flood control.
- ◆ The SMP includes a Public Access Element that requires the City to “provide, maintain, and enhance a safe, convenient, and balanced system of public access, both physical and visual.” Anacortes should make every reasonable effort to ensure “physical and visual” access to shores within frequently flooded areas, but widespread construction of hard structures impedes public access and enjoyment, as well as the natural buffering function of coastal areas in response to floodwaters.

Ecosystem and Floodplain Protection

- ◆ As SLR alters coastal habitats, the City should consider impacts of flood prevention measures on forage fish and other environmental health indicators as well as, recognize that natural areas have as much value as built areas and should be considered at risk all the same.
- ◆ Where possible, add language within the FFA development code that supports more natural protection barriers including enhanced beach berms or vegetation enhancement, and prohibits unnaturally altering flood waters.

Managed Realignment

- ◆ It is recommended that the City of Anacortes investigate opportunities for managed realignment as a mitigation strategy. While the City may not immediately consider realignment, it should be considered in planning and engineering for SLR, and further research into local feasibility is needed.

Updated Mapping Techniques

- ◆ LiDAR data is a valuable tool for city planners investigating flooded areas and SLR effects, among other applications. Consider contracting or purchasing new LiDAR data with a 1.0-1.5 FT or less pixel size (high resolution).
- ◆ If LiDAR data is purchased, updated orthorectified aerial photography can be ordered at the same time from the same vendor. San Juan County recently purchased orthoimagery (3-inch resolution in built-up areas, and 9-inch countywide) with matching lower-resolution LiDAR.
- ◆ Apply the City’s standard SLR projections to generate new maps of critical areas prone to flooding.
- ◆ Maps should highlight future floodplains.
- ◆ Identify low-lying areas with high fetch length (distance over water in which wind-generated waves can form) to the south and southeast as areas subject to potential wave hazards. Known problem areas such as Croatian Way can help determine thresholds for objective criteria.
- ◆ Make new maps available to the public and other City departments and development groups, including those addressing risk to utilities and other critical infrastructure.

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**Anacortes Planning Commission
Recorded Motion Regarding an Amendment to the
Development Regulations**

Proposal Description:	The proposed non-project legislative action is to amend the Development Regulations AMC Chapter 19.74 Floodplain Management for consistency with Federal Emergency Management Agency (FEMA) and National Flood Insurance Program (NFIP) guidelines based on review by Department of Ecology.
Public hearing body:	Anacortes Planning Commission
Public hearing date:	August 25, 2021, October 27, 2021, March 9, 2022
PC deliberations:	March 9, 2022

After considering the written and spoken comments and considering the record before it, the Planning Commission enters the following findings of fact, reasons for action, and recommendations to the Anacortes City Council.

A. Findings of Fact

Procedural & Public Engagement

1. The proposed amendment to the Development Regulations was initiated by the City based on a review by the Department of Ecology NFIP Coordinator David Radabaugh for consistency with FEMA and NFIP guidelines.
2. The Planning Commission held a public hearing on August 25, 2021, October 27, 2021 and March 9, 2022 to review the proposed amendment, take public comment, deliberate and make a recommendation to City Council. The meeting was broadcast on Channel 10 and streamed live on the City's website.
3. The proposed amendments were transmitted to the Washington State Department of Commerce for state agency expedited review in accordance with RCW 36.70A.106 on July 28, 2021 and have met the Growth Management notice to state agency requirements.

4. A State Environmental Policy Act (SEPA) Determination of Non-Significance (DNS) was issued for the proposal on June 28, 2021. The SEPA public comment and appeal deadline was August 11, 2021. No comments or appeals were received.
5. Timely and sufficient notice of public hearings and written comment periods was provided in accordance with AMC 19.16.070, including publishing notice on the project website on July 28, 2021, and publishing a paid notice in the July 28, 2021, Anacortes American. The notice was also posted in City Hall, and the Public Library.

A Public hearing was held before the Planning Commission on August 25, 2021, October 27, 2021, and March 9, 2022. There were no public comments at the meetings.

6. The written comment period ended on August 25, 2021. No Comments were received, and the comment period remained open through the March 9, 2022, public hearing.
7. The Planning Commission deliberated on the proposal on March 9, 2022.

Criteria for Approval

8. The proposed amendments are legislative actions under AMC Chapter 19.16, which applies to adoption and amendment of implementing critical area regulations.
9. AMC 19.16.080(B) provides the elements that the Planning Commission must consider in making its recommendation to City Council. These elements are:

a. Public hearing testimony and written comment received during any public comment period;

The public engagement process undertaken is outlined in the Procedural and Public Engagement section of these findings. Written public comments received were compiled by city staff and transmitted to the Planning Commission. No comments were received.

b. Staff recommendations and analysis;

Throughout the Planning Commission meetings, based on feedback received during the meetings, the project team provided reports on Sea Level Rise, (Coastal Geologic Services, Inc) and recommendations containing analysis and potential options, for Planning Commission consideration and direction. The discussions were helpful to the Planning Commission in refining their recommendation.

c. Legal advice;

The Planning Commission has considered the advice of the City Attorney's office in making these findings.

The City utilized the Washington State Department of ecology review of the Floodplain Management regulations for consistency with FEMA and NFIP guidelines to develop the amendments to Chapter 19. 74 Floodplain Management.

d. Consistency of the proposal with the Comprehensive Plan.

The Development Regulation amendment objective is to implement key goals and policies of the 2016 Anacortes Comprehensive Plan. The goals and policies provide guidance and policy direction in the establishment of said regulations.

The Planning Commission finds and concludes that the Development Regulation Amendment proposed in attachment A is consistent with the Comprehensive Plan goals and policies as detailed below.

Consistency with the Anacortes Comprehensive Plan

10. The proposal integrates strategic updates to improve organization and usability, clarity, and new content to implement the 2016 Comprehensive Plan, which is supported by the following Comprehensive Plan policies:

Goal EC_3. Natural Hazards. Reduce exposure to landslides, tsunamis, and earthquakes.

Policy EC_3.1. Protect , and where feasible, enhance or restore existing shoreline and other flood-prone areas.

Policy EC_3.2. When development occurs within the 100 year floodplain, seek to minimize risk to people, property and the environment.

B. Reasons for Action

Having made the Findings set forth above, the Planning Commission makes the following conclusions:

1. The proposed Development Regulation was reviewed through the review process as required by AMC 19.16 Legislative Actions. The Planning Commission is responsible for reviewing and making a recommendation to City Council on development regulations.
2. The Planning Commission determined that the proposed amendments are consistent with the:
 - Anacortes Comprehensive Plan
 - Anacortes Municipal Code (Chapter 19.16 Legislative Actions)
 - The Commission discussed Sea Level Rise at length with concerns regarding cost of elevating structures an additional foot, how many lots in the floodplain would be affected, and overall building height allowances due to an additional foot of freeboard for a total of 2-foot above BFE.

C. Recommendation

The Planning Commission recommends that the City Council:

1. Approve the proposed amendment to the development regulations as presented in **Attachment A, to include an additional 1 foot freeboard above the Base Flood Elevation for a total of 2 foot above base flood elevation.**
2. **This recorded motion approved March 9, 2022:**

Commission Vote	Support	Oppose	Absent	Abstain
Ward MacKenzie, Chair	x			
Jeffery Graf		x		
Sarah Ruether	x			
Linda Martin	x			
Frank Jeretzky	x	x		
Jack Curtis				
Gary Molyneaux	x			
Total	5	2	0	0

ANACORTES PLANNING COMMISSION
ANACORTES, WASHINGTON


Ward MacKenzie, Planning Commission Chair

03/09/22
Date

Ordinance No. 4016

An Ordinance Amending the Development Regulations Contained in Anacortes Municipal Code Title 19, Unified Development Code, Chapter 19.74 Floodplain Management

Whereas, on July 18, 2016, the City Council adopted Ordinance 2982 adopting a new Comprehensive Plan pursuant to the City's periodic Growth Management Act Comprehensive Plan amendment and update process; and

Whereas, the Anacortes Comprehensive Plan provides guidance for amending the Anacortes Municipal Code (AMC) development regulations and official zoning map to implement its land use, housing, economic development, transportation, environment and conservation, and other goals and policies; and

Whereas, the proposed amendments to the development regulations and official zoning map were initiated by the City in accordance with the requirements of the Growth Management Act and AMC 19.16.030(B), subsequent to the adoption of the 2016 Comprehensive Plan; and

Whereas, the City Council adopted Ordinance 3040 adopting new Development Regulations; and

Whereas, the City Council desires to amend AMC Chapter 19.74 Floodplain Management for consistency with Federal Emergency Management Agency (FEMA) and National Flood Insurance Program, (NFIP) guidelines; and

Whereas, when development occurs within the 100-year floodplain, the City Council seeks to minimize risk to people, property and the environment; and

Whereas, Floodplain Management regulations have not been updated since 2008 and require updates for consistency with FEMA and NFIP guidelines based on Department of Ecology review; and

Whereas, a public comment opportunity was provided for certain amendments to AMC Chapter 19.74 at the August 25 2021, October 27, 2021 and the March 9, 2022 Public Hearing before the Planning Commission; and

Whereas, the City Council considered the Planning Commission recommendation at a meeting on May 23, 2022; and

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

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:

Section 2. **Development Regulation Amendments Adopted.** The Anacortes Municipal Code is amended as described in Attachment A.

Section 3. **Transmittal to State.** Pursuant to RCW 36.70A.106, a copy of this ordinance shall be submitted to the State Department of Commerce.

Section 4. **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 5. **Effective Date.** Consistent with RCW 35A.12.130, this ordinance takes effect 5 days after publication.

Section 6. PASSED and APPROVED this ____ day of _____, 2022.

CITY OF ANACORTES:

Matt Miller, Mayor

Attest:

Steven D. Hoglund, City Clerk-Treasurer

Approved as to Form:

Darcy James Swetnam, City Attorney

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Chapter 16.08 FLOOD DAMAGE PREVENTION

Sections:

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- 16.08.170 Specific standards.**
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- 16.08.220 Coastal high hazard areas.**
- 16.08.230 Severability.**

Article I. Statutory Authorization, Findings of Fact, Purpose, and Objectives

16.08.010 Statutory authorization.

The Legislature of the State of Washington has in Chapter [86.16](#) RCW, as amended, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2161 § 1.1, 1989).

16.08.020 Findings of fact.

A. The flood hazard areas of Port Townsend are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in the special flood hazard areas (SFHAs) which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2161 § 1.2, 1989).

16.08.030 Statement of purpose.

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 by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditure of public money and costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in the SFHA;

- F. To help maintain a stable tax base by providing for the sound use and development of the SFHA so as to minimize future flood blight areas;
- G. To ensure that potential buyers are notified that property is in the SFHA;
- H. To ensure that those who occupy the SFHA assume responsibility for their actions;
- I. To qualify the city of Port Townsend for participation in the National Flood Insurance Program, thereby giving citizens and businesses the opportunity to purchase flood insurance;
- J. To maintain water quality in water bodies and their floodplains so as to protect public water supplies, areas of the public trust, and wildlife habitat protected by the Endangered Species Act;
- K. To retain the natural channel, shoreline, and floodplain creation processes and other natural floodplain functions that protect, create, and maintain habitat for threatened and endangered species;
- L. To prevent or minimize loss of hydraulic, geomorphic, and ecological functions of floodplains; and
- M. To protect significant cultural and historic properties including buildings, structures, districts, sites, objects, and landscapes, and avoid or minimize adverse effects to these properties.

Except as specifically provided in this chapter, these regulations implement mandatory federal and state regulations rather than discretionary local regulations. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2161 § 1.3, 1989).

16.08.040 Methods of reducing flood losses.

In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, and natural protective barriers which help accommodate or channel floodwaters;
- D. Controlling dredging, filling, grading, and other development which may increase flood damage;
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas; and
- F. Establishing a permit requirement so that all development that may affect flood hazards, water quality, and habitat are reviewed before it is constructed. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2161 § 1.4, 1989).

Article II. Definitions

16.08.050 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable

application.

A. "Adversely affect/adverse effect" means effects that are a direct or indirect result of the proposed action, or its interrelated or interdependent actions, and the effect is not discountable, insignificant or beneficial, where:

1. a. Discountable effects are extremely unlikely to occur; and

b. Insignificant effects relate to the size of the impact and should never reach the scale where a take occurs. Based on best judgment, a person would not meaningfully measure, detect, or evaluate insignificant effects or expect discountable effects to occur.

2. Beneficial effects are contemporaneous positive effects without any adverse effects. In the event that the overall effect of the proposed action is beneficial, but is also likely to cause some adverse effects, then the proposed action is considered to result in an adverse effect.

B. "Appeal" means a request for review of the building department interpretation of any provision of this chapter or a request for a variance.

C. "Area of shallow flooding" means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

D. "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

E. "Base flood elevation" means the elevation of the base flood above the datum of the effective FIRM.

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

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

H. "Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as zone V1-V30, VE or V.

I. "Critical facility" means a facility necessary to protect the public health, safety and welfare during a flood. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency operations installations, water and wastewater treatment plants, electric power stations, and installations which produce, use, or store hazardous materials or hazardous waste (other than consumer products containing hazardous substances or hazardous waste intended for household use).

J. "Development" means any manmade 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.

K. "Elevation certificate" means the official form (FEMA Form 086-0-33) used to track development, provide elevation information necessary to ensure compliance with community floodplain management ordinances, and determine the proper insurance premium rate with Section B completed by community officials.

L. "Enclosed area" means an unfinished or flood-resistant enclosure that is used solely for parking of vehicles, building access, or storage. The term includes but is not limited to garages and crawlspaces. Enclosed areas are uninhabitable space.

M. "FEMA" means the Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

N. "Flood" or "flooding" means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters.
- b. The unusual and rapid accumulation or runoff of surface waters from any source.
- c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in subsection (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1)(a) of this definition.

O. "Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance Administrator has delineated both the SFHA and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a digital flood insurance rate map (DFIRM).

P. "Flood insurance study" or "flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Q. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

R. "Floodway" or "regulatory floodway" means the channel of a river or other watercourse and the

adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. (As of June 7, 2019, there are no floodways within the city limits.)

S. "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

T. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

U. "Historic structure" means, for the purposes of this chapter, any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

V. "Lowest floor" means the lowest floor of the lowest enclosed area (including the basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter found at PTMC [16.08.170\(A\)\(2\)](#).

W. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle." For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. (See also "Recreational vehicle.")

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

Y. "Mean sea level" means, for purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 (NAVD88) to which base flood elevations shown on a community's flood insurance rate map are referenced.

Z. "New construction," for floodplain management purposes, means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

AA. "Ordinary high water mark" (often abbreviated "OHWM") means that mark on all lakes, streams, and tidal waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation as that condition exists on June 1, 1971, or as it may naturally change thereafter; or as it may change thereafter in accordance with permits issued by the local government or the Washington State Department of Ecology; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide, and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

BB. Protected Area. Within the city of Port Townsend, "protected areas" means lands within the SFHA that also lie within:

1. Two hundred feet from marine shorelines as measured perpendicularly from ordinary high water mark.
2. Two hundred fifty feet from freshwater lakes mapped special flood hazard area as measured perpendicularly from ordinary high water mark.

CC. "Recreational vehicle" means a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily as temporary living quarters for recreational, camping, travel, or seasonal use, not as a permanent dwelling.

DD. "Special flood hazard area" ("SFHA") or "area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated on flood insurance rate maps with the letter "A" or "V." After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, zone A usually is refined into zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard."

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

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

FF. "Structure" means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure, for insurance purposes, means: (1) a building, with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (2) a manufactured home (a "manufactured home," also known as a mobile home, is a structure built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (3) a travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws. For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in subsection (3) of this definition, or a gas or liquid storage tank.

GG. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

HH. "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure"; provided, that the alteration will not preclude the structure's continued designation as a "historic structure."

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

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

KK. "Zone" for the purposes of this chapter means one or more areas delineated on the FIRM. The following zones may be used on the adopted FIRM. The special flood hazard area is comprised of the A and V zones. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2854 § 5, 2004; Ord. 2161 § 2, 1989).

Article III. General Provisions

16.08.060 Lands to which this chapter applies.

This chapter shall apply to the special flood hazard area (SFHA) within the jurisdiction of the city of Port Townsend. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2161 § 3.1, 1989).

16.08.070 Basis for establishing the areas of special flood hazard.

The special flood hazard area (SFHA) identified by the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study for Jefferson County, Washington, and Incorporated Areas" dated June 7, 2019, and any revisions thereto, with accompanying flood insurance rate map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The flood insurance study and the FIRM are on file with the city clerk at City Hall. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2854 § 1, 2004; Ord. 2161 § 3.2, 1989).

16.08.080 Violations and penalties.

A. Director's Authority. Whenever the planning director or his or her designee ("director") determines that a condition exists in violation of this chapter or any standard required to be adhered to by this chapter, or in violation of any permit issued hereunder, he or she is authorized to enforce the provisions of this chapter.

B. Chapter [1.20](#) PTMC Applicable. All violations of any provision of this chapter or incorporated standards, or of any permit issued hereunder, are made subject to the provisions of Chapter [1.20](#) PTMC. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2952 § 1, 2008; Ord. 2510 § 1, 1996; Ord. 2161 § 3.3, 1989).

16.08.090 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2161 § 3.4, 1989).

16.08.100 Interpretations.

In the interpretation and application of this chapter, all provisions shall be:

A. Considered as minimum requirements;

B. Liberally construed in favor of the governing body; and

C. Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2161 § 3.5, 1989).

16.08.110 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the SFHA or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city of Port Townsend, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2161 § 3.6, 1989).

Article IV. Administration

16.08.120 Development permit required.

A. Construction or development shall not be undertaken within any area of special flood hazard (SFHA) established in PTMC [16.08.070](#) without approval under this chapter.

1. For development where no other permit or authorization from the city of Port Townsend is necessary to begin or to accomplish the work, the approval shall be documented by issuance of a floodplain development permit.

An application for floodplain development permit shall be processed according to the procedures for a Type I-A permit as established in Chapter [20.01](#) PTMC, Land Development Administrative Procedures.

2. For development where some other permit or authorization from the city of Port Townsend is required to begin or accomplish the work, including but not limited to development performed by city departments, the floodplain development approval shall be incorporated in such other permit or authorization.

B. A development project is not subject to the requirements of this chapter if it is located on land that can be shown to be outside of the special flood hazard area based on a review of the flood insurance rate maps or by FEMA approval of a letter of map change.

C. Habitat Assessment – When Required. A development permit application shall include a habitat assessment unless the project is, in its entirety, one of the following activities:

1. Routine maintenance of existing landscaping that does not involve grading, excavation, or filling.
2. Removal of noxious weeds, hazard trees, and replacement of nonnative vegetation with native vegetation.
3. Normal maintenance of above-ground utilities and facilities, such as replacing power lines and utility poles.
4. Normal road maintenance, such as filling potholes, repaving, installing signs and traffic signals, but not including any expansion.
5. Normal maintenance of a levee or other flood control facility as prescribed in the operations and maintenance plan for the facility. Normal maintenance does not include repair from flood damage, any expansion of the prism, face or toe expansion, or the addition of material for protection or armor.
6. Plowing and other normal farm practices (other than new structures or filling) on legally existing agricultural areas. Clearing additional land for agriculture will likely require a floodplain development permit and a habitat assessment.
7. Normal maintenance, repairs, or remodeling of structures, such as reroofing and replacing siding, provided such work is not a substantial improvement or a repair of substantial damage. To comply, such work must be less than 50 percent of the value of the structure(s).

8. Expansion or reconstruction of an existing structure that is no greater than 10 percent beyond its existing footprint. If the structure is in the floodway, there shall be no change in the structure's dimensions perpendicular to flow. All other federal and state requirements and restrictions relating to floodway development still apply.
9. Activities with the sole purpose of creating, restoring, or enhancing natural functions associated with floodplains, streams, lakes, estuaries, marine areas, habitat, and riparian areas that meet federal and state standards, provided the activities do not include structures, grading, fill, or impervious surfaces.
10. Development of open space and recreational facilities, such as parks, trails, and hunting grounds, that do not include structures, fill, impervious surfaces, or removal of more than five percent of the native vegetation on that portion of the property in the floodplain.
11. Repair to on-site septic systems, provided ground disturbance is the minimal necessary and best management practices (BMPs) to prevent stormwater runoff and soil erosion are used.
12. Projects that have already received concurrence under another permit or other consultation with the services, either through Section 7, Section 4d, or Section 10 of the Endangered Species Act (ESA) that addresses the entirety of the project in the floodplain (such as an Army Corps 404 permit or nonconversion forest practice activities including any interrelated and interdependent activities).
13. Repair of an existing, functional bulkhead in the same location and footprint with the same materials when the ordinary high water mark (OHWM) is still outside of the face of the bulkhead (i.e., if the work qualifies for a corps exemption from Section 404 coverage). (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2161 § 4.1-1, 1989).

16.08.130 Application submittal and contents.

Application for development within the special flood hazard area shall be made on forms furnished by the development services department and may include but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing and proposed structures, fill, storage of materials, drainage facilities, impervious surfaces, and the location of the foregoing, methods of construction, location of the SFHA and protected area. Specifically, the following information is required:

- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- B. Elevation in relation to mean sea level to which any structure has been floodproofed;
- C. For any nonresidential structure to be floodproofed, certification by a registered professional engineer currently licensed in the state of Washington or architect that the floodproofing methods meet the floodproofing criteria in PTMC [16.08.170\(B\)](#). This information shall be recorded on a current FEMA flood-proofing certificate;
- D. Unless otherwise waived by the floodplain administrator, for projects involving regrading, excavation, or filling, the site plan shall include proposed pre- and post-development terrain at five-foot contour levels and quantities of cut and fill;

E. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development;

F. Unless listed under PTMC [16.08.120](#)(C), applications for projects located within the SFHA shall include a habitat impact assessment prepared in accordance with PTMC [19.05.080](#)(J), Special Report Required. Projects within the protected area must be inherently designed to avoid adverse impacts to floodplain functions that support ESA listed species;

G. The application shall include documentation that the applicant will apply for all necessary permits required by federal, state, or local law. The application shall include acknowledgment that the applicant understands that the final certificate of occupancy will be issued only if the applicant provides copies of the required federal, state, and local permits or letters stating that a permit is not required. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2161 § 4.1-2, 1989).

16.08.140 Designation of the floodplain administrator.

The planning director or his/her designee is hereby designated to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2161 § 4.2, 1989).

16.08.150 Duties and responsibilities of the floodplain administrator.

Duties of the floodplain administrator shall include, but not be limited to:

A. Permit Review.

1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;
2. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required;
3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that encroachment provisions are met.

B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with PTMC [16.08.070](#), the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer PTMC [16.08.170](#).

C. Information to Be Obtained and Maintained.

1. Where base flood elevation data is provided through the FIS, FIRM, or required as in subsection (B) of this section, obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement. ([44](#) CFR [60.3](#)(b)(5)(i).)
2. For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in subsection (B) of this section:
 - a. Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed. ([44](#) CFR [60.3](#)(b)(5)(ii).)

b. Maintain the floodproofing certifications required in PTMC [16.08.170\(B\)\(2\)](#). ([44 CFR 60.3\(b\)\(5\)\(iii\)](#).)

3. Maintain for public inspection all records pertaining to the provisions of this chapter. ([44 CFR 60.3\(b\)\(5\)\(iii\)](#).)

D. Notification to Other Entities.

1. Alteration of Watercourses.

a. Notify adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

2. Changes to Special Flood Hazard Area. Submit new technical data to Federal Insurance Administrator. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the city's floodplain administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with [44 CFR 65.3](#). Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

E. Interpretation of FIRM Boundaries. Make interpretations, where needed, as to exact location of the boundaries of the SFHA (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeal shall be granted consistent with the standards of Section 60.6 of rules and regulations of the National Flood Insurance Program ([44 CFR 59](#) through [76](#)).

F. Notify FEMA of any proposed amendments to this chapter. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2854 § 2, 2004; Ord. 2161 § 4.3, 1989).

16.08.155 Variances.

A. Variances from the provisions of this chapter shall be the minimum necessary and may only be issued for functionally dependent uses as defined in this chapter.

B. Procedure. Variance applications shall be submitted on forms provided by the director accompanied by the applicable fee. Variances shall be processed as a Type II permit application according to the procedures in Chapter [20.01](#) PTMC and shall satisfy the approval criteria of this section.

C. Approval Criteria. The decisionmaker may approve or approve with modifications an application for a variance from the provisions of this chapter upon making the following affirmative findings:

1. The use is a functionally dependent use, as defined in this chapter, which requires a variance in order to perform its intended purpose. The structure or other development will be protected by methods that minimize flood damages during the base flood and create no

additional threats to public safety;

2. Granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

3. The variance is the minimum necessary, considering the flood hazard, to afford relief. Where feasible, methods to meet the floodplain management requirements have been incorporated (e.g., wet floodproofing techniques, installing flood damage-resistant materials, elevating mechanical equipment, locating offices above the BFE, using ground fault circuit interrupters, or developing an emergency plan to remove contents before a flood);

4. The applicant has demonstrated good and sufficient cause;

5. Failure to grant the variance would result in exceptional hardship to the applicant;

6. If the proposal is within a floodway, no increase in flood levels during the base flood discharge would result.

D. Variance Conditions. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and such construction below the base flood level increases risks to life and property. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017).

Article V. Provisions for Flood Hazard Reduction

16.08.160 General standards.

In all special flood hazard areas (SFHAs), the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

2. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

B. Construction Materials and Methods.

1. All new construction and substantial improvement shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Locating such

equipment below the base flood elevation may cause annual flood insurance premiums to be increased.

C. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
2. Water wells shall be located on high ground that is not in the floodway;
3. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and
4. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Land Division. The following standards apply to all subdivision proposals and other development where 50 or more lots are being created or the project includes five or more acres:

1. All land divisions shall be consistent with the need to minimize flood damage;
2. All land divisions shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. All land divisions shall have adequate drainage provided to reduce exposure to flood damage; and
4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

E. Review of Building Permits. Where elevation data is not available either through the flood insurance study or from another authoritative source (PTMC [16.08.150\(B\)](#)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2161 § 5.1, 1989).

16.08.170 Specific standards.

In all special flood hazard areas (SFHAs) where base flood elevation data has been provided as set forth in PTMC [16.08.070](#) or [16.08.150\(B\)](#), the following provisions are required:

A. Residential Construction. (For manufactured homes see subsection (E) of this section.)

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated two feet or more above base flood elevation.
2. Fully enclosed areas below the lowest floor that are subject to flooding shall be used only for parking, storage, or building access and shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for

meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

B. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either be:

1. Elevated.

- a. Have the lowest floor, including basement, elevated two feet or more above the level of the base flood elevation; and
- b. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (A)(2) of this section; or

2. Floodproofed. The structure together with attendant utility and sanitary facilities, shall:

- a. Be floodproofed so that below two feet above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in PTMC [16.08.150\(C\)\(2\)](#);
- d. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to one foot above the base flood level will be rated as at the base flood level).

C. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

D. Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the base floodplain. Construction of new critical facilities shall be permissible within the base floodplain if no feasible alternative site is available. Critical facilities constructed within the base floodplain shall have the lowest floor elevated to three feet or more above the level of the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated

to or above the level of the base floodplain shall be provided to all critical facilities to the extent possible.

E. Manufactured Homes. All manufactured homes to be placed or substantially improved within SFHA on the community's FIRM shall have the lowest floor (including basement) elevated two feet or more above the base flood elevation specified on the FIRM (at least two feet above the highest grade adjacent to the structure if no BFE is specified); and be securely anchored to an adequately anchored foundation system in accordance with the provisions of PTMC [16.08.160](#)(A)(2). (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2854 § 3, 2004; Ord. 2161 § 5.2, 1989).

16.08.175 Recreational vehicles.

Recreational vehicles placed within the SFHA are required to either:

- A. Be on the site for fewer than 180 consecutive days;
- B. Be fully licensed and ready for highway use, on their wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
- C. Meet the requirements of PTMC [16.08.170](#)(E) pertaining to requirements for manufactured homes, including the elevation and anchoring requirements. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2854 § 4, 2004).

16.08.176 Small structures.

A building that is no larger than 500 square feet and is not used for human habitation may be exempt from the elevation requirement of this chapter, provided:

- A. It is used only for parking or storage;
- B. It is constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters;
- C. It is anchored to prevent flotation which may result in damage to other structures;
- D. All portions of the structure below the BFE must be constructed of flood-resistant materials;
- E. Any machinery or equipment servicing the structure, such as electrical and heating equipment, must be elevated or floodproofed to or above the BFE;
- F. It has openings to allow free flowage of water that meet the criteria of this chapter;
- G. The project meets all the other requirements of this chapter. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017).

16.08.180 Floodways.

Repealed by Ord. 2854. (Ord. 2161 § 5.3, 1989).

16.08.190 Wetlands management.

Repealed by Ord. 3173. (Ord. 2161 § 5.4, 1989).

16.08.200 Encroachments.

The cumulative effect of any proposed development, where combined with all other existing and

anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2161 § 5.5, 1989).

16.08.210 Standards for shallow flooding areas (AO Zones).

Repealed by Ord. 3224. (Ord. 3173 § 1 (Exh. A), 2017; Ord. 2161 § 5.6, 1989).

16.08.220 Coastal high hazard areas.

Located within areas of special flood hazard established in PTMC [16.08.070](#) are coastal high hazard areas, designated as zones V1-V30, VE and/or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this chapter, the following provisions shall also apply:

A. All new allowable construction and substantial improvements in zones V1-V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:

1. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated two feet or more above the base flood level; and
2. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subsections (A)(1) and (2) of this section.

B. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in zones V1-V30 and VE, and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.

C. All new construction shall be located landward of the reach of mean high tide.

D. Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
2. The elevated portion of the building and supporting foundation system shall not be subject to

collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

E. If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

F. Prohibit the use of fill for structural support of buildings.

G. Prohibit manmade alteration of sand dunes which would increase potential flood damage. (Ord. 3224 § 1 (Exh. A), 2019; Ord. 3173 § 1 (Exh. A), 2017; Ord. 2161 § 5.7, 1989).

16.08.230 Severability.

If any section, clause, sentence or phrase of this chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then the holding shall in no way affect the validity of the remaining portions of this chapter. (Ord. 3224 § 1 (Exh. A), 2019).

Home

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The Port Townsend Municipal Code is current through Ordinance 3272, passed October 4, 2021.

Disclaimer: The City Clerk's Office has the official version of the Port Townsend Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <https://cityofpt.us/>

City Telephone: (360) 379-5083

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Chapter 19.74 FLOODPLAIN MANAGEMENT

Sections:

- 19.74.010 Statutory authorization, findings of fact, purpose, and objectives.
- 19.74.020 Definitions.
- 19.74.030 General provisions.
- 19.74.040 Administration.
- 19.74.050 Provisions for flood hazard reduction.
- 19.74.060 Stand alone ordinance.

19.74.010 Statutory authorization, findings of fact, purpose, and objectives.

A. *Statutory Authorization.* The legislature of the state of Washington has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of Anacortes does ordain as follows:

1. *Findings of Fact.*

- a. The flood hazard areas of Anacortes are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- b. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

2. *Statement of Purpose.* 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 by provisions designed:

- a. To protect human life and health;
- b. To minimize expenditure of public money and costly flood control projects;
- c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

- d. To minimize prolonged business interruptions;
- e. To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- g. To ensure that potential buyers are notified that property is in an area of special flood hazard;
- h. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and
- i. To incorporate LID BMPs if feasible.

3. *Methods of Reducing Flood Losses.* In order to accomplish its purposes, this chapter includes methods and provisions for:

- a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- c. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- d. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- e. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas.

~~Code reviser's note: Ord. 3031, Section 3, states: "This ordinance shall be effective for six months from the date of adoption, and the provisions provided in Exhibit A shall expire on May 19, 2019."~~

19.74.020 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"Adjacent/regulated slopes" means within 100 feet of the project site boundaries.

"Administrator" means the Director of Community Development.

“Alteration of watercourse means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

“Appeal” means a request for a review of the interpretation of any provision of this chapter or a request for a variance.

~~“Area of shallow flooding” means a designated AO, or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.~~

“Area of Shallow Flooding” means a designated zone AO, AH, AR/AO or AR/AH or (VO) on a community Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. Also referred to as sheet flow area.

~~“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.~~

“Area of Special Flood Hazard” means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1 - A30, AE, A99, AR, (V, VO, V1-V30, VE). “Special Flood Hazard Area is synonymous in meaning with the phrase :area of special flood hazard”.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “one hundred-year flood.” Designation on maps always includes the letters A or V.

“Base Flood Elevation (BFE)” means the elevation to which floodwater is anticipated to rise during the base flood.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

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

“Buffer” means a naturally vegetated area or vegetated area established or managed to protect nontidal wetlands or other areas from human disturbances.

Buffer Strip. “Buffer Strip “means the ~~The term’s intended~~ purpose ~~is~~ to provide a sight, sound, and/or psychological barrier between land uses with a high degree of incompatibility, whether real or perceived.

“Channel” means the geographical area within either the natural or artificial banks of a watercourse or drainway.

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

“Creation, wetland” means a human activity bringing a wetland into existence at a site in which it did not formerly exist.

“Critical facility” means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

“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 located within the area of special flood hazard.

“Drainway” means any depression below the surrounding land serving to give direction to a regular current of water and having a bed and well-defined banks.

“Elevated building” means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

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

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

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

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

3. Mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as with when earth is carried by a current of water and deposited along the path of the current.

4. The collapse of subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water , accompanied by a severe storm, or by unanticipated force of nature, such as a flash flood or abnormal tidal surge, or by some similarly unforeseeable event which results in flooding.

“Flood Elevation Study” means an examination, evaluation and determination of flood hazards and, if appropriate , corresponding water surface elevations or an examination , evaluation and determination of mudslides (i.e., mudflow) and or flood-related erosion hazards. Also known as a Flood Insurance Study (FIS).

“Flood Insurance Rate Map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM)

“Flood Insurance Study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

“Floodplain or Flood prone Area” means any land area susceptible to being inundated by water from any source. See “Flood or Flooding”.

“Flood Proofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the base flood elevation.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than ~~one foot~~: a designated height. Also referred to as Regulatory Floodway”.

“Functional Dependent Use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities, that are necessary for the loading and unloading of cargo or passengers, and ship building and repair facilities, and does not include long term storage or related manufacturing facilities.

“Function/wetlands” means the beneficial roles nontidal wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and nongame birds, mammals, and other living resources; protection of habitat for rare, threatened, and endangered species, food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.

“Highest Adjacent Grade” means the highest natural elevation of the ground prior to construction next to the proposed walls of a structure.

“Historic Structure” means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

2. Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district.

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either;

a). By an approved state program as determined by the Secretary of the Interior., Or

b). Directly by the Secretary of the Interior in states without approved programs.

“Hydrophytic vegetation” means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

“In-kind construction, wetland” means the restoration or creation of a wetland with vegetation and other characteristics closely approximating those of a specified wetland.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter found at subsection [19.74.050\(B\)\(1\)\(b\)](#).

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

“Mean Sea Level” for purpose of the National Flood Insurance Program means the vertical datum to which Base Flood Elevations shown on community’s Flood Insurance Rate Map are referenced.

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

~~“New construction” means structures for which the “start of construction” commenced on or after the effective date of the ordinance codified in this chapter.~~

“New Construction” for the purpose of determining insurance rates, means structures for which the “start of construction” commenced on or after the effective date of an initial Flood Insurance Rate map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

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

“Nontidal wetland” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions (commonly known as hydrophytic vegetation).

“Off-site construction, wetland” means restoration or creation of a wetland at a location not adjacent to a previously specified wetland.

“Out-of-kind, wetland” means the restoration or creation of a wetland with vegetation or other characteristics not resembling those of a specified wetland.

“Partially developed lot” means a lot or parcel of land on which a building is located and which is of sufficient area so as to be capable of subdivision into two or more lots in accordance with city standards.

“Practicable alternative, wetland” means an alternative to the proposed project that would accomplish the basic purpose of the project and avoid or have less adverse impact on a nontidal wetland.

“Recreational vehicle” means a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Regulated activity, wetlands” means an activity with a significant impact on nontidal wetlands, including:

1. The removal, excavation, or dredging of soil, sand, gravel, minerals, organic matter, or materials of any kind;

2. The changing of existing drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;
3. The disturbance of the nontidal wetland water level or water table by drainage, impoundment, or other means;
4. The dumping or discharging of material, or the filling of a nontidal wetland with material;
5. The placing of fill or the grading or removal of material that would alter existing topography;
6. The driving of piles, placement of obstructions, and erection or repair of buildings or structures of any kind;
7. The destruction or removal of plant life that would alter the character of a nontidal wetland; and
8. The conduct of an activity that results in a significant change of water temperature, a significant change of physical or chemical characteristics of nontidal wetland water sources, or the introduction of pollutants.

“Regulated slopes” means slopes that average 15 percent or greater over a vertical interval of 10 feet.

“Restoration, wetland” means a human activity that returns a wetland or former wetland from a disturbed or altered condition with lesser acreage or functions to a previous condition with greater wetland acreage or functions.

“Scientist, professional wetland” means a professional wetland scientist shall be certified through the Society of Wetland Scientists Professional Certification Program.

“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.

“Substantial Improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure , the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of actual repair work performed. The term does not, however, include either:

1.) Any project for improvement of a structure to correct previously identified existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions.

2.) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

~~“Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:~~

~~1. Before the improvement or repair is started; or~~

~~2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.~~

~~The term does not, however, include either:~~

~~1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or~~

~~2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.~~

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

“Water dependent” means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. (Ord. 3064 § 2 (Att. A), 2021; Ord. 3040 § 2 (Att. A), 2019; Ord. 2794 § 1 (Att. A), 2008; Ord. 2702 § 3, 2005; Ord. 2316 § 3, 1994. Formerly 17.70.030)

19.74.030 General provisions.

A. *Lands to Which This Chapter Applies.* This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Anacortes.

B. *Basis for Establishing the Areas of Special Flood Hazard.* The 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 an accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study and the FIRM are on file at 904-6th Street. The best available information for flood hazard area identification as outlined in subsection [19.74.040\(C\)\(2\)](#) of this chapter shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under subsection [19.74.040\(C\)\(2\)](#) of this chapter.

C. *Penalties for Noncompliance.* No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one thousand dollars or imprisoned for not more than ten days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Administrator from taking such other lawful action as is necessary to prevent or remedy any violation.

D. *Abrogation and Greater Restrictions.* This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. *Interpretation.* In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

F. *Warning and Disclaimer of Liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city of Anacortes, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result

from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 3064 § 2 (Att. A), 2021; Ord. 2794 § 1 (Att. A), 2008; Ord. 2702 § 3, 2005. Formerly 17.70.040)

19.74.040 Administration.

A. *Establishment of development permit.*

1. *Development Permit Required.* A development permit shall be obtained before construction or development begins within any area of special flood hazard established in subsection [19.74.030\(B\)](#) of this chapter. The permit shall be for all structures including manufactured homes, as set forth in the “Definitions,” and for all development including fill and other activities, also as set forth in the “Definitions.”

2. *Application for Development Permit.* Application for a development permit shall be made on forms furnished by the city of Anacortes and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- a. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- b. Elevation in relation to mean sea level to which any structure has been floodproofed;
- c. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in subsection [19.74.050\(B\)\(2\)](#) of this chapter; and
- d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

B. *Designation of the Local Administrator.* The administrator is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

C. *Duties and Responsibilities of the Local Administrator.* Duties of the administrator shall include, but not be limited to:

1. *Permit Review.*
 - a. Review all development permits to determine that the permit requirements of this chapter have been satisfied.

- b. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
 - c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of subsection [19.74.050\(D\)](#) of this chapter are met.
 2. *Use of Other Base Flood Data (In A and V Zones).* When base flood elevation data has not been provided (A and V Zones) in accordance with subsection [19.74.030\(B\)](#), basis for establishing the areas of special flood hazard, the administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer subsection [19.74.050\(B\)](#), specific standards, and subsection [19.74.050\(D\)](#), critical facility.
 3. *Information to be Obtained and Maintained.*
 - a. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in subsection [\(C\)\(2\)](#) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - b. For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in subsection [\(C\)\(2\)](#) of this section:
 - i. Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed; and
 - ii. Maintain the floodproofing certifications required in subsection [\(A\)\(2\)\(c\)](#) of this section.
 - c. Maintain for public inspection all records pertaining to the provisions of this chapter.
 4. *Alteration of Watercourses.*
 - a. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
 5. *Interpretation of FIRM Boundaries.* Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in [AMC Table 19.20.030. Type I Administrative Ministerial Actions and Section 19.20.180. subsection \(D\) of this section.](#)
-

D. *Variance Procedure.*

1. Variances to this chapter must be processed according to the procedures in Title [19](#).
2. *Conditions for Variances.*
 - a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items ~~(i through xi)~~ in subsection ~~(D)(1)(d)~~ (D)(3)(a) of this section have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
 - b. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section. Upon a determination that the proposed repair or rehabilitation will not preclude the structures continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - c. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
 - d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - e. Variances shall only be issued upon:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - iv. A demonstration that no net loss of critical areas functions and values will occur as a result.
 - f. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

g. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (D)(2)(a) of this section, and otherwise complies with subsections 19.74.050(A)(1), (3) and (4) of the general standards.

h. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 3064 § 2 (Att. A), 2021; Ord. 2992 § 1 (Att. A), 2016; Ord. 2794 § 1 (Att. A), 2008; Ord. 2702 § 3, 2005. Formerly 17.70.050)

3. Variance review criteria.

a. In considering variance applications, the governing body must consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and;

i. The danger that materials may be swept onto other lands to the injury of others;

ii. The danger to life and property due to flooding or erosion damage;

iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

iv. The importance of the services provided by the proposed facility to the community;

v. The necessity of the facility of a waterfront location , where applicable;

vi. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;

vii. The compatibility of the proposed use with existing and proposed development;

viii. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

ix. The safety of access to the property in time of flood for ordinary and emergency vehicles;

x. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and

xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public facilities, such as sewer, gas, electrical, water system, and streets and bridges.

19.74.050 Provisions for flood hazard reduction.

A. *General Standards.* In all areas of special flood hazards, the following standards are required:

1. *Anchoring.*

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure [resulting from hydrodynamic and hydrostatic loads including effects of buoyancy](#).

b. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

2. *Construction Materials and Methods.*

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. *Utilities.*

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;

b. The proposed water well shall be located on high ground that is not in the floodway (WAC [173-160-171](#));

c. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters; and

d. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. *Subdivision Proposals.*

a. All subdivision proposals shall be consistent with the need to minimize flood damage;

- b. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty lots or five acres (whichever is less).

5. *Review of Building Permits.* Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (subsection [19.74.040\(C\)\(2\)](#)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

B. *Specific Standards.* In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30, AH, and AE) as set forth in subsection [19.74.030\(B\)](#), basis for establishing the areas of special flood hazard, or subsection [19.74.040\(C\)\(2\)](#), use of other base flood data (In A and V Zones), the following provisions are required:

1. *Residential Construction.*

a. In AE and A1-30 Zones or other A Zoned areas where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any residential structure must have the lowest floor, including basement, elevated one foot or more above the BFE. Mechanical equipment and utilities must be waterproof or elevated one foot above BFE.

b. New construction and substantial improvement of any structure in an unnumbered A Zone for which a BFE is not available and cannot be reasonably obtained must be reasonably safe from flooding, but in all cases the lowest floor must be at least two feet above the Highest Adjacent Grade.

c. New construction and substantial improvement of any residential structure in a V, V1-30, or VE Zone must meet the requirements of section 19.74.050 (C) Coastal High Hazard.

d. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited or must be designed to automatically equalize hydrostatic flood forces on the exterior walls by allowing for the entry and exit of flood waters. Designs must meet or exceed the following criteria or be designed by a registered engineer or architect and certify engineered openings;

i. Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited or must meet be designed to automatically equalize hydrostatic flood forces on the exterior walls by allowing for the entry and exit of flood forces. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria or be designed by a registered engineer or architect and certify engineered openings.

i. Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.

ii. The bottom of all openings must be no higher than one foot above grade.

iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of flood water.

iv. A garage attached to a nonresidential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwater.

c. If the requirements of subsection (a) are not met, then the new construction and substantial improvement of any commercial, industrial or other nonresidential structure must meet all the following requirements;

i. Be dry flood proofed so that one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry flood proofed to the elevation required by ASCE 24, whichever is greater;

ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications must be provided to the official as set forth in section 19.74.040 (C (3)).

iv. Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in (2)(b) of this section.

V. Applicants who are flood proofing nonresidential buildings must be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level (e.g. a building that is flood proofed to the base flood level will be rated as one foot below). Flood proofing the building an additional foot will reduce flood insurance premiums.

~~New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:~~

- ~~a. Be floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;~~
- ~~b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;~~
- ~~c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in subsection 19.74.040(C)(3)(b) of this chapter;~~
- ~~d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (B)(1)(b) of this section;~~
- ~~e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one foot below).~~

3. *Manufactured Homes.*

- a. All manufactured homes to be placed or substantially improved on sites:
 - i. Outside of a manufactured home park or subdivision,
 - ii. In a new manufactured home park or subdivision,
 - iii. In an expansion to an existing manufactured home park or subdivision, or
 - iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood;

Shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

- b. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions be elevated so that either:

- i. The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation, or
 - ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.
4. *Recreational Vehicles*. Recreational vehicles placed on sites are required to either:
- a. Be on the site for fewer than one hundred eighty consecutive days;
 - b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - c. Meet the requirements of subsection [\(B\)\(3\)](#) of this section and the elevation and anchoring requirements for manufactured homes.

[5. Enclosed area below the lowest floor:](#)

[a. If buildings or manufactured homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas must be used for parking of vehicles, building access, or storage.](#)

[6. Appurtenant Structures \(Detached Garages & Small Storage Structures\)](#)

[a. Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the BFE, provided the structure is designed and constructed in accordance with the following requirements:](#)

[i. Use of the appurtenant structure must be limited to parking of vehicles or storage:](#)

[ii. The portions of the appurtenant structure located below the BFE must be built using flood resistant materials:](#)

[iii. The appurtenant structure must be anchored to prevent flotation, collapse, and lateral movement:](#)

[iv. Any machinery or equipment servicing the appurtenant structure must be elevated or flood proofed to or above BFE:](#)

[v. The appurtenant structure must be designed to allow for the automatic entry and exit of floodwaters in accordance with 1-d of this section:](#)

[vi. The structure must have low damage potential:](#)

vii. If the structure converted to another use, it must be brought into full compliance with standards governing such use:

viii. The structure must not be used for human habitation:

b. Detached garages, storage structures, and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards in section 1-d.

c. Upon completion of the structure , certification that the requirement of this section has been satisfied must be provided to the Floodplain Administrator for verification.

7. AE and A1-30 Zones with Base Flood Elevations but No Floodways

a. In areas with BFEs (when a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the communities FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within community.

C. *Coastal High Hazard Areas.* Located within areas of special flood hazard established in subsection [19.74.030\(B\)](#) of this chapter are coastal high hazard areas, designated as Zones V1-30, VE and/or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this chapter, the following provisions shall also apply:

1. All new construction and substantial improvements in zones V1-30 and VE (V if base flood elevation is available) on the communities FIRM must be elevated on pilings and columns so that:

a. For residential buildings the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level:

b. For nonresidential buildings the bottom of the lowest horizontal member of the lowest floor (excluding pilings or columns) is elevated one foot or more above the base flood level or meets the requirements of ASCE 24, whichever is higher.

~~1. All new construction and substantial improvements in Zones V1-30 and VE (V if base flood elevation data is available) on the community's FIRM shall be elevated on pilings and columns so that:~~

~~a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level, and~~

b-c The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in and given year (one hundred-year mean recurrence interval).

d A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this section.

2. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-30, VE, and V on the community's FIRM and whether or not such structures contain a basement. The administrator shall maintain a record of all such information;
3. All new construction within Zones V1-30, VE, and V on the community's FIRM shall be located landward of the reach of mean high tide;
4. Provide that all new construction and substantial improvements within Zones V1-30, VE, and V on the community's FIRM have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - a. Breakaway wall collapse shall result from water load less than that which would occur during the base flood, and
 - b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (one hundred-year mean recurrence interval).

If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
5. Prohibit the use of fill for structural support of buildings within Zones V1-30, VE, and V on the community's FIRM;

6. Prohibit ~~man-made~~ human caused alteration of sand dunes within Zones V1-30, VE, and V on the community's FIRM which would increase potential flood damage;

7. All manufactured homes to be placed or substantially improved within Zones V1-30, V, and VE on the community's FIRM on sites:

- a. Outside of a manufactured home park or subdivision,
- b. In a new manufactured home park or subdivision,
- c. In an expansion to an existing manufactured home park or subdivision, or
- d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

Meet the standards of subsections (C)(1) through (C)(6) of this section and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones V1-30, V, and VE on the FIRM meet the requirements of subsection (B)(3) of this section.

8. Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's FIRM either:

- a. Be on the site for fewer than one hundred eighty consecutive days,
- b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, or
- c. Meet the requirements of subsection 19.74.040(A)(1) of this chapter, development permit required and subsection (C)(1) through (C)(6) of this section.

D. *Critical Facility*. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (one hundred-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or to the height of the five hundred-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. (Ord. 3064 § 2 (Att. A), 2021; Ord. 2794 § 1 (Att. A), 2008; Ord. 2702 § 3, 2005. Formerly 17.70.060)

19.74.060 Stand alone ordinance.

This chapter is adopted as a stand alone ordinance will be enforced only in those areas presently identified or become identified as special flood hazard areas within the City of Anacortes. (Ord. 3064 § 2 (Att. A), 2021; Ord. 2794 § 1 (Att. A), 2008; Ord. 2702 § 3, 2005. Formerly 17.70.070)

~~The Anacortes Municipal Code is current through Ordinance 3092, and legislation passed through July 26, 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 19.74 FLOODPLAIN MANAGEMENT

Sections:

- 19.74.010 Statutory authorization, findings of fact, purpose, and objectives.
- 19.74.020 Definitions.
- 19.74.030 General provisions.
- 19.74.040 Administration.
- 19.74.050 Provisions for flood hazard reduction.
- 19.74.060 Stand alone ordinance.

19.74.010 Statutory authorization, findings of fact, purpose, and objectives.

A. *Statutory Authorization.* The legislature of the state of Washington has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of Anacortes does ordain as follows:

1. *Findings of Fact.*

- a. The flood hazard areas of Anacortes are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- b. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

2. *Statement of Purpose.* 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 by provisions designed:

- a. To protect human life and health;
- b. To minimize expenditure of public money and costly flood control projects;
- c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

- d. To minimize prolonged business interruptions;
- e. To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- g. To ensure that potential buyers are notified that property is in an area of special flood hazard;
- h. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and
- i. To incorporate LID BMPs if feasible.

3. *Methods of Reducing Flood Losses.* In order to accomplish its purposes, this chapter includes methods and provisions for:

- a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- c. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- d. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- e. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas.

~~Code reviser's note: Ord. 3031, Section 3, states: "This ordinance shall be effective for six months from the date of adoption, and the provisions provided in Exhibit A shall expire on May 19, 2019."~~

19.74.020 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"Adjacent/regulated slopes" means within 100 feet of the project site boundaries.

"Administrator" means the Director of Community Development.

“Alteration of watercourse means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

“Appeal” means a request for a review of the interpretation of any provision of this chapter or a request for a variance.

~~“Area of shallow flooding” means a designated AO, or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.~~

“Area of Shallow Flooding” means a designated zone AO, AH, AR/AO or AR/AH or (VO) on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. Also referred to as sheet flow area.

~~“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.~~

“Area of Special Flood Hazard” means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1 - A30, AE, A99, AR, (V, VO, V1-V30, VE). “Special Flood Hazard Area is synonymous in meaning with the phrase :area of special flood hazard”.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “one hundred-year flood.” Designation on maps always includes the letters A or V.

“Base Flood Elevation (BFE)” means the elevation to which floodwater is anticipated to rise during the base flood.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

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

“Buffer” means a naturally vegetated area or vegetated area established or managed to protect nontidal wetlands or other areas from human disturbances.

Buffer Strip. “Buffer Strip “means the ~~The term’s intended~~ purpose ~~is~~ to provide a sight, sound, and/or psychological barrier between land uses with a high degree of incompatibility, whether real or perceived.

“Channel” means the geographical area within either the natural or artificial banks of a watercourse or drainway.

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

“Creation, wetland” means a human activity bringing a wetland into existence at a site in which it did not formerly exist.

“Critical facility” means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

“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 located within the area of special flood hazard.

“Drainway” means any depression below the surrounding land serving to give direction to a regular current of water and having a bed and well-defined banks.

“Elevated building” means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

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

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

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

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

3. Mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as with when earth is carried by a current of water and deposited along the path of the current.

4. The collapse of subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water , accompanied by a severe storm, or by unanticipated force of nature, such as a flash flood or abnormal tidal surge, or by some similarly unforeseeable event which results in flooding.

“Flood Elevation Study” means an examination, evaluation and determination of flood hazards and, if appropriate , corresponding water surface elevations or an examination , evaluation and determination of mudslides (i.e., mudflow) and or flood-related erosion hazards. Also known as a Flood Insurance Study (FIS).

“Flood Insurance Rate Map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM)

“Flood Insurance Study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

“Floodplain or Flood prone Area” means any land area susceptible to being inundated by water from any source. See “Flood or Flooding”.

“Flood Proofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the base flood elevation.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than ~~one foot~~ a designated height. Also referred to as Regulatory Floodway”.

“Functional Dependent Use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities, that are necessary for the loading and unloading of cargo or passengers, and ship building and repair facilities, and does not include long term storage or related manufacturing facilities.

“Function/wetlands” means the beneficial roles nontidal wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and nongame birds, mammals, and other living resources; protection of habitat for rare, threatened, and endangered species, food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.

“Highest Adjacent Grade” means the highest natural elevation of the ground prior to construction next to the proposed walls of a structure.

“Historic Structure” means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

2. Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district.

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either;

a). By an approved state program as determined by the Secretary of the Interior., Or

b). Directly by the Secretary of the Interior in states without approved programs.

“Hydrophytic vegetation” means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

“In-kind construction, wetland” means the restoration or creation of a wetland with vegetation and other characteristics closely approximating those of a specified wetland.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter found at subsection [19.74.050\(B\)\(1\)\(b\)](#).

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

“Mean Sea Level” for purpose of the National Flood Insurance Program means the vertical datum to which Base Flood Elevations shown on community’s Flood Insurance Rate Map are referenced.

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

~~“New construction” means structures for which the “start of construction” commenced on or after the effective date of the ordinance codified in this chapter.~~

“New Construction” for the purpose of determining insurance rates, means structures for which the “start of construction” commenced on or after the effective date of an initial Flood Insurance Rate map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

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

“Nontidal wetland” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions (commonly known as hydrophytic vegetation).

“Off-site construction, wetland” means restoration or creation of a wetland at a location not adjacent to a previously specified wetland.

“Out-of-kind, wetland” means the restoration or creation of a wetland with vegetation or other characteristics not resembling those of a specified wetland.

“Partially developed lot” means a lot or parcel of land on which a building is located and which is of sufficient area so as to be capable of subdivision into two or more lots in accordance with city standards.

“Practicable alternative, wetland” means an alternative to the proposed project that would accomplish the basic purpose of the project and avoid or have less adverse impact on a nontidal wetland.

“Recreational vehicle” means a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Regulated activity, wetlands” means an activity with a significant impact on nontidal wetlands, including:

1. The removal, excavation, or dredging of soil, sand, gravel, minerals, organic matter, or materials of any kind;

2. The changing of existing drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;
3. The disturbance of the nontidal wetland water level or water table by drainage, impoundment, or other means;
4. The dumping or discharging of material, or the filling of a nontidal wetland with material;
5. The placing of fill or the grading or removal of material that would alter existing topography;
6. The driving of piles, placement of obstructions, and erection or repair of buildings or structures of any kind;
7. The destruction or removal of plant life that would alter the character of a nontidal wetland; and
8. The conduct of an activity that results in a significant change of water temperature, a significant change of physical or chemical characteristics of nontidal wetland water sources, or the introduction of pollutants.

“Regulated slopes” means slopes that average 15 percent or greater over a vertical interval of 10 feet.

“Restoration, wetland” means a human activity that returns a wetland or former wetland from a disturbed or altered condition with lesser acreage or functions to a previous condition with greater wetland acreage or functions.

“Scientist, professional wetland” means a professional wetland scientist shall be certified through the Society of Wetland Scientists Professional Certification Program.

“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.

“Substantial Improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure , the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of actual repair work performed. The term does not, however, include either:

1.) Any project for improvement of a structure to correct previously identified existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions.

2.) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

~~“Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:~~

~~1. Before the improvement or repair is started; or~~

~~2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.~~

~~The term does not, however, include either:~~

~~1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or~~

~~2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.~~

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

“Water dependent” means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. (Ord. 3064 § 2 (Att. A), 2021; Ord. 3040 § 2 (Att. A), 2019; Ord. 2794 § 1 (Att. A), 2008; Ord. 2702 § 3, 2005; Ord. 2316 § 3, 1994. Formerly 17.70.030)

19.74.030 General provisions.

A. *Lands to Which This Chapter Applies.* This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Anacortes.

B. *Basis for Establishing the Areas of Special Flood Hazard.* The 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 an accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study and the FIRM are on file at 904-6th Street. The best available information for flood hazard area identification as outlined in subsection [19.74.040\(C\)\(2\)](#) of this chapter shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under subsection [19.74.040\(C\)\(2\)](#) of this chapter.

C. *Penalties for Noncompliance.* No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one thousand dollars or imprisoned for not more than ten days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Administrator from taking such other lawful action as is necessary to prevent or remedy any violation.

D. *Abrogation and Greater Restrictions.* This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. *Interpretation.* In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

F. *Warning and Disclaimer of Liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city of Anacortes, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result

from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 3064 § 2 (Att. A), 2021; Ord. 2794 § 1 (Att. A), 2008; Ord. 2702 § 3, 2005. Formerly 17.70.040)

19.74.040 Administration.

A. *Establishment of development permit.*

1. *Development Permit Required.* A development permit shall be obtained before construction or development begins within any area of special flood hazard established in subsection [19.74.030\(B\)](#) of this chapter. The permit shall be for all structures including manufactured homes, as set forth in the “Definitions,” and for all development including fill and other activities, also as set forth in the “Definitions.”

2. *Application for Development Permit.* Application for a development permit shall be made on forms furnished by the city of Anacortes and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- a. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- b. Elevation in relation to mean sea level to which any structure has been floodproofed;
- c. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in subsection [19.74.050\(B\)\(2\)](#) of this chapter; and
- d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

B. *Designation of the Local Administrator.* The administrator is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

C. *Duties and Responsibilities of the Local Administrator.* Duties of the administrator shall include, but not be limited to:

1. *Permit Review.*
 - a. Review all development permits to determine that the permit requirements of this chapter have been satisfied.

- b. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
 - c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of subsection [19.74.050\(D\)](#) of this chapter are met.
 2. *Use of Other Base Flood Data (In A and V Zones).* When base flood elevation data has not been provided (A and V Zones) in accordance with subsection [19.74.030\(B\)](#), basis for establishing the areas of special flood hazard, the administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer subsection [19.74.050\(B\)](#), specific standards, and subsection [19.74.050\(D\)](#), critical facility.
 3. *Information to be Obtained and Maintained.*
 - a. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in subsection [\(C\)\(2\)](#) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - b. For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in subsection [\(C\)\(2\)](#) of this section:
 - i. Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed; and
 - ii. Maintain the floodproofing certifications required in subsection [\(A\)\(2\)\(c\)](#) of this section.
 - c. Maintain for public inspection all records pertaining to the provisions of this chapter.
 4. *Alteration of Watercourses.*
 - a. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
 5. *Interpretation of FIRM Boundaries.* Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in [AMC Table 19.20.030. Type I Administrative Ministerial Actions and Section 19.20.180. subsection \(D\) of this section.](#)
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D. *Variance Procedure.*

1. Variances to this chapter must be processed according to the procedures in Title [19](#).
2. *Conditions for Variances.*
 - a. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items ~~(i through xi)~~ in subsection ~~(D)(1)(d)~~ (D)(3)(a) of this section have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
 - b. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section. Upon a determination that the proposed repair or rehabilitation will not preclude the structures continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - c. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
 - d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - e. Variances shall only be issued upon:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - iv. A demonstration that no net loss of critical areas functions and values will occur as a result.
 - f. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

g. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (D)(2)(a) of this section, and otherwise complies with subsections 19.74.050(A)(1), (3) and (4) of the general standards.

h. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (~~Ord. 3064 § 2 (Att. A), 2021; Ord. 2992 § 1 (Att. A), 2016; Ord. 2794 § 1 (Att. A), 2008; Ord. 2702 § 3, 2005. Formerly 17.70.050)~~)

3. Variance review criteria.

a. In considering variance applications, the governing body must consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and;

i. The danger that materials may be swept onto other lands to the injury of others;

ii. The danger to life and property due to flooding or erosion damage;

iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

iv. The importance of the services provided by the proposed facility to the community;

v. The necessity of the facility of a waterfront location , where applicable;

vi. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;

vii. The compatibility of the proposed use with existing and proposed development;

viii. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

ix. The safety of access to the property in time of flood for ordinary and emergency vehicles;

x. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and

xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public facilities, such as sewer, gas, electrical, water system, and streets and bridges.

19.74.050 Provisions for flood hazard reduction.

A. *General Standards.* In all areas of special flood hazards, the following standards are required:

1. *Anchoring.*

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure [resulting from hydrodynamic and hydrostatic loads including effects of buoyancy](#).

b. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

2. *Construction Materials and Methods.*

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. *Utilities.*

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;

b. The proposed water well shall be located on high ground that is not in the floodway (WAC [173-160-171](#));

c. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters; and

d. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. *Subdivision Proposals.*

a. All subdivision proposals shall be consistent with the need to minimize flood damage;

- b. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty lots or five acres (whichever is less).

5. *Review of Building Permits.* Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (subsection [19.74.040\(C\)\(2\)](#)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

B. *Specific Standards.* In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30, AH, and AE) as set forth in subsection [19.74.030\(B\)](#), basis for establishing the areas of special flood hazard, or subsection [19.74.040\(C\)\(2\)](#), use of other base flood data (In A and V Zones), the following provisions are required:

1. *Residential Construction.*

a. In AE and A1-30 Zones or other A Zoned areas where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any residential structure must have the lowest floor, including basement, elevated ~~one foot~~ two feet or more above the BFE. Mechanical equipment and utilities must be waterproof or elevated one foot above BFE.

b. New construction and substantial improvement of any structure in an unnumbered A Zone for which a BFE is not available and cannot be reasonably obtained must be reasonably safe from flooding, but in all cases the lowest floor must be at least two feet above the Highest Adjacent Grade.

c. New construction and substantial improvement of any residential structure in a V, V1-30, or VE Zone must meet the requirements of section 19.74.050 (C) Coastal High Hazard.

d. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited or must be designed to automatically equalize hydrostatic flood forces on the exterior walls by allowing for the entry and exit of flood waters. Designs must meet or exceed the following criteria or be designed by a registered engineer or architect and certify engineered openings;

i. Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited or must meet be designed to automatically equalize hydrostatic flood forces on the exterior walls by allowing for the entry and exit of flood forces. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria or be designed by a registered engineer or architect and certify engineered openings.

i. Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.

ii. The bottom of all openings must be no higher than one foot above grade.

iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of flood water.

iv. A garage attached to a nonresidential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwater.

c. If the requirements of subsection (a) are not met, then the new construction and substantial improvement of any commercial, industrial or other nonresidential structure must meet all the following requirements;

i. Be dry flood proofed so that one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry flood proofed to the elevation required by ASCE 24, whichever is greater;

ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications must be provided to the official as set forth in section 19.74.040 (C (3)).

iv. Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in (2)(b) of this section.

V. Applicants who are flood proofing nonresidential buildings must be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level (e.g. a building that is flood proofed to the base flood level will be rated as one foot below). Flood proofing the building an additional foot will reduce flood insurance premiums.

~~New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:~~

- ~~a. Be floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;~~
- ~~b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;~~
- ~~c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in subsection 19.74.040(C)(3)(b) of this chapter;~~
- ~~d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (B)(1)(b) of this section;~~
- ~~e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one foot below).~~

3. *Manufactured Homes.*

- a. All manufactured homes to be placed or substantially improved on sites:
 - i. Outside of a manufactured home park or subdivision,
 - ii. In a new manufactured home park or subdivision,
 - iii. In an expansion to an existing manufactured home park or subdivision, or
 - iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood;

Shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

- b. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions be elevated so that either:

- i. The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation, or
 - ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.
4. *Recreational Vehicles*. Recreational vehicles placed on sites are required to either:
- a. Be on the site for fewer than one hundred eighty consecutive days;
 - b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - c. Meet the requirements of subsection [\(B\)\(3\)](#) of this section and the elevation and anchoring requirements for manufactured homes.

[5. Enclosed area below the lowest floor:](#)

[a. If buildings or manufactured homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas must be used for parking of vehicles, building access, or storage.](#)

[6. Appurtenant Structures \(Detached Garages & Small Storage Structures\)](#)

[a. Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the BFE, provided the structure is designed and constructed in accordance with the following requirements:](#)

[i. Use of the appurtenant structure must be limited to parking of vehicles or storage:](#)

[ii. The portions of the appurtenant structure located below the BFE must be built using flood resistant materials:](#)

[iii. The appurtenant structure must be anchored to prevent flotation, collapse, and lateral movement:](#)

[iv. Any machinery or equipment servicing the appurtenant structure must be elevated or flood proofed to or above BFE:](#)

[v. The appurtenant structure must be designed to allow for the automatic entry and exit of floodwaters in accordance with 1-d of this section:](#)

[vi. The structure must have low damage potential:](#)

vii. If the structure converted to another use, it must be brought into full compliance with standards governing such use:

viii. The structure must not be used for human habitation:

b. Detached garages, storage structures, and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards in section 1-d.

c. Upon completion of the structure , certification that the requirement of this section has been satisfied must be provided to the Floodplain Administrator for verification.

7. AE and A1-30Zones with Base Flood Elevations but No Floodways

a. In areas with BFEs (when a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the communities FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within community.

C. *Coastal High Hazard Areas.* Located within areas of special flood hazard established in subsection [19.74.030\(B\)](#) of this chapter are coastal high hazard areas, designated as Zones V1-30, VE and/or V. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this chapter, the following provisions shall also apply:

1. All new construction and substantial improvements in zones V1-30 and VE (V if base flood elevation is available) on the communities FIRM must be elevated on pilings and columns so that:

a. For residential buildings the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level:

b. For nonresidential buildings the bottom of the lowest horizontal member of the lowest floor (excluding pilings or columns) is elevated one foot or more above the base flood level or meets the requirements of ASCE 24, whichever is higher.

~~1. All new construction and substantial improvements in Zones V1-30 and VE (V if base flood elevation data is available) on the community's FIRM shall be elevated on pilings and columns so that:~~

~~a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level, and~~

b-c The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in and given year (one hundred-year mean recurrence interval).

d A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this section.

2. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-30, VE, and V on the community's FIRM and whether or not such structures contain a basement. The administrator shall maintain a record of all such information;
3. All new construction within Zones V1-30, VE, and V on the community's FIRM shall be located landward of the reach of mean high tide;
4. Provide that all new construction and substantial improvements within Zones V1-30, VE, and V on the community's FIRM have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - a. Breakaway wall collapse shall result from water load less than that which would occur during the base flood, and
 - b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (one hundred-year mean recurrence interval).

If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
5. Prohibit the use of fill for structural support of buildings within Zones V1-30, VE, and V on the community's FIRM;

6. Prohibit ~~man-made~~ human caused alteration of sand dunes within Zones V1-30, VE, and V on the community's FIRM which would increase potential flood damage;

7. All manufactured homes to be placed or substantially improved within Zones V1-30, V, and VE on the community's FIRM on sites:

- a. Outside of a manufactured home park or subdivision,
- b. In a new manufactured home park or subdivision,
- c. In an expansion to an existing manufactured home park or subdivision, or
- d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

Meet the standards of subsections (C)(1) through (C)(6) of this section and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones V1-30, V, and VE on the FIRM meet the requirements of subsection (B)(3) of this section.

8. Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's FIRM either:

- a. Be on the site for fewer than one hundred eighty consecutive days,
- b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, or
- c. Meet the requirements of subsection 19.74.040(A)(1) of this chapter, development permit required and subsection (C)(1) through (C)(6) of this section.

D. *Critical Facility*. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (one hundred-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or to the height of the five hundred-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. (Ord. 3064 § 2 (Att. A), 2021; Ord. 2794 § 1 (Att. A), 2008; Ord. 2702 § 3, 2005. Formerly 17.70.060)

19.74.060 Stand alone ordinance.

This chapter is adopted as a stand alone ordinance will be enforced only in those areas presently identified or become identified as special flood hazard areas within the City of Anacortes. (Ord. 3064 § 2 (Att. A), 2021; Ord. 2794 § 1 (Att. A), 2008; Ord. 2702 § 3, 2005. Formerly 17.70.070)

~~The Anacortes Municipal Code is current through Ordinance 3092, and legislation passed through July 26, 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.~~

~~**Note:** This site does not support Internet Explorer. To view this site, Code Publishing Company recommends using one of the following browsers: Google Chrome, Firefox, or Safari.~~

~~City Website: www.cityofanacortes.org~~

~~City Telephone: (360) 293-1900~~

~~Code Publishing Company~~

City of Anacortes Critical Areas Ordinance Update: Frequently Flooded Areas Sea Level Rise Overview

Anacortes City Council



July 11, 2022

E Skyline, Anacortes 12/2018

Introduction

Current Proposal

- ◆ Building standards to be revised for new floor level to be at Base Flood Elevation + 2 FT **within existing flood zone** to account for future sea level rise (SLR)
 - ◆ Vertical change only, no horizontal change past flood zone boundary

Questions

- ◆ Does best available science support +2FT?
- ◆ What are other jurisdictions doing?
- ◆ How many parcels will be affected?
- ◆ What costs are associated with this proposal?

Important Timeframes

- ◆ Typical lifespan of new home ~2100 (~75 years)
- ◆ 30-year mortgage ~2052 on

Best Available Sea Level Rise Projections

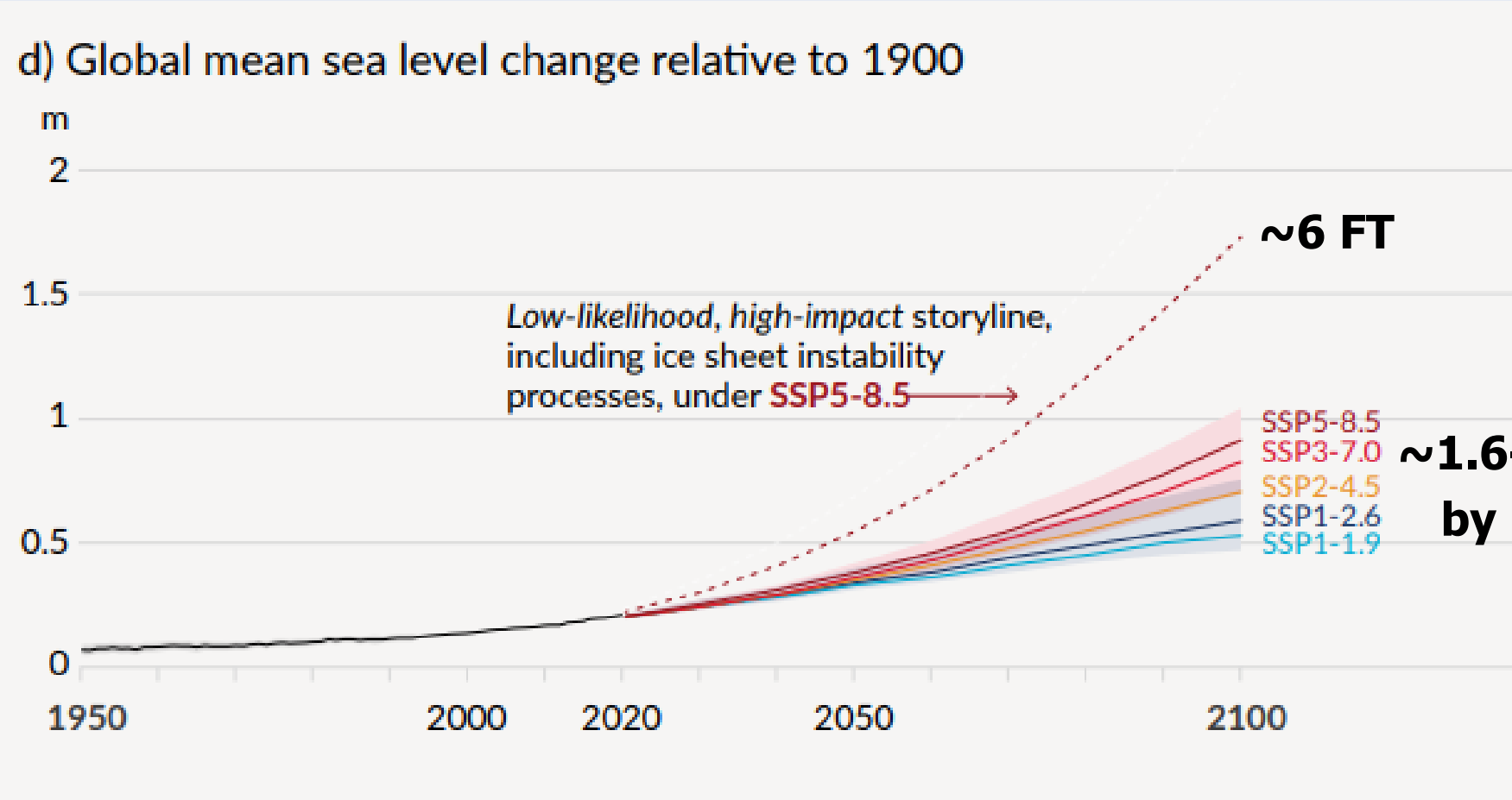
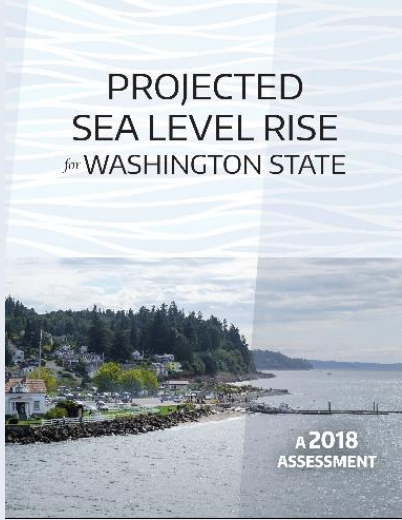
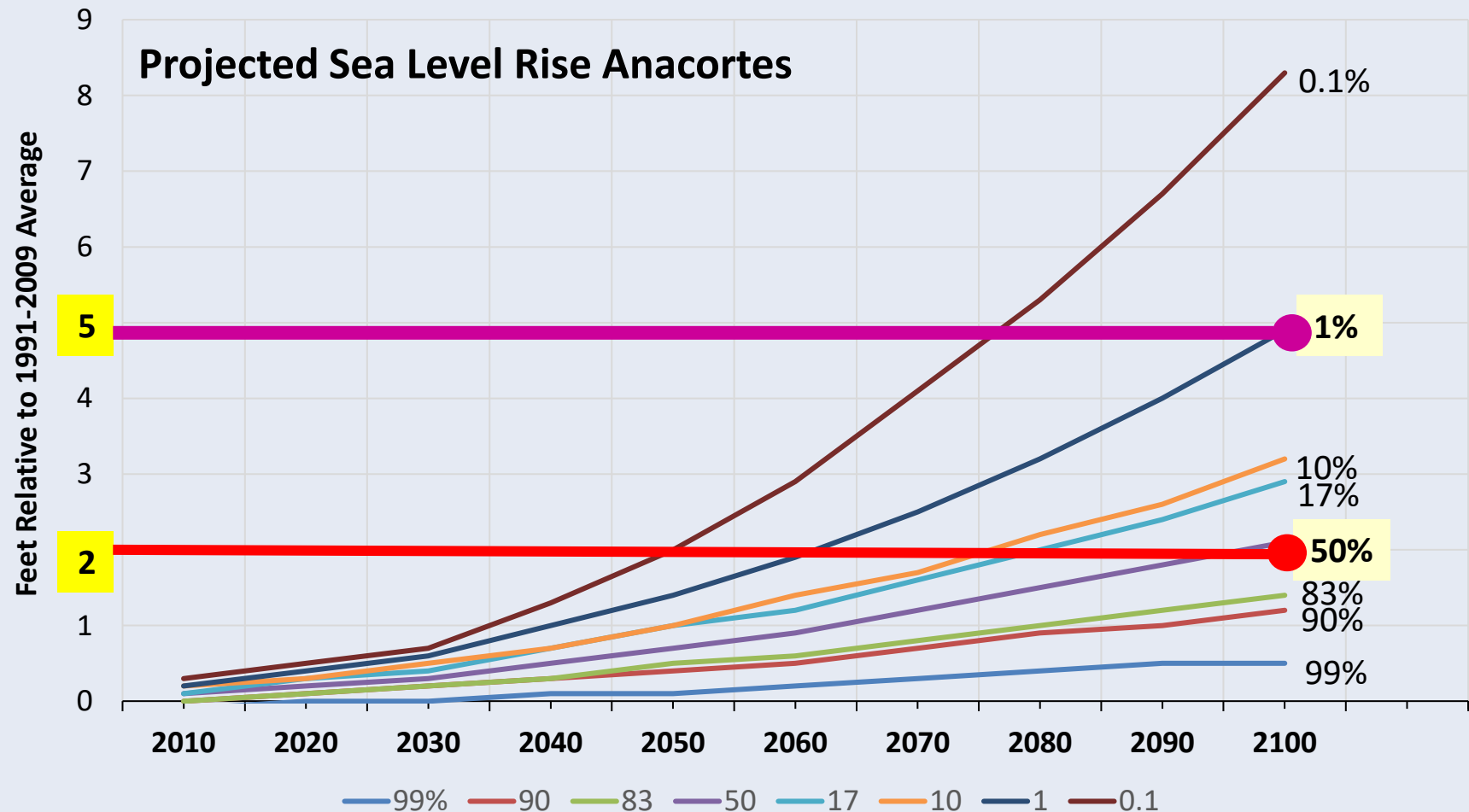


Figure 1. Global mean sea level change in meters relative to 1900 from the 2021 IPCC Sixth Assessment Report Summary for Policy Makers (IPCC et al., 2021b)

Best Available Sea Level Rise Projections



Probability of exceedance value =
% probability that sea level rise will be higher than the value shown

50% probability that SLR will be greater than 2 FT by 2100

Figure 2. Absolute Sea level rise projections (Miller et al. 2018).



Figure 3. Modeled inundation for the City of Anacortes area for extreme water levels for 2050 and 2100 for low (50%) and high (1%) exceedance probability scenarios. Extreme water levels here are defined as mean higher high water plus the 20-year storm surge (2.9 FT; (Miller et al., 2019)), plus localized relative sea level rise projections (Miller et al., 2018).

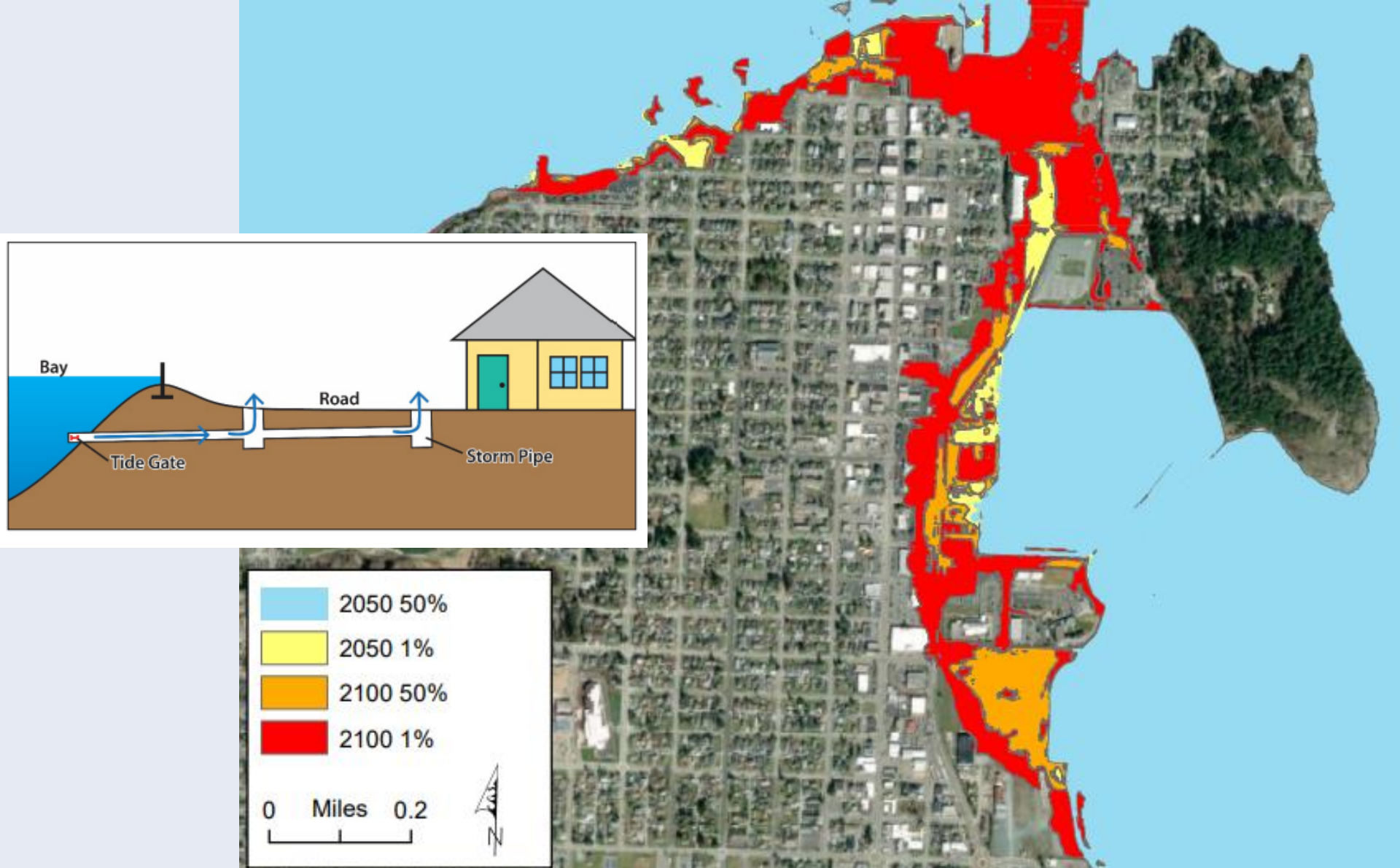


Figure 4. Modeled inundation for the Anacortes downtown area for extreme water levels for 2050 and 2100 for low (50%) and high (1%) exceedance probability scenarios. Extreme water levels here are defined as mean higher high water plus the 20-year storm surge (2.9 FT; (Miller et al., 2019)), plus localized relative sea level rise projections (Miller et al., 2018).

Best Available Sea Level Rise Projections

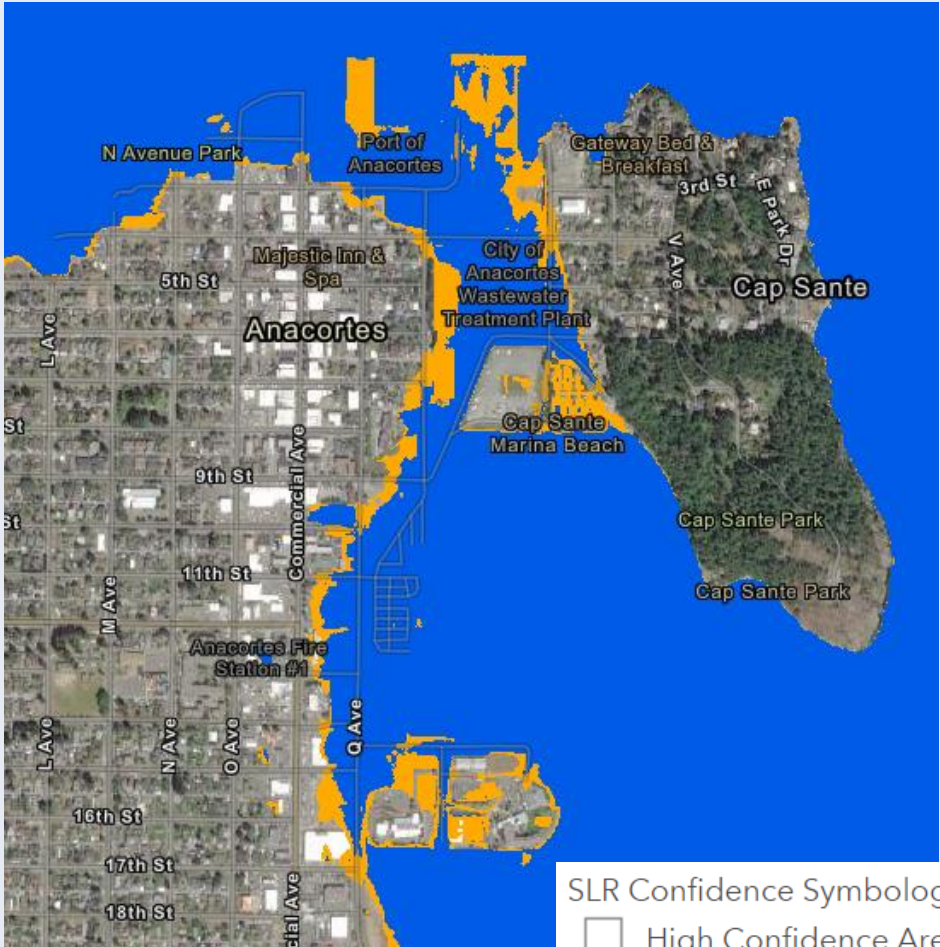
BFE = 7 FT NGVD29

2 FT SLR

5 FT SLR

50% Probability SLR will be higher by 2100

1% Probability SLR will be higher by 2100



- SLR Confidence Symbology
- High Confidence Area Dry
 - Low Confidence Wet or Dry
 - High Confidence Area Wet

Figure 5. Inundation extent for SLR above base flood elevation (BFE) for downtown Anacortes.

Best Available Sea Level Rise Projections

2 FT SLR

50% Probability SLR will be higher by 2100

5 FT SLR

1% Probability SLR will be higher by 2100

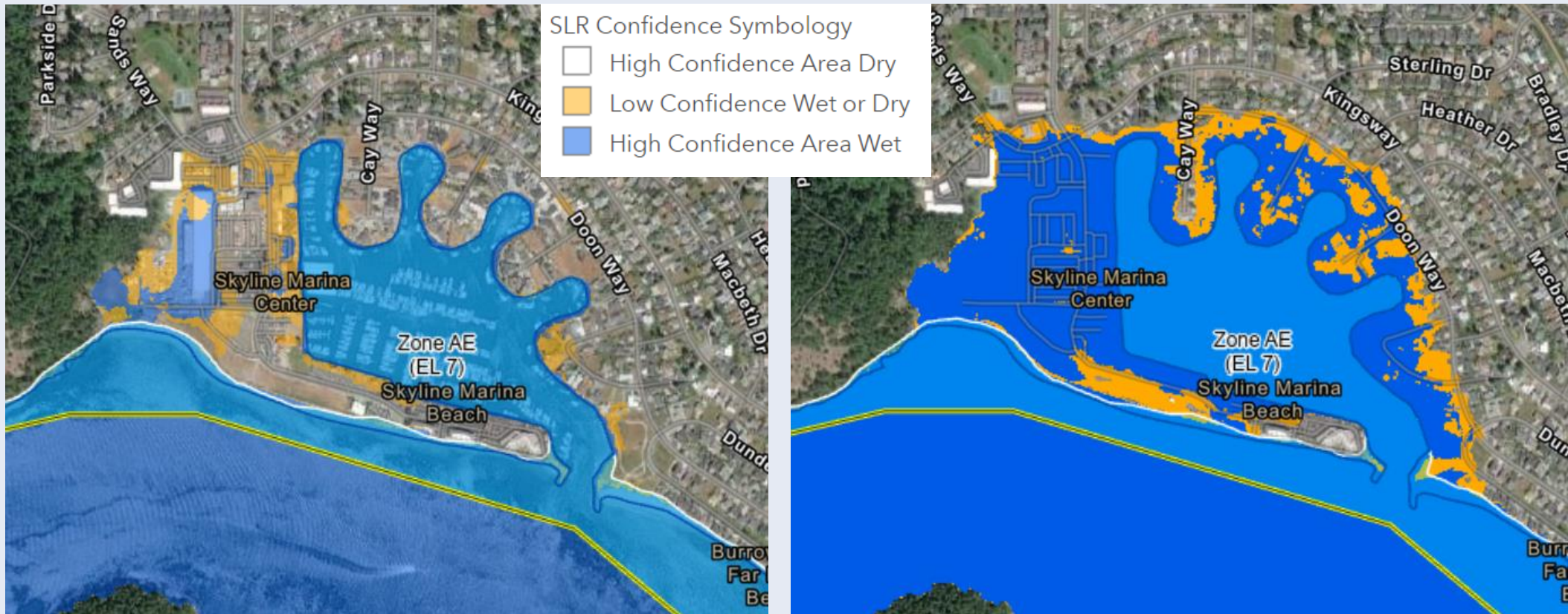


Figure 6. Inundation extent for SLR above base flood elevation (BFE) for Skyline Marina area.

Best Available Sea Level Rise Projections

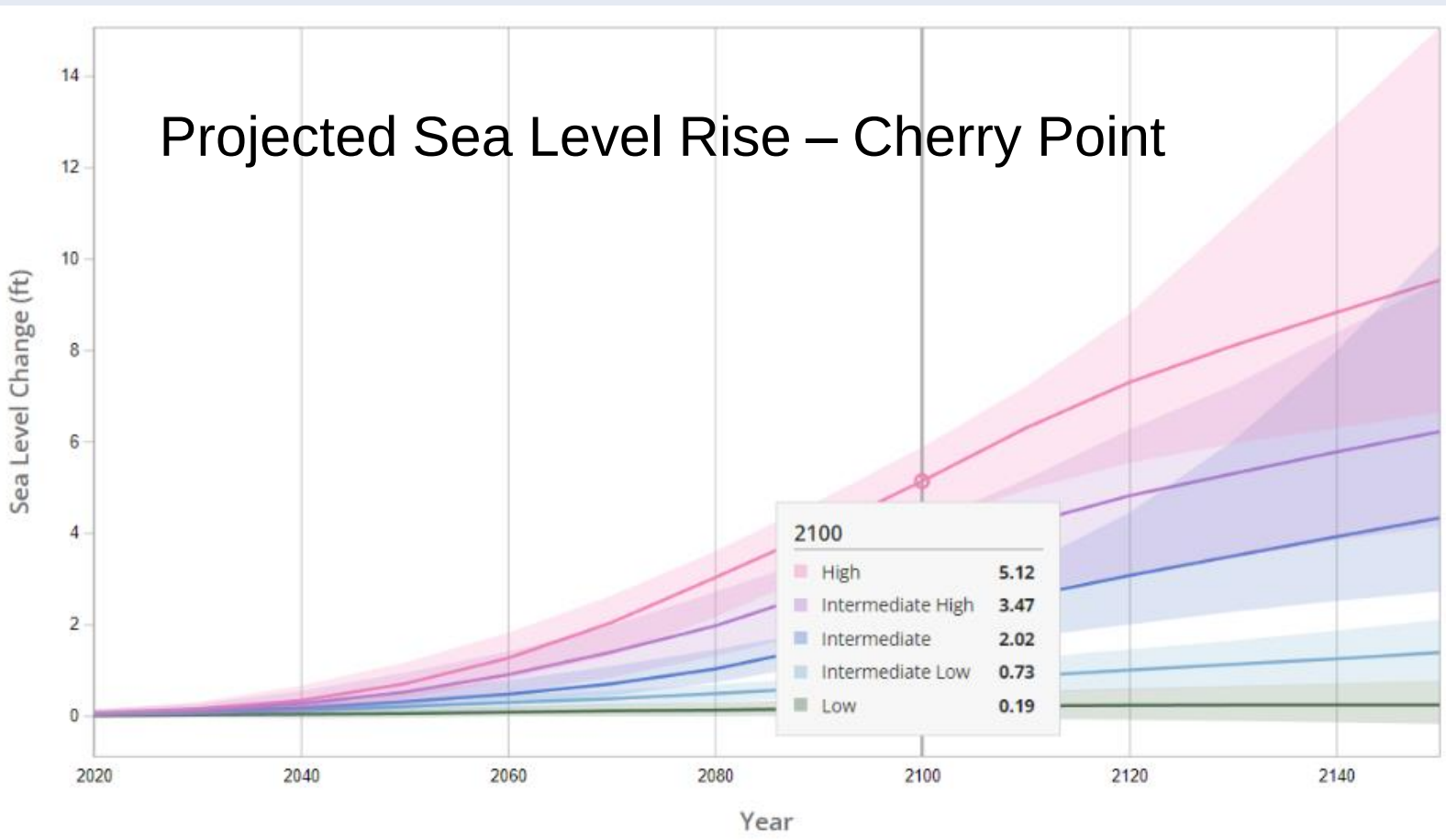
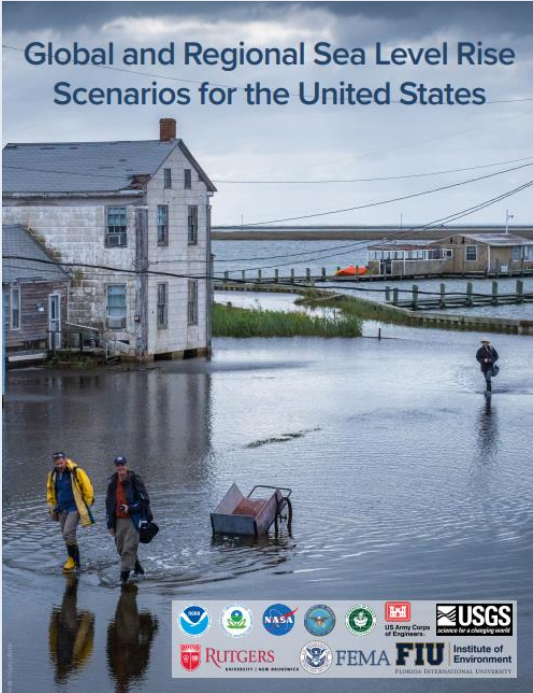


Figure 7. Median sea level rise projections (Sweet et al. 2022).



***Projections range from
0.2 FT – 5.1 FT by 2100***

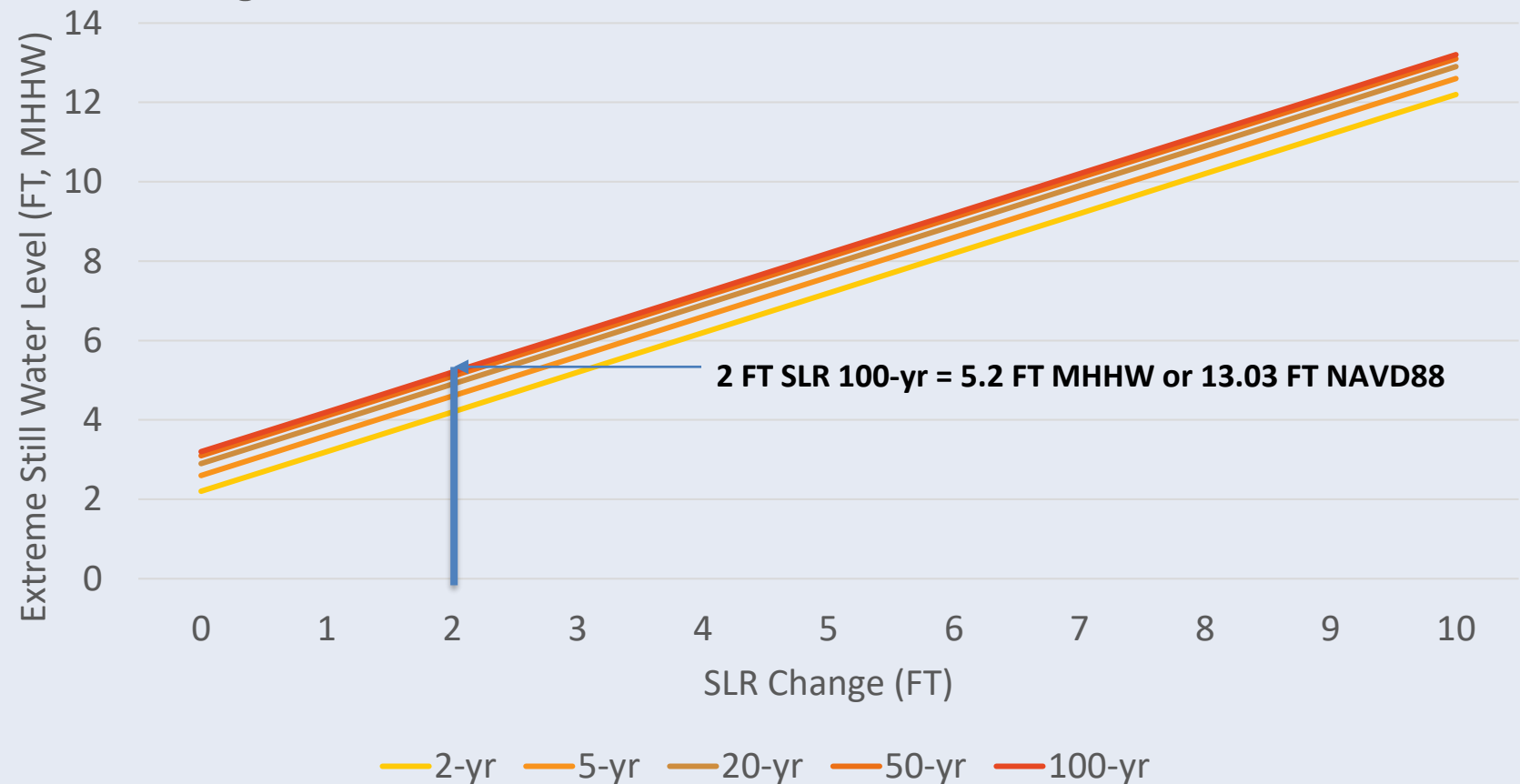
Intermediate 2100 = 2.02 FT

***Highest projections up to 14 FT
for 2150***

Base Flood Elevation vs Extreme Water Levels

- ◆ Anacortes BFE/100-yr storm = **10.76 FT NAVD88** (7 FT NVGD29)
- ◆ Miller et al., 2019 100-yr storm = **11.03 FT NAVD88**

Puget Sound/Strait of Juan de Fuca Extreme Still Water Level



*Difference between
100-yr and 50-yr =
0.1 FT*

*Difference between
100-yr and 20-yr =
0.3 FT*



Extreme Coastal Water Level in
Washington State
Guidelines to Support Sea Level Rise Planning

Figure 8. Extreme Coastal Water Levels (Miller et al. 2018).

Best Available Sea Level Rise Projections - Summary

Estimates are quite variable given the wide range of local and global factors

- ◆ Global ~1.6 – 6 FT by 2100 (IPCC, 2021)
- ◆ Local ~0.5 – 8 FT by 2100 (WCRP, 2018)
 - ◆ 50% probability higher than 2 FT by 2100
 - ◆ 1% probability higher than 5 FT by 2100
 - ◆ 2.02 FT by 2100 intermediate projection (Sweet et al., 2022)
 - ◆ Range of 0.19 – 5.12 FT
 - ◆ 100-year storm level from WCRP 2018 is close but 0.27 FT higher than current Anacortes BFE
- ◆ 2 FT by 2100 is lower than middle of local range of projections

Local Effects of Sea Level Rise

- ◆ Frequency of coastal flooding
 - ◆ Flooding events predicted to increase in both number and duration
 - ◆ Current 100-year events could occur once every 10 years, annual events could happen daily
- ◆ Habitat response
 - ◆ Shift coastal habitat inland, potentially contributing to losses or creation of new habitat
- ◆ Storminess
 - ◆ More likely to see extreme storm events exceed historical trends due predominantly to sea level rise
- ◆ Tsunamis
 - ◆ Increase their base elevation and thus potential for flood damage

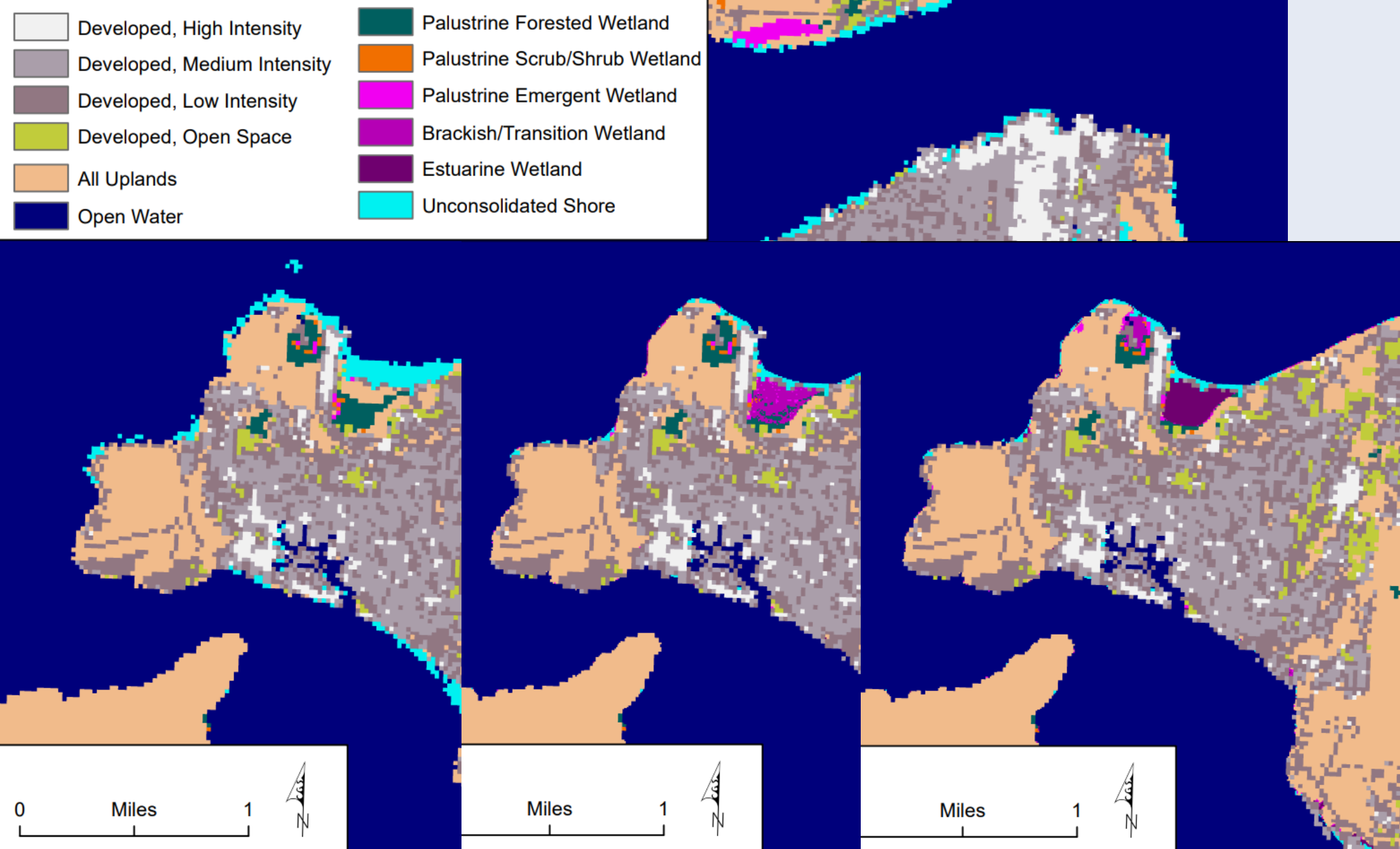
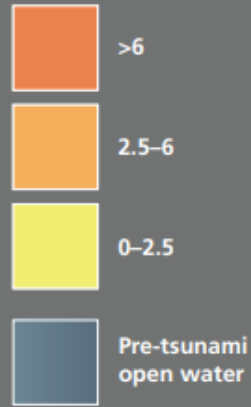


Figure 9. NOAA Marsh Migration landcover. a) MHHW, b) MHHW + 1.5 FT SLR, c) MHHW + 5FT SLR

MAP SYMBOLS

Modeled inundation depth (feet)



Local Tsunami Projections (WA DNR)

Skyline Marina/Flounder Bay
1.6-6.6 FT

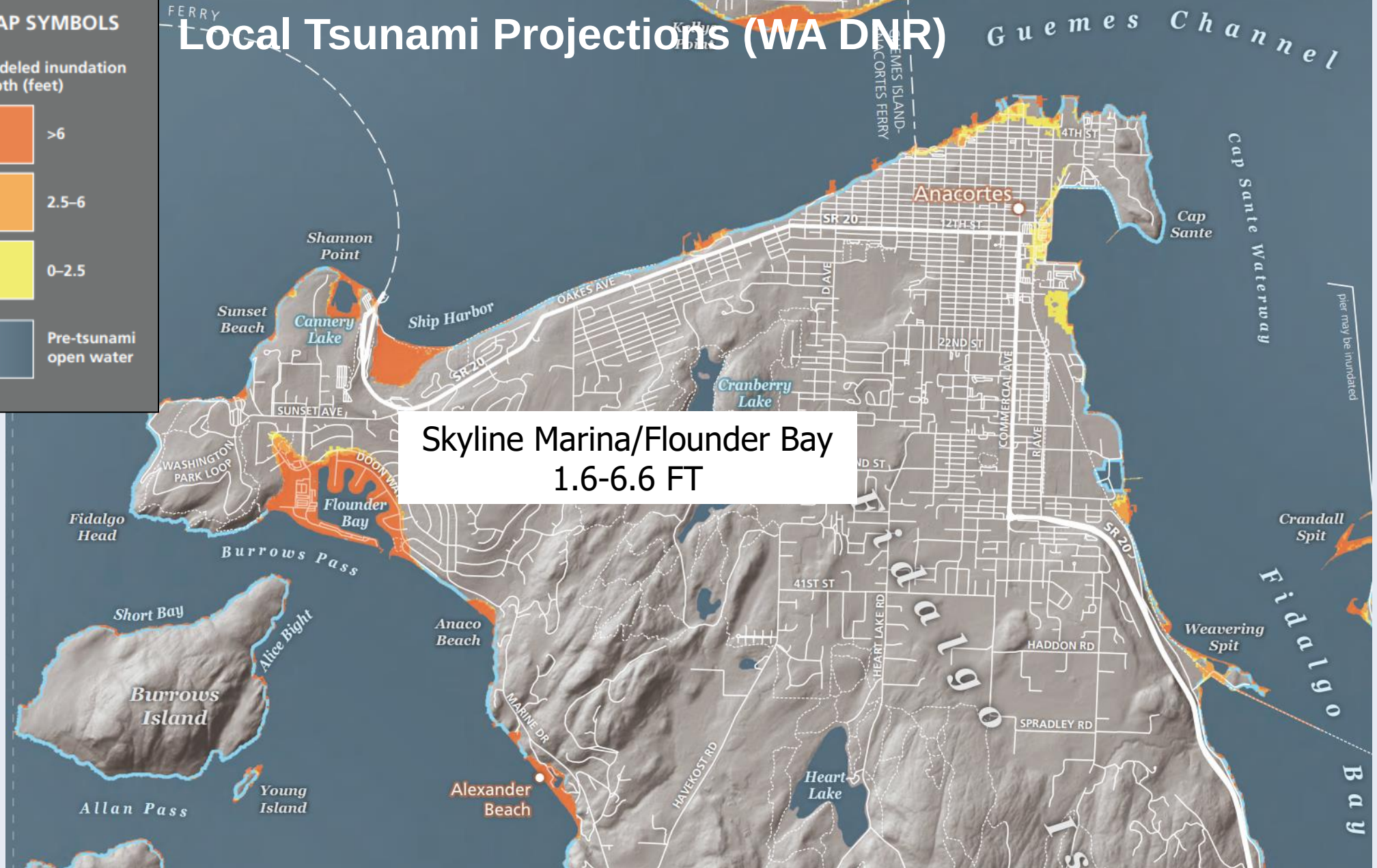


Figure 10. Tsunami inundation map for Anacortes area. Data from Eungard et al. (2018) for the CSZ L1 magnitude 9.0 earthquake scenario.

Flood Risk Management

Development Standards

Current Anacortes CAO aims to reduce methods of flood losses by “controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters”

and by

“preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas” (19.74.010(A)(3)(C)(E)).

Currently, new development in floodplains must obtain a special floodplain development permit and adhere to strict building regulations or obtain a variance.

“Development” is currently defined as:

“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 located within the area of special flood hazard .” (19.74.020)

Ecosystem and Floodplain Protection

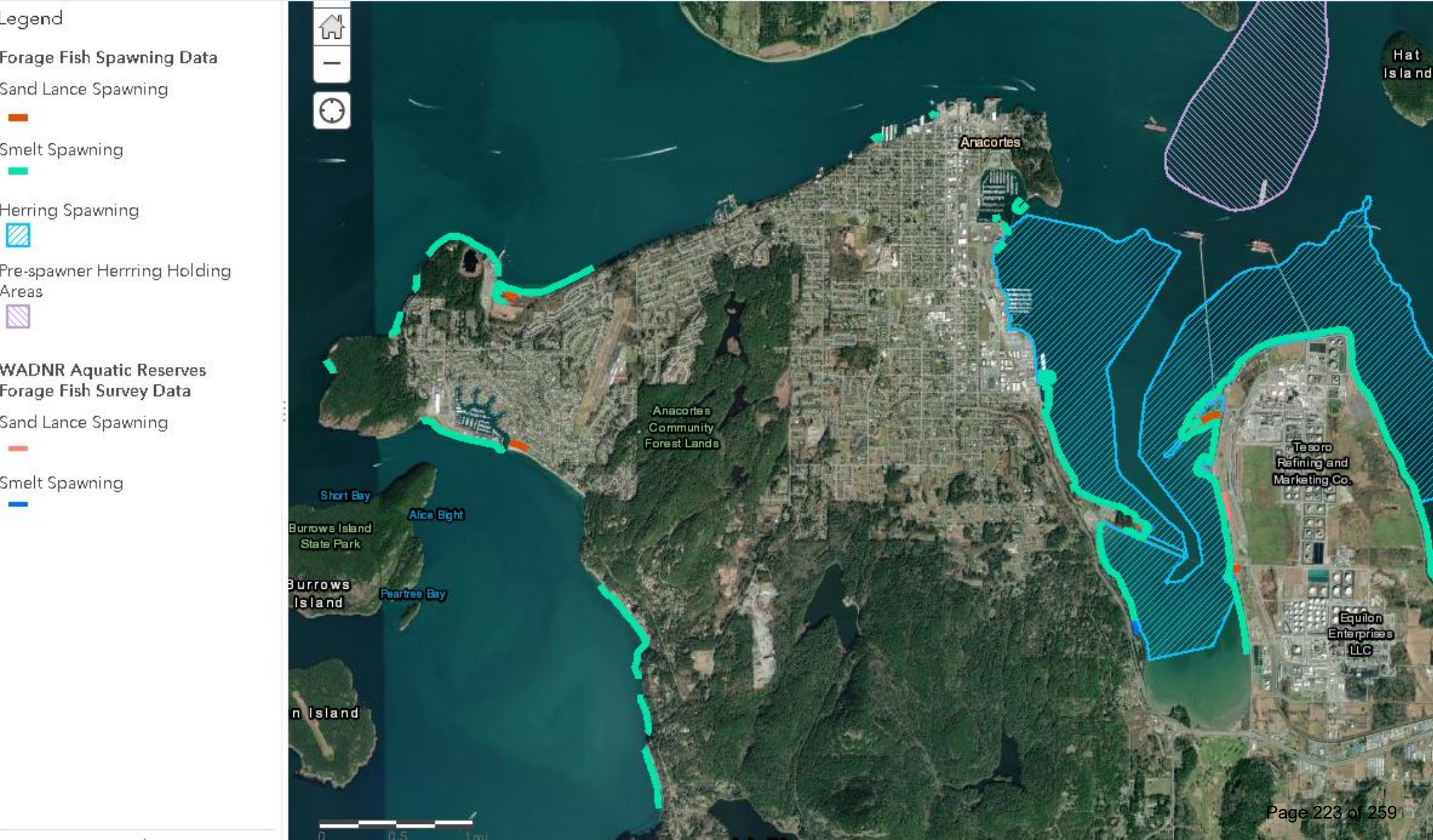
“Flood risk management and ecosystem recovery are not mutually exclusive goals yet have been historically pursued independent of one another” (Puget Sound Partnership, 2012). Integrating these is critical.

- It has been documented that these forage fish and juvenile salmon rely on gently sloped beaches and coastal marshes to provide nursery functions and protection from predators
- Shallow intertidal zones and other coastal habitats may act as protection against higher waters and wave action.
- These important habitats are at risk of being eliminated due to the continued construction of hard armor in response to flooding and sea level rise (Munsch et al., 2016)



Ecosystem and Floodplain Protection

Forage fish spawning areas are common in Anacortes – WDFW data:



King County Code dated August 2020

21A.06.1044 Sea level rise protection elevation.

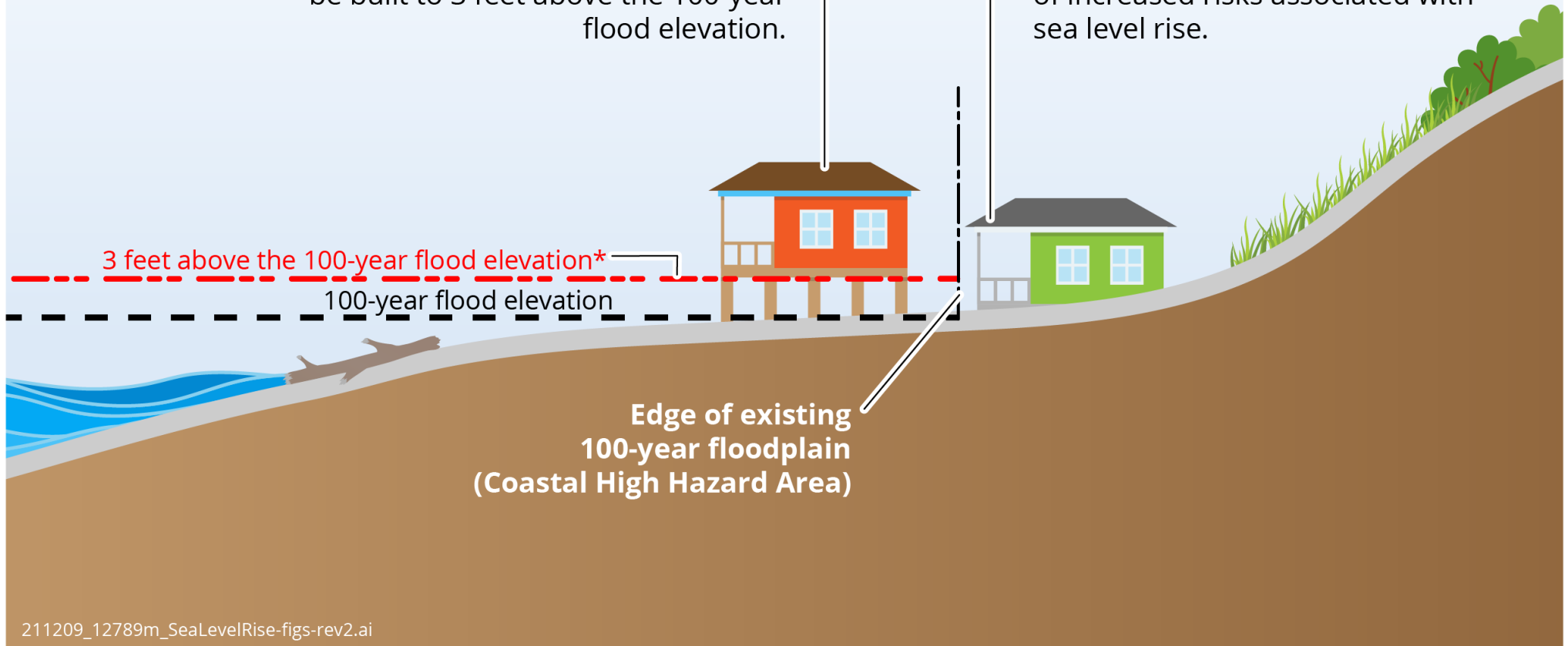
Sea level rise protection elevation: **three feet above the base flood elevation** identified in the Flood Insurance Study and Flood Insurance Rate Map, dated August 19, 2020, for the adjacent coastal high hazard area flood zone. The sea level rise protection elevation only applies to Vashon-Maury Island. (Ord. 19146 § 39, 2020).

[iMap \(kingcounty.gov\)](https://kingcounty.gov/iMap)

King County Coastal Floodplain Regulations Before Adopting the Sea Level Rise Risk Area

A new building or a substantially-improved building in the 100-year floodplain is required to be built to 3 feet above the 100-year flood elevation.

This house is not required to be built 3 feet above the 100-year flood elevation, even though it is in an area of increased risks associated with sea level rise.



*The 100-year flood elevation varies by location and specific coastal hazard zone. For more information on where you can view the 100-year coastal floodplain maps, visit: <https://kingcounty.gov/floodmaps>.

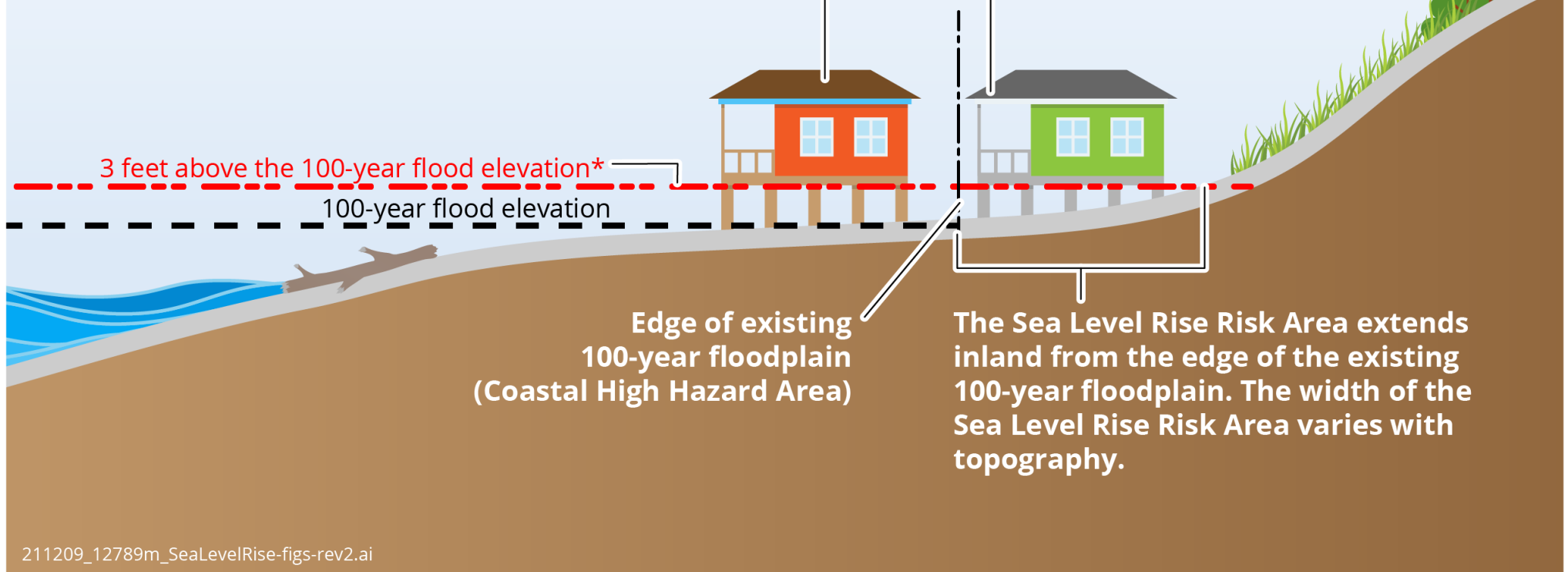
King County Coastal Floodplain Regulations with the Sea Level Rise Risk Area

Existing 100-year Floodplain

A new building or a substantially-improved building in the 100-year floodplain must be built 3 feet above the 100-year flood elevation.

Sea Level Rise Risk Area

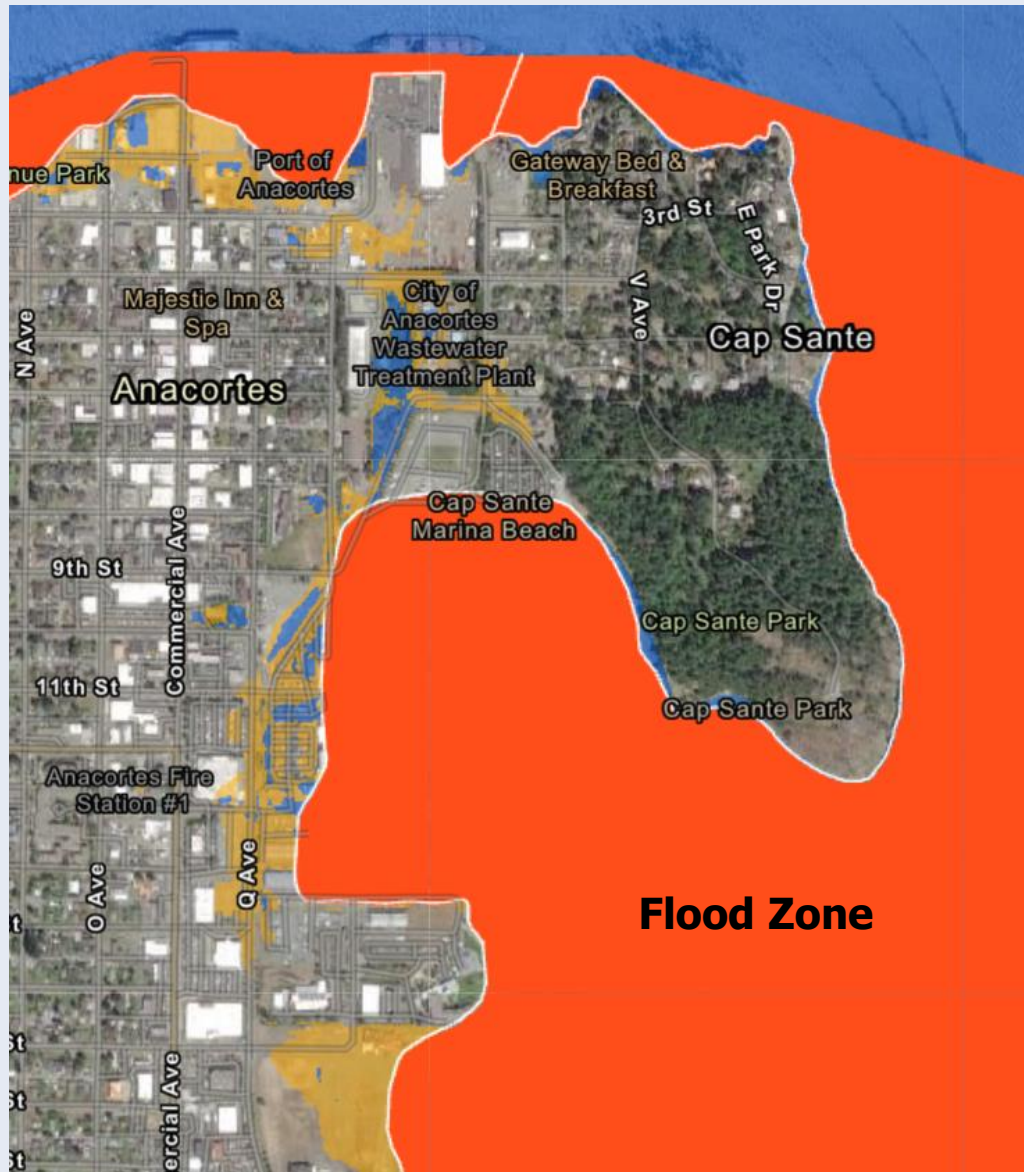
Under the adopted regulations, a new or substantially-improved building must now be built 3 feet above the adjoining 100-year flood elevation.



This figure illustrates the boundary and associated building elevation requirements of the King County Sea Level Rise Risk Area, which applies only to Vashon-Maury Island. Additional provisions related to bluff setbacks and groundwater wells are not shown here. *The 100-year flood elevation varies by location and specific coastal hazard zone. For more information on where you can view the 100-year coastal floodplain maps, visit: <https://kingcounty.gov/floodmaps>.

How many parcels affected?

2 FT SLR above BFE



+2 FT *within* Flood Zone (current proposal)

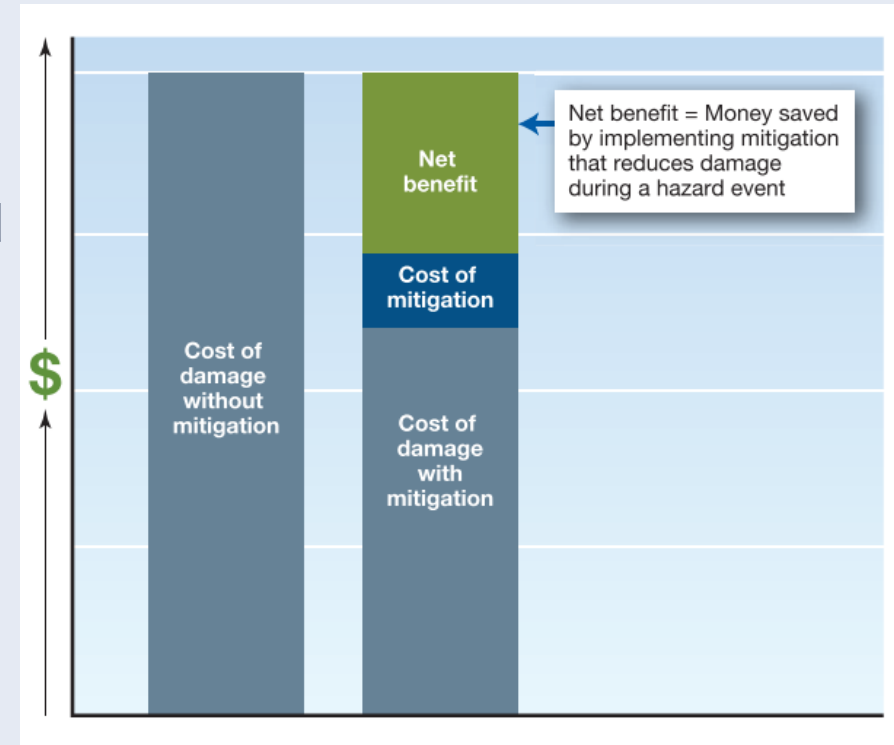
- ~12 unbuilt lots, most of them only partially within flood zone and may have room to build outside the flood zone
- Mostly in downtown and Skyline area

+2 FT *within and outside* Flood Zone

- ~30 unbuilt lots

What does this proposal mean for costs?

- ◆ Cost would include 1 FT higher foundation, stairs, and hookups
- ◆ Future, likely significant, savings with reduced damage from storms/coastal flooding (preventative)
- ◆ Up front costs rather than surprise costs later
- ◆ Elevation will likely result in reduced/no flood damage (insurance may cover some losses)
- ◆ Decrease the need for other costly and environmentally harmful actions such in the future



“For a given coastal foundation type, the costs of building higher than the BFE are nominal when compared to reduced future costs to the owner” – FEMA Coastal Construction Manual 2011

What does this proposal mean for costs?

- ◆ Future, likely significant, damage without elevation from storms/coastal flooding
- ◆ Shore armor is costly and environmentally harmful
- ◆ Structure relocation/elevation is very expensive

Activity	Number of projects ¹	Low	Average	High
remove ²	22	\$33,300	\$71,000	\$138,100
soft	11	\$20,800	\$51,100	\$143,800
elevate	9	\$60,000	\$100,000	\$140,000 ³
relocate	9	\$43,800	\$135,000	\$234,200

From: CGS, March 2021- pre-pandemic \$



Structure Relocation

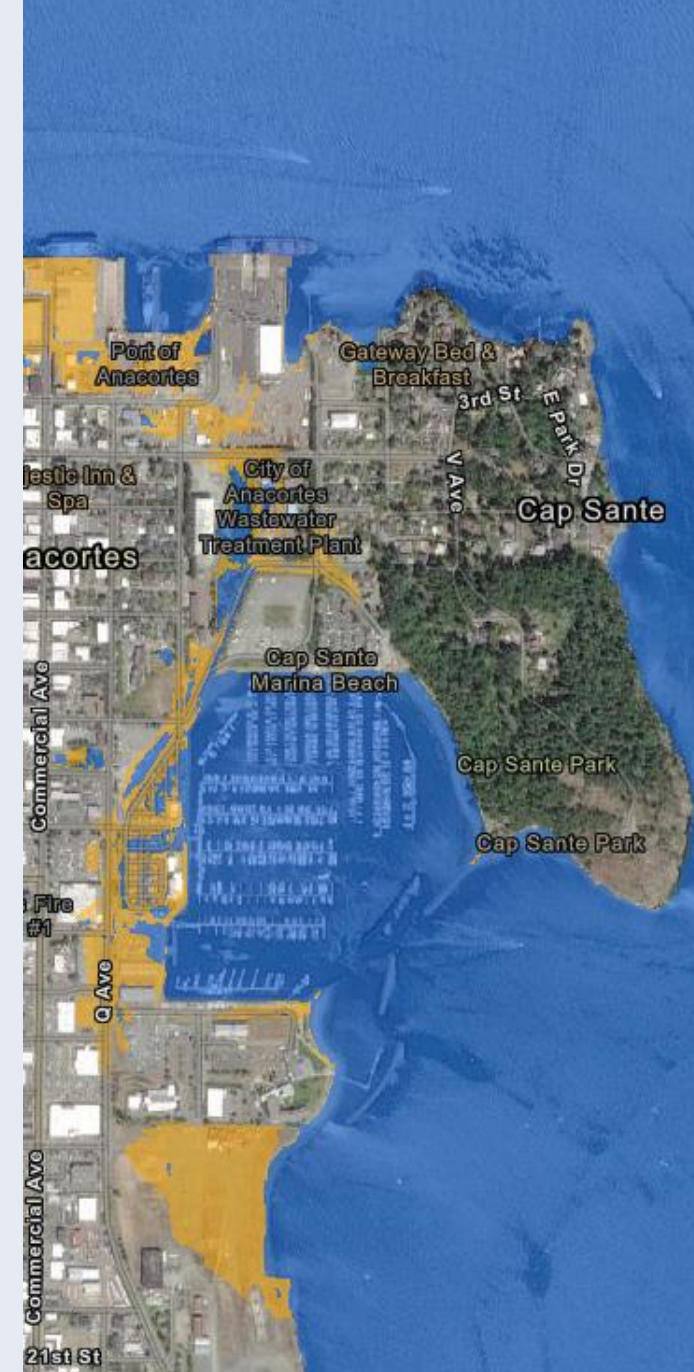


Structure Elevation



Conclusions

- ◆ Based on the best available science for local SLR there is a 50% chance that SLR will be higher than +2 FT by 2100
- ◆ 100-yr storms defined by others as +0.27 FT higher than Anacortes current BFE level (11.03 FT vs 10.76 FT)
- ◆ Other counties are adopting higher standards (e.g., +3 FT King Co. and Port Townsend) AND extending inland past floodplain
- ◆ **Adding +2 FT to development standards should be a minimum**





City Council Agenda Bill

Meeting Date: July 11, 2022

Agenda Item: 7.b.

Agenda Item Title: Ordinance 4024 An Interim Ordinance Extending Ordinance 3091 and Ordinance 4008 declaring Daycare II Facilities as a permitted use in the R4 Use Zone

Staff Contact(s): DON MEASAMER

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

DON MEASAMER

Motion

LIBBY GRAGE

DON MEASAMER

Item Summary: Ordinance 4024 would extend Ordinance 3091 and Ordinance 4008, related to Daycare II facilities in the R4 Use Zone as a permitted use, instead of a Conditional Use, for an additional six months to allow city staff to work with the community to determine possible impacts of Daycare II Facilities in the R4 Use Zone and potential mitigation measures. Staff will return to City Council within 60 days via a public hearing with a resolution updating the work plan under resolution 3072. Ordinance 4008 expires July 12, 2022.

Budget Impact:

NA

Previous Action: Resolution 3072, Ordinance 4008 previously extended Ordinance 3091.

Recommended Motion: Motion to approve Ordinance 4024 as presented.

Alternative Actions: Revise Ordinance as needed, return to City Council

Attachments (listed in order presented):

1. Ordinance 4024 Day Care Extension

Ordinance No. 4024

An Interim Ordinance Extending Ordinance 3091 and 4008, an Interim Ordinance to Facilitate the Development of Day Care Facilities in the R4 Zone

Whereas the City Council adopted Interim Ordinance 3091 declaring Day Care II Facilities as a permitted use in the R4 Use Zone at its July 12, 2021, meeting;

Whereas the City Council adopted Resolution 3043 confirming Ordinance 3091 and adopting a work plan;

Whereas the City Council adopted Ordinance 4008 at its January 10, 2022 meeting extending the interim controls for Daycare II in the R4 Use Zone;

Whereas the interim controls adopted by Ordinance 4008 are set to expire July 12, 2022 if it is not extended prior to that date.

Whereas the work plan adopted in Resolution 3072 has been interrupted by the COVID Pandemic;

Whereas the City Council now finds that additional time is required to complete the actions in the work plan adopted by Resolution 3072;

Whereas RCW 35A.63.220 and AMC 19.16.110 authorize City Council to renew moratoriums, interim zoning ordinances and interim official controls as a recognized technique to preserve the status quo while new plans and regulations are developed;

Whereas, as an interim ordinance, pursuant to WAC 197-11-880, the adoption of this ordinance is not subject to review under the State Environmental Policy Act;

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

Section 1. The City Council finds that:

- a. an immediate and urgent need for childcare facilities exists in the City of Anacortes;
- b. the cost, delay, and uncertainty of the conditional use permit process reduces the likelihood that new childcare facilities will be established;
- c. the design and performance standards in the Unified Development Code for non-residential and multifamily buildings effectively mitigate the impacts of childcare facilities on neighboring uses in the R4 zone;
- d. the R4 zone, as a high-density residential zone that is intended by the Comprehensive Plan to serve as a transition from high intensity uses such as commercial or industrial development, to lower intensity residential areas, is ideal for new childcare facilities;

- e. a day care II facility in the R-4 zone will not create more impact than some of the other high-intensity uses already allowed in the R-4 zone as permitted uses;
 - f. the Type 4 Conditional Use Permit process is unnecessary for day care II facilities in the R4 zone.
- Section 2. Table 19.41.040 in AMC 19.41.040 is amended to make “day care II facilities” a permitted use in the R4 zone.
- Section 3. The Department of Planning, Community, and Economic Development is directed to revise the work plan adopted under Resolution 3072 to identify other needed mitigation measures for day care II facilities in the R4 zone, including parking minimums and circulation standards for drop-off and pickup.
- Section 4. Per RCW 36.70A.390, the City Council will hold a public hearing on this interim ordinance within 60 days of adoption.
- Section 5. Per RCW 36.70A.390, this interim ordinance is effective for six months, and may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.
- Section 6. Per RCW 35A.12.130, this ordinance takes effect five days after its passage and publication.

PASSED and APPROVED this 11th day of July, 2022.

APPROVED:

Matt Miller, Mayor

Attest:

Steven D. Hoglund, City Clerk-Treasurer

Approved as to Form:

Darcy Swetnam, City Attorney



City Council Agenda Bill

Meeting Date: July 11, 2022

Agenda Item: 7.c.

Agenda Item Title: Community Paramedic Agreement

Staff Contact(s): Bill Harris, DARCY SWETNAM

<u>Approved for Submittal to Council by</u>	<u>Action Type</u>
DARCY SWETNAM	Contract Award
DARCY SWETNAM	

Item Summary: This Agreement is with Skagit County Public Health District No. 2 (Island Hospital) to jointly fund a community paramedic to serve the citizens of Anacortes.

Budget Impact:

There will be an approximately \$65,000 contribution from Island Hospital to cover half of the fully funded paramedic position currently in the budget.

Previous Action: Council funded the position in the 2022 budget; this agreement allows additional funding from the hospital.

Recommended Motion: I move we authorize Mayor Miller to execute the Community Paramedic Agreement.

Alternative Actions: N/A

Attachments (listed in order presented):

1. Community Paramedic Agreement AFD 05 2022
2. 11 Community Paramedic Presentation

Community Paramedic Agreement

This Community Paramedic Agreement ("Agreement") is by and between the City of Anacortes (the "City"), a Washington municipal corporation, and Skagit County Public Hospital District No. 2 (the "District"), d/b/a Island Hospital, a Washington municipal corporation, individually referred to as "Party" or collectively as "Parties".

RECITALS

WHEREAS, Chapter 39.34 RCW regarding interlocal cooperation authorizes local governmental agencies to make more efficient use of their powers by enabling them to cooperate with each other on the basis of mutual advantage and thereby to provide services and facilities in a manner that best accords with geographic, economic, population, or other factors influencing the needs and development of each governmental entity; and

WHEREAS, the City of Anacortes and Island Hospital recognize that a Community Paramedic Program (the "Program") would benefit Island Hospital, the City, and the community; and,

WHEREAS, the Parties have mutually determined that it would be beneficial to partner on the Program, by which the City would assign one (1) full-time, experienced, fully-qualified and certified paramedic as a Community Paramedic to Island Hospital to assist with its mission to deliver quality, compassionate, and personalized health care to the community and align with its vision to develop innovative programs that enhance patient experiences and outcomes; and

WHEREAS, the Parties wish to commit to the partial funding of the paramedic as described herein;

WHEREAS, it is the intention of the Parties as reflected by the partial funding of the paramedic to acknowledge that the paramedic, as all paramedics of the City, are subject to the control of the Chief of the Anacortes Fire Department (hereinafter "Chief") and may be assigned other duties outside of the normal Community Paramedic schedule for training and emergencies.

NOW, THEREFORE, the City and the District agree as follows for good and valuable consideration, the sufficiency of which is hereby acknowledged, and in accordance with Chapter 39.34 RCW.

AGREEMENT

1. Purpose. The purpose of this agreement is to provide for partial funding necessary to implement the Program to permit assignment by the City of one full-time, experienced paramedic in conjunction with the District. The program will:
 - a. Provide for budget certainty for the future of the Program.
 - b. Reduce 911 calls for high utilizer patients.
 - c. Reduce hospital readmission rates.
 - d. Evaluate and identify future Program goals and metrics.
2. Term and Termination
 - a. This agreement shall commence January 1, 2022, and shall run for one calendar year, unless terminated earlier. The agreement will automatically renew for an unlimited number of subsequent one-year terms, unless terminated by either Party by providing 30 days' notice prior to the end of the then current term. The Parties acknowledge that continuation of the program requires budget approval and the Parties agree to work collaboratively to commit to funding within each Party's respective budget

timelines.

- b. Either Party may terminate this agreement at any time for any reason upon 30 days written notice.

3. Community Paramedic Responsibilities. Community Paramedic duties and responsibilities include but are not limited to the following:

- a. Assisting the District in providing high-quality personalized health care.
- b. Responding to emergencies or other types of calls.
- c. Providing support for patient transports.
- d. Providing education and training.

4. City Responsibilities. The City is responsible for the following:

- a. Provide a paramedic to be assigned to support the District. Overtime must be pre-approved by an Anacortes Fire Department supervisor.
- b. The City shall provide adequate record keeping and reporting, as required by federal, state, and local laws, and as necessary to justify invoices for services under this Agreement.

5. District Responsibilities. The District is responsible for the following:

- a. Provide regular feedback and an annual performance review of the Community Paramedic to the Chief.
- b. Provide in-service training as applicable.
- c. Provide access to database and recordkeeping programs as necessary for the administration of this Agreement.

6. Funding.

- a. The District will pay 50% of the paramedic's applicable salary, benefits, and premium expenses, including overtime costs. The City will invoice the District quarterly for the actual costs.

- b. The City will pay all remaining costs associated with the paramedic's employment.

7. Prohibition against assignment. Neither this agreement nor any interest herein may be assigned by either Party without first obtaining written consent of the other Party.

8. Independent Contractor Status of City. The City, its employees, and agents shall perform all duties pursuant to this agreement as an independent contractor. The District shall not control or supervise the manner in which this agreement is performed nor withhold or pay any taxes on behalf of the City of Anacortes, its employees or agents. The City provides liability coverage for all City employees under the Washington Cities Insurance Authority municipal risk pool.

9. Indemnification.

- a. Any and all claims which hereafter arise on the part of any and all persons as a direct or indirect result of the City employee's performance or failure to perform duties pursuant to this agreement shall be the City's obligation, and the City shall defend, pay costs of defense, indemnify and hold harmless the District and the District's employees and agents in full for any and all such acts or failures to act on the part of the City or the City's employees or agents.
- b. Any and all claims which hereafter arise on the part of any and all persons as a direct or indirect result of the District employee's performance or failure to perform duties pursuant to this agreement shall be the District's sole obligation, and the District shall defend, pay costs of defense, indemnify and hold harmless the City and the City's employees and agents in full for any and all such acts or failures to act on the part of the District or the District's employees of agents.

11. Applicable Law.

- a. This agreement shall be governed by the laws of the State of Washington.
Venue for any legal action shall be proper only in Skagit County Washington.
- b. The Parties shall comply, where applicable, with the contract work hours and Safety Standards Act and collective bargaining agreements, and any other federal and state statutes, rules, and regulations.

12. RCW 39.34 Required Clauses.

- a. Purpose - see section 1
- b. Duration - see section 2
- c. Organization of separate entity and its powers - no new or separate legal or administrative entity is created to administer the provisions of this agreement.
- d. Responsibilities of parties - see section 4 and 5.
- e. Agreement to be filed-The city shall file this agreement with its City Clerk.
- f. Financing- see section 6

CITY OF ANACORTES

Matt Miller, Mayor

Date

ATTEST:

APPROVED AS TO FORM:

Steve Hoglund, Finance Director

Darcy Swetnam, City Attorney

**SKAGIT COUNTY PUBLIC HOSPITAL
DISTRICT NO. 2**



Elise Cutter, Chief Executive Officer

Date

ATTEST:

APPROVED AS TO FORM:

Executive Summary

Community Paramedicine Program

Statement of Problem:

Island Health Emergency Department experiences visit from high utilizer patients that many times do not require ED level of care. Currently we do not have an effective way to intercept and redirect these patients to more appropriate care which would both reduce costs and improve health outcomes.

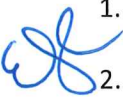
Recommended Solution:

A community partnership with Anacortes Fire Department (AFD) in a Community Paramedic Program creates a mobile integrated healthcare program. In this program AFD also partners with:

- Anacortes Family Center
- Anacortes Police Department
- NW Regional Council
- NSACH
- Health Common Project
- Fidalgo Rotary
- Anacortes Firefighters Union

This program employs an AFD Paramedic who works in collaboration with Island Health and the other community partners to complete home visits with identified patients to assess, report, refer patients to appropriate health, social, and community resources.

Project Goals:

- 
1. Decrease healthcare cost by reducing unnecessary ED visits by 20 visits July – December 2022. Visits will be tracked against enrollees previous visit rate.
 2. Improve health of IH patients through identification of patients to enroll in Chronic Care and Transitional care programs. Goal to enroll $\geq 50\%$ of eligible patients in the CPP with AFD.
 3. Reduce risk and improve quality of life in the community with home visits, homeless outreach, and linkage to medical care, social services, and community resources. Measured quarterly by enrollees:
 - Visits by date
 - Status
 - Problem Category
 - Entry point
 - Calls tracked prior and post enrolling

Project Objectives:

1. Reduce burden on IH ED and AFD from 911 calls for non-emergent visits by frequent utilizers
2. Reduce burden on IH from unnecessary and inappropriate ED visits and prevent readmissions post hospitalization
3. Refer underserved and vulnerable patients to appropriate healthcare services and social and community resources.

Outcomes:

This program will utilize patient home visits and homeless outreach to achieve stated program goals and objectives. The Community Paramedic will work collaborative with the IH ED and Primary Care Clinic teams to identify patients, to assess and report on these patients enabling us to enroll patients in our CCM and TCM programs. This will not only reduce the cost of patients care but will allow us the opportunity to have an impact on improving their health status. The community collaborative program will improve the health and safety of our Community.

Attachments:

1. Community Paramedicine Pilot Program July-December Report
2. Community Paramedicine Referral Workflow
3. Return on investment outline

The background features a large, semi-transparent logo of the Anagortes Fire Department. The logo is an octagon with a yellow border. Inside, there's a red Maltese cross. The top of the cross contains the word "FIRE" in yellow. The bottom of the cross contains "EMS" in yellow. The outer ring of the octagon contains the words "ANAGORTES" at the top and "FIRE DEPT." at the bottom, both in yellow. In the center of the cross is a circular emblem with a blue sky, white clouds, and a white seagull in flight. Below the seagull, the year "1891" is visible.

COMMUNITY PARAMEDIC AGREEMENT

MOBILE INTEGRATED HEALTHCARE – COMMUNITY PARAMEDIC
PROGRAM

Agreement Terms

- Interlocal Agreement between the City and Skagit County Public Hospital District No. 2 (Island Hospital)
- Community Paramedic will be City employee assigned to provide certain duties:
 - Assist hospital in providing care
 - Respond to emergency and other calls
 - Provide support for patient transports
 - Provide education and training
- District will provide:
 - Feedback and performance reviews
 - Relevant training
 - Access to necessary records to administer agreement

Agreement Terms – Cont'd

- Agreement Term:
 - Calendar year 2022
 - Automatic renewals
- Payment:
 - District will pay 50% of salary, benefits, and premium expenses including overtime (approximately \$65,000)
 - City will invoice district quarterly for actual costs
 - City has already budgeted for the position in the 2022 budget

The logo of the Anacortes Fire Department EMS is a Maltese cross. The top arm of the cross contains the word "ANACORTES" in yellow. The bottom arm contains "FIRE DEPT." in yellow. The left arm contains "FIRE" in yellow. The right arm contains "EMS." in yellow. In the center of the cross is a blue circle with a white seagull in flight. Below the seagull is the year "189" in white. The entire logo is set against a grey background with a yellow border.

12 Month Report

MOBILE INTEGRATED HEALTHCARE – COMMUNITY PARAMEDIC
PROGRAM

Community Paramedic Program

- 18-month pilot program, began July 2021.
- Goal: Improve health, reduce injury and death, and improve quality of life within the community.
- Objectives: Reduce reliance on 911 EMS resources and Hospital Emergency Department. Refer underserved patients to more appropriate resources.

Community Partners

- Island Health
- Anacortes Family Center
- Anacortes Police Department
- Anacortes Senior Activities Center
- Northwest Regional Council
- North Sound Accountable Community of Health (ACH)
- Health Commons Project
- Fidalgo Island Rotary Community Service Committee
- Anacortes Firefighters Union
- Washington Adult Protective Services
- Sunrise Services Geriatric Transitions Program
- Compass Health

Services Provided

- COVID Testing
- Patient follow up
- Homeless Outreach
- Assistance on 911 Calls

12 Month Review

- 28 Patients enrolled to date.
- 7 Active
- 21 Inactive
- 14 “Watch List”

Patient Referrals

ENTRY POINT	PATIENTS	%
EMS Crew	8	29%
Family	1	4%
High Utilizer	10	36%
Outreach	1	4%
Hospital	3	11%
Public	4	14%
Self	1	4%

Problem Categories

PROBLEM CATEGORIES	PATIENTS	%
Aging/Disabled	23	82%
Complex Medical	12	43%
Mental Health	6	21%
Fall Risk	14	50%
Substance Abuse	2	7%
Homeless	5	18%

CASE STUDIES

Case Study #1

- Elderly male with complex medical issues, previous serious injuries resulting in disability.
- Frequent falls and medical complaints.
- 17 911 calls in 6 months.
- Enrolled in July 2021
- 3 911 calls after intervention.



Case Study #2

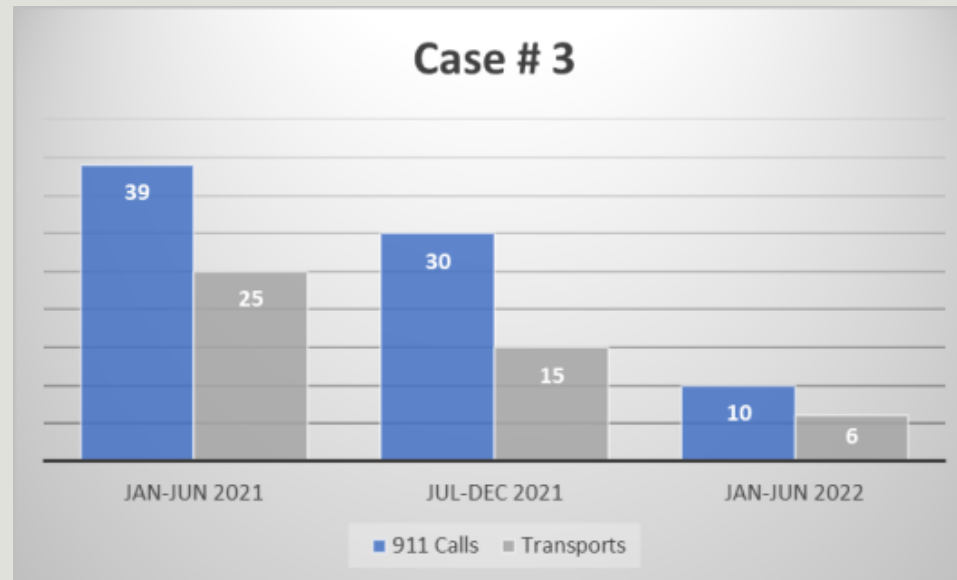
- Male in his 50's with complex medical issues.
- Contacted by case manager, requesting help with entry steps.
- Homeless, displaced by a fire.
- Multiple organizations collaborating to help meet myriad of needs.



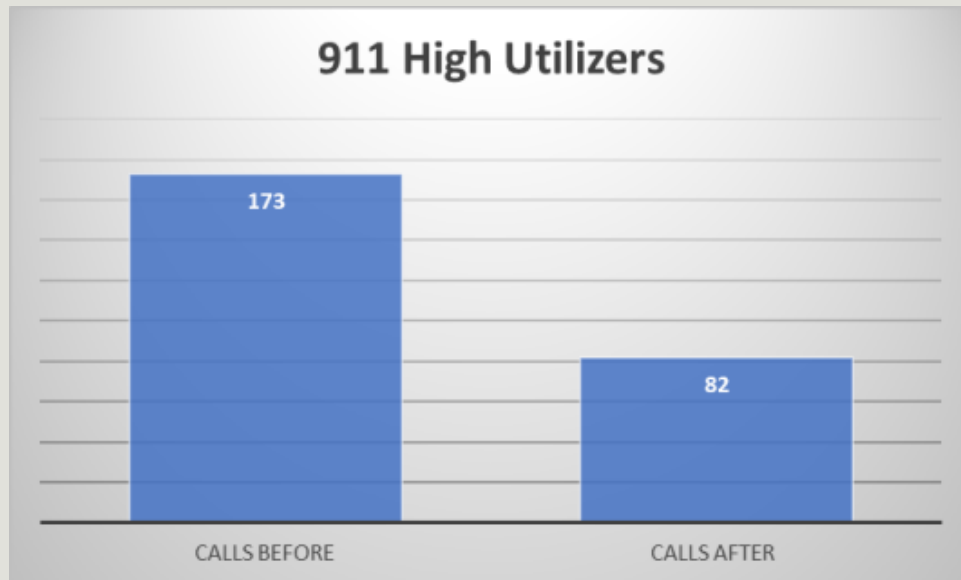
Case Study #3

- Female in her 60's with complex medical history.
- Frequent falls and medical complaints.
- 73 911 calls prior to intervention (39 in 6 months)
- Enrolled July 2021
- 37 911 calls after intervention

Case Study #3



Results



- All patients enrolled as High Utilizers saw reduction in number of 911 calls.
- EMS Crews available for more emergent needs.
- Reduced ER visits.
- Improved customer service.
- Opportunity to build and strengthen relationships within the community.

Questions?
