

ANACORTES PLANNING COMMISSION



SEPTEMBER 14, 2016

Municipal Building Council Chambers

6th Street and "Q" Avenue

AGENDA

6 P.M.

1. **Roll Call**
2. **Minutes of August 10, 2016**
3. **Correspondence**
4. **Old Business**
Public Hearing: Stormwater and Clearing/Grading amendments to AMC
5. **New Business**
No new business

The City of Anacortes encourages people with disabilities to participate in public meetings.
For assistance with special needs, please contact Cherri Kahns at 360-299-1950 at least 48 hours prior to this meeting.



Planning Commission Meeting Minutes for –August 10, 2016

Vice Chair Oppel called the Meeting of August 10, 2016 to order at approximately 6 p.m.

Roll Call

Members Present: Commissioners Oppel, Moffitt, Mount, Cleland-McGrath and Farnsworth.

Minutes

Minutes of June 22 and July 13 approved as read.

Correspondence

New Planning Commissioner Jeff Mount was introduced.

New Business

Public Meeting – PUD Amendment to Sunset Cove Estates PUD Tract G, Ted Filler

Commissioner Mount stated that his home is adjacent to the subject property, but will not affect his contribution. There were no objections.

Kevin Cricchio, City Planner, provided a brief summary of the project. The amendment would reduce the number of single family residences permitted in this PUD. The project is proposing 9 homes instead of the approved 10 and a change in lot layout.

Vice Chair Oppel requested clarification on sanitation requirements for the project. Mr. Cricchio suggests the applicant work with the sanitation department, shown as condition seven in the suggested approved conditions. Steve Lange clarified the applicant is proposing separate cans for each home. Vice Chair Oppel asked if the fire access would be maintained, to which Don Measamer stated that it would.

Ted Filler, GT Investment Properties LLC, clarified the intent and features of the development.

With no additional comments, the public meeting closed.

Commissioner Farnsworth made a motion to approve the PUD amendment, replacing condition seven with requiring separate garbage cans for each residence. Commissioner Cleland-McGrath seconded. The vote was unanimous in favor of the motion.

Vice Chair Oppel called the meeting to a close at approximately 6:25 p.m.



Planning Commission Agenda Bill

Meeting Date: 9/21/2016

Agenda Item: Municipal Code Update

Subject: Public Hearing inviting comment on proposed changes to the municipal code to comply with Stormwater NPDES permit.

Staff Contact: John Franz

Approved for Submittal to Commission by	
	Don Measamer, Director

Action Type	
X	Public Hearing
X	Discussion
X	Action

Summary Statement: The stormwater permit issued to the City of Anacortes by the Department of Ecology requires that LID (Low Impact Development) practices shall be the preferred and commonly used approach for stormwater management in all new and re-development projects, beginning in January 2017. The municipal code must be updated to comply with this requirement. The updated code sections attached. Planning Commission and public comment are invited.

Background: A Stormwater Municipal Code committee was established to update the code. The committee members include Councilperson Ryan Walters; Darcy Swetnam, Don Measmer, Fred Buckenmeyer, Matt Reynolds, Libby Grage and John Franz. The City has contracted with Kulshan Services to provide technical assistance with the code update and required changes to the engineering standards. Kulshan Services Principal David Roberts and Todd Eastman also serve on the code review committee.

Previous Council/Committee Action: This item was on the Planning Commission Agenda for public workshop and public hearing on July 13, 2016. There were no comments submitted at that time.

Competing Viewpoints Considered: The Samish Nation; the Swinomish Nation, the Port of Anacortes, engineering firms, developers, builders and contractors, the Fidalgo Bay Aquatic Reserve Citizens Advisory Committee, City Staff and the public have been invited to comment on the proposed changes.

Recommended Motion: Staff recommends that the Planning Commission approve the changes to the municipal code as written.

Alternative Actions: N/A

Attachments: (listed in order presented):

2016 Draft Municipal Code update version 8 clean

2016 Draft Municipal Code update version 8 with remarks/comments

Ordinance No. _____

**An Ordinance [adopting/repealing/amending AMC ____] and
Adopting New Standards for Stormwater Management**

Whereas _____;

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

- Section 1. The Anacortes Municipal Code is amended as described in Attachment A.
- Section 2. Consistent with RCW 35A.12.130, this ordinance takes effect five days after passage and publication, or on January 1, 2017, whichever is later.

PASSED and APPROVED this ____ day of _____, 2016.

CITY OF ANACORTES:

Laurie Gere, Mayor

Attest:

Steve Hoglund, City Clerk-Treasurer

Approved as to Form:

Darcy James Swetnam, City Attorney

Attachment A

AMC Chapter 13.36, Drainage Requirements and Regulations, is repealed.

AMC 17.54.050, Stormwater Management/Quality and Quantity, is repealed.

AMC 17.54.060, Land Clearing, is repealed.

AMC 17.54.070, Regulated Slopes, is repealed.

AMC 17.54.080, Geologically Hazardous Areas, is repealed.

AMC 17.54.090, Site Grading, is repealed.

AMC Chapter 18.12, Land Clearing and Grading, is repealed.

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TITLE 16 Subdivisions

16.04.020 - Policy.

- A. It is declared to be the policy of the city to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the city pursuant to the comprehensive plan of the city.
- B. Land to be subdivided shall be of a character that can be used safely for building purposes without danger to health or peril from fire, flood, or other menace. Land shall not be subdivided until proper provision has been made for: drainage, water, sewage, and capital improvements such as schools, parks, recreational facilities, and transportation facilities and improvements.
- C. The existing and proposed public improvements shall conform to and be properly related to the proposal shown in the comprehensive plan and the city capital facility plan. It is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in the state Building Code, the city zoning ordinance, the city comprehensive plan, and the city capital facility plan.
- D. Land that has been subdivided prior to the effective date of these regulations should, whenever possible, be brought within the scope of these regulations to further the purposes of the regulation(s) as identified in [Section 16.04.030](#).
- E. It is the policy of the city to fully implement the requirements of the Western Washington Phase II Municipal Stormwater Permit ("the Permit") and all of the technical requirements, site planning, and design considerations contained in the Stormwater Management Manual for Western Washington ("the Manual"), including the provisions of the Permit and Manual that require Low-Impact Development ("LID") techniques when described in the Manual. In addition, the City integrates the specifications and guidance included in the 2012 Puget Sound Partnership Low Impact Development Technical Guidance Manual. The Director may authorize exceptions from any provision of this Title that is a barrier to LID or is in conflict with AMC Title 19, the permit, or the Manual.

TITLE 17 Zoning

17.04.010 - Introduction.

No change

17.04.020 - Title and purpose.

No change

17.04.030 - Enacting clause.

No change

17.04.040 - Provisions of code declared to be minimum requirements and interpretation.

No change

17.04.050 - Conformity with this title required.

- A. No use or structure shall be established, substituted, expanded, constructed, altered, moved, maintained, or otherwise changed except in conformance with this title.
- B. Creation of or changes to lot lines shall conform with to the use provisions, dimensional and other standards, and procedures of this title and [Title 16](#), Subdivisions.
- C. All land uses and development authorized by this title shall comply with all other regulations and or requirements of this title as well as any other applicable local, state or federal law. Where a difference exists between the title and other applicable regulations, the more restrictive requirements shall apply.
- D. Where more than one part of this title applies to the same aspect of a proposed use or development, the more restrictive requirement shall apply.
- E. It is the policy of the city to fully implement the requirements of the Western Washington Phase II Municipal Stormwater Permit ("the Permit") and all of the technical requirements, site planning, and design considerations contained in the Stormwater Management Manual for Western Washington ("the Manual"), including the provisions of the Permit and Manual that require Low-Impact Development ("LID") techniques when described in the Manual. In addition, the City integrates the specifications and guidance included in the 2012 Puget Sound Partnership Low Impact Development Technical Guidance Manual. The Director may authorize exceptions from any provision of this Title that is a barrier to LID or is in conflict with AMC Title 19, the permit, or the Manual.

Title 18 Environmental Protection

18.04 State Environmental Policy Act

No change.

18.08 Air Pollution Control District

No change.

18.12 Land Clearing and Grading

Repealed.

18.14 Nuisances

No change.

18.16 Shoreline Master Plan

No change.

18.20 Historic Properties

No change.

New Chapter 18.30 Illicit Discharges and Connections to the Stormwater Drainage System

18.30.010 Purpose.

The purpose of this Chapter is to protect surface and groundwater quality by controlling the discharge of pollutants and to ensure ongoing compliance with the City's NPDES permit.

18.30.020 Definitions.

The definitions in AMC 19.05.100 apply to this Chapter and are incorporated by reference.

18.30.030 Illicit discharges.

A. Illicit Discharges Prohibited.

1. No person may throw, drain, or otherwise discharge, or cause or allow others under its control to throw, drain, or otherwise discharge into the stormwater system any materials other than stormwater.
2. Illicit discharges include, but are not limited to solid waste; yard waste; dirt; sand; gravel, cement; paint products; human and animal waste; soap; detergent; antifreeze, oil, gasoline, grease, and all other automotive and petroleum products; pesticides; herbicides; fertilizers;

flammable or explosive materials, metals in excess of naturally occurring amounts, whether in liquid or solid form; chemicals not normally found in uncontaminated water; solvents and degreasers; drain cleaners; commercial and household cleaning materials; acids; alkalis; ink; steam-cleaning waste; laundry waste; ammonia; chlorine; chlorinated swimming pool or hot tub water; domestic or sanitary sewage; animal carcasses; food and food waste; plaster and dry-wall compound.

B. Allowable Discharges. The following types of discharges are not illicit discharges for the purpose of this Chapter unless the Director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

1. Diverted stream flows.
2. Rising groundwater.
3. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20).
4. Uncontaminated pumped groundwater.
5. Foundation drains.
6. Air conditioning condensation.
7. Irrigation water from agricultural sources that is commingled with urban stormwater.
8. Springs.
9. Water from crawl space pumps.
10. Footing drains.
11. Flows from riparian habitats and wetlands.
12. Discharges from emergency firefighting activities.

C. Conditionally Allowed Discharges. The following types of discharges are not illicit discharges for the purposes of this Chapter if they meet the stated conditions, unless the Director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

1. Potable water, including water from water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges must be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system.
2. Lawn watering and other irrigation runoff are permitted but must be minimized.
3. Dechlorinated swimming pool discharges. These discharges must be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities

controlled to prevent resuspension of sediments in the stormwater system. Discharges must be thermally controlled to prevent an increase in temperature of the receiving water.

4. Street and sidewalk wash water, water to control dust and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water is minimized. At active construction sites, street sweeping must be performed prior to washing the street.
5. Other non-stormwater discharges that are in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the City which addresses control of such discharges by applying AKART to prevent pollutants from entering surface or groundwater.

D. Exemptions.

1. The following discharges are exempt from the provisions of this section:
 - a. the regulated effluent from any commercial or municipal facility holding a valid State or Federal wastewater discharge permit or NPDES stormwater permit;
 - b. acts of God or nature not compounded by human negligence;
 - c. properly operating on-site domestic sewage systems.
2. A person does not commit an illicit discharge if:
 - a. that person has properly designed, constructed, implemented and is maintaining BMPs and is carrying out AKART, even if pollutants continue to enter surface and stormwater or groundwater; or
 - b. that person can demonstrate that there are no additional pollutants being discharged from the site above the background conditions of the water entering the site.

E. Best Management Practices (BMPs).

1. Compliance with this Chapter must be achieved through the use of best management practices described in the Stormwater Management Manual or as described below.
2. BMPs must be applied to any business or residential activity that might result in illicit discharges. In applying the Stormwater Management Manual, the Director must first require the implementation of source control BMPs. If these are not sufficient to prevent pollutants from entering stormwater, the Director may require implementation of treatment BMPs as set forth in AKART.

18.30.040 Illicit connections and uses.

- A. No person may make, allow, use, or allow the continued existence of any connection to the stormwater system that could result in an illicit discharge.

- B. Connections to the stormwater drainage system from the interiors of structures are prohibited.
- C. Connections to the stormwater drainage system for any purpose other than to convey stormwater or groundwater are prohibited and must be eliminated.

18.30.050 Violations

- A. A violation of this Chapter is a class 1 civil infraction for each day it continues.
- B. The Director may impose a civil penalty of up to \$1,000 per day per violation.
- C. To abate a violation, the Director may:
 - 1. require implementation of stormwater BMPs described in the Stormwater Management Manual or AKART BMPs described in RCW 90.48.010 and 90.48.520.
 - 2. require the violator to sample and analyze any discharge, surface and stormwater, groundwater, or sediment, in accordance with the sampling and analytical procedures and requirements determined by the Director, and provide that analysis to the Director.
 - 3. make inspections as required to determine compliance, including observation of BMPs or sampling surface and stormwater or groundwater as often as may be necessary.
- D. The City Attorney is authorized to take other actions, including actions for injunctive or other relief, to enforce the provisions of this Chapter.

New Chapter 18.40 Operations and Maintenance of Private and Municipal Stormwater Facilities.

18.40.010 Purpose.

The purpose of this Chapter is to protect surface and groundwater quality by controlling the discharge of pollutants, protect other properties from uncontrolled stormwater discharges, to ensure ongoing maintenance of stormwater facilities, and compliance with the City's NPDES permit.

18.40.020 Definitions.

The definitions in AMC 19.05.100 apply to this Chapter and are incorporated by reference.

18.40.040 Maintenance Required.

- A. Owners and operators of stormwater facilities must operate and maintain those facilities to ensure the performance achieves their intended purposes.
- B. Owners of property for which a stormwater BMP has been required by the City must continually maintain that BMP.

- C. Maintenance must be performed consistent with the conditions of approval and the approved maintenance plan. Unless a more restrictive provision applies, when an inspection identifies an exceedance of the maintenance standard, the owner must perform maintenance:
 - 1. Within 12 months for typical maintenance of facilities, except catch basins;
 - 2. Within six months for catch basins;
 - 3. Within 24 months for maintenance that requires capital construction of less than \$25,000.

18.40.050 Protection.

- A. Owners and operators of stormwater facilities must protect their stormwater facilities from harm or degradation.
- B. All stormwater facilities and LID BMPs must be protected from all of the following:
 - 1. Cover by structures or impervious material;
 - 2. Soil compaction, for example by vehicular traffic or livestock;
 - 3. Damage by soil removal and grade alteration;
 - 4. Loss or degradation of amended soils;
 - 5. Damage or removal of approved vegetation;
 - 6. Conversion to another use.

18.40.060 Inspections of Stormwater Facilities.

- A. The City must inspect stormwater facilities at least annually, or less frequently if allowed by the City's NPDES permit.
- B. Whenever there is cause to believe that a violation of this Chapter has been or is being committed, the City may inspect per AMC Title 20, Civil Enforcement and Penalties.

18.40.070 Enforcement.

- A. A violation of this Chapter is a public nuisance.
- B. The Director may impose a civil penalty of up to \$100 per day per violation.
- C. The City Attorney is authorized to take other actions, including actions for injunctive or other relief, to enforce the provisions of this Chapter.

18.40.080 Liability

- A. Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any liability on the part of the city, or its officers, employees or agents, for any

injury or damage resulting from the failure of an owner of property or land to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this chapter, or by reason of any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees or agents.

- B. Any city employee charged with the enforcement of this chapter, acting in good faith and without malice on behalf of the city in the discharge of his/her duties, shall not be personally liable for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his/her duties. Any suit brought against an employee because of such act or omission performed by him/her in the enforcement of any provision of this chapter shall be defended by the city.

New Title 19, Unified Development Code

New Chapter 19.05 General Provisions

19.05.060 Supremacy.

In the event of a conflict between provisions of this title and AMC Title 13, 15, 16, 17, or 18, the provisions of this title control.

19.05.100 Definitions.

- “AKART” means all known, available, and reasonable methods of prevention, control, and treatment.
- “Adverse Impact” means an unwanted and unanticipated result of taking a particular action or a negative effect that goes against desired conditions.
- “City’s NPDES Permit” means the 2013-1018 Phase II Western Washington Municipal Stormwater Permit issued by the Department of Ecology pursuant to the National Pollutant Discharge Elimination System.
- “Department” means the “City of Anacortes Planning, Community, and Economic Development Department.”
- “Director” means the director of the City of Anacortes Planning, Community, and Economic Development Department.
- “Grading” means any excavating or filling or combination thereof, of land.
- “Groundcover” means the small plants on a forest floor except young trees.
- “Grubbing” means the removal of trees, shrubs, stumps and rubbish from the future right-of-way of a transportation corridor, cut lines or the footprint of a structure.
- “Infiltration device or facility” means a drainage device or facility designed to use the hydrologic process of surface and stormwater runoff soaking into the ground, commonly referred to as a percolation, to dispose of surface and stormwater runoff.
- “Land clearing” means the act of removing or destroying trees or groundcover.
- “Minimum Requirement” means a technical Minimum Requirement described in Volume 1 of the Stormwater Management Manual for Western Washington (SWMMWW) and Appendix 1 of the City’s NPDES permit.
- “Qualified Professional” means a person with experience and training in the applicable field or critical area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geology or related field, and two years of related work experience.
- “Retaining wall” means a structure that retains (holds back) any material (usually earth) and prevents it from sliding or eroding away.
- “Sediment basin (pond)” means a temporary sediment pond installed at a construction site.

- “Significant tree” means deciduous and evergreen tree greater than six inches in diameter at five feet above grade.
- “Stormwater Management Manual” means the City’s manual for design of stormwater facilities, as adopted in AMC 19.50.040.
- “Street gutter” means a low area at the side of a road used to catch water and carry it away from the road.
- “Surface water” means waters that flow over the land surface and frequently interact with groundwater.
- “SWMMWW” means 2014 Stormwater Management Manual for Western Washington.
- “Tree” means any living woody plant characterized by one main stem or trunk (or a group of trunks, in some species) and many branches, and having a diameter of eight inches or more measured at twenty-four inches above ground level when mature.

New Chapter 19.50 Stormwater Management

19.50.010 Policy.

- A. Purpose. Washington State law mandates that stormwater discharge resulting from development activities and pollution-generating activities be controlled and treated to provide available and reasonable methods of erosion control, flood control, habitat protection, and water quality treatment. The City of Anacortes has adopted the requirements of this Chapter for both temporary and long-term stormwater management. The purpose of this Chapter is to set out the authority, regulatory requirements, submittal requirements, and procedures for stormwater drainage design, review, approval, construction, maintenance, and management.
- B. Goals of Low Impact Development (LID). LID is the preferred and commonly used approach to site development. LID is intended to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations. (From NPDES Permit S5.C4.f.i) This Chapter accomplishes the following goals:
 1. Manage stormwater through a land development strategy that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to mimic predevelopment hydrologic conditions;
 2. Encourage creative and coordinated site planning, the conservation of natural conditions and features, the use of appropriate technologies and techniques, and the efficient layout of streets, utility networks and other public improvements;
 3. Reduce impervious surfaces; and
 4. Preserve or restore native vegetation.

19.50.020 Applicability.

- A. This Chapter applies to any land disturbing activity that requires a permit under this Title.
- B. Exemptions. The following activities are exempt from the requirements of this chapter:
 - 1. Landscape maintenance activities and gardening that does not adversely impact stormwater facilities or raingardens.
 - 2. The activities described in Appendix 1, Section 1 of the City's NPDES permit, including qualifying pavement maintenance and underground utility projects.

19.50.030 Application Requirements.

- A. All activity to which this Chapter applies requires review consistent with this Chapter.
- B. All applications requiring review under this Chapter must demonstrate compliance with AMC 19.50.040.
- C. The Director may require third party review of any stormwater site plan at the expense of the applicant.

19.50.040 Stormwater Management Manual.

- A. The City of Anacortes adopts Ecology's 2012 Stormwater Management Manual for Western Washington, as amended in December 2014, as the City's Stormwater Management Manual.
- B. The City of Anacortes adopts the Thresholds, Definitions, Minimum Requirements, and Exceptions, Adjustment, and Variance Criteria found in Appendix 1 of the City's NPDES Permit.
- C. Any undefined terms in the chapter, refer to SWMMWW.
- D. The City of Anacortes utilizes the 2012 Puget Sound Partnership Low Impact Development Technical Guidance Manual for information related to best management practices.
- E. The Director is the administrator authorized to determine feasibility and make decisions on adjustments and exceptions under the Stormwater Management Manual.
- F. Feasibility.
 - 1. The Director may determine infiltration is infeasible without the infiltration testing required by the Stormwater Management Manual Stormwater BMPs when infiltration is known to the City to be infeasible due to any of the following:
 - a. soil conditions;
 - b. presence of significant naturally occurring groundwater;

- c. significant tidal influence on groundwater;
- d. presence of geologically hazardous areas that would be made unstable by infiltration.

G. Adjustments and Exceptions.

1. The Director may grant an adjustment to the application of the Stormwater Management Manual and its minimum requirements prior to permit approval and construction consistent with the criteria in the City's NPDES Permit Appendix 1 Section 5. Adjustments .
2. The Director may grant an exception from this Chapter or the application of the Stormwater Management Manual and its minimum requirements prior to permit approval and construction when consistent with the criteria in the City's NPDES Permit Appendix 1 Section 6 Exceptions and Variances.
3. The Director must retain records, including the written findings of fact, of all exceptions from the minimum requirements.
4. A request for an adjustment or exception must meet the criteria in the City's NPDES Permit (Appendix 1) and be submitted on a form provided by the department.

19.50.050 Low-Impact Development Techniques and Facilities.

- A. Applicants must locate and design all buildings, streets and pathways, parking areas, and utility easements to promote public safety, ensure compatibility of uses, minimize effective impervious surface, preserve native vegetation, and complement predevelopment site characteristics such as topography, soils, hydrology, and other natural features.
- B. General Design Techniques.
1. Applicants must limit clearing and grading to the minimum necessary for construction of permitted uses and associated utilities.
 2. Applicants must consider limiting lawn areas, driveways, and roads and locate them in a manner that results in the least disruption to the topography and native vegetation on the site.
 3. Applicants must consider clustering lots, dwelling units, or building structures during the conceptual planning stage to preserve open space, reduce total impervious surface area, and minimize development impacts on adjacent critical areas and associated buffers.
- C. Projects subject to any of the Minimum Requirements must comply with the following:
1. After the project is complete, there may not be a net increase in impervious surface above the limit on the permit, plat, or site plan without approval from the Director.

2. For subdivisions, the maximum impervious surfaces allowed for each lot must be added to the face of the plat.
 3. For all other development, the maximum impervious surface allowed for the development must be added to the face of the final, approved site plan.
- D. Where native vegetation is used to achieve Stormwater Management Manual Minimum Requirement 6 (Runoff Treatment) or Requirement 7 (Flow Control), the applicant must establish one or more of the following permanent protective mechanisms to ensure that native vegetation is retained:
1. a protective easement dedicated to the City on a form provided by the department;
 2. a separate nonbuilding tract owned in common by all lots within the subdivision;
 3. restrictions on the future use of the area recorded on the face of the final plat;
 4. an alternative permanent protective mechanism approved by the Director.
- E. Where an LID stormwater facility is required, the applicant may use that facility to satisfy landscaping requirements so long as the purpose and intent of required landscaping is satisfied and the landscaping does not disrupt the function of LID stormwater facilities.

19.50.060 Stormwater Facilities.

- A. Location.
1. A stormwater facility necessary for compliance with this Chapter must be located abutting a right of way. When the site is constrained by topography, soils, hydrology, or other factors, the Director may approve an alternative location that facilitates access by the City for inspection and maintenance.
 2. A stormwater facility may be located within a right of way at the discretion of the Director.
- B. Dedication. For a stormwater facility necessary for compliance with this Chapter, the Director may require any combination of the following as a condition of development:
1. that the applicant dedicate an easement to the City for access and inspection of the stormwater facility. The Director may waive this requirement for small facilities that do not require inspection or can be effectively inspected without an access easement.
 2. that the stormwater facility be dedicated to the City, which the City may accept if:
 - a. the facility as designed and constructed conforms to the provisions of this Chapter;
 - b. all easements and tracts required under this Chapter necessary for the City to operate and maintain the facility have been conveyed to the City and have been recorded with the County Auditor;

- c. a maintenance plan has been accepted per subsection D.
- C. Modification of facilities during construction. The City may require that the construction of drainage facilities and associated project designs be modified or redesigned if conditions occur or are discovered which were not considered or known at the time the permit or approval was issued, such as uncovering unexpected soil or water conditions, weather-generated problems, or undue materials shortages. Any such modifications made during the construction of drainage facilities must be recorded on the final approved drainage plan, a revised copy of which must be provided to the city.
- D. Maintenance Plan Required.
 - 1. Prior to the use of a stormwater facility required by this Chapter, the owner must:
 - a. ensure a complete initial evaluation of engineered stormwater facility system components and property by a qualified professional to determine functionality, maintenance needs, and compliance with this Chapter and any permits. The property owner must submit the signed and stamped engineer's evaluation to the Director for approval;
 - b. provide a complete and accurate set of reproducible as-built record drawings stamped and certified as accurate by a qualified professional;
 - c. obtain approval from the Director for a maintenance plan;
 - d. record the approved maintenance plan with the County Auditor against the title of all properties using the stormwater facility.
 - 2. The maintenance plan must:
 - a. address how all of the elements of the stormwater facility will be maintained;
 - b. include the schedule for ongoing maintenance;
 - c. identify the responsible party for ongoing maintenance;
 - d. be consistent with Stormwater Management Manual, especially Volume V, Chapter 4.
 - 3. The maintenance plan remains in force for the life of the development or until the City approves a new or amended maintenance plan for the development's stormwater facilities.
- E. Plat notes. For land divisions, the Director will require a plat note indicating that the property owner(s) must maintain the stormwater facility consistent with the recorded maintenance plan and that if the stormwater facility is not so maintained the City may perform the maintenance and charge the costs of such maintenance to the property owners.
- F. Establishment of regional facilities

1. In the event that public benefits would accrue due to modification of the stormwater plan for the subject property to better implement the recommendations of the city's surface water quality management plan, the Director may recommend that the city should assume some responsibility for the further design, construction, operation and maintenance of drainage facilities receiving runoff from the subject property. Such decision shall be made concurrently with review and approval of the stormwater plan as specified in this chapter.
2. In the event the city decides to assume some responsibility for design, construction, operation and maintenance of the facilities, the developer will be required to contribute a pro rata share to the construction cost of the facilities. The applicant may be required to supply additional information at the request of the official to aid in the determination by the city. Guidelines for implementing this section will be defined by the official.

19.50.070 Conveyance

A. Generally.

1. All proposed development requiring stormwater conveyance must provide sufficient capacity to convey stormwater without flooding or otherwise damaging existing or proposed structures in a manner consistent with the City's engineering standards.
2. Estimation of peak stormwater runoff rates used in the design of stormwater conveyance facilities must use the rational method for estimating a hydrograph using a mathematical simulation.
3. Runoff may not discharge directly onto the surface of a public street or road.
4. Runoff and infiltration must be directed away from septic drain fields.
5. Runoff from impervious surfaces, roof drains, and yard drains must be directed so as not to adversely affect adjacent properties.
6. Runoff from development may not cause a significant adverse impact to down-gradient properties.

B. Easements, Tracts, and Covenants.

1. All proposed development must provide easements for all stormwater conveyance systems that are not located in public rights-of-way or tracts and must be granted to the parties responsible for providing ongoing maintenance of the systems. Drainage easements through non-drainage structures are prohibited.
2. Wording to this effect must appear on the face of all final plats, and must be contained in any covenants required for a development.

19.50.080 Inspection - Construction

- A. The City may inspect all activities regulated by this chapter at various stages of the work to ensure proper review of construction and facilities.
- B. Stages of work requiring inspection include, but are not limited to: preconstruction; installation of BMPs; land-disturbing activities; installation of utilities, landscaping, retaining walls; and completion of project.
- C. At the time of approval of the drainage plan for the subject property, a schedule for inspection will be established by the Director.

New Chapter 19.55 Clearing, Grubbing, and Grading

19.55.010 Policy.

These regulations are adopted for the following purposes:

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

19.55.020 Applicability.

- A. This Chapter applies to all clearing, grubbing, and grading.
- B. Exemptions. This Chapter does not apply to:
 - 1. the installation and maintenance of fire hydrants, water meters, and pumping stations, and street furniture by the city or its contractors;
 - 2. removal of trees and ground cover in emergency situations involving immediate danger to life or property or substantial fire hazards;
 - 3. removal of dead or diseased trees or ground cover;
 - 4. removal of 6,000 square feet or less of trees or groundcover on a lot that contains an existing permitted building and is capable of being divided into two or more lots, for purposes of general property and utility maintenance or landscaping except that:
 - a. any land clearing that includes the use of a bulldozer or similar mechanical earthmoving equipment is not exempt; and
 - b. land clearing for the purpose of developing the property with substantial permanent improvements such as roads, driveways, utilities or buildings is not exempt.

19.55.030 Application Requirements.

- A. All activity to which this chapter applies requires an application and permit consistent with this chapter. A separate permit is not required if an application has been approved for a building permit, preliminary plat, or a final planned unit development.
- B. Applications must be on forms provided by the Department and must include:
 - 1. a site plan showing location, type, and size of existing significant trees and native vegetation; designation of clearing limits; and other requirements identified by the Director;
 - 2. if excavated material is to be wasted off-site, a description of the location and the route to the disposal site;
 - 3. demonstration of compliance with AMC Chapter 19.50, Stormwater Management;
 - 4. a construction site sediment transport potential worksheet which will guide City staff on the need for a site inspection prior to permit issuance.

19.55.040 Development Standards

- A. All activity to which this chapter applies must comply, and the Director may condition a permit issued per this Chapter to ensure compliance, with all of the following:
 - 1. AMC Chapter 17.70, Critical Areas Regulations;

2. AMC Chapter 18.04, State Environmental Policy Act;
 3. AMC Chapter 19.50, Stormwater Management;
 4. the Anacortes Shoreline Master Program;
 5. the International Building Code provisions for "Excavation and Grading."
- B. Performance Bond. The Director may require, as a condition to the granting of a permit, that the applicant furnish a performance bond to the city to secure the applicant's obligation, after the approved land clearing has been accomplished, to complete the restoration and replanting of the property in accordance with the terms of the permit. The bond may be in an amount equal to two hundred percent of the estimated cost of such restoration and replanting and with surety and conditions satisfactory to the Director.
- C. When grading a site, whether a single lot or a larger tract, the owner of the site being graded must protect adjacent property from the effects of the grading. If a cut or excavation is made near a property line, it must be supported by a retaining wall, or sloped or terraced away from the property line sufficiently to prevent the adjacent property from sliding toward the cut. If fill such as soil, gravel, rock, or other material is placed near a property line, it must be supported by a retaining wall, or sloped or terraced away from the property line sufficiently to prevent the fill material from sliding onto the adjacent property.
- B. The Director may require cuts, fill, and retaining walls to be designed by a licensed structural engineer, due to slope steepness, soil types, geological stability, or other factors.
- C. If there are structures on the adjacent property at the time a cut is made, or if a building permit has been issued to build such structures, the effect of the weight of these structures must be taken into account when determining the support required for the cut, in order to avoid undermining or damaging the structures. If a structure is built after a permit for cut or fill has been issued, the structure must be designed so that it does not create additional stresses on a properly designed cut or fill or retaining wall which would be likely to cause it to fail, based on standard structural engineering principles.

19.55.050 Subdivision Prohibited After Clearing

No land division for a property may be approved within five years after clearing.

19.55.060 Bonds and Liability

- A. The city is authorized to require all persons constructing retention/detention or other drainage treatment/abatement facilities to post surety and cash bonds in the amount of 150% of the construction value.

- B. Where such persons have previously posted or are required to post other such bonds on the facility itself or on other construction related to the facility, such persons may, with the permission of the authorized city official and to the extent allowable by law, combine all such bonds into a single bond; provided, that at no time shall the amount thus bonded be less than the total amount which would have been required in the form of separate bonds; and provided, further, that such a bond shall on its face clearly delineate those separate bonds which it is intended to replace.
1. Construction Bond. Prior to commencing construction, the person constructing the facility shall post a construction bond in an amount sufficient to cover the cost of conforming the construction with the approved drainage plans. The amount of the bond shall be increased at one-year intervals in a proportion equivalent to the prevailing rate of inflation in construction costs as specified in the procedures manual. After determination by the official that all facilities are constructed in compliance with the approved plans, the construction bond shall be released. Alternatively, an equivalent cash deposit to an escrow account administered by a local bank designated by the city could be required at city option.
 2. Maintenance Bond. After determination by the official that all facilities are constructed in compliance with the approved plans, the construction bond shall be released. Alternatively, an equivalent cash deposit to an escrow account administered by a local bank designated by the city could be required at city option.
 3. Performance Bond. A surety bond or cash bond to cover the cost of design defects or failures in workmanship of the facilities shall also be posted and maintained throughout the two-year maintenance period. The amount of the bonds shall be increased at one-year intervals in a proportion equivalent to the prevailing rate of inflation. Alternatively, an equivalent cash deposit to an escrow account administered by a local bank designated by the city could be required at city option.
 4. Liability Bond. The person constructing the facility shall maintain a liability policy in an amount established by the director which shall name the city as an additional insured and which shall protect the city from any liability up to those amounts for any accident, negligence, failure of the facility, or any other liability whatsoever, relating to the construction or maintenance of the facility. The liability policy shall be maintained for the duration of the facility by the owner of the facility; provided, that in case of facilities assumed by the city for maintenance pursuant to Section 13.36.230 of this chapter, the liability policy shall be terminated when and if the city maintenance responsibility commences.

Ordinance No. _____

**An Ordinance [adopting/repealing/amending AMC ____] and
Adopting New Standards for Stormwater Management**

Whereas _____;

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

- Section 1. The Anacortes Municipal Code is amended as described in Attachment A.
- Section 2. Consistent with RCW 35A.12.130, this ordinance takes effect five days after passage and publication, or on January 1, 2017, whichever is later.

PASSED and APPROVED this ____ day of _____, 2016.

CITY OF ANACORTES:

Laurie Gere, Mayor

Attest:

Steve Hoglund, City Clerk-Treasurer

Approved as to Form:

Darcy James Swetnam, City Attorney

Attachment A

AMC Chapter 13.36, Drainage Requirements and Regulations, is repealed.

AMC 17.54.050, Stormwater Management/Quality and Quantity, is repealed.

AMC 17.54.060, Land Clearing, is repealed.

AMC 17.54.070, Regulated Slopes, is repealed.

AMC 17.54.080, Geologically Hazardous Areas, is repealed.

AMC 17.54.090, Site Grading, is repealed.

AMC Chapter 18.12, Land Clearing and Grading, is repealed.

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18.08 Air Pollution Control District	6
18.12 Land Clearing and Grading	6
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TITLE 16 Subdivisions

16.04.020 - Policy.

- A. It is declared to be the policy of the city to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the city pursuant to the comprehensive plan of the city.
- B. Land to be subdivided shall be of a character that can be used safely for building purposes without danger to health or peril from fire, flood, or other menace. Land shall not be subdivided until proper provision has been made for: drainage, water, sewage, and capital improvements such as schools, parks, recreational facilities, and transportation facilities and improvements.
- C. The existing and proposed public improvements shall conform to and be properly related to the proposal shown in the comprehensive plan and the city capital facility plan. It is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in the state Building Code, the city zoning ordinance, the city comprehensive plan, and the city capital facility plan.
- D. Land that has been subdivided prior to the effective date of these regulations should, whenever possible, be brought within the scope of these regulations to further the purposes of the regulation(s) as identified in [Section 16.04.030](#).
- E. It is the policy of the city to fully implement the requirements of the Western Washington Phase II Municipal Stormwater Permit ("the Permit") and all of the technical requirements, site planning, and design considerations contained in the Stormwater Management Manual for Western Washington ("the Manual"), including the provisions of the Permit and Manual that require Low-Impact Development ("LID") techniques when described in the Manual. In addition, the City integrates the specifications and guidance included in the 2012 Puget Sound Partnership Low Impact Development Technical Guidance Manual. The Director may authorize exceptions from any provision of this Title that is a barrier to LID or is in conflict with AMC Title 19, the permit, or the Manual.

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TITLE 17 Zoning

17.04.010 - Introduction.

No change

17.04.020 - Title and purpose.

No change

17.04.030 - Enacting clause.

No change

17.04.040 - Provisions of code declared to be minimum requirements and interpretation.

No change

17.04.050 - Conformity with this title required.

- A. No use or structure shall be established, substituted, expanded, constructed, altered, moved, maintained, or otherwise changed except in conformance with this title.
- B. Creation of or changes to lot lines shall conform with to the use provisions, dimensional and other standards, and procedures of this title and [Title 16](#), Subdivisions.
- C. All land uses and development authorized by this title shall comply with all other regulations and or requirements of this title as well as any other applicable local, state or federal law. Where a difference exists between the title and other applicable regulations, the more restrictive requirements shall apply.
- D. Where more than one part of this title applies to the same aspect of a proposed use or development, the more restrictive requirement shall apply.
- E. It is the policy of the city to fully implement the requirements of the Western Washington Phase II Municipal Stormwater Permit ("the Permit") and all of the technical requirements, site planning, and design considerations contained in the Stormwater Management Manual for Western Washington ("the Manual"), including the provisions of the Permit and Manual that require Low-Impact Development ("LID") techniques when described in the Manual. **In addition, the City integrates the specifications and guidance included in the 2012 Puget Sound Partnership Low Impact Development Technical Guidance Manual.** The Director may authorize exceptions from any provision of this Title that is a barrier to LID or is in conflict with AMC Title 19, the permit, or the Manual.

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Title 18 Environmental Protection

18.04 State Environmental Policy Act

No change.

18.08 Air Pollution Control District

No change.

18.12 Land Clearing and Grading

Repealed.

18.14 Nuisances

No change.

18.16 Shoreline Master Plan

No change.

18.20 Historic Properties

No change.

***New Chapter* 18.30 Illicit Discharges and Connections to the Stormwater Drainage System**

18.30.010 Purpose.

The purpose of this Chapter is to protect surface and groundwater quality by controlling the discharge of pollutants and to ensure ongoing compliance with the City's NPDES permit.

18.30.020 Definitions.

The definitions in AMC 19.05.100 apply to this Chapter and are incorporated by reference.

18.30.030 Illicit discharges.

A. Illicit Discharges Prohibited.

1. No person may throw, drain, or otherwise discharge, or cause or allow others under its control to throw, drain, or otherwise discharge into the stormwater system any materials other than stormwater.
2. Illicit discharges include, but are not limited to solid waste; yard waste; dirt; sand; gravel, cement; paint products; human and animal waste; soap; detergent; antifreeze, oil, gasoline, grease, and all other automotive and petroleum products; pesticides; herbicides; fertilizers;

flammable or explosive materials, metals in excess of naturally occurring amounts, whether in liquid or solid form; chemicals not normally found in uncontaminated water; solvents and degreasers; drain cleaners; commercial and household cleaning materials; acids; alkalis; ink; steam-cleaning waste; laundry waste; ammonia; chlorine; chlorinated swimming pool or hot tub water; domestic or sanitary sewage; animal carcasses; food and food waste; plaster and dry-wall compound.

- B. Allowable Discharges. The following types of discharges are not illicit discharges for the purpose of this Chapter unless the Director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:
1. Diverted stream flows.
 2. Rising groundwater.
 3. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20).
 4. Uncontaminated pumped groundwater.
 5. Foundation drains.
 6. Air conditioning condensation.
 7. Irrigation water from agricultural sources that is commingled with urban stormwater.
 8. Springs.
 9. Water from crawl space pumps.
 10. Footing drains.
 11. Flows from riparian habitats and wetlands.
 12. Discharges from emergency firefighting activities.
- C. Conditionally Allowed Discharges. The following types of discharges are not illicit discharges for the purposes of this Chapter if they meet the stated conditions, unless the Director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:
1. Potable water, including water from water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges must be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system.
 2. Lawn watering and other irrigation runoff are permitted but must be minimized.
 3. Dechlorinated swimming pool discharges. These discharges must be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities

controlled to prevent resuspension of sediments in the stormwater system. Discharges must be thermally controlled to prevent an increase in temperature of the receiving water.

4. Street and sidewalk wash water, water to control dust and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water is minimized. At active construction sites, street sweeping must be performed prior to washing the street.
5. Other non-stormwater discharges that are in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the City which addresses control of such discharges by applying AKART to prevent pollutants from entering surface or groundwater.

D. Exemptions.

1. The following discharges are exempt from the provisions of this section:
 - a. the regulated effluent from any commercial or municipal facility holding a valid State or Federal wastewater discharge permit or NPDES stormwater permit;
 - b. acts of God or nature not compounded by human negligence;
 - c. properly operating on-site domestic sewage systems.
2. A person does not commit an illicit discharge if:
 - a. that person has properly designed, constructed, implemented and is maintaining BMPs and is carrying out AKART, even if pollutants continue to enter surface and stormwater or groundwater; or
 - b. that person can demonstrate that there are no additional pollutants being discharged from the site above the background conditions of the water entering the site.

E. Best Management Practices (BMPs).

1. Compliance with this Chapter must be achieved through the use of best management practices described in the Stormwater Management Manual or as described below.
2. BMPs must be applied to any business or residential activity that might result in illicit discharges. In applying the Stormwater Management Manual, the Director must first require the implementation of source control BMPs. If these are not sufficient to prevent pollutants from entering stormwater, the Director may require implementation of treatment BMPs as set forth in AKART.

18.30.040 Illicit connections and uses.

- A. No person may make, allow, use, or allow the continued existence of any connection to the stormwater system that could result in an illicit discharge.

- B. Connections to the stormwater drainage system from the interiors of structures are prohibited.
- C. Connections to the stormwater drainage system for any purpose other than to convey stormwater or groundwater are prohibited and must be eliminated.

18.30.050 Violations

- A. A violation of this Chapter is a class 1 civil infraction for each day it continues.
- B. The Director may impose a civil penalty of up to \$1,000 per day per violation.
- C. To abate a violation, the Director may:
 - 1. require implementation of stormwater BMPs described in the Stormwater Management Manual or AKART BMPs described in RCW 90.48.010 and 90.48.520.
 - 2. require the violator to sample and analyze any discharge, surface and stormwater, groundwater, or sediment, in accordance with the sampling and analytical procedures and requirements determined by the Director, and provide that analysis to the Director.
 - 3. make inspections as required to determine compliance, including observation of BMPs or sampling surface and stormwater or groundwater as often as may be necessary.
- D. The City Attorney is authorized to take other actions, including actions for injunctive or other relief, to enforce the provisions of this Chapter.

New Chapter 18.40 Operations and Maintenance of Private and Municipal Stormwater Facilities.

18.40.010 Purpose.

The purpose of this Chapter is to protect surface and groundwater quality by controlling the discharge of pollutants, protect other properties from uncontrolled stormwater discharges, to ensure ongoing maintenance of stormwater facilities, and compliance with the City's NPDES permit.

18.40.020 Definitions.

The definitions in AMC 19.05.100 apply to this Chapter and are incorporated by reference.

18.40.040 Maintenance Required.

- A. Owners and operators of stormwater facilities must operate and maintain those facilities to ensure the performance achieves their intended purposes.
- B. Owners of property for which a stormwater BMP has been required by the City must continually maintain that BMP.

C. Maintenance must be performed consistent with the conditions of approval and the approved maintenance plan. Unless a more restrictive provision applies, when an inspection identifies an exceedance of the maintenance standard, the owner must perform maintenance:

1. Within 12 months for typical maintenance of facilities, except catch basins;
2. Within six months for catch basins;
3. Within 24 months for maintenance that requires capital construction of less than \$25,000.

18.40.050 Protection.

- A. Owners and operators of stormwater facilities must protect their stormwater facilities from harm or degradation.
- B. All stormwater facilities and LID BMPs must be protected from all of the following:
1. Cover by structures or impervious material;
 2. Soil compaction, for example by vehicular traffic or livestock;
 3. Damage by soil removal and grade alteration;
 4. Loss or degradation of amended soils;
 5. Damage or removal of approved vegetation;
 6. Conversion to another use.

18.40.060 Inspections of Stormwater Facilities.

- A. The City must inspect stormwater facilities at least annually, or less frequently if allowed by the City's NPDES permit.
- B. Whenever there is cause to believe that a violation of this Chapter has been or is being committed, the City may inspect per **AMC Title 20, Civil Enforcement and Penalties**.

Commented [D3]: Note: Title 20 is currently under development (Ryan Walters)

18.40.070 Enforcement.

- A. A violation of this Chapter is a public nuisance.
- B. The Director may impose a civil penalty of up to \$100 per day per violation.
- C. The City Attorney is authorized to take other actions, including actions for injunctive or other relief, to enforce the provisions of this Chapter.

18.40.080 Liability

- A. Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any liability on the part of the city, or its officers, employees or agents, for any

Commented [D4]: From 13.36.310

injury or damage resulting from the failure of an owner of property or land to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this chapter, or by reason of any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees or agents.

- B. Any city employee charged with the enforcement of this chapter, acting in good faith and without malice on behalf of the city in the discharge of his/her duties, shall not be personally liable for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his/her duties. Any suit brought against an employee because of such act or omission performed by him/her in the enforcement of any provision of this chapter shall be defended by the city.

New Title 19, Unified Development Code

New Chapter 19.05 General Provisions

19.05.060 Supremacy.

In the event of a conflict between provisions of this title and AMC Title 13, 15, 16, 17, or 18, the provisions of this title control.

19.05.100 Definitions.

- “AKART” means all known, available, and reasonable methods of prevention, control, and treatment.
- “Adverse Impact” means an unwanted and unanticipated result of taking a particular action or a negative effect that goes against desired conditions.
- “City’s NPDES Permit” means the 2013-1018 Phase II Western Washington Municipal Stormwater Permit issued by the Department of Ecology pursuant to the National Pollutant Discharge Elimination System.
- “Department” means the “City of Anacortes Planning, Community, and Economic Development Department.”
- “Director” means the director of the City of Anacortes Planning, Community, and Economic Development Department.
- “Grading” means any excavating or filling or combination thereof, of land.
- “Groundcover” means the small plants on a forest floor except young trees.
- “Grubbing” means the removal of trees, shrubs, stumps and rubbish from the future right-of-way of a transportation corridor, cut lines or the footprint of a structure.
- “Infiltration device or facility” means a drainage device or facility designed to use the hydrologic process of surface and stormwater runoff soaking into the ground, commonly referred to as a percolation, to dispose of surface and stormwater runoff.
- “Land clearing” means the act of removing or destroying trees or groundcover.
- “Minimum Requirement” means a technical Minimum Requirement described in Volume 1 of the Stormwater Management Manual for Western Washington (SWMMWW) and Appendix 1 of the City’s NPDES permit.
- “Qualified Professional” means a person with experience and training in the applicable field or critical area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geology or related field, and two years of related work experience.
- “Retaining wall” means a structure that retains (holds back) any material (usually earth) and prevents it from sliding or eroding away.
- “Sediment basin (pond)” means a temporary sediment pond installed at a construction site.

Commented [RW-P5]: This definition seems unnecessary. It’s just the English definition.

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Deleted: <#> “Feasible” in the context of low impact development (LID) shall be determined by evaluation against:

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1. Design criteria, limitations, and infeasibility criteria identified for each¶
LID facility in the Washington Department of Ecology Stormwater Management¶
Manual for Western Washington (SWMMWW); and ¶
2. Competing needs criteria listed in Chapter 5 of Volume V of the¶
SWMMWW.¶

Deleted: Grubbing is performed following surveying and proceeding construction.

Deleted: “Infeasible” means not likely to work or be useful in attaining the end desired.¶

Deleted: <#> “Pipe” means a long, hollow tube for carrying water, steam, gas, etc.¶

- “Significant tree” means deciduous and evergreen tree greater than six inches in diameter at five feet above grade.
- “Stormwater Management Manual” means the City’s manual for design of stormwater facilities, as adopted in AMC 19.50.040.
- “Street gutter” means a low area at the side of a road used to catch water and carry it away from the road.
- “Surface water” means waters that flow over the land surface and frequently interact with groundwater.
- “SWMMWW” means 2014 Stormwater Management Manual for Western Washington.
- “Tree” means any living woody plant characterized by one main stem or trunk (or a group of trunks, in some species) and many branches, and having a diameter of eight inches or more measured at twenty-four inches above ground level when mature.

Deleted: Tree

Deleted: Gutter

Deleted: Water

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New Chapter 19.50 Stormwater Management

19.50.010 Policy.

- A. Purpose. Washington State law mandates that stormwater discharge resulting from development activities and pollution-generating activities be controlled and treated to provide available and reasonable methods of erosion control, flood control, habitat protection, and water quality treatment. The City of Anacortes has adopted the requirements of this Chapter for both temporary and long-term stormwater management. The purpose of this Chapter is to set out the authority, regulatory requirements, submittal requirements, and procedures for stormwater drainage design, review, approval, construction, maintenance, and management.
- B. Goals of Low Impact Development (LID). LID is the preferred and commonly used approach to site development. LID is intended to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations. (From NPDES Permit S5.C4.f.i) This Chapter accomplishes the following goals:
 1. Manage stormwater through a land development strategy that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to mimic predevelopment hydrologic conditions;
 2. Encourage creative and coordinated site planning, the conservation of natural conditions and features, the use of appropriate technologies and techniques, and the efficient layout of streets, utility networks and other public improvements;
 3. Reduce impervious surfaces; and
 4. Preserve or restore native vegetation.

19.50.020 Applicability.

- A. This Chapter applies to any land disturbing activity that requires a permit under this Title.
- B. Exemptions. The following activities are exempt from the requirements of this chapter:
 - 1. Landscape maintenance activities and gardening that does not adversely impact stormwater facilities or raingardens.
 - 2. The activities described in Appendix 1, Section 1 of the City's NPDES permit, including qualifying pavement maintenance and underground utility projects.

19.50.030 Application Requirements.

- A. All activity to which this Chapter applies requires review consistent with this Chapter.
- B.** All applications requiring review under this Chapter must demonstrate compliance with AMC 19.50.040.
- C. The Director may require third party review of any stormwater site plan at the expense of the applicant.

19.50.040 Stormwater Management Manual.

- A. The City of Anacortes adopts Ecology's 2012 Stormwater Management Manual for Western Washington, as amended in December 2014, as the City's Stormwater Management Manual.
- B. The City of Anacortes adopts the Thresholds, Definitions, Minimum Requirements, and Exceptions, Adjustment, and Variance Criteria found in Appendix 1 of the City's NPDES Permit.
- C. Any undefined terms in the chapter, refer to SWMMWW.
- D. The City of Anacortes utilizes the 2012 Puget Sound Partnership Low Impact Development Technical Guidance Manual for information related to best management practices.
- E. The Director is the administrator authorized to determine feasibility and make decisions on adjustments and exceptions under the Stormwater Management Manual.
- F. Feasibility.
 - 1. The Director may determine infiltration is infeasible without the infiltration testing required by the Stormwater Management Manual Stormwater BMPs when infiltration is known to the City to be infeasible due to any of the following:
 - a. soil conditions;
 - b. presence of significant naturally occurring groundwater;

- c. significant tidal influence on groundwater;
- d. presence of geologically hazardous areas that would be made unstable by infiltration.

G. Adjustments and Exceptions.

1. The Director may grant an adjustment to the application of the Stormwater Management Manual and its minimum requirements prior to permit approval and construction consistent with the criteria in the City's NPDES Permit Appendix 1 Section 5. Adjustments .
2. The Director may grant an exception from this Chapter or the application of the Stormwater Management Manual and its minimum requirements prior to permit approval and construction when consistent with the criteria in the City's NPDES Permit Appendix 1 Section 6 Exceptions and Variances.
3. The Director must retain records, including the written findings of fact, of all exceptions from the minimum requirements.
4. A request for an adjustment or exception must meet the criteria in the City's NPDES Permit (Appendix 1) and be submitted on a form provided by the department.

19.50.050 Low-Impact Development Techniques and Facilities.

- A. Applicants must locate and design all buildings, streets and pathways, parking areas, and utility easements to promote public safety, ensure compatibility of uses, minimize effective impervious surface, preserve native vegetation, and complement predevelopment site characteristics such as topography, soils, hydrology, and other natural features.
- B. General Design Techniques.
 1. Applicants must limit clearing and grading to the minimum necessary for construction of permitted uses and associated utilities.
 2. Applicants must consider limiting lawn areas, driveways, and roads and locate them in a manner that results in the least disruption to the topography and native vegetation on the site.
 3. Applicants must consider clustering lots, dwelling units, or building structures during the conceptual planning stage to preserve open space, reduce total impervious surface area, and minimize development impacts on adjacent critical areas and associated buffers.
- C. Projects subject to any of the Minimum Requirements must comply with the following:
 1. After the project is complete, there may not be a net increase in impervious surface above the limit on the permit, plat, or site plan without approval from the Director.

2. For subdivisions, the maximum impervious surfaces allowed for each lot must be added to the face of the plat.
 3. For all other development, the maximum impervious surface allowed for the development must be added to the face of the final, approved site plan.
- D. Where native vegetation is used to achieve Stormwater Management Manual Minimum Requirement 6 (Runoff Treatment) or Requirement 7 (Flow Control), the applicant must establish one or more of the following permanent protective mechanisms to ensure that native vegetation is retained:
1. a protective easement dedicated to the City on a form provided by the department;
 2. a separate nonbuilding tract owned in common by all lots within the subdivision;
 3. restrictions on the future use of the area recorded on the face of the final plat;
 4. an alternative permanent protective mechanism approved by the Director.
- E. Where an LID stormwater facility is required, the applicant may use that facility to satisfy landscaping requirements so long as the purpose and intent of required landscaping is satisfied and the landscaping does not disrupt the function of LID stormwater facilities.

19.50.060 Stormwater Facilities.

- A. Location.
1. A stormwater facility necessary for compliance with this Chapter must be located abutting a right of way. When the site is constrained by topography, soils, hydrology, or other factors, the Director may approve an alternative location that facilitates access by the City for inspection and maintenance.
 2. A stormwater facility may be located within a right of way at the discretion of the Director.
- B. Dedication. For a stormwater facility necessary for compliance with this Chapter, the Director may require any combination of the following as a condition of development:
1. that the applicant dedicate an easement to the City for access and inspection of the stormwater facility. The Director may waive this requirement for small facilities that do not require inspection or can be effectively inspected without an access easement.
 2. that the stormwater facility be dedicated to the City, which the City may accept if:
 - a. the facility as designed and constructed conforms to the provisions of this Chapter;
 - b. all easements and tracts required under this Chapter necessary for the City to operate and maintain the facility have been conveyed to the City and have been recorded with the County Auditor;

c. a maintenance plan has been accepted per subsection D.

- C. **Modification of facilities during construction.** The City may require that the construction of drainage facilities and associated project designs be modified or redesigned if conditions occur or are discovered which were not considered or known at the time the permit or approval was issued, such as uncovering unexpected soil or water conditions, weather-generated problems, or undue materials shortages. Any such modifications made during the construction of drainage facilities must be recorded on the final approved drainage plan, a revised copy of which must be provided to the city.

Commented [D10]: From 13.36.170

Deleted: city

Commented [RW-P11]: "or" is never defined as the strictly logical OR

Deleted: and/

Deleted: shall

Deleted: shall

D. Maintenance Plan Required.

1. Prior to the use of a stormwater facility required by this Chapter, the owner must:

- a. ensure a complete initial evaluation of engineered stormwater facility system components and property by a qualified professional to determine functionality, maintenance needs, and compliance with this Chapter and any permits. The property owner must submit the signed and stamped engineer's evaluation to the Director for approval;
- b. provide a complete and accurate set of reproducible as-built record drawings stamped and certified as accurate by a qualified professional;
- c. obtain approval from the Director for a maintenance plan;
- d. record the approved maintenance plan with the County Auditor against the title of all properties using the stormwater facility.

2. The maintenance plan must:

- a. address how all of the elements of the stormwater facility will be maintained;
- b. include the schedule for ongoing maintenance;
- c. identify the responsible party for ongoing maintenance;
- d. be consistent with Stormwater Management Manual, especially Volume V, Chapter 4.

3. The maintenance plan remains in force for the life of the development or until the City approves a new or amended maintenance plan for the development's stormwater facilities.

- E. Plat notes. For land divisions, the Director will require a plat note indicating that the property owner(s) must maintain the stormwater facility consistent with the recorded maintenance plan and that if the stormwater facility is not so maintained the City may perform the maintenance and charge the costs of such maintenance to the property owners.

Commented [D12]: Changed from "may" per Ryan and John

Commented [RW-P13R12]: I actually think this still should be may. What if the stormwater facility is not privately owned?

F. Establishment of regional facilities

1. In the event that public benefits would accrue due to modification of the stormwater plan for the subject property to better implement the recommendations of the city's surface water quality management plan, the Director may recommend that the city should assume some responsibility for the further design, construction, operation and maintenance of drainage facilities receiving runoff from the subject property. Such decision shall be made concurrently with review and approval of the stormwater plan as specified in this chapter.
2. In the event the city decides to assume some responsibility for design, construction, operation and maintenance of the facilities, the developer will be required to contribute a pro rata share to the construction cost of the facilities. The applicant may be required to supply additional information at the request of the official to aid in the determination by the city. Guidelines for implementing this section will be defined by the official.

19.50.070 Conveyance

A. Generally.

1. All proposed development requiring stormwater conveyance must provide sufficient capacity to convey stormwater without flooding or otherwise damaging existing or proposed structures in a manner consistent with the City's engineering standards.
2. Estimation of peak stormwater runoff rates used in the design of stormwater conveyance facilities must use the rational method for estimating a hydrograph using a mathematical simulation.
3. Runoff may not discharge directly onto the surface of a public street or road.
4. Runoff and infiltration must be directed away from septic drain fields.
5. Runoff from impervious surfaces, roof drains, and yard drains must be directed so as not to adversely affect adjacent properties.
6. Runoff from development may not cause a significant adverse impact to down-gradient properties.

B. Easements, Tracts, and Covenants.

1. All proposed development must provide easements for all stormwater conveyance systems that are not located in public rights-of-way or tracts and must be granted to the parties responsible for providing ongoing maintenance of the systems. Drainage easements through non-drainage structures are prohibited.
2. Wording to this effect must appear on the face of all final plats, and must be contained in any covenants required for a development.

19.50.080 Inspection - Construction

- A. The City may inspect all activities regulated by this chapter, at various stages of the work to ensure proper review of construction and facilities.
- B. Stages of work requiring inspection include, but are not limited to: preconstruction; installation of BMPs; land-disturbing activities; installation of utilities, landscaping, retaining walls; and completion of project.
- C. At the time of approval of the drainage plan for the subject property, a schedule for inspection will be established by the Director.

Commented [D14]: New section largely comprised of text moved from 13.36.160

Deleted: A

Deleted: shall be inspected by the city, unless otherwise approved by the city. Projects will be inspected

Deleted: to determine that adequate control is being exercised

Deleted: to ensure proper review of construction and facilities

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New Chapter 19.55 Clearing, Grubbing, and Grading

19.55.010 Policy.

These regulations are adopted for the following purposes:

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

Commented [RW15]: Based on [AMC 17.54.060](#), Land Clearing and AMC Chapter 18.12, Land Clearing and Grading.

Commented [RW16]: Additionally, 17.54.060 has the following, which I've excluded because I think it's covered below. Also a "tree conservation permit" is not defined so far as I could find.

a. A land clearing permit is required to cut down trees prior to development.

b. A tree conservation permit is required to substantially thin forest area prior to development; this includes a tree conservation plan.

c. For projects requiring a building permit, PUD, etc., a tree conservation plan is required as part of the submittal for the applicable permits (but not a separate tree clearing permit).

19.55.020 Applicability.

- A. This Chapter applies to all clearing, grubbing, and grading.
- B. Exemptions. This Chapter does not apply to:
 - 1. the installation and maintenance of fire hydrants, water meters, and pumping stations, and street furniture by the city or its contractors;
 - 2. removal of trees and ground cover in emergency situations involving immediate danger to life or property or substantial fire hazards;
 - 3. removal of dead or diseased trees or ground cover;
 - 4. removal of 6,000 square feet or less of trees or groundcover on a lot that contains an existing permitted building and is capable of being divided into two or more lots, for purposes of general property and utility maintenance or landscaping except that:
 - a. any land clearing that includes the use of a bulldozer or similar mechanical earthmoving equipment is not exempt; and
 - b. land clearing for the purpose of developing the property with substantial permanent improvements such as roads, driveways, utilities or buildings is not exempt.

Commented [RW17]: Should consider lowering our grading exemption when we update the building code.

Carefully review this applicability statement to ensure it matches existing thresholds.

19.55.030 Application Requirements.

- A. All activity to which this chapter applies requires an application and permit consistent with this chapter. A separate permit is not required if an application has been approved for a building permit, preliminary plat, or a final planned unit development.
- B. Applications must be on forms provided by the Department and must include:
 - 1. a site plan showing location, type, and size of existing significant trees and native vegetation; designation of clearing limits; and other requirements identified by the Director;
 - 2. if excavated material is to be wasted off-site, a description of the location and the route to the disposal site;
 - 3. demonstration of compliance with AMC Chapter 19.50, Stormwater Management;
 - 4. a construction site sediment transport potential worksheet which will guide City staff on the need for a site inspection prior to permit issuance.

Commented [D18]: Per discussion with John

19.55.040 Development Standards

- A. All activity to which this chapter applies must comply, and the Director may condition a permit issued per this Chapter to ensure compliance, with all of the following:
 - 1. AMC Chapter 17.70, Critical Areas Regulations;

2. AMC Chapter 18.04, State Environmental Policy Act;
 3. AMC Chapter 19.50, Stormwater Management;
 4. the Anacortes Shoreline Master Program;
 5. the International Building Code provisions for "Excavation and Grading."
- B. Performance Bond. The Director may require, as a condition to the granting of a permit, that the applicant furnish a performance bond to the city to secure the applicant's obligation, after the approved land clearing has been accomplished, to complete the restoration and replanting of the property in accordance with the terms of the permit. The bond may be in an amount equal to two hundred percent of the estimated cost of such restoration and replanting and with surety and conditions satisfactory to the Director.
- C. When grading a site, whether a single lot or a larger tract, the owner of the site being graded must protect adjacent property from the effects of the grading. If a cut or excavation is made near a property line, it must be supported by a retaining wall, or sloped or terraced away from the property line sufficiently to prevent the adjacent property from sliding toward the cut. If fill such as soil, gravel, rock, or other material is placed near a property line, it must be supported by a retaining wall, or sloped or terraced away from the property line sufficiently to prevent the fill material from sliding onto the adjacent property.
- B. The Director may require cuts, fill, and retaining walls to be designed by a licensed structural engineer, due to slope steepness, soil types, geological stability, or other factors.
- C. If there are structures on the adjacent property at the time a cut is made, or if a building permit has been issued to build such structures, the effect of the weight of these structures must be taken into account when determining the support required for the cut, in order to avoid undermining or damaging the structures. If a structure is built after a permit for cut or fill has been issued, the structure must be designed so that it does not create additional stresses on a properly designed cut or fill or retaining wall which would be likely to cause it to fail, based on standard structural engineering principles.

19.55.050 Subdivision Prohibited After Clearing

No land division for a property may be approved within five years after clearing.

19.55.060 Bonds and Liability

- A. The city is authorized to require all persons constructing retention/detention or other drainage treatment/abatement facilities to post surety and cash bonds in the amount of 150% of the construction value.

Commented [RW19]: From AMC 17.54.090

Commented [RW20]: Existing 17.54.060.B

Commented [D21]: Moved from 13.36.250

Commented [RW-P22]: I thought we were going to put this in a more generally applicable section. We can still do that later, by picking it up and putting it in the Title 19 procedures package.

Commented [D23]: New addition per Don's request.

B. Where such persons have previously posted or are required to post other such bonds on the facility itself or on other construction related to the facility, such persons may, with the permission of the authorized city official and to the extent allowable by law, combine all such bonds into a single bond; provided, that at no time shall the amount thus bonded be less than the total amount which would have been required in the form of separate bonds; and provided, further, that such a bond shall on its face clearly delineate those separate bonds which it is intended to replace.

1. Construction Bond. Prior to commencing construction, the person constructing the facility shall post a construction bond in an amount sufficient to cover the cost of conforming the construction with the approved drainage plans. The amount of the bond shall be increased at one-year intervals in a proportion equivalent to the prevailing rate of inflation in construction costs as specified in the procedures manual. After determination by the official that all facilities are constructed in compliance with the approved plans, the construction bond shall be released. Alternatively, an equivalent cash deposit to an escrow account administered by a local bank designated by the city could be required at city option.

2. Maintenance Bond. After determination by the official that all facilities are constructed in compliance with the approved plans, the construction bond shall be released. Alternatively, an equivalent cash deposit to an escrow account administered by a local bank designated by the city could be required at city option.

3. Performance Bond. A surety bond or cash bond to cover the cost of design defects or failures in workmanship of the facilities shall also be posted and maintained throughout the two-year maintenance period. The amount of the bonds shall be increased at one-year intervals in a proportion equivalent to the prevailing rate of inflation. Alternatively, an equivalent cash deposit to an escrow account administered by a local bank designated by the city could be required at city option.

4. Liability Bond. The person constructing the facility shall maintain a liability policy in an amount established by the director which shall name the city as an additional insured and which shall protect the city from any liability up to those amounts for any accident, negligence, failure of the facility, or any other liability whatsoever, relating to the construction or maintenance of the facility. The liability policy shall be maintained for the duration of the facility by the owner of the facility; provided, that in case of facilities assumed by the city for maintenance pursuant to Section 13.36.230 of this chapter, the liability policy shall be terminated when and if the city maintenance responsibility commences.

Commented [D24]: Waiting for additional input from Steve Lange.