

## **ORDINANCE NO. 2016-28**

**AN ORDINANCE** of the City of Bainbridge Island, Washington, amending Bainbridge Island Municipal Code Titles 1, 2, 12, 13, 15, and 18 to adopt the state-required LID regulations that will require all development to meet the updated Department of Ecology (DOE) Stormwater Management Manual.

**WHEREAS**, by December 31, 2016, the City must amend the Bainbridge Island Municipal Code (BIMC) to comply with state-mandated Low Impact Development (LID) regulations, and to require all new development and redevelopment to comply with the DOE 2012 Stormwater Management Manual (as amended in 2014); and

**WHEREAS**, the City contracted with a consulting firm, Herrera, to assist the City in identifying which sections of the municipal code would need to be updated to meet DOE requirements; and

**WHEREAS**, the City Council amended the purpose of the Ad Hoc Tree Committee to include review of Low Impact Development regulations; and

**WHEREAS**, the Planning Commission discussed Ordinance No. 2016-28 at a study session on October 27, 2016, held a public hearing on November 10, 2016, and forwarded a recommendation of approval at their November 16, 2016, meeting; and

**WHEREAS**, the City Council discussed Ordinance No. 2016-28 at a study session on November 7, 2016, and held a public hearing on the ordinance on November 22, 2016; and

**WHEREAS**, notice was given on October 31, 2016, to the Office of Community Development at the Washington State Department of Commerce in conformance with RCW 36.70A.106;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN, AS FOLLOWS:**

**Section 1.** Section 1.28.010 of the Bainbridge Island Municipal Code is amended to read as follows:

1.28.010 Miscellaneous fees charged.

A. The city shall charge an appropriate fee in the amount established by the city by resolution for the following services provided or permits issued by the city:

1. Boundary line adjustment review;
2. Bulkheads and seawalls – repairs and new bulkheads;
3. Forest practices review;

4. Grading permits;
5. Clearing permits;
6. Open space review;
7. Preapplication conferences (this fee is not refundable);
8. Public dance permits;
9. Visa/citizen/immigration document processing;
10. Escheat transaction processing;
11. Notary services;
12. Concealed weapons permit duplicates;
13. House moving permits;
14. Written reports to escrow companies;
15. Reports to insurance companies;
16. Fingerprint card processing;
17. Administrative code interpretation;
18. Buffer reduction or averaging review;
19. Land use consultation;
20. Vegetation management plan review;
21. Planned unit development applications;
22. Extensions of planned unit development applications;
23. Stormwater site plan review fees;
24. Construction inspection fees; and
25. Post construction stormwater facility inspection fees.

**Section 2.** Section 2.16.020.Q.4.b of the Bainbridge Island Municipal Code is amended to read as follows:

- b. Innovative Site Development. Evaluation will review:
  - i. Water Quality and Conservation. Projects use methods to decrease water usage and improve stormwater runoff quality through an integrated approach to stormwater management such as greywater use, stormwater collection in cisterns, vegetated roofs and covered parking. All HDDP projects will follow the Department of Ecology's 2012 Stormwater Management Manual for Western Washington, as amended in December 2014.

**Section 3.** Table 2.16.020.Q-3 of the Bainbridge Island Municipal Code is amended to read as shown in Exhibit A.

**Section 4.** Section 2.16.040.D of the Bainbridge Island Municipal Code is amended to read as follows:

D. Design Process.

1. Site Assessment.

a. An applicant is required to conduct a site assessment identifying existing watercourses/wetlands, significant trees and vegetation, critical areas and other natural features, and open space in accordance with the design process, and development standards of BIMC 15.20 and BIMC 18.12.020 if applicable.

b. An applicant for a site plan and design review proposal is required to prepare maps, site plan(s) and studies (as specified in the submittal requirements) to show how the proposal promotes the purpose and meets the standards of the zoning district and chapter.

**Section 5.** Section 2.16.040.E of the Bainbridge Island Municipal Code is amended to read as follows:

E. Decision Criteria. The director and planning commission shall base their respective recommendations or decisions on site plan and design review applications on the following criteria:

1. The site plan and design is in conformance with applicable code provisions and development standards of the applicable zoning district, unless a standard has been modified as a housing design demonstration project pursuant to BIMC 2.16.020.Q;

2. The locations of the buildings and structures, open spaces, landscaping, pedestrian, bicycle and vehicular circulation systems are adequate, safe, efficient and in conformance with the nonmotorized transportation plan;

3. The Kitsap County health district has determined that the site plan and design meets the following decision criteria:

a. The proposal conforms to current standards regarding domestic water supply and sewage disposal; or if the proposal is not to be served by public sewers, then the lot has sufficient area and soil, topographic and drainage characteristics to permit an on-site sewage disposal system.

b. If the health district recommends approval of the application with respect to those items in subsection E.3.a of this section, the health district shall so advise the director.

c. If the health district recommends disapproval of the application, it shall provide a written explanation to the director.

4. The city engineer has determined that the site plan and design meets the following decision criteria:

- a. The site plan and design conforms to regulations concerning drainage in Chapters 15.20 and 15.21 BIMC; and
  - b. The site plan and design will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use and enjoyment of properties downstream; and
  - c. The streets and pedestrian ways as proposed align with and are otherwise coordinated with streets serving adjacent properties; and
  - d. The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; and
  - e. If the site will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the site, and the applicable service(s) can be made available at the site; and
  - f. The site plan and design conforms to the “City of Bainbridge Island Design and Construction Standards,” unless the city engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of BIMC Title 18.
5. The site plan and design is consistent with all applicable design guidelines in BIMC Title 18, unless strict adherence to a guideline has been modified as a housing design demonstration project pursuant to BIMC 2.16.020.Q;
  6. No harmful or unhealthful conditions are likely to result from the proposed site plan;
  7. The site plan and design is in conformance with the comprehensive plan and other applicable adopted community plans;
  8. Any property subject to site plan and design review that contains a critical area or buffer, as defined in Chapter 16.20 BIMC, conforms to all requirements of that chapter;
  9. Any property subject to site plan and design review that is within shoreline jurisdiction, as defined in Chapter 16.12 BIMC, conforms to all requirements of that chapter;
  10. If the applicant is providing privately owned open space and is requesting credit against dedications for park and recreation facilities required by BIMC 17.20.020.C, the requirements of BIMC 17.20.020.D have been met;
  11. The site plan and design has been prepared consistent with the purpose of the site design review process and open space goals.

**Section 6.** Chapter 12.38 of the Bainbridge Island Municipal Code is amended to read as follows:

12.38.010 Definitions.

A. "Right(s)-of-way (ROW)" means the public property limits, whether in fee simple or easement, identified for public use and/or facilities.

B. "Roadway" means the road wearing surface, including shoulders, conveyance system, and stormwater treatment and/or flow control facilities (in accordance with BIMC 15.20) constructed to protect the adjoining properties and the road base.

C. "Road" means the wearing surface only.

D. "Minimum maintenance" means the grading of unpaved roads, to be performed a maximum of twice a year, within budgetary constraints. (Ord. 2003-22 § 15, 2003; Ord. 94-11 §§ 1, 10, 1994)

12.38.020 Existing public right-of-way.

Maintenance of existing public ROW shall be as follows:

A. Paved Roads and Permeable Pavement Roads. The city will maintain all paved and permeable pavement roads in accordance with city procedures and within budgetary constraints.

B. Unpaved Roads. The city will perform minimum maintenance on unpaved roads in accordance with city procedures and within budgetary constraints. (Ord. 2001-29 § 1, 2001; Ord. 94-11 § 2, 1994)

C. Refer to BIMC 15.20 for pavement maintenance exemptions to determine if stormwater requirements will be triggered.

12.38.030 Upgrading unpaved roads.

Upgrading of unpaved roads in public right-of-way, at the request of the adjoining property owners, shall be done through the local improvement district process, property owner funding, or with other sources of funds. Refer to BIMC 15.20 for the pavement maintenance exemptions to determine if stormwater requirements will be triggered. Permeable pavement is preferred where feasible for upgraded surfaces. Upon completion of the upgrade project to city standards, the city will accept the road for perpetual maintenance in accordance with BIMC 12.38.020.A. (Ord. 2001-29 § 2, 2001; Ord. 94-11 § 3, 1994)

**Section 7.** Title 13 of the Bainbridge Island Municipal Code is amended to read as shown in Exhibit B.

**Section 8.** Title 15 of the Bainbridge Island Municipal Code is amended to read as shown in Exhibit C.

**Section 9.** Section 18.06.060 of the Bainbridge Island Municipal Code is amended to read as follows:

C. Natural Resource Protection Standards. The following provisions are intended to supplement those natural resource protection standards and requirements contained in BIMC Titles 16 (Environment) and 17 (Subdivisions), and specifically to supplement those provisions in Chapters 16.12 (Shoreline Master Program) and 16.20 BIMC (Critical Areas), which remain the primary source of regulation in those areas. In the event of a conflict between the provisions of this section and the provisions of BIMC Title 15 (Buildings and Construction) or Chapter 16.12 or 16.20 BIMC, the provisions of BIMC Title 15 or 16 shall apply.

1. Drainage. Surface and storm water shall be managed in accordance with BIMC 15.20.

**Section 10.** Section 18.06.070 of the Bainbridge Island Municipal Code is amended to read as follows:

B. Performance Standards. All uses allowed in the WD-I district shall conform to the performance standards listed in BIMC 18.06.050 as well as the following:

1. Pollution. Pollution prevention and water quality protection shall be required of all development and operations of facilities that are located within the shoreline jurisdiction by employing current best management practices and best available facilities practices and procedures for marine facilities in accordance with BIMC 15.20 and 15.22.
2. Noise. See BIMC 18.06.030.B.1.
3. Lighting. Lighting standards set forth in BIMC 18.15.040 shall apply to the WD-I district. (Ord. 2011-02 § 2 (Exhibit A), 2011)

**Section 10.** Section 18.09.030.J of the Bainbridge Island Municipal Code is amended to read as follows:

7. Temporary Seasonal Sales.

- a. Temporary outdoor sales are permitted in any zone district subject to compliance with this section.
- b. A temporary use permit for temporary outdoor sales shall not exceed a term of 30 consecutive days, and only two permits within a calendar year may be granted for each principal permitted or approved conditional use.
- c. All temporary outdoor sales activity shall comply with the following requirements:

- i. The location of the temporary sales activity shall allow customers to drive into an existing off-street parking area. No temporary outdoor sales may interrupt the flow of traffic on public streets or access ways into a shopping area.
- ii. The applicant shall demonstrate there will be adequate parking for the existing use as well as the temporary outdoor sales. The director may modify this requirement if the applicant can otherwise demonstrate that adequate parking for the existing and proposed uses will be provided.
- iii. The fire department shall approve all proposals for temporary outdoor sales from a tent.
- iv. The area occupied by the temporary sales activity, plus any adjacent clear area required by the fire code, shall occupy no more than 20 percent of any required off-street parking spaces or area.
- v. In the MUTC, HSR, NSC, and B/I districts, all trucks or tents and associated parking shall be located on asphalt, concrete, permeable pavement, or an equivalent surface unless the applicant demonstrates no adverse effect on drainage, access, or the intent of this code, as determined by the director.

**Section 11.** Table 18.12.040 of the Bainbridge Island Municipal Code is amended to read as follows:

**Table 18.12.040: Permitted Setback/Height Modifications**

Type of Encroachment	Encroachment Permitted	Conditions
<b>Permitted Setback Modifications</b>		
Fence or combined fence and berm up to 6 feet high	In any required setback subject to applicable regulations in BIMC Title 15	Except as provided in BIMC 18.12.030.F.2, BIMC 18.12.040.B, and Chapter 16.12 BIMC
Nonscreening fences or combined nonscreening fence and berm up to 8 feet high	In any required setback subject to applicable regulations in BIMC Title 15	Except as provided in Chapter 16.12 BIMC
Chimneys, flues, awnings, bay windows, and greenhouse windows	Up to 18 inches into any required setback	
Covered porches, bay windows and eaves within the Ericksen Avenue overlay district	Up to five feet into the front yard	Bay windows must be cantilevered outward from the wall, and may not result in any portion of the building floor area extending into the setback
Any structures, including but not limited to uncovered steps, porches, and decks less than or equal to 30 inches in height	Up to 2 feet into front and side setbacks. Up to 5 feet into required rear setbacks.	
Eaves	May extend up to 24 inches in any required setback except shoreline structure setback	
At or near grade structures such as uncovered patios, sidewalks, and driveways	In any required setback	May not exceed 4 inches in height
Signs	In any required setback	Must conform to Chapter 15.08 BIMC

Type of Encroachment	Encroachment Permitted	Conditions
Utilities accessory to a single-family residence	In any required setback	
Composting bins	In side or rear setback areas	
Bio retention/rain gardens	In any required setback	In accordance with BIMC 15.20
Rain barrels/cisterns	In any required setbacks	In accordance with BIMC 15.20
Wall-mounted on-demand hot water heaters	Up to 18 inches into side or rear setbacks	Permitted if buffered or enclosed to prevent noise impacts to neighboring properties
Below-ground geothermal equipment	In any required setback	Permitted if any excavated areas are promptly re-landscaped after installation is complete
Rockeries and retaining walls less than 4 feet in height	In any required setback	Qualified geotechnical engineer determination, and city concurrence, that it is necessary for slope stabilization
<b>Permitted Height Modifications</b>		
Small wind energy generators	Up to 18 in. above the maximum building height in the district	
Solar panels	Up to 18 in. above the maximum building height in the district	
Noncommercial, non-parabolic antennas affixed to noncommercial communication towers	Up to 50 feet in height above grade	
One flagpole per parcel	Up to 45 feet in height above grade	
Distribution utility poles	Up to 55 feet in height above grade	Replacement poles over 55 feet in height, see BIMC 18.09.030.F.2.b. For new distribution utility facilities or corridors, see Table 18.09.020. Poles shall not be moved more than 20 feet from the original location unless permitted under BIMC 18.09.030.F.2.b.
Transmission utility poles	Up to a 25 percent increase above existing pole height above grade with a maximum height of 100 feet	Replacement poles over the 25 percent increase or 100 feet in height, see BIMC 18.09.030.F.2.b. For new transmission utility facilities or corridors, see Table 18.09.020. Poles shall not be moved more than 20 feet from the original location unless permitted under BIMC 18.09.030.F.2.b.
Utility structures existing on the effective date of the ordinance codified in this subsection	Existing height	May also be replaced or modified; provided, that the structure is not larger or taller than the original structure and is not moved more than 20 feet from its original location

**Section 12.** Section 18.12.050 of the Bainbridge Island Municipal Code is amended to read as follows:

K. Lot Coverage. "Lot coverage" means that portion of the total lot area covered by buildings, excluding up to 24 inches of eaves on each side of the building, any building or portion of building located below predevelopment and finished grade. Any portion of a

slatted or solid deck located more than five feet above grade shall be counted towards lot coverage. Also excluded are ground-mounted accessory small wind energy generators, solar panels, composting bins, rain barrels/cisterns, and covers designed to shade ground-mounted heat pumps and air conditioners to increase their efficiency.

**Section 13.** Section 18.15.010.A of the Bainbridge Island Municipal Code is amended to read as follows:

18.15.010 Landscaping, screening, and tree retention, protection and replacement.

All development shall comply with the following regulations addressing landscaping and screening unless other applicable regulations require additional or different forms of landscaping or screening, in which case the more specific standard or criteria shall govern.

A. Purpose.

1. General. The purpose of this section is to preserve the landscape character of the community, link the Island's natural amenities with landscape greenbelts along roads, improve the aesthetic quality of the built environment, promote retention and protection of existing vegetation, reduce the impacts of development on wetlands, streams and the natural environment, enhance the value of current and future development and increase privacy for residential zones, and encourage preservation of significant and heritage trees by:

a. Retaining existing vegetation, tree stands and significant trees by incorporating them into the site design.

b. Incorporating native vegetation and drought resistant plant material into new landscape developments.

c. Providing vegetated screening between different intensities of residential uses, and between development and roads.

d. Providing visual relief of parking areas in the neighborhood service centers, the Winslow Mixed Use Town Center, and the light manufacturing, (water-dependent) industrial, High School Road and urban multifamily districts.

e. Providing vegetated screening between residential and nonresidential areas.

f. Preserving, protecting, and enhancing critical areas.

g. Protecting the natural forested areas.

2. Specific Zone Districts. In addition to the regulations listed in 18.15.010.A.1:

- a. For single-family residential short plats and subdivisions in residential districts, the intent is to preserve the greenbelts along designated scenic roadway corridors.
- b. In the R-8 and R-14 multifamily residential districts, the intent is to screen urban multifamily projects from adjacent lower density residential properties and to soften the appearance of surface parking areas.
- c. For nonresidential uses outside the Winslow Mixed Use Town Center, High School Road I and II, NSC, B/I, and WD-I districts, the intent is to retain the natural landscape qualities of the Island by retaining existing vegetated buffers to screen views of structures and parking areas and to buffer between areas of high and low intensity uses.
- d. In the Winslow Mixed Use Town Center central core and ferry terminal overlay districts, the intent is to provide an urban character by incorporating landscape standards; and to provide landscape development to screen uses from single-family residential properties and to soften the appearance of surface parking areas.
- e. In the Winslow Mixed Use Town Center, Ericksen Avenue and Madison overlay districts, the intent is to retain the character of landscape front yards; and to provide landscape development to screen uses from single-family residential properties; and to soften the appearance of surface parking areas.
- f. In the Winslow Mixed Use Town Center gateway overlay district, the intent is to retain the greenbelt located adjacent to SR 305 consistent with the greenways plan and to provide landscape development to screen uses from single-family residential properties.
- g. In the High School Road I and II districts, the intent is to provide landscape development to screen uses from adjacent single-family residential properties and to soften the appearance of surface parking areas.
- h. In the NSC district, the intent is to incorporate landscape standards that support pedestrian scale neighborhood uses compatible with the intensity of the surrounding residential neighborhood; to minimize the impact of lighting, noise and views of surface parking areas; and to provide a buffer between higher and lower intensity uses.
- I. In the B/I district, the intent is to provide a year-round vegetated screen and a noise and site lighting buffer of industrial development from adjacent nonindustrial properties and roadways.
- j. In the WD-I district, the intent is to provide landscape development that screens parking lots and large structures, but allows visual access to the shoreline and small scale active industrial facilities.

**Section 14.** Section 18.15.010.C of the Bainbridge Island Municipal Code is amended to read as follows:

4. Protection During Construction and Development.

a. Intent. The intent of these regulations is to provide the best protection for existing vegetation, trees and tree stands, including protection for trees on adjacent properties, protection of LID BMPs during construction and development activities, and preservation of the ecological function of the landscaping area by protecting existing soil.

b. Requirements.

i. No cutting of trees shall be allowed on a site until the tree retention and planting plans have been approved by the director and a clearing, grading or building permit issued.

ii. In order to preserve future ecological function, the applicant shall identify areas of prohibited disturbance, generally corresponding to the dripline or critical root zone (as identified by a consulting arborist) of the existing vegetation, trees and/or tree canopy of tree stands to be retained, buffers, areas of existing vegetation to be maintained, future LID BMPs, and future planting areas larger than 400 square feet (i.e., landscape islands in parking lots). The prohibited disturbance areas shall be reviewed and approved by the director as part of the land use permit review process.

iii. A temporary five-foot-high chain link fence with tubular steel poles or "T" posts shall delineate the area of prohibited disturbance defined in subsection C.4.b.ii of this section, unless the director has approved the use of a four-foot-high plastic net fence as an alternative. The fence shall be erected and inspected by city staff before clearing, grading and/or construction permits are issued and shall remain in place until construction has been completed, and shall at all times have affixed to it a sign indicating the protected area.

iv. No impervious surfaces, fill, excavation, vehicle operations, compaction, removal of native soil or storage of construction materials shall be permitted within the area defined by the required construction fencing. If avoiding construction and compaction in future planting areas is unavoidable, the landscape plan for the project shall include methods for aerating and/or augmenting compacted soil to prepare for new planting, pursuant to subsection H.2 of this section.

v. A rock well shall be constructed if the grade level around the tree is to be raised more than one foot. The inside diameter of the well shall be equal to the diameter of the dripline or critical root zone (as identified by a consulting arborist) of the tree or tree canopy of tree stands.

vi. The grade level shall not be lowered within the larger of (A) the dripline or critical root zone (as identified by a consulting arborist) of the tree, or the tree canopy of tree stands, or (B) the area recommended by a consulting arborist.

vii. Alternative protection methods may be used if recommended by a consulting arborist and determined by the director to provide equal or greater tree protection.

viii. Wherever this subsection C.4 allows or requires the involvement of a consulting arborist, that individual shall be selected from the city's list of current arborists certified by the American Society of Consulting Arborists and his or her services shall be paid for by the applicant.

ix. Protect LID BMPs during construction and development activities in accordance with BIMC 15.20.

**Section 15.** Section 18.15.010.H of the Bainbridge Island Municipal Code is amended to read as follows:

#### H. Planting Requirements.

1. Intent. The intent of this section is to encourage the use of native species and recommend planting conditions adaptive to Bainbridge Island.
2. Requirements. Landscape designs shall conform to the following provisions:
  - a. Areas not devoted to landscape required by this chapter, parking, structures and other site improvements are encouraged to be planted or remain in existing vegetation.
  - b. New plant materials shall include native species or nonnative species that have adapted to the climatic conditions of the coastal region of the Puget Sound region.
  - c. New plant materials shall consist of drought resistant species, except where site conditions within the required landscape areas assure adequate moisture for growth.
  - d. New tree plantings shall be a minimum of two inches in caliper if deciduous or six feet in height if evergreen. New shrubs planted in roadside or perimeter buffers shall be of a variety that achieves a minimum six feet height at maturity. Soil planting types and depth shall be sufficient for tree planting.
  - e. When the width of any landscape strip is 20 feet or greater, the required trees shall be staggered in two or more rows.
  - f. Existing vegetation may be used to augment new plantings to meet the standards of this chapter.

g. Grass may be used as a ground cover where existing or amended soil conditions assure adequate moisture for growth.

h. Ground cover areas shall contain at least two inches of composted organic mulch at finish grade to minimize evaporation. Mulch shall consist of materials such as composted yard waste, composted sawdust, and/or manure that are fully composted.

i. Amend existing and/or compacted soils in accordance with BIMC 15.20.

j. Specific submittal requirements for landscaping plans (tree protection, retention and planting plans) are included in the city's administrative manual.

**Section 16.** Section 18.15.010.J of the Bainbridge Island Municipal Code is amended to read as follows:

J. Maintenance.

1. Intent. All new landscape plantings and significant trees and tree stands to be retained shall be maintained to preserve the Island's forested character.

2. Requirements.

a. All landscaping, significant trees and tree stands shall be maintained in a healthy growing condition.

b. Landscape areas shall be kept free of trash.

c. All plant material shall be managed by pruning so that plant growth does not conflict with public utilities, restrict pedestrian or vehicular access, or create a traffic hazard.

**Section 17.** Section 18.15.020.B of the Bainbridge Island Municipal Code is amended to read as follows:

B. General Requirements.

1. Driveways, parking, and walkways shall accommodate pedestrians, motor vehicles and bicycles used by occupants or visitors of a structure or use. Location is subject to review of the planning and engineering departments.

2. No building permit shall be issued until the applicant has submitted satisfactory plans demonstrating that required parking facilities will be provided and maintained.

3. Unless authorized by a conditional use permit or this title, the use of property in a residential zone for commercial parking is prohibited.

4. All driveways and other parking areas except those serving single-family residences, shall be surfaced with permanent materials acceptable to the public works

department, and shall be designed to manage stormwater runoff in accordance with BIMC 15.20.

5. Residential parcels are encouraged to have two-track driveways (also known as Hollywood or wheel strip driveways).

6. Unless approved by the director, only a single access to public right-of-way is allowed for an individual lot. More than one access may be allowed by the director if the director determines, based on drawings or other information submitted by the applicant, that (a) the proposed site access includes measures that mitigate any identified negative impacts or effects that would result from the additional access point(s); and (b) the additional access point(s) will improve on-site or off-site traffic flow or is necessary for, or will help facilitate, compliance with other requirements of this chapter.

7. Joint use of required access ways with adjacent properties is encouraged. The director may approve joint access if the applicant demonstrates to the satisfaction of the director that the joint access (a) will promote the orderly development of the surrounding area; or (b) will help reduce or avoid cumulative adverse impacts that would result from each property accessing the right-of-way separately; and (c) will not create a safety hazard.

8. With the exception of single-family and duplex buildings on individual lots, access and parking spaces shall be designed so that no backing movement by a vehicle, except emergency and service and delivery vehicles, shall be allowed onto a public right-of-way; provided, that the director may waive this requirement where no reasonable design alternative exists.

9. No parking space may block access to other parking spaces unless tandem parking has been approved for a single residence or individual dwelling units of a multifamily structure.

10. On-street parking created or designated in conjunction with and adjacent to a project may be included in the parking space calculation upon approval of the director.

11. When a new commercial or mixed use development is required to provide parking for more than 25 cars, at least one parking space near the entrance must be reserved and signed for use by a shared-car program or electric vehicle charging station.

12. For all development except for single-family residential, the required parking for two or more complementary uses may be reduced up to 50 percent when provided by a common parking lot, but may not be reduced below the highest parking requirement. The reduction shall be authorized by the issuance of a conditional use permit.

**Section 18.** Section 18.15.020.G of the Bainbridge Island Municipal Code is amended to read as follows:

G. Commercial Parking or Commercial Parking Businesses, Other than Ferry Commuter Parking and Noncommuter Ferry Parking. Commercial parking may be developed for general public use at no fee, or as a commercial parking business. Commercial parking businesses must comply with provisions of Chapter 5.10 BIMC.

1. Surface Parking Lots. Surface parking lots for commercial parking only, developed by public or private concerns, or developed by a public or cooperative commercial effort shall be treated as special cases under Table 18.15.020-2 and are permitted in the core, gateway, and ferry terminal districts, providing:

- a. Parking lots shall be sited on parcels within 200 feet of Winslow Way or lower Madison (south of Wyatt).
- b. Parking lots shall not be sited adjacent to a parcel containing a parking lot or structure in which parking is the primary use.
- c. Parking lots shall not exceed 30 spaces.
- d. As a condition of development application approval, the property owner shall include a plan for designating parking for only noncommuter use and shall demonstrate how restriction of spaces for noncommuter parking will be enforced. Failure to enforce shall subject the owner to the provisions of Chapter 1.26 BIMC.
- e. Integrate LID BMPs into surface parking lots in accordance with BIMC 15.20.

**Section 19.** Section 18.15.020.J of the Bainbridge Island Municipal Code is amended to read as follows:

J. Design Standards.

1. Parking Space and Aisle Dimensions. Except as provided in subsection J.1.e of this section, parking lots shall be designed according to Table 18.15.020-3. Space depth shall be measured exclusive of access drives, aisles and other physical obstructions. Small car spaces may total no more than 30 percent of the required number.

- a. Parking lots shall have direct access to a street or road easement and shall provide unobstructed access driveways exclusive of the required parking areas.
- b. Multifamily and nonresidential developments shall use access standards as shown in Table 18.15.020-3.
- c. Where possible, single-family residences shall share access drives.
- d. Access drive widths for single-family residences shall be determined by the city engineer or fire marshal.

e. For parking located in structures, columns or other structural elements may encroach into the parking space a maximum of six inches on a side; provided, that no wall, post, guardrail, or other element shall obstruct car door opening or the exit-way of persons from a parked vehicle.

**Table 18.15.020-3: Parking Space and Lot Design and Dimensions [1]**

<b>A Parking Angle</b>	<b>B Stall Width (ft.)</b>	<b>C [2] Stall Depth (ft.)</b>	<b>D Aisle Width (paved surface ft.)</b>	<b>Direction of Travel</b>
45°	7.5	15	11	1-way
	8.5	18	13	1-way
	7.5	15	18	2-way
	8.5	18	20	2-way
60°	7.5	15	14	1-way
	8.5	19.5	14.5	1-way
	7.5	15	20	2-way
	8.5	19.5	20	2-way
75°	7.5	15	17.5	1-way
	8.5	20	18.5	1-way
	7.5	15	20	2-way
	8.5	20	20	2-way
90°	7.5	15	20	2-way
	8.5	19	24	2-way
Parallel	20	8.5	12	1-way
	20	8.5	12	2-way

[1] The first line of each category (e.g., 45 degrees, one-way travel) indicates the dimensions for compact cars.

[2] Where wheel stops are required, they shall be placed 18 inches from the end of stall. Landscaping may be located between the wheel stop and the end of the stall. Landscaping so located shall be in addition to, and not part of, any landscaping required by this title.

2. Grades. Where parking spaces are designated, grades shall not exceed six percent. Driveways and driving lanes between separate groups of parking shall not exceed 14 percent. Parking areas on sloping lots shall be laid out so that parked cars lie perpendicular to the slope. Where existing grades on property proposed for a parking lot exceed 10 percent, the city may require a topographic survey to show existing and proposed grades.

### 3. Landscaping.

- a. Parking lots shall be landscaped in accordance with BIMC 18.15.010.F.
- b. Permeable pavement is preferred in both accessory and primary parking lots. The following types of permeable pavement have been found to perform well in the Puget Sound climate when properly designed: pervious concrete, porous asphalt, plastic grid systems, and interlocking permeable pavers.

**Section 20.** Section 18.15.030 of the Bainbridge Island Municipal Code is amended to read as follows:

#### 18.15.030 Mobility and access.

The intent of this section is to improve mobility and access for pedestrians, bicyclists, and transit users in Bainbridge Island. All development shall comply with the development standards of RCW 58.17.110(1) and all long, short, and large lot subdivisions shall comply with the road and pedestrian access standards in BIMC 17.12.040.E.

A. Circulation and Walkways. The following standards shall apply to multifamily and nonresidential development.

1. Parking lots and driveways shall provide well-defined, safe and efficient circulation for motor vehicles, bicycles and pedestrians.
2. Landscaped islands with raised curbs shall be used to define entrances from public rights-of-way, define pedestrian walkways from the public rights-of-way to all buildings, define ends of parking aisles and indicate the pattern of circulation. Curb cuts or grates can be incorporated to allow water to enter stormwater facilities and LID BMPs.
3. Pedestrian walkways shall be provided around buildings to the extent necessary to assure safe access to the building from parking areas and the public right-of-way. Where appropriate, as determined by the approving body, pedestrian walkways may be required to assure safe access to adjacent properties.
4. Internal walkways shall be surfaced with nonskid hard surfaces, such as permeable pavement, meet accessibility requirements and be designed to provide a minimum of five feet of unobstructed width. Where walkways cross vehicular driving lanes, the walkways shall be constructed of contrasting materials or with maintained painted markings. Walkways shall be curbed and raised six inches above adjacent vehicular surface grade, except where the walkway crosses vehicular driving lanes or is required to meet accessibility standards and at inlets to stormwater facilities and LID BMPs.
5. To provide connectivity between adjacent trails/walkways, pedestrian walkways may be required.

**Section 21.** Chapter 18.18 of the Bainbridge Island Municipal Code is amended to read as follows:

18.18.020 Promoting sustainable development.

The site designs of all new development and redevelopment should accommodate energy-conserving and water-conserving technology and design principles providing for solar or other renewable energy production where possible. Low impact development principles require such measures as minimizing the extent of land disturbing activities and hard surfaces; preserving native vegetation, topography, and natural drainage patterns; and using LID BMPs such as cisterns, bioretention/rain gardens, and permeable pavement where feasible. (Ord. 2011-02 § 2 (Exhibit A), 2011)

18.18.030 Specific design regulations and guidelines.<sup>1</sup>

All development shall comply with the design regulations and guidelines applicable to that type of development as set forth in this section and the reference documents, which are adopted as part of this title by reference. In the event of a conflict between two or more design standards or regulations, the more specific shall apply.

A. Detached Single-Family Residential Developed Using the R-8SF Urban Single-Family Overlay District. Detached single-family residential developed in accordance with the R-8SF urban single-family overlay district transfer of development rights program shall comply with those regulations contained in “Design Guidelines for R-8SF Urban Single-Family Overlay District” if they want to develop at overlay zone densities.

B. Multifamily Residential. Multifamily development in the R-8 and R-14 zones shall comply with those regulations contained in “Design Guidelines for Multifamily”; provided, that applications submitted prior to December 8, 1999, shall not be subject to the requirements of this section.

C. Commercial and Mixed Use – General. Development, redevelopment, and exterior renovation in commercial and mixed use projects in all zoning districts except the B/I district shall comply with the general guidelines in “Guidelines for Commercial and Mixed Use Projects – Including Guidelines for Lynwood Center, Island Center, and Rolling Bay,” as well as any specific guidelines applicable to that type of development in the subsections below.

D. Nonresidential Uses in Residential Zones. Educational, cultural, governmental, religious or health care facilities in residential zones shall comply with the general guidelines in “Design Guidelines for Commercial and Mixed Use Projects – Including Guidelines for Lynwood Center, Island Center, and Rolling Bay.”

E. Mixed Use Town Center and High School Road Districts. Development, redevelopment, or exterior renovation in the Mixed Use Town Center overlay districts and the High School Road districts shall comply with regulations contained in “Design Guidelines for Mixed Use Town Center and High School Road Zoning Districts.”

F. Lynwood Center NSC Design Guidelines. Development, redevelopment, and exterior renovation in the Lynwood Center NSC zone district shall comply with those regulations contained in the Lynwood Center NSC-specific portion of “Guidelines for Commercial and Mixed Use Projects – Including Guidelines for Lynwood Center, Island Center, and Rolling Bay.”

1. Street trees shall be provided in an amount equivalent to at least one every 30 feet in planting pots or beds covered by a tree grate, pavers or planted area. Structural grid systems with a minimum soil volume ratio of 1 cubic foot of soil per 1 square foot of tree canopy area are encouraged. Trees may be grouped and are encouraged to have a varied meandering effect. Tree size, location and species shall be approved by the city. See street tree diagram in Central Core Overlay District Design Guidelines (subsection E of this section).

G. Island Center NSC Design Guidelines. Development, redevelopment, and exterior renovation in the Island Center NSC zone district shall comply with those regulations contained in the Island Center NSC-specific portion of “Guidelines for Commercial and Mixed Use Projects – Including Guidelines for Lynwood Center, Island Center, and Rolling Bay.”

1. Street trees shall be provided in an amount equivalent to at least one every 30 feet in planting pots or beds covered by a tree grate, pavers or planted area. Structural grid systems with a minimum soil volume ratio of 1 cubic foot of soil per 1 square foot of tree canopy area are encouraged. Trees may be grouped and are encouraged to have a varied meandering effect. Tree size, location and species shall be approved by the city. See street tree diagram in Central Core Overlay District Design Guidelines (subsection E of this section).

H. Rolling Bay NSC Design Guidelines. Development, redevelopment, and exterior renovation in the Rolling Bay NSC zone district shall comply with those regulations contained in the Rolling Bay NSC-specific portion of “Guidelines for Commercial and Mixed Use Projects – Including Guidelines for Lynwood Center, Island Center, and Rolling Bay.”

1. Street trees shall be provided in an amount equivalent to at least one every 30 feet in planting pots or beds covered by a tree grate, pavers or planted area. Structural grid systems with a minimum soil volume ratio of 1 cubic foot of soil per 1 square foot of tree canopy area are encouraged. Trees may be grouped and are encouraged to have a varied meandering effect. Tree size, location and species shall be approved by the city. See street tree diagram in Central Core Overlay District Design Guidelines (subsection E of this section).

**Section 22.** Section 18.36.030 of the Bainbridge Island Municipal Code is amended to read as follows:

18.36.030 Definitions.

37. "Bioretention" means an engineered facility that stores and treats stormwater by passing it through a specified soil profile, and either retains or detains the treated stormwater for flow attenuation.
48. "Cistern" means a tank, pipe, or enclosed portion of the building that is placed above or underground to store water for reuse (rainwater harvesting) or detention (slow release to an approved point of discharge).
74. "Dripline" means the outermost circumference of a tree canopy from which water drips onto the ground.
87. "Established vegetation" means mature trees, shrubs, or groundcovers.
88. "Exotic species" means an introduced or non-indigenous species living outside its native distributional range which has arrived there by human activity, either deliberate or intentional.
129. "Invasive plant species" means opportunistic plant species (either native or non-native) that colonize disturbed ecosystems and come to dominate the plant community in ways that are seen by us as reducing the values provided by the previous plant community.
156. "Mature trees and shrubs" means vegetation, with well-established root systems, that provides a predominantly continuous cover.
157. "Mature vegetation on ridgelines" means all existing vegetation that is well-established and exists along the line formed by the highest points of a ridge and is prominently visible.
166. "Native forest" means mature trees and shrubs, and groundcovers consisting of native species, but dominated by native trees and providing at least 50 percent tree canopy.
168. "Native vegetation" means plant species which are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the site. Invasive species and exotic species are not considered to be native vegetation.
209. "Rain barrel" means a container (typically 55 gallons) that is connected to a roof downspout to store water for irrigation or detention (slow release to an approved point of discharge).
210. "Rain garden" means a non-engineered shallow, landscaped depression, with compost-amended native soils and adapted plants. The depression is designed to pond

and temporarily store stormwater runoff from adjacent areas, and to allow stormwater to pass through the amended soil profile.

211. "Rainwater harvesting" means the capture and storage of rainwater for non-potable uses such as irrigation, toilet flushing, and laundry.

231. Site. When used in connection with historic preservation, "site" means a place where a significant event or pattern of events occurred. It may be a location of prehistoric or historic occupation or activities that may be marked by physical remains or it may be the symbolic focus of a significant event or pattern of events, although not actively occupied. A site may be the location of a ruined or now nonexistent building or structure if the location itself possesses historic, cultural or archaeological significance. When used in connection with new development or redevelopment, "site" means the area defined by the legal boundaries of a parcel or parcels of land that is/are subject to new development or redevelopment.

255. "Tree canopy" means the total area of the tree or trees where the leaves and outermost branches extend.

**Section 23:** The Bainbridge Island Municipal Code is amended to change the term "storm water" to "stormwater" throughout the municipal code.

**Section 24.** This ordinance shall take effect and be in force five (5) days from its passage, approval, and publication as required by law.

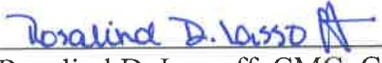
PASSED by the City Council this 13<sup>th</sup> day of December 2016.

APPROVED by the Mayor this 13<sup>th</sup> day of December 2016.

  
Val Tollefson, Mayor



ATTEST/AUTHENTICATE:

  
Rosalind D. Lassoff, CMC, City Clerk

FILED WITH THE CITY CLERK:	December 2, 2016
PASSED BY THE CITY COUNCIL:	December 13, 2016
PUBLISHED:	December 16, 2016
EFFECTIVE DATE:	December 21, 2016
ORDINANCE NUMBER:	2016-28

**Table 2.16.020.Q-3 Innovative Site Development Scoring Method**

TIER	Minimum Site Development Point Requirement	WATER QUALITY & CONSERVATION		LANDSCAPING & OPEN SPACE			TRANSPORTATION																																				
		REQUIREMENT	VALUE	% OF OPEN SPACE	VALUE	VALUE IF PUBLIC	TRANSPORTATION COMPONENTS	VALUE																																			
		<p>Projects use methods to decrease water usage and improve stormwater runoff quality through an integrated approach to stormwater management such as greywater use, stormwater collection in cisterns, <u>green-vegetated</u> roofs and covered parking. All HDDP projects will follow the <u>WA State DOE 2012 Stormwater Management Manual for Western Washington, as amended in December 2014</u> stormwater manual adopted in BIMC 15.20.</p>		<p>Project provides well-designed common open space, with at least 5 percent of the gross land area, set aside as open space and designed as an integrated part of the project rather than an isolated element. The common open space must be outside of critical areas and their buffers and required roadside buffers. Appropriate community amenities such as playgrounds, composting and neighborhood gardens promoting the production of locally grown food are encouraged. Resident neighborhood community gardens can be in common open space areas, and shall be appropriately located for solar exposure, and include water availability, soil amenities, and storage for garden tools. Required growing space for neighborhood gardens is 60 square feet per dwelling unit, not including any existing orchard area. Open space dedicated to the public pursuant to the standards of BIMC Sections 17.12.030. A1, A2, A3, A6 &amp; A7 is encouraged.</p>			<p>Project design provides enhanced sensitivity to pedestrian and bicycle travel to promote the people getting around without a car, a reduced carbon footprint, improved health of humans, and lower pollution levels. Project internally preserves existing informal internal connection to external non-motorized facilities, furthering the Island-wide Transportation Plan (IWTP) and using such solutions as woonerfs, green streets, and natural trails and paths. Project reduces reliance on automobiles and trip counts, and promotes alternative transportation, such as integrating parking and charging facilities for electric cars, or bus shelters.</p>																																				
4	30	<p>Number of dwelling units that integrate greywater reuse components into building design:</p> <table border="1"> <tr><td>10%</td><td>1</td></tr> <tr><td>11-20%</td><td>2</td></tr> <tr><td>21-30%</td><td>3</td></tr> <tr><td>Over 31%</td><td>4</td></tr> </table>		10%	1	11-20%	2	21-30%	3	Over 31%	4	<table border="1"> <tr><td>5-10%</td><td>2</td><td>4</td></tr> <tr><td>11-15%</td><td>4</td><td>6</td></tr> <tr><td>16-20%</td><td>6</td><td>8</td></tr> <tr><td>21-25%</td><td>8</td><td>10</td></tr> <tr><td>Greater than 25%</td><td>10</td><td>12</td></tr> </table>			5-10%	2	4	11-15%	4	6	16-20%	6	8	21-25%	8	10	Greater than 25%	10	12	<table border="1"> <tr><td>Project preserves, creates or integrates internal and external non-motorized connections.</td><td>2</td></tr> <tr><td>Provides public walkways, separated paths, or bike lanes. No points for facilities required by IWTP.</td><td>3</td></tr> <tr><td>On-site car sharing program</td><td>1 per each car</td></tr> <tr><td>Electric vehicle charging stations for 3% of vehicle parking capacity.</td><td>3</td></tr> <tr><td>Covered, consolidated bike parking for subdivisions</td><td>3</td></tr> <tr><td>Bus Shelter</td><td>2</td></tr> </table>		Project preserves, creates or integrates internal and external non-motorized connections.	2	Provides public walkways, separated paths, or bike lanes. No points for facilities required by IWTP.	3	On-site car sharing program	1 per each car	Electric vehicle charging stations for 3% of vehicle parking capacity.	3	Covered, consolidated bike parking for subdivisions	3	Bus Shelter	2
10%	1																																										
11-20%	2																																										
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3	25	<p>Percentage of total roof area qualifying as “<u>green-vegetated</u> roofs”:</p> <table border="1"> <tr><td>15-30%</td><td>2</td></tr> <tr><td>Over 31%</td><td>4</td></tr> </table>		15-30%	2	Over 31%	4	<p>Incorporates neighborhood garden</p> <table border="1"> <tr><td></td><td>2</td><td></td></tr> </table>				2																															
15-30%	2																																										
Over 31%	4																																										
	2																																										
2	25	<p>Project integrates cisterns: % of total roof area directed to cisterns:</p> <table border="1"> <tr><td>15-30%</td><td>2</td></tr> <tr><td>Over 31%</td><td>4</td></tr> </table>		15-30%	2	Over 31%	4	<p>Preserves tree that qualifies as a “Heritage tree” under City Program. The tree is not otherwise required to be preserved.</p> <table border="1"> <tr><td></td><td>2 per tree</td><td></td></tr> </table>				2 per tree																															
15-30%	2																																										
Over 31%	4																																										
	2 per tree																																										
1	14	<p>Percentage of total parking spaces that are covered (i.e. parking garage, carport):</p> <table border="1"> <tr><td>5-20%</td><td>1</td></tr> <tr><td>21-40%</td><td>2</td></tr> <tr><td>41-60%</td><td>3</td></tr> <tr><td>61-80%</td><td>4</td></tr> <tr><td>Over 81%</td><td>5</td></tr> </table>		5-20%	1	21-40%	2	41-60%	3	61-80%	4	Over 81%	5	<p>All Private yard areas ≤ 20% turf</p> <table border="1"> <tr><td></td><td>4</td><td></td></tr> </table>				4																									
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		<p>Project landscaping integrates at least 60% native or drought tolerant plants</p> <table border="1"> <tr><td></td><td>4</td><td></td></tr> </table>			4																																						
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**EXHIBIT B**

**Chapter 13.04**

**DEFINITIONS**

**13.04.060 Compatible pollutant.**

“Compatible pollutant” [for wastewater discharges](#) means biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in [an NPDES a National Pollutant Discharge Elimination System \(NPDES\) wastewater discharge](#) permit if the publicly owned treatment works is designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree. The term “substantial degree” is not subject to precise definition, but generally means contemplated removals in the order of 80 percent or greater. Examples of the additional pollutants which may be considered compatible include:

- A. Chemical oxygen demand;
- B. Total organic carbon;
- C. Phosphorus and phosphorus compounds;
- D. Nitrogen and nitrogen compounds;
- E. Fats, oils and greases of animal or vegetable origin, except as prohibited where these materials would interfere with the operation of the publicly owned treatment works. (Ord. 82-20 § A(30), 1982)

**13.04.110 Incompatible pollutant.**

“Incompatible pollutant” [for wastewater discharges](#) means any pollutant which is not a compatible pollutant as defined in “compatible pollutant.” (Ord. 82-20 § A(31), 1982)

## Chapter 13.24

### STORM AND SURFACE WATER UTILITY

Sections:

- 13.24.010 Purpose.
- 13.24.020 Utility established.
- 13.24.030 Jurisdiction.
- 13.24.040 Transfer of property.
- 13.24.050 Definitions.
- 13.24.060 Storm and surface water utility fund.
- 13.24.070 Utility rate policy.
- 13.24.080 Powers and authority.
- 13.24.090 Fee imposed.
- 13.24.110 Utility service charge calculation.
- 13.24.120 Undeveloped real property.
- 13.24.130 Service charges.
- 13.24.131 Rate reductions.
- 13.24.132 Property exempt from service charges.
- 13.24.140 Billing and payment.
- 13.24.150 Service charge adjustments and appeals.
- 13.24.170 Lien for service – Interest.
- 13.24.180 Inspections – Right of entry – Emergency.

#### 13.24.050 Definitions.

The following words when used in this chapter ~~shall~~ have the following meanings, unless the context clearly indicates otherwise:

A. “Agricultural land” means land primarily devoted to agricultural operations.

B. “Agricultural operation” means any facility or activity for the production or intent of production for commercial or family use purposes of dairy, apiary, livestock, camelids, ratites, vegetable or animal products, and crop products including, but not limited to, ornamental crops. Incidental vegetable gardening, landscaping and keeping common pets by single-family residential properties are not defined as agriculture.

C. “Commercial use” means the providing of goods or services for compensation.

D. “Developed” ~~shall mean~~ that condition of real property altered from its natural state by the creation or addition to or construction on such property of impervious ground cover— hard surfaces; expansion of a building footprint, addition or replacement of a building or other structures; structural development including construction, installation or expansion of a building or other structure; replacement of hard surface that is not part of a routine maintenance activity; and land disturbing activities or other manmade physical improvements (such as clearing or grading) ~~such that the hydrology of the property or portion thereof is affected.~~

E. “Flow control facility” means a facility designed to meet Minimum Requirement #7 as defined in BIMC 15.20.

F. “Hard surface” means an impervious surface, a permeable pavement or a vegetated roof.

GE. “Impervious ground cover” shall mean those hard surfaces which either prevent or impede the entry of water into the soil in the manner that such water entered the soil under natural conditions preexistent to development, or which cause water to run off the surface in greater quantities or at an increased rate of flow than that present under natural conditions preexistent to development, including, without limitation, such surfaces as rooftops, greenhouses, asphalt or concrete sidewalks, paving, unnamed ways of travel, driveways and parking lots, walkways, artificial turf playing fields, patio areas, storage areas, and gravel, oiled macadam or other surfaces which similarly affect the natural infiltration or runoff patterns that existed prior to development.

“Impervious Surface” means a non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

Lawns, pastures, agricultural land, native vegetation, and landscaped areas, including playgrounds with soft ground cover meeting the definition of pervious surface in BIMC 15.20, are not impervious surfaces~~ground cover~~. Permeable pavement ~~areas that have been designed to completely infiltrate water applied to the surface, as documented in a drainage report submitted and approved for the developed property, are~~ is not considered to be an impervious surface~~ground cover~~.

HF. “Impervious surface unit (ISU)” shall means the average estimated amount of impervious ground cover~~surface~~ on a single-family residential parcel. For the purposes of calculating the service charges in BIMC 13.24.130, an ISU ~~shall be~~ is defined as 3,000 square feet of impervious ground cover~~surface~~ and is the unit of measurement used by the utility in assessing service charges.

IG. “Landscaped areas” shall means those areas of any property type that are planted with trees, shrubs, or other vegetation, including the soil or bedding material areas associated with the plantings.

JH. “Low intensity development” shall means any development, excluding single family, which creates or ~~utilizes~~ has existing impervious surfaces that cover less than 15 percent ~~impervious ground cover on a of the~~ parcel.

KI. “Multifamily” shall means any residential structure designed for occupancy by multiple-family households in rented or leased apartments.

L. “On-site stormwater management facility” means low impact development best management practices designed to meet Minimum Requirement #5 as defined in BIMC 15.20.

MF. “Other developed property” shall means all property developed for other than single-family residential uses. Such other developed properties include apartments, municipal, commercial, retail, industrial, manufacturing, maintenance, utility, recreation, agriculture, park, school, marina, religious, convalescent center, and any other private or public purposes, including properties with commercial operations that may also contain one or more residences.

NK. “Service charge” shall means the fee levied by the utility.

OL. “Single-family residential” shall means individual single-family homes, mobile homes, condominiums and duplex homes.

P. “Stormwater treatment facility” means a facility designed to meet Minimum Requirement #6 as defined in BIMC 15.20.

QM. “Structure” means any manmade assemblage of materials extending above or below the surface of the earth and affixed or attached thereto.

RN. “Undeveloped” shall means that condition of real property unaltered by construction on, or addition to, such property of impervious ground cover~~surface~~ or physical manmade improvements of any kind in excess of 100 square feet that change the hydrology of the property from its natural state.

SO. “Utility” means the storm and surface water utility established by Ordinance No. 86-27, passed on July 16, 1986.

TP. “Way-of-travel” means a roadway of whatever sort, including, but not limited to, avenues, boulevards, circles, courts, roads, drives, lanes, loops, places, tracts and ways, which is capable of carrying vehicular traffic. (Ord. 2015-20 § 2, 2015)

**13.24.131 Rate reductions.**

For parcels, excluding single-family residential properties:

A. ~~The service charge charged to~~ a parcel ~~for impervious ground cover areas consisting of~~ with compacted gravel surfaces used by vehicles as a way-of-travel or parking ~~is eligible for a service charge that is~~ shall be 75 percent of the rate for impervious ~~ground cover~~ surfaces ~~areas~~ set forth in BIMC 13.24.130;

B. For any property other than a single-family residence (including mobile homes, condominiums and duplexes), if the property owner (1) has been required by either the city or Kitsap County since January 1, 1985, to construct an on-site ~~storm water mitigation~~ stormwater management, stormwater treatment, or flow control facility as a condition of the property's development or (2) has constructed voluntarily since January 1, 1985, an on-site ~~storm water mitigation~~ stormwater management, stormwater treatment, or flow control facility serving the property and exceeding city standards at the time of construction, the city may at its sole discretion reduce by up to 50 percent of the storm and surface water service fee charged for the property pursuant to BIMC 13.24.130. For parcels that construct qualifying green infrastructure (low impact development) as on-site ~~storm water mitigation~~ stormwater management, stormwater treatment, or flow control in accordance with Chapter 15.20 BIMC, the city may, at its sole discretion, reduce the utility service fee charged by up to 50 percent for the property pursuant to BIMC 13.24.130.

C. Any low intensity ~~parcel development~~ that creates or ~~utilizes~~ has existing impervious surfaces that cover less than 15 percent ~~of a parcel~~ impervious ground cover will be eligible for a rate reduction of 50 percent, ~~at~~ the city's sole discretion.

D. In order to obtain a rate reduction pursuant to subsections B and C of this section, the parcel owner must submit the required forms that demonstrate the qualification for a rate reduction by November 15th of a given year. If approved, the rate reduction will become effective in the calendar year following the request.

E. The rate reduction authorized by this section ~~will~~ shall not reduce the total storm and surface water utility service fee to less than 50 percent of the fee required pursuant to BIMC 13.24.130, and ~~will~~ shall not be used in conjunction with any other rate reduction authorized by this title. The minimum ISU charge per developed property ~~shall be~~ is one ISU.

F. Low income senior and disabled citizens who meet the requirements set forth in Chapter 13.16 BIMC ~~are~~ shall be entitled to a reduction in service charges as established by city resolution. (Ord. 2015-20 § 2, 2015)

## EXHIBIT C

### Chapter 15.20

#### SURFACE ~~WATER~~ AND ~~STORM WATER~~STORMWATER MANAGEMENT<sup>1</sup>

Sections:

- 15.20.010 Purpose.
- 15.20.020 Definitions.
- 15.20.030 General provisions.
- 15.20.040 Regulated activities and allowed activities.
- 15.20.050 General requirements.
- 15.20.060 Approval standards.
- 15.20.070 Administration.
- 15.20.080 Enforcement.
- 15.20.090 Repealed.
- 15.20.100 Repealed.

#### **15.20.010 Purpose.**

The provisions of this chapter are intended to establish regulation for all new development, redevelopment or construction activities within the city that will or may impact surface water, groundwater or ~~storm waters~~stormwater. The provisions of this chapter establish the minimum requirements that must be met to permit a property to be developed, redeveloped or proceed with construction activities within the city. The purpose of this chapter is to:

- A. Preserve and enhance the suitability of waters for contact recreation, fishing, and other beneficial uses;
- B. Minimize water quality degradation and sedimentation in streams, ponds, lakes, wetlands and other water bodies;
- C. Minimize the impact of increased runoff, erosion and sedimentation caused by land development and poor maintenance practices;
- D. Maintain and protect ~~ground water~~groundwater resources;
- E. Minimize adverse impacts from projects on ground and surface water quantities, locations and flow patterns;
- F. Decrease potential landslide, flood and erosion damage to public and private property;
- G. ~~Establish~~Promote site planning and construction practices that are consistent with natural topographical, vegetational and hydrological conditions and that limit the extent of land disturbing activities;
- H. Maintain and protect the city ~~storm water~~stormwater management infrastructure and downstream systems and properties. (Ord. 2009-13 § 1, 2009: Ord. 98-31 § 1, 1999)

#### **15.20.020 Definitions.**

1. "Approval" means the proposed work or completed work conforms to this chapter in the opinion of the director.
- ~~2. "As graded" means the extent of surface conditions on completion of grading.~~
- ~~3. "Basin plan" means a plan and all implementing regulations and procedures including but not limited to land use management adopted by ordinance for managing surface and storm water management facilities and features within individual sub-basins.~~
- ~~4. "Bedrock" means the more or less solid rock in place either on or beneath the surface of the earth. It may be soft, medium, or hard and have a smooth or irregular surface.~~

~~5. “Bench” means a relatively level step excavated into earth material on which fill is to be placed.~~

~~2. “Best management practice (BMP)” means physical, structural, and/or managerial practices that, when used singly or in combination, prevent and/or reduce the release of pollutants and other adverse impacts to waters of Washington State pollution of water. BMPs are listed and described in the manual.~~

~~7. “Certified erosion and sediment control lead (CESCL)” means an individual who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by the Department of Ecology (see BMP C160 in the manual). A CESCL is knowledgeable in the principles and practices of erosion and sediment control. The CESCL must have the skills to assess site conditions and construction activities that could impact the quality of storm water and the effectiveness of erosion and sediment control measures used to control the quality of storm water discharges. Certification is obtained through an Ecology-approved erosion and sediment control course. Course listings are provided online at Ecology’s web site.~~

~~3. “City” shall means the city of Bainbridge Island.~~

~~9. “Civil engineer” means a professional engineer licensed in the state of Washington in civil engineering who is experienced and knowledgeable in the practice.~~

~~10. “Civil engineering” means the application of the knowledge of the forces of nature, principles of mechanics and the properties of materials and to the evaluation, design and construction of civil works.~~

~~4. “Clearing” means the destruction and removal of vegetation by manual, mechanical, or chemical methods.~~

~~12. “Commercial agriculture” means those activities conducted on lands defined in RCW 84.34.020(2), and activities involved in the production of crops or livestock for wholesale trade. An activity ceases to be considered commercial agriculture when the area on which it is conducted is proposed for conversion to a nonagricultural use or has been idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity.~~

~~5. “Compaction” means densification, settlement, or packing of soil in such a way that permeability of the soil is reduced a fill by mechanical means.~~

~~14. “Critical areas” means, at a minimum, areas which include wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, including unstable slopes, and associated areas and ecosystems. Reference Chapter 16.20 BIMC.~~

~~15. “Design storm” means a prescribed hyetograph and total precipitation amount (for a specific duration recurrence frequency) used to estimate runoff for a hypothetical storm for the purposes of analyzing existing drainage, designing new drainage facilities or assessing other impacts of a proposed project on the flow of surface water. (A hyetograph is a graph of percentages of total precipitation for a series of time steps representing the total time during which the precipitation occurs.)~~

~~6. “Detention” means the release of storm water stormwater runoff from a specific site at a slower rate than it is collected by the storm water stormwater facility system, the difference being held in temporary storage.~~

~~7. “Detention facility” means an above or below ground facility, such as a pond or tank, that temporarily stores storm water stormwater runoff and subsequently releases it at a slower rate than it is collected by the drainage facility system. There may be is little or no infiltration of stored storm water stormwater.~~

~~8. Development means new development, redevelopment, or both.~~

~~18. “Drainage basin” means a geographic and hydrologic subunit of a watershed. Further clarification is located in the drainage reconnaissance study or basin assessment.~~

~~9. “Earth material” means any rock, natural soil or fill and/or any combination thereof.~~

~~20. “Engineering geologist” means a geologist experienced and knowledgeable in engineering geology.~~

~~21. “Engineering geology” means the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.~~

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

11. “Excavation” means the mechanical removal of earth material.

12. “Exotic species” means an introduced or non-indigenous species living outside its native distributional range which has arrived there by human activity, either deliberate or unintentional.

~~24. “Experimental BMP” means a BMP that has not been tested, evaluated and approved for general use by the Department of Ecology in collaboration with local governments and technical experts. These include BMPs known as emerging technologies.~~

13. “Fill” means a deposit of earth material placed by artificial means.

14. “Forest practice” means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, as defined by RCW 76.09.050.

~~27. “Frequently flooded areas” means the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program. Reference Chapter 15.16 BIMC.~~

15. “Geologically hazardous areas” means areas susceptible to significant erosion, sliding, earthquakes, or other geological events. They pose a threat to the public health and safety of citizens when used as sites for incompatible commercial, residential or industrial development. Geologically hazardous areas include erosion hazard areas, landslide hazard areas, and seismic hazard areas. Reference to Chapter 16.20 BIMC.

~~29. “Grade” means the slope of a road, channel, or natural ground, the finished surface of a canal bed, roadbed, top of embankment, or bottom of excavation or any surface prepared for the support of construction such as paving or the laying of a conduit.~~

~~a. “Existing grade” means the grade prior to grading.~~

~~b. “Rough grade” means the stage at which the grade approximately conforms to the approved plan.~~

~~c. “Finish grade” means the final grade of the site which conforms to the approved plan.~~

~~30. “Grade, to” (“to grade”) means to finish the surface of a canal bed, roadbed, top of embankment or bottom of excavation.~~

~~31. “Gradient terrace” means an earth embankment or a ridge and channel constructed with suitable spacing and an acceptable grade to reduce erosion damage by intercepting surface runoff and conducting it to a stable outlet at a stable nonerosive velocity.~~

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

~~33. “Hydroperiod” means the seasonal occurrence of flooding and/or soil saturation; it encompasses depth, frequency, duration, and seasonal pattern of inundation.~~

17. “Hard surface” means an impervious surface, a permeable pavement, or a vegetated roof.

18. “~~Illicit~~Illegal discharge” and “illegal connections” are as defined in BIMC 15.22.020.

19. “Impervious surface” means a ~~hard-non-vegetated~~ surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development and/or a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of ~~storm water~~stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for purposes of determining whether the thresholds for application of minimum requirements are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

20. “Interflow” means that portion of rainfall that infiltrates into the soil and moves laterally through the upper soil horizons until intercepted by a stream channel or until it returns to the surface; for example, in a wetland, spring or seep.

21. “Invasive plant species” means opportunistic plant species (either native or non-native) that colonize disturbed ecosystems and come to dominate the plant community in ways that are seen by us as reducing the values provided by the previous plant community.

22. “Land disturbing activity” means any activity that results in ~~movement of earth, or~~ a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, clearing, grading, filling and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land disturbing activity. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.

23. “List #1” means on-site stormwater management BMPs for lawn and landscaped areas, roofs, and other hard surfaces included in the stormwater manual adopted in BIMC 15.20.050 for projects triggering Minimum Requirements #1 through #5.

24. “List #2” means on-site stormwater management BMPs for lawn and landscaped areas, roofs, and other hard surfaces included in the stormwater manual adopted in BIMC 15.20.050 for projects triggering Minimum Requirements #1 through #9.

25. “Low impact development (LID)” means a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

26. “Low impact development best management practices (LID BMPs)” mean distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to: bioretention, rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, minimal excavation foundations, vegetated roofs, and water re-use.

27. “LID performance standard” means matching developed discharge durations to pre-developed durations for the range of pre-developed discharge rates from 8% of the 2-year peak flow to 50% of the 2-year peak flow.

28. “LID principles” are land use management strategies that emphasize conservation, use of on-site natural features, and site planning to minimize impervious surfaces, native vegetation loss, and stormwater runoff.

29. “Minimum Requirement” means one of nine minimum requirements for stormwater management that are applicable to new development and redevelopment projects as defined in the stormwater manual adopted in BIMC 15.20.050.

30. “Mitigation” means, in the following order of preference:

- a. Avoiding the impact altogether by not taking a certain action or part of an action;

- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
- c. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
- d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

~~39. “Natural location” means the location of those channels, swales, and other nonmanmade conveyance systems as defined by the first documented topographic contours existing for the subject property, either from maps or photographs, or such other means as appropriate.~~

31. “Native vegetation” means plant species that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the site. Invasive species and exotic species are not considered to be native species.

32. “New development” means land disturbing activities, including Class IV – general forest practices that are conversions from timber land to other uses; structural development, including construction or installation of a building or other structure; creation of ~~impervious hard~~ surfaces; and subdivision, short subdivision and binding site plans, as defined and applied in Chapter 58.17 RCW. Projects meeting the definition of redevelopment shall not be considered new development.

33. “Pervious surface” means any surface material that allows stormwater to infiltrate into the ground. Examples include lawn, landscape, pasture, native vegetation areas, and permeable pavement.

34. “Pollution” ~~shall be construed to mean~~ such contamination or other alteration of the physical, chemical, or biological properties of waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquids, gaseous, solid, radioactive or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life; as defined in RCW 90.48.020 as now existing or hereafter amended.

35. “Pollution-generating hard surface (PGHS)” means hard surfaces considered to be a significant source of pollutants in stormwater runoff. See the listing of surfaces under pollution-generating impervious surface.

36. “Pollution-generating impervious surface (PGIS)” means impervious surfaces considered to be a significant source of pollutants in stormwater runoff. Such surfaces include those which are subject to vehicular use; industrial activities (as further defined in the glossary of the stormwater manual adopted in BIMC 15.20.050); storage of erodible or leachable materials, wastes, or chemicals, and which receive direct rainfall or the run-on or blow-in of rainfall; metal roofs unless they are coated with an inert, non-leachable material (e.g., baked-on enamel coating); or roofs that are subject to venting significant amounts of dusts, mists, or fumes from manufacturing, commercial, or other indoor activities.

37. “Pollution-generating pervious surfaces (PGPS)” means any pervious surface subject to vehicular use, industrial activities (as further defined in the glossary of the stormwater manual adopted in BIMC 15.20.050); or storage of erodible or leachable materials, wastes, or chemicals, and that receive direct rainfall or run-on or blow-in of rainfall, use of pesticides and fertilizers, or loss of soil. Typical PGPS include permeable pavement subject to vehicular use, lawns, and landscaped areas including golf courses, parks, cemeteries, and sports fields (natural and artificial turf).

38. “Redevelopment” means, on a site that is already substantially developed (i.e., has 35 percent or more of existing impervious surface coverage), the creation or addition of impervious surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities.

~~43. “Regional retention/detention system” means a storm water quantity control structure designed to correct existing excess surface water runoff problems of a basin or sub-basin for two or more properties. The area downstream has been previously identified as having existing or predicted significant and regional flooding and/or erosion problems. This term is also used when a detention facility is used to detain storm water runoff from a number of different businesses, developments or areas within a catchment.~~

~~44. “Retention/detention facility (R/D)” means a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration into the ground; or to hold surface and storm water runoff for a short period of time and then release it to the surface and storm water management system.~~

39. “Replaced hard surface” means, for structures, the removal and replacement of hard surfaces down to the foundation. For other hard surfaces, the removal down to bare soil or base course and replacement.

40. “Replaced impervious surface” means, for structures, the removal and replacement of impervious surfaces down to the foundation. For other impervious surfaces, the removal down to bare soil or base course and replacement.

41. “Site” means the area defined by the legal boundaries of a parcel or parcels of land that is (are) subject to new development or redevelopment. For road projects, the length of the project site and the right-of-way boundaries define the site.

~~46. “Slope” means the degree of deviation of a surface from the horizontal, measured as a numerical ratio, percent, or in degrees. Expressed as a ratio, the first number is the horizontal distance (run) and the second is the vertical distance (rise), as 2:1. A 2:1 slope is a 50 percent slope. Expressed in degrees, the slope is the angle from the horizontal plane, with a 90-degree slope being vertical (maximum) and 45 degrees being a 1:1 or 100 percent slope.~~

~~47. “Soil” means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.~~

~~48. “Source control BMP” means a structure or operation that is intended to prevent pollutants from coming into contact with storm water through physical separation of areas or careful management of activities that are sources of pollutants. The manual separates source control BMPs into two types. Structural source control BMPs are physical, structural, or mechanical devices, or facilities that are intended to prevent pollutants from entering storm water. Operational BMPs are nonstructural practices that prevent or reduce pollutants from entering storm water. See Volume IV of the manual for details.~~

42. “Storm waterStormwater” means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland, interflow, channels or pipes into a defined surface water channel, or a constructed infiltration facility.

43. “Storm waterStormwater drainage system” means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat or filter ~~storm-~~waterstormwater.

44. “Storm waterStormwater facility” means a constructed component of a ~~storm-water~~stormwater drainage system, designed or constructed to perform a particular function, or multiple functions, including but not limited to pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catch basins, oil/water separators, sediment basins and modular pavement.

45. “Storm waterStormwater management manual” or “manual” means the Stormwater Management Manual for Western Washington adopted by reference in BIMC 15.20.050 and prepared by Washington State Department of Ecology, dated February 2005, Publication Numbers 05-10-029 through 05-10-033 including subsequent publications which contains BMPs to prevent or reduce pollution.

~~53. “Toe of slope” means a point or line of slope in an excavation or cut where the lower surface changes to horizontal or meets the exiting ground slope.~~

~~54. "Top of slope" means a point or line on the upper surface of a slope where it changes to horizontal or meets the original surface.~~

~~55. "Unstable slopes" means those sloping areas of land which have exhibited past and present history of mass movement of earth.~~

46. "Vegetation" means ~~all organic~~ any plant life growing on the Island's surfaces of the earth, including ponds, wetlands, and marshes. ~~Reference Chapter 16.22 BIMC.~~

~~57. "Watershed" means a geographic region within which water drains into a particular river, stream, or body of water as identified and numbered by the State of Washington Water Resource Inventory Areas (WRIAs) as defined in Chapter 173-500 WAC.~~

47. "Waters of the State" includes those waters as defined as "waters of the United States" in 40 CFR Subpart 122.2 within the geographic boundaries of Washington State and "waters of the state" as defined in chapter 90.48 RCW which includes lakes, rivers, ponds, streams, inland waters, groundwater, salt waters and all other surface waters and water courses within the jurisdiction of the State of Washington.

48. "Wetlands" means those areas that are inundated or saturated by surface or ~~ground water~~ groundwater at a frequency and duration sufficient to support (and under normal circumstances do support) a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, marshes, bogs, and other similar areas. This definition includes wetlands created, restored or enhanced as part of a mitigation procedure; it does not include constructed wetlands or the following surface waters of the state intentionally constructed from sites that are not wetlands: irrigation and drainage ditches, grass-lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities. ~~Referene~~ to Chapter 16.20 BIMC.

(Ord. 2009-13 § 2, 2009; Ord. 2005-10 § 1, 2005; Ord. 2003-22 § 22, 2003; Ord. 2001-49 § 1, 2001; Ord. 98-31 § 1, 1999)

#### **15.20.030 General provisions.**

A. Procedures. The department of public works/engineering department is authorized to adopt written procedures for the purpose of carrying out the provisions of this chapter. Prior to fulfilling the requirements of this chapter, the administrator or assigns shall not grant any approval or permission to conduct a regulated activity, including but not limited to the following:

1. Building permits, commercial or residential;
2. Comprehensive plan amendments;
3. Conditional use permits;
4. Final plats (short/long/large lot);
5. Forest practices;
6. Grading or clearing permits;
7. Planned unit developments;
8. Plats;
  - a. Subdivide, preliminary and final (short/long/large lot);
9. Preliminary plats (short, long, large lot);
10. Reasonable use exceptions;
11. Right-of-way permits;

12. Shoreline substantial development permits;
13. Shoreline variance/shoreline conditional use permits;
14. Site plan reviews;
15. Variances;
16. Zone reclassification (rezones); or
17. Any subsequently adopted permit or required approval not expressly exempted by this chapter.

B. The following agencies may also require a drainage review to assess ~~a site's~~ the impact of development on a site. Any requirements imposed by these agencies are separate from the city mandates. It is the applicant's sole responsibility to resolve any conflicting issues that may arise from submittal reviews.

1. U.S. Army Corps of Engineers;
2. Washington State Department of Natural Resources;
3. Bremerton-Kitsap County Health District;
4. Washington State Department of Ecology: general permit is required for development sites that disturbs one acre or more;
5. Washington State Department of Fish and Wildlife;
6. Washington State Department of Transportation. (Ord. 2005-10 § 2, 2005: Ord. 98-31 § 1, 1999)

**15.20.040 Regulated activities and allowed activities.**

A. Regulated Activities. Consistent with the minimum requirements contained in the stormwater manual, the administrator shall approve or disapprove the following activities and may require the following permits:

1. New Development may require a Site Assessment and Development Permit, Building Permit, Land Use Permit, and/or Zoning Permit for the following:-
  - a. Land disturbing activities;
  - b. Structural development, including construction, installation or expansion of an existing building or other structure;
  - c. Creation of 800 square feet or more of new impervious hard surfaces ~~greater than 800 square feet~~;
  - d. Class IV general forest practices that are conversions from timber land to other uses; and
  - e. Subdivision, short subdivision and binding site plans, as defined in RCW 58.17.020.
2. Redevelopment may require a Site Assessment and Development Permit, Building Permit, Land Use Permit, and/or Zoning Permit. On an already developed site, the creation or addition of 800 square feet or more of impervious hard surfaces ~~greater than 800 square feet~~; structural development including construction, installation or expansion of a building or other structure; any land disturbing activity, and/or replacement of impervious hard surface (that is not part of a routine maintenance activity); and land disturbing activities associated with structural or impervious hard surface redevelopment. (Ord. 2009-13 § 3, 2009: Ord. 2005-10 § 3, 2005: Ord. 98-31 § 1, 1999)

**15.20.050 General requirements.**

A. Stormwater Management Manual Adopted. The ~~February 2005 Edition of~~ Washington State Department of Ecology's 2012 Stormwater Management Manual for Western Washington, as amended in 2014, is hereby adopted

by reference and is hereinafter referred to as the [stormwater](#) manual; provided, that certain provisions of the [stormwater](#) manual are amended as stated in BIMC 15.20.060.

B. ~~Illicit~~ ~~Illegal~~ discharges and ~~illegal~~ ~~illicit~~ connections to the ~~storm water~~ [stormwater](#) drainage system are prohibited by ~~Chapter BIMC~~ [BIMC](#) 15.22-~~BIMC~~.

C. Low Impact Development Manual Adopted. The ~~2012~~ ~~2009~~ ~~Edition of the~~ Low Impact Development (LID) [Technical](#) Guidance Manual [for Puget Sound—A Practical Guide to LID Implementation in Kitsap County](#) is hereby adopted by reference and is hereinafter referred to as the LID manual ~~for use in meeting the relevant sections of the manual.~~ (Ord. 2009-13 § 4, 2009: Ord. 2005-10 § 4, 2005: Ord. 98-31 § 1, 1999)

#### **15.20.060 Approval standards.**

A. City-specific Standards. The City amends the standards adopted as part of the stormwater manual (summarized in 15.20.060.B) as follows:

1. Instead of following the Better Site Design BMP (BMP T5.41) in Volume V, Section 5.3.2 of the stormwater manual, ~~conduct~~ a site assessment following the guidance in the LID Manual adopted in BIMC 15.20.050. ~~Comply~~ with the City of Bainbridge Island Design and Construction Standards for streets and roadways unless an exception is granted in writing by the administrator.

2. The hard surface threshold for triggering Minimum Requirements No. 1 through No. 5 for new development and redevelopment is 800 square feet or greater of new plus replaced hard surface area.

3. Projects that discharge directly, or indirectly through a stormwater drainage system, to Puget Sound are required to implement the full list of on-site stormwater management BMPs on List #1 or List #2 (see 15.20.060.B.2).

4. Optional Guidance No. 1: Financial Liability, is not adopted.

5. Optional Guidance No. 2: Off Site Analysis and Mitigation, and Volume I, Section 3.1.3, Perform an Offsite Analysis, is required for new development and redevelopment projects creating 5,000 square feet or more of hard surface area.

6. In Volume I, Section 2.7 of the stormwater manual, Adjustments, is not adopted.

7. In Volume I, Section 2.3 of the manual, Definitions Related to Minimum Requirements, the definition of “The use of threshold discharge areas, as defined by the stormwater manual” is not adopted.

~~B. In Volume I, Section 2.5.6 of the manual, Minimum Requirement No. 6 Runoff Treatment, and Section 2.5.7, Minimum Requirement No. 7 Flow Control, and Section 4.2, BMP and Facility Selection Process, references to “threshold discharge area” are deleted.~~

8. In Volume III, Section 3.2 of the stormwater manual, Figure 3.2.4, Example of Permanent Surface Water Control Pond Sign, is amended to include the following language:

Signage for constructed ponds is required to be provided by the developer as a part of the project. Contact the City to determine the pond name, pond number, and telephone number to include on the sign.

9. In Volume V, Section 4.3.1, Setbacks, is amended to delete the current text and replace with the following language:

A Geotechnical Engineer is required to evaluate all stormwater facilities and infiltration systems proposed within 200 feet of a geologically hazardous area.

10. The 2013 Rain Garden Handbook for Western Washington supplements the Rain Garden (BMP T5.14A) design guidelines in the stormwater manual for projects triggering Minimum Requirements #1-5. Use the

“Good (80%)” performance level for Rainfall Region 3 in the Rain Garden Sizing Chart in the Rain Garden Handbook for Western Washington at a minimum. “Better (95%)” performance level is preferred.

B. Stormwater Manual Standards. The stormwater manual adopted in BIMC 15.20.050 includes the following nine Minimum Requirements:

1. Minimum Requirement #1 – Preparation of Stormwater Site Plans
2. Minimum Requirement #2 – Construction Stormwater Pollution Prevention
3. Minimum Requirement #3 – Source Control of Pollution
4. Minimum Requirement #4 – Preservation of Natural Drainage Systems and Outfalls
5. Minimum Requirement #5 – On-site Stormwater Management
6. Minimum Requirement #6 – Runoff Treatment
7. Minimum Requirement #7 – Flow Control
8. Minimum Requirement #8 – Wetlands Protection
9. Minimum Requirement #9 – Operations and Maintenance

The following is a summary of the general thresholds included in the stormwater manual with modifications based on the City-specific standards provided in 15.20.060.A. Specific thresholds are also summarized for Minimum Requirements #5, #6, and #7. The stormwater manual includes additional comprehensive guidance regarding implementation of these thresholds.

1. Overall project thresholds include the following:

<u>Applicable Requirements</u>	<u>New Development</u>	<u>Redevelopment</u>
<u>Minimum Requirement #2 (Construction Stormwater Pollution Prevention)</u>	<u>All projects</u>	<u>All projects</u>
<u>Minimum Requirements #1-5</u>	<u>≥ 800 sf new plus replaced hard surface area<sup>1</sup>, or</u> <u>&gt; 7,000 sf land disturbing activity</u>	<u>≥ 800 sf new plus replaced hard surface area<sup>1</sup>, or</u> <u>&gt; 7,000 sf land disturbing activity</u>
<u>Minimum Requirements #1-9</u>	<u>≥ 5,000 sf new plus replaced hard surface area, or</u> <u>≥ ¾ acre of vegetation converted to lawn or landscaped areas, or</u> <u>≥ 2.5 acres of native vegetation converted to pasture</u>	<u>≥ 5,000 sf new hard surface area, or</u> <u>≥ ¾ acre of vegetation converted to lawn or landscaped areas, or</u> <u>≥ 2.5 acres of native vegetation converted to pasture</u>  <u>AND</u> <u>New hard surface is ≥ 50% of the existing hard surface within the project limits (road-related projects), or</u>  <u>Proposed improvements are &gt; 50% of the assessed value of the existing site improvements</u>
<u>Optional Guidance No. 2: Off Site Analysis and Mitigation</u>	<u>≥ 5,000 square feet of hard surface area<sup>2</sup></u>	<u>≥ 5,000 square feet of hard surface area<sup>2</sup></u>

1 – City-specific threshold for new development and redevelopment

2 – City-specific threshold for Off Site Analysis and Mitigation

2. Thresholds related to Minimum Requirement #5 (Volume I, Section 2.5.5 of the stormwater manual) include the following:

<u>Applicable Requirements</u>	<u>New Development and Redevelopment</u>
<u>List #1</u>	<u>Thresholds for Minimum Requirements #1-5 summarized in 15.20.060.B.1</u>
<u>List #2</u>	<u>Thresholds for Minimum Requirements #1-9 summarized in 15.20.060.B.1</u>
<u>LID Performance Standard</u>	<u>Optional, but can be used instead of List #1 or List #2 as specified above</u>
<u>BMP T5.13 (Post Construction Soil Quality and Depth)</u>	<u>Required for disturbed pervious areas</u>
<u>Direct Discharge to Puget Sound</u>	<u>Projects discharging directly to, or indirectly through a stormwater drainage system, to Puget Sound are required to evaluate the full list of on-site stormwater management BMPs on List #1 or List #2.<sup>1</sup></u>

1 – City-specific requirement for direct discharges

3. Thresholds related to Minimum Requirement #6 (Volume I, Section 2.5.6 of the stormwater manual) include the following:

<u>Applicable Requirements</u>	<u>New Development and Redevelopment</u>
<u>Stormwater Treatment Facility</u>	<u>≥ 5,000 sf pollution-generating hard surfaces (PGHS), or ≥ ¼ acre of pollution-generating pervious surfaces (PGPS)</u>
<u>Oil Control</u>	<u>High-use sites</u>
<u>Phosphorus Treatment</u>	<u>Not applicable at this time</u>
<u>Enhanced Treatment</u>	<u>Industrial project sites, commercial project sites, multi-family project sites, and high AADT roads<sup>1</sup> that:  1) <u>Discharge directly to fresh waters or conveyance systems tributary to fresh waters designated for aquatic life use or that have an existing aquatic life use; or</u>  2) <u>Use infiltration strictly for flow control – not treatment – and the discharge is within ¼ mile of a fresh water designated for aquatic life use or that has an existing aquatic life use.</u></u>
<u>Basic Treatment</u>	<u>All sites meeting the stormwater treatment facility thresholds listed above for PGHS or PGPS.</u>

1 – High AADT roads are designated as ≥ 15,000 (fully controlled and partially controlled limited access highways) and ≥ 7,500 (all other roads).

4. Thresholds related to Minimum Requirement #7 (Volume I, Section 2.5.7 of the stormwater manual) include the following:

<u>Applicable Requirements</u>	<u>New Development and Redevelopment</u>
<u>Flow Control Facility</u>	<u>≥ 10,000 sf effective impervious surface, or</u>

	<p><u>≥ ¾ acre of vegetation converted to lawn or landscaped areas, or</u></p> <p><u>≥ 2.5 acres of native vegetation converted to pasture, or</u></p> <p><u>≥ 0.15 cfs increase in the 100-year flow frequency (using a 15-minute time step)</u></p>
<u>Direct Discharge Exemption</u>	<u>Flow control facilities are not required for direct discharges, or indirect discharges through a stormwater drainage system, to Puget Sound.</u>

C. In Volume I, Section 2.4.1 of the manual, New Development is amended to read ~~as follows:~~

~~All new development that shall be required to comply with Minimum Requirement No. 2. In addition, new development that exceeds certain thresholds shall be required to comply with additional Minimum Requirements as follows. The following new development shall comply with Minimum Requirements No. 1 through No. 5:~~

- ~~1. Creates or adds 800 square feet, or greater, of new, replaced, or new plus replaced impervious surface area, or~~
- ~~2. Has land disturbing activity of 7,000 square feet or greater.~~

~~The following new development shall comply with Minimum Requirements Nos. 1 through 10:~~

- ~~1. Creates or adds 5,000 square feet, or more, of new impervious surface area, or~~
- ~~2. Converts ¾ acres, or more, of native vegetation to lawn or landscaped areas, or~~
- ~~3. Converts 2.5 acres, or more, of native vegetation to pasture.~~

D. In Volume I, Section 2.4.2 of the manual, Redevelopment, is amended to read as follows:

~~All redevelopment shall be required to comply with Minimum Requirement No. 2. In addition, all redevelopment that exceeds certain thresholds shall be required to comply with additional Minimum Requirements as follows:~~

~~The following redevelopment shall comply with Minimum Requirements No. 1 through No. 5 for the new and replaced impervious surfaces and the land disturbed:~~

- ~~1. The new, replaced, or total of new plus replaced impervious surfaces is 800 square feet or more, or~~
- ~~2. 7,000 square feet or more of land disturbing activities.~~

~~The following redevelopment shall comply with Minimum Requirements Nos. 1 through 10 for the new impervious surfaces and converted pervious areas:~~

- ~~1. Adds 5,000 square feet or more of new impervious surfaces, or~~
- ~~2. Converts ¾ acres, or more, of native vegetation to lawn or landscaped areas, or~~
- ~~3. Converts 2.5 acres, or more, of native vegetation to pasture.~~

~~If the runoff from the new impervious surfaces and converted pervious surfaces is not separated from runoff from other surfaces on the project site, the stormwater treatment facilities must be sized for the entire flow that is directed to them.~~

~~The administrator may allow the Minimum Requirements to be met for an equivalent (flow and pollution characteristics) area within the same site. For public roads projects, the equivalent area does not have to be within the project limits, but must drain to the same receiving water.~~

#### ~~Additional Requirements for the Project Site~~

~~For road related projects, runoff from the replaced and new impervious surfaces (including pavement, shoulders, curbs, and sidewalks) shall meet all the Minimum Requirements if the new impervious surfaces total 5,000 square feet or more and total 50% or more of the existing impervious surfaces within the project limits. The project limits shall be defined by the length of the project and the width of the right of way.~~

~~Other types of redevelopment projects shall comply with all the Minimum Requirements for the new and replaced impervious surfaces if the total of new plus replaced impervious surfaces is 5,000 square feet or more, and the valuation of proposed improvements—including interior improvements—exceeds 50% of the assessed value of the existing site improvements.~~

~~E. In Volume I, Section 2.5.10 of the manual, Minimum Requirement No. 10: Operation and Maintenance, is amended to read as follows:~~

~~An operation and maintenance manual that is consistent with BIMC 15.21 and the provisions in Volume V of this manual shall be provided for all proposed private stormwater facilities and BMPs, and the party (or parties) responsible for maintenance and operation shall be identified. For private facilities, a copy of the manual shall be provided to the city prior to occupancy and a copy retained onsite or within reasonable access to the site, and shall be transferred with the property to subsequent owners. The copy of the manual shall be retained in the Public Works Department. A log of maintenance activity that indicates what actions were taken shall be kept and be available for inspection by the Administrator.~~

~~F. In Volume I, Section 2.6.1 of the manual, Financial Liability/Bonding, is not adopted.~~

~~G. In Volume I, Section 2.6.2 of the manual, Optional Guidance No. 2: Off Site Analysis and Mitigation, and Volume I, Section 3.1.3, Perform an Offsite Analysis, are adopted by reference and established for projects creating 5,000 square feet or more of impervious area.~~

~~H. In Volume I, Section 2.6.2 of the manual, Optional Guidance No. 2: Off Site Analysis and Mitigation Development, is amended to read as follows:~~

~~Development projects that discharge stormwater off site shall submit an off site analysis report that assesses the potential off site water quality, erosion, slope stability, and drainage impacts associated with the project and that proposes appropriate mitigation of those impacts. An initial qualitative analysis shall extend downstream for the entire flow path from the project site to the receiving water or up to one mile, whichever is less.~~

~~If a receiving water is within one quarter mile, the analysis shall extend within the receiving water to one quarter mile from the project site. The analysis shall extend one quarter mile beyond any improvements proposed as mitigation. The analysis must extend upstream to a point where any backwater effects created by the project cease. Upon review of the qualitative analysis, the local administrator may require that a quantitative analysis be performed.~~

~~The existing or potential impacts to be evaluated and mitigated shall include:~~

- ~~1. Conveyance system capacity problems;~~
- ~~2. Localized flooding;~~
- ~~3. Upland erosion impacts, including landslide hazards;~~

~~4. Stream channel erosion at the outfall location;~~

~~5. Violations of surface water quality standards as identified in a Basin Plan or a TMDL (Water Clean up Plan); or violations of ground water standards in a wellhead protection area.~~

~~Projects shall be required to initially submit, with the permit application, a qualitative analysis of each downstream system leaving a site. The analysis should accomplish four tasks:~~

~~Task 1—Define and map the study area.~~

~~Submission of a site map showing property lines; a topographic map (at a minimum a USGS 1:24000 Quadrangle Topographic map) showing site boundaries, study area boundaries, downstream flowpath, and potential/existing problems.~~

~~Task 2—Review all available information on the study area.~~

~~This should include all available basin plans, ground water management area plans, drainage studies, floodplain/floodway FEMA maps, wetlands inventory maps, Critical Areas maps, stream habitat reports, salmon distribution reports, etc.~~

~~Task 3—Field inspect the study area.~~

~~The design engineer should physically inspect the existing on and off site drainage systems of the study area for each discharge location for existing or potential problems and drainage features. An initial inspection and investigation should include:~~

- ~~1. Investigate problems reported or observed during the resource review;~~
- ~~2. Locate existing/potential constrictions or capacity deficiencies in the drainage system;~~
- ~~3. Identify existing/potential flooding problems;~~
- ~~4. Identify existing/potential overtopping, scouring, bank sloughing, or sedimentation;~~
- ~~5. Identify significant destruction of aquatic habitat (e.g., siltation, stream incision);~~
- ~~6. Collect qualitative data on features such as land use, impervious surface, topography, soils, presence of streams, wetlands;~~
- ~~7. Collect information on pipe sizes, channel characteristics, drainage structures;~~
- ~~8. Verify tributary drainage areas identified in Task 1;~~
- ~~9. Contact the local government office with drainage review authority, neighboring property owners, and residents about drainage problems; and~~
- ~~10. Note date and weather at time of inspection.~~

~~Task 4—Describe the drainage system, and its existing and predicted problems.~~

~~For each drainage system component (e.g., pipe, culvert, bridges, outfalls, ponds, vaults) the following should be covered in the analysis: location, physical description, problems, and field observations. All existing or potential problems (e.g., ponding water, erosion) identified in tasks 2 and 3 above should be described. The descriptions should be used to determine whether adequate mitigation can be identified, or whether more detailed quantitative analysis is necessary. The following information should be provided for each existing or potential problem:~~

- ~~1. Magnitude of or damage caused by the problem;~~

- ~~2. General frequency and duration;~~
- ~~3. Return frequency of storm or flow when the problem occurs (may require quantitative analysis);~~
- ~~4. Water elevation when the problem occurs;~~
- ~~5. Names and concerns of parties involved;~~
- ~~6. Current mitigation of the problem;~~
- ~~7. Possible cause of the problem; and~~
- ~~8. Whether the project is likely to aggravate the problem or create a new one.~~

~~Upon review of this analysis, the administrator may require mitigation measures deemed adequate for the problems, or a quantitative analysis, depending upon the presence of existing or predicted flooding, erosion, or water quality problems, and on the proposed design of the onsite drainage facilities. The analysis should repeat Tasks 3 and 4 above, using quantitative field data including profiles and cross sections.~~

~~The quantitative analysis should provide information on the severity and frequency of an existing problem or the likelihood of creating a new problem. It should evaluate proposed mitigation intended to avoid aggravation of the existing problem and to avoid creation of a new problem.~~

~~I. In Volume I, Section 2.7 of the manual, Adjustments, is not adopted.~~

~~J. In Volume III, Section 3.1.2 of the manual, Downspout Dispersion Systems, is modified for use with additional standard details as prescribed by the city.~~

~~K. In Volume III, Section 3.1.3 of the manual, Perforated Stub Out Connections, is modified for use with additional standard details as prescribed by the city.~~

~~L. In Volume III, Section 3.2 of the manual, Figure 3.12, Pond Signage, is amended to include the following language:~~

~~Developers shall provide the required signage for constructed ponds as a part of the project.~~

~~M. In Volume V, Section 4.3, Setbacks, Slopes and Embankments, is amended to include the following language:~~

~~All stormwater facilities and infiltration systems constructed within 200 feet of a geologically hazardous area shall have the concurrence of a Geotechnical Engineer.~~

~~N. In Volume V, Section 5.3.1 of the manual, BMP T 5.10 Downspout Dispersion, is modified for use with additional standard details as prescribed by the city.~~

~~O. In Volume V, Section 5.3.2 of the manual, BMP T 5.21 Better Site Design: Build Narrower Streets, is amended to include the following language:~~

~~Streets and roadways must, however, comply with city of Bainbridge Island Design and Construction Standards and Specifications unless an exception is granted in writing by the administrator.~~

~~P. In Volume V, Section 5.3.3 of the manual, BMP T 5.30 Full Dispersion, is modified for use with additional standard details as prescribed by the city.~~

~~Q. In Volume V of the manual, Chapter 12, Emerging Technologies, is not adopted.~~

~~R. In Volume I, Section 2.5.2 of the manual, Minimum Requirement No. 2: Construction Storm Water Pollution Prevention (SWPP), the following language replaces or amends the language found in Section 2.5.2 of the manual:~~

~~All new development and redevelopment projects are responsible for preventing erosion and discharge of sediment and other pollutants into receiving waters.~~

~~Sediment and erosion control BMPs shall be consistent with the BMPs contained in Chapters 3 and 4 of Volume II of the manual.~~

~~The SWPPP shall include a narrative and drawings. All BMP's shall be clearly referenced in the narrative and marked on the drawings. The SWPPP narrative shall include documentation to explain and justify the pollution prevention decisions made for the project.~~

~~1. Volume I, Section 2.5.2 of the manual, Minimum Requirement No. 2: Construction Storm Water Pollution Prevention Plan (SWPPP) Elements. The following language replaces or amends the language found in the Elements Section 2.5.2 of the manual:~~

~~Element 2.c. Wheel wash or tire baths shall be located on site, if the stabilized construction entrance is not effective in preventing sediment from being tracked onto public roads.~~

~~Element 6.c. Temporary pipe slope drains shall handle the expected peak 10-minute flow velocity from a type 1A, 10-year, 24-hour frequency storm for the developed condition.~~

~~The hydrologic analysis shall use the existing land cover condition for predicting flow rates from tributary areas outside the project limits. For tributary areas on the project site, the analysis shall use the temporary or permanent project land cover condition, whichever will produce the highest flow rates. If using the Western Washington Hydrology model to predict flows, bare soil areas should be modeled as "landscaped area."~~

#### ~~Element 7. Protect Drain Inlets~~

~~All sediment and street wash water shall not be allowed to enter storm drains without prior and adequate treatment unless treatment is provided before the storm drain discharges to waters of the State.~~

#### ~~Element 9. Control Pollutants~~

~~Permittees shall require construction site operators obtain written approval from the Department prior to using chemical treatment other than CO<sub>2</sub> or dry ice to adjust pH.~~

~~S. Volume I, Section 2.5.6 of the manual, Minimum Requirement No. 6 Runoff Treatment. The following language replaces the language found in Section 2.5.6 of the manual:~~

#### ~~Project Thresholds~~

~~The following require construction of stormwater treatment facilities (see Table below):~~

- ~~• Projects in which the total of effective, pollution-generating impervious surface (PGIS) is 5,000 square feet or more in a threshold discharge area of the project, or~~
- ~~• Projects in which the total of pollution-generating pervious surfaces (PGPS) is three-quarters (3/4) of an acre or more in a threshold discharge area, and from which there is a surface discharge in a natural or man-made conveyance system from the site.~~

#### ~~Treatment Type Thresholds~~

##### ~~1. Oil Control:~~

~~Treatment to achieve Oil Control applies to projects that have “high use sites.” High use sites are those that typically generate high concentrations of oil due to high traffic turnover or the frequent transfer of oil. High use sites include:~~

- ~~a. An area of a commercial or industrial site subject to an expected average daily traffic (ADT) count equal to or greater than 100 vehicles per 1,000 square feet of gross building area;~~
- ~~b. An area of a commercial or industrial site subject to petroleum storage and transfer in excess of 1,500 gallons per year, not including routinely delivered heating oil;~~
- ~~e. An area of a commercial or industrial site subject to parking, storage or maintenance of 25 or more vehicles that are over 10 tons gross weight (trucks, buses, trains, heavy equipment, etc.);~~

~~Treatment Requirements by Threshold Discharge Area~~

<del>&lt;3/4</del>	<del>&gt;3/4</del>	<del>&lt;</del>	<del>&gt;</del>
<del>acres of PGPS</del>	<del>acres of PGPS</del>	<del>5,000 sf of PGIS</del>	<del>5,000 sf of PGIS</del>

~~Treatment Facilities~~

~~X~~

~~X~~

~~Onsite Stormwater BMPs~~

~~X~~

~~X~~

~~X~~

~~X~~

~~PGPS = pollution-generating pervious surfaces~~

~~PGIS = pollution-generating impervious surfaces~~

~~sf = square feet~~

~~d. A road intersection with a measured ADT count of 25,000 vehicles or more on the main roadway and 15,000 vehicles or more on any intersecting roadway, excluding projects proposing primarily pedestrian or bicycle use improvements.~~

~~2. Phosphorus Treatment:~~

The requirement to provide phosphorus control is determined by the local government with jurisdiction (e.g., through a lake management plan), or the Department of Ecology (e.g., through a waste load allocation). The local government may have developed a management plan and implementing ordinances or regulations for control of phosphorus from new/redevelopment for the receiving water(s) of the stormwater drainage. The local government can use the following sources of information for pursuing plans and implementing ordinances and/or regulations:

- a. Those waterbodies reported under section 305(b) of the Clean Water Act, and designated as not supporting beneficial uses due to phosphorus;
- b. Those listed in Washington State's Nonpoint Source Assessment required under section 319(a) of the Clean Water Act due to nutrients.

### 3. Enhanced Treatment:

Enhanced treatment for reduction in dissolved metals is required for the following project sites that discharge to fish bearing streams, lakes, or to waters or conveyance systems tributary to fish bearing streams or lakes:

Industrial project sites,

Commercial project sites,

Multi-family project sites, and

High AADT roads as follows:

Within Urban Growth Management Areas:

- Fully controlled and partially controlled limited access highways with Annual Average Daily Traffic (AADT) counts of 15,000 or more
- All other roads with an AADT of 7,500 or greater

Outside of Urban Growth Management Areas:

- Roads with an AADT of 15,000 or greater unless discharging to a 4th Strahler order stream or larger;
- Roads with an AADT of 30,000 or greater if discharging to a 4th Strahler order stream or larger (as determined using 1:24,000 scale maps to delineate stream order).

However, such sites listed above that discharge directly (or, indirectly through a municipal storm sewer system) to Basic Treatment Receiving Waters (Appendix I-C of the manual), and areas of the above listed project sites that are identified as subject to Basic Treatment requirements, are also not subject to Enhanced Treatment requirements. For developments with a mix of land use types, the Enhanced Treatment requirement shall apply when the runoff from the areas subject to the Enhanced Treatment requirement comprise 50% or more of the total runoff within a threshold discharge area.

### 4. Basic Treatment:

Basic Treatment generally applies to:

- Project sites that discharge to the ground, UNLESS:

~~1) The soil suitability criteria for infiltration treatment are met; (see Chapter 3 of Volume III of the manual for soil suitability criteria) or~~

~~2) The project uses infiltration strictly for flow control—not treatment—and the discharge is within 1/4 mile of a phosphorus sensitive lake (use a Phosphorus Treatment facility), or within 1/4 mile of a fish-bearing stream, or a lake (use an Enhanced Treatment facility).~~

~~• Residential projects not otherwise needing phosphorus control as designated by USEPA, the Department of Ecology, or by the Permittee; and~~

~~• Project sites discharging directly to salt waters, river segments, and lakes listed in Appendix I-C of the manual; and~~

~~• Project sites that drain to streams that are not fish-bearing, or to waters not tributary to fish-bearing streams;~~

~~• Landscaped areas of industrial, commercial, and multi-family project sites, and parking lots of industrial and commercial project sites that do not involve pollution-generating sources (e.g., industrial activities, customer parking, storage of erodible or leachable material, wastes or chemicals) other than parking of employees' private vehicles. For developments with a mix of land use types, the Basic Treatment requirement shall apply when the runoff from the areas subject to the Basic Treatment requirement comprise 50% or more of the total runoff within a threshold-discharge area.~~

#### Treatment Facility Sizing

~~Water Quality Design Storm Volume: The volume of runoff predicted from a 24-hour storm with a 6-month return frequency (a.k.a., 6-month, 24-hour storm). Wetpool facilities are sized based upon the volume of runoff predicted through use of the Natural Resource Conservation Service curve number equations in Chapter 2 of Volume III of the manual, for the 6-month, 24-hour storm. Alternatively, the 91st percentile, 24-hour runoff volume indicated by an approved continuous runoff model may be used.~~

#### Water Quality Design Flow Rate

##### 1. Preceding Detention Facilities or when Detention Facilities are not required:

~~The flow rate at or below which 91% of the runoff volume, as estimated by an approved continuous runoff model, will be treated. Design criteria for treatment facilities are assigned to achieve the applicable performance goal at the water quality design flow rate (e.g., 80% TSS removal).~~

##### 2. Downstream of Detention Facilities:

~~The water quality design flow rate must be the full 2-year release rate from the detention facility. Alternative methods may be used if they identify volumes and flow rates that are at least equivalent. That portion of any development project in which the above PGIS or PGPS thresholds are not exceeded in a threshold-discharge area shall apply On-site Storm Water Management BMPs in accordance with Minimum Requirement #5.~~

#### Treatment Facility Selection, Design, and Maintenance

~~Stormwater treatment facilities shall be:~~

~~• Selected in accordance with the process identified in Chapter 4 of Volume I of the manual;~~

~~• Designed in accordance with the design criteria in Volume V of the manual, and~~

~~• Maintained in accordance with the maintenance schedule in Volume V of the manual.~~

#### **Additional Requirements**

~~The discharge of untreated stormwater from pollution-generating impervious surfaces to ground water is not authorized, except for the discharge achieved by infiltration or dispersion of runoff from residential sites through use of On-site Stormwater Management BMPs.~~

(Ord. 2009-13 § 5, 2009: Ord. 2005-10 § 5, 2005: Ord. 2001-49 § 2, 2001; Ord. 98-31 § 1, 1999)

#### **15.20.070 Administration.**

A. Administrator. The public works director or a designee shall administer this chapter and shall be referred to as the administrator. The administrator shall have the authority to develop and implement administrative procedures to administer and enforce this chapter.

B. Review and Approval. The administrator may approve, conditionally approve or deny an application for activities regulated by this chapter.

C. Enforcement Authority. The administrator shall enforce this chapter.

D. Inspection. All activities regulated by this chapter shall be inspected by the administrator. The administrator shall inspect projects at various stages of the work requiring approval to determine that adequate control is being exercised. Stages of work requiring inspection include, but are not limited to,

1. Prior to clearing and construction (preconstruction) to ensure that clearing limits, sensitive areas and their buffers, and trees that are to be preserved have been clearly marked;

2. During construction to verify proper installation and maintenance of erosion and sediment control BMPs, maintenance of clearing limits, and protection of trees that are to be preserved;

3. Every 6 months during construction for new residential development until 90% of the lots are constructed (or when construction has stopped and the site is fully stabilized) to identify maintenance needs for permanent stormwater facilities;

4. Upon completion of construction and prior to final approval or occupancy to ensure proper installation of ~~land-disturbing activities, installation of utilities, permanent storm water~~ stormwater control facilities, landscaping, retaining walls and completion of project; and

5. Ongoing annual inspections of permanent stormwater facilities designed to meet Minimum Requirement #6 (Runoff Treatment) and/or Minimum Requirement #7 (Flow Control) per BIMC 15.21.

When required by the administrator, a special inspection and/or testing shall be performed. (Ord. 2009-13 § 6, 2009: Ord. 2005-10 § 6, 2005: Ord. 98-31 § 1, 1999)

#### **15.20.080 Enforcement.**

A. Failure to Comply. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter.

B. Emergency Access and Reparation. In the event the violation constitutes an immediate danger to public health or safety, the administrator is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. Any expense related to such remediation undertaken by the city shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the city from seeking further relief or applying other penalties as provided in this chapter.

C. Civil Infraction. Except as provided in subsection D of this section, conduct made unlawful by this chapter shall constitute a civil infraction and is subject to enforcement and fines as provided in BIMC 1.26.035. A civil infraction under this section shall be processed in the manner set forth in Chapter 1.26 BIMC.

D. Misdemeanor. Any person who, ~~having been found again violates this chapter within 12 months after having been found by the Bainbridge Island municipal court to be~~ in violation of this chapter, ~~fails once again to abide by its regulations,~~ commits a misdemeanor and ~~is subject to the penalties any person who is convicted thereof shall be punished as~~ provided in BIMC 1.24.010.A.

E. Civil Penalty. In addition to any civil infraction fine, criminal penalty, and/or other available sanction or remedial procedure, any person engaging in conduct made unlawful by this chapter shall be subject to a cumulative civil penalty in the amount of \$1,000 per day for each violation from the date set for compliance until the date of compliance. Any such civil penalty shall be collected in accordance with BIMC 1.26.090.

F. Additional Remedies.

1. In addition to any other remedy provided by this chapter or under the Bainbridge Island Municipal Code, the city may initiate injunction or abatement proceedings or any other appropriate action in courts against any person who violates or fails to comply with any provision of this chapter to prevent, enjoin, abate, and/or terminate violations of this chapter and/or to restore a condition which existed prior to the violation. In any such proceeding, the person violating and/or failing to comply with any provisions of this chapter shall be liable for the costs and reasonable attorneys' fees incurred by the city in bringing, maintaining and/or prosecuting such action.

2. Any person who violates any provision of this chapter may also be in violation of the Federal Clean Water Act, NPDES Phase II permit, and/or Chapter 90.48 RCW and may be subject to sanctions including civil and criminal penalties. Any enforcement action authorized under this chapter shall also include written notice to the violator of such potential liability. (Ord. 2009-13 § 7, 2009: Ord. 2005-10 § 7, 2005: Ord. 98-31 § 1, 1999)

**15.20.090 Exceptions and appeals.**

*Repealed by Ord. 2009-13. (Ord. 2005-10 § 8, 2005: Ord. 2003-25 § 6, 2003; Ord. 98-31 § 1, 1999)*

**15.20.100 Severability.**

*Repealed by Ord. 2003-24. (Ord. 98-31 § 1, 1999)*

## Chapter 15.21

### ~~STORM WATER~~STORMWATER FACILITIES MAINTENANCE PROGRAM

Sections:

- 15.21.010 Purpose.
- 15.21.020 Definitions.
- 15.21.030 General provisions.
- 15.21.040 General requirements.
- 15.21.050 Administration.
- 15.21.060 Inspection program.
- 15.21.070 Enforcement.
- 15.21.080 Repealed.

#### **15.21.010 Purpose.**

The purpose of this chapter is to ensure maintenance of all ~~storm water~~stormwater facilities within the city and to set minimum standards for the inspection and maintenance of ~~storm water~~stormwater facilities. The provisions of this chapter are intended to:

- A. Provide for inspection and maintenance of ~~storm water~~stormwater facilities in the city to provide for effective and functional ~~storm water~~stormwater drainage systems.
- B. Authorize the city, through the public works department, to require that ~~storm water~~stormwater facilities be operated, maintained and repaired in conformance with this chapter.
- C. Establish the minimum level of compliance.
- D. Guide and advise all who conduct inspection and maintenance of ~~storm water~~stormwater facilities. (Ord. 98-42 § 1, 1999)

#### **15.21.020 Definitions.**

For the purposes of this chapter, the following definitions ~~shall~~ apply:

A. "Best management practice (BMP)," means physical, structural, and/or managerial practices that, when used ~~in-~~the singular~~singly~~ or in combination, prevent ~~and/or~~ reduce ~~pollution of water, and have been approved by the-~~Washington State Department of Ecology. BMPs are listed and described in the storm water management manual~~the~~release of pollutants and other adverse impacts to waters of Washington State.

B. *Repealed by Ord. 2003-22.*

C. "Minimum Requirement" means one of nine minimum requirements for stormwater management that are applicable to new development and redevelopment projects as defined in the stormwater manual adopted in BIMC 15.20.050.

D. "Property owner" means any person having title to and/or responsibility for, a building or property, including an owner, a lessee, guardian, receiver or trustee, and the owner's duly authorized agent.

~~EC.~~ "Storm water~~Stormwater~~" means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland, interflow, channels or pipes into a defined surface water channel, or a constructed infiltration facility.

~~FD.~~ "Storm water~~Stormwater~~ drainage system" means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat or filter ~~storm-~~water~~stormwater~~.

GE. “~~Storm water~~Stormwater facility” means a constructed component of a ~~storm water~~stormwater drainage system, designed or constructed to perform a particular function, or multiple functions, including but not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catchbasins, oil/water separators, sediment basins and modular pavement.

HF. “~~Storm water~~Stormwater management manual (stormwater manual)” means the manual adopted in BIMC 15.20 ~~by reference and prepared by the Washington State Department of Ecology which contains BMPs to prevent or reduce pollution.~~

I. “Waters of the State” includes those waters as defined as “waters of the United States” in 40 CFR Subpart 122.2 within the geographic boundaries of Washington State and “waters of the state” as defined in chapter 90.48 RCW which includes lakes, rivers, ponds, streams, inland waters, groundwaters, salt waters and all other surface waters and water courses within the jurisdiction of the State of Washington.

(Ord. 2003-22 § 23, 2003; Ord. 98-42 § 1, 1999)

#### **15.21.040 General requirements.**

A. Maintenance Required. Maintain a~~All~~ ~~storm water~~stormwater facilities ~~shall be maintained~~ in accordance with this chapter and the ~~storm water~~stormwater ~~management~~ manual. Systematic, routine preventive maintenance is preferred.

B. Minimum Standards. The following are the minimum standards for the inspection and maintenance of ~~storm-~~waterstormwater facilities:

1. Annual inspections of stormwater treatment and flow control ~~Facilities designed to meet Minimum Requirements #6 and/or #7 in the stormwater manual are required to be performed by a qualified third party contractor~~~~shall be inspected annually and cleared of debris, sediment and vegetation when they effect the functioning and/or design capacity of the facility.~~

2. Property owners are responsible for clearing debris, sediment and vegetation from their stormwater facility when these affect the functioning and/or design capacity.

~~3. Grassy~~ Property owners are responsible for inspecting biofiltration swales ~~and other biofilters shall be inspected~~ monthly and mowing~~mowed~~ or replanting~~replanted~~ as necessary. Clippings are to be removed and properly disposed of. Additional maintenance criteria are included in the stormwater manual.

4. Bioretention/rain garden routine maintenance includes, but is not limited to, weeding, removal of noxious weeds, clearing vegetation within 1 foot of inlets/outlets, replenishment of mulch, and irrigation during the summer months and as needed during prolonged dry periods. Additional maintenance criteria are included in the stormwater manual.

5. Permeable pavement routine maintenance includes, but is not limited to, cleaning surface debris at a minimum of once or twice per year. Additional maintenance criteria are included in the stormwater manual.

~~6.3.~~ Where lack of maintenance is causing or contributing to a water quality problem, take immediate action shall be taken to correct the problem. Within one month, after initial recognition of problem, the city inspector or designee will conduct a follow-up inspection~~shall revisit the facility to assure to ensure~~ that the problem has been addressed~~rectified~~.

C. Disposal of Waste from Maintenance Activities. Dispose~~Disposal~~ of waste from maintenance activities ~~shall be conducted~~ in accordance with the minimum Functional Standards for Solid Waste Handling, Chapter 173-304 WAC, guidelines for disposal of waste materials from ~~storm water~~stormwater maintenance activities, and where appropriate, the Dangerous Waste Regulations, Chapter 173-303 WAC.

D. Compliance. Property owners are responsible for the inspection, maintenance, operation and/or repair of ~~storm-~~waterstormwater drainage systems and BMPs located on their property. Property owners shall inspect, maintain, operate and repair these facilities in compliance with the requirements of this chapter and the ~~storm water-~~managementstormwater manual. Property owners shall hire, at the owner’s expense, a qualified third party

contractor to conduct inspections and submit annual inspection reports to the City for any stormwater facilities designed to meet Minimum Requirements #6 and/or #7. (Ord. 98-42 § 1, 1999)

**15.21.050 Administration.**

A. Director. The public works director, and/or designee, shall administer this chapter and shall be referred to as the director. The director shall have the authority to develop and implement administrative procedures to administer and enforce this chapter.

B. Inspection Authority. The director is directed and authorized to develop an inspection program for ~~storm-~~waterstormwater facilities in the city.

C. Enforcement Authority. The director shall enforce this chapter. (Ord. 98-42 § 1, 1999)

**15.21.060 Inspection program.**

A. Inspection. Whenever implementing the provisions of the inspection program, or whenever there is cause to believe that a violation of this chapter has been or is being committed, the inspector is authorized to inspect all ~~storm-~~waterstormwater drainage systems within the city in accordance with Chapter 1.16 BIMC.

B. Procedures. The method of entry onto property to perform duties imposed by this chapter shall be in accordance with Chapter 1.16 BIMC.

C. Inspection Schedule. The director shall establish a master inspection and maintenance schedule to inspect appropriate ~~storm-water~~stormwater facilities that are not owned or operated by the city. Inspections shall be annual. Critical ~~storm-water~~stormwater facilities may require a more frequent inspection schedule.

D. Inspection and Maintenance Records. As existing ~~storm-water~~stormwater facilities are encountered, they shall be added to the master inspection and maintenance schedule. Records of new ~~storm-water~~stormwater facilities shall include the following:

1. As-built plans and locations;
2. Findings of fact from any exemption granted by the local government;
3. Operation and maintenance requirements and records of inspection maintenance actions and frequencies;
4. Declaration of covenant associated with maintenance and operation of storm drainage facilities. See “Exhibit A” following this chapter; and
5. Engineering reports, as appropriate.

E. Reporting Requirements. The inspector shall report annually to the director of public works about the status of the ~~storm-water~~stormwater facilities inspections. The annual report may include, but not be limited to, the proportion of the components found in and out of compliance, the need to upgrade components, enforcement actions taken, compliance with the inspection schedule, the resources needed to comply with the schedule, and comparisons with previous years. (Ord. 2003-28 § 3, 2003; Ord. 98-42 § 1, 1999)

**15.21.070 Enforcement.**

A. General. Enforcement action, as provided by Chapter 1.26 BIMC, shall be taken whenever a person has violated any provision of this chapter.

B. Orders. The director or designee shall have the authority to issue to an owner or person in control of a ~~storm-~~waterstormwater facility deemed to be in violation of this chapter, an order to maintain or repair a component of a ~~storm-water~~stormwater facility or BMP to bring it in compliance with this chapter, the ~~storm-water~~stormwater ~~management~~ manual and/or city regulations. The order shall include:

1. A description of the specific nature, extent and time of the violation and the damage or potential damage that reasonably might occur;

2. A notice that the violation or potential violation cease and desist and, in appropriate cases, the specific corrective actions to be taken;
3. A reasonable time to comply, depending on the circumstances.

C. Civil Penalty. A person who fails to comply with the requirements of this chapter or who fails to conform to the terms of an approval or order issued shall be subject to civil penalties as provided for in the BIMC 1.26.090. (Ord. 98-42 § 1, 1999)

**15.21.080 Severability.**

*Repealed by Ord. 2003-24. (Ord. 98-42 § 1, 1999)*

EXHIBIT A

DECLARATION OF COVENANT ASSOCIATED WITH MAINTENANCE  
AND OPERATION OF STORM DRAINAGE FACILITIES

Grantor: \_\_\_\_\_ Additional Grantor: \_\_\_\_\_

Grantee: \_\_\_\_\_ Additional Grantee: \_\_\_\_\_

Legal Description \_\_ 1/4 \_\_ 1/4sec \_\_ T \_\_ R \_\_ W.M. Additional Legal:  
\_\_\_\_\_

Assessor's Tax Parcel #: \_\_\_\_\_ Additional #: \_\_\_\_\_

Reference Auditor File #: \_\_\_\_\_ Additional #: \_\_\_\_\_

Whereas the city of Bainbridge Island, a political subdivision of the State of Washington, has rights under city ordinances, codes, and Washington State statutes to regulate ~~storm-~~  
~~water~~stormwater drainage, and The City of Bainbridge Island, Department of Public Works has issued a permit number \_\_\_\_\_ for the development known as \_\_\_\_\_ which contains on-site stormwater facilities.

The Grantors, hereinafter known as the owner(s) of the real property situated in the City of Bainbridge Island, State of Washington, and legally described as follows:

The owner(s), their heirs, successors or assigns, hereby covenant and agree that:

1. The City of Bainbridge Island, or its designee, shall have the right to ingress and egress over the above described property for the purpose of inspecting, sampling and monitoring stormwater facility components and discharges.
2. If, at any time, the City of Bainbridge Island reasonably determines that maintenance or repair work is required to be done to the existing and accepted stormwater facilities installed on the property described above (which will mean repair or clean out existing facilities only to the same standards as originally installed and accepted), the COBI City Engineer or his/her designee shall give the Owner(s) seven (7) days' notice that the City intends to perform such maintenance or repair work, or to have them performed by others. If the owner(s) have not completed or are not diligently pursuing the maintenance or repair work to the facilities and it becomes necessary for the City to perform the work, the Owner(s) will assume responsibility for the cost of such maintenance or repair work and will reimburse the City within thirty (30) working days of receipt of the invoice for any such work performed. Overdue payments will require payment of interest at the current legal rate for liquidated judgments, and any costs or fees incurred by the City, should any legal action be required to collect such payments, will be borne by the parties responsible for said reimbursements.

3. If, at any time, the City reasonably determines that the existing and accepted stormwater facilities installed on the property described above poses a hazard to life and limb, or endangers property, or adversely affects the safety and operations of public way, due to failure, damage or non-maintenance, and that the situation is so adverse as to preclude written notice to the Owner(s), the City Engineer may take the measures necessary to eliminate the hazardous situation (which will mean repair or clean out of the existing facilities only to the same standards as originally installed and accepted), provided the Director, or his/her designee, has first made a reasonable effort to locate said Owner(s) before acting. The Owner(s) will assume responsibility for the cost of such maintenance or repair work and will reimburse the City within thirty (30) days of receipt of the invoice for any such work performed. Overdue payments will require payment of interest at the current legal rate for liquidated judgments, and any costs or fees incurred by the City, should any legal action be required to collect such payments, will be borne by the parties responsible for said reimbursements.

4. The Owner(s) will keep the City informed at all times as to the name, address and telephone number of the contact person responsible for the performance of maintenance or repair work to the storm drainage facilities.

5. The Owner(s) agree to hold harmless and indemnify the City or its designee from any and all claims arising from any activity the City undertakes on the property described above if it becomes necessary for the City to conduct maintenance or repair work.

These covenants are intended to protect the value and desirability of the real property described above, and to benefit all the citizens of the City of Bainbridge Island. They shall run with the land and be binding on all parties having or acquiring from the Owner(s), their heirs, successors or assigns, any right, title or interest in the property or any part thereof. They shall inure to the benefit of each present or future successor in interest of said property or any part thereof, or interest therein, and to the benefit of all the citizens of the City of Bainbridge Island.

\_\_\_\_\_  
Owner    Date

\_\_\_\_\_  
Owner    Date