



**LACEY CITY COUNCIL
WORKSESSION
THURSDAY, DECEMBER 9, 2021
4:00 P.M.
REMOTE ATTENDANCE**

The Lacey City Council Worksession will be conducted remotely, not in-person. However, you may view the meeting by watching live through Zoom (<https://us02web.zoom.us/j/86840767268>)

NEW: Watch live or as a recording on YouTube (<https://youtu.be/8F7uUySxBsE>).

The public may also listen to the meeting via telephone by dialing toll-free: **(888) 788-0099** or **(877) 853-5247** - when prompted enter Webinar ID **868 4076 7268**

AGENDA

4:00 TOGETHER! HOST HOMES PROGRAM

*MEAGAN DARROW, EXECUTIVE DIRECTOR
(PRESENTATION)*

4:30 TREE REGULATIONS FOR HOA's – LMC 14.32

*RYAN ANDREWS, PLANNING MANAGER
(STAFF REPORT)*

**5:00 HOUSING IMPLEMENTATION: LOW DENSITY ZONE CONSOLIDATION, FEE
WAIVER FOR AFFORDABLE HOUSING, MULTI-FAMILY TAX EXEMPTION
EXTENSION**

*RICK WALK, COMMUNITY & ECONOMIC DEVELOPMENT DIRECTOR
GRANT BECK, PLANNING & DEVELOPMENT SERVICES MANAGER
RYAN ANDREWS, PLANNING MANAGER
(STAFF REPORT)*

6:00 MEMORANDUM OF UNDERSTANDING FOR CDBG 2022-2024

*SHANNON KELLEY-FONG, ASSISTANT CITY MANAGER
(STAFF REPORT)*

6:15 TEMPORARY PROCEDURES - COUNCIL MEETING TIMES AND HYBRID MEETINGS

SCOTT SPENCE, CITY MANAGER
(DISCUSSION)

6:30 ADJOURN



LACEY CITY COUNCIL WORKSESSION

December 9, 2021

SUBJECT: Tree Protection Regulations

RECOMMENDATION: Receive a follow-up briefing on proposed revisions to LMC 14.32 for homeowners' association open spaces and commercial property associated with the update to the Urban Forest Management Plan. The regulations will be formally considered by the City Council at a future meeting.

STAFF CONTACT: Scott Spence, City Manager *SS*
Rick Walk, Community and Economic Development Director *RW*
Ryan Andrews, Planning Manager *RA*

ORIGINATED BY: Community and Economic Development Department

ATTACHMENTS: 1. [Planning Commission Recommendation for amendments to LMC 14.32](#)
2. [Alternative amendments to LMC 14.32](#)

FISCAL NOTE: None.

PRIOR REVIEW: 09/09/21 Council Worksession
07/08/21 Council Worksession
06/15/21 Planning Commission
06/01/21 Planning Commission
05/25/21 Land Use Committee
05/18/21 Planning Commission Public Hearing
05/04/21 Planning Commission
07/09/20 Planning Commission
06/23/20 Land Use Committee
02/14/20 Planning Commission
02/04/20 Planning Commission

BACKGROUND:

The Urban Forest Management Plan (UFMP) is the overarching policy document that guides the City's urban forestry vision and efforts. The implementation regulations for tree protection are contained in LMC 14.32 and have been reviewed and amended concurrently with the UFMP review and update. This plan and regulations are reviewed periodically and

amended per stakeholder feedback. Over the past few years a number of tree policy issues were brought to the Council by residents and business owners. One specifically was a review of our tree regulations regarding removing healthy trees in homeowners' association open spaces. Currently, a Land Clearing Permit Application may be submitted to remove a healthy tree from an HOA open space, but if the tree is determined to be healthy by the City's Tree Protection Professional (contract forester), then the permit is denied. The regulations do not currently have criteria for allowing removal.

To assist the Planning Commission in developing recommendations for changes to the Urban Forest Management Plan and tree regulations, a tree task force was established. The tree task force represented a broad range of interests including homeowners associations, commercial property owners, residential development, environmental protection, residential property owners, and a representative from the Planning Commission.

The tree task force reviewed proposed amendments on April 22, 2021, and were in general agreement about most of the proposed amendments. The Planning Commission reviewed the proposed amendments May 4, 2021. Both the task force and Planning Commission did not have full consensus on the issue of healthy tree removals in HOA open spaces at that time.

A public hearing was held May 18, 2021. Comments received were not supportive of proposed amendments to the exemptions section of the regulations that would make it easier for healthy trees in HOA open spaces to be removed. The Planning Commission held a Worksession June 1, 2021, and made a unanimous recommendation to City Council on proposed amendments. The recommendation did not include any new HOA open space tree removal provisions.

Council reviewed the Planning Commission's recommended amendments at the July 7, 2021, Worksession and requested staff to draft a proposed permit process and criteria to remove a healthy tree from an HOA open space, outside of the exemptions section of the regulations.

During the September 09, 2021, Council Worksession, questions were raised regarding commercial property owners and their tree removal options. In response, staff has prepared draft regulations for review that address criteria on a number of issues related to a potential permit process for both HOAs and commercial properties. Staff will review the options with Council and schedule the amendments for formal consideration at a future Council meeting.

ADVANTAGES:

1. Periodic updates to long-range plans and implementation regulations provide opportunity for public engagement, inclusion of the most current data, and resolution of issues since the previous update.

DISADVANTAGES:

1. The proposed regulations related to HOA open spaces and commercial properties lack consensus from the tree advisory board, the Planning Commission, and the public.

Chapter 14.32

TREE AND VEGETATION PROTECTION AND PRESERVATION

****PLANNING COMMISSION RECOMMENDATION****

Sections:

14.32.010	Short title
14.32.020	Purposes and permit criteria
14.32.030	Definitions
14.32.035	The city's tree protection professional
14.32.040	Permits
14.32.045	Class IV forest practice applications
14.32.050	Exemptions
14.32.060	Application for permits
14.32.062	<i>Repealed</i>
14.32.063	Conformance to standards
14.32.064	Tree tract requirements
14.32.065	Tree replacement in tree tracts
14.32.066	Tree replacement and establishment of new trees on lots
14.32.067	Street tree requirements
14.32.068	Solar access considerations
14.32.069	Revegetation option
14.32.070	Additional considerations for commercial developments
14.32.072	Historical tree(s)
14.32.073	Financial security
14.32.080	Appeals
14.32.090	Violations
14.32.095	Requirements for foresters and contractors doing land clearing work in Lacey
14.32.100	Severability

14.32.010 Short title.

This chapter shall be known and may be cited as the Tree and Vegetation Protection /Urban Forest Management regulations of the city of Lacey. (Ord. 1269 §3, 2006; Ord. 904, 1991; Ord. 399 §1 (part), 1975).

14.32.020 Purposes and permit criteria.

These regulations are adopted for the following purposes and these purposes are to be used as criteria for the issuance of land clearing permits under LMC [14.32.040](#):

- A. To implement strategies for the management and protection of Lacey's urban forest resources pursuant to the goals and policies of the Lacey Urban Forest Management Plan;
- B. To implement the purposes of the State Growth Management Act relating to conservation of natural resources, including Lacey's urban forest resources, pursuant to RCW [36.70A.050](#), [36.70A.060](#) and [36.70A.080](#);
- C. To implement the purposes of the State Growth Management Act pursuant to RCW [36.70A.172](#), considering the many environmental benefits of the urban forest as described in Lacey's Urban Forest Management Plan;
- D. To promote the public health, safety, and general welfare of the citizens of Lacey without preventing the reasonable development of land;
- E. To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover and to insure the protection of trees chosen to remain during construction;
- F. To minimize surface water and ground water runoff and diversion and to prevent erosion and reduce the risk of slides;
- G. To retain and utilize trees to assist in site planning, considering the abatement of noise, visual screening, protection from wind, and other site design issues;
- H. To acknowledge that trees and ground cover have significant environmental and quality of life benefits as identified in Lacey's Urban Forest Management Plan, such as the production of pure oxygen from carbon dioxide, the reduction of air pollution, help in providing clean water, control of soil erosion, use in design for energy efficiency and temperature control, noise attenuation, and wildlife habitat;
- I. To promote building and site planning practices that are consistent with the city's natural topography, soils, and vegetation features. At the same time certain factors may require the removal of certain trees and ground cover for things such as, but not limited to disease, danger of falling, proximity to existing and proposed structures and improvements, interference with utility services, ~~protection of scenic views~~, protection of solar access and the realization of a reasonable enjoyment of property;
- J. To insure prompt development, restoration, replanting, and effective erosion control of property after land clearing;
- K. To reduce water pollution from siltation in the city's streams and lakes;

- L. To implement the goals and objectives of the Washington State Environmental Policy Act;
- M. To implement and further the City's Comprehensive Land Use Plan and its Environmental Protection and Resource Conservation Element;
- N. To encourage protection of wildlife and/or wildlife habitat whenever possible. (Ord. 1269 §4, 2006; Ord. 904, 1991; Ord. 650 §1, 1982; Ord. 399 §1 (part), 1975).

14.32.030 Definitions.

- A. "Brushing" means the practice of removing ground cover to create better visibility on a property for purposes such as marketing or surveying of said property.
- B. "Caliper" is the standard for trunk measurement of nursery stock. Caliper of the trunk shall be the trunk diameter measured six inches above the ground for up to, and including, four-inch caliper size and twelve inches above the ground for larger sizes.
- C. "City" means the city of Lacey, Washington.
- D. "Class IV forest practice activity" is a timber harvest, thinning or other activity as established in the Washington State Department of Natural Resources Forest Practices Regulations, whereby a property owner is allowed to harvest a limited amount of timber from their property within the city of Lacey, while still maintaining their rights to convert their property to a use inconsistent with growing timber.
- E. "DBH" is the diameter at breast height, measured four and one-half feet above the groundline on the high side of the tree.
- F. "Director" means director of community and economic development or his/her designee.
- G. "Drip line" of a tree is located by the vertical projection of a line at the tips of the outermost branches.
- H. "Ground cover" means grass, forbs, shrubs, and trees less than four inches in diameter measured four and one-half feet above the ground level (DBH).
- I. "Hazard tree" means any tree that is dead, dying, damaged, diseased, or structurally defective, recently exposed by adjacent clearing, or some other factor that will subject the tree to failure, and the tree could reasonably reach a target, as determined by the tree protection professional.
- J. "Historical tree" is a tree or group of trees designated as such by the city because of its historical value to the residents of the city.
- K. "Land clearing" means the direct and indirect removal of trees and/or ground cover from any public or private undeveloped, partially developed, or developed lot, public lands or public right-of-way. This shall also

include any destructive or inappropriate activity applied to a tree that will result in its death or effectively destroy the tree's appearance and/or functionality, such as topping.

~~K. "Historical tree" is a tree or group of trees designated as such by the city because of its historical value to the residents of the city.~~

L. "Root protection zone" is an area around the tree to be saved equal to one foot of radius for each one inch of tree diameter measured four and one-half feet above the ground line (DBH), unless otherwise designated by the city's tree protection professional.

M. "Site disturbance" is any action that requires a city of Lacey building permit.

N. "Specimen tree" is a tree that is unique or rare because of its exceptional size or quality, species, or value in a particular location.

O. "Topping" is the indiscriminate placement of cuts to reduce a tree's size. Topping is not an acceptable pruning practice in the city of Lacey.

P. "Tree" means any living woody plant characterized by one main stem or trunk and many branches, and having a diameter of four inches or more measured at four and one-half feet above the ground level (DBH).

Q. "Tree protection professional" is a certified professional with academic and/or field experience that makes him or her a recognized expert in urban forestry and tree protection during development. A tree protection professional shall be a member of the Society of American Foresters (SAF), the Association of Consulting Foresters of America (ACF), the American Society of Consulting Arborists (ASCA), or the International Society of Arboriculture (ISA), and shall have specific experience with urban tree management in the state of Washington. Additionally the tree protection professional shall be an ISA Certified Arborist or an ASCA Registered Consulting Arborist with the necessary training and experience to use and apply the International Society of Arboriculture's Guide for Plant Appraisal and to professionally provide the necessary expertise relating to management of urban trees specified in this chapter.

R. "Tree tract" is a portion of land designated for the preservation and protection of existing trees or the planting of new trees to maintain tree canopy at a development site. The tree tract shall be a separate designated lot(s) shown on the plat map, binding site plan, or site plan review map, and shall be recorded with appropriate description of purposes and restrictions. Restrictions applied to the tree tract will not allow any use other than the growing of trees in the tract, and will reserve the tract for the protection and preservation of trees in perpetuity. Tree tracts can be used for other open space uses when the uses are compatible with trees and will not impact tree health. The tract will be dedicated to, and owned and maintained by, the homeowners' or lot owners' association, or comparable entity. The tract may be dedicated to the city of Lacey for maintenance if approved by the city. Creation of tree tracts to save the best trees on a site may require modifications to the street locations, lot designs and/or other features of the site plan. (Ord. 1539 §19, 2019; Ord. 1417 §7, 2013; Ord. 1269 §5, 2006).

14.32.035 The city's tree protection professional.

The city shall contract with one or more professionals that qualify as a tree protection professional under the definition of this chapter. Said professional or professionals shall be responsible for providing the information and services required of a tree protection professional described herein.

Individual applicants will be responsible for payment of the costs and fees of the designated tree protection professional for projects necessitating work to be performed by the tree protection professional in accordance with Table [14T-66](#). The city shall be responsible for billing and collecting costs and fees charged to the applicant and transferring said payment to the tree protection professional unless the city has opted for some other mechanism of providing for the costs and fees, such as inclusion of such costs and fees in the schedule of application fees. (Ord. 1417 §8, 2013; Ord. 1269 §6, 2006; Ord. 1219 §2, 2004; Ord. 904, 1991; Ord. 650 §2, 1982; Ord. 399 §1 (part), 1975).

14.32.040 Permits.

No person, corporation, or other legal entity shall engage in timber harvesting or cause land clearing in the city without having complied with one of the following:

- A. Received a land clearing permit from the director;
- B. Having obtained approval of the proposed work under the processes described in LMC [14.32.050\(A\)](#);
- C. Having received an exemption from the director under the provisions of LMC [14.32.050](#). In such cases an exemption notice shall be required for posting at the site. (Ord. 1269 §7, 2006; Ord. 904, 1991; Ord. 545 §1, 1979; Ord. 517 §1, 1979; Ord. 399 §1 (part), 1975).

14.32.045 Class IV forest practice applications.

A. **Urban growth area.** Properties within the urban growth area are anticipated to be available for development with urban uses within the next twenty-year period. Pursuant to RCW [76.09.070](#) lands within the urban growth area are not considered appropriate for long-term timber production and harvesting which takes a full forty-year cycle. Forest management activities shall be consistent with the city's Comprehensive Land Use Plan and implementing regulations for the urban growth area. Forest management activities shall promote the goals and policies of the Lacey Urban Forest Management Plan. Forest practice applications shall meet the requirements specified in subsections [B](#), [C](#), [D](#) and [E](#) of this section.

B. **Conversions and timing.** Because conversion of properties within the urban growth area can reasonably be expected, significant land clearing of such properties shall only take place at the time of a valid land use

application. Tree tracts, open spaces and buffers can then be properly coordinated with the actual development plans.

To further the purposes, goals, and policies of the Urban Forest Management Plan, timber harvesting and conversion of forested lands within the urban growth area shall not be permitted until such time as a valid land use application for development is made; provided, however, requests may be made for maintenance and thinning of existing timber stands to promote the overall health and growth of the stand until said stand is converted and harvested pursuant to plans provided within a valid land use permit.

C. **Maintenance and thinning.** Class IV forest practice applications and applications for maintenance and thinning shall be reviewed by the city's tree protection professional who shall make recommendations on the request to the ~~land clearing~~[Site Plan Review](#) committee. Recommendations shall ensure that action shall improve the health and growth of the stand and preserve long-term tree protection alternatives to meet the goals of this chapter.

D. **Selective thinning limited.** Thinning activities shall be strictly limited to less than thirty-five percent of the volume every ten years. High grading or top-down thinning shall not be permitted. The remaining stand of trees should be healthy, long-term trees from the dominant and co-dominant crown classes. The stand shall be marked prior to the selective thinning operation, indicating which trees will be removed and saved.

E. **Processing of applications.** Class IV forest practice applications shall be processed concurrently with, and using the same process as, the underlying land use application. Should there be no underlying land use application, the Class IV forest practice application shall be processed in accordance with the full administrative review procedures in Chapter 1 of the City of Lacey Development Guidelines and Public Works Standards. (Ord. 1417 §9, 2013; Ord. 1269 §8, 2006; Ord. 904, 1991).

14.32.050 Exemptions.

The following shall be exempt from land clearing permit requirements of this chapter but shall satisfy all standards and requirements of LMC [14.32.065](#) and other sections as noted below:

A. **Coordination with land use applications.** Projects requiring approval of the city of Lacey site plan review committee under Chapter [16.84](#) LMC, or projects requiring review by the hearings examiner or city council; provided, that land clearing on such projects shall take place only after approval and shall be in accordance with such approval and the standards of this chapter including the information requirements and standards of LMC [14.32.060](#).

B. **Hazard trees.** Removal of hazard trees in emergency situations involving immediate danger to life or property as determined by the city's tree protection professional.

C. **Unhealthy trees and groundcovers.** Removal of obviously dead or diseased trees or ground cover which may be a fire hazard as determined by the city's tree protection professional.

D. **Individual lot exemption.** Removal of trees on individual lots where tree density minimums are maintained per Table 14T-18. ~~of no more than five trees in any thirty-six consecutive months or ground cover for the purposes of solar access, general property and utility maintenance, landscaping or gardening, provided a minimum tree threshold is maintained pursuant to LMC 14.32.066, and provided further this exemption does not apply to historical trees or trees and ground cover in an area designated as environmentally sensitive. For removal requests for more than five trees, review must be completed prior to permit issuance by the City's tree protection professional. The purpose of the tree protection professional review is to evaluate tree health, site conditions and provide technical guidance and education to residents.~~ An exemption must be issued by the city of Lacey prior to the removal of trees under this exemption provision.

E. **Building footprint.** Removal of trees and ground cover within a maximum of ten feet (when required for construction) of the perimeter of the building line and any area proposed to be cleared for driveway, septic, sewer and water purposes, of a single-family or duplex dwelling to be constructed as indicated on the plot plan submitted to the building official with an application for a building permit; provided, however, the director may require minor modifications in siting and placement of driveways, utilities and septic tank drain field systems and sewer and water lines where such modifications will promote the goals of the chapter and still satisfy the need and function of improvements.

F. **Clear vision.** Removal of obstructions required by the vision clearance at intersections regulations of Chapter Four of the Development Guidelines and Public Works Standards. (Ord. 1417 §10, 2013; Ord. 1269 §9, 2006; Ord. 904, 1991; Ord. 650 §4, 1982; Ord. 399 §1 (part), 1975).

G. **City owned property.** Tree assessment, removal and replacement of trees on city owned property.

14.32.060 Application for permits.

A. *Pre-Submission Conference.* Prior to application for land use permits and actions such as a land division, commercial site plan review (SPR), or a conditional use permit (CUP), a pre-submission conference shall be required consistent with the requirements of chapter one of the Development Guidelines and Public Works Standards. The pre-submission conference is designed to review the proposed action and identify permit requirements and issues an applicant may incur if the project is implemented. As part of this review it should be made clear that the city of Lacey has an Urban Forest Management Plan and tree protection regulations that require early consideration of tree protection options, and that urban forest concepts and strategies shall be part of the early design considerations for new projects. Location and design of major infrastructure, buildings, and planned uses must consider the tree protection opportunities to further the purposes of the Urban Forest Management Plan.

B. *Applicable Requirements.* An application for a land clearing permit or information required by this chapter shall be submitted at the same time as a valid land use application or building permit on a form provided by the city and shall be accompanied by such of the following documents and information as are determined to be necessary by the director:

1. *Site Plan.* Copies of the site plan, pursuant to requirements of chapter one of the Development Guidelines and Public Works Standards, which shall include the following information:

- a. Name, address, and telephone number of the applicant and owner of property;
- b. Legal description of property;
- c. Date, north arrow, and adequate scale, as determined by the director, on the map or plot plan;
- d. Topography map showing contours at not greater than ten-foot intervals of proposed clearing projects within areas of steep slopes, creeks and shorelines;
- e. Location of proposed improvements, including, but not limited to, structures, roads, driveways, utilities, and storm drainage facilities. Said improvement locations shall also be staked on site to enable the city's tree protection professional and other city staff to review improvement locations and their relationship to the site and existing vegetation;
- f. Approximate and general location, type, size and condition of trees and ground cover and a general identification of trees and ground cover which are to be removed.

2. *Tree Protection Professional Report.* On forested property greater in size than one acre or commercial property with one or more trees, or other sites the city deems it necessary because of special circumstances or complexity, the city's tree protection professional shall review the site and provide a report analyzing the site for tree protection consistent with the requirements of this chapter. The report should provide information important to urban forest management and options for consideration when developing preliminary designs. The report should suggest options for design to best achieve the purposes of the Urban Forest Management Plan and this chapter. The report shall include but shall not be limited to:

- a. Information required under subsections [\(B\)\(1\)](#) through [\(7\)](#) of this section;
- b. An analysis of technical information requested by the review body related to trees and forest practices;
- c. Analysis of what portion of the site is best for designation of the tree tract if required, considering the intent of this chapter, soil type, topography, tree species, health of trees and reasonable project design limitations;
- d. Recommendations for saving of individual tree specimens based upon the intent of this chapter, soil type, topography, tree species, health of trees, and reasonable project design limitations;

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- e. A plan for protection of trees to be saved during construction including placement of construction fences, monitoring of construction activity and other measures necessary to ensure adequate tree protection;
 - f. Consideration of the location of roads, other infrastructure, and buildings and potential options for alternative locations, if applicable, to best satisfy the purposes of the Urban Forest Management Plan;
 - g. A timeline for tree protection activity;
 - h. The final tree protection plan should be prepared on the site grading plan. All tree protection fences, trees to be saved, and trees to be removed should also be shown on the site demolition plan. Necessary save-tree pruning and selective thinning within tree tracts shall be detailed and trees marked as such. The tree protection plan and demolition plan should be part of the submittal to the city of Lacey and shall be approved by the tree protection professional. The tree protection plan shall be part of the contractor bid package and a copy of the tree protection plan shall be available to the contractors on site at all times during logging, clearing, and construction.
3. *Schedule*. A proposed time schedule for land clearing, land restoration, implementation of erosion control and any excavation or construction of improvements.
4. *Strategy for control*. A statement indicating the method to be followed in erosion control and restoration of land during and immediately following land clearing.
5. *Landscape plan*. Proposed landscape plan or written or graphic description of proposed action.
6. *Areas of saved trees*. Location of tree tracts, proposed buffers, open space, and other areas of the site where stands of trees are to be saved.
7. *Revegetation*. If the option for revegetation of the site or a portion of the site is proposed under LMC [14.32.069](#), information requirements described under LMC [14.32.069](#) shall be required at the time of application.
- C. *Review Body*. Review shall take place as part of the underlying permit review process. The review body (site plan review committee, hearing examiner, or city council) shall review the application and make a decision in accordance with review requirements of the underlying permit.
- D. *Expiration*. Any permit granted hereunder shall run with the underlying permit or shall expire eighteen months from the date of issuance. Upon a showing of good cause, a permit may be extended by the director for one six-month period. The permit may be suspended or revoked by the director because of incorrect information supplied or any violation of the provisions of this chapter. Minor amendments of a permit may be granted by the director. Major amendments may be accomplished only by making a new application and proceeding through the requirements of this chapter and chapter one of the City of Lacey Development Guidelines and Public Works Standards. Major alterations are changes that alter the intent of the original
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decision. What constitutes a minor or major amendment shall be left up to the discretion of the director who may consult the review body for guidance.

E. *Permit Notice Posted.* No work shall commence until a permit notice has been posted on the subject site in a conspicuous location. The notice shall remain posted until the project has been completed.

F. *Preconstruction Conference.* Prior to the start of logging and land clearing activity, a preconstruction conference shall be held with the city tree protection professional to insure the contractors understand the necessary tree protection measures prescribed in the tree protection plan and that all required tree protection fences and other required tree protection activity is completed prior to the start of site work. (Ord. 1539 §20, 2019; Ord. 1269 §10, 2006).

14.32.062 Repealed.

Repealed by [Ord. 1192](#). 14.32.063 Conformance to standards.

All land clearing shall conform to the following standards and provisions unless otherwise recommended in a forest management plan, prepared by the city's tree protection professional and approved by the city, where the alternate procedures will be equal or superior in achieving the policies of this code. In addition, the following minimum standards and provisions shall be the governing criteria for the issuance or denial of land clearing permits under this chapter:

- A. **Tree tract.** Land clearing shall meet requirements for tree tracts as specified in LMC [14.32.064](#).
- B. **Soil stability.** The clearing will not create or contribute to landslides, accelerated soil creep, settlement and subsidence or hazards associated with strong ground motion and soil liquefaction.
- C. **Preservation.** The proposal shall contain reasonable provisions for the preservation of natural topography, water features, vegetation, drainage and other existing natural features on the site.
- D. **Runoff.** The clearing will not create or contribute to flooding, erosion or increased turbidity, siltation or other forms of pollution in a watercourse.
- E. **Sensitive areas.** No ground cover or trees which are within the designated buffer area of creeks, streams, lakes and other shoreline or wetland areas shall be removed, nor shall any mechanical equipment operate in such areas; provided, that conditions deemed by the director to constitute a hazard may be removed; and provided, that a property owner shall not be prohibited from making landscaping improvements where such improvements are consistent with the aims of this chapter. The designated buffer area shall be in accordance with the city's wetland protection ordinance as hereafter amended. Buffer areas shall be consistent with best available science guidelines and recommendations from the Washington State Department of Ecology for classification, protection and designation of wetlands and wetland buffer areas.

F. **Aesthetic character.** The clearing will be undertaken in such a manner as to preserve and enhance the city's aesthetic character. Vegetative screens or buffer strips shall be maintained or be reestablished in a timely manner with approved plantings along public rights-of-way and adjoining property boundaries.

G. **Erosion control.** Clearing operations shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time, consistent with an anticipated build-out schedule.

H. **Conformance with laws.** Land clearing activities shall be performed in accordance with all applicable laws, rules and regulations pertaining to air and water pollution, the Washington Forest Practices Act, and the Shoreline Master Program.

I. **Protection of roots.** Except for the use of existing roads and constructed pathways, land clearing machinery shall be kept outside of the root protection zone of any trees designated for retention. Damaging of trees designated for retention by making cuts or fills, trenching, compacting of the soil, draining concrete rinsate, attaching wires or other devices to the trees, piling of materials, modification of drainage within the root protection zone, breaking of tree stems or branches, removal of desirable groundcovers from under tree, or otherwise damaging the roots or root zone of the tree shall be considered a violation of this chapter and shall require mitigation pursuant to the requirements of LMC [14.32.090\(C\)](#). All requirements for protection of trees and vegetation detailed in plans prepared by the city's tree protection professional or in land clearing conditions required by staff such as fencing and other protection measures shall be satisfied.

J. **Clearing of individual lots with land division approvals prohibited.** Where a land division of property is concerned, only areas where streets and utilities are to be constructed can be cleared of trees and ground cover. No such rights-of-way clearing of trees or ground cover shall take place until preliminary short plat, preliminary plat or preliminary binding site plan approval has been granted and engineered plans for road construction have been approved by the city and said road areas have been surveyed and staked to enable city staff to confirm road locations. No tree removal or brushing shall take place on lots or in open space areas of a preliminary short plat or preliminary plat except through the provisions of LMC [14.32.069](#). Additionally, no tree removal or brushing shall take place on lots or in open space areas of a final land division except through the provisions of LMC [14.32.069](#), or on a lot by lot basis after individual building permit applications have been made and land clearing activities have been approved for said individual lots pursuant to the requirements of LMC [14.32.050](#) or [14.32.060](#).

K. **Intent.** Land clearing shall meet the intent and requirements of Lacey's Urban Forest Management Plan. (Ord. 1496 §22, 2016; Ord. 1269 §11, 2006).

14.32.064 Tree tract requirements.

Every commercial project over one acre in size, and every land division over two acres in size shall be required to designate a tree tract(s) to further the goals of the Urban Forest Management Plan for maintenance and no net loss of tree canopy in the city of Lacey.

A. **Tree tract basic standard.** The tree tract or tracts shall generally cover five percent or more of the site and shall represent the primary strategy for maintaining the tree canopy. All developing properties shall create a tree tract equal to five percent of the gross site area.

B. **Tree tract credit for required open space area.** Land divisions and most binding site plans require provision of open space as a requirement of the approval process. Up to one hundred percent of the requirement for a tree tract(s) may be satisfied in combination with the open space requirement provided the following conditions apply:

1. The open space area can function for necessary recreation activities, is located in the most strategic location of the site to provide centralized recreation functions or combined with adjacent open space identified for a public park;
2. The open space satisfies open space needs as identified in the City Comprehensive Plan for outdoor recreation;
3. The location is the best site for the tree tract(s) based upon urban forestry principles and intent of the Urban Forest Management Plan.
4. If the open space and tree tract location requirements are not compatible, the requirement for open space may be reduced to provide for the full tree tract requirement provided the following conditions apply:
 - a. There shall be adequate area set aside for tot lot and subdivision park activities to satisfy the expected needs of the subdivision residents, as determined by the city parks and recreation department director;
 - b. In no case shall the combined amount of land in the open space and tree tract(s) be less than the original open space requirement for the development.
5. Cash or like value of land area and improvements may be donated to the city in lieu of a tree tract. Any cash donated to the city shall be deposited in the city tree account. The city shall then utilize those funds for planting trees in other areas of the city. Acceptance of such a donation will be at the discretion of the site plan review committee and consistent with city policies for the provisions of establishing tree tracts.

C. **Ownership.** Tree tracts shall be held in common ownership by the homeowner's or lot owner's association or a comparable entity. Tree tracts may be deeded to the city of Lacey if approved by the city.

D. **Priority of tree types.** Trees to be protected must be healthy, windfirm, and appropriate to the site at their mature size, as identified by a qualified professional forester. In designing a development project's tree tract, the applicant shall protect the following types of trees in designated tract(s) in the following order of priority, unless Endangered Species Act-listed species in accordance with LMC [14.33.117](#) are present:

1. **Historical trees.** Trees designated as historical trees under LMC [14.32.072](#).
2. **Specimen trees.** Unusual, rare, or high quality trees.
3. **Critical area buffer.** Trees located adjacent to critical area buffers.
4. **Significant wildlife habitat.** Trees located within or buffering significant wildlife habitat.
5. **Other high quality.** Individual trees or groves of trees. (Ord. 1496 §23, 2016; Ord. 1417 §11, 2013; Ord. 1269 §12, 2006).

14.32.065 Tree replacement in tree tracts.

Tree replacement is required where no trees exist in the tree tract, where tree canopy coverage in the tree tract is less than one hundred percent, where unhealthy, unsuitable, or hazardous trees occur within the tree tract, where gaps in the stand require replanting, or where underplanting is necessary for future stand replacement. The tree tract shall be replanted to achieve ninety percent canopy coverage within fifteen years. Replacement trees will be a minimum of 1.5 inch caliper for deciduous species and 6-7 foot tall for conifers unless otherwise recommended by the city tree protection professional. Conifers will be native to the Pacific Northwest. Deciduous tree species will be compatible with the other trees in the tract, and will provide wildlife, aesthetic, and other amenities to the tract. (Ord. 1269 §13, 2006).

14.32.066 Tree replacement and establishment of new trees on lots.

Tree planting is required on all newly developed single and multi-family residential, commercial, and industrial lots, and all properties on which a class IV forest practice occurs. A minimum tree threshold, according to the provisions of this section, is required on all developed lots where tree removal or other site disturbance is proposed.

When trees are planted on individual lots the species shall be appropriate for the size of the lot and the space planted pursuant to guidance provided in the Urban Forest Management Plan and, if applicable, as provided on approved revegetation or landscaping plans developed for the land division.

The following table provides a summary of the required minimum tree requirements and replacement for developed and developing properties. (See *Table 14T-18*).

TABLE 14T-18

Type of Development	Lot Size	Required New or Saved Trees	Tree Size **
Developing Single- and Multifamily Lots	Less than 3,500 ft ²	2	2.0" Caliper measured 6" above the base Deciduous 7' Tall Conifers
	3,500 ft ² to 4,999 ft ²	3	2.0" Caliper measured 6" above the base Deciduous 7' Tall Conifers
	5,000 ft ² to 6,499 ft ²	4	2.0" Caliper measured 6" above the base Deciduous 7' Tall Conifers
	6,500 ft ² to 7,499 ft ²	5	2.0" Caliper measured 6" above the base Deciduous 7' Tall Conifers
	7, 500 ft ² or over	4 trees per 5,000 ft ²	2.0" Caliper measured 6" above the base Deciduous 7' Tall Conifers
Developed Single-Family and Multifamily Lots	All***	4 trees per 5,000 ft ² *	2.0" Caliper measured 6" above the base Deciduous 7' Tall Conifers
Developing Commercial or Industrial	All	2 Trees per 10,000 ft ² *	2.0" Caliper measured 6" above the base Deciduous 7' Tall Conifers
Developed Commercial/Industrial/Multifamily Proposing an Addition, Tree Removal, or Other Site Disturbance	All	2 Trees per 10,000 ft ²	2.0" Caliper measured 6" above the base Deciduous 7' Tall Conifers
Class IV Forest Practice Activity	All	Replanting required when average stocking (basal area) falls below 80 ft ² per acre – Tree spacing required is 10 ft on center	Seedlings or transplants 1+1, 2-0, 2-1, P+1, or 1-2

* In addition to all tree tract requirements and landscape ordinance requirements.

** Tree species will be selected from the general tree list in the Lacey Urban Forest Management Plan.

*** Developed single-family lots seven thousand five hundred square feet or larger proposing tree removal in accordance with LMC [14.32.050\(D\)](#), that do not currently meet the required tree density of four trees per five thousand square feet, shall be required to replant the number of trees equal to the number removed.

A. **Replacement tree location.** The applicant's proposed location of transplanted or replacement trees shall be subject to city approval as part of the tree plan. Replacement trees should be planted according to the following priority:

1. **On-Site.**
2. **Off-site.** When space is unavailable for planting the required trees on-site, then they may be planted at another approved location within the city of Lacey or Lacey's growth area.

B. **City tree account.** When on-site and off-site locations are unavailable, the applicant shall pay an amount of money equal to the replacement cost of the replacement trees into the city's tree account. The replacement cost is the retail cost of the tree plus all cost of planting and maintenance for three years.

C. **Tree replacement.** Replacement trees shall meet the required quality and priority. On sites where there are currently inadequate numbers of existing trees, or where the trees are inappropriate for protection as determined by the tree protection professional, then replacement tree planting shall be required. In designing a development project and in meeting the required tree stocking the following trees shall be planted in the following order of priority:

1. **Buffers.** Trees in or adjacent to critical area and/or significant wildlife habitat.
2. **Tree tracts.** Trees to replace unhealthy or unsuitable trees for tree tracts with no trees or inadequate numbers of trees.
3. **Landscaping.** Trees required to be protected or planted as a requirement of this chapter are in addition to any required to be planted by the Landscaping Ordinance Chapter [16.80](#) LMC. Protected trees within any required landscaping area can be used to satisfy the required spacing in the landscaping requirements. For residential subdivisions this may include entrance landscaping, traffic islands, separate deeded tree tracts, and other common areas.

D. **Replacement tree quality.** Replacement trees shall meet the quality, caliper, and root-ball size standards delineated in the Urban Forestry Management Plan and the current edition of the American Standard for Nursery Stock (ANSI Z60.1). Trees shall be healthy and free of damage, insects, and disease, be well-branched and show evidence of cultural care in the nursery to create quality trees.

E. **Replacement tree planting standards.** Trees shall be planted pursuant to the industry planting standards delineated in the Urban Forestry Management Plan. (Ord. 1496 §111 (part), 2016; Ord. 1417 §13 (part), 2013; Ord. 1269 §14, 2006).

14.32.067 Street tree requirements.

Street trees are required on all public streets within all new developments. The species of tree shall be selected from the street tree list or the general tree list in the Lacey Urban Forest Management Plan. The required tree spacing depends on the expected tree size at age thirty. Landscape trees are required in all alleys. Street trees can be counted towards tree replacement requirements for individual lots. (Ord. 1269 §15, 2006).

14.32.068 Solar access considerations.

While trees have long been used to complement solar planning and site design such as providing deciduous trees in strategic locations to cool areas in summer and providing solar access in winter, providing of adequate solar access may sometimes conflict with protection of existing trees, particularly conifers. When established city goals designed for different purposes conflict, balancing of different community and individual needs must be accomplished. In implementing the goals of this chapter, the review body shall give due consideration to valid solar access needs together with any specific solar access policies that may hereafter be adopted. (Ord. 1496 §24, 2016; Ord. 1269 §16, 2006).

14.32.069 Revegetation option.

Based upon recommendations in a report by the [city's tree protection professional](#), removal of areas of vegetation that might normally be saved may be permitted if extensive revegetation is accomplished and standards for [tree tract\(s\)](#) are satisfied pursuant to the requirements of LMC [14.32.064](#) and [14.32.065](#). Such alternatives may be desirable for sites with significant physical limitations such as topography, soil type or proposed small lot sizes (less than sixty-five hundred square feet). Additionally, limitations of existing [trees](#) such as unsuitable species or poor health of a particular [tree](#) stand may make such options desirable.

On a site with documented special circumstances, an alternative allowing removal of vegetation normally saved may be approved with a comprehensive revegetation plan developed by the [city's tree protection professional](#). ~~At a minimum, the plan shall include:~~

~~A. **General information.** Information required under LMC [14.32.060](#).~~

~~B. **General standards.** Consideration of the standards provided in LMC [14.32.063](#).~~

~~C. **Justification.** An evaluation of what circumstances are present in specific areas of the site to make incorporation of topography and existing vegetation undesirable and recommendations on what areas if any can be designed to accommodate existing vegetation.~~

~~D.—**Consideration of functions and values.** Consideration of overstory and understory vegetative species to provide wildlife habitat and meet specific purposes important to the neighborhood environment and project design such as buffers, green belts, open spaces, street trees, urban beautification, solar access, and other functions and purposes deemed desirable and appropriate to the anticipated use.~~

~~E.—**Landscape plan map.** A comprehensive map showing location, number, species and size of planned vegetative improvements. The plan shall also consider the particular circumstances of the site and proposed project, and detail species selected based upon the anticipated use of the property consistent with the site's zoning designation, permitted uses, and lot size.~~

~~F.—**Timing.** A time line for completion of improvements.~~

~~G.—**Value of vegetation.** An appraisal of the value of vegetation being removed under this option. Said appraisal must be accomplished pursuant to the most recent guidelines established by the International Society of Arboriculture in its "Guide for Plant Appraisal" and be completed by the city tree protection professional.~~

~~H.—**Commensurate value replaced.** Said plan shall provide for a commensurate value of vegetation to be installed as is to be taken out under this option. Said amount shall be above and beyond what is normally required for landscaping in the projects not utilizing this option. The calculated value of the revegetation shall include only appraised value of the trees and vegetation and shall not include the applicant's administrative or labor costs, or the costs of the city's tree protection professional.~~

~~I.—**Maintenance.** A three year maintenance plan including provision for an irrigation system, weed control and a shrub and tree maintenance program.~~

~~J.—**Protection strategy for vegetation to be saved.** If any existing vegetation is to be saved, a plan shall be provided for the protection of said vegetation during construction activity, including fencing and other protective measures deemed necessary by the city's tree protection professional.~~

~~K.—**Land division elements considered.** If the project involves a land division, the landscaping plan should include a comprehensive treatment of tree tracts, open space areas, green belt areas, buffers, common areas, and street frontages (street trees and parkways). All common improvements shall be completed prior to the final land division, approval or financial security provided to the city in a form acceptable to the city in the amount of one hundred fifty percent of the estimated costs including two years maintenance and twenty percent replacement.~~

~~L.—**Required consideration for clearing individual lots with land division approval.** If a developer desires to clear individual lots within the land division at the same time as road areas, this may be done if it is consistent with the approved plans and the following conditions are satisfied:~~

~~1.—**Valuation of vegetation.** An average valuation of vegetation on individual lots shall be provided with a conceptual plan of typical yard landscaping of equal value. Such conceptual plan shall contain specific guidelines for revegetation of individual lots and said guidelines shall be incorporated into protective covenants and lot owner's association articles of incorporation;~~

~~2. **Financial security.** Financial security is provided to the city in a form acceptable to the city at one hundred fifty percent of the estimated costs of improvements of individual lots based upon the conceptual typical yard-landscaping plan.~~

~~3. **Meets requirements.** A detail of how the revegetation plan satisfies the requirements for tree tract(s) pursuant to this chapter. (Ord. 1269 §17, 2006; Ord. 1208 §56, 2003; Ord. 904, 1991).~~

14.32.070 Additional considerations for commercial developments.

Commercial projects generally have different demands than residential areas. Commercial sites have parking lots to serve the traveling public, they have larger buildings, and they may have need of significant utility infrastructure to service commercial uses. While Lacey has the same goals to maintain our tree canopy and to save significant stands of trees, urban forestry requirements for commercial areas need to be crafted to acknowledge and plan for differences in site design and construction requirements. In addition to other requirements of this ordinance, commercial sites shall have emphasis on the following considerations and requirements:

- A. Early planning prior to project design shall consider the stands of trees on the site. For a land use application to be considered complete a tree inventory with consideration of urban forestry issues shall be required to be submitted with the land use application. The tree inventory and evaluation shall be utilized in the design layout of the site. Existing trees and protection opportunities shall play an important role in site design;
- B. The major strategy for tree protection on commercial sites will be designation of a tree tract(s) pursuant to the requirements of LMC [14.32.068](#). Analysis and recommendations of the tree protection professional will determine if certain individual trees should have special emphasis based upon their health and significance, individual site conditions, and retention opportunities. A review of these recommendations shall be provided in the tree protection professional's report;
- C. The selection of the location of the tree tract(s) and individual trees shall be chosen early on at the pre-submission stage, before design of the site, and it shall consider the best location of the site to address urban forestry issues. The design of the commercial site layout shall work within the framework of tree protection opportunities for designation of the tree tract and individual trees;
- D. Deciduous trees are generally encouraged for parking areas because of advantages for solar access considerations (shading in summer and solar access in winter), temperature and climate control factors (reducing temperature in parking lots in summer), pollution control advantages (broad leaves absorption of gases and removal filtering of particulate matter), and options for providing tree canopy coverage over parking sites and drive lanes. Select deciduous trees can also be chosen for root character that will not damage asphalt and parking lot overlays. For these advantages, planting of select deciduous trees will generally be a good choice to provide canopy coverage in parking lots for commercial sites over the long term. It is also important to restore some native conifers to the project site. This can occur in larger planter islands or as a backdrop to

buildings or as foundation plantings to breakup concrete facades. The tree protection professional's report shall reflect these considerations, shall indicate the best areas for removal of trees to accommodate parking needs (based upon indigenous tree areas with the least protection value) and shall recommend replacement of trees;

E. In some cases commercial sites may require extensive grading because of the nature of the topography and other development requirements. For this reason, and the emphasis on provision of a designated tree tract to achieve canopy goals, some flexibility may be permitted for grading to provide for intensive infrastructure needs of the project design. Provided, the design takes advantage of tree protection opportunities to provide an attractive, functional and unique shopping experience. This flexibility is not intended to limit creative development with the site. Where possible, commercial developments should seek to use variations in terrain to create an interesting development scheme. (Ord. 1269 §18, 2006).

[F. Trees planted in planter strips, medians, and tree wells with grates shall follow City of Lacey Development Guidelines and Public Works Standards in Chapter 4B.125, Landscape/Planter Areas for specific site preparation requirements and Drawings 4-17, 4-29, and 4-30.](#)

14.32.072 Historical tree(s).

A. **Purpose.** The purpose of the historical tree designation is to protect trees with a historical significance and to establish a register of these trees. Historical trees require protection due to their special value in that they are irreplaceable. They may be associated with historic figures, events, or properties; or be rare or unusual species; or they may have aesthetic value worthy of protection for the health and general welfare of the residents of this city.

Therefore, the purpose of this section is:

1. **Protection and maintenance.** To provide for the protection and proper maintenance of historical trees, to minimize disturbance to the trees, and to prevent other environmental damage from erosion or destruction of wildlife habitat;
2. **Health, safety, welfare.** To protect the health, safety and general welfare of the public;
3. **Goals and objectives.** To implement the goals and objectives of the city's Urban Forest Management Plan.

B. **Historical Tree Registration.** The city shall prepare and thereafter maintain a list of historical trees within the city limits. The inventory may include a map identifying the location of the trees and a brief narrative description of each historical tree. The historical tree inventory shall be prepared and amended at any time following the procedures established below.

1. **Nomination.** A tree may be nominated for historical tree status by the property owner, a neighborhood organization, or any person by submitting a map, a photograph, and a narrative description including the location, species, approximate age, and the characteristics on which the nomination is based;
 2. **Review.** The director, upon receipt of a nomination, shall review the nomination and confer with the city tree protection professional and other city staff as may be appropriate. Notice of the nomination shall be mailed to the property owner and shall be posted by the city on the subject site for a period of ten days. The director shall inspect the tree, consider public comments, and decide in each case whether or not the tree is to be designated a historical tree. The city shall place each designated historical tree on the historical tree register. In the event the owner of the tree does not approve of its designation as a historical tree, the nomination will be disapproved;
 3. **Notification of the director's decision.** Notice of the director's decision shall be mailed to the property owner and shall be posted by the city on the subject site for a period of ten days;
 4. **Appeal.** Any person may appeal the director's decision to the hearing examiner;
 5. **Hearing examiner.** The hearing examiner shall hold a public meeting on the appeal pursuant to the procedures specified in section 1.C.050 (Quasi-Judicial Review of Applications) of the City of Lacey Development Guidelines and Public Works Standards. The hearing examiner will make a decision which will constitute a recommendation to the city council. All recommendations of the hearing examiner will be considered by the city council at the next available council meeting;
 6. **Notification of registration.** Each property owner who has one or more registered historical trees shall be notified by first class mail of the designation within thirty days of designation;
 7. **Recording of historical tree covenant.** Each property owner who has one or more registered historical trees shall execute a historical tree covenant in a form agreeable to the city. The historical tree covenant shall require that the tree be maintained in a manner which is consistent with the provisions of this chapter. The historical tree covenant shall be recorded by the county auditor. Recording fees shall be paid by the applicant;
 8. **Duration of covenant.** The historical tree covenant shall be effective from the date of recording until such a time that a tree removal permit has been issued by the director pursuant to this section;
 9. **Education benefits.** From time to time the city may prepare public information programs on historical trees and provide qualified professional tree care advice to owners of the historical trees;
- C. **Limitation on removal.** Subject to the exceptions enumerated in subsection D of this section, no person shall remove, or cause to be removed, any historical tree.
- D. **Removal Procedures.** Historical trees shall not be removed except through the procedures established in this section.

1. **Permit Required.** No Historical tree shall be removed without first applying for and receiving a land clearing permit. The applicant for the permit shall be the property owner or the city. An application for a tree removal permit shall be submitted on a form provided by the city. The applicant must state the justification for removal on the tree removal application;
2. **Review.** If justification for removal is based upon health of the tree, and a visual inspection by the director cannot establish that the tree is dead, diseased, or hazardous, the applicant shall pay for the city tree protection professional to make a determination. If it is determined by the tree protection professional that the tree is dead, diseased, or otherwise hazardous and cannot be saved, the director may approve the removal. If the tree is determined to be healthy, or with treatable infestation or infection, the director may deny the permit.

If justification is due to reasons other than health of the tree, the director shall confer with other city personnel as may be appropriate in evaluating the justification and make a decision pursuant to the procedures and requirements of section 1E.030 (Limited Administrative Review of Applications) of the Development Guidelines and Public Works Standards;
3. **Notification.** If the director decides that a permit is justified, notice of the director's decision shall be mailed to the applicant, all parties of record, and posted by the city on the subject site for a period of ten days, during which no work shall commence. No work shall commence during the notice periods or when appeals are pending disposition;
4. **Appeal.** The property owner or any person residing or owning property within three hundred feet of the tree may appeal the director's decision to the hearing examiner, whether that decision is positive or negative. Appeals must be submitted in writing within ten days of the posting of the director's decision;
5. **Hearing examiner.** The hearing examiner shall hold a public meeting on the appeal pursuant to the procedures specified in section 1K.050 (Quasi-Judicial Review of Applications) of the Development Guidelines and Public Works Standards. The hearing examiner will make a decision which will constitute a recommendation to the city council. All recommendations of the hearing examiner will be considered by the city council at the next available council meeting. The city council decision shall be final. No work shall commence during the notice periods or when appeals are pending disposition;
6. **Permit for tree removal timing.** Any tree removal permit granted under this chapter shall be valid for one year. In addition to the permit, the property owner will execute a revocation of covenant in a form agreeable to the city. The revocation of covenant shall be recorded by the county auditor. Recording fees shall be paid by the property owner. (Ord. 1269 §19, 2006).

14.32.073 Financial security.

The review body may require financial security in such form and amounts as may be deemed necessary to assure that the work shall be completed in accordance with the permit. Financial security, if required, shall be furnished by the property owner, or other person or agent in control of the property at one hundred fifty percent of the estimated tree and vegetation replacement costs or appraised value. (Ord. 1269 §20, 2006).

14.32.080 Appeals.

Any decision of the city of Lacey in the administration of this chapter may be appealed in accordance with Chapter 1D of the City of Lacey Development Guidelines and Public Works Standards. (Ord. 1192 §55, 2002; Ord. 904, 1991; Ord. 399 §1 (part), 1975).

14.32.090 Violations.

A. **Violation general.** Violation of the provisions of this chapter or failure to comply with any of the requirements shall constitute a misdemeanor and such violation shall be punished as provided by LMC Title [9](#) for the commission of a misdemeanor. Each day such violation continues shall be considered a separate, distinct offense. [The city's code enforcement officer shall promptly investigate all complaints of illegal tree removals.](#)

B. **Penalties.** Any person who commits, participates in, assists or maintains such violation may be found guilty of a separate offense and suffer the penalties as set forth in subsection A of this section.

C. **Mitigation required.** In addition to the penalties set forth in subsections [A](#) and [B](#) of this section, any violation of the provisions of this chapter shall be mitigated by comprehensive treatment of environmental impacts through revegetation of the affected site. In assessing environmental damage, the city's tree protection professional shall determine the extent and value of vegetation removed or damaged and other environmental damage inconsistent with the intent and requirements of this chapter. In assessing environmental damage, the tree protection professional shall consider what the outcome of the site should have been had the proposed project been designed around existing topography and vegetation and all appropriate vegetation saved. The tree protection professional shall use the methodology in the current edition of the International Society of Arboriculture's "Guide for Plant Appraisal" in determining the value of removed and damaged vegetation.

D. **Environmental damage reviewed.** If the violation is discovered after evidence has been removed, the city tree protection professional shall use whatever resources are immediately available to determine environmental damage which may include aerial photographs, other photographs, interviews with adjacent property owners, receipts of timber sales off the site, and any other records available that have a bearing on the quantity and quality of vegetation removed or environmental damage sustained. The tree protection

professional also may estimate the appraised value of removed vegetation at the site by analyzing the best case growing capability of the site given soil conditions, health of surrounding tree stands and type of species suspected of being removed. The determination of environmental damage made by the tree protection professional shall be given substantial weight in a court of law.

E. **Revegetation.** Once the value of the environmental damage is determined, a comprehensive plan for revegetation of the site shall be prepared by the tree protection professional considering the purposes of this chapter and the specific elements provided in LMC [14.32.069](#). The plan shall provide for a value of new vegetation commensurate with the determined value of environmental damage at the site. The violator shall be fully responsible for implementation of the plan, accomplishment of all improvements and maintenance of said improvements.

F. **City tree account.** If the cost of restoration of the site is less than the true value of environmental damage at the site, the balance shall be paid to the city tree account. The city shall then utilize those funds for planting trees in other areas of the city.

G. **Appeal.** The determination of the city tree protection professional regarding the environmental damage at the site may be appealed to the city hearings examiner pursuant to the requirements of LMC [14.32.080](#).

H. **Hearing examiner review.** In review of the tree protection professional's decision, the hearing examiner shall determine if the tree protection professional's decision accurately reflects the criteria set forth in LMC [14.32.020](#).

I. **Relevant facts.** Additionally, the city hearings examiner may consider any other facts the examiner determines are relevant to the specific situation.

J. **Reduction of monetary value.** In cases where the determined value of environmental damage far exceeds the site restoration requirements, and extenuating circumstances the examiner determines are relevant to the case are present, the hearing examiner may reduce the monetary value assigned to the environmental damage, provided the hearing examiner shall reduce the determined compensation only when all of the following criteria are demonstrated by the applicant:

1. **Professional forester or certified arborist.** A professional forester, certified arborist, or other professional who could have alerted the applicant of tree protection requirements was not involved in the action leading to the violation;
2. **Monetary gain.** The violation action was not associated with a tree harvesting operation for monetary gain;
3. **Previous record.** The applicant has no previous record of tree and vegetation protection and preservation ordinance violations.

K. **Monetary compensation.** If all of the above criteria are demonstrated, the hearing examiner may reduce the monetary compensation required. In determining the monetary compensation reduction, the hearing examiner shall consider the following factors:

1. **Person responded.** Whether the person responded to staff attempts to contact the person and cooperated with efforts to review the site and arrive at an agreement on site restoration;
2. **Due diligence.** Whether the person showed due diligence and/or substantial progress in site restoration;
3. **Code interpretation.** Whether a genuine code interpretation issue exists;
4. **Other factors.** Any other factors considered relevant to the situation by the hearings examiner.

L. **Limitation on reduction.** In fixing the amount of compensation, the hearings examiner shall not reduce the determined compensation by more than thirty percent of the true value of the environmental damage as determined by the tree protection professional; provided further, that no reduction shall be given in cases where the true value of environmental damage does not exceed the cost of restoration determined necessary by the city's tree protection professional; provided further the hearing examiner may double the monetary compensation if the violation is a repeat violation. In determining the amount of increased compensation, the examiner shall also consider the criteria of this section.

M. **Appeal of hearing examiner determination.** Appeals of violation determinations by the city hearing examiner shall be appealed to Superior Court. An appeal of the hearing examiner decision must be filed with Thurston County Superior Court within twenty calendar days from the date the hearing examiner decision was mailed to the person to whom the decision on monetary compensation was made. (Ord. 1269 §21, 2006; Ord. 935 §2 (part), 1992).

14.32.095 Requirements for foresters and contractors doing land clearing work in Lacey.

In order to assure compliance with the standards and requirements of this chapter, "Tree and Vegetation Protection/Urban Forest Management," foresters, arborists, and logging and land clearing contractors or others involved in land clearing operations in the city of Lacey shall be required to sign and submit a "Statement of Tree and Vegetation Protection Acknowledgment" to the city of Lacey. This statement shall attest such forester's or contractor's knowledge of the city of Lacey's tree and vegetation protection requirements. This statement shall be required in conjunction with normal city licensing requirements for persons performing work in the city of Lacey. The required statement shall be in substantially the following form:

“I, _____, a duly licensed professional contractor in the State of Washington, or professional forester, hereby attest that I have read and am knowledgeable of Chapter [14.32](#), “Tree and Vegetation Protection/Urban Forest Management”, of the city of Lacey.

“I further attest that, as a professional doing land clearing work in the city of Lacey, I am accountable for following the city’s tree and vegetation protection and conservation requirements, including obtaining a land clearing permit or exemption prior to performing land clearing work, as defined by Chapter 14.32.030(C) of the Lacey Municipal Code, as well as following all conditions and requirements of said permit or exemption.

“I attest that if I fail to follow tree protection requirements I will be held jointly responsible with the landowner for any restitution required as a result of environmental damage determined by the city tree protection professional to be the result of improper land clearing activities at the site. This may result in claims against my bond pursuant to Section [18.27.040](#) of the Revised Code of Washington and other monetary penalties as allowed by this chapter or State law.”

Private professionals involved in land clearing operations who do not provide the above statement shall be prohibited from performing land clearing services in the city of Lacey. Said professionals who do not provide this statement and perform land clearing services in the city of Lacey shall be considered in violation of this chapter and may be prosecuted under this chapter, the city’s civil penalties ordinance, or as otherwise provided by law. All foresters, arborists, loggers, or other land clearing contractors involved in land clearing operations shall be jointly responsible with the landowner for any land clearing violation and restitution required at a site as a result of improper land clearing activity. (Ord. 1269 §22, 2006; Ord. 935 §2 (part), 1992).

14.32.100 Severability.

If any section, paragraph, subsection, clause or phrase of this chapter is for any reason held to be unconstitutional or invalid such decision shall not affect the validity of the remaining portions of this chapter. (Ord. 904, 1991; Ord. 399 §1 (part), 1975).

The Lacey Municipal Code is current through Ordinance 1568, passed July 9, 2020.

Disclaimer: The city clerk’s office has the official version of the Lacey Municipal Code. Users should contact the city clerk’s office for ordinances passed subsequent to the ordinance cited above.

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Chapter 14.32

TREE AND VEGETATION PROTECTION AND PRESERVATION

****PC RECOMMENDATION WITH DRAFT LANGUAGE FOR HOA'S AND COMMERCIAL PROPERTIES****

Sections:

- 14.32.010 Short title
- 14.32.020 Purposes and permit criteria
- 14.32.030 Definitions
- 14.32.035 The city's tree protection professional
- 14.32.040 Permits
- 14.32.045 Class IV forest practice applications
- 14.32.050 Exemptions
- 14.32.060 Application for permits
- 14.32.062 *Repealed*
- 14.32.063 Conformance to standards
- 14.32.064 Tree tract requirements
- 14.32.065 Tree replacement in tree tracts
- 14.32.066 Tree replacement and establishment of new trees on lots
- 14.32.067 Street tree requirements
- 14.32.068 Solar access considerations
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- 14.32.070 Additional considerations for commercial developments
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- 14.32.072 Historical tree(s)
- 14.32.073 Financial security
- 14.32.080 Appeals
- 14.32.090 Violations
- 14.32.095 Requirements for foresters and contractors doing land clearing work in Lacey
- 14.32.100 Severability

14.32.010 Short title.

This chapter shall be known and may be cited as the Tree and Vegetation Protection /Urban Forest Management regulations of the city of Lacey. (Ord. 1269 §3, 2006; Ord. 904, 1991; Ord. 399 §1 (part), 1975).

14.32.020 Purposes and permit criteria.

These regulations are adopted for the following purposes and these purposes are to be used as criteria for the issuance of land clearing permits under LMC [14.32.040](#):

- A. To implement strategies for the management and protection of Lacey's urban forest resources pursuant to the goals and policies of the Lacey Urban Forest Management Plan;
- B. To implement the purposes of the State Growth Management Act relating to conservation of natural resources, including Lacey's urban forest resources, pursuant to RCW [36.70A.050](#), [36.70A.060](#) and [36.70A.080](#);
- C. To implement the purposes of the State Growth Management Act pursuant to RCW [36.70A.172](#), considering the many environmental benefits of the urban forest as described in Lacey's Urban Forest Management Plan;
- D. To promote the public health, safety, and general welfare of the citizens of Lacey without preventing the reasonable development of land;
- E. To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover and to insure the protection of trees chosen to remain during construction;
- F. To minimize surface water and ground water runoff and diversion and to prevent erosion and reduce the risk of slides;
- G. To retain and utilize trees to assist in site planning, considering the abatement of noise, visual screening, protection from wind, and other site design issues;
- H. To acknowledge that trees and ground cover have significant environmental and quality of life benefits as identified in Lacey's Urban Forest Management Plan, such as the production of pure oxygen from carbon dioxide, the reduction of air pollution, help in providing clean water, control of soil erosion, use in design for energy efficiency and temperature control, noise attenuation, and wildlife habitat;
- I. To promote building and site planning practices that are consistent with the city's natural topography, soils, and vegetation features. At the same time certain factors may require the removal of certain trees and ground cover for things such as, but not limited to disease, danger of falling, proximity to existing and proposed structures and improvements, interference with utility services, ~~protection of scenic views~~, protection of solar access and the realization of a reasonable enjoyment of property;
- J. To insure prompt development, restoration, replanting, and effective erosion control of property after land clearing;
- K. To reduce water pollution from siltation in the city's streams and lakes;

- L. To implement the goals and objectives of the Washington State Environmental Policy Act;
- M. To implement and further the City's Comprehensive Land Use Plan and its Environmental Protection and Resource Conservation Element;
- N. To encourage protection of wildlife and/or wildlife habitat whenever possible. (Ord. 1269 §4, 2006; Ord. 904, 1991; Ord. 650 §1, 1982; Ord. 399 §1 (part), 1975).

14.32.030 Definitions.

- A. "Brushing" means the practice of removing ground cover to create better visibility on a property for purposes such as marketing or surveying of said property.
- B. "Caliper" is the standard for trunk measurement of nursery stock. Caliper of the trunk shall be the trunk diameter measured six inches above the ground for up to, and including, four-inch caliper size and twelve inches above the ground for larger sizes.
- C. "City" means the city of Lacey, Washington.
- D. "Class IV forest practice activity" is a timber harvest, thinning or other activity as established in the Washington State Department of Natural Resources Forest Practices Regulations, whereby a property owner is allowed to harvest a limited amount of timber from their property within the city of Lacey, while still maintaining their rights to convert their property to a use inconsistent with growing timber.
- E. "DBH" is the diameter at breast height, measured four and one-half feet above the groundline on the high side of the tree.
- F. "Director" means director of community and economic development or his/her designee.
- G. "Drip line" of a tree is located by the vertical projection of a line at the tips of the outermost branches.
- H. "Ground cover" means grass, forbs, shrubs, and trees less than four inches in diameter measured four and one-half feet above the ground level (DBH).
- I. "Hazard tree" means any tree that is dead, dying, damaged, diseased, or structurally defective, recently exposed by adjacent clearing, or some other factor that will subject the tree to failure, and the tree could reasonably reach a target, as determined by the tree protection professional.
- J. "Historical tree" is a tree or group of trees designated as such by the city because of its historical value to the residents of the city.
- K. "Land clearing" means the direct and indirect removal of trees and/or ground cover from any public or private undeveloped, partially developed, or developed lot, public lands or public right-of-way. This shall also

include any destructive or inappropriate activity applied to a tree that will result in its death or effectively destroy the tree's appearance and/or functionality, such as topping.

~~K. "Historical tree" is a tree or group of trees designated as such by the city because of its historical value to the residents of the city.~~

L. "Root protection zone" is an area around the tree to be saved equal to one foot of radius for each one inch of tree diameter measured four and one-half feet above the ground line (DBH), unless otherwise designated by the city's tree protection professional.

M. "Site disturbance" is any action that requires a city of Lacey building permit.

N. "Specimen tree" is a tree that is unique or rare because of its exceptional size or quality, species, or value in a particular location.

O. "Topping" is the indiscriminate placement of cuts to reduce a tree's size. Topping is not an acceptable pruning practice in the city of Lacey.

P. "Tree" means any living woody plant characterized by one main stem or trunk and many branches, and having a diameter of four inches or more measured at four and one-half feet above the ground level (DBH).

Q. "Tree protection professional" is a certified professional with academic and/or field experience that makes him or her a recognized expert in urban forestry and tree protection during development. A tree protection professional shall be a member of the Society of American Foresters (SAF), the Association of Consulting Foresters of America (ACF), the American Society of Consulting Arborists (ASCA), or the International Society of Arboriculture (ISA), and shall have specific experience with urban tree management in the state of Washington. Additionally the tree protection professional shall be an ISA Certified Arborist or an ASCA Registered Consulting Arborist with the necessary training and experience to use and apply the International Society of Arboriculture's Guide for Plant Appraisal and to professionally provide the necessary expertise relating to management of urban trees specified in this chapter.

R. "Tree tract" is a portion of land designated for the preservation and protection of existing trees or the planting of new trees to maintain tree canopy at a development site. The tree tract shall be a separate designated lot(s) shown on the plat map, binding site plan, or site plan review map, and shall be recorded with appropriate description of purposes and restrictions. Restrictions applied to the tree tract will not allow any use other than the growing of trees in the tract, and will reserve the tract for the protection and preservation of trees in perpetuity. Tree tracts can be used for other open space uses when the uses are compatible with trees and will not impact tree health. The tract will be dedicated to, and owned and maintained by, the homeowners' or lot owners' association, or comparable entity. The tract may be dedicated to the city of Lacey for maintenance if approved by the city. Creation of tree tracts to save the best trees on a site may require modifications to the street locations, lot designs and/or other features of the site plan. (Ord. 1539 §19, 2019; Ord. 1417 §7, 2013; Ord. 1269 §5, 2006).

14.32.035 The city's tree protection professional.

The city shall contract with one or more professionals that qualify as a tree protection professional under the definition of this chapter. Said professional or professionals shall be responsible for providing the information and services required of a tree protection professional described herein.

Individual applicants will be responsible for payment of the costs and fees of the designated tree protection professional for projects necessitating work to be performed by the tree protection professional in accordance with Table [14T-66](#). The city shall be responsible for billing and collecting costs and fees charged to the applicant and transferring said payment to the tree protection professional unless the city has opted for some other mechanism of providing for the costs and fees, such as inclusion of such costs and fees in the schedule of application fees. (Ord. 1417 §8, 2013; Ord. 1269 §6, 2006; Ord. 1219 §2, 2004; Ord. 904, 1991; Ord. 650 §2, 1982; Ord. 399 §1 (part), 1975).

14.32.040 Permits.

No person, corporation, or other legal entity shall engage in timber harvesting or cause land clearing in the city without having complied with one of the following:

- A. Received a land clearing permit from the director;
- B. Having obtained approval of the proposed work under the processes described in LMC [14.32.050\(A\)](#);
- C. Having received an exemption from the director under the provisions of LMC [14.32.050](#). In such cases an exemption notice shall be required for posting at the site. (Ord. 1269 §7, 2006; Ord. 904, 1991; Ord. 545 §1, 1979; Ord. 517 §1, 1979; Ord. 399 §1 (part), 1975).

14.32.045 Class IV forest practice applications.

A. **Urban growth area.** Properties within the urban growth area are anticipated to be available for development with urban uses within the next twenty-year period. Pursuant to RCW [76.09.070](#) lands within the urban growth area are not considered appropriate for long-term timber production and harvesting which takes a full forty-year cycle. Forest management activities shall be consistent with the city's Comprehensive Land Use Plan and implementing regulations for the urban growth area. Forest management activities shall promote the goals and policies of the Lacey Urban Forest Management Plan. Forest practice applications shall meet the requirements specified in subsections [B](#), [C](#), [D](#) and [E](#) of this section.

B. **Conversions and timing.** Because conversion of properties within the urban growth area can reasonably be expected, significant land clearing of such properties shall only take place at the time of a valid land use

application. Tree tracts, open spaces and buffers can then be properly coordinated with the actual development plans.

To further the purposes, goals, and policies of the Urban Forest Management Plan, timber harvesting and conversion of forested lands within the urban growth area shall not be permitted until such time as a valid land use application for development is made; provided, however, requests may be made for maintenance and thinning of existing timber stands to promote the overall health and growth of the stand until said stand is converted and harvested pursuant to plans provided within a valid land use permit.

C. **Maintenance and thinning.** Class IV forest practice applications and applications for maintenance and thinning shall be reviewed by the city's tree protection professional who shall make recommendations on the request to the ~~land clearing~~[Site Plan Review](#) committee. Recommendations shall ensure that action shall improve the health and growth of the stand and preserve long-term tree protection alternatives to meet the goals of this chapter.

D. **Selective thinning limited.** Thinning activities shall be strictly limited to less than thirty-five percent of the volume every ten years. High grading or top-down thinning shall not be permitted. The remaining stand of trees should be healthy, long-term trees from the dominant and co-dominant crown classes. The stand shall be marked prior to the selective thinning operation, indicating which trees will be removed and saved.

E. **Processing of applications.** Class IV forest practice applications shall be processed concurrently with, and using the same process as, the underlying land use application. Should there be no underlying land use application, the Class IV forest practice application shall be processed in accordance with the full administrative review procedures in Chapter 1 of the City of Lacey Development Guidelines and Public Works Standards. (Ord. 1417 §9, 2013; Ord. 1269 §8, 2006; Ord. 904, 1991).

14.32.050 Exemptions.

The following shall be exempt from land clearing permit requirements of this chapter but shall satisfy all standards and requirements of LMC [14.32.065](#) and other sections as noted below:

A. **Coordination with land use applications.** Projects requiring approval of the city of Lacey site plan review committee under Chapter [16.84](#) LMC, or projects requiring review by the hearings examiner or city council; provided, that land clearing on such projects shall take place only after approval and shall be in accordance with such approval and the standards of this chapter including the information requirements and standards of LMC [14.32.060](#).

B. **Hazard trees.** Removal of hazard trees in emergency situations involving immediate danger to life or property as determined by the city's tree protection professional.

C. **Unhealthy trees and groundcovers.** Removal of obviously dead or diseased trees or ground cover which may be a fire hazard as determined by the city's tree protection professional.

D. **Individual lot exemption.** Removal of trees on individual lots where tree density minimums are maintained per Table 14T-18. ~~of no more than five trees in any thirty six consecutive months or ground cover for the purposes of solar access, general property and utility maintenance, landscaping or gardening, provided a minimum tree threshold is maintained pursuant to LMC 14.32.066, and provided further this exemption does not apply to historical trees or trees and ground cover in an area designated as environmentally sensitive. For removal requests for more than five trees, review must be completed prior to permit issuance by the City's tree protection professional.~~ An exemption must be issued by the city of Lacey prior to the removal of trees under this exemption provision.

E. **Building footprint.** Removal of trees and ground cover within a maximum of ten feet (when required for construction) of the perimeter of the building line and any area proposed to be cleared for driveway, septic, sewer and water purposes, of a single-family or duplex dwelling to be constructed as indicated on the plot plan submitted to the building official with an application for a building permit; provided, however, the director may require minor modifications in siting and placement of driveways, utilities and septic tank drain field systems and sewer and water lines where such modifications will promote the goals of the chapter and still satisfy the need and function of improvements.

F. **Clear vision.** Removal of obstructions required by the vision clearance at intersections regulations of Chapter Four of the Development Guidelines and Public Works Standards. (Ord. 1417 §10, 2013; Ord. 1269 §9, 2006; Ord. 904, 1991; Ord. 650 §4, 1982; Ord. 399 §1 (part), 1975).

G. **City owned property.** Tree assessment, removal and replacement of trees on city owned property.

14.32.060 Application for permits.

A. *Pre-Submission Conference.* Prior to application for land use permits and actions such as a land division, commercial site plan review (SPR), or a conditional use permit (CUP), a pre-submission conference shall be required consistent with the requirements of chapter one of the Development Guidelines and Public Works Standards. The pre-submission conference is designed to review the proposed action and identify permit requirements and issues an applicant may incur if the project is implemented. As part of this review it should be made clear that the city of Lacey has an Urban Forest Management Plan and tree protection regulations that require early consideration of tree protection options, and that urban forest concepts and strategies shall be part of the early design considerations for new projects. Location and design of major infrastructure, buildings, and planned uses must consider the tree protection opportunities to further the purposes of the Urban Forest Management Plan.

B. *Applicable Requirements.* An application for a land clearing permit or information required by this chapter shall be submitted at the same time as a valid land use application or building permit on a form provided by the

city and shall be accompanied by such of the following documents and information as are determined to be necessary by the director:

1. *Site Plan*. Copies of the site plan, pursuant to requirements of chapter one of the Development Guidelines and Public Works Standards, which shall include the following information:
 - a. Name, address, and telephone number of the applicant and owner of property;
 - b. Legal description of property;
 - c. Date, north arrow, and adequate scale, as determined by the director, on the map or plot plan;
 - d. Topography map showing contours at not greater than ten-foot intervals of proposed clearing projects within areas of steep slopes, creeks and shorelines;
 - e. Location of proposed improvements, including, but not limited to, structures, roads, driveways, utilities, and storm drainage facilities. Said improvement locations shall also be staked on site to enable the city's tree protection professional and other city staff to review improvement locations and their relationship to the site and existing vegetation;
 - f. Approximate and general location, type, size and condition of trees and ground cover and a general identification of trees and ground cover which are to be removed.
2. *Tree Protection Professional Report*. On forested property greater in size than one acre or commercial property with one or more trees, or other sites the city deems it necessary because of special circumstances or complexity, the city's tree protection professional shall review the site and provide a report analyzing the site for tree protection consistent with the requirements of this chapter. The report should provide information important to urban forest management and options for consideration when developing preliminary designs. The report should suggest options for design to best achieve the purposes of the Urban Forest Management Plan and this chapter. The report shall include but shall not be limited to:
 - a. Information required under subsections [\(B\)\(1\)](#) through [\(7\)](#) of this section;
 - b. An analysis of technical information requested by the review body related to trees and forest practices;
 - c. Analysis of what portion of the site is best for designation of the tree tract if required, considering the intent of this chapter, soil type, topography, tree species, health of trees and reasonable project design limitations;
 - d. Recommendations for saving of individual tree specimens based upon the intent of this chapter, soil type, topography, tree species, health of trees, and reasonable project design limitations;

- e. A plan for protection of trees to be saved during construction including placement of construction fences, monitoring of construction activity and other measures necessary to ensure adequate tree protection;
- f. Consideration of the location of roads, other infrastructure, and buildings and potential options for alternative locations, if applicable, to best satisfy the purposes of the Urban Forest Management Plan;
- g. A timeline for tree protection activity;
- h. The final tree protection plan should be prepared on the site grading plan. All tree protection fences, trees to be saved, and trees to be removed should also be shown on the site demolition plan. Necessary save-tree pruning and selective thinning within tree tracts shall be detailed and trees marked as such. The tree protection plan and demolition plan should be part of the submittal to the city of Lacey and shall be approved by the tree protection professional. The tree protection plan shall be part of the contractor bid package and a copy of the tree protection plan shall be available to the contractors on site at all times during logging, clearing, and construction.

3. *Schedule.* A proposed time schedule for land clearing, land restoration, implementation of erosion control and any excavation or construction of improvements.

4. *Strategy for control.* A statement indicating the method to be followed in erosion control and restoration of land during and immediately following land clearing.

5. *Landscape plan.* Proposed landscape plan or written or graphic description of proposed action.

6. *Areas of saved trees.* Location of tree tracts, proposed buffers, open space, and other areas of the site where stands of trees are to be saved.

7. *Revegetation.* If the option for revegetation of the site or a portion of the site is proposed under LMC [14.32.069](#), information requirements described under LMC [14.32.069](#) shall be required at the time of application.

C. *Review Body.* Review shall take place as part of the underlying permit review process. The review body (site plan review committee, hearing examiner, or city council) shall review the application and make a decision in accordance with review requirements of the underlying permit.

D. *Expiration.* Any permit granted hereunder shall run with the underlying permit or shall expire eighteen months from the date of issuance. Upon a showing of good cause, a permit may be extended by the director for one six-month period. The permit may be suspended or revoked by the director because of incorrect information supplied or any violation of the provisions of this chapter. Minor amendments of a permit may be granted by the director. Major amendments may be accomplished only by making a new application and proceeding through the requirements of this chapter and chapter one of the City of Lacey Development Guidelines and Public Works Standards. Major alterations are changes that alter the intent of the original

decision. What constitutes a minor or major amendment shall be left up to the discretion of the director who may consult the review body for guidance.

E. *Permit Notice Posted.* No work shall commence until a permit notice has been posted on the subject site in a conspicuous location. The notice shall remain posted until the project has been completed.

F. *Preconstruction Conference.* Prior to the start of logging and land clearing activity, a preconstruction conference shall be held with the city tree protection professional to insure the contractors understand the necessary tree protection measures prescribed in the tree protection plan and that all required tree protection fences and other required tree protection activity is completed prior to the start of site work. (Ord. 1539 §20, 2019; Ord. 1269 §10, 2006).

14.32.062 Repealed.

Repealed by [Ord. 1192](#). 14.32.063 Conformance to standards.

All land clearing shall conform to the following standards and provisions unless otherwise recommended in a forest management plan, prepared by the city's tree protection professional and approved by the city, where the alternate procedures will be equal or superior in achieving the policies of this code. In addition, the following minimum standards and provisions shall be the governing criteria for the issuance or denial of land clearing permits under this chapter:

- A. **Tree tract.** Land clearing shall meet requirements for tree tracts as specified in LMC [14.32.064](#).
- B. **Soil stability.** The clearing will not create or contribute to landslides, accelerated soil creep, settlement and subsidence or hazards associated with strong ground motion and soil liquefaction.
- C. **Preservation.** The proposal shall contain reasonable provisions for the preservation of natural topography, water features, vegetation, drainage and other existing natural features on the site.
- D. **Runoff.** The clearing will not create or contribute to flooding, erosion or increased turbidity, siltation or other forms of pollution in a watercourse.
- E. **Sensitive areas.** No ground cover or trees which are within the designated buffer area of creeks, streams, lakes and other shoreline or wetland areas shall be removed, nor shall any mechanical equipment operate in such areas; provided, that conditions deemed by the director to constitute a hazard may be removed; and provided, that a property owner shall not be prohibited from making landscaping improvements where such improvements are consistent with the aims of this chapter. The designated buffer area shall be in accordance with the city's wetland protection ordinance as hereafter amended. Buffer areas shall be consistent with best available science guidelines and recommendations from the Washington State Department of Ecology for classification, protection and designation of wetlands and wetland buffer areas.

F. **Aesthetic character.** The clearing will be undertaken in such a manner as to preserve and enhance the city's aesthetic character. Vegetative screens or buffer strips shall be maintained or be reestablished in a timely manner with approved plantings along public rights-of-way and adjoining property boundaries.

G. **Erosion control.** Clearing operations shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time, consistent with an anticipated build-out schedule.

H. **Conformance with laws.** Land clearing activities shall be performed in accordance with all applicable laws, rules and regulations pertaining to air and water pollution, the Washington Forest Practices Act, and the Shoreline Master Program.

I. **Protection of roots.** Except for the use of existing roads and constructed pathways, land clearing machinery shall be kept outside of the root protection zone of any trees designated for retention. Damaging of trees designated for retention by making cuts or fills, trenching, compacting of the soil, draining concrete rinsate, attaching wires or other devices to the trees, piling of materials, modification of drainage within the root protection zone, breaking of tree stems or branches, removal of desirable groundcovers from under tree, or otherwise damaging the roots or root zone of the tree shall be considered a violation of this chapter and shall require mitigation pursuant to the requirements of LMC [14.32.090\(C\)](#). All requirements for protection of trees and vegetation detailed in plans prepared by the city's tree protection professional or in land clearing conditions required by staff such as fencing and other protection measures shall be satisfied.

J. **Clearing of individual lots with land division approvals prohibited.** Where a land division of property is concerned, only areas where streets and utilities are to be constructed can be cleared of trees and ground cover. No such rights-of-way clearing of trees or ground cover shall take place until preliminary short plat, preliminary plat or preliminary binding site plan approval has been granted and engineered plans for road construction have been approved by the city and said road areas have been surveyed and staked to enable city staff to confirm road locations. No tree removal or brushing shall take place on lots or in open space areas of a preliminary short plat or preliminary plat except through the provisions of LMC [14.32.069](#). Additionally, no tree removal or brushing shall take place on lots or in open space areas of a final land division except through the provisions of LMC [14.32.069](#), or on a lot by lot basis after individual building permit applications have been made and land clearing activities have been approved for said individual lots pursuant to the requirements of LMC [14.32.050](#) or [14.32.060](#).

K. **Intent.** Land clearing shall meet the intent and requirements of Lacey's Urban Forest Management Plan. (Ord. 1496 §22, 2016; Ord. 1269 §11, 2006).

14.32.064 Tree tract requirements.

Every commercial project over one acre in size, and every land division over two acres in size shall be required to designate a tree tract(s) to further the goals of the Urban Forest Management Plan for maintenance and no net loss of tree canopy in the city of Lacey.

A. **Tree tract basic standard.** The tree tract or tracts shall generally cover five percent or more of the site and shall represent the primary strategy for maintaining the tree canopy. All developing properties shall create a tree tract equal to five percent of the gross site area.

B. **Tree tract credit for required open space area.** Land divisions and most binding site plans require provision of open space as a requirement of the approval process. Up to one hundred percent of the requirement for a tree tract(s) may be satisfied in combination with the open space requirement provided the following conditions apply:

1. The open space area can function for necessary recreation activities, is located in the most strategic location of the site to provide centralized recreation functions or combined with adjacent open space identified for a public park;
2. The open space satisfies open space needs as identified in the City Comprehensive Plan for outdoor recreation;
3. The location is the best site for the tree tract(s) based upon urban forestry principles and intent of the Urban Forest Management Plan.
4. If the open space and tree tract location requirements are not compatible, the requirement for open space may be reduced to provide for the full tree tract requirement provided the following conditions apply:
 - a. There shall be adequate area set aside for tot lot and subdivision park activities to satisfy the expected needs of the subdivision residents, as determined by the city parks and recreation department director;
 - b. In no case shall the combined amount of land in the open space and tree tract(s) be less than the original open space requirement for the development.
5. Cash or like value of land area and improvements may be donated to the city in lieu of a tree tract. Any cash donated to the city shall be deposited in the city tree account. The city shall then utilize those funds for planting trees in other areas of the city. Acceptance of such a donation will be at the discretion of the site plan review committee and consistent with city policies for the provisions of establishing tree tracts.

C. **Ownership.** Tree tracts shall be held in common ownership by the homeowner's or lot owner's association or a comparable entity. Tree tracts may be deeded to the city of Lacey if approved by the city.

D. **Priority of tree types.** Trees to be protected must be healthy, windfirm, and appropriate to the site at their mature size, as identified by a qualified professional forester. In designing a development project's tree tract, the applicant shall protect the following types of trees in designated tract(s) in the following order of priority, unless Endangered Species Act-listed species in accordance with LMC [14.33.117](#) are present:

1. **Historical trees.** Trees designated as historical trees under LMC [14.32.072](#).
2. **Specimen trees.** Unusual, rare, or high quality trees.
3. **Critical area buffer.** Trees located adjacent to critical area buffers.
4. **Significant wildlife habitat.** Trees located within or buffering significant wildlife habitat.
5. **Other high quality.** Individual trees or groves of trees. (Ord. 1496 §23, 2016; Ord. 1417 §11, 2013; Ord. 1269 §12, 2006).

14.32.065 Tree replacement in tree tracts.

Tree replacement is required where no trees exist in the tree tract, where tree canopy coverage in the tree tract is less than one hundred percent, where unhealthy, unsuitable, or hazardous trees occur within the tree tract, where gaps in the stand require replanting, or where underplanting is necessary for future stand replacement. The tree tract shall be replanted to achieve ninety percent canopy coverage within fifteen years. Replacement trees will be a minimum of 1.5 inch caliper for deciduous species and 6-7 foot tall for conifers unless otherwise recommended by the city tree protection professional. Conifers will be native to the Pacific Northwest. Deciduous tree species will be compatible with the other trees in the tract, and will provide wildlife, aesthetic, and other amenities to the tract. (Ord. 1269 §13, 2006).

14.32.066 Tree replacement and establishment of new trees on lots.

Tree planting is required on all newly developed single and multi-family residential, commercial, and industrial lots, and all properties on which a class IV forest practice occurs. A minimum tree threshold, according to the provisions of this section, is required on all developed lots where tree removal or other site disturbance is proposed.

When trees are planted on individual lots the species shall be appropriate for the size of the lot and the space planted pursuant to guidance provided in the Urban Forest Management Plan and, if applicable, as provided on approved revegetation or landscaping plans developed for the land division.

The following table provides a summary of the required minimum tree requirements and replacement for developed and developing properties. (See *Table [14T-18](#)*).

TABLE 14T-18

Type of Development	Lot Size	Required New or Saved Trees	Tree Size **
Developing Single- and Multifamily Lots	Less than 3,500 ft ²	2	2.0" Caliper measured 6" above the base Deciduous 7' Tall Conifers
	3,500 ft ² to 4,999 ft ²	3	2.0" Caliper measured 6" above the base Deciduous 7' Tall Conifers
	5,000 ft ² to 6,499 ft ²	4	2.0" Caliper measured 6" above the base Deciduous 7' Tall Conifers
	6,500 ft ² to 7,499 ft ²	5	2.0" Caliper measured 6" above the base Deciduous 7' Tall Conifers
	7, 500 ft ² or over	4 trees per 5,000 ft ²	2.0" Caliper measured 6" above the base Deciduous 7' Tall Conifers
Developed Single-Family and Multifamily Lots	All***	4 trees per 5,000 ft ² *	2.0" Caliper measured 6" above the base Deciduous 7' Tall Conifers
Developing Commercial or Industrial	All	2 Trees per 10,000 ft ² *	2.0" Caliper measured 6" above the base Deciduous 7' Tall Conifers
Developed Commercial/Industrial/Multifamily Proposing an Addition, Tree Removal, or Other Site Disturbance	All	2 Trees per 10,000 ft ²	2.0" Caliper measured 6" above the base Deciduous 7' Tall Conifers
Class IV Forest Practice Activity	All	Replanting required when average stocking (basal area) falls below 80 ft ² per acre – Tree spacing required is 10 ft on center	Seedlings or transplants 1+1, 2-0, 2-1, P+1, or 1-2

* In addition to all tree tract requirements and landscape ordinance requirements.

** Tree species will be selected from the general tree list in the Lacey Urban Forest Management Plan.

*** Developed single-family lots seven thousand five hundred square feet or larger proposing tree removal in accordance with LMC [14.32.050\(D\)](#), that do not currently meet the required tree density of four trees per five thousand square feet, shall be required to replant the number of trees equal to the number removed.

A. **Replacement tree location.** The applicant's proposed location of transplanted or replacement trees shall be subject to city approval as part of the tree plan. Replacement trees should be planted according to the following priority:

1. **On-Site.**
2. **Off-site.** When space is unavailable for planting the required trees on-site, then they may be planted at another approved location within the city of Lacey or Lacey's growth area.

B. **City tree account.** When on-site and off-site locations are unavailable, the applicant shall pay an amount of money equal to the replacement cost of the replacement trees into the city's tree account. The replacement cost is the retail cost of the tree plus all cost of planting and maintenance for three years.

C. **Tree replacement.** Replacement trees shall meet the required quality and priority. On sites where there are currently inadequate numbers of existing trees, or where the trees are inappropriate for protection as determined by the tree protection professional, then replacement tree planting shall be required. In designing a development project and in meeting the required tree stocking the following trees shall be planted in the following order of priority:

1. **Buffers.** Trees in or adjacent to critical area and/or significant wildlife habitat.
2. **Tree tracts.** Trees to replace unhealthy or unsuitable trees for tree tracts with no trees or inadequate numbers of trees.
3. **Landscaping.** Trees required to be protected or planted as a requirement of this chapter are in addition to any required to be planted by the Landscaping Ordinance Chapter [16.80](#) LMC. Protected trees within any required landscaping area can be used to satisfy the required spacing in the landscaping requirements. For residential subdivisions this may include entrance landscaping, traffic islands, separate deeded tree tracts, and other common areas.

D. **Replacement tree quality.** Replacement trees shall meet the quality, caliper, and root-ball size standards delineated in the Urban Forestry Management Plan and the current edition of the American Standard for Nursery Stock (ANSI Z60.1). Trees shall be healthy and free of damage, insects, and disease, be well-branched and show evidence of cultural care in the nursery to create quality trees.

E. **Replacement tree planting standards.** Trees shall be planted pursuant to the industry planting standards delineated in the Urban Forestry Management Plan. (Ord. 1496 §111 (part), 2016; Ord. 1417 §13 (part), 2013; Ord. 1269 §14, 2006).

14.32.067 Street tree requirements.

Street trees are required on all public streets within all new developments. The species of tree shall be selected from the street tree list or the general tree list in the Lacey Urban Forest Management Plan. The required tree spacing depends on the expected tree size at age thirty. Landscape trees are required in all alleys. Street trees can be counted towards tree replacement requirements for individual lots. (Ord. 1269 §15, 2006).

14.32.068 Solar access considerations.

While trees have long been used to complement solar planning and site design such as providing deciduous trees in strategic locations to cool areas in summer and providing solar access in winter, providing of adequate solar access may sometimes conflict with protection of existing trees, particularly conifers. When established city goals designed for different purposes conflict, balancing of different community and individual needs must be accomplished. In implementing the goals of this chapter, the review body shall give due consideration to valid solar access needs together with any specific solar access policies that may hereafter be adopted. (Ord. 1496 §24, 2016; Ord. 1269 §16, 2006).

14.32.069 Revegetation option.

Based upon recommendations in a report by the [city's tree protection professional](#), removal of areas of vegetation that might normally be saved may be permitted if extensive revegetation is accomplished and standards for [tree tract\(s\)](#) are satisfied pursuant to the requirements of LMC [14.32.064](#) and [14.32.065](#). Such alternatives may be desirable for sites with significant physical limitations such as topography, soil type or proposed small lot sizes (less than sixty-five hundred square feet). Additionally, limitations of existing [trees](#) such as unsuitable species or poor health of a particular [tree](#) stand may make such options desirable.

On a site with documented special circumstances, an alternative allowing removal of vegetation normally saved may be approved with a comprehensive revegetation plan developed by the [city's tree protection professional](#). ~~At a minimum, the plan shall include:~~

~~A. **General information.** Information required under LMC [14.32.060](#).~~

~~B. **General standards.** Consideration of the standards provided in LMC [14.32.063](#).~~

~~C. **Justification.** An evaluation of what circumstances are present in specific areas of the site to make incorporation of topography and existing vegetation undesirable and recommendations on what areas if any can be designed to accommodate existing vegetation.~~

~~D.—**Consideration of functions and values.** Consideration of overstory and understory vegetative species to provide wildlife habitat and meet specific purposes important to the neighborhood environment and project design such as buffers, green belts, open spaces, street trees, urban beautification, solar access, and other functions and purposes deemed desirable and appropriate to the anticipated use.~~

~~E.—**Landscape plan map.** A comprehensive map showing location, number, species and size of planned vegetative improvements. The plan shall also consider the particular circumstances of the site and proposed project, and detail species selected based upon the anticipated use of the property consistent with the site's zoning designation, permitted uses, and lot size.~~

~~F.—**Timing.** A time line for completion of improvements.~~

~~G.—**Value of vegetation.** An appraisal of the value of vegetation being removed under this option. Said appraisal must be accomplished pursuant to the most recent guidelines established by the International Society of Arboriculture in its "Guide for Plant Appraisal" and be completed by the city tree protection professional.~~

~~H.—**Commensurate value replaced.** Said plan shall provide for a commensurate value of vegetation to be installed as is to be taken out under this option. Said amount shall be above and beyond what is normally required for landscaping in the projects not utilizing this option. The calculated value of the revegetation shall include only appraised value of the trees and vegetation and shall not include the applicant's administrative or labor costs, or the costs of the city's tree protection professional.~~

~~I.—**Maintenance.** A three year maintenance plan including provision for an irrigation system, weed control and a shrub and tree maintenance program.~~

~~J.—**Protection strategy for vegetation to be saved.** If any existing vegetation is to be saved, a plan shall be provided for the protection of said vegetation during construction activity, including fencing and other protective measures deemed necessary by the city's tree protection professional.~~

~~K.—**Land division elements considered.** If the project involves a land division, the landscaping plan should include a comprehensive treatment of tree tracts, open space areas, green belt areas, buffers, common areas, and street frontages (street trees and parkways). All common improvements shall be completed prior to the final land division, approval or financial security provided to the city in a form acceptable to the city in the amount of one hundred fifty percent of the estimated costs including two years maintenance and twenty percent replacement.~~

~~L.—**Required consideration for clearing individual lots with land division approval.** If a developer desires to clear individual lots within the land division at the same time as road areas, this may be done if it is consistent with the approved plans and the following conditions are satisfied:~~

~~1.—**Valuation of vegetation.** An average valuation of vegetation on individual lots shall be provided with a conceptual plan of typical yard landscaping of equal value. Such conceptual plan shall contain specific guidelines for revegetation of individual lots and said guidelines shall be incorporated into protective covenants and lot owner's association articles of incorporation;~~

~~2. **Financial security.** Financial security is provided to the city in a form acceptable to the city at one hundred fifty percent of the estimated costs of improvements of individual lots based upon the conceptual typical yard-landscaping plan.~~

~~3. **Meets requirements.** A detail of how the revegetation plan satisfies the requirements for tree tract(s) pursuant to this chapter. (Ord. 1269 §17, 2006; Ord. 1208 §56, 2003; Ord. 904, 1991).~~

14.32.070 Additional considerations for commercial developments.

Commercial projects generally have different demands than residential areas. Commercial sites have parking lots to serve the traveling public, they have larger buildings, and they may have need of significant utility infrastructure to service commercial uses. While Lacey has the same goals to maintain our tree canopy and to save significant stands of trees, urban forestry requirements for commercial areas need to be crafted to acknowledge and plan for differences in site design and construction requirements. In addition to other requirements of this ordinance, commercial sites shall have emphasis on the following considerations and requirements:

- A. Early planning prior to project design shall consider the stands of trees on the site. For a land use application to be considered complete a tree inventory with consideration of urban forestry issues shall be required to be submitted with the land use application. The tree inventory and evaluation shall be utilized in the design layout of the site. Existing trees and protection opportunities shall play an important role in site design;
- B. The major strategy for tree protection on commercial sites will be designation of a tree tract(s) pursuant to the requirements of LMC [14.32.068](#). Analysis and recommendations of the tree protection professional will determine if certain individual trees should have special emphasis based upon their health and significance, individual site conditions, and retention opportunities. A review of these recommendations shall be provided in the tree protection professional's report;
- C. The selection of the location of the tree tract(s) and individual trees shall be chosen early on at the pre-submission stage, before design of the site, and it shall consider the best location of the site to address urban forestry issues. The design of the commercial site layout shall work within the framework of tree protection opportunities for designation of the tree tract and individual trees;
- D. Deciduous trees are generally encouraged for parking areas because of advantages for solar access considerations (shading in summer and solar access in winter), temperature and climate control factors (reducing temperature in parking lots in summer), pollution control advantages (broad leaves absorption of gases and removal filtering of particulate matter), and options for providing tree canopy coverage over parking sites and drive lanes. Select deciduous trees can also be chosen for root character that will not damage asphalt and parking lot overlays. For these advantages, planting of select deciduous trees will generally be a good choice to provide canopy coverage in parking lots for commercial sites over the long term. It is also important to restore some native conifers to the project site. This can occur in larger planter islands or as a backdrop to

buildings or as foundation plantings to breakup concrete facades. The tree protection professional's report shall reflect these considerations, shall indicate the best areas for removal of trees to accommodate parking needs (based upon indigenous tree areas with the least protection value) and shall recommend replacement of trees;

E. In some cases commercial sites may require extensive grading because of the nature of the topography and other development requirements. For this reason, and the emphasis on provision of a designated tree tract to achieve canopy goals, some flexibility may be permitted for grading to provide for intensive infrastructure needs of the project design. Provided, the design takes advantage of tree protection opportunities to provide an attractive, functional and unique shopping experience. This flexibility is not intended to limit creative development with the site. Where possible, commercial developments should seek to use variations in terrain to create an interesting development scheme. (Ord. 1269 §18, 2006).

F. Trees planted in planter strips, medians, and tree wells with grates shall follow City of Lacey Development Guidelines and Public Works Standards in Chapter 4B.125, Landscape/Planter Areas for specific site preparation requirements and Drawings 4-17 and 4-29.

G. Trees located in an existing tree tract or landscaping of a commercial development may not removed, unless approved through the following procedures:

1. **Permit Required.** No tree on existing commercial development shall be removed without first applying for and receiving a land clearing permit. The applicant for the permit shall be the property owner. An application for a tree removal permit shall be submitted on a form provided by the city. The applicant must state the justification for removal on the tree removal application;

2. **Review.** The director or her/his designee shall review the application for tree removal, the tree protection professional's report and any applicable information. In the review, the following factors will be considered:

1. Documented history of property damage caused by the tree(s).
2. The size and location of the tree(s) causes typical maintenance, pruning and dead branch removal infeasible due to cost or is physically not practicable by tree care professionals.
3. The tree does not meet criteria for a specimen tree

3. **Replanting.** Any tree permitted to be removed under this subsection shall be mitigated by planting replacement trees at a ratio required by the table below:

Table 14-T70

<u>Size of tree to be removed (inches at DBH)</u>	<u>Minimum Number of trees to be replanted</u>
<u>Less than 6</u>	<u>1</u>

<u>6 and up to 12</u>	<u>2</u>
<u>More than 12 and up to 20</u>	<u>3</u>
<u>More than 20 and up to 25</u>	<u>5</u>
<u>More than 25</u>	<u>7</u>

Replacement trees will be a minimum of 1.5 inch caliper for deciduous species and 6-7 foot tall for conifers unless otherwise recommended by the city tree protection professional. Conifers will be native to the Pacific Northwest. Deciduous tree species will be compatible with the other trees in the open space, and will provide wildlife, aesthetic, and other amenities to the open space. If the site cannot accommodate the amount of replanting required, the City's tree account may be used pursuant to 14.32.066 (B).

4. Tree Protection Professional Report The city's tree protection professional shall review the site and provide a report analyzing the site for tree replacement consistent with the requirements of this chapter. The report should provide information important to urban forest management and options for consideration when developing replanting plans. The report should suggest options for design to best achieve the purposes of the Urban Forest Management Plan and this chapter. The report shall include but shall not be limited to:

a. Analysis of what portion of the open space is best for replanting, considering the intent of this chapter, soil type, topography, tree species, health of trees and reasonable project design limitations;

b. Recommendations for replacement tree species based upon the intent of this chapter, soil type, topography, tree species, health of trees, and reasonable project design limitations;

c. Consideration of the location of roads, other infrastructure, and buildings and potential options for alternative locations, if applicable, to best satisfy the purposes of the Urban Forest Management Plan

d. A timeline for tree replacement

e. An irrigation and watering plan to maintain replacement tree health and survival

5. Decision. The director or her/his designee shall issue their decision in writing to include rationale supporting the decision pursuant to procedures and requirements of section 1E.030 (Limited Administrative Review of Applications) of the Development Guidelines and Public Works Standards;

14.32.071 Additional considerations for homeowners association (HOA) open spaces.

AA. —Open Space Tracts may have different demands and issues then individual residential parcels or designated tree tracts. —While open space Tracts are recognized by the Plan as key areas for preserving, maintaining or planting trees to meet the community’s tree canopy goal, there are instances when otherwise healthy trees may need to be removed for reasons such as tree species suitability, maintenance, or liability. In cases were otherwise healthy trees are removed, replanting shall occur to maintain the community’s tree canopy goal.

B.B. **Trees** located in open space Tracts ~~sshall not be removed~~, unless approved through the following procedures:

—1. **Permit Required.** No open space tree shall be removed without first applying for and receiving a land clearing permit. The applicant for the permit shall be the property owner. An application for a tree removal permit shall be submitted on a form provided by the city. The applicant must state the justification for removal on the tree removal application;

2. **Review.**—

The director or her/his designee shall review the application for tree removal, the tree protection professional’s report and any applicable information. In the review, the following factors will be considered:

4. Documented history of property damage caused by the tree(s).
5. The size and location of the tree(s) causes typical maintenance, pruning and dead branch removal infeasible due to cost or is physically not practicable by tree care professionals.
6. The tree ~~does not meet criteria for a specimen tree~~

3. **Replanting.** Any tree permitted to be removed under this subsection shall be mitigated by planting replacement trees at a ratio ~~of ,,,,,,,:~~ required by the table below:

Table 14-T70

<u>Size of tree to be removed (inches at DBH)</u>	<u>Minimum Number of trees to be replanted</u>
<u>Less than 6</u>	<u>1</u>

<u>6 and up to 12</u>	<u>2</u>
<u>More than 12 and up to 20</u>	<u>3</u>
<u>More than 20 and up to 25</u>	<u>5</u>
<u>More than 25</u>	<u>7</u>

Replacement trees will be a minimum of 1.5 inch caliper for deciduous species and 6-7 foot tall for conifers unless otherwise recommended by the city tree protection professional. Conifers will be native to the Pacific Northwest. Deciduous tree species will be compatible with the other trees in the open space, and will provide wildlife, aesthetic, and other amenities to the open space. If the site cannot accommodate the amount of replanting required, the City's tree account may be used pursuant to 14.32.066 (B).

4. Tree Protection Professional Report The city's tree protection professional shall review the site and provide a report analyzing the site for tree replacement consistent with the requirements of this chapter. The report should provide information important to urban forest management and options for consideration when developing replanting plans. The report should suggest options for design to best achieve the purposes of the Urban Forest Management Plan and this chapter. The report shall include but shall not be limited to:

- a. Analysis of what portion of the open space is best for replanting, considering the intent of this chapter, soil type, topography, tree species, health of trees and reasonable project design limitations;
- b. Recommendations for replacement tree species based upon the intent of this chapter, soil type, topography, tree species, health of trees, and reasonable project design limitations;
- c. Consideration of the location of roads, other infrastructure, and buildings and potential options for alternative locations, if applicable, to best satisfy the purposes of the Urban Forest Management Plan
- d. A timeline for tree replacement
- e. An irrigation and watering plan to maintain replacement tree health and survival

45. Decision. The director or her/his designee shall issue their decision in writing to include rationale supporting the decision pursuant to procedures and requirements of section 1E.030 (Limited Administrative Review of Applications) of the Development Guidelines and Public Works Standards;

14.32.072 Historical tree(s).

A. **Purpose.** The purpose of the historical tree designation is to protect trees with a historical significance and to establish a register of these trees. Historical trees require protection due to their special value in that they are irreplaceable. They may be associated with historic figures, events, or properties; or be rare or unusual species; or they may have aesthetic value worthy of protection for the health and general welfare of the residents of this city.

Therefore, the purpose of this section is:

1. **Protection and maintenance.** To provide for the protection and proper maintenance of historical trees, to minimize disturbance to the trees, and to prevent other environmental damage from erosion or destruction of wildlife habitat;
2. **Health, safety, welfare.** To protect the health, safety and general welfare of the public;
3. **Goals and objectives.** To implement the goals and objectives of the city's Urban Forest Management Plan.

B. **Historical Tree Registration.** The city shall prepare and thereafter maintain a list of historical trees within the city limits. The inventory may include a map identifying the location of the trees and a brief narrative description of each historical tree. The historical tree inventory shall be prepared and amended at any time following the procedures established below.

1. **Nomination.** A tree may be nominated for historical tree status by the property owner, a neighborhood organization, or any person by submitting a map, a photograph, and a narrative description including the location, species, approximate age, and the characteristics on which the nomination is based;
2. **Review.** The director, upon receipt of a nomination, shall review the nomination and confer with the city tree protection professional and other city staff as may be appropriate. Notice of the nomination shall be mailed to the property owner and shall be posted by the city on the subject site for a period of ten days. The director shall inspect the tree, consider public comments, and decide in each case whether or not the tree is to be designated a historical tree. The city shall place each designated historical tree on the historical tree register. In the event the owner of the tree does not approve of its designation as a historical tree, the nomination will be disapproved;

3. **Notification of the director's decision.** Notice of the director's decision shall be mailed to the property owner and shall be posted by the city on the subject site for a period of ten days;
 4. **Appeal.** Any person may appeal the director's decision to the hearing examiner;
 5. **Hearing examiner.** The hearing examiner shall hold a public meeting on the appeal pursuant to the procedures specified in section 1.C.050 (Quasi-Judicial Review of Applications) of the City of Lacey Development Guidelines and Public Works Standards. The hearing examiner will make a decision which will constitute a recommendation to the city council. All recommendations of the hearing examiner will be considered by the city council at the next available council meeting;
 6. **Notification of registration.** Each property owner who has one or more registered historical trees shall be notified by first class mail of the designation within thirty days of designation;
 7. **Recording of historical tree covenant.** Each property owner who has one or more registered historical trees shall execute a historical tree covenant in a form agreeable to the city. The historical tree covenant shall require that the tree be maintained in a manner which is consistent with the provisions of this chapter. The historical tree covenant shall be recorded by the county auditor. Recording fees shall be paid by the applicant;
 8. **Duration of covenant.** The historical tree covenant shall be effective from the date of recording until such a time that a tree removal permit has been issued by the director pursuant to this section;
 9. **Education benefits.** From time to time the city may prepare public information programs on historical trees and provide qualified professional tree care advice to owners of the historical trees;
- C. **Limitation on removal.** Subject to the exceptions enumerated in subsection D of this section, no person shall remove, or cause to be removed, any historical tree.
- D. **Removal Procedures.** Historical trees shall not be removed except through the procedures established in this section.
1. **Permit Required.** No Historical tree shall be removed without first applying for and receiving a land clearing permit. The applicant for the permit shall be the property owner or the city. An application for a tree removal permit shall be submitted on a form provided by the city. The applicant must state the justification for removal on the tree removal application;
 2. **Review.** If justification for removal is based upon health of the tree, and a visual inspection by the director cannot establish that the tree is dead, diseased, or hazardous, the applicant shall pay for the city tree protection professional to make a determination. If it is determined by the tree protection professional that the tree is dead, diseased, or otherwise hazardous and cannot be saved, the director may approve the removal. If the tree is determined to be healthy, or with treatable infestation or infection, the director may deny the permit.

If justification is due to reasons other than health of the tree, the director shall confer with other city personnel as may be appropriate in evaluating the justification and make a decision pursuant to the procedures and requirements of section 1E.030 (Limited Administrative Review of Applications) of the Development Guidelines and Public Works Standards;

3. **Notification.** If the director decides that a permit is justified, notice of the director's decision shall be mailed to the applicant, all parties of record, and posted by the city on the subject site for a period of ten days, during which no work shall commence. No work shall commence during the notice periods or when appeals are pending disposition;

4. **Appeal.** The property owner or any person residing or owning property within three hundred feet of the tree may appeal the director's decision to the hearing examiner, whether that decision is positive or negative. Appeals must be submitted in writing within ten days of the posting of the director's decision;

5. **Hearing examiner.** The hearing examiner shall hold a public meeting on the appeal pursuant to the procedures specified in section 1K.050 (Quasi-Judicial Review of Applications) of the Development Guidelines and Public Works Standards. The hearing examiner will make a decision which will constitute a recommendation to the city council. All recommendations of the hearing examiner will be considered by the city council at the next available council meeting. The city council decision shall be final. No work shall commence during the notice periods or when appeals are pending disposition;

6. **Permit for tree removal timing.** Any tree removal permit granted under this chapter shall be valid for one year. In addition to the permit, the property owner will execute a revocation of covenant in a form agreeable to the city. The revocation of covenant shall be recorded by the county auditor. Recording fees shall be paid by the property owner. (Ord. 1269 §19, 2006).

14.32.073 Financial security.

The review body may require financial security in such form and amounts as may be deemed necessary to assure that the work shall be completed in accordance with the permit. Financial security, if required, shall be furnished by the property owner, or other person or agent in control of the property at one hundred fifty percent of the estimated tree and vegetation replacement costs or appraised value. (Ord. 1269 §20, 2006).

14.32.080 Appeals.

Any decision of the city of Lacey in the administration of this chapter may be appealed in accordance with Chapter 1D of the City of Lacey Development Guidelines and Public Works Standards. (Ord. 1192 §55, 2002; Ord. 904, 1991; Ord. 399 §1 (part), 1975).

14.32.090 Violations.

- A. **Violation general.** Violation of the provisions of this chapter or failure to comply with any of the requirements shall constitute a misdemeanor and such violation shall be punished as provided by LMC Title 9 for the commission of a misdemeanor. Each day such violation continues shall be considered a separate, distinct offense. [The city's code enforcement officer shall promptly investigate all complaints of illegal tree removals.](#)
- B. **Penalties.** Any person who commits, participates in, assists or maintains such violation may be found guilty of a separate offense and suffer the penalties as set forth in subsection A of this section.
- C. **Mitigation required.** In addition to the penalties set forth in subsections [A](#) and [B](#) of this section, any violation of the provisions of this chapter shall be mitigated by comprehensive treatment of environmental impacts through revegetation of the affected site. In assessing environmental damage, the city's tree protection professional shall determine the extent and value of vegetation removed or damaged and other environmental damage inconsistent with the intent and requirements of this chapter. In assessing environmental damage, the tree protection professional shall consider what the outcome of the site should have been had the proposed project been designed around existing topography and vegetation and all appropriate vegetation saved. The tree protection professional shall use the methodology in the current edition of the International Society of Arboriculture's "Guide for Plant Appraisal" in determining the value of removed and damaged vegetation.
- D. **Environmental damage reviewed.** If the violation is discovered after evidence has been removed, the city tree protection professional shall use whatever resources are immediately available to determine environmental damage which may include aerial photographs, other photographs, interviews with adjacent property owners, receipts of timber sales off the site, and any other records available that have a bearing on the quantity and quality of vegetation removed or environmental damage sustained. The tree protection professional also may estimate the appraised value of removed vegetation at the site by analyzing the best case growing capability of the site given soil conditions, health of surrounding tree stands and type of species suspected of being removed. The determination of environmental damage made by the tree protection professional shall be given substantial weight in a court of law.
- E. **Revegetation.** Once the value of the environmental damage is determined, a comprehensive plan for revegetation of the site shall be prepared by the tree protection professional considering the purposes of this chapter and the specific elements provided in LMC [14.32.069](#). The plan shall provide for a value of new vegetation commensurate with the determined value of environmental damage at the site. The violator shall be fully responsible for implementation of the plan, accomplishment of all improvements and maintenance of said improvements.
- F. **City tree account.** If the cost of restoration of the site is less than the true value of environmental damage at the site, the balance shall be paid to the city tree account. The city shall then utilize those funds for planting trees in other areas of the city.

G. **Appeal.** The determination of the city tree protection professional regarding the environmental damage at the site may be appealed to the city hearings examiner pursuant to the requirements of LMC [14.32.080](#).

H. **Hearing examiner review.** In review of the tree protection professional's decision, the hearing examiner shall determine if the tree protection professional's decision accurately reflects the criteria set forth in LMC [14.32.020](#).

I. **Relevant facts.** Additionally, the city hearings examiner may consider any other facts the examiner determines are relevant to the specific situation.

J. **Reduction of monetary value.** In cases where the determined value of environmental damage far exceeds the site restoration requirements, and extenuating circumstances the examiner determines are relevant to the case are present, the hearing examiner may reduce the monetary value assigned to the environmental damage, provided the hearing examiner shall reduce the determined compensation only when all of the following criteria are demonstrated by the applicant:

1. **Professional forester or certified arborist.** A professional forester, certified arborist, or other professional who could have alerted the applicant of tree protection requirements was not involved in the action leading to the violation;
2. **Monetary gain.** The violation action was not associated with a tree harvesting operation for monetary gain;
3. **Previous record.** The applicant has no previous record of tree and vegetation protection and preservation ordinance violations.

K. **Monetary compensation.** If all of the above criteria are demonstrated, the hearing examiner may reduce the monetary compensation required. In determining the monetary compensation reduction, the hearing examiner shall consider the following factors:

1. **Person responded.** Whether the person responded to staff attempts to contact the person and cooperated with efforts to review the site and arrive at an agreement on site restoration;
2. **Due diligence.** Whether the person showed due diligence and/or substantial progress in site restoration;
3. **Code interpretation.** Whether a genuine code interpretation issue exists;
4. **Other factors.** Any other factors considered relevant to the situation by the hearings examiner.

L. **Limitation on reduction.** In fixing the amount of compensation, the hearings examiner shall not reduce the determined compensation by more than thirty percent of the true value of the environmental damage as determined by the tree protection professional; provided further, that no reduction shall be given in cases where the true value of environmental damage does not exceed the cost of restoration determined necessary by the city's tree protection professional; provided further the hearing examiner may double the monetary

compensation if the violation is a repeat violation. In determining the amount of increased compensation, the examiner shall also consider the criteria of this section.

M. Appeal of hearing examiner determination. Appeals of violation determinations by the city hearing examiner shall be appealed to Superior Court. An appeal of the hearing examiner decision must be filed with Thurston County Superior Court within twenty calendar days from the date the hearing examiner decision was mailed to the person to whom the decision on monetary compensation was made. (Ord. 1269 §21, 2006; Ord. 935 §2 (part), 1992).

14.32.095 Requirements for foresters and contractors doing land clearing work in Lacey.

In order to assure compliance with the standards and requirements of this chapter, “Tree and Vegetation Protection/Urban Forest Management,” foresters, arborists, and logging and land clearing contractors or others involved in land clearing operations in the city of Lacey shall be required to sign and submit a “Statement of Tree and Vegetation Protection Acknowledgment” to the city of Lacey. This statement shall attest such forester’s or contractor’s knowledge of the city of Lacey’s tree and vegetation protection requirements. This statement shall be required in conjunction with normal city licensing requirements for persons performing work in the city of Lacey. The required statement shall be in substantially the following form:

“I, _____, a duly licensed professional contractor in the State of Washington, or professional forester, hereby attest that I have read and am knowledgeable of Chapter [14.32](#), “Tree and Vegetation Protection/Urban Forest Management”, of the city of Lacey.

“I further attest that, as a professional doing land clearing work in the city of Lacey, I am accountable for following the city’s tree and vegetation protection and conservation requirements, including obtaining a land clearing permit or exemption prior to performing land clearing work, as defined by Chapter 14.32.030(C) of the Lacey Municipal Code, as well as following all conditions and requirements of said permit or exemption.

“I attest that if I fail to follow tree protection requirements I will be held jointly responsible with the landowner for any restitution required as a result of environmental damage determined by the city tree protection professional to be the result of improper land clearing activities at the site. This may result in claims against my bond pursuant to Section [18.27.040](#) of the Revised Code of Washington and other monetary penalties as allowed by this chapter or State law.”

Private professionals involved in land clearing operations who do not provide the above statement shall be prohibited from performing land clearing services in the city of Lacey. Said professionals who do not provide this statement and perform land clearing services in the city of Lacey shall be considered in violation of this chapter and may be prosecuted under this chapter, the city’s civil penalties ordinance, or as otherwise provided by law. All foresters, arborists, loggers, or other land clearing contractors involved in land clearing operations

shall be jointly responsible with the landowner for any land clearing violation and restitution required at a site as a result of improper land clearing activity. (Ord. 1269 §22, 2006; Ord. 935 §2 (part), 1992).

14.32.100 Severability.

If any section, paragraph, subsection, clause or phrase of this chapter is for any reason held to be unconstitutional or invalid such decision shall not affect the validity of the remaining portions of this chapter. (Ord. 904, 1991; Ord. 399 §1 (part), 1975).

The Lacey Municipal Code is current through Ordinance 1568, passed July 9, 2020.

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

Note: This site does not support Internet Explorer. To view this site, Code Publishing Company recommends using one of the following browsers: Google Chrome, Firefox, or Safari.

[City Website: www.ci.lacey.wa.us](http://www.ci.lacey.wa.us)

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LACEY CITY COUNCIL WORKSESSION

December 9, 2021

SUBJECT: 2021 Housing Action Plan Implementation Initiatives

RECOMMENDATION: Hear a briefing from staff to review the status of various housing implementation initiatives. No action is necessary as each of the initiatives will be brought to the City Council during future regular meetings for formal consideration.

STAFF CONTACT: Scott Spence, City Manager *SS*
Rick Walk, Community and Economic Development Director *RW*
Ryan Andrews, Planning Manager *RA*

ORIGINATED BY: Community and Economic Development Department

ATTACHMENTS:

1. [Draft LMC 16.13: Low Density Residential District \(PC Recommendation Version\)](#)
2. [Draft Amendments to LMC 1.20: Fees, Charges and Bonding Requirements](#)
3. [LMC 3.64: Multifamily Tax Exemption Program](#)

FISCAL NOTE: Expansion of the fee waiver and multi-family tax exemption programs will impact revenues depending on the number of projects that utilize the programs.

PRIOR REVIEW: No review of these specific initiatives by the full City Council.

BACKGROUND:

With adoption of the Affordable Housing Strategy and Housing Action Plan, the next step is to begin to implement the recommendations within the plans. There are three major initiatives to begin implementation that are pending City Council review: The Low-Density Zone Consolidation, fee waiver program, and Multi-Family Tax Exemption extension. The purpose of this briefing is to inform the City Council on the initiatives and prepare for potential action at a future public Council meeting.

Low Density Zone Consolidation

A high priority action item identified in the City of Lacey's Affordable Housing Strategy (Action #7) and the 2021 Housing Action Plan (Action 4.a.) is the reduction in lot sizes and widths in the existing Low Density 0-4 zoning district. Doing this will effectively increase density minimums in existing neighborhoods and will ultimately increase the diversity of housing stock in the zone. The following is from Action #7 in the Strategy:

"Reducing minimum lot sizes, lot widths, and density minimums will help increase density in older, central neighborhoods, which are near utilities, transit lines, services, and jobs. Currently the lowest density zoning is 0-4 dwelling units per acre. This is primarily in the older, established neighborhoods, but also in the Urban Growth Area, with very few vacant parcels left. For example, this would allow for more duplexes in low-density neighborhoods."

To accomplish this, the Planning Commission is recommending approval of an amendment to consolidate two existing zoning districts (Low Density 0-4 and Low Density 3-6) into one zone. This new consolidated Low-Density Residential zone utilizes the existing Low Density 3-6 zoning standards. Therefore, for those properties currently zoned Low Density 3-6, density standards will not change. Those properties currently zoned Low Density 0-4 will now be allowed to develop at up to 6 units per acre with reduced lot sizes. The revisions will also amend the zoning map and Comprehensive Plan which will require a Comprehensive Plan amendment to be completed in 2022.

In addition to the consolidation of the two zones, the following outlines the other major changes:

- Allowing up to six units per acre throughout all low-density residential areas. This would allow limited subdivision of larger parcels (those that are generally 10,000 square feet or more) in existing neighborhoods.
- Allow a duplex or triplex on an existing lot of record and allow existing homes to be converted to duplexes or triplexes without meeting underlying density requirements.
- Potential removal of the allowance for un-platted lots of less than one acre to be subdivided into as many lots as the minimum lot size would allow.
- Potential removal of vested lot statute for maximum building coverage of 50%.

The Planning Commission conducted a public hearing on the draft amendments on October 15, 2019. Notice of the public hearing was mailed directly to over 2,300 property owners that own property greater than 10,000 square feet in size, are within the existing LD 0-4 zone, and are adjacent or connected to sewer.

Quality of Life

The largest volume of comments received by the Planning Commission were related to quality of life issues—specifically the fear of neighborhood change and the pace associated with this change. The comments received were that people bought their home within a single-detached neighborhood and expect it to continue that way.

Staff researched this issue and was not able to find any definitive case studies or any other documented information on what could be expected related to pace of neighborhood change, however, an article was located from the Sightline Institute that documents a neighborhood in Portland where duplexes, triplexes, and fourplexes have been legal in a low-density neighborhood for nearly 40 years. Over those nearly 40 years, the neighborhood of about 200 low-density residential buildings has increased by 20 homes.

In the last 20 years, Lacey has developed with primarily single-detached structures on greenfield sites. Today there are no large parcels available for this style of development. For the next 20 years, the Lacey city limits are expected to grow by an additional 6,000 residents according to estimates prepared by Thurston Regional Planning Council. That means that the city will have to accommodate this growth within our existing neighborhoods through infill and redevelopment. If those 6,000 new residents are averaged over 20 years, Lacey will grow by an average of 300 residents per year. If these residents are spread throughout the entirety of the city's existing neighborhoods, then there would not be a notable increase in the pace of change.

Traffic and Parking

A primary concern received in many of the comments was that duplexes or triplexes may cause traffic issues in existing neighborhoods. According to the Institute of Transportation Engineers (ITE) Manual, a single-detached residence generates .99 PM peak hour (between 4 and 6 p.m.) trip. Comparatively, a duplex generates .56 trips per unit for a total of 1.12 PM peak hour trip (a negligible increase over the single-detached home) and a triplex also generates .56 trips per unit for a total of 1.68 PM peak hour trip. The volume of traffic trips is not enough to make any marked increase within neighborhoods.

Since most new duplexes and triplexes will be located in generally older neighborhoods, it is important to consider the walking and biking infrastructure. The streets in older neighborhoods lack sidewalks and are little more than a 20-foot asphalt strip. In accordance with the City of Lacey's Development Guidelines and Public Works Standards, triplex units are required to install sidewalks or sign a deferral agreement that requires the property owner to install sidewalks at such time the City does a project to install sidewalks along the frontage. The Planning Commission is recommending that these requirements also apply to duplexes and townhomes as well.

An additional concern raised at the hearing and related to transportation is parking. Lacey's parking requirements are consistent with other neighboring jurisdictions with the

amount of off-street parking required. The current requirements for the amount of off-street parking is two spaces for each single-detached unit, two spaces for each townhome or duplex unit, and 1.5 spaces per triplex unit. Concerns were also raised that in older neighborhoods, these types of homes would promote more parking on the shoulder of the street.

Trees

For all residential development applications, tree planting and/or retention is required. That means that when a development application is submitted, the applicant must demonstrate in their plans where existing trees are located, if they meet required tree ratios according to lot size and if they do not meet the tree ratio, the numbers and species of trees to be installed. The city's required tree ratio for a development proposal is 4 trees per 5,000 square feet of lot area. This means that if a typical larger lot was to develop, regardless of housing type (single-detached, duplex, townhome, or triplex) that they would have to retain or replant to reach the requirement of 8 trees on their lot.

Compatibility

To ensure that duplex and triplex units are compatible with existing neighborhoods, all units are required to comply with the design review provisions in LMC 14.23.073. This section requires duplexes and triplexes to meet the same design review requirements as new single-detached residential units and requires compatibility with the existing neighborhood. While the City cannot regulate the quality of construction, the City can regulate aesthetics and ensure that projects comply with building codes.

Existing regulations require that these structures not only be required to meet the requirements of single-family detached structures, but also meet neighborhood compatibility requirements. These additional compatibility requirements include design treatments to ensure a duplex or triplex is complementary to single family units in the subdivision including building orientation, roof breaks, and modulation of facades.

Property Values

Property values was also brought up as an area of concern during the public hearing. Some members of the public had concerns that this would decrease the value of their existing single-detached home while others had the opposite claim that this would increase home values. Attached is a document that contains specific studies around the country on property values. The findings of the majority of the studies were that property values increased as a result of these types of regulations to allow modest home choices like duplexes and triplexes in existing neighborhoods.

Additional information is also provided from the Thurston County Assessor's Office on property values across various housing types. In 2019 the assessed value of single-

detached homes rose year-over-year by 4.82%. Additionally, units termed “multi-family” which are duplexes and triplexes rose at an even greater rate at 8.70% year-over-year. Post-recession residential property values across Thurston County are rising at a significant rate.

Several individuals spoke about the increase in property taxes. When residential assessments rise, this doesn’t always correspond to a rise in property taxes. According to information on the Thurston County Assessor’s Office website:

“Property tax increases are generally caused by a combination of factors. For instance, when taxing districts ask for more money (that is, increase their budgets), property owners will pay more tax. Most districts set their budgets by a vote of their legislative body that may authorize increases up to their statutory or levy rate limits. This usually results in increased taxes.

Taxes can also go up when voters approve special purpose levies for community services such as school district maintenance and operation levies, building bonds, bonds for school buses, or bonds for fire trucks.

Taxes may increase when a new house is constructed on a previously vacant lot, or when a property previously receiving an exemption (such as a senior/disabled person exemption program) is sold and becomes fully taxable.

Taxes for an individual property owner may also increase when the value of their property increases at rates faster than other properties in their area of the county.”

Planning Commission Recommendation

After over nine months of consideration, at their meeting on December 17, 2019, the Planning Commission voted 6 to 2 to recommend approval of Low-Density zone consolidation and associated amendments to the City Council. The Planning Commission weighed the public testimony received, the information received throughout the process, and developed an extensive record that supports the amendments.

To support the amendments, during the 2019 legislative session, the Washington State Legislature passed Engrossed Second Substitute House Bill 1923 which the governor has signed into law. E2SHB 1923 contains a variety of incentives and programs to address affordable housing. The legislation specifically encourages cities to authorize at least one duplex, triplex, or courtyard apartment on each parcel in one or more zoning districts that permits single-family residences unless a city documents a specific infrastructure or physical constraint that would make this requirement unfeasible. The legislation also specifically states that the regulations to allow duplexes and triplexes in single-detached zones would not be subject to administrative or judicial appeals. Essentially this means that, if adopted, the regulations would be final and not appealable after adoption by the City

Council. In addition, during the 2020 legislative session the Washington State Legislature passed Substitute House Bill 2343 that expanded on E2SHB1923 and added to the list of planning actions that cities are encouraged to take to increase residential building capacity, among other directives and clarifications to support increasing the housing supply in Washington.

Fee Waiver

A priority action item identified in the City of Lacey's Affordable Housing Strategy and 2021 Housing Action Plan is expanding the program that waives fees for non-profits building low-income housing also to private sector builders that build low-income housing. LMC 1.20 currently authorizes the City Manager to waive certain development fees for community-based housing development organizations, Habitat for Humanity and the Boys and Girls Club of Thurston County. The fees eligible to be waived include building, mechanical, plumbing, electrical, plan check and water meter fees. The City Manager is authorized to also defer wastewater connection and general discharge fees for certain affordable housing development projects. Just as the City reduces fees for community-based housing development organizations, the City Council could also authorize the City Manager to waive fees for private sector developers building low-income units. (Affordable Housing Strategy Action 6 & 2021 Housing Action Plan Action 1.k.).

If City Council decides to consider this amendment, a program with criteria and conditions will need to be established to ensure the projects and/or units proposed for fee waiver are meeting the community's need for low income housing and state law regarding the use of public funds.

Amending LMC 1.20 to expand the waiver and deferral of certain fees to all developers would be an optional program a developer could choose to pursue. The success of the program depends on the actual demand by those in the development community who would utilize it, targeting the appropriate income range, placement of qualifying households in the units, management of the units, and adequate resources for City administration and oversight of the program.

The following criteria are initial elements of a fee waiver program that Council can consider. This list is a starting point that can be refined based on discussions and feedback from the residential, building and social service communities:

- A developer may request a fee waiver or deferral for each unit that provides housing for moderate or low-income households. Moderate income is defined as 80% of AMI and Low income is defined as 50% of AMI.
- Units receiving a waiver shall only be leased to qualifying moderate and low-income households in perpetuity.

- If the property owner would like to remove units from the program, all waived fees would be paid to the City at the value of the year the units are no longer available to moderate and low-income households.
- The developer would be required to enter into a partnership with a non-profit for leasing and management of the units designated for moderate and low-income households.
- An annual report would be provided to the City verifying occupants of all units designated for moderate and low-income housing are meeting the definitions of moderate and low-income definitions.

In 2020, staff conducted outreach to various interest groups including the Thurston Chamber and Olympia Master Builders. The purpose of the outreach was to gain any feedback on the proposed program as well as gauge interest. At that point, the builder/developer representatives were not interested in pursuing projects that would utilize a fee waiver even. The main comment received was from the membership of the Olympia Master Builders who wanted assurance that permit fees for typical building/development proposals would not increase as a result of waiving fees for low-income proposals.

Extension of the Multi-Family Tax Exemption

The Multi-Family Tax Exemption regulations (LMC 3.64) were approved by the City Council in 2014 after the adoption of the Woodland District Strategic Plan. The Woodland District Strategic Plan identified the adoption of the program as a way to increase the viability of residential projects specifically within the Woodland District. The regulations specifically exempt a multi-family project of 20 units or larger from the payment of property taxes for the residential portion of a structure for 8 years if the project is market rate and up to 12 years if the project provides a minimum of 20% of units to households making 80% or less of the area median income.

When the regulations were passed in 2014, it contained a clause where the program would sunset after 10 years unless specifically extended by the City Council. A recommendation of the recently completed Lacey Midtown Market Analysis is to extend the program given that it has a significant positive impact on the economics of redevelopment and given that there is a very limited window for future projects to take advantage of the program given development timelines.

ADVANTAGES:

1. The housing implementation initiatives will support a community need for more affordable housing.

DISADVANTAGES:

1. None identified.

~~Chapter 16.12~~

~~LOW-DENSITY RESIDENTIAL DISTRICT (0-4)~~

Sections:

- ~~16.12.010 Intent~~
- ~~16.12.020 Permitted uses~~
- ~~16.12.030 Prohibited uses~~
- ~~16.12.035 Density~~
- ~~16.12.040 Environmental performance standards~~
- ~~16.12.050 Lot area~~
- ~~16.12.060 Off street parking~~
- ~~16.12.070 Landscaping~~
- ~~16.12.080 Stormwater runoff~~

~~16.12.010 Intent.~~

It is the intent of this chapter to:

- ~~A. Enhance the residential quality of the city by providing a high standard of development for single family residential areas;~~
- ~~B. Provide a single family residential designation with an appropriate lower density and larger lot size for development adjacent to environmentally sensitive areas;~~
- ~~C. Provide a single family residential designation with lot sizes compatible and more easily integrated into neighborhoods with adjacent older subdivisions with larger lots;~~
- ~~D. Designate certain areas in which single family structures on individual lots are the dominant type of dwelling unit;~~
- ~~E. Guide residential development to those areas where:~~
 - ~~1. Public sewers are in place prior to residential building construction, or~~
 - ~~2. Where sewers can be extended at minimal cost to the city, or~~
 - ~~3. Where new technology in the processing of domestic sewerage makes residential development in unsewered areas environmentally acceptable;~~
- ~~F. Guide development of residential areas in such manner as to encourage and plan for the availability of public services and community facilities such as utilities, police and fire protection, streets, schools, parks and recreation. (Ord. 1243 §5, 2005; Ord. 1024 §25, 1995; Ord. 583 §2.12(A), 1980).~~

~~16.12.020 Permitted uses.~~

- ~~A. Specific types permitted in the low density residential district:~~
 - ~~1. Single family detached structures on individual lots up to four dwelling units per acre dependent upon environmental sensitivity. For unplatted parcels of less than one acre, properties may be divided into the maximum number of lots the minimum lot size will permit pursuant to LMC 16.12.035. Single family detached structures are subject to the design criteria established in LMC 14.23.072.~~
 - ~~2. Housing for people with functional disabilities.~~
- ~~B. Other or related uses permitted:~~

- ~~1. Accessory buildings or structures clearly incidental to the residential use of the lot such as storage of personal property or for the pursuit of avocational interests. All such buildings or structures over sixteen feet in height shall comply with the design requirements of LMC 14.23.071;~~
- ~~2. Urban agricultural uses as provided for and limited under Chapter 16.21 LMC;~~
- ~~3. Home occupations as provided in Chapter 16.69 LMC;~~
- ~~4. Accessory dwelling as defined in LMC 16.06.055;~~
- ~~5. Conditional uses as provided in Chapter 16.66 LMC;~~
- ~~6. The keeping of common household animals or pets is permitted provided that their keeping does not constitute a nuisance or hazard to the peace, health and welfare of the community in general and neighbors in particular;~~
- ~~7. Family day care homes as provided in Chapter 16.65 LMC. (Ord. 1368 §15, 2011; Ord. 1310 §18, 2008; Ord. 1243 §6, 2005; Ord. 1192 §205, 2002; Ord. 1137 §2, 2000; Ord. 1044 §5, 1996; Ord. 1024 §25, 1995; Ord. 931 §5, 1992; Ord. 927 §4, 1992; Ord. 691 §7, 1984; Ord. 583 §2.12(B)(1,2), 1980).~~

16.12.030 — Prohibited uses.

~~A. Kennels are prohibited.~~

~~B. Uses other than those identified or described in LMC 16.12.020 are prohibited. (Ord. 583 §2.12(B)(3), 1980).~~

16.12.035 — Density.

~~Densities of up to four units per acre are permitted dependent upon environmental sensitivity. For unplatted parcels of less than one acre, properties may be divided into the maximum number of lots the minimum lot size will permit. Provided said lot has infrastructure available to it to support the lots being created and provided created lots are not less than the average lot size of adjacent developed lots. Every detached single family dwelling, with the exception of an accessory dwelling meeting the requirements of LMC 16.06.055, shall be located on its own lot. Creation of an individual lot or lots shall meet all requirements of LMC Title 15, the Lacey subdivision and short subdivision code. (Ord. 1310 §19, 2008; Ord. 1243 §7, 2005; Ord. 1218 §9, 2004; Ord. 1044 §6, 1996; Ord. 1024 §26, 1995).~~

16.12.040 — Environmental performance standards.

~~A. Permitted uses shall create no noise, emissions, odors or other nuisances which are demonstrably disruptive or disturbing to other residences in the area, or which are of a quality or quantity not normally associated with residential use.~~

~~B. The construction of accessory buildings shall be encouraged in such a manner as to make them complementary to the basic architectural character of the main building on the lot, or appropriate to the accessory use.~~

~~C. Conditional uses shall comply with the development standards described for such uses in Chapter 16.66 LMC.~~

~~D. All uses shall comply with the applicable environmental performance standards of Chapter 16.57 LMC. (Ord. 1192 §132, 2002; Ord. 583 §2.12(C)(1), 1980).~~

16.12.050 — Lot area.

The size and shape of lots shall be as follows, provided they adhere to the density requirements:

~~A. Minimum lot area, six thousand five hundred square feet where alleys are utilized and seven thousand five hundred square feet where alleys are not provided.~~

~~B. Minimum lot width, sixty feet where alleys are utilized, seventy feet where alleys are not provided. In the case of infill lots, the street frontage shall also be forty feet when alleys are utilized and fifty feet if alleys are not utilized.~~

~~C. Minimum front yard:~~

~~Sixteen feet.~~

~~Garages facing the street, twenty feet.~~

~~On front yard flanking streets, ten feet.~~

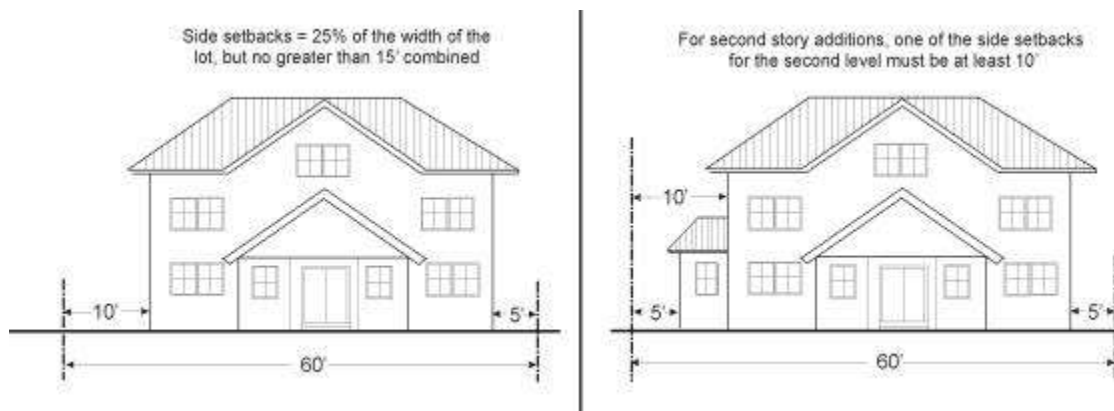
~~Unenclosed porches may project up to six feet into the front yard, provided the porches are at least forty eight square feet in area with no dimension less than six feet.~~

~~D. — Minimum side yards:~~

~~Minimum on one side, five feet.~~

~~Minimum total both sides, ten feet for single story structures; fifteen feet or no greater than twenty five percent of the lot width (as measured along the front lot line) for two story structures. (See Table 16T-72.)~~

Table 16T-72



~~Minimum side yards for two-story homes in the Low Density Residential (0-4) District.~~

~~E. — Minimum rear yard, twenty feet, provided garages may be within three feet of the rear yard line alley easement or paved surface when adjacent to an alley.~~

~~F. — Minimum usable open space:~~

~~Where alleys are utilized, lots shall provide a contiguous open space equivalent to ten percent of the lot size. Specific open space requirements:~~

~~Shall feature minimum dimensions of twenty feet on all sides. For example, a sixty five hundred square foot lot would require a contiguous open space of at least six hundred fifty square feet, or approximately twenty by thirty three feet in area.~~

~~Such open space shall not be located within the front yard. (See Tables 16T-73 and 16T-74.)~~

Table 16T-73

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~~Minimum standards for front loaded lots in the Low Density Residential (0-4) District.~~

Table 16T-74

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~~Minimum standards for alley-loaded lots in the Low Density Residential (0-4) District.~~

~~G. Maximum building coverage, forty percent. Undeveloped lots vested prior to May 15, 2008, shall be exempted from this standard provided they meet minimum usable open space requirements herein.~~

~~H. Maximum development coverage, fifty-five percent. Side and rear yard patios are exempt from development coverage restrictions provided the paving material used is considered a pervious pavement by the city of Lacey's public works department.~~

~~I. Maximum height of buildings:~~

~~Main building and accessory dwelling, twenty-five feet; thirty-five feet where the roof pitch is at least four feet vertical to twelve feet horizontal.~~

~~Accessory building, shall be limited to the height of the primary building, provided structures over sixteen feet in height shall require design review. Design shall demonstrate a compatibility with the primary structure and shall not dominate the site visually.~~

~~An additional two feet in height is permitted for structures with green roofs occupying at least fifty percent of the area of the roof.~~

~~J. Accessory buildings: All accessory buildings must comply with the current building setbacks as stated in this chapter; provided, however, if the accessory building is less than two hundred square feet, the following setbacks are permitted:~~

~~Front yard, twenty feet.~~

~~Side yard, five feet.~~

~~Rear yard, three feet. (Ord. 1480 §§12, 28 (part), 29 (part), 2015; Ord. 1427 §4, 2013; Ord. 1310 §21, 2008; Repealed Ord. 1310 §20, 2008; Ord. 1243 §8, 2005; Ord. 1220 §5, 2004; Ord. 1218 §10, 2004; Ord. 1179 §2, 2002; Ord. 1024 §27, 1995; Ord. 691 §8, 1984; Ord. 618 §1, 1981; Ord. 583 §2.12(C)(2)(a), 1980).~~

~~16.12.060 Off street parking.~~

~~Off street parking shall be provided in accordance with Chapter 16.72 LMC. (Ord. 583 §2.12(C)(2)(b), 1980).~~

~~16.12.070 Landscaping.~~

~~All requirements of Chapter 16.80 LMC shall be satisfied. (Ord. 1496 §45, 2016; Ord. 1310 §22, 2008; Ord. 691 §9, 1984; Ord. 583 §2.12(C)(2)(c), 1980).~~

~~16.12.080 Stormwater runoff.~~

~~Stormwater management is required and shall comply with the current City of Lacey Stormwater Design Manual and shall be subject to the city's review and approval, and shall, moreover, comply Chapter 15.22 LMC pertaining to community facilities. (Ord. 1496 §46, 2016; Ord. 1380 §1, 2012; Ord. 583 §2.12(C)(2)(d), 1980).~~

Chapter 16.13

LOW-DENSITY RESIDENTIAL DISTRICT ~~(3-6)~~

Sections:

- 16.13.010 Intent
- 16.13.020 Permitted uses
- 16.13.030 Prohibited uses
- 16.13.035 Densities and infill
- 16.13.040 Environmental performance standards
- 16.13.050 Lot area
- 16.13.060 Off-street parking
- 16.13.070 Landscaping
- 16.13.080 Stormwater runoff

16.13.010 Intent.

It is the intent of this chapter to:

- A. Enhance the residential quality of the city by providing a high standard of development for ~~single-family~~ residential areas ~~of low density~~;
- ~~B. Designate certain areas in which single family structures on individual lots are the dominant type of dwelling unit;~~
- ~~C. Provide designated areas in which certain minimum and maximum densities apply to promote the efficient use of land;~~
- ~~BD.~~ Allow a broad range of low density housing options ~~from three to six units per acre to provide a range of single family land use options including innovative smaller lot uses such as Z-lot concepts~~;
- ~~CE.~~ Guide residential development to those areas where:
 - 1. Public sewers are in place prior to residential building construction, or
 - 2. Sewers can be extended, or
 - 3. New technology in the processing of domestic sewerage makes residential development in unsewered areas environmentally acceptable;
- ~~DE.~~ Guide development of residential areas in such manner as to encourage and plan for the availability of public services and community facilities such as utilities, police and fire protection, streets, schools, parks and recreation;
- ~~EG.~~ Guide development in such a manner as to provide protection between noncompatible uses. (Ord. 1024 §28, 1995; Ord. 769 §1 (part), 1986).

16.13.020 Permitted uses.

- A. Specific types permitted in the low density residential district:
 - 1. Single-family detached structures on individual lots with a density of not ~~less than three nor~~ more than six units per acre. ~~For unplatted parcels of less than one acre, properties may be divided into the maximum number of lots the minimum lot size will permit pursuant to LMC 16.13.035.~~ Single-family detached structures are subject to the design criteria established in LMC 14.23.072;
 - 2. Cottage housing developments as provided in Chapter 16.62 LMC and subject to the design criteria in LMC 14.23.072;
 - 3. Planned residential developments as provided in Chapter 16.60 LMC;

4. Townhouse developments as provided in Chapter 16.61 LMC;
5. Duplexes and triplexes on individual lots ~~A limited percentage (up to five percent of total lots) of two and three family units, as noted on particular lots on the plat,~~ provided design requirements of Chapter 14.23.073 LMC are satisfied. ~~Duplex and triplex units should not be placed adjacent to one another, but scattered throughout the development;~~
6. Housing for people with functional disabilities.

B. Other or related uses permitted:

1. Accessory buildings or structures clearly incidental to the residential use of the lot, such as buildings or structures for storage of personal property (including boats, recreational vehicles, etc.), or for the pursuit of avocational interests; or structures designed for and related to recreational needs of the residents of a residential complex. All such buildings or structures over sixteen feet in height shall comply with the design requirements of LMC 14.23.071;
2. Urban agricultural uses as permitted and limited under Chapter 16.21 LMC;
3. Home occupations as provided in Chapter 16.69 LMC;
4. Accessory dwelling as defined in LMC 16.06.055;
5. Conditional uses as provided in Chapter 16.66 LMC;
6. The keeping of common household animals or pets, provided that their keeping does not constitute a nuisance or hazard to the peace, health and welfare of the community in general and neighbors in particular;
7. Family day care homes as provided in Chapter 16.65 LMC. (Ord. 1368 §17, 2011; Ord. 1310 §23, 2008; Ord. 1192 §133, 2002; Ord. 1137 §3, 2000; Ord. 1044 §7, 1996; Ord. 1024 §28, 1995; Ord. 931 §6, 1992; Ord. 927 §5, 1992; Ord. 769 §1 (part), 1986).

16.13.030 Prohibited uses.

- A. Kennels are prohibited.
- B. Uses other than those identified or described in LMC 16.13.020 are prohibited. (Ord. 1024 §28, 1995; Ord. 769 §1 (part), 1986).

16.13.035 Densities and infill.

Densities ~~may range from not less than three to shall not exceed no more than~~ six units per acre, provided that duplexes or triplexes either created by remodeling an existing single-family dwelling or constructed on an existing vacant lot of record are not subject to the maximum density limits. ~~For unplatted parcels of less than one acre, properties may be divided into the maximum number of lots the minimum lot size will permit. Provided said lot has infrastructure available to it to support the lots being created and provided created lots are not less than the average lot size of adjacent developed lots.~~ Every detached single family dwelling, with the exception of an accessory dwelling meeting the requirements of LMC 16.06.055 and every duplex or triplex, shall be located on its own lot. Creation of said lot shall meet all requirements of LMC Title 15 the Lacey subdivision and short subdivision code.

(Ord 1310 §24, 2008; Ord. 1218 §11, 2004; Ord. 1044 §8, 1996; Ord. 1024 §29, 1995; Ord. 1024 §1, 1995).

16.13.040 Environmental performance standards.

- A. Permitted uses shall create no noise, emissions, odors or other nuisances which are demonstrably disruptive or disturbing to other residences in the area, or which are of a quality or quantity not normally associated with residential use.
- B. Accessory buildings shall be complementary to the basic architectural character of the main building on the lot, or appropriate to the accessory use.

C. Conditional uses shall comply with the development standards described for such uses in Chapter 16.66 LMC.

D. All uses shall comply with the applicable environmental performance standards of Chapter 16.57 LMC. (Ord. 1368 §18, 2011; Ord. 1192 §134, 2002; Ord. 769 §1 (part), 1986).

16.13.050 Lot area.

A. The size and shape of ~~single family detached~~ lots shall be as follows, provided they adhere to the density requirements:

1. Minimum lot area, four thousand five hundred square feet where alleys are utilized; five thousand square feet where alleys are not provided.

2. Minimum lot width, forty feet where alleys are utilized, fifty feet where alleys are not provided. In the case of infill lots, the street frontage shall also be forty feet when alleys are utilized and fifty feet if alleys are not utilized.

3. Minimum front yard:

Sixteen feet.

In addition, setbacks are encouraged to be staggered as provided in LMC 15.12.080(F) for the purpose of modulating the streetscape and providing more convenient opportunities for offsetting windows for privacy of individual homes and other desired design outcomes.

Garages facing the street, twenty feet.

On front yard flanking streets, ten feet.

Unenclosed porches may project up to six feet into the front yard, provided the porches are at least forty-eight square feet in area with no dimension less than six feet.

4. Minimum side yards:

Minimum on one side, five feet.

Minimum total both sides, ten feet.

5. Alternative lot configurations may be approved provided they comply with all of the following:

a. Other applicable standards in this chapter.

b. Design criteria in LMC 14.23.072, particularly LMC 14.23.072(L).

c. The design results in a superior land division layout considering its functionality and character with particular consideration given to privacy for individual lots, pedestrian access and convenience, and the design of public and/or private open space opportunities and natural features.

6. Minimum rear yard, ~~twenty-five~~ feet provided detached accessory dwelling units shall be five feet.
~~g~~Garages may be within three feet of the rear yard line, alley easement or paved surface when adjacent to an alley.

B. Lots intended for attached single-family development shall be reviewed and approved through a subdivision, townhouse, or PRD process where the concept is identified and the project is reviewed and approved subject to design requirements of LMC 14.23.080.

C. Development of lots not on sewer. Areas without sewer must be developed in a manner that maintains long term potential to achieve minimum required densities and efficient provision of sewer once sewer becomes available. Areas developing without sewer must meet the following requirements:

1. The health department must review and approve plans for alternative sewage disposal.
2. Lots must be clustered in a configuration that results in urban size lots with one large reserve lot for future development.
3. Clustered lots must be between five thousand and ten thousand eight hundred ninety square feet.
4. Excluding the reserve parcel, clustered lots must meet density requirements of LMC 16.13.035.
5. Subdivisions and short subdivisions must have a statement on the face of the plat or short plat that when sewer becomes available to the area clustered lots shall hook up to sewer at each lot owner's expense. Such requirement shall also be provided for in protective covenants.

D. Other lot standards:

1. Minimum usable open space:

Where alleys are utilized, lots shall provide a contiguous open space equivalent to ten percent of the lot size.
Specific open space requirements:

Shall feature minimum dimensions of fifteen feet on all sides, provided one side may be reduced to ten feet by the site plan review committee if it determines the space is designed with features that make it more inviting, private and usable. Design for reduction of the minimum dimension must include at least two of the following techniques:

- a. A pergola or other architectural feature with landscaping;
- b. An improved patio area with features for associated use such as sitting or barbeque;
- c. Other design features and improvements that add to the usability, privacy and desirability of the private space.

As an example, a forty-five-hundred-square-foot lot would require a contiguous open space of at least four hundred fifty square feet, or approximately fifteen feet by thirty feet in area for a standard dimension, or ten feet by forty-five feet if the dimension is reduced and design features added.

Such open space shall not be located within the front yard.

For duplexes and triplexes, each dwelling unit must have direct access to its own usable open space. (See *Tables 16T-75 and 16T-76.*)

Table 16T-75

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Minimum standards for front-loaded lots in the Low Density Residential ~~(3-6)~~ District.

Table 16T-76

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Minimum standards for alley-loaded lots in the Low Density Residential ~~(3-6)~~ District.

2. Maximum building area coverage, fifty percent. ~~Undeveloped lots vested prior to May 15, 2008, shall be exempted from this standard provided they meet minimum usable open space requirements herein.~~

3. Maximum development coverage, sixty-five percent. Side and rear yard patios are exempt from development coverage restrictions provided the paving material used is considered a pervious pavement by the city of Lacey's public works department.

4. Maximum height:

Main building and accessory dwelling, twenty-five feet; thirty-five feet where the roof pitch is at least four feet vertical to twelve feet horizontal.

Townhouses, thirty feet; thirty-five feet where the roof pitch is at least four feet vertical to twelve feet horizontal.

Accessory building, shall be limited to the height of the primary building, provided structures over sixteen feet in height shall require design review. Design shall demonstrate a compatibility with the primary structure and shall not dominate the site visually.

An additional two feet in height is permitted for structures with green roofs occupying at least fifty percent of the area of the roof.

5. Accessory buildings. ~~All a~~Accessory buildings ~~must shall~~ comply with the current building setbacks as stated in this chapter; provided, however, if the accessory building is less than two hundred square feet, the following setbacks are permitted:

Front yard, ~~fifteen~~sixteen feet.

Side yard, five feet.

Rear yard, three feet. (Ord. 1480 §§13, 28 (part), 29 (part), 2015; Ord. 1427 §5, 2013; Ord. 1310 §26, 2008; Repealed Ord. 1310 §25, 2008; Ord. 1220 §6, 2004; Ord. 1218 §12, 2004; Ord. 1179 §3, 2002; Ord. 1024 §30, 1995; Ord. 769 §1 (part), 1986).

16.13.060 Off-street parking.

Off-street parking shall be provided in accordance with Chapter 16.72 LMC. (Ord. 769 §1 (part), 1986).

16.13.070 Landscaping.

All requirements of Chapter 16.80 LMC shall be satisfied. (Ord. 1496 §47, 2016; Ord. 1310 §27, 2008; Ord. 769 §1 (part), 1986).

16.13.080 Stormwater runoff.

Stormwater management is required and shall comply with the current City of Lacey Stormwater Design Manual and shall be subject to the city's review and approval, and shall, moreover, comply with Chapter 15.22 LMC pertaining to community facilities. Stormwater generated on site shall not cause pollution to any surface or ground waters, or violate local, state, or federal standards governing the quality of such waters. (Ord. 1496 §48, 2016; Ord. 1380 §1, 2012; Ord. 769 §1 (part), 1986).

Amend other sections as follows:

...

16.09.010 Land use or zoning districts established.

To carry out the purpose of this title, the city is divided into the following districts: Agricultural, McAllister Springs Geologically Sensitive Area Residential District, Low-Density Residential ~~0-4, Low-Density Residential 3-6~~, Lacey Historical Neighborhood, Moderate-Density Residential, High-Density Residential, Mixed Use Moderate Density Corridor, Mixed Use High Density Corridor, Hawks Prairie District, Village Center, Neighborhood Commercial, Community Commercial, General Commercial, Central Business Districts 4-7, Saint Martin's University, Woodland

District, Community Office, Light Industrial/Commercial, Light Industrial, Industrial, Mineral Extraction, Open Space/Institutional, Cemetery, Environmentally Sensitive Areas (overlay), Limited Zone (overlay), Planned Industrial Park Development (overlay). (Ord. 1493 §8, 2016; Ord. 1355 §1, 2010; Ord. 1220 §3, 2004; Ord. 1080 §5, 1998; Ord. 1024 §22, 1995; Ord. 758 §1 (part), 1985; Ord. 583 §2.01(D)(1), 1980).

...

16.40.050 Site requirements.

Minimum site requirements shall be as follows:

- A. Lot area, twenty thousand square feet.
- B. Lot width, one hundred feet.
- C. Side yard setback, fifteen feet.
- D. Rear yard setback, twenty-five feet.
- E. Front yard setback, twenty feet.
- F. Buildings of more than two hundred thousand square feet shall meet the requirements of LMC 16.40.052.
- G. Wherever there are multiple buildings on the same lot, a minimum separation distance, meeting the requirements of LMC 14.23.083, shall be maintained between such buildings.
- H. When adjacent to a residential zoned property (LD, ~~0-4, LD-3-6~~ MD, or HD), or an open space institutional zoned property (OSI), the minimum yard setback adjacent to the residential or open space institutional zone shall be fifty feet.
- I. Truck bay doors and/or loading or unloading areas shall not face residential zoned property (LD-~~04, LD-3-6~~, MD or HD), if within two hundred fifty feet of said zones, unless separated by the placement of a building without bay doors and/or loading or unloading areas facing the residential zone. (Ord. 1480 §24, 2015; Ord. 1348 §4, 2010; Ord. 1264 §11, 2006; Ord. 758 §1 (part), 1985).

...

16.41.050 Site requirements.

Minimum requirements shall be as follows:

- A. Minimum Lot Size. The lot size shall be sufficient to accommodate the use(s) and requirements of the Lacey Municipal Code and Development Guidelines and Public Works Standards;
- B. Setbacks.
 - 1. Front Yard. The front yard shall be a minimum of fifteen feet.
 - 2. Yard Area on Flanking Street or Corner Lot. The yard area on a corner lot shall be the same as the front yard under subsection (B)(1) of this section.
 - 3. Side Yards. The side yards shall be a minimum of fifteen feet.
 - 4. Rear Yards. The rear yards shall be a minimum of fifteen feet.
 - 5. Setbacks required by this section may be waived by the site plan review committee pursuant to the policies of this chapter.

C. Transitional Buffer. When adjacent to residential zones (LD-~~0-4~~, LD-~~3-6~~, MD, or HD) and where parking areas, truck bay doors and or loading or unloading areas face the residential use, a yard of not less than fifty feet shall be provided. Where placement of a building without bay doors and/or loading or unloading areas face the residential zone, standard yard requirements apply; provided, that the requirements of LMC 16.80.050(B) are met for Type 1 landscaping.

D. Height Limitation. Building heights are limited to sixty feet. (Ord. 1493 §18, 2016; Ord. 1044 §22, 1996; Ord. 770 §1 (part), 1986).

...

16.61.030 Where permitted.

Townhouse developments may be permitted in the following land use districts, consistent with the development standards in this chapter:

- A. Low Density ~~3-6~~ Residential District;
- B. Moderate Density Residential District;
- C. High Density Residential District. (Ord. 691 §32 (part), 1984; Ord. 1380; §1; 2012).

16.61.040 Development standards.

A. Density. The density of the underlying zone governs unless a density increase is granted as provided in this chapter.

B. Density Increase. The city may approve an increase in the dwelling unit density of up to fifteen percent in the Low Density ~~3-6~~ District, twenty percent in the Moderate Density District and twenty-five percent in the High Density District, rounded up to the nearest whole number; provided, that four of the five following environmental and recreational amenities are implemented:

...

16.62.020 Where permitted.

Cottage housing development shall be permitted in the following land use districts, consistent with the development standards in this chapter:

- A. Low Density Residential ~~3-6~~ District.
- B. Moderate Density Residential District.
- C. High Density Residential District.

D. Cottage housing developments are intended to be integrated with other housing types. Specifically, no more than five clusters of cottages are permitted in any individual development, except for large developments where cottages represent less than twenty five percent of the total number of dwelling unit. (Ord. 1310, §48, 2008).

16.62.030 Development standards.

A. Density. The density of the underlying zone governs unless a density increase is granted as provided in this chapter.

B. Density Increase in the Low Density Residential ~~-(3-6)~~ and Moderate Density Residential Districts. The city may allow two cottage units for each regular dwelling unit allowed under existing standards in the Low Density Residential ~~(3-6)~~ and Moderate Density Residential Districts.

...

16.67.050 Sensitive land uses.

The following uses, properties and zones are considered sensitive as referenced in LMC 16.67.030:

- A. Property used for public and private schools;
- B. Property used for public parks;
- C. Property used for public libraries;
- D. Property used for state-certified day care;
- E. Property used for community teen centers;
- F. Property used for churches, cemeteries or other religious facilities or institutions;
- G. Property used for residential and lodging uses and property zoned primarily for residential uses, including LD-~~0-4, LD-3-6~~, MD, and HD zones;
- H. Property used for organizations, associations, facilities and businesses which provide, as a substantial portion of their activities, function or business, the provision of services to children and/or youth, so that the premises of the organization, facility or business would have children and youth in attendance or at the location during a predominant portion of the operational hours of an adult entertainment facility. (Ord. 1037 §3, 1996).

...

Table 16T-13

Use	Unit Measure	Optional Min	Max	Required Bicycle Parking Spaces
BUSINESS PARK				
General business park ¹	Per 1,000 square feet	2	4	See offices
COMMERCIAL				
Banks	Per 1,000 gross square feet	2	3	See offices
Billiard halls	Per table	1	2	1 per 20 auto stalls. Minimum of 4
Bowling alleys	Per alley	3	5	1 per 20 auto stalls. Minimum of 4
Commercial recreation	Per 1,000 square feet	3	5	1 per 20 auto stalls. Minimum of 4
Daycare, preschools, nursery schools	Per teacher plus one drop-off loading area per 7 students	0.5	1	1 per 25 auto stalls. Minimum of 1

Use	Unit Measure	Optional Min	Max	Required Bicycle Parking Spaces
Hotels, motels	Per room or suite	1	2	See retail
Medical offices	Per 1,000 square feet of GFA	2	4	See offices
Mini storage	Per 100 units or a minimum of 3 spaces plus 2 for permanent on-site managers	1		None
Mortuaries, funeral homes	Per 4 seats	1	2	None
Neighborhood commercial shopping area	Per 1,000 square feet	1	2	See retail
Office building	Per 1,000 square feet of GFA			1 per 15 auto stalls. Minimum of 2
	• With on-site customer service	2	4	
	• Without on-site customer service	1.5	3	
Regional shopping centers, food and drug stores	Per 1,000 square feet of GFA	3	6	See retail
Restaurants	Per 100 square feet of dining area	1	4	See retail
Retail	Per 1,000 gross square feet	3	6	1 per 20 auto stalls. Minimum of 2
Retail in mixed use development ²	Per 1,000 gross square feet	2	4	See retail
Service stations (mini marts are retail uses)	Per employee plus per service bay	0.5	1	None
INDUSTRIAL				
General industrial	Greatest number of employees on a single shift	0.5	1	See offices

Use	Unit Measure	Optional Min	Max	Required Bicycle Parking Spaces
	plus one square foot of parking for each square foot of display area plus one space for each vehicle owned, leased or operated by the company			
Warehouse	Per 1,000 square feet of GFA plus	1		None
	Per 400 square feet of GFA used for office or display area	1		

INSTITUTIONAL

Convalescent facilities, nursing homes	Per 2 patient beds	1	3	See offices
Hospital	Per bed	0.5	1	See offices
Libraries	Per 200 square feet of GFA	0.5	1	1 per 20 auto stalls. Minimum of 2
Schools, elementary and junior high	Per classroom and office	1	1.5	1 per classroom
Schools, senior high	Per classroom and office plus per each 5 students of designated capacity	1	2	1 per five auto stalls. Minimum of 2

PLACES OF ASSEMBLY

Places of assembly without fixed seats	Per 1,000 square feet of GFA ³	10	11	1 per 25 auto stalls. Minimum of 2
Places of worship	Per 4 seats	1	2	1 per 40 auto stalls. Minimum of 4
Stadiums, auditoriums, gymnasiums, theaters ⁴	Per 4 seats of the permitted assembly occupants.	1	1.5	1 per 25 auto stalls. Minimum of 4

Use	Unit Measure	Optional Min	Max	Required Bicycle Parking Spaces
RESIDENTIAL				
Accessory dwelling unit	Per dwelling unit	1		None
Single-family	Per dwelling unit	2 ⁶		None
Duplexes <u>and Triplexes</u>	Per dwelling unit	2		None
Multifamily structures <u>greater than three units</u>	Per dwelling unit	1.5		1 per 10 auto stalls. 2 minimum per building
Manufactured home subdivision	Per dwelling unit	2		None
Manufactured home parks ⁵	Per dwelling unit	1.5		None
Rooming houses, lodging houses, bachelor or efficiency units	Per occupant	1	3	None
Senior citizen apartments	Per 3 dwelling units	1	2	See multifamily

¹ When calculating need, a lower ratio of five-tenths per one thousand square feet of GFA can be justified when a covenant is attached to the property that limits the occupancy load to ninety-five percent of the parking stalls available. In addition, the SPRC may authorize a parking ratio up to five spaces per one thousand square feet of GFA if the need can be demonstrated.

² If retail space in a mixed-use development exceeds forty percent of the gross floor area of the development, the retail use parking requirements of this section apply to the entire space.

³ Gross square feet does not include enclosed or covered areas used for off-street parking or loading, mechanical floor areas or covered public spaces.

⁴ School and/or public facility parking spaces may be used provided the facilities are on the same or contiguous parcels within three hundred feet of the theater or auditorium.

⁵ In manufactured home parks, the parking spaces in excess of one per manufactured home may be grouped in shared parking areas.

⁶ For single-family residential development, a minimum of two parking spaces is required.

The following notes apply to all of the above uses:

- Minimum automobile spaces listed in the table are optional guidelines provided in LMC [16.72.030\(D\)\(1\)\(c\)](#) (optional minimum guidelines). Minimum parking spaces for bike parking are mandatory.

- Parking ratios for mixed use development projects shall be determined by calculating the percentage of GFA by use multiplied by the appropriate parking ratio for each use plus a five percent parking reduction for two uses, ten percent parking reduction for three uses and fifteen percent parking reduction for four or more uses.
- Parking spaces provided as part of the above/below grade parking amenity identified in Table [14T-12](#) shall be exempt from all maximum parking requirements.
- All major employers or major worksites, as defined by RCW [70.94.524](#), shall designate at least five percent of auto spaces as carpool spaces. These spaces must be located as close to the main employee entrance as possible and shall be called out on the site plan.
- Where adjacent roads are designed for on-street parking and approved by the public works director, parking credit may be given for on-street parking. (Ord. 1539 §120 (part), 2019; Ord. 1434 §7, 2014).

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14.23.073 Design Criteria For Duplexes And Triplexes In Areas Predominantly Built Out With Single-Family Detached Structures.

To locate duplex and triplex units in areas developed with single-family structures will be controversial because of perceptions that rental units could potentially devalue traditional single-family units. One way to allay these perceptions is to provide duplex and triplex units that blend in with the environment. This can enrich the architectural standards and appearance of the surrounding subdivision or neighborhood. To do this, special guidelines are needed to promote outstanding design and quality of such units.

A. *Similarity to Single-Family Detached Structures.* To accomplish this, duplex and triplex units in single-family residential areas shall comply with the design criteria for detached single-family dwellings in LMC [14.23.072](#) unless otherwise noted below. (See Table [14T-39](#).)

B. *Supplemental Design Criteria.* Where there is a conflict with the detached single-family design criteria set forth in LMC [14.23.072](#), the design criteria herein shall apply.

1. *Entry Design.*

- a. Use either a single entry providing access to multiple units with appearance of a single entry to a single-family house or separate distinct covered entries;
- b. For duplexes located on street corners, entries shall be provided on different sides of the structure so only one entry is visible from any one street.

2. *Location of Garages.* Garages for each of the units shall be separated from one another by living units of one or more of the units, except where designed with adjacent single or tandem garages. No more than two single or tandem garages may be placed in a row.

3. *Architectural Variety.* When reviewing developments with multiple adjacent duplexes, each duplex structure shall be reviewed as an individual home or building in terms of compliance with LMC [14.23.072\(J\)](#).

C. *Design Option.* Duplexes and triplexes can either be designed to look like one single-family house (containing one distinct entry) or designed to look like two or three distinct dwelling units (each with their own individual covered entry). Both design options shall utilize complementary design elements as described in subsection D of this section.

D. *Complementary Design.* Units shall have a design that provides significant architectural interest and is complementary to single-family units in the subdivision. A number of techniques can be used to achieve architectural interest:

1. Roof breaks, use of dormers, masonry chimneys;

2. Modulation of facades and fenestration;
3. Use of balconies, decks and porches.

E. *Landscaping.* Utilize native and drought-tolerant landscaping and/or vegetated LID facilities that complement the architecture of the unit. (Ord. 1539 §13, 2019; Ord. 1496 §9, 2016; Ord. 1310 §6, 2008; Ord. 1124 §7, 2000; Ord. 1024 §3, 1995).

F. Privacy Standards.

1. Window Placement. Placement of windows shall consider privacy so residents from one unit to the next cannot look directly into another unit.

2. Location and orientation of dwelling units shall consider privacy.

3. Side Yard Screening Options. All developments shall utilize one of the following screening methods in side yards:

a. Provide Type I, II, or III landscaping (as defined in LMC 16.80.050) between adjacent homes.

b. Provide solid wood fence or masonry wall, or combination of wood and masonry, six feet in height and located along the property line.

c. Provide a zero-lot line configuration or other similar treatment whereby one side of a home does not feature transparent windows or other openings and thus maximizing privacy on the side yard of the adjacent dwelling unit.

d. Other treatments that meet the intent of the criteria as approved by the director. Examples can include lower fencing and/or reduced or alternative landscaping treatments. (See Table 14T-28.)

G. Frontage improvements. Duplexes and triplexes shall comply with the street frontage improvement requirements of Chapter 4B of the Development Guidelines and Public Works Standards.

...

4.30.21 Draft: Fee Waiver for Affordable Housing

Chapter 1.20
FEES, CHARGES AND BONDING REQUIREMENTS

Sections:

- 1.20.010 Established by city council
- 1.20.020 Council policy regarding the waiver of building permit and other construction-related fees for community-~~based~~ housing development organizations, Habitat for Humanity, and Boys and Girls Club of Thurston County projects
- 1.20.030 Deferral of wastewater connection fees and general facilities charges for certain affordable housing developments
- 1.20.040 Waiver of building permit and other construction-related fees for affordable housing projects
- 1.20.050 Project eligibility
- 1.20.060 Administration
- 1.20.070 Application review
- 1.20.080 Cancellation of project

1.20.010 Established by city council.

Except where a fee or charge to be paid to the city of Lacey or a specific bonding requirement is set forth specifically in this code, said fee, charge or bonding requirement shall be as established by the city council by the passage of a resolution adopting a fee, charge, and bonding requirement schedule. The city council shall further set the dollar penalty for failure to pay said fee or charge in a timely manner by passage of such resolution. (Ord. 666 §1, 1982).

1.20.020 Council policy regarding the waiver of building permit and other construction-related fees for community-~~based~~ housing development organizations, Habitat for Humanity, and Boys and Girls Club of Thurston County projects.

The city manager is authorized, in accordance with the standards and conditions set forth in that certain council policy entitled "Waiver of Building Permit and Construction-Related Fees," to waive the fees that otherwise would be required under the Lacey Fee Schedule adopted by

resolution of the city council and the following provisions of the Lacey Municipal Code for community housing development organizations that meet the requirements set by the U.S. Department of Housing and Urban Development (HUD), Habitat for Humanity, and Boys and Girls Club of Thurston County projects:

- A. “Water Meter Only” and “Construction Water” - LMC [13.32.010](#).
- B. Building Permit Fee - Chapter [14.04](#) LMC.
- C. Mechanical Permit Fee - Chapter [14.05](#) LMC.
- D. Plumbing Permit Fee - Chapter [14.06](#) LMC.
- E. Electrical Permit Fee - Chapter [14.13](#) LMC.
- F. Plan check fees in conjunction with the permits listed above.
- G. Transportation Mitigation Fee - Chapter [14.21](#) LMC. (Ord. 1548 §2, 2019; Ord. 1362 §2, 2011; Ord. 1248 §2, 2005).

1.20.030 Deferral of wastewater connection fees and general facilities charges for certain affordable housing developments.

The City Manager is authorized, in accordance with the standards and conditions set forth in that certain Council policy entitled “Council Policy Regarding The Deferral Of Wastewater Connection Fees And General Facilities Charges For Certain Affordable Housing Developments” and on file with the City Clerk, to defer the connection fees which otherwise would be required under LMC [13.16.010](#), [13.16.027](#) and [13.16.028](#) and, if the LOTT Alliance takes similar action, to defer those certain capacity development charges levied by LMC [13.16.025](#). (Ord. 1314 §2, 2008).

1.20.040 Waiver of building permit and other construction-related fees for affordable housing projects.

The City Manager is hereby authorized to waive the following fees for affordable housing projects that otherwise would be required under the Lacey Fee Schedule adopted by resolution of the City Council and the provisions of the Lacey Municipal Code:

- A. “Water Meter Only” and “Construction Water” - LMC 13.32.010.

B. Building Permit Fee - Chapter 14.04 LMC.

C. Mechanical Permit Fee - Chapter 14.05 LMC.

D. Plumbing Permit Fee - Chapter 14.06 LMC.

E. Electrical Permit Fee - Chapter 14.13 LMC.

F. Plan check fees in conjunction with the permits listed above.

G. Transportation Mitigation Fee - Chapter 14.21 LMC.

1.20.050 Project eligibility.

A proposed project must meet the following requirements for consideration of a waiver of fees identified in Lacey Municipal Code 1.20.040:

A. Location. The project must be located within the Lacey corporate limits.

B. Proposed Completion Date. The construction of housing units granted a waiver shall be completed within two years from the date of approval of the application.

C. Minimum Percentage. A minimum of 10 percent of the total number of proposed units within a development that is granted a waiver shall be designated affordable under section 1.20.050 (F).

D. Other Regulations. Units granted a waiver shall comply with all applicable Federal, State, and local affordability standards.

E. Targeted Area Median Income. Proposed affordable housing units shall be rented or sold to individuals with an area median income of 60% or less as established by the most recent Department of Housing and Urban Development calculation for the Olympia-Tumwater WA Metropolitan Statistical Area.

F. The applicant agrees the units granted a waiver will remain designated for those with an area median income of 60% or less as established by LMC 1.20.050(E) in perpetuity. This classification shall be established through restrictive covenants, deed restrictions, or other binding affordability agreement approved by the City. These affordability covenants or deed restrictions must be in place as a written agreement that is recorded with the deed of the property and limits transfer of the property to another qualified household. The covenants or deed restrictions will apply permanently.

G. An agency designated by the City shall monitor compliance of the affordability requirements established by LMC 1.20.050(F) for units granted waivers.

1.20.060 Administration.

A. Fee waiver grantees shall be required to provide a certified written annual report to the City of Lacey and the designated agency demonstrating continued compliance with affordable housing requirements as well as reporting occupancy and vacancy statistics of the affordable housing units.

B. If an applicant is planning to utilize a third party entity to provide and manage the affordable units, the applicant and the third party must enter into an agreement that clarifies the management, use and oversight of the affordable components. This agreement is in addition to a deed restriction and/or affordability covenant.

C. The affordable units shall be distributed proportionally throughout the development, appropriately designed and integrated with the market-rate units, and, as feasible, contain the same number of bedrooms as the market-rate units. Thirty percent (30%) of affordable units must be delivered in the first phase (where applicable) and the remainder of the units must be delivered proportionally based on the development build-out and phasing.

D. The waiving of fees will only apply to the affordable units within a development. The City will not waive fees for market-rate units.

1.20.070 Application review.

A. The City Manager may certify as eligible an application which is determined to comply with the requirements of this chapter. A decision to approve or deny an application shall be made within ninety (90) calendar days of receipt of a complete application.

B. Approval. The City Manager may approve the application upon the finding that:

1. The proposed project is or will be, at the time of completion, in conformance with all local plans and regulations that apply at the time the application is approved; and
2. The applicant has complied with all standards and guidelines adopted by the city under this ordinance.

C. The City Manager shall issue a written decision on issuance of a waiver to the applicant.

D. Availability of Waivers. The City of Lacey is limited in the number of waivers distributed each year. The number of waivers available shall be limited to 50 units per year. These waivers will be distributed on a first come, first served basis.

1.20.080 Cancellation of project.

A. If the designated agency determines the applicant is not in compliance with the terms of this chapter, the waiver of fees will be canceled. This cancellation may occur in conjunction with the annual review or at any other time when noncompliance has been determined. If a cancellation of fees occurs, the current owner of the unit will be required to reimburse the City all waived fees adjusted annually for inflation.

B. If the developer or property owner wishes to terminate their waiver of fees, they must provide thirty (30) days' written notice to the City Manager. Upon cancellation, reimbursement shall be made to the City for all waived fees adjusted annually for inflation.

C. Notice and Appeal. Upon determining that a waiver of fees is to be canceled, the City Manager shall notify the property owner by mail, return receipt requested. The property owner may appeal the determination by filing a notice of appeal with the City Manager within thirty (30) calendar days, specifying the factual and legal basis for the appeal. The Hearings Examiner will conduct a hearing at which all affected parties may be heard and all competent evidence received. The Hearings Examiner will affirm, modify, or repeal the decision to cancel the exemption based on the evidence received. Any appeal of the Hearings Examiner's decision shall be to Thurston County Superior Court.

Chapter 3.64

MULTIFAMILY TAX EXEMPTION PROGRAM

Sections:

- 3.64.010 Purpose**
- 3.64.020 Definitions**
- 3.64.030 Residential target area, hearing on resolution, target area designation and standards**
- 3.64.040 Tax exemption for multifamily housing in target areas**
- 3.64.050 Project eligibility and performance standards**
- 3.64.060 Application procedure**
- 3.64.070 Application review and conditional certification**
- 3.64.080 Extension of conditional certificate**
- 3.64.090 Final certificate**
- 3.64.100 Annual certification and report**
- 3.64.110 Cancellation of tax exemption**
- 3.64.120 Effective period**

3.64.010 Purpose.

- A. As provided for in Chapter [84.14](#) RCW, the purpose of this chapter is to provide limited, eight- or twelve-year exemptions from ad valorem property taxation for qualified new multifamily housing located in designated residential targeted areas.
- B. To promote and incentivize the development, and redevelopment, of a balanced socio-economic mix of housing within the residential target area as a catalyst for additional investment and development of land uses that creates a vibrant, urban mixed use district. (Ord. 1452 §1 (part), 2014).

3.64.020 Definitions.

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

- A. “Administrator” means the director of the city of Lacey community development department or designee assigned to carry out this chapter.
- B. “Affordable housing” means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household’s monthly

income. For the purposes of housing intended for owner occupancy, “affordable housing” means residential housing that is within the means of low- or moderate-income households.

- C. “Household” means a single person, family, or unrelated persons living together.
- D. “Low-income household” means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States Department of Housing and Urban Development.
- E. “Moderate-income household” means a single person, family, or unrelated persons living together whose adjusted income is more than eighty percent but is at or below one hundred fifteen percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States Department of Housing and Urban Development. For cities located in high-cost areas, “moderate-income household” means a household that has an income that is more than one hundred percent, but at or below one hundred fifty percent, of the median family income adjusted for family size, for the county where the project is located.
- F. “Multiple-unit housing” means a building having four or more dwelling units not designed or used as transient accommodations and not including hotels and motels. Multifamily units may result from new construction or rehabilitated or conversion of vacant, underutilized, or substandard buildings to multifamily housing.
- G. “Owner” means the property owner of record.
- H. “Permanent residential occupancy” means multiunit housing that provides either rental or owner occupancy on a nontransient basis. This includes owner-occupied or rental accommodation that is leased for a period of at least one month. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.
- I. “Rehabilitation improvements” means modifications to existing structures, that are vacant for twelve months or longer, that are made to achieve a condition of substantial compliance with existing building codes or modification to existing occupied structures which increase the number of multifamily housing units.
- J. “Residential targeted area” means an area within an urban center or urban growth area that has been designated by the governing authority as a residential targeted area in accordance with this chapter. With respect to designations after July 1, 2007, “residential targeted area” may not include a campus facilities master plan.
- K. “Substantial compliance” means compliance with local building or housing code requirements that are typically required for rehabilitation as opposed to new construction.
- L. “Urban center” means a compact identifiable district where urban residents may obtain a variety of products and services. An urban center must contain:
 - 1. Several existing or previous, or both, business establishments that may include but are not limited to shops, offices, banks, restaurants, governmental agencies; and
 - 2. Adequate public facilities including streets, sidewalks, lighting, transit, domestic water, and sanitary sewer systems; and

3. A mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office, or both, use. (Ord. 1452 §1 (part), 2014).

3.64.030 Residential target area, hearing on resolution, target area designation and standards.

A. *Woodland District Target Area Classification.* Those areas as located within the Woodland District zoning district as shown on the city of Lacey Comprehensive Plan and Land Use Maps are designated as residential target areas.

B. Designation of additional residential target areas shall follow the process and procedures identified in RCW [84.14.040](#). (Ord. 1452 §1 (part), 2014).

3.64.040 Tax exemption for multifamily housing in target areas.

A. *Duration of Exemption.* The value of improvements qualifying under this chapter is exempt from ad valorem property taxation as follows:

1. For properties for which applications are submitted after the date of adoption of the ordinance codified in this chapter, the value is exempt:
 - a. For eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the final certificate of tax exemption; or
 - b. For twelve successive years beginning January 1st of the year immediately following the calendar year of issuance of the final certificate of tax exemption, if the property otherwise qualifies for the exemption and the applicant/owner rents or sells at least twenty percent of the multifamily housing units as affordable housing to low and moderate-income households as further defined in this section. Provided, the total number of qualifying affordable housing units does not exceed thirty percent of the total number of housing units within the same project.
 - (1) For rental projects, at least twenty percent of the multifamily housing units in the project must be rented throughout the duration of the twelve-year exemption period as affordable housing to low-income households at eighty percent or less of median income.
 - (2) For ownership projects, at least twenty percent of the multifamily housing units in the project must be sold as affordable housing to low- or moderate-income households at one hundred twenty percent or less of median income.

B. *Limits on Exemption.* The exemption does not apply to the value of land or to the value of non-housing-related improvements not qualifying under this chapter, nor does the exemption apply to increases in assessed valuation of land and nonqualifying improvements. This section also does not apply to increases in assessed valuation made by the county assessor on nonqualifying portions of building and value of land, nor to increases made by lawful order of a County Board of Equalization, the Department of Revenue, or a county, to a class of property

throughout the county or specific area of the county to achieve the uniformity of assessment or appraisal required by law. (Ord. 1452 §1 (part), 2014).

3.64.050 Project eligibility and performance standards.

To qualify for exemption from property taxation under this section, the project must satisfy all of the following requirements:

- A. *Location.* The project must be located within a residential target area identified in LMC [3.64.030](#).
- B. *Size.* The qualifying new multifamily residential apartment project must include a minimum of twenty units of multifamily housing. Existing multifamily housing that has been vacant for twelve months or more does not have to provide additional units.
- C. *Exception for Existing Residential Structure.* In the case of an existing occupied residential structure that is proposed for demolition and redevelopment as new multifamily housing, the project must provide as a minimum number of dwelling units in the new multifamily housing project, the greater of:
 - 1. Replace the existing number of dwelling units and, unless the existing residential rental structure was vacant for twelve months or more prior to demolition, provide for a minimum of four additional dwelling units in the new multifamily housing project; or
 - 2. Provide the number of dwelling units otherwise required in subsection [B](#) of this section.
- D. *Exception for New Mixed Use and Mixed Use Redevelopment Projects.*
 - 1. New and redevelopment projects of existing buildings located within the residential target area proposing a mixed use commercial, office, and/or retail project with multifamily residential units may qualify for the tax exemption if four or more residential units are included within the project.
- E. *Compliance with Guidelines and Standards.* The project must be designed to comply with the city's Comprehensive Plan, building, housing, and zoning codes and any other applicable regulations in effect at the time the application is approved. Specifically, the requirements of Chapter [16.24](#) LMC, Woodland District, and Chapter [14.23](#) LMC, Design Review, must be satisfied in addition to any other standards and guidelines adopted by the city council for the residential target area in which the project will be developed.
- F. At least fifty percent of the space in new, converted, or rehabilitated multiple units must be for permanent residential housing. In the case of existing occupied multifamily development, the multifamily housing must also provide for a minimum of four additional multifamily units. Existing multifamily vacant housing that has been vacant for twelve months or more does not have to provide additional units.
- G. The applicant must enter into a contract with the city, approved by city council, under which the applicant agrees to the implementation of the development on terms and conditions satisfactory to the city council.

H. *Completion Deadline.* The project must be completed within three years from the date of approval of the contract by the city council. The administrator may grant one two-year extension, provided the applicant has demonstrated a good faith effort to complete the project. (Ord. 1452 §1 (part), 2014).

3.64.060 Application procedure.

A property owner who wishes to propose a project for a tax exemption shall complete the following:

A. File with the community development department the required application form, provided by the department, setting forth the grounds for tax exemption along with the required application fees. The application materials shall include the following information:

1. A brief written description of the project, and schematic site and floor plans of the multifamily dwelling units and the structure(s) in which they are proposed to be located.
2. Floor and site plans of the proposed project, which plans may be revised by the owner, provided such revisions are made and presented to the administrator prior to the city's final action on the exemption application.
3. A statement from the owner acknowledging the potential tax liability when the property ceases to be eligible for exemption under this section.
4. Verification by oath or affirmation of the information submitted.

B. *Deadline.* The application shall be submitted prior to the issuance of the building permit for the project, unless otherwise approved by the council. The administrator shall approve or deny an exemption application within ninety days of receipt of a complete application. (Ord. 1452 §1 (part), 2014).

3.64.070 Application review and conditional certification.

A. *Approval.* The administrator may approve an application if he or she finds that:

1. The owner has complied with all of the requirements of this section, including but not limited to the project eligibility requirements contained in this chapter and the applicable requirements contained within the Lacey Municipal Code; and
2. The proposed project is, or will be at the time of completion, in conformance with all approved plans, and all applicable requirements of the Lacey Municipal Code or other applicable requirements or regulations in effect at the time the application is approved.

B. *Contract Required.* If the application is approved, the owner shall enter into a contract with the city, approved by the city council, regarding the terms and conditions of the project under this section.

C. *Issuance of Conditional Certificate.* Following council approval of the contract, the administrator shall issue a conditional certificate of acceptance of tax exemption. The conditional certificate shall expire three years from the date of council approval of the contract unless an extension is granted as provided in LMC [3.64.080](#).

D. *Application Denial.*

1. *Denial.* The administrator shall deny an application if the criteria in this chapter are not met. The administrator shall state in writing the reasons for the denial and send notice of denial to the owner's last known address within ten days of the denial.
2. *Appeal.* The owner may appeal the administrator's decision to the hearing examiner in accordance with Chapter 1 of the City of Lacey Development Guidelines and Public Works Standards.

E. *Contract Amendment.* An owner may request an amendment(s) to the contract by submitting a request in writing to the administrator, together with the required fee, any time within three years of the date of the approval of the contract as provided for in LMC [3.64.080](#). The date for expiration of the conditional certificate shall not be extended by contract amendment unless all the conditions for extension are met. (Ord. 1452 §1 (part), 2014).

3.64.080 Extension of conditional certificate.

A. *Application.* The conditional certificate may be extended by the administrator for a period not to exceed twenty-four consecutive months. The owner shall submit a written request stating the grounds for the extension together with the required application fee.

B. *Approval.* The administrator may grant an extension if he/she finds that:

1. The anticipated failure to complete construction within the required time period is due to circumstances beyond the control of the owner; and
2. The owner has been acting, and could reasonably be expected to continue to act, in good faith and with due diligence; and
3. All the conditions of the original contract between the owner and the city will be satisfied upon completion of the project.

C. *Denial--Appeal.* The owner may appeal the administrator's decision to the hearing examiner in accordance with Chapter 1 of the City of Lacey Development Guidelines and Public Works Standards. (Ord. 1452 §1 (part), 2014).

3.64.090 Final certificate.

A. *Application.* Upon completion of the construction as provided in the contract between the owner and the city, the owner may request a final certificate of tax exemption. The owner shall pay all required fees and file with the administrator such information as the administrator may deem necessary or useful to evaluate eligibility for the final certificate, which shall at a minimum include:

1. A statement of expenditures made with respect to each multifamily housing unit and the total expenditures made with respect to the entire property;
2. A description of the completed work and a statement of qualification for the exemption;
3. The total monthly rent or total sale amount of each multifamily housing unit rented or sold to date;
4. The income of each renter household to date at the time of initial occupancy and the income of each initial purchaser of owner-occupied multifamily housing units to date at the time of purchase;
5. If applicable, a statement that the project meets the affordable housing requirements of this section, along with the number, type, and specific multifamily housing units rented or sold to date, as applicable, to meet the affordable housing requirements;
6. Any additional information requested by the city pursuant to meeting any reporting requirements under Chapter [84.14](#) RCW; and
7. A statement that the work was completed within the required three-year period or any approved extension.

B. *Determination.* Within thirty days of receipt of all materials required for a final certificate, the administrator shall determine whether the completed work is consistent with the contract between the city and owner, whether all or a portion of the completed work is qualified for exemption under this section and, if so, which specific improvements satisfy the requirements of this section.

C. *Filing with County Assessor.* For projects that comply with the requirements of this chapter, the city shall file a final certificate of tax exemption with the county assessor within ten days of the expiration of the thirty-day period provided in subsection [B](#) of this section.

D. *Denial.* The administrator shall notify the owner in writing that the city will not file a final certificate if: (1) the administrator determines that the project was not completed within the required three-year period or any approved extension, or was not completed in accordance with the contract between the owner and the city and the requirements of this section, or the owner's property is otherwise not qualified for the limited exemption under this section; or (2) the owner and administrator cannot come to an agreement on the allocation of the value of the improvements allocated to the exempt portion of the project.

E. *Appeal.* The owner may appeal the administrator's decision to the hearing examiner in accordance with Chapter 1 of the City of Lacey Development Guidelines and Public Works Standards. (Ord. 1452 §1 (part), 2014).

3.64.100 Annual certification and report.

A. Within thirty days after the first anniversary of the date the city issued the final certificate of tax exemption and each year thereafter for the duration of the tax exemption period, the property owner shall file an annual report with the administrator. Failure to submit the annual report may result in cancellation of the tax exemption.

The certification shall contain such information as required by Chapter [84.14](#) RCW and as the administrator may deem necessary or useful, and shall at a minimum include the following information:

1. A statement of occupancy and vacancy of the multifamily dwelling units during the twelve months ending with the anniversary date;
2. A certification that the property has not changed use and, if applicable, that the property has been in compliance with the affordable housing requirements as described in this section since the date the city issued the final certificate of tax exemption and that the project continues to be in compliance with the contract with the city and the requirements of this section;
3. A description of any improvements or changes to the property made after the city issued the final certificate of tax exemption;
4. The total monthly rent of each multifamily housing unit rented or the total sale amount of each multifamily housing unit sold to an initial purchaser during the twelve months ending with the anniversary date;
5. The income of each renter household at the time of initial occupancy and the income of each initial purchaser of owner-occupied multifamily housing units at the time of purchase during the twelve months ending with the anniversary date;
6. If applicable, a breakdown of the number, type, and specific multifamily housing units rented or sold during the twelve months ending with the anniversary date, as applicable, to meet the affordable housing requirements of this section; and
7. Any additional information requested by the city pursuant to meeting any reporting requirements under Chapter [84.14](#) RCW. (Ord. 1452 §1 (part), 2014).

3.64.110 Cancellation of tax exemption.

A. *Cancellation.* If at any time the administrator determines that: (1) the property no longer complies with the terms of the contract or with the requirements of this chapter; (2) the use of the property is changed or will be changed to a use that is other than residential; (3) the project violates applicable zoning requirements, land use regulations or building code requirements; or (4) the property for any reason no longer qualifies for the tax exemption, the tax exemption shall be canceled and additional taxes, interest and penalties imposed pursuant to state law. Upon determining that a tax exemption shall be canceled, the administrator shall notify the property owner by certified mail, return receipt requested.

B. *Appeal.* The property owner may appeal the determination in accordance with Chapter 1 of the City of Lacey Development Guidelines and Public Works Standards.

C. *Change of Use.* If the owner intends to convert the multifamily housing to another use, the owner must notify the administrator and the county assessor within sixty days of the change in use. Upon such change in use, the tax

exemption shall be canceled and additional taxes, interest and penalties imposed pursuant to state law. (Ord. 1452 §1 (part), 2014).

3.64.120 Effective period.

This chapter shall remain in effect through December 31, 2024, and shall automatically expire after that date unless, prior to that date, the city council takes action to extend the same. (Ord. 1452 §1 (part), 2014).

The Lacey Municipal Code is current through Ordinance 1602, passed November 4, 2021.

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

Note: This site does not support Internet Explorer. To view this site, Code Publishing Company recommends using one of the following browsers: Google Chrome, Firefox, or Safari.

[City Website: www.ci.lacey.wa.us](http://www.ci.lacey.wa.us)

[Code Publishing Company](#)



LACEY CITY COUNCIL WORKSESSION

December 9, 2021

SUBJECT: Community Development Block Grant Governance
Memorandum of Understanding for 2022 to 2024

RECOMMENDATION: At the December 16, 2021, Lacey City Council meeting adopt the proposed Memorandum of Understanding between Thurston County and the cities of Lacey and Tumwater for Governance, Decision Making and Administration of the Community Development Block Grant Program, 2022-2024

STAFF CONTACT: Scott Spence, City Manager *SS*
Shannon Kelley-Fong, Assistant City Manager *SKF*

ORIGINATED BY: City Manager's Department

ATTACHMENTS: 1. [Memorandum of Understanding between Thurston County and The cities of Lacey and Tumwater for Governance, Decision Making and Administration of the Community Development Block Grant Program, 2022-2024 \("CDBG MOU 2022-2024"\)](#)

FISCAL NOTE: Determines CDBG allocation for years 2022-2024

PRIOR REVIEW: None.

BACKGROUND:

Affordable Housing remains one of the most pressing issues in the Thurston County community. According to the Washington State Department of Commerce, nearly 1 in 3 Thurston County households spend more than 30 percent of their income on housing. As done in the past, Thurston County Urban CDBG program funding could be used to increase, as well as maintain, affordable housing options countywide. An annual set-a-side for these purposes would provide a more consistent and standardized approach moving forward.

On July 22 2021, the Lacey City Council authorized the City Manager to enter into an Interlocal Cooperation Agreement (ILA) with Thurston County to continue participation in and receive funds under the Federal Community Development Block Grant program as an Urban County Entitlement Program for the years 2022-2024 (“Thurston County Urban CDBG program”). In past iterations of the Thurston County Urban CDBG program, Thurston County and the cities of Tumwater (“Tumwater” and Lacey (“Lacey”) also entered into a Memorandum of Understanding (MOU) for governance of the Thurston County Urban CDBG program.

While the current ILA was being considered earlier this summer, the Lacey City Council expressed an interest in having more CDBG funding go toward affordable housing related programs and services in Lacey, as well as the greater Thurston County area. The proposed Memorandum of Understanding between Thurston County and the cities of Lacey and Tumwater for Governance, Decision Making and Administration of the Community Development Block Grant Program, 2022-2024 (“CDBG MOU 2022-2024”), see **Attachment 1**, was designed to meet this aspiration.

The proposed CDBG MOU 2022-2024 was reviewed by city of Tumwater representatives and incorporates their edits and additions. Thurston County is currently reviewing this draft and will be providing partner jurisdictions with their recommended edits and additions shortly.

CDBG MOU 2022-2024: The following provides a brief summary of the key elements of the proposed CDBG MOU 2022-2024:

- 1) CDBG funds continued to be rotated on an annual basis between Thurston County (2022), Lacey (2023), and Tumwater (2024).
- 2) Thurston County continues to annually receive twenty percent (20%) of the total CDBG funds to administer the CDBG program.
- 3) After deducting administration costs (see #2), over the three-year period a minimum of fifty percent (50%) of the remaining CDBG funds are allocated to affordable housing efforts, including on-going affordable housing programs and other affordable housing efforts, as outlined by **Table 1** (below) and **Attachment 1**. After deducting administration costs, allocations for affordable housing efforts for each jurisdiction are as follows:
 - a. **Thurston County = 30%**, 15% for Affordable housing efforts, and 15% for On-going affordable housing programs.
 - b. **Lacey = 60%**, 40% for Affordable housing efforts, and 20% for On-going affordable housing programs.
 - c. **Tumwater = 60%**, 40% for Affordable housing efforts, and 20% for On-going affordable housing programs.

- 4) **On-going affordable housing programs** are selected in the first year (2022) by a committee composed of one representative member from each signatory agency, and one representative from south county incorporated and unincorporated jurisdictions. Once selected, these programs are provided funding in 2022, 2023, and 2024.
- 5) **Affordable housing efforts** are projects or programs that are CDBG eligible and increase or maintain affordable housing stock or affordable housing options in Thurston County, including, but not limited to:
 - 1) Rental unit rehabilitation.
 - 2) Homeowner unit rehabilitation.
 - 3) Homebuyer assistance.
 - 4) Utility rehabilitation that helps maintain existing housing stock.
 - 5) New housing construction done by a community-based development organization.
 - 6) Weatherization rehabilitation.
 - 7) Increased housing options for seniors or unaccompanied youth.
 - 8) Infrastructure improvements that help maintain existing housing stock.

Affordable housing efforts are determined by Thurston County committee in 2022, Lacey in 2023, and Tumwater in 2024. Should a party receive eligible applications for this purpose that equal less than the set-aside for this purpose, the party may allocate remaining funds to other CDBG eligible activities or programs.

Table 1					
Example \$1,250,000 CDBG annual allocation – CDBG MOU 2022-2024					
Thurston County	2022 - YEAR 1				
			Total %	Total % (not including TC Admin)	Total % Affordable Housing (not including TC Admin)
	Total CDBG funding	\$1,250,000	100%	\$1,000,000	-
	TC Admin	\$250,000	20%	-	-
	Affordable Housing Efforts	\$150,000	12%	15%	15%
	On-Going Affordable Housing Programs	\$150,000	12%	15%	15%
	Other CDBG Eligible Projects	\$700,000	56%	70%	-
	Totals	\$1,250,000	100%	100%	30%
Lacey	2022 - YEAR 2				
			Total %	Total % (not including TC Admin)	Total % Affordable Housing (not including TC Admin)
	Total CDBG funding	\$1,250,000	100%	\$1,000,000	-
	TC Admin	\$250,000	20%	-	-
	Affordable Housing Efforts	\$400,000	32%	40%	40%
	On-Going Affordable Housing Programs	\$200,000	16%	20%	20%
	Other CDBG Eligible Projects	\$400,000	32%	40%	-
	Totals	\$1,250,000	100%	100%	60%
Tumwater	2022 - YEAR 3				
			Total %	Total % (not including TC Admin)	Total % Affordable Housing (not including TC Admin)
	Total CDBG funding	\$1,250,000	100%	\$1,000,000	-
	TC Admin	\$250,000	20%	-	-
	Affordable Housing Efforts	\$400,000	32%	40%	40%
	On-Going Affordable Housing Programs	\$200,000	16%	20%	20%
	Other CDBG Eligible Projects	\$400,000	32%	40%	-
	Totals	\$1,250,000	100%	100%	60%

TOTAL CDBG 2022-2024	
Total CDBG Funding 2022 - 2024	\$3,750,000
Total CDBG Funding 2022 - 2024 (not including TC Admin)	\$3,000,000
Total Affordable Housing	\$1,500,000
Total Affordable Housing % (not including TC Admin)	50%

RECOMMENDATION:

Adopt the proposed CDBG MOU for 2022 to 2024 at the December 16, 2021 Lacey City Council meeting.

ADVANTAGES:

1. The proposed CDBG MOU for 2022 to 2024 provides a governance structure for the duration of the upcoming CDBG cycle. It also allocates a minimum of fifty percent (50%) of CDBG funds for this period of time, after administrative costs, to affordable housing efforts in Thurston County.

DISADVANTAGES:

1. None identified at this time.

MEMORANDUM OF UNDERSTANDING for Governance, Decision Making and Administration of the Community Development Block Grant Program

This memorandum of understanding (MOU) is entered into triplicate originals between Thurston County (hereinafter the "County"), a political subdivision of the State of Washington, and the cities of Lacey (hereinafter the "Lacey") and Tumwater (hereinafter the "Tumwater") (collectively, hereinafter the "Cities"), municipal corporations within Thurston County, for purposes of defining a governance, decision making and administrative structure to manage the Community Development Block Grant (hereinafter the "CDBG") entitlement funding. These CDBG funds are referenced in the Interlocal Cooperation Agreement To Participate In And Receive Funds Under The Federal Community Development Block Grant Entitlement Program: Program Years 2022-2024 (Agreement) between the County and the Cities to participate and receive funds under the federal CDBG entitlement program.

WHEREAS, the County and the Cities have agreed to pursue funding from the Department of Housing and Urban Development (HUD) for CDBG;

WHEREAS, the County and the Cities recognize the need to create a governance/administrative structure to manage CDBG funding in a fair and equitable way with particular attention paid to meeting both urban and rural needs;

NOW THEREFORE, in consideration of the mutual promises made herein and the mutual benefits received hereunder, the parties agree as follows:

- I. The County shall be the administrator of the CDBG Entitlement Program in accordance with the provisions of the Agreement referenced above.
- II. Decisions for the division of CDBG funding for each year within the three-year term of the agreement shall be as follows:
 - a. 2022 (Year 1):
 - i. Twenty percent (20%) of the all CDBG funding in 2022 shall be allocated to Thurston County for administrative costs related to the oversight of the CDBG Entitlement Program.
 - ii. A minimum of twelve percent (12%) of all CDBG funds in 2022 shall be allocated to on-going affordable housing programs selected in Year 1, as defined in Section IV.
 - iii. A minimum of twelve percent (12%) of all CDBG funds in 2022 shall be allocated by a committee consisting of equal representation from south county incorporated and unincorporated jurisdictions to other affordable housing efforts, as defined in Section III. Should the review committee receive eligible applications for this purpose

that equal less than the total 2022 set-aside for this purpose, the review committee may allocate remaining funds to other CDBG eligible activities or programs.

- iv. The remaining CDBG funds in 2022 shall be allocated for CDBG eligible projects selected by a committee consisting of equal representation from south county incorporated and unincorporated jurisdictions.

b. 2023 (Year 2):

- i. Twenty percent (20%) of the all CDBG funding in 2023 shall be allocated to Thurston County for administrative costs related to the oversight of the CDBG Entitlement Program.
- ii. A minimum of sixteen percent (16%) of all CDBG funds in 2023 shall be allocated to on-going affordable housing programs selected in Year 1, as defined in Section IV.
- iii. A minimum of thirty-two percent (32%) of all CDBG funds in 2023 shall be allocated by Lacey to other affordable housing efforts, as defined in Section III. Should Lacey receive eligible applications for this purpose that equal less than the total 2023 set-aside for this purpose, Lacey may allocate remaining funds to other CDBG eligible activities or programs.
- iv. The remainder of CDBG funds in 2023 shall be allocated by Lacey for CDBG eligible projects.

c. 2024 (Year 3):

- i. Twenty percent (20%) of the all CDBG funding in 2024 shall be allocated to Thurston County for administrative costs related to the oversight of the CDBG Entitlement Program.
- ii. A minimum of sixteen percent (16%) of all CDBG funds in 2024 shall be allocated to on-going affordable housing programs selected in Year 1, as defined in Section IV.
- iii. A minimum of thirty-two percent (32%) of all CDBG funds in 2024 shall be allocated by Tumwater to other affordable housing efforts, as defined in Section III. Should Tumwater receive eligible applications for this purpose that equal less than the total 2023 set-aside for this purpose, Tumwater may allocate remaining funds to other CDBG eligible activities or programs.

- iv. The remaining CDBG funds in 2024 shall be allocated by Tumwater for CDBG eligible projects.
- III. Affordable housing efforts means projects or programs that are CDBG eligible and increase or maintain affordable housing stock or affordable housing options in Thurston County, including, but not limited to:
 - a. Rental unit rehabilitation.
 - b. Homeowner unit rehabilitation.
 - c. Homebuyer assistance.
 - d. Utility rehabilitation that helps maintain existing housing stock.
 - e. New housing construction done by a community-based development organization.
 - f. Weatherization rehabilitation.
 - g. Increased housing options for seniors or unaccompanied youth.
 - h. Infrastructure improvements that help maintain existing housing stock.
- IV. On-going affordable housing programs means affordable housing efforts that operate countywide for the duration of this agreement.
 - a. On-going affordable housing programs shall be selected in 2022 for 2022 (Year 1), 2023 (Year 2), and 2024 (Year 3) funding.
 - b. The selection of on-going affordable housing programs shall be performed by a committee composed of one representative member from each signatory agency, and one representative from south county incorporated and unincorporated jurisdictions. Each member of the committee shall have one vote regarding program decisions. All program decisions shall be made by simple majority vote of the members, provided all the members are present.
 - c. The committee may establish additional program eligibility criteria.
 - d. Should an entity selected for funding no longer provide the services for which they were awarded funding, or should services be deemed unsatisfactory by the selecting committee, funding may be terminated. If this occurs, the committee shall select other on-going affordable housing programs to allocate remaining funds.
- V. Affordable housing efforts and on-going affordable housing allocations shall take into consideration the goals, objectives, programs, and projects developed and approved by the Regional Housing Council.
- VI. This Memorandum of Understanding will terminate in coordination with the end

date of the Agreement.

VII. This Memorandum of Understanding creates no separate legal entity.

VIII. Prior to its entry into force, this Memorandum of Understanding shall be filed with the Thurston County Auditor's Office or posted upon the web sites of the County and Cities as provided by RCW 39.34.040.

IX. This Memorandum of Understanding shall be governed by the laws of the State of Washington as to interpretation and performance. The parties agree that venue for enforcement of any provisions shall be the Superior Court of Thurston County or in the superior court of either of the two nearest judicial districts.

X. This Agreement shall be effective upon the signature by the last of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Understanding to be executed by the dates and signature herein under affixed. The persons signing this MOU on behalf of the parties represent that each has authority to execute this MOU on behalf of the party entering into this MOU.

Thurston County

City of Lacey

Tye Menser, Chair of Board

Scott Spence, City Manager

Date: _____

Date: _____

Approved as to form:

Approved as to form:

Deputy Prosecuting Attorney

Attorney

City of Tumwater

Pete Kmet, Mayor

Date: _____

Approved as to form:

Attorney

DRAFT

Attachment 1
Example \$1,250,000 CDBG annual allocation - MOU 2022-2024

Thurston County	2022 - YEAR 1				
			Total %	Total % (not including TC Admin)	Total % Affordable Housing (not including TC Admin)
	Total CDBG funding	\$1,250,000	100%	\$1,000,000	-
	TC Admin	\$250,000	20%	-	-
	Affordable Housing Efforts	\$150,000	12%	15%	15%
	On-Going Affordable Housing Programs	\$150,000	12%	15%	15%
	Other CDBG Eligible Projects	\$700,000	56%	70%	-
	Totals	\$1,250,000	100%	100%	30%
Lacey	2023 - YEAR 2				
			Total %	Total % (not including TC Admin)	Total % Affordable Housing (not including TC Admin)
	Total CDBG funding	\$1,250,000	100%	\$1,000,000	-
	TC Admin	\$250,000	20%	-	-
	Affordable Housing Efforts	\$400,000	32%	40%	40%
	On-Going Affordable Housing Programs	\$200,000	16%	20%	20%
	Other CDBG Eligible Projects	\$400,000	32%	40%	-
	Totals	\$1,250,000	100%	100%	60%
Tumwater	2024 - YEAR 3				
			Total %	Total % (not including TC Admin)	Total % Affordable Housing (not including TC Admin)
	Total CDBG funding	\$1,250,000	100%	\$1,000,000	-
	TC Admin	\$250,000	20%	-	-
	Affordable Housing Efforts	\$400,000	32%	40%	40%
	On-Going Affordable Housing Programs	\$200,000	16%	20%	20%
	Other CDBG Eligible Projects	\$400,000	32%	40%	-
	Totals	\$1,250,000	100%	100%	60%
TOTAL CDBG 2022-2024					
Total CDBG Funding 2022 - 2024					\$3,750,000
Total CDBG Funding 2022 - 2024 (not including TC Admin)					\$3,000,000
Total Affordable Housing					\$1,500,000
Total Affordable Housing % (not including TC Admin)					50%