



City of Covington

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The City of Covington is a place where community, business, and civic leaders work together with citizens to preserve and foster a strong sense of community.

City of Covington

16720 SE 271st Street, Suite 100 • Covington, WA 98042 • (253) 480-2400 • Fax: (253) 480-2401

PLANNING COMMISSION AGENDA

June 6, 2013

6:30 PM

CALL TO ORDER

ROLL CALL

Chair Daniel Key, Vice Chair Paul Max, Jennifer Gilbert-Smith, Ed Holmes, Bill Judd, Sean Smith, & Alex White.

PLEDGE OF ALLEGIANCE

APPROVAL OF CONSENT AGENDA

1. Planning Commission Minutes for May 2, 2013.

CITIZEN COMMENTS - *Note: The Citizen Comment period is to provide the opportunity for members of the audience to address the Commission on items either not on the agenda or not listed as a Public Hearing. The Chair will open this portion of the meeting and ask for a show of hands of those persons wishing to address the Commission. When recognized, please approach the podium, give your name and city of residence, and state the matter of your interest. If your interest is an Agenda Item, the Chair may suggest that your comments wait until that time. Citizen comments will be limited to four minutes for Citizen Comments and four minutes for Unfinished Business. If you require more than the allotted time, your item will be placed on the next agenda. If you anticipate, in advance, your comments taking longer than the allotted time, you are encouraged to contact the Planning Department ten days in advance of the meeting so that your item may be placed on the next available agenda.*

PUBLIC HEARING

2. Public Hearing on Zoning Code Amendments for Incorporating Development Agreement Option into Town Center (TC) Zone.

UNFINISHED BUSINESS – None

NEW BUSINESS –

3. Discussion of new Clearing and Grading Regulations and SEPA Threshold Amendments.

CONTINUED BUSINESS-

- Final Discussion and Decision on Zoning Code Amendments for Incorporating Development Agreement Option into Town Center (TC) Zone

ATTENDANCE VOTE

PUBLIC COMMENT: (Same rules apply as stated in the 1st CITIZEN COMMENTS)

COMMENTS AND COMMUNICATIONS OF COMMISSIONERS AND STAFF

ADJOURN

Any person requiring a disability accommodation should contact the City at least 24 hours in advance. For TDD relay service please use the state's toll-free relay service (800) 833-6384 and ask the operator to dial (253) 480-2400

Web Page: www.covingtonwa.gov

**CITY OF COVINGTON
Planning Commission Minutes**

May 2, 2013

City Hall Council Chambers

CALL TO ORDER

Chair Key called the regular meeting of the Planning Commission to order at 6:35p.m.

MEMBERS PRESENT

Chair Daniel Key, Vice Chair Paul Max, Sonia Foss, Ed Holmes, Bill Judd and Alex White

MEMBERS ABSENT

Sean Smith

STAFF PRESENT

Richard Hart, Community Development Director
Salina Lyons, Principal Planner
Kelly Thompson, Planning Commission Secretary

APPROVAL OF CONSENT AGENDA

- Ø **1. Commissioner Foss moved and Vice Chair Max seconded to approve the consent agenda and the minutes for April 18, 2013. Motion carried 6-0.**

CITIZEN COMMENTS – NONE

PUBLIC HEARING – NONE

UNFINISHED BUSINESS –NONE

NEW BUSINESS - NONE

CONTINUED BUSINESS

- 1. Discussion and Direction to Staff on Zoning Code Amendments for Incorporating Development Agreement Option into Town Center (TC) Zone**

Principal Planner, Salina Lyons provided a copy of the proposed Development Agreement ordinance with the changes discussed at the March 7, 2013 Planning Commission Meeting. Staff discussed how development agreements should be

applied and that the developer cannot eliminate the mixed-use requirement.

Community Development Director, Richard Hart gave an example of a scenario that could allow a developer to aggregate and reallocate the percentage of required ground level street frontage to designated sides of a building.

Commissioner Foss asked how development agreements are working in other cities. Ms Lyons responded that Mercer Island, Sammamish and Gig Harbor all currently have the option of development agreements in their codes.

Chair Key asked for some clarification on language in the ordinance. The city's attorney will review the final document to ensure the intent is not lost and that language easy to understand. There may be additional comments before we go to the public hearing on June 6th.

ATTENDANCE VOTE

- Ø **1. Commissioner White moved and Commissioner Holmes seconded to excuse the absence of Commissioner Smith. Motion carried 6-0.**

PUBLIC COMMENT - NONE

COMMENTS AND COMMUNICATIONS FROM STAFF

Chair Key noted that the second meeting in May is cancelled.

Mr. Hart noted a few items that will be coming before the Planning Commission in the coming weeks: the clearing and grading ordinance, discussion of a bill in legislature that could potentially delay impact fees, and final review of the development agreement ordinance. There is an upcoming training opportunity at the Planning Law Conference on May 15, 2013. Ms. Lyons shared that the conference will review new SEPA regulations, marijuana laws, flood plains, land use laws, form based codes, zoning, and trails. Most of the topics include legal analysis as well.

ADJOURN

The May 2, 2013 Planning Commission Meeting adjourned at 7: 05 p.m.

Respectfully submitted,

Kelly Thompson, Planning Commission Secretary

Memo

To: Planning Commission
From: Salina Lyons, Principal Planner
CC: Richard Hart, Community Development Director
Ann Mueller, Senior Planner
Date: June 6, 2013
Re: Development's Agreements Draft Amendments

The Planning Commission has held several meetings discussing the proposed Development Agreement process for the downtown, Town Center (TC) zone. Tonight on June 6th is the formal public hearing which has been duly noticed in the newspaper, as required.

After listening to all public comment and testimony, the Commission is welcome to have additional discussion under Continued Business as shown on the agenda. The Commission may take action on a recommendation to be forwarded to the city council. Otherwise, staff will return to the Commission for a final decision and recommendation at a future planning commission meeting.

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Chapter 18.114
Development Agreements

Sections:

18.114.010 Purpose

18.114.020 Authority

18.114.030 General Provisions of Development Agreements

18.114.040 Processing Procedure for Development Agreements

18.114.050 No Deadline for Final Decision, Form of Agreement, Term, Recording

18.114.060 Judicial Appeal

18.114.010 Purpose

A development agreement provides the opportunity for the City and a developer to agree on the scope and timing of a project, applicable regulations and requirements, mitigation requirements, and other matters relating to the development process. A development agreement promotes the general welfare by balancing public and private interests, providing reasonable certainty for a development project, and addressing other matters, including reimbursement over time for the financing of public facilities. Development agreements may provide public benefits such as affordable housing, pedestrian-oriented communities, mixed use development, and creation of public amenities such as parks and open spaces.

18.114.020 Authority

(1) The execution of a development agreement is a proper exercise of the City's police power and contract authority. The City may consider, and enter into, a development agreement with a person having ownership or control of real property within the city limits. The City may consider a development agreement for real property outside of the city limits but within the urban growth area ("UGA," as defined in RCW 36.70A.030(15), or as designated by the County pursuant to RCW 36.70A.110) as part of a proposed annexation or a service agreement.

(2) A development agreement may obligate a party to fund or provide services, infrastructure, or other facilities. A development agreement shall be consistent with applicable development regulations adopted by the City under Chapter 36.70A RCW.

(3) A development agreement shall reserve authority to impose new or different regulations to the extent required by serious threat to public health and safety.

18.114.030 General Provisions of Development Agreements

(1) Comprehensive Plan. A development agreement shall be consistent with the applicable policies and goals of the City of Covington's comprehensive plan.

(2) Development Standards. A development agreement shall be consistent with all applicable development regulations; provided, a development agreement may extend the durations of approval of project permits and allow phasing plans different from those otherwise imposed under the Covington Municipal Code.

(a) A development agreement related to property in the Covington downtown zone, Town Center district (TC), may allow further deviations from development regulations imposed under Chapter 18.31 CMC for the following reasons:

(i) To provide flexibility to achieve public benefits; or

(ii) To respond to changing community needs; or

(iii) To encourage deviations that provide the functional equivalent or adequately achieve the purposes of otherwise applicable city standards.

(b) A development agreement may not authorize deviations from development regulations governing the uses, minimum and maximum densities, maximum gross floor area, or maximum structure height.

(c) A development agreement may not authorize deviations from the requirements of CMC Title 15, Buildings and Construction. Building permit applications shall be subject to the building codes in effect when a complete building permit application is submitted.

(d) A development agreement may not authorize deviations from the minimum requirements of CMC Title 16, Environment and Chapter 18.65 CMC, Critical Areas.

(e) Any deviation from development standards in the Covington Municipal Code shall not require any further rezone, variance from city standards, or other City approval apart from development agreement approval by the city council. Deviations from development standards as approved through a development agreement shall apply to and govern the development and implementation of each covered property in lieu of any conflicting or different standards or requirements elsewhere in the Covington Municipal Code.

(f) Subsequent amendments to the development standards in the Covington Municipal Code that differ from those deviations approved by the city council in a development agreement shall apply to the covered property only where necessary to address imminent public health and safety hazards or where the development agreement specifies a time period or phase after which certain identified standards can be modified.

(3) As a minimum, the development agreement shall specify the following:

(a) Project components that define and describe the permitted uses, residential densities, nonresidential densities, and intensities or building sizes;

(b) The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;

(c) Mitigation measures, development conditions, and other requirements of Chapter 43.21C RCW State Environmental Policy Act;

(d) Design standards such as architectural treatment, maximum heights, setbacks, landscaping, drainage and water quality requirements, and other development features;

(e) Provisions for affordable housing, if applicable;

(f) Parks and common open space preservation;

(g) Signage;

(h) Parking;

(i) Phasing;

(j) Financial guarantees for performance and maintenance of public improvements;

(k) Maintenance and operation standards for public improvements;

(l) A build-out or vesting period for applicable standards;

(m) Duration of agreement; and

(n) Any other appropriate development requirement or procedure that is based upon a city policy, rule, regulation, or standard.

(4) As provided in RCW 36.70B.170, the development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

18.114.040 Processing procedure for development agreements.

A proposed development agreement shall accompany and be processed in conjunction with the associated underlying land use application, approval, or annexation request. The type of land use application or other approval shall control the type of application set forth in CMC 14.03.040.

(a) A proposed development agreement associated with a legislative action, such as a comprehensive plan amendment or area-wide rezone, shall be processed in accordance with the procedures established in this title and pursuant to the noticing requirements set forth in CMC 14.30.060. The planning commission shall make a recommendation to the city council on any proposed development agreement relating to legislative action. The city council shall hold a

public hearing on the proposed development agreement and if approved, shall authorize the city manager to execute the development agreement on behalf of the city.

(b) A proposed development agreement associated with a land use application shall be processed in accordance with the permit application procedures established in Chapter 14.35 CMC and as further provide in this title as follows:

(i) If the underlying land use application is a Type 2, final decision by the director, then the director shall consider both the land use application and the proposed development agreement together. The director shall make a recommendation to the city council on the proposed development agreement. The director's final decision on the underlying land use application shall not be made until the city council holds a public hearing on the proposed development agreement and subsequently approves or rejects the proposed development agreement. If the city council approves the development agreement, the city council shall authorize the city manager to execute the development agreement on behalf of the city. Nothing in this section obligates the director to forward a recommendation to the city council for further consideration of a proposed development agreement if the director denies the underlying land use application.

(ii) If the underlying land use application is a Type 3, final decision by the hearing examiner, then the hearing examiner shall consider both the land use application and the proposed development agreement together during the required public hearing for a Type 3 land use application. The hearing examiner shall make a recommendation to the city council on the proposed development agreement. The hearing examiner's final decision on the underlying land use application shall not be made until the city council holds a public hearing on the proposed development agreement and subsequently approves or rejects the proposed development agreement. If the city council approves the development agreement, the city council shall authorize the city manager to execute the development agreement on behalf of the city. Nothing in this section obligates the hearing examiner to forward a recommendation to the city council for further consideration of a proposed development agreement if the hearing examiner denies the underlying land use application.

(iii) If a final decision on an underlying land use application has been previously made by the hearing examiner or director and the application was approved, the director shall make a recommendation to the city council on the proposed development agreement. The city council shall hold a public hearing on the proposed development agreement. If the city council approves the development agreement, the city council shall authorize the city manager to execute the development agreement on behalf of the city.

(c) Public Notice. All public meetings and public hearings on a development agreement shall be noticed pursuant to underlying land use type as set forth in Chapter 14.34 CMC.

18.114.050 No deadline for final decision, form of agreement, term, recording

(1) Pursuant RCW 36.70B.020, development agreements are not land use applications and are not subject to processing deadlines. A signed written waiver of the deadline to issue a final decision on any land use application for the covered property shall accompany a request for a development agreement.

(2) No proposed development agreement shall be presented to the decision-making body unless in a form approved by the city attorney. Prior to any public hearing held for the purpose of authorizing execution of the development agreement, a development agreement shall be signed by the property owner and all other parties with a substantial beneficial interest in the property that is the subject of the development agreement.

(3) Term.

(a) A development agreement may be approved for a maximum period of twenty (20) years.

(b) In determining the appropriate term for a development agreement, the city council should consider the type, size, and location of development and phasing, if proposed. The city council may consider shorter terms with extensions.

(c) Extensions. If extensions are authorized in a development agreement, an applicant must request the extension at least sixty (60) days prior to expiration of the development agreement. For a development agreement associated with a land use application, the director may grant an extension for up to five (5) years, not to exceed a total of twenty-five (25) years, if the applicant can satisfactorily show that at least fifty (50) percent of the gross floor area is constructed. All other requests for extensions shall be reviewed by the city council unless another process is expressly provided for in the development agreement.

(4) Recording. A development agreement shall be recorded against the property in the real property records of the King County assessor's office. Recording costs shall be paid by the applicant as provided for in the current fee schedule. During the term of the development agreement the agreement is binding on the parties and their successors, including the property owners in any area that is annexed to the city.

18.114.060 Judicial Appeal

If the development agreement relates to a land use application, the provisions of Chapter 36.70C RCW shall apply to the appeal of the decision on the development agreement and in accordance with the appeal procedures in Chapter 14.45 CMC for a Type 4 decision type.

**Chapter 14.30
PERMIT DECISION TYPES**

Sections:

- 14.30.010 Purpose.
- 14.30.020 Classification of permit decision types.
- 14.30.030 Determination of proper decision type.
- 14.30.040 Decision types.
- 14.30.050 Requirements by decision type.
- 14.30.060 Legislative decisions.
- 14.30.070 Administrative interpretations.

14.30.040 Decision types.1

Type 1	Type 2	Type 3	Type 4
Building Permit (15.05)	Short Plat (Including Revisions and Alterations) (17.20)	Preliminary Plat (17.20)	Final Subdivision ⁴ (17.25)
Grading Permit (18.60)		Plat Alterations (17.25)	Shoreline Environment Redesignations (16.05)
Boundary Line Adjustment (17.40)	Design and Construction Standards Variance (12.60)	Preliminary Plat Revisions (17.20)	Plat or Short Plat Vacations (17.25)
Right-of-Way Use Permit (12.35)	Design Departure from the City of Covington Design Guidelines and Standards (18.31)	Zoning Variance (18.125)	Street Vacations (12.55)
Design and Construction Standards Deviation (12.60)	Downtown Permitted Use Determination (18.31)	Conditional Use Permits (18.125)	Development Agreement (18.114)
Shoreline Exemption (16.05)	Temporary Use (18.85)	New Wireless Communication Facility Towers and Height Modifications (18.70)	
Code Interpretation (14.30)	Shoreline Substantial Development Permit ² (16.05)		
Miscellaneous Administrative Decisions	SEPA Threshold Determination ³		
Minor Tree Removal (18.45)	Commercial Site Development Permit (18.31 and 18.110)		
WCF Collocation on a			

<p>Transmission Structure or WCF Tower (18.70)</p>	<p>Re-use of Facilities (18.85)</p> <p>Critical Areas Reasonable Use Exceptions (18.65)</p> <p>Binding Site Plan (17.30)</p> <p>Major Tree Removal (18.45)</p> <p>Stormwater Manuals Variance (13.25)</p> <p>Wireless Communication Facilities Collocations (18.70)</p>		
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1 If a conflict between this chart and the text of the CMC exists, the text of the CMC controls.

2 When applications for shoreline permits are combined with other permits requiring Type 3 or 4 land use decisions, the Examiner, not the Director, makes the decision. All shoreline permits, including shoreline variances and conditional uses, are appealable to the State Shorelines Hearings Board and not to the Hearing Examiner.

3 Appeal to Examiner is limited to the SEPA threshold determination. The decision on the Type 1 permit itself is appealable to Superior Court.

4 Final subdivisions are submitted directly to the City Council for final decision without a recommendation by the Hearing Examiner.

**Chapter 18.31
DOWNTOWN DEVELOPMENT AND DESIGN STANDARDS**

Sections:

- 18.31.010 General.
- 18.31.015 City of Covington downtown design guidelines and standards.
- 18.31.020 Design review.
- 18.31.030 Nonconforming development.
- 18.31.040 Supplemental town center review criteria.
- 18.31.045 Development agreements – Town Center Development
- 18.31.050 Downtown zoning districts map.
- 18.31.060 Downtown zoning districts street types map.
- 18.31.070 Downtown zoning districts established.
- 18.31.080 Permitted land uses.
- 18.31.085 Permitted land use determination process.
- 18.31.090 Downtown zoning districts density and dimension standards.
- 18.31.100 Maximum floor area ratio (FAR) – Bonus features.
- 18.31.110 Parking, access and circulation standards.
- 18.31.120 Public space requirements.
- 18.31.130 Landscaping requirements.
- 18.31.140 Sign requirements.

18.31.045 Development agreements- Town Center development

(1) The purpose of this section is to establish a process for allowing deviations to the development standards within the downtown zoning, Town Center (TC) district only, through a development agreement process consistent with Chapter 36.70B RCW, Chapter 18.114 CMC, Development Agreements and further outlined in this chapter.

(2) Unless otherwise provided herein, all development in the downtown zoning districts shall comply with all applicable codes. The following deviations to development standards shall be authorized only within the Town Center (TC) district on single or contiguous combined parcels three acres or greater.

(a) Medical office uses greater than two stories shall have a minimum of sixty (60) percent ground floor retail trade and services and forty (40) percent business and professional services when fronting onto 171st Ave SE, as conditioned in CMC 18.31.080(3)(8)(b).

(b) Mixed use structures greater than one story shall provide sixty (60) percent of the ground floor as retail, restaurant, or professional services, as conditioned in CMC 18.31.080(3)(23).

(c) Multifamily residential dwelling units shall be located in a minimum three (3) story mixed-use structure. Sixty (60) percent or more of the ground floor abutting a street, public

space, public plaza, and/or public green space shall be occupied by one or more of the following permitted uses: retail, restaurant, or personal services as conditioned in CMC 18.31.080(3)(26)(b).

(d) All schools: compulsory, vocational, and higher education located on the upper floors of a mixed use building and including commercial uses, as conditioned in CMC 18.31.080(3)(13).

(e) Time limitation of permit approval if the proposed development combines two (2) or more distinct land use categories that are permitted in the Town Center district and is located on single or contiguous combined parcel of six (6) acres or more.

(3) A development agreement shall not eliminate the requirement to provide ground floor retail, restaurant, or personal services for structures greater than one (1) story as conditioned in CMC 18.31.080(3)(23).

(4) A development agreement shall not reduce the required retail, trade, ~~and services, and~~ personal services uses no less than ~~thirty~~ (30) percent along each street frontage. Required business and professional services shall not be reduced to less than ~~twenty~~ (20) percent. The director may recommend flexibility in the combination of the ~~of the~~ required retail, restaurant, business, and professional service space if the aggregate is located along SE 276th Street and 171st Ave SE and the total requirement is met through the combination.

(5) Deviations shall be supported by the goals and policies in the city's comprehensive plan. If goals and polices of the comprehensive plan required amendments to support an applicant's request for a deviation, then the goals and policies shall be amended and approved through the City's annual comprehensive plan amendment docketing process, prior to submitting a development proposal and requesting a development agreement.

(6) A development agreement authorized under this section shall provide a level of public benefit or mitigation proportionate to the deviation and that exceeds those required under the standard regulations. A development agreement shall require completion, acquisition, contribution, or a combination thereof, as approved by the City as follows:

(a) Transportation, park, or other improvement projects, including non-motorized improvements identified in the city's Comprehensive Plan or six year Capital Improvement Program.

(b) Additional accessible public space equivalent to a minimum of two and one half percent (2.5%) of the gross floor area of all the structures.

(c) Exterior public art or a contribution to the art fund equivalent to a minimum of one percent (1%) of the total value of the project's construction cost.

(d) A project that the city finds will provide mitigation and/or public benefit, as identified in the city's Comprehensive Plan or six (6) year Capital Improvement Program.

18.31.080 Permitted land uses.

(3) Permitted Use Table.

Use Categories	Town Center (TC)23	Mixed Commercial (MC)	General Commercial (GC)	Mixed Housing Office (MHO)1
Residential				
Dwelling Unit, Accessory	NP	NP	NP	P2
Dwelling Unit, Multifamily	P26	P	P	P
Dwelling Unit, Single-Family Attached, Detached or Cottage Housing ²¹	NP	NP	NP	P2
Senior Citizen Assisted Housing	P	P	P	C
Commercial				
Adult Entertainment	NP	P3	P3	NP
Business Services ¹⁹	P5	P	P	P4,5
Drive Through Use	NP	P	P	NP
Farmers' Markets and Public Markets ⁶	P	P	P	NP
Gambling and Card Rooms	NP	NP	NP	NP
Home Occupation and Live/Work	P	P	P	P
Outdoor Commercial	NP	NP	P	NP
Personal and Beauty Services ^{20,21}	P	P	P	P
Private Electric Vehicle Parking Facility (Primary Use)			P5,24	
Private Parking Facility (Primary Use)	NP	NP	NP	NP
Professional Office	P	P	P	P
Retail Trade and Services – 100,000 sq. ft. or less for all structures	P5	P	P10	P4,5
Retail Trade and Services – greater than 100,000 sq. ft. for all structures	C5,9,18	P	P10	NP
Shooting Ranges ²⁵	NP	NP	P	NP
Storage/Self Storage	NP	P5	P	NP
Temporary Lodging/Hotel	P	P	P	C22
Cultural/Recreation				

Cinema, Performing Arts and Museums	P	P	P	NP
Meeting Hall/Other Group Assembly	P	P	P	C
Recreation, Indoor or Outdoor	C	P	P	P
Religious	C7	P	P	C
Health Services				
Emergency Care Facility	C9,18	P	NP	NP
Hospital	NP	P	NP	NP
Medical Office/Outpatient Clinic	P8	P	NP	P
Nursing/Personal Care Facility	NP	P	NP	C
Industrial/Manufacturing				
Asphalt Plants	NP	NP	NP	NP
Light Industrial/Manufacturing	NP	NP	P10	NP
Government/Institutional ¹¹				
Essential Public Facilities	NP	NP	C	NP
Government Services	P	P	P	P12
Major Utility Facility	C14	C	P	C
Minor Utility Facility	P15	P	P	P
Schools: Compulsory, Vocational and Higher Education	C13	P	NP	C
Wireless Communication Facilities ¹⁶				
Antenna, Collocation on an Existing Structure ¹⁷	P	P	P	P
Wireless Communication Facility Tower	NP	NP	NP	NP

(4) Permitted Use Conditions.

8. a. Buildings greater than four stories shall provide 80 percent of required parking within a structure. Structured parking shall not front onto 171st Ave. SE.

b. Medical office uses greater than two stories shall have a minimum of 60 percent ground floor retail trade and services and 40 percent business and professional services when fronting onto 171st Ave. SE, [unless otherwise allowed through the development agreement process in Chapter 18.114 CMC and further specified in CMC 18.31.045.](#)

13. All schools for compulsory, vocational and higher education shall be located on the upper floors of a mixed-use building that includes ground-floor commercial uses, ~~—~~, [unless otherwise allowed through the development agreement process in Chapter 18.114 CMC and further specified in CMC 18.31.045.](#)

23. Mixed-use structures greater than one story shall provide ground floor retail, restaurant, or personal services along 60 percent of the building façade, unless otherwise allowed through the development agreement process in Chapter 18.114 CMC and further specified in CMC 18.31.045. Permitted uses under the headings of cultural/recreation and governmental/institutional in subsection (3) of this section are exempt from this provision.

26. a. Multifamily residential dwellings in the TC zone shall be located in a minimum three-story, mixed-use structure; and-

b.- Sixty percent or more of the ground floor abutting a street, public space, public plaza and/or public green space shall be occupied by one or more of the following permitted uses: retail, restaurant or personal services, unless otherwise allowed through the development agreement process in Chapter 18.114 CMC and further specified in CMC 18.31.045. Driveways, service and truck loading areas, parking garage entrances and lobbies shall not be included in calculating the required percentages of ground floor use.

18.31.100 Maximum floor area ratio (FAR) – Bonus features

5. Affordable Housing	1.0	<p>(a) For all new development within the downtown districts, total square footage may be increased by 2.0 square feet for every 1.0 square foot of affordable housing (for a maximum of 1.0 FAR), provided an affordable housing plan (AHP) is developed and submitted to the Director for review and approval.</p> <p>(b) The developer shall commit to implementing the AHP as a part of a signed comprehensive development agreement with the City. This agreement shall be reviewed by ARCH, or similar housing authority, with recommendations made to the Director prior to implementation of an agreement.</p>
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**Chapter 18.35
DEVELOPMENT STANDARDS – DESIGN REQUIREMENTS**

Sections:

- 18.35.005 Applicability.
- 18.35.010 Purpose.
- 18.35.020 General layout standards.
- 18.35.030 Lot segregations – Zero-lot-line development.
- 18.35.040 Lot segregations – Clustered development.
- 18.35.050 Townhouse development.
- 18.35.060 Attached dwellings and group residences – Applicability.
- 18.35.070 Attached dwellings and group residences – Vehicular access and parking location.
- 18.35.080 Attached dwellings and group residences – Building facade modulation.
- ~~18.35.090 Mixed-use development – Percentages of commercial uses.~~
- 18.35.100 Mixed-use development in the CC and NC zone as – Design features.
- ~~18.35.110 Mixed-use development – Phasing – Required plans, requirements, covenants, recordings – Review and approval.~~
- 18.35.120 Manufactured home parks – Standards for existing parks.
- 18.35.130 Manufactured home parks – Standards for new parks.
- 18.35.140 Manufactured home parks – Alternative design standards.
- 18.35.150 On-site recreation – Space required.
- 18.35.160 Recreation space – Fees in lieu of.
- 18.35.170 On-site recreation – Play areas required.
- 18.35.180 On-site recreation – Financial guarantees for construction.
- 18.35.190 On-site recreation – Maintenance of recreation space or dedication.
- 18.35.200 Storage space and collection points for recyclables.
- 18.35.210 Fences.
- 18.35.220 Hazardous liquid and gas transmission pipelines.
- 18.35.230 Trail corridors – Applicability.
- 18.35.240 Trail corridors – Design standards.
- 18.35.250 Trail corridors – Maintenance of trail corridors/improvements.
- 18.35.260 Wildlife habitat corridors – Applicability.
- 18.35.270 Wildlife habitat corridors – Design standards.
- 18.35.280 Short subdivisions or short subdivision alterations – Adequacy of access – Right-of-way use permits.
- 18.35.290 Proposed formal subdivisions, short subdivisions or binding site plans – Railroad buffer strips.
- 18.35.300 Preliminary subdivision and short subdivision approval – Maintenance of private streets, easements and utilities required.
- 18.35.310 Repealed.

~~18.35.090 Mixed-use development – Percentages of commercial uses.~~

~~Commercial uses in mixed-use developments shall be subject to the following limits:~~

~~(1) A minimum of 60 percent of the total ground floor area must be for commercial use.
(Ord. 42-02 § 2 (21A.14.110))~~

18.35.100 Mixed-use development in the CC and NC zone as – Design features.

Mixed-use development permitted by Chapter 18.25 CMC shall incorporate the following design features:

(1) Residential and nonresidential uses proposed for mixed-use development shall be only those uses permitted in the CC and NC zone, as established by Chapter 18.25 CMC;

(2) If residential and nonresidential uses are proposed for the same structure, nonresidential uses shall occupy no less than 60 percent of the ground floor. The Director may waive this requirement under the following circumstances:

(a) If the structure is located on a sloping lot that provides access from upper levels or from multiple levels. In such cases, the nonresidential use may be located on the levels that exit onto the primary pedestrian streets; or

(b) If views from the upper levels are valuable amenities that would help assure success of the nonresidential uses, such as a restaurant;

(c) Senior housing developments need not include commercial uses.

(3) Mixed-use development shall provide off-street parking behind or to the side of buildings, or enclosed within buildings consistent with CMC 18.50.030. Relief from this requirement may be granted by the Director only if the applicant can demonstrate that there is no practical site design to meet this requirement. The Director may allow only the number of parking spaces that cannot be accommodated to the rear or sides of buildings, or enclosed within buildings, to be located to the front of buildings. A 20 percent reduction of required parking is allowed if a mixed-use development meets the criteria of CMC 18.50.040 for shared parking. (Ord. 42-02 § 2 (21A.14.135))

~~18.35.110 Mixed use development – Phasing – Required plans, requirements, covenants, recordings – Review and approval.~~

~~When residential and commercial uses are proposed to be contained in separate structures and the structures containing residential uses are proposed to be built prior to those containing commercial uses, then a commercial site development permit shall be required and as well as the following:~~

~~(1) The applicant shall submit a site plan showing the entire mixed use development. The plan shall show project features including the location of the residential and commercial structures, parking areas, landscaping planters, sidewalks, and pedestrian linkages. The plan shall be drawn to scale and provide sufficient detail to ensure all zoning and development standards are met for the entire development.~~

~~(2) Infrastructure plans, including storm drainage facilities, shall be sized to accommodate the needs of the entire mixed use development. The infrastructure shall be installed with the first phase of the development up to or near the commercial building(s) unless the applicant demonstrates to the Department's satisfaction that there is potential for significant damage to the infrastructure during the construction of any later phase of construction.~~

~~(3) For the purpose of informing future property owners of limitations on future development because of the mixed use provisions of this title, the applicant shall record a covenant on the property that states the restrictions upon the remaining portions of the site that they shall only be used for commercial uses. The covenant shall be recorded prior to the issuance of the building permit for the residential structure(s). The covenant shall be subject to review and approval by the Department. (Ord. 42-02 § 2 (21A.14.145))~~

Chapter 18.110
COMMERCIAL SITE DEVELOPMENT PERMITS

Sections:

- 18.110.010 Purpose.
- 18.110.020 Applicability.
- 18.110.030 Complete application.
- 18.110.040 Public comments.
- 18.110.050 Application of development standards.
- 18.110.060 Approval.
- 18.110.070 Financial guarantees.
- 18.110.080 Limitation of permit approval.
- 18.110.090 Modification to an approved permit.
- 18.110.100 Administrative rules.

18.110.080 Limitation of permit approval.

(1) A site development permit approved without a phasing plan shall be null and void if the applicant fails to file a complete building permit application(s) for all buildings within three years of the approval date, or by a date specified by the Director; and fails to have all valid building permits issued within three years of the site development permit approval date.

(2) A site development permit approved with a phasing plan shall be null and void if the applicant fails to meet the conditions and time schedules specified in the approved phasing plan, [unless otherwise approved through a development agreement pursuant to Chapter 18.114 CMC-](#)

(3) A site development permit approved without a building permit shall be null and void if the applicant fails to meet the conditions and time schedules specified in the approved plan. If no time schedule is specified in the approved plan, then the applicant has one year to obtain a valid business [licencelicense](#).

(4) The Director may approve one two-year extension of the above stated limits if the applicant can show good faith progress, a justifiable basis for delay not occasioned by the applicant's own action or failure to act, and that the extension is reasonably necessary to complete the project. Requests for extension must be submitted in writing to the Director at least 14 days prior to the permit expiration date. Said request shall explain in detail the circumstances surrounding the request.

[\(5\) Commercial site development permits associated with an approved and valid development agreement shall be subject to the terms and extension requirements in Chapter 18.114 CMC.](#)

18.110.090 Modification to an approved permit.

(1) A subsequent building permit application may contain minor modifications to an approved commercial site development plan provided a modification ~~does not~~:

~~(a) increase~~ Increase the building floor area by more than 10 percent;

~~(b) does not increase~~ Increase the number of dwelling units;

~~(c) does not increase~~ Increase the total impervious surface area; provided, that relocatable facilities for schools shall be exempt from this restriction;

~~(d) does not result~~ Result in an insufficient amount of parking and/or loading;

~~(e) does not locate~~ Locate buildings outside an approved building envelope; provided, that relocatable facilities for schools shall be exempt from this restriction;

~~(f) does not change~~ Change the number of ingress and egress points to the site;

~~(g) does not significantly~~ Significantly increase the traffic impacts of peak hour trips to and from the site;

~~(h) does not significantly~~ Significantly increase the quantity of imported or exported materials or increase the area of site disturbance.

(2) The Director has sole discretion to approve, deny or modify any request. Modifications, which exceed the conditions of approval as stated in this section and require a new review as determined by the Director shall only be accomplished by applying for a new commercial site development permit for the entire site. The new application shall be reviewed according to the laws and rules in effect at the time of application.

(3) Commercial site development permits associated with an approved and valid development agreement shall be subject to the development agreement procedures in Chapter 18.114 CMC

**Chapter 17.20
SUBDIVISION AND SHORT SUBDIVISIONS**

17.20.020(4) Preliminary approval of subdivision.

~~(4) An urban planned development permit, or development agreement approved pursuant to Chapter 18.100 CMC, may extend the preliminary approval period beyond 60 months for any preliminary subdivision approved simultaneous or subsequent to the urban planned development permit. Such extensions may be made contingent upon satisfying conditions set forth in the urban planned development permit or development agreement. In no case shall the extended preliminary approval period exceed the expected buildout time period of the urban planned development or as provided in the urban planned development permit or development agreement. (Ord. 20-07 § 99; Ord. 53-02 § 2 (19A.12.020))~~

**Chapter 12.100
Transportation Concurrency Management**

12.100.110 Provision of needed transportation facilities.

(1) The City shall determine that transportation facilities are available to support development at adopted TAM standards within six years of the impacts of such development. The City shall require at the time the certificate of concurrency is issued that:

(a) The necessary facilities and services are in place at the time a development approval is issued; or

(b) The necessary facilities will be complete within six years of development approval:

(i) The necessary facilities are under construction at the time a development approval is issued, and financial commitment is in place to complete the necessary facilities within six years of issuance of development approval; or

(ii) The necessary facilities are the subject of a binding executed contract of development agreement which provides for the actual construction or financial commitment of the required facilities, guarantees that the necessary facilities will be in place within six years of issuance of development approval, and provides that the capital project is included in, or will be added to, the committed network for the transportation adequacy measure, the transportation element of the comprehensive plan, and the six-year capital improvements program; or

(iii) The City has in place financial commitments to complete the necessary public facilities or strategies within six years of issuance of development approval; or

(c) Development approvals are issued subject to a binding executed contract, ~~UPD~~ development agreement or other binding condition which provides that any facilities and strategies necessary to meet concurrency requirements after issuance of development approval will be in place within six years of occupancy and use of the development.

Memo

To: Planning Commission
From: Salina Lyons, Principal Planner
CC: Richard Hart, Community Development Director
Ann Mueller, Senior Planner
Nelson Ogren, Development Review Engineer
Date: June 6, 2013
Re: Development's Agreements Draft Amendments

Attached is a copy of the draft clearing and grading ordinance and associated amendments to the various code sections of the Covington Municipal Code (CMC).

Clearing and Grading Ordinance

Since incorporation, the city has utilized clearing and grading codes from Appendix J of the International Building Code and those left over from King County, which mostly address mineral extraction. As development has progressed and more is occurring on infill lots and lots with critical areas, staff has determined that we need our specific codes and standards for land owners and developers to follow regarding grading activities in Covington.

The city has experienced an increase in code enforcement actions regarding the import of fill material and the construction of retaining walls and rockeries without obtaining permits. Current city policy requires a permit for the import or export of 50 cubic yards (cy) of fill or more; however, this policy is not codified. This makes it challenging for city staff to provide direction to property owners regarding the permitting regulations and for the code enforcement officer to address illegal grading activities.

Staff experience with local builders suggests that when faced with varying site grades, the builder will attempt to create flat lots by constructing walls and/or importing or exporting potentially hundreds of cubic yards of soil. Builders typically construct homes as two-story

structures, with the finished main floor raised above the street for “curb appeal”. This type of construction can cause significant problems with respect to permitting, inspection, and construction. After construction is complete, problems typically arise in the form of steep driveways, drainage, aesthetic complaints, severe grade changes between lots, property disputes, and other conflicts particularly at the property line.

In recent years, it is not uncommon for a residential development to have 2 to 3 different developers/owners before all the homes are built, resulting in a number of different home builders on site, each with specific home designs. The attached draft clearing and grading ordinance is intended to address clearing and grading within development projects and on single family lots in a consist manner regardless of the owner or developer.

In regard to residential development, staff is proposing to require the final lot grading be determined at the beginning of the subdivision process. We propose that that retaining walls and rockeries be identified and built with plat construction, not with each individual home construction. This will reduce the conflicts that come with creating curb appeal and building rock walls that impede stormwater flows, create property line disputes and negatively impact surrounding property.

It is important to remember that clearing and grading essentially has two threshold requirements. First is the cut and/or fill threshold that triggers a permit. Staff proposes codifying the current policy and requiring that import or export of 50 cy will require a permit. There are exceptions for minor work (i.e. landscaping, erosion control, etc.) as long as the action does not result in an unreasonable depth of material. As a point of reference, the amount of soil in 10 cy, it is equivalent to 1 full dump truck.

The second threshold is the cut and/or fill quantity that requires a State Environmental Protection (SEPA) threshold determination. Currently, the threshold is 200 cy over the lifetime of a project. The legislator has enacted new flexible thresholds for development, adopted in WAC 197-11-800 (attached) for cut and fill quantities that require SEPA review. Please note, staff has not included a recommendation for changing the grading thresholds. We plan to have this discussion at a future planning commission regular meeting.

Other Associated Amendments

Various sections of the CMC will need to be amended to address a new clearing and grading ordinance. These include the following:

1. Including a clearing and grading variance and deviation process in Title 14.
2. Updating the application procedure submittal requirements to reference the Design and Construction Standards adopted in CMC 12.60 and current application requirements for most development projects. (Consistency)
3. Amending CMC 14.105 Financial Guarantees to include exemptions for posting a financial guarantee and liability insurance if the project is less than 1,000 cy of fill and not associated with a development application.

4. CMC 16.10 SEPA will be amended accordingly based on the new legislation and further discussion with staff and the planning commission.
5. Updating existing definitions in CMC 18.20 to meet the needs of the clearing and grading ordinance. The draft ordinance only includes definitions that are not defined in CMC 18.20 and a cross reference is provided for clarification.
6. Amending CMC 18.55.050 Sign Permits to specify the requirements for construction signs on development sites. This requirement has been a matter of policy and should be codified.
7. Amending Chapter 18.60 Grading and Mineral Extractions to only reference mineral extractions. This chapter included the language for collecting grading fees, which have been moved to the proposed ordinance. This chapter may be deleted since the only mineral extraction zone is the Hawk property which is undergoing a subarea plan. Staff will discuss the deletion of this section and any reference to CMC 18.60 with the city attorney. Otherwise, it may be further amended during the Hawk subarea planning process.

WAC 197-11-800
Categorical exemptions.

The proposed actions contained in Part Nine are categorically exempt from threshold determination and EIS requirements, subject to the rules and limitations on categorical exemptions contained in WAC 197-11-305.

Note: The statutory exemptions contained in chapter 43.21C RCW are not included in Part Nine. Chapter 43.21C RCW should be reviewed in determining whether a proposed action not listed as categorically exempt in Part Nine is exempt by statute from threshold determination and EIS requirements.

(1) Minor new construction - Flexible thresholds.

(a) The exemptions in this subsection apply to all licenses required to undertake the construction in question, except when a rezone or any license governing emissions to the air or discharges to water is required. To be exempt under this subsection, the project must be equal to or smaller than the exempt level. For a specific proposal, the exempt level in (b) of this subsection shall control, unless the city/county in which the project is located establishes an exempt level under (c) of this subsection. If the proposal is located in more than one city/county, the lower of the agencies' adopted levels shall control, regardless of which agency is the lead agency.

(b) The following types of construction shall be exempt, except when undertaken wholly or partly on lands covered by water:

(i) The construction or location of four detached single family residential units.

(ii) The construction or location of four multifamily residential units.

(iii) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 10,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.

(iv) The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area, and with associated parking facilities designed for twenty automobiles. This exemption includes stand-alone parking lots.

(v) Any landfill or excavation of 100 cubic yards throughout the total lifetime of the fill or excavation not associated with an exempt project in subsection (b)(i), (ii), (iii), or (iv); and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.

(c) Cities, towns or counties may raise the exempt levels up to the maximum specified in (d) of this subsection by implementing ordinance or resolution. Such levels shall be specified in the agency's SEPA procedures (WAC 197-11-904). Separate maximum optional thresholds are established in (d) of this subsection applying to both incorporated areas and unincorporated urban growth areas in fully planning jurisdictions under RCW 36.70A.040; other unincorporated areas in fully planning counties; and jurisdictions in all other counties. Agencies may adopt the maximum level or a level between the minimum and maximum level. An agency may adopt a system of several exempt levels (such as different levels for different geographic areas).

At a minimum, the following process shall be met in order to raise the exempt levels.

(i) Documentation that the requirements for environmental analysis, protection and mitigation for impacts to elements of the environment (listed in WAC 197-11-444) have been adequately addressed for the development exempted. The requirements may be addressed in specific adopted development regulations, and applicable state and federal regulations.

(ii) Description in the findings or other appropriate section of the adopting ordinance or resolution of the locally established project-level public comment opportunities that are provided for proposals included in these increased exemption levels.

(iii) Before adopting the ordinance or resolution containing the proposed new exemption levels, the local government shall provide a minimum of twenty-one days notice to affected tribes, agencies with expertise, affected jurisdictions, the department of ecology, and the public and provide an opportunity for comment.

(d) The maximum exemption levels applicable to (c) of this subsection are:



Project types	Fully planning GMA counties		All other counties
	Incorporated and unincorporated UGA	Other unincorporated areas	Incorporated and unincorporated areas
Single family residential	30 units	20 units	20 units
Multifamily residential	60 units	25 units	25 units
Barn, loafing shed, farm equipment storage, produce storage or packing structure	40,000 square feet	40,000 square feet	40,000 square feet
Office, school, commercial, recreational, service, storage building, parking facilities	30,000 square feet and 90 parking spaces	12,000 square feet and 40 parking spaces	12,000 square feet and 40 parking spaces
→ Landfill or excavation	1,000 cubic yards	1,000 cubic yards	1,000 cubic yards

(2) **Other minor new construction.** The following types of construction shall be exempt except where undertaken wholly or in part on lands covered by water (unless specifically exempted in this subsection); the exemptions provided by this section shall apply to all licenses required to undertake the construction in question, except where a rezone or any license governing emissions to the air or discharges to water is required:

(a) The construction or designation of bus stops, loading zones, shelters, access facilities and pull-out lanes for taxicabs, transit and school vehicles.

(b) The construction and/or installation of commercial on-premise signs, and public signs and signals.

(c) The construction or installation of minor road and street improvements such as pavement marking, freeway surveillance and control systems, railroad protective devices (not including grade-separated crossings), grooving, glare screen, safety barriers, energy attenuators, transportation corridor landscaping (including the application of Washington state department of agriculture approved herbicides by licensed personnel for right of way weed control as long as this is not within watersheds controlled for the purpose of drinking water quality in accordance with WAC 248-54-660), temporary traffic controls and detours, correction of substandard curves and intersections within existing rights of way, widening of a highway by less than a single lane width where capacity is not significantly increased and no new right of way is required, adding auxiliary lanes for localized purposes, (weaving, climbing, speed change, etc.), where capacity is not significantly increased and no new right of way is required, channelization and elimination of sight restrictions at intersections, street lighting, guard rails and barricade installation, installation of catch basins and culverts, and reconstruction of existing roadbed (existing curb-to-curb in urban locations), including adding or widening of shoulders, addition of bicycle lanes, paths and facilities, and pedestrian walks and paths, but not including additional automobile lanes.

(d) Grading, excavating, filling, septic tank installations, and landscaping necessary for any building or facility exempted by subsections (1) and (2) of this section, as well as fencing and the construction of small structures and minor facilities accessory thereto.

(e) Additions or modifications to or replacement of any building or facility exempted by subsections (1) and (2) of this section when such addition, modification or replacement will not change the character of the building or facility in a way that would remove it from an exempt class.

(f) The demolition of any structure or facility, the construction of which would be exempted by subsections (1) and (2) of this section, except for structures or facilities with recognized historical significance.

(g) The installation of impervious underground tanks, having a capacity of 10,000 gallons or less.

(h) The vacation of streets or roads.

Chapter 14.60
CLEARING AND GRADING REGULATIONS

Sections:

- 14.60.010 Purpose.
- 14.60.020 Definitions.
- 14.60.030 Applicability.
- 14.60.040 Related codes and regulations.
- 14.60.050 Administration.
- 14.60.060 Hazards.
- 14.60.070 Design variances and deviations.
- 14.60.075 Clearing and grading fees.
- 14.60.080 Clearing and grading permit required.
- 14.60.100 Permit requirements.
- 14.60.110 Expiration of permits and applications.
- 14.60.120 Operating conditions and standards of performance.
- 14.60.130 Grading – Land development projects.
- 14.60.135 Grading – Individual lots.
- 14.60.140 Drainage.
- 14.60.150 Slopes.
- 14.60.160 Fill.
- 14.60.170 Rock and retaining walls.
- 14.60.190 Driveways – Design.
- 14.60.200 Inspections.
- 14.60.210 Final approval.
- 14.60.240 Enforcement, violations and penalties.

14.60.010 Purpose.

(1) This chapter is intended to regulate clearing, grading and earthwork construction, including cuts and fills, within the city of Covington, in order to protect public health, safety, welfare, and aesthetics by:

- (a) Preventing damage to property and harm to persons caused by excavations and fills;
- (b) Minimizing adverse stormwater impacts generated by the removal of vegetation and alteration of landforms;
- (c) Protecting water quality from the adverse impacts associated with erosion and sedimentation;
- (d) Minimizing the height, steepness, and number of graded slopes;
- (e) Minimizing the amount of grading after a property is developed and prepared for building construction;

(f) Minimizing the height and number of rock and retaining walls;

(g) Protecting critical areas from adverse clearing and grading activities;

(h) Minimizing aquatic and terrestrial wildlife habitat loss caused by the removal of vegetation;

(i) Establishing minimum access requirements to and around buildings for safety, security, maintenance, and general use and enjoyment of property;

(j) . Establishing administrative procedures for the issuance of permits, approval of plans, and inspection of clearing and grading operations; and

(k) Providing enforcement and penalties for the violation of this chapter.

(2) This chapter establishes the administrative procedure for issuance of permits, provides for approval of plans and inspection of clearing and grading operations, and provides for enforcement and penalties for the violation of this chapter. (Ord. 2013-ZZZ § 2).

14.60.020 Definitions.

Certain words and phrases used in this chapter, unless otherwise clearly indicated by their context, mean as follows: Unless otherwise defined in this chapter the definitions provided in Chapter 18.20 CMC shall be applicable.

(1) "Bench" is a relatively level step excavated or constructed into earth material on which fill is to be placed.

(2) "Best management practices (BMPs)" mean the best available and reasonable physical, structural, managerial, or behavioral activities that, when used singly, or in combination, eliminate or reduce the contamination of surface and/or ground waters.

(3) "Borrow" means earth material acquired from an off-site location for use in grading on a site.

(4) "Clearing and grading permit" means the written permission of the director to the applicant to proceed with the act of clearing and grading within the provisions of this chapter. The clearing and grading permit includes the associated approved plans and any conditions of approval as well as the permit form itself.

(5) "Compaction" is the densification of a fill by mechanical means.

(6) "Earth material" is any rock, natural soil or fill, or any combination thereof.

(7) "Excavation" is the removal of earth material. The term "cut" can also be used to describe excavation.

(8) "Fill" is a deposit of earth material placed by mechanical or other means.

(9) "Infrastructure improvements" means streets, drainage facilities, utilities, and associated appurtenances typically constructed as part of a development project for the purposes of serving the development.

(10) "Key" means a compacted fill placed in a trench excavated in earth material beneath the toe of a slope.

(11) "Modular block wall" means a wall constructed of manufactured modular wall units acting as a protective facing for an exposed soil face or as a gravity retaining wall.

(12) "Reinforced fill" or "reinforced soil" means soil fill designed by a geotechnical engineer which includes reinforcement consisting of metal or synthetic materials in bars, trips, grids, or sheets.

(13) "Retaining wall" means a wall designed to resist the lateral displacement of soil or other materials.

(14) "Rockery" or "rock wall" means one or more courses of large rocks stacked near vertical in front of an exposed soil face to protect the soil face from erosion and sloughing. A rockery or rock wall is not a retaining wall.

(15) "Site restoration" is the permanent restoration of lands modified under the provisions of this code, typically in the form of the establishment of vegetation and drainage facilities to control the rate and erosive force of stormwater runoff.

(16) "Terrace" is a relatively level step excavated or constructed in the face of a graded slope surface for drainage and maintenance purposes.

14.60.030 Applicability.

The provisions of this chapter shall apply to any person developing, altering, clearing, or grading land, or constructing buildings in the city of Covington.

14.60.040 Related codes and regulations.

(1) The requirements of this chapter are in addition to other city codes, standards, and regulations. Where conflicts exist between the provisions of this chapter and other codes and standards, the most restrictive shall apply.

(2) The applicant shall comply with this chapter, the City of Covington Design and Construction Standards, as adopted in Chapter 12.60 CMC, Appendix J of the International

Building Code, as adopted in Chapter 15.05 CMC, Surface and Stormwater , as adopted in Chapter 13.25 CMC, Title 14, Title 18, and equivalent standards approved by the director.

(3) Requirements administered by other state and local agencies may also apply. The responsibility for determining the existence and application of other agency requirements rests solely with the applicant.

14.60.050 Administration.

(1) The director is authorized to develop and adopt administrative rules and procedures for the purposes of implementing and enforcing the provisions of this chapter.

(a) If clearing and grading, inconsistent with the purposes and requirements of this chapter, has occurred on a site, the city shall not accept or grant any development permits or approvals for the site unless the applicant adequately restores the site. The director shall require appropriate restoration of the site under an approved restoration plan which shall include a time schedule for compliance if significant resource damage has or may occur. If restoration has not been completed within the time established by the department, the director shall order restoration using city funds and seek restitution from the property owner through liens or other available legal methods.

(2) The director may impose conditions on permit approval as needed to mitigate identified project impacts and shall deny permit applications that are inconsistent with the provisions of this chapter.

(3) The director is authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter, and to require as part of the application materials that the applicant grant permission for such entry and inspections.

(4) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the director has reasonable cause to believe that any land, building, structure, premises, or portion thereof is being used in violation of this chapter, the director may enter such land, building, structure, premises, or portion thereof at all reasonable times to inspect the same or perform any duty imposed upon the director by this chapter; provided, that if such building, land, structure, premises or portion thereof is occupied, he shall first present proper credentials and demand entry; and if such land, building, structure, premises, or portion thereof be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the land, building, structure, premises, or portion thereof and demand entry.

14.60.060 Hazards.

The director has the authority to determine whether an existing site, as a result of clearing, grading, excavation, filling, or other similar activity, has become a hazard which may endanger property or adversely affect the safety, use or stability of a public way or drainage channel. Upon receipt of written notice from the director of such hazard, the owner or agent in control

of said property upon which the clearing, grading, excavation, filling, or other is located, or hazardous site, shall restore the affected site within the period specified in the notice. Restoration shall be by means of corrective action to repair or modify such clearing, grading, excavation, filling, or other in order to remove the hazard and bring the site into conformance with the requirements of this chapter.

14.60.070 Design Variances and Deviations

(1) A design deviation is a type 1 decision and a design variance is a type 2 decision, as established by CMC 14.30.040. Applicants requesting a variance from the requirements of this chapter shall provide justification for the variance in accordance with Chapter 18.125. Applicants requesting a deviation from the requirements of this chapter shall provide justification in accordance with the process outlined in the city's Design and Construction Standards, adopted in Chapter 12.60 CMC. The director, city engineer, and/or their designee, may impose conditions upon the granting of any clearing and grading design deviations or design variance.

(2) Applications for variances shall be required payment of all application fees to covers the cost of the review. Such fees are set forth in the current fee resolution.

14.60.075 Clearing and Grading Fee

~~18.60.035 Fees~~^(s-1)

~~(1) Fees shall be collected to compensate the Department for preapplication review, the investigation, permit administration, plan review, and ongoing monitoring/inspection of grading and clearing permit applications consistent with the grading and/or clearing fees set forth in the current fee resolution with the provisions of Chapter 18.45 CMC.~~

~~(32) Fee Reductions. Grading permit fees (plan review and operation monitoring) for projects entirely completed within one year or for permits reviewed in conjunction with other Departmental administered land use permits. The reduction is set forth in the current fee resolution. may be reduced to reflect cost savings associated with the reduced workload.~~

~~(43) Work without a Permit. Whenever any work for which a grading or clearing permit is required by Chapter 18.45 CMC this chapter has been commenced without first obtaining said a valid permit, an the city may double the clearing and grading fee investigation fee, in addition to the grading permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the grading permit fee required by this section and as set forth in the grading permit fee tables in the current fee resolution.~~

(4) Additional Review Fees. In addition to the grading and clearing permit fees set forth in this section, other fees required by the Covington Municipal Code may be applicable to individual grading permit applications. Such fees include, but are not limited to, shoreline management, SEPA and critical areas review fees.

14.60.080 Clearing and grading permit required.

(1) A clearing and grading permit is required for all clearing and grading activities, unless the activity is exempt as follows:

(a) An on-site excavation for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation;

(b) Routine landscape maintenance or installation of landscaping improvements involving not more than 50 cubic yards of excavation and fill on a single parcel of property within a 12-month period; provided, that topsoil up to a depth of six inches, regardless of quantity, may be placed on single-family residential properties without requiring a permit;

(c) Maintenance of existing driveways or private access roads within their existing road prisms;

(d) Any clearing or grading within a publicly owned road right-of-way or easement, for which a right-of-way use permit has been granted by the city;

(e) Clearing or grading by a public agency for the following routine maintenance activities:

(i) Routine clearing within road right-of-way,

(ii) Pavement maintenance,

(iii) Normal grading of gravel shoulders,

(iv) Roadside ditch cleaning,

(v) Maintenance of culverts,

(vi) Maintenance of flood control or other approved surface water management facilities,
and

(vii) Normal and routine maintenance of parks and trails;

(f) Cemetery graves;

(g) Excavation or fill less than three feet in vertical depth not involving more than 50 cubic yards of earth or other material on a single site;

(h) Clearing associated with tree and vegetation removal as exempt in CMC 14.45.050. C ;

(i) Clearing or grading activities for the purposes of gathering information required by the city for application of a development proposal, such as:

(i) Hand clearing of vegetation for surveying,

(ii) Minimal clearing and grading as required to perform geotechnical exploration to characterize geologic formations and soils, and

(iii) Minimal clearing and grading to install erosion and sedimentation control devices in accordance with an approved temporary erosion and sedimentation plan;

(j) Removal of trees outside of critical areas; provided that trees to be removed are not located in an area designated to be preserved as part of an approved tree retention plan in general accordance with CMC 18.45.080; and provided, that a forest practices application is not required by the Washington State Department of Natural Resources.

(2) All clearing and grading within critical areas shall conform to the provisions of this chapter and Chapter 18.65 CMC.

(3) A clearing and grading permit may be issued as a component of a building permit, or other permit, rather than as a separate permit. The director may require that single-family building permits and clearing and grading permits be combined.

(4) All clearing and grading activities within the city, regardless of whether a permit is required, shall meet the performance and restoration requirements of this chapter and shall include the use of best management practices to reduce erosion and protect water and air quality.

14.60.100 Permit requirements.

(1) Applications shall be on forms prescribed by the director, and shall include such information as deemed necessary by the director to establish compliance with this section. A complete application shall include requirements as outlined in CMC 14.35.020 and this section, unless otherwise approved by the director and as shown on the application form.

(a) A complete application on a form supplied by the department.

(b) Payment of any application fee set forth in the current fee resolution

(c) Describe the work to be covered by the permit for which application is made;

(d) Indicate the estimated quantities of work involved (disturbed area in acres, and cut and fill quantities in cubic yards);

(e) Be accompanied by plans and specifications as required in subsections (B) and (C) of this section;

(f) Be signed by the property owner or his/her authorized agent who shall be required to submit evidence to indicate such authority;

(g) Complete bond quantity worksheet, associated financial guarantees, and liability insurance as set forth in CMC 14.105.150 and CMC 14.105.170; and

(h) Other information as may be required by the director. The director may require the applicant to submit additional information if the submitted plans, specifications and associated information are not clear enough to allow for an adequate determination, or when special conditions are found to exist which require specific explanation.

(2) Each application for a grading permit shall be accompanied by plans and specifications and other supporting data, as applicable. The plans and specifications shall be prepared and signed by a civil engineer registered to practice in the state of Washington. Plans and specifications for single-family residential construction shall not require preparation by a licensed engineer, unless deemed necessary by the city engineer.

(3) Plans shall be prepared in general accordance with Chapter 10 of the city's Design and Construction Standards.

(a) Tree retention plan shall be prepared in accordance with CMC 18.45.080;

(b) A soils report shall be prepared by a licensed soils or geotechnical engineer and shall cover all portions of the project within the engineer's expertise, including site history; geologic structures; surface conditions; subsurface conditions; recommendations for foundation support, site preparation, structural fill, slope stability and mitigation; design parameters for retaining structures and structure backfill, surface and subsurface drainage, dewatering, excavation conditions and hazards; seismic conditions, erosion and sedimentation hazards and controls; use of on-site materials for structural fill and backfill; and pavement design. The soils or geotechnical engineer shall be retained as the engineer-of-record for the duration of the project;

(c) If the clearing or grading is proposed to take place in or adjacent to a critical area as regulated in CMC 18.65, provide information as required by that chapter; and

(4) Issuing Clearing and Grading Permits.

(a) After an application has been filed and reviewed, the director shall determine that the clearing and grading work complies with the other provisions of the municipal code, or request that the application be corrected or amended to comply with this chapter.

(b) In granting a clearing and grading permit, the director may require measures to mitigate the impacts of the clearing and grading work.

(c) No clearing and grading permit shall be issued until approved by federal, state and local agencies having jurisdiction by laws or regulations.

(d) Upon approval of the application and issuance of the clearing and grading permit, no work shall be done that is not provided for in the permit. The director is authorized to inspect the premises at any reasonable time to determine if the work is in accordance with the permit application and plans.

(e) The clearing and grading permits from the director shall be required regardless of any other permits issued by any other department or governmental agency who may be interested in certain aspects of the proposed work. Where work for which a permit is required by this chapter is started or proceeded with prior to obtaining the permit, the violator shall be subject to the CMC 14.60.240.

14.60.110 Expiration of permits and applications.

(1) An application for a clearing and grading permit may be cancelled for inactivity if an applicant fails, without reasonable justification, to respond to the department's written request for revisions or corrections within 60 days. The director may extend the response period beyond 60 days if the applicant provides and adheres to a reasonable schedule for submitting the full revisions.

(2) Clearing and grading permits expire as follows:

(a) If a building permit is issued for the same site, the clearing and grading permit shall automatically expire or be extended when the building permit expires or is extended;

(b) If a building permit is not issued for the same site, the clearing and grading permit shall expire as follows:

(i) The permit shall expire if the authorized work has not begun within 180 days from the date of permit issuance, or if work is abandoned for over 60 days, unless an extension has been granted. The applicant shall be responsible for notifying the director, in writing, if delays or unforeseen circumstances are impacting the start or continuation of the work.

(ii) If the authorized work is continually performed, the permit shall expire one year from the date of issuance, unless a different time frame is specified on the permit or an extension is granted. Two one-year extensions may be granted by the director; provided, that conditions which were relevant to issuance of the permit have not changed substantially and no material detriment to the public welfare will result from the extension. The applicant shall be responsible for notifying the director, in writing, if delays or unforeseen circumstances are impacting the completion of the work. An extension may be granted by the director; provided the applicant provides the following:

(A) A written request and applicable fee. The request should be submitted no later than 60 days prior to expiration of the permit;

(B) The applicant's project engineer submits a signed statement certifying that they have reviewed the current physical conditions of the site, and such conditions have not changed to a degree as to require a revision to the design of the site in order to remain consistent with the applicable standards and requirements which were in effect at the time of the original permit approval and the associated land use approval.

(3) When a permit is ready to be issued, the applicant shall be notified and must pick up the permit within 60 days of notification. If the permit is not picked up, it may be canceled by the director and become null and void. If the permit is canceled, the director shall notify the applicant by mail.

14.60.120 Operating conditions and standards of performance.

All clearing and grading activities in the city shall conform to the city's adopted regulations as set forth in the municipal code and the provisions of this section as follows:-

(1) All standards under this code will be consistent with city's adopted stormwater manual and adopted reference manuals adopted in CMC 13.25.020, and herein referred to as the "city's stormwater manual".

(2) . The site shall be operated and maintained in a neat and orderly manner, free from junk, trash, or unnecessary debris.

(3) Prior to the start of clearing and grading operations, the applicant shall identify all proposed haul routes and access points to the site for review and approval by the city.

(4) The applicant must properly handle and dispose of other pollutants that are on-site during construction so as to avoid possible health risks or environmental contamination. Direct and indirect discharge of pollutants to the drainage system, critical areas, wetlands, streams, or any other adjacent properties is prohibited. Storage of fuel or other hazardous substances on-site is prohibited.

(a) All pollutants, including waste materials and demolition debris, that occur on site shall be handled and disposed of in a manner that does not cause contamination of stormwater.

(b) Cover, containment, and protection from vandalism shall be provided for all chemicals, liquid products, petroleum products, and other materials that have the potential to pose a threat to human health or the environment. On-site fueling tanks shall include secondary containment.

(c) Maintenance, fueling and repair of heavy equipment and vehicles shall be conducted using spill prevention and control measures. Contaminated surfaces shall be cleaned immediately following any spill incident.

(d) Wheel wash or tire bath wastewater shall be discharged to a separate on-site treatment system or to the sanitary sewer with local sewer district approval pursuant to Department of Ecology standards, unless modified by the director.

(e) Application of fertilizers and pesticides shall be conducted in a manner and at application rates that will not result in loss of chemical to stormwater runoff. Manufacturers' label requirements for application rates and procedures shall be followed.

(f) BMPs shall be used to prevent or treat contamination of stormwater runoff by pH modifying sources. These sources include, but are not limited to: bulk cement, cement kiln dust, fly ash, new concrete washing and curing waters, waste streams generated from concrete grinding and sawing, exposed aggregate processes, dewatering concrete vaults, concrete pumping and mixer washout waters. Construction site operators shall adjust the pH of stormwater if necessary to prevent violations of water quality standards.

(g) Construction sites with significant concrete work shall adjust the pH of stormwater if necessary to prevent violations of water quality standards. Construction site operators shall obtain written approval from the Department of Ecology prior to using chemical treatment other than CO2 or dry ice to adjust pH.

(5) The applicant shall be responsible that the requirements found either in the city's stormwater manual or outlined below are met for the following:

(a) Site containment;

(b) Installing sediment controls;

(c) Stabilizing disturbed areas;

(d) Stabilizing channels and outlets.

(6) Land disturbance activities shall not result in off-site physical damage, nor pose a danger or hazard to life or property. Such activities shall neither contribute to nor create landslides, accelerated soil creep, or settlement of soils.

(7) Dewatering Devices.

(a) Foundation, vault, and trench dewatering water which has similar characteristics to stormwater runoff at the site shall be discharged into a controlled conveyance system prior to

discharge to a sediment pond. Channels must be stabilized according to the standards in the city's stormwater manual.

(b) Clean, nonturbid dewatering water, such as well-point groundwater, can be discharged to systems tributary to state surface waters, provided the dewatering flow does not cause erosion or flooding of receiving waters. These clean waters should not be routed through stormwater sediment ponds.

(c) Highly turbid or contaminated dewatering water shall be handled separately from stormwater.

(d) Other disposal options, depending on site constraints, may include:

(i) Infiltration.

(ii) Transport off site in a vehicle, such as a vacuum flush truck, for legal disposal in a manner that does not pollute state waters.

(iii) On-site treatment using chemical treatment or other suitable treatment technologies.

(iv) Sanitary sewer discharge with local sewer district approval.

(v) Use of a sedimentation bag with outfall to a ditch or swale for small volumes of localized dewatering.

(8) Site-Specific Requirements. Additional, site-specific requirements may be established after a site visit by the city. These requirements shall be based on specific site conditions and are limited to additional temporary erosion and sedimentation control and the mitigation of hazardous or potentially hazardous conditions that pose a threat off site or habitat preservation.

14.60.130 Grading – Land development projects.

(1) For all land development projects such as subdivisions, short subdivisions, and commercial site developments, the applicant shall, after being issued the proper permits, clear and grade the property and install infrastructure improvements. Final grades of lots shall be prepared in accordance with the provisions of this chapter. Individual lots shall be cleared and graded in accordance with CMC 14.60.135.

(2) Individual lots within a land development project shall be cleared and graded as part of the overall project's mass grading and construction of infrastructure. The individual lots shall be graded to accept the expected buildings and driveways. All lots shall be designed and constructed with due regard to the natural topography:

(a) Walls and slopes proposed as a means of grade separation between lots shall be constructed as part of the mass grading phase of the project and shall be constructed entirely on the downhill lot.

(b) If lots are expected to be constructed for a daylight basement type building, the lot shall be prepared as near as possible for such a building, by grading a terrace at some distance from the street. The excess material from the terrace shall be hauled off-site or utilized as fill, if suitable elsewhere on the project.

14.60.135 Grading – Individual lots.

Individual lots may be cleared and graded with the following restrictions:

(1) Excavation and fill will be allowed up to maximum depth of three feet, excluding the excavation required for the building foundations.

(2) Grading across property boundaries will only be allowed if a separate clearing and grading permit is issued for the grading activity for all affected lots.

(3) Any grading of the property and individual lots shall generally conform to the natural topography of the property and adjacent properties, and all provisions of this chapter.

(4) All building lots shall be graded and prepared such that all roof, yard, wall, slope, driveway, and footing drains can be connected directly by gravity to the project's drainage system. Discharge to an alternate location may be allowed only with prior approval of the city engineer, and appropriate easements from affected downstream property owners.

14.60.140 Drainage.

Clearing and grading operations shall take all necessary precautions, through the use of best management practices (BMPs), to control drainage within the site and off-site to avoid damage to adjoining properties and drainage facilities and prevent impacts to water quality as outlined in the city's stormwater manual and Design and Construction Standards.

14.60.150 Slopes.

Slopes shall be constructed with due regard for drainage, access, maintenance, impacts to adjacent property, and aesthetics. Constructed slopes shall comply with all applicable codes and standards and the following criteria:

(1) Fill slopes shall be constructed no steeper than three horizontal to one vertical. Cut slopes may be constructed at a maximum slope of two horizontal to one vertical upon approval of the director and recommendation of a geotechnical engineer, for those areas lying outside the building envelope. In addition, the following standards shall apply to cut and fill slopes:

(a) Minimize clearing and grading on slopes 15 percent or greater. Clearing and grading on slopes shall meet any critical areas standards set forth in CMC 18.65.

(b) Slopes shall comply with the land use code restrictions applicable to slopes 40 percent or greater and to areas of colluvial or landslide deposit on slopes of 15 percent or greater.

(c) Do no clearing, excavation, stockpiling, or filling on the potential slide block of an unstable or potentially unstable slope unless it is demonstrated to the director's satisfaction that the activity would not increase the load, drainage, or erosion on the slope.

(d) Do no clearing, excavation, stockpiling, or filling on any unstable or potentially unstable areas (such as landslide deposits) unless it is demonstrated to the director's satisfaction that the activity would not increase the risk of damage to adjacent property or natural resources or injury to persons.

(e) Intercept any groundwater or surface water drainage encountered on a cut slope and discharge it at a location approved by the director. Off-site stormwater (run-on) or groundwater shall be diverted away from slopes and undisturbed areas with interceptor dikes, pipes and/or swales. Off-site stormwater should be managed separately from stormwater generated on the site.

(f) Excavated material shall be placed on the uphill side of trenches, consistent with safety and space considerations.

(g) Check dams shall be placed at regular intervals within constructed channels.

(h) At the top of slopes, collect drainage in [adequate pipe slope drains](#) or [armored channels](#) to prevent erosion.

(2) Existing slopes shall not be over-steepened beyond the criteria in subsection (1) of this section by placing fill or by constructing a fill wall near the top of the slope.

(3) If building sites are prepared by constructing slopes near the property boundary, the slope shall be constructed [in accordance with CMC 14.60.135](#).

(4) Drainage at the top and toe of any slope shall be appropriately collected and discharged:

(a) The ground surface above a slope shall be graded to direct surface runoff to an appropriate collection point. Water shall not be allowed to discharge over the top of a slope.

(b) Slopes shall not be constructed in a location or manner in which surface runoff and debris are permitted to drain onto an adjacent property.

(c) Slopes shall be designed and protected to minimize erosion.

(d) Terraces at least 10 feet in width shall be sloped away from the face of a slope and shall be established at not more than 25-foot vertical intervals to control surface drainage and debris. Swales or ditches on terraces shall have a maximum gradient of five percent.

(e).The tops and the toes of cut and fill slopes shall be set back from property boundaries as far as necessary, as determined by a geotechnical engineer for safety of the adjacent properties and to prevent damage resulting from water runoff or erosion. The tops and toes of cut and fill slopes shall be set back from structures as far as is necessary, as determined by a geotechnical engineer for adequacy of foundation support and to prevent damage as a result of water runoff or erosion.

14.60.160 Fill.

All fill material shall be inspected and approved by the geotechnical engineer prior to the material arriving on-site. All imported fill material received from other than a commercial borrow site shall be accompanied by a clean soil questionnaire stating that the material is free of hazardous wastes. Recycled concrete shall not be used.

(1) Preparation of Ground. The ground surface shall be prepared to receive fill by removing vegetation and unsuitable soil and material such as concrete rubble, topsoil, tree stumps, and brush. Where slopes receiving fill are steeper than five horizontal to one vertical, the fill material shall be benched into sound bedrock.

(2) Fill Material. Only earth materials which have no rock or similar irreducible material with a maximum dimension greater than 12 inches shall be used. All on-site materials used as fill on the site shall conform to the specifications identified in the approved soils report.

(3) Compaction. All fill material shall be compacted to a firm and unyielding condition to a density of 95 percent of maximum density per ASTM D-1557, modified proctor.

14.60.170 Rock and retaining walls.

Walls shall be designed and constructed with due regard for drainage, access, maintenance, impacts to adjacent property, and aesthetics. All walls shall be constructed in accordance with all applicable codes and standards, and the following criteria:

(1) Rock walls may be used for erosion protection of cut or fill slopes. The primary function of a rock wall is to protect the slope face from soil erosion and sloughing.

(2) Any wall supporting a surcharge or an exposed wall height of greater than three feet shall require a separate building permit.

(3) All walls shall be provided with a wall drainage system. The wall drainage system shall discharge at an appropriate location:

(a) Wall drains shall be connected to the storm drainage stub provided for the lot, if possible.

(b) Wall drains shall not discharge onto an adjacent downhill property, unless downhill property is a vegetated area that has been set aside as permanent open space or critical area, with approval from the city.

(c) Wall drains shall not discharge onto a steep slope or area susceptible to erosion.

(d) The area above the wall shall be graded to channel water in a direction parallel to the face of the wall until the water can be collected in a pipe or drain, or discharged at an appropriate location.

(4) All walls parallel to a building shall be setback from the building a minimum of five feet. This setback applies to the horizontal space between the wall and the building as measured from the front face of a wall or the cut slope for a wall and the face of the building.

(5) Within the building setback, walls shall not exceed 30 inches in height as measured from the ground surface to the top of the wall.

(6) Walls existing at the time of the ordinance codified in this chapter, if constructed under a valid permit, may be repaired or replaced to their original height.

(7) Walls shall not support earth, other walls, or other structures on an adjacent property.

(8) Walls on a single-family lot may be no higher than four feet. The designer of walls shall also consider the fencing restriction on top of walls in general accordance with CMC 18.35.210.

(9) Walls shall not be located in separate tracts or public rights-of-way for the purposes of circumventing the provisions of this chapter.

(10) Walls shall not be stacked wherein a lower wall is supporting an upper wall, unless the lower wall is designed to do so. Minimum horizontal spacing between rock or retaining walls, as measured from face to face, shall be no less than the thickness of the lower wall plus the height of the lower wall.

(11) Cutting, filling or constructing walls within storm, water, and sanitary sewer easements is prohibited, unless specific written approval from the utility owner is provided. It shall be the applicant's responsibility to obtain said approval, and provide a copy to the city.

(12) When preparing a grading plan and designing a roadway, use of a retaining wall to support the roadway shall be considered only after other design options are exhausted. When a roadway must be supported by a retaining wall, the city may require additional building

setbacks, easements or other restrictions and provisions to allow proper maintenance of the wall.

(13) Walls shall not be located or constructed so as to impede travel on a public walkway.

(14) The area above the wall shall be designed and constructed to prevent surface water and debris from flowing over the top of the wall, and to allow for access and maintenance to the area above the wall.

(15) The area between the wall and the building shall be graded no steeper than five percent, perpendicular to the face of the wall, for a distance of five feet, for that area located within five feet of the building.

(16) Walls shall not be used to break up a slope or to circumvent the definition of or the restrictions for steep slope hazard areas as described in CMC 18.65.310.

(17) Walls constructed between lots shall be constructed entirely on the downhill side of the property line entirely on one lot, including the wall drainage system.

14.60.190 Driveways – Design.

Lots shall be prepared to accept a driveway meeting all applicable design and dimension standards regarding width and slope. Where a lot fronts on a steep roadway, the driveway shall be narrowed and/or lengthened in order to meet the standards regarding driveway slope. Where increased driveway lengths are required, subdivisions and short plats shall contain a note on the face of the plat indicating those lots affected, and to what degree the driveways are to be lengthened.

14.60.200 Inspections.

(1) All projects with a clearing and grading permit are subject to city inspections to ensure compliance with the permit, and that adequate control is being exercised by the contractor, civil engineer, and geotechnical engineer. The director will specify the general stages of work when city inspection is required and may require inspection and testing by an approved testing agency, to be paid by the applicant.

(2) The applicant shall employ professionals to perform inspections of the site grading as follows:

(a) Geotechnical Engineer. The geotechnical engineer's area of responsibility shall include, but need not be limited to, the professional inspection and certification concerning the adequacy of erosion control measures, the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes, the stability of cut slopes with respect to geological matters, and the need for subdrains or other groundwater drainage devices. The geotechnical engineer shall perform on-site geotechnical testing and observation during

implementation of drainage features and while site grading is underway. Records of the geotechnical observation and testing shall be provided to the city on a regular basis.

(b) Civil Engineer. The civil engineer's area of responsibility shall include, but need not be limited to, the inspection of the site grading and construction of roads and drainage facilities to verify compliance with approved plans, evaluate the need for design changes based on field conditions, including submittal of revised plans to the city for review and approval, and providing accurate as-built drawings upon completion of the clearing and grading operations.

(c) Special Inspectors. The applicant shall employ professional inspectors in the area of special concrete work, seismic hazards, or other areas as required by the project and/or the director.

14.60.210 Final approval.

(1) The director shall give final approval to the clearing and grading operations once all the work is completed per the permit. The following must be completed, as a minimum, prior to final approval:

(a) All clearing and grading must be complete;

(b) The site shall be permanently stabilized, temporary erosion control measures removed, and storm drainage control facilities constructed and operational;

(c) The site shall be in a neat and orderly manner, free from junk, trash, debris, equipment, stockpiles and other construction materials;

(d) All required reports, certification letters, as-built drawings and other documents shall be submitted and approved by the city;

(e) The site shall be free of hazards; and

(f) All disputes regarding property damage caused by the clearing and grading operations shall be resolved to the satisfaction of the director.

(2) The city shall not issue final approval for any development proposal or issue a certificate of occupancy or final building inspection for property which has not received final approval for the clearing and grading operations.

(3) Final Reports. Upon completion of the clearing and grading operations, the professionals having conducted inspections in their respective areas shall submit, in a form acceptable to the director, final reports certifying that all portions of the project pertaining to their area of expertise have been constructed in accordance with the approved plans and specifications. The reports shall identify problems encountered, field changes, methods or designs utilized to correct deficiencies, and other information deemed necessary by the director:

(a) Geotechnical Engineer. The geotechnical engineer shall submit a final soil grading report prepared by the geotechnical engineer, including locations and elevations of field density tests, summaries of field and laboratory tests, final description of the geology of the site including any new information disclosed during the grading and the effect of same, and other substantiating data and comments on any changes made during grading and their effect on the recommendation made in the approved geotechnical report. The geotechnical engineer shall provide certification as to the adequacy of the site for the intended use as affected by soil and geologic factors.

(b) Civil Engineer. The civil engineer shall submit an as-built grading plan, including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and subsurface drainage facilities. The civil engineer shall provide certification that the work was done in accordance with the final approved grading plan. Upon completion of the work, a reproducible as-built drawing, stamped by the civil engineer of record, of the storage, conveyance and discharge elements of the detention system and the newly constructed downstream components of the storm drainage system shall be required. The director may require additional information in respect to any significant deviations from the approved plans, specifications or reports.

(c) Special Inspectors. Special inspectors shall submit final reports describing original and final conditions, changes, and methods utilized to correct deficiencies or mitigate specific conditions.

14.60.240 Enforcement, Violations and Penalties.

(1) Permit Suspension/Revocation. The director may suspend work or revoke a clearing and grading permit, as appropriate, whenever:

(a) The work is not authorized by a valid permit;

(b) The applicant requests such revocation or suspension;

(c) The work does not proceed in accordance with the plans, as approved, or is not in compliance with the requirements of this chapter or other city ordinances;

(d) Entry upon the property for the purposes of investigation or inspection has been denied;

(e) The applicant has made a misrepresentation of a material fact in applying for such permit;

(f) The progress of the work indicates that the plan is or will be inadequate to protect the public, the adjoining property, the street, critical areas, the drainage system, or other utilities, or the work endangers or will endanger the public, the adjoining property, the street, protected areas, the drainage system or other utilities;

(g) The required project security has expired or been expended to the point that it no longer provides assurance of completion of the project in compliance with the terms of the permit; or

(h) The permit has not been acted upon or extended within the time allowed pursuant to CMC 14.60.110.

(2) Except as otherwise provided in this chapter, any violation of any of the provisions of this chapter constitutes a civil violation as provided for in CMC 1.30, for which a monetary penalty may be assessed and abatement may be required as provided therein.

Chapter 14.30
 PERMIT DECISION TYPES

14.30.040 Decision types.1

Type 1	Type 2	Type 3	Type 4
Building Permit (15.05) Grading Permit (18.60 14.60) Boundary Line Adjustment (17.40) Right-of-Way Use Permit (12.35) Design and Construction Standards Deviation (12.60) <u>Clearing and Grading Design Deviation (14.60)</u> Shoreline Exemption (16.05) Code Interpretation (14.30) Miscellaneous Administrative Decisions Minor Tree Removal (18.45) WCF Collocation on a Transmission Structure or WCF Tower (18.70)	Short Plat (Including Revisions and Alterations) (17.20) Design and Construction Standards Variance (12.60) <u>Clearing and Grading Design Variance (14.60)</u> Design Departure from the City of Covington Design Guidelines and Standards (18.31) Downtown Permitted Use Determination (18.31) Temporary Use (18.85) Shoreline Substantial Development Permit ² (16.05) SEPA Threshold Determination ³ Commercial Site Development Permit (18.31 and 18.110) Re-use of Facilities (18.85) Critical Areas Reasonable Use Exceptions (18.65) Binding Site Plan (17.30) Major Tree Removal (18.45) Stormwater Manuals Variance (13.25) Wireless Communication Facilities Collocations (18.70)	Preliminary Plat (17.20) Plat Alterations (17.25) Preliminary Plat Revisions (17.20) Zoning Variance (18.125) Conditional Use Permits (18.125) New Wireless Communication Facility Towers and Height Modifications (18.70)	Final Subdivision ⁴ (17.25) Shoreline Environment Redesignations (16.05) Plat or Short Plat Vacations (17.25) Street Vacations (12.55)

1 If a conflict between this chart and the text of the CMC exists, the text of the CMC controls.

2 When applications for shoreline permits are combined with other permits requiring Type 3 or 4 land use decisions, the Examiner, not the Director, makes the decision. All shoreline permits, including shoreline variances and conditional uses, are appealable to the State Shorelines Hearings Board and not to the Hearing Examiner.

3 Appeal to Examiner is limited to the SEPA threshold determination. The decision on the Type 1 permit itself is appealable to Superior Court.

4 Final subdivisions are submitted directly to the City Council for final decision without a recommendation by the Hearing Examiner.

Chapter 13.37

CRITICAL AQUIFER RECHARGE AREAS

13.37.030 Code provisions adopted.

(1) In order to protect critical aquifer recharge areas, Chapter 13.25 CMC is hereby adopted in accordance with RCW 36.70A.060.

(2) The following elements of the Covington Municipal Code are hereby adopted in accordance with RCW 36.70A.060 to protect critical aquifer recharge areas: Chapters 15.20, 18.40 and 18.~~60~~65 CMC.

Chapter 14.35

PERMIT APPLICATION PROCEDURES

14.35.020 Permit application – Conformance with submittal requirements.

The Department shall not commence review of any application set forth in this chapter until the applicant has submitted the materials specified for complete applications along with the required fees as set forth in the current fee resolution. Applications for land use permits requiring Type 1, 2, 3 or 4 decisions shall be considered complete as of the date of submittal upon determination by the Department that the materials submitted meet the requirements of this section. The Director may eliminate certain submittal requirements where not prohibited by law and where deemed necessary.

(1) Except as provided in subsection (2) of this section, all permit applications described in CMC 14.30.040 shall include the following:

(a) The appropriate application form provided by the Department and completed by the applicant;

(b) A certificate of sewer availability from the applicable sewer purveyor or site percolation data with preliminary approval by the Seattle-King County Health Department;

(c) A current certificate of water availability from the applicable water purveyor, or the Seattle-King County Health Department if for a private water system;

(d) A fire district receipt pursuant to CMC Title 15;

(e) A site plan, prepared in a form prescribed by the Director and further outlined in Chapter 10 of the Design and Construction Standards, adopted by Chapter 12.60 CMC;

(f) Proof that the lot or lots to be developed are recognized as a lot under this title;

(g) Location of critical areas on and within 50 feet of the site or Aa critical areas affidavit identifying that no critical exist on or adjacent to the site. †

(h) A completed environmental checklist, if applicable per Chapter 16.10 CMC;

(i) Payment of any development permit review fees as set forth in the current fee resolution;

(j) A list of any permits or decisions applicable to the development proposal that have been obtained prior to filing the application or that are pending before the City or any other governmental entity;

(k) Certificate of transportation concurrency from the Department of Community Development, if required by Chapter 12.100 CMC;

(l) A determination if drainage review applies to the project pursuant to Chapter 13.25 CMC, and, if applicable, all drainage plans and documentation required by the stormwater manuals adopted pursuant to Chapter 13.25 CMC;

(m) Current Assessor's maps and a list of tax parcels to which public notice must be given as provided in this chapter, for land use permits requiring a Type 2, 3 or 4 decision;

(n) Legal description of the site;

(o) Variances obtained or required under CMC Title 18 to the extent known at the date of application;

(p) Design deviations and design variance from the Construction and Design Standards, adopted in Chapter 12.60 CMC, to extent known at the date of application;

~~(q)~~ For site development permits only, a phasing plan and a time schedule, if the site is intended to be developed in phases or if all building permits will not be submitted within three years; and

~~(r)~~ Additional complete application requirements for the following land use permits are set forth in the following sections of the CMC:

(i) Grading permits, Chapter ~~18.60~~14.60 CMC.

(ii) Tree removal permits, Chapter 18.45 CMC.

(iii) Construction permits, Chapter 15.05 CMC.

(iv) Mobile home permits, Chapter 15.05 CMC.

(v) Subdivision applications, short subdivision applications and binding site plan applications, Chapter 17.15 CMC.

A permit application is complete for purposes of this section when it meets the procedural submission requirements of the Department and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the Department from requesting additional information or studies either at the time of notice of completeness or subsequently if new or additional information is required or substantial changes in the proposed action occur, as determined by the Director.

**Chapter 14.105
FINANCIAL GUARANTEES**

14.105.150 Restoration and reclamation activities.

(1) Financial guarantees for restoration and reclamation activities required pursuant to CMC Titles 14, 15 and 18 shall be sufficient to cover the cost of conformance with conditions of the permit, including corrective work necessary to provide drainage consistent with approved plans and conditions, to remove geologic hazards, and to protect water quality and the public health, safety, and welfare. The financial guarantee may be reduced proportionately for phased projects as work is complete and subsequent reclamation and/or restoration on each phase is completed. The request for reduction shall be in writing.

(2) Financial guarantees may be waived for activities pursuant to CMC Title 14, 15 or 18:

(a) Projects of less than 200-1,000 cubic yards of excavation, fill, or a combination thereof unless associated with a development application for short plat, subdivision binding site plan or commercial site development permit;

(b) City of Covington Department projects; and

(c) Reclamation projects with financial guarantees posted with the State of Washington Department of Natural Resources or with the Federal Office of Surface Mining.

14.105.160 site development and restoration

(1) Financial guarantees for any improvement required pursuant to CMC Titles 14, 15, 17, or 18 (or their successors) shall be sufficient to cover the cost of complying with conditions of the permit or approval, including corrective work necessary to provide drainage consistent with approved plans and conditions, to remove geologic hazards, and to protect water quality and the public health, safety, and welfare. Such financial guarantees shall include site restoration and stabilization requirements.

(2) No temporary certificate of occupancy shall be issued until:

(a) Drainage facility improvements are functional;

(b) Required parking is provided; and

(c) Safe access is provided.

(3) The Director may allow a performance guarantee to be posted for some or all of the improvements required by subsection (2) of this section if no life safety hazard exists. The

request shall be made in writing, accompanied by a schedule for completion of required improvements.

14.105.170 Liability insurance.

(1) The developer of record shall carry comprehensive general and automobile insurance in an amount not less than \$2,000,000. The liability insurance shall be maintained in its original amount by the developer during the period the permit and approval are in effect. The insurance shall include the city as an additional named insured and shall protect the city from any liability up to those amounts for any accident, negligence, or any other liability whatsoever, relating to the construction or maintenance of the development.

(a) Liability insurance can be waived for projects less than 1,000 cubic yards of excavation, fill, or a combination thereof unless associated with a development application for short plat, subdivision binding site plan or commercial site development permit.

(2) The developer shall not commence work until he has furnished evidence (in duplicate copy) of liability insurance, and such insurance has been approved by the city; nor shall the developer allow any contractor or subcontractor to commence work on his contract or subcontract until the same insurance requirements have been complied with by such contractor or subcontractor. Approval of the insurance by the city shall not relieve or decrease the liability of the developer thereby. Companies writing the insurance under this section shall be authorized to do business in the State of Washington.

Chapter 16.10

STATE ENVIRONMENTAL POLICY ACT [s2]

16.10.090 Categorical exemptions (flexible thresholds).

(1) The City establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(b) based on local conditions:

(a) The construction or location of any residential structures of four dwelling units;

(b) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 30,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots;

(c) The construction of an office, school, commercial, recreational, service or storage building with 12,000 square feet of gross floor area, and with associated parking facilities designated for 40 automobiles;

(d) The construction of a parking lot designated for 40 automobiles;

(e) Any landfill or excavation of 200 cubic yards throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.

(2) Whenever the City establishes new exempt levels under this section, it will send them to the Department of Ecology, Headquarters Office, Olympia, Washington 98504, pursuant to WAC 197-11-800(1)(c).

Chapter 18.20
DEFINITIONS

18.20.097 Berm.

"Berm" means ~~a constructed area of compacted earth~~ a mound or raised area used for the purpose of screening a site or operation.

18.20.195 Clearing.

"Clearing" means ~~cutting, killing, grubbing or removing vegetation or other organic plant material by physical, mechanical, chemical or any other similar means. For the purpose of this definition of "clearing," "cutting" means the severing of the main trunk or stem of woody vegetation at any point.~~ the limbing, pruning, trimming, tipping, cutting or removal of vegetation or other organic plant matter by physical, mechanical, chemical or other means.

Chapter 18.55
SIGNS

18.55.050 Permits.

(3) Permit and Registration Exceptions.

(a) A sign permit is not required for maintenance of a sign, for a change of sign face, or for operation of a changeable copy sign and/or electronic changeable message sign.

(b) Exempt Signs. The following signs, modification to signs, or displays are exempt from the regulations of this chapter. Except for government signs, sight distance requirements must be complied with. No sign shall be placed in the public right-of-way, except as otherwise allowed in this chapter.

(i) Address identification with numbers and letters not more than 18 inches in height.

(ii) Balloons no greater than 18 inches in diameter and no more than five balloons per display with a tether no longer than 36 inches.

(iii) Banners projecting over the right-of-way, for City Council authorized events.

(iv) Barber poles.

(v) Construction signs so long as such signs are limited to two signs per project and each sign does not exceed 32 square feet per sign face and 10 feet in height. Construction signs shall not be displayed prior to issuance of a building permit and shall be removed prior to the issuance of a certificate of occupancy and shall include the following information:

- (A) City project number and project name;
- (B) .Emergency contact name and phone;
- (C) Applicant's project manager's name and phone; and
- (D) Allowable construction hours.

(vi) Directional signs, on-site. Each sign shall not exceed four square feet in sign area if the directional sign is indicating one direction and shall not exceed eight square feet in sign area if such sign is indicating more than one direction. Center or complex names or logos shall not comprise more than 20 percent of the total area of the directional sign.

Chapter 18.60

DEVELOPMENT STANDARDS – ~~GRADING AND~~ MINERAL EXTRACTION^[s3]

Sections:

18.60.010 Purpose.

~~18.60.020 Exemptions.~~

~~18.60.030 Grading permits required.~~

~~18.60.035 Fees.~~

18.60.040 Nonconforming extractive operations.

18.60.050 Periodic review.

18.60.060 Site design standards.

18.60.070 Operating standards.

18.60.080 Reclamation.

~~18.60.090 Financial guarantees.~~

18.60.010 Purpose.

The purpose of this chapter is to establish standards which minimize the impacts of grading and extractive operations upon surrounding properties by:

(1) Ensuring adequate review of operating aspects of extractive sites;

~~(2) Requiring project phasing on large sites to minimize environmental impacts;~~

~~(3) Requiring minimum site areas large enough to provide setbacks and mitigations necessary to protect environmental quality; and~~

(4) Requiring periodic review of extractive and processing operations to ensure compliance with the most current operating standards.

18.60.020 Exemptions.

The provisions of this chapter shall not apply to uses or activities specifically exempted in Chapter 18.45 CMC.

18.60.030 ~~Grading permits required~~ Extractive Operations.

~~Grading and E~~ extractive operations shall commence only after issuance of a grading permit.

~~18.60.035 Fees.~~

~~Fees shall be collected to compensate the Department for preapplication review, the investigation, permit administration, plan review, and ongoing monitoring/inspection of grading and clearing permit applications consistent with the provisions of Chapter 18.45 CMC. Grading and clearing permit fees shall be composed of two elements: plan review and operation monitoring.~~

~~(1) Plan Review Fees. Plan review fees shall compensate the Department for the review of permit operating plans, including plans for drainage, erosion/sedimentation control, terrain alteration, traffic/circulation, clearing, and site rehabilitation. Plan review fees shall be based on the anticipated volume of materials and total area to be disturbed during the period of the permit. Initial plan review fees may be reduced for quarry/mining operations reviewed in conjunction with reclassification applications or unclassified use permits. Plan revision fees shall contain a base fee to cover the cost of file administration and an hourly fee to compensate for additional plan review and modification of permit approval conditions. Plan revisions may be initiated at any time during the period of the grading permit, either at the request of the applicant or as a result of operational modifications discovered during monitoring, but shall not alter the original approval period of the grading permit.~~

~~(2) Operation Monitoring Fees. Operation monitoring fees shall be collected to cover the cost of inspecting active grading operations in order to determine compliance with permit approval conditions. "Active grading operations" include material deposition and removal areas, disturbed areas not yet rehabilitated, stockpiles, on-site processing areas, and other such working areas. Operation monitoring fees shall cover inspections for a 12-month period and shall be collected at permit issuance and at each subsequent anniversary date throughout the effective period of the grading permit.~~

~~Operation monitoring fees shall be based on the volume of materials anticipated to be deposited or removed during the 12-month monitoring period. Monitoring fees based on area shall also be collected for all disturbed areas not rehabilitated during the previous monitoring period. Special monitoring and inspection functions, such as bond release inspections or reinspection of nonbonded actions, shall be calculated as set forth in the grading permit fee tables.~~

~~Fees for the monitoring and inspection of clearing shall be charged at an hourly rate.~~

~~(3) Fee Reductions. Grading permit fees (plan review and operation monitoring) for projects entirely completed within one year or for permits reviewed in conjunction with other Departmental administered permits may be reduced to reflect cost savings associated with the reduced workload.~~

~~(4) Work without a Permit. Whenever any work for which a grading or clearing permit is required by Chapter 18.45 CMC has been commenced without first obtaining said permit, an investigation fee, in addition to the grading permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the grading permit fee required by this section and set forth in the grading permit fee tables.~~

~~(5) Additional Review Fees. In addition to the grading and clearing permit fees set forth in this section, other fees required by the Covington Municipal Code may be applicable to individual grading permit applications. Such fees include, but are not limited to, shoreline management, SEPA or sensitive areas review fees.~~

~~(6) Fees for grading and/or clearing shall be set forth in the current fee resolution. (Ord. 20-07 § 68; Ord. 43-02 § 2 (27.12.010). Formerly 14.60.010)~~

18.60.050 Periodic review.

Unless a more frequent review is required, periodic review of extractive and processing operations shall be provided as follows:

(1) All extractive operations shall be subject to a review of development and operating standards at five year intervals;

(2) The periodic review shall be:

(a) Conducted by the Director or his/her designee pursuant to the review process outlined in ~~CMC 18.115.040 through 18.115.060~~ Title 14; and

(b) Used to determine that the site is operating consistent with the most current standards and to establish other conditions as necessary to mitigate identifiable environmental impacts;

(c) The cost of any review by the City shall be ~~born~~ the responsibility of the ~~by the~~ operator of the extractive operation.

18.60.080 Reclamation.

A reclamation plan approved pursuant to the requirements of RCW 78.44.090 shall be submitted prior to the effective date of a rezone approval.

~~18.60.090 Financial guarantees.~~

~~Financial guarantees shall be required, consistent with the provisions of CMC Title 14 and this title.~~

Chapter 18.85

NONCONFORMANCE, TEMPORARY USES, AND RE-USE OF FACILITIES^[s4]

18.85.020 Nonconformance – Applicability.

(1) With the exception of nonconforming extractive operations identified in Chapter 18.60 CMC, all nonconformances shall be subject to the provisions of this chapter.

(2) Nonconformance standards referenced in Chapter 18.31 CMC shall be applicable within the downtown zone. Where all other standards in this section may conflict with Chapter 18.31 CMC, the standards contained in Chapter 18.31 CMC shall apply.

(3) The provisions of this chapter do not supersede or relieve a property owner from compliance with:

(a) The requirements of the International Building and Fire Codes; or

(b) The provisions of this code beyond the specific nonconformance addressed by this chapter.