

Title 15

FOREST PRACTICES

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Chapter 15.05

GENERAL PROVISIONS

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15.05.010 Purpose.

This chapter is established to reduce indiscriminate loss of forest lands by implementing the Forest Practices Act. (Ord. 1091 § 1, 2000).

Chapter 15.10

DEFINITIONS

(Reserved)

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Chapter 15.50

WAIVER OF SIX-YEAR DEVELOPMENT MORATORIUM

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15.50.010 Application.

(1) An applicant may apply to the city for a waiver of the six-year moratorium. Pursuant to the provisions of this chapter, the city may grant relief from Chapter 76.09 RCW moratoria prior to the expiration of the moratoria.

(2) Any property owner requesting a waiver of a moratorium shall submit to the city an application on the form provided by the city together with the fee established in SMC 3.30.045, Forest Practices Fees. (Ord. 1091 § 1, 2000).

15.50.020 Waiver for one single-family residence and outbuildings.

(1) The six-year moratorium may be waived for constructing a single-family residence or outbuildings, or both, on a legal lot and building site where such activity complies with all applicable city ordinances.

(2) Such waiver may be issued by the planning director where a finding can be made that granting the waiver meets the criteria noted in SMC 15.50.040. Before acting on the request for waiver of the moratorium, the planning director or designee shall issue a notice of application (NOA) consistent with the procedures under SMC 17.80.060(1)(d), including a 15-day comment period; provided further, where the initial critical areas review and site visit conclude that no critical areas have been affected, or do not exist, the planning director

may waive the NOA requirement and issue the waiver. (Ord. 1091 § 1, 2000).

15.50.030 Waiver for all other development permits.

(1) For all other development approvals, including but not limited to subdivisions, short plats, comprehensive plan amendments, re-zones, special use permits, variances, and fill and grade permits (except where fill and grading is necessary to serve a single-family residence associated with a waiver request), the city shall require a public hearing before the hearing examiner consistent with the procedures contained in Chapter 17.87 SMC.

(2) The hearing examiner shall give notice of public hearing pursuant to SMC 17.85.010. In addition, the hearing examiner or designee shall cause to be mailed a notice of the public hearing to:

- (a) Appropriate state agencies including but not limited to Washington State Department of Ecology, Department of Natural Resources, Department of Fish and Wildlife;
- (b) Any local agencies with jurisdiction;
- (c) Appropriate tribal governments; and
- (d) Any other interested parties who have, in writing, commented on the application or requested notice of the public hearing.

(3) Based upon public comment received at the public hearing (if required) and the decision criteria of SMC 15.50.040, the planning director or the hearing examiner may authorize, conditionally authorize, or deny a waiver of the development moratorium. (Ord. 1091 § 1, 2000).

15.50.040 Decision criteria for waiver of moratorium.

For both SMC 15.50.030 and this section, the following shall provide the criteria for considering a waiver of the six-year moratorium:

(1) Critical Areas Site Assessment and Mitigation Plan.

(a) The applicant shall provide a critical areas site assessment where warranted by the critical areas ordinance (CAO) under SMC Title 17 following initial review and site visit of the property subject to the moratorium. The site assessment shall determine the level of

impacts to the city-regulated critical areas and associated buffers that have occurred due to logging and associated conversion activity. The site assessment shall also include an estimated time needed for recovery of the critical areas to a state comparable to what it was before the forest practice took place. The assessment shall be prepared by a professional whose qualifications and experience are satisfactory to the planning director.

(b) If based on the prepared site assessment and comments received, the planning director (for single-family residences) or hearing examiner (for waivers subject to public hearings) determines that recovery of the critical area(s) and associated buffers can be achieved within six years, then a mitigation plan (MP) shall be prepared. The mitigation plan shall be prepared by a professional whose qualifications and experience are satisfactory to the planning director. The MP shall include a six-year monitoring program, correction standards, and provisions for a six-year maintenance bond. The MP shall be reviewed and approved by the planning director (single-family residences) or the hearing examiner (for waivers subject to public hearing). A substantial part of the mitigation work as determined by the planning director at the director’s discretion, must be completed prior to the issuance of any development permits. At his/her discretion, the planning director may accept a performance bond of 150 percent for all or part of the mitigation work.

(c) All sensitive areas and buffers on the site shall be protected with a native growth protection easement (NGPE) recorded for the property. The NGPE shall protect the sensitive areas and buffers in perpetuity. The planning director may permit selective cutting of trees determined to be dangerous to property or individuals by a certified arborist.

(d) If, however, critical areas and their buffers cannot be restored within the six-year period to a level of critical areas function comparable to what it was prior to the logging activity, the request for a waiver of the moratorium shall be denied and the city shall not accept applications for development permits for the duration of six years.

(2) The applicant shall submit one of the following for review and acceptance prior to waiver of the moratorium.

(a) Reforestation Plan.

(i) If no development proposal has been proposed, the applicant shall submit a reforestation plan consistent with Chapter 222-34 WAC for approval by the planning director.

(ii) If a new development is proposed, the applicant shall submit a reforestation plan for the proposed development to the planning director for approval. The reforestation plan shall specify the type(s) of trees to be planted. All species shall be native and shall be a minimum two-inch caliper at time of planting.

(iii) For new developments, the reforestation plan shall provide for a minimum of trees to be planted in the new development. For each acre where tree removal was performed, trees shall be planted according to the following table:

Type of development	Density of trees planted
Residential	50 trees per acre
Commercial or institutional	40 trees per acre
Industrial	30 trees per acre

(iv) Credit will be allowed for existing healthy trees that were left standing on any disturbed acreage. The caliper of existing trees shall be six inches or greater as measured four feet from the ground.

(v) For single-family residential subdivisions, planting is encouraged throughout the site, including on lots, between lots, along lot frontages, along rights-of-way, and in open space areas. This planting requirement shall be met outside of critical areas and buffers that require restoration under subsection (1) of this section. The planning director may accept variations in the planting locations (including off-site locations) if alternate locations would better serve the community or better protect the trees.

(vi) For multifamily, commercial, institutional, and industrial developments, newly planted trees may be located in the interior, perimeter, or frontage of the lot, but not in critical

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areas and buffers that require restoration under subsection (1) of this section.

(vii) If necessary, plans shall be modified to accommodate the required trees.

(viii) Any reforestation plan submitted shall include a two-year maintenance bond in the amount of 20 percent of the cost of materials and planting as approved by the planning director.

(ix) For any proposed residential subdivision, the applicant shall develop covenants restricting future property owners from removing trees. The planning director may permit selective cutting, removal, or relocation of trees. Any trees removed shall be replaced either on-site or off-site as approved by the planning director. Trees shall be replaced at a ratio of 1:1 for every caliper inch of tree removed as measured four feet above the ground. Trees of smaller caliper may be grouped to equal the number of caliper inches of the removed tree(s).

(x) If the area of removal is not replanted within two years from the date the moratorium is waived, the area of removal shall be reforested according to Chapter 222-34 WAC and the provisions of the original notice to comply.

(b) Set aside undevelopable acres. In lieu of reforestation of noncritical areas as required in subsection (2)(a) of this section, the applicant may set aside one-fifth of the disturbed acreage as open space over and above any open space required by the requirements of Chapter 17.147 SMC. The applicant shall submit a reforestation plan for the area in accordance with Chapter 222-34 WAC to be approved by the planning director or the hearing examiner. The area shall be protected as a native growth protection easement, which shall be recorded with the property in perpetuity.

(3) Penalty. In addition to meeting the provisions of subsections (1) and (2)(a) or (2)(b) of this section, the applicant shall pay a penalty to the city in the amount of \$10,000 per acre or portion thereof cut. (Ord. 1091 § 1, 2000).

15.50.050 Findings required for waivers of moratoria.

The waiver of the moratorium shall be subject to the following findings:

(1) The person requesting the waiver did not attempt to avoid city review or restriction of a forest practices application; and

(2) Critical areas and their buffers, as governed by SMC Title 17, and shoreline area as governed by the Stanwood shoreline master program (SSMP) were not damaged in the forest practice operation, or that such damage is repairable through implementation of an approved mitigation plan;

(3) The applicant has demonstrated compliance with the following development standards of the Stanwood Municipal Code, as now existing or hereafter amended:

(a) Stanwood Comprehensive Plan;

(b) Development regulations;

(c) Zoning (SMC Title 17);

(d) Department of Ecology Stormwater Manual; and

(e) State Environmental Protection Act (SEPA);

(4) The provisions of SMC 15.50.040 will be met. (Ord. 1091 § 1, 2000).

15.50.060 Denial of waiver of moratorium.

In situations where a request for waiver has been denied based upon the evidence provided in the site assessment and public comment, restoration to the extent feasible shall occur within the critical areas and their standard buffers (including reforestation), and no further land use approvals shall be issued for the duration of the six-year moratorium. All requirements of the original notice to comply shall be met. (Ord. 1091 § 1, 2000).