



CITY COUNCIL AGENDA

15728 Main Street, Mill Creek, WA 98012 (425) 745-1891

Pam Pruitt, Mayor • Brian Holtzclaw, Mayor Pro Tem • Sean Kelly • Donna Michelson •
Vince Cavaleri • Mike Todd • Mark Bond

Regular meetings of the Mill Creek City Council shall be held on the first, second and fourth Tuesdays of each month commencing at 6:00 p.m. in the Mill Creek Council Chambers located at 15728 Main Street, Mill Creek, Washington. Your participation and interest in these meetings are encouraged and very much appreciated. We are trying to make our public meetings accessible to all members of the public. If you require special accommodations, please call the City Clerk at (425) 921-5732 three days prior to the meeting.

The City Council may consider and act on any matter called to its attention at such meetings, whether or not specified on the agenda for said meeting. Participation by members of the audience will be allowed as set forth on the meeting agenda or as determined by the Mayor or the City Council.

To comment on subjects listed on or not on the agenda, ask to be recognized during the Audience Communication portion of the agenda. Please stand at the podium and state your name and address for the official record. Please limit your comments to the specific item under discussion. Time limitations shall be at the discretion of the Mayor or City Council.

Study sessions of the Mill Creek City Council may be held as part of any regular or special meeting. Study sessions are informal, and are typically used by the City Council to receive reports and presentations, review and evaluate complex matters, and/or engage in preliminary analysis of City issues or City Council business.

Next Ordinance No. 2017-814
Next Resolution No. 2017-564

February 7, 2017
City Council Meeting
6:00 PM

CALL TO ORDER:

FLAG SALUTE:

ROLL CALL:

AUDIENCE COMMUNICATION:

- A. Public comment on items on or not on the agenda

NEW BUSINESS:

- B. Low Impact Development Code Amendments
(*Rebecca C. Polizzotto, City Manager*)

STUDY SESSION:

- C. Council Study Session: Purple Heart Parking Designations
(*Vince Cavaleri, Councilmember*)

REPORTS:

- D. Mayor/Council

- E. City Manager
 - Council Planning Schedule

AUDIENCE COMMUNICATION:

- F. Public comment on items on or not on the agenda

ADJOURNMENT



Agenda Item # B
Meeting Date: **February 7, 2017**

CITY COUNCIL AGENDA SUMMARY

City of Mill Creek, Washington

AGENDA ITEM: AMENDMENTS TO THE MILL CREEK MUNICIPAL CODE TO INCORPORATE LOW IMPACT DEVELOPMENT PRACTICES

ACTION REQUESTED:

Motion to approve the attached Ordinance to amend the Mill Creek Municipal Code to incorporate Low Impact Development practices.

KEY FACTS AND INFORMATION SUMMARY:

Mill Creek is responsible for operating the City storm drainage system under the requirements of the Western Washington Phase II Municipal Stormwater Permit issued by the State Department of Ecology. The current permit became effective on August 1, 2013 and expires on July 31, 2018. The full text of the permit and appendices is available online at the following link:

<http://www.ecy.wa.gov/programs/wq/stormwater/municipal/phaseIIww/wwphiipermit.html>

As part of the State Department of Ecology (DOE) Stormwater Permit, specifically Section S5.C.4.f, the City is required to review and revise the Mill Creek Municipal Code (MCMC), and other associated documents, to incorporate and require Low Impact Development (LID) principles and practices. As part of permit Section S5.C.4.a.ii, the City is also required to adopt the 2012 Stormwater Management Manual for Western Washington.

A draft of the proposed MCMC amendments was discussed by the City Council on January 10, 2017. Below is a summary of major discussion questions that were brought up by the City Council with the associated responses. A Public Hearing on the Code amendments was held by the Mill Creek Planning Commission on January 19, 2017. No public comment was received, but several minor edits were proposed by the Planning Commission, see attached Resolution.

- MCMC Section 12.18.060.B relating to pavement restoration materials
The proposed wording of subsection 3 was discussed, and alternate language was proposed by the Planning Commission to clarify the intent.
- MCMC Sections 16.02.150 and 16.02.160.B.3
The wording of “low volume, low traffic” was discussed and considered to be awkward. After reviewing the language in the DOE Manual, staff is proposing to change this to “low traffic volume”, which will still meet the intent in a clearer manner.
- 2014 DOE Stormwater Manual Amendments
The 2014 changes to the 2012 DOE Stormwater Manual were not substantive, and primarily intended to correct errata and provide clarification. A full nine-page chart of the changes is available online at the following link:

City Council Agenda Summary
Page 2

<http://www.ecy.wa.gov/programs/wq/stormwater/manual/2012-2014%20SWMWW-ChartofChanges.pdf>

- Definition of feasible for LID improvement
A question arose regarding the definition of feasible since the phrase “required when feasible” is used extensively throughout the proposed MCMC amendments, as well as the DOE Stormwater Manual.

There is a wide range of menu options in the DOE Stormwater Manual for which Best Management Practices (BMP) can be implemented for on-site stormwater management, water quality and runoff control. The feasibility for each BMP is specifically defined in the DOE Stormwater Manual, and will vary based on the site use and conditions. Therefore, there is no common threshold or definition for what is feasible. However, in very general terms it will typically depend on how fast water will soak into the ground, which requires extensive on-site geotechnical testing.

- Recent court decision regarding vesting for stormwater requirements
The City Attorney has been generally tracking the case, and will provide a separate memo regarding the implications for Mill Creek in the near future.

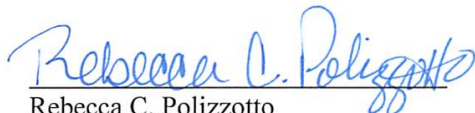
CITY MANAGER RECOMMENDATION:

The City Manager recommends approval of the attached Ordinance to amend the Mill Creek Municipal code to incorporate Low Impact Development practices.

ATTACHMENTS:

- Ordinance and Planning Commission Resolution to amend several sections of the Mill Creek Municipal Code to incorporate LID principles and practices.

Respectfully Submitted:



Rebecca C. Polizzotto
City Manager

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ORDINANCE NO. 2017-_____

AN ORDINANCE OF THE CITY OF MILL CREEK, WASHINGTON, AMENDING MILL CREEK MUNICIPAL CODE CHAPTERS 12.18 (PAVEMENT MANAGEMENT), 15.12 (GRADING AND EXCAVATION), 15.14 (SURFACE WATER MANAGEMENT), 16.02 (DESIGN STANDARDS), 16.04 (PLATS), 16.06 (SHORT SUBDIVISIONS), 16.12 (PLANNED AREA DEVELOPMENTS), 17.01 (INTRODUCTION), 17.24 (MAINTENANCE AND ALTERATIONS), 17.27 (PARKING STANDARDS), AND 17.34 (DESIGN REVIEW) TO IMPLEMENT THE 2013 PHASE II MUNICIPAL STORMWATER PERMIT REQUIREMENTS, INCLUDING LOW IMPACT DEVELOPMENT PRINCIPLES AND BEST MANAGEMENT PRACTICES; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the Western Washington Phase II Municipal Stormwater Permit, dated August 1, 2013 (Phase II Permit), requires that Mill Creek review and amend City development codes, rules, and standards to implement low impact development (LID) principles and best management practices; and

WHEREAS, the Growth Management Act, RCW chapter 36.70A, and other laws require the City to adopt and implement a Comprehensive Plan for the City together with conforming development regulations that meet state and local requirements and serve the public health, safety and welfare; and

WHEREAS, City staff prepared the necessary amendments to Mill Creek Municipal Code (MCMC) chapters 12.18 (Pavement Management), 15.12 (Grading and Excavation), 15.14 (Surface Water Management), 16.02 (Design Standards), 16.04 (Plats), 16.06 (Short Subdivisions), 16.12 (Planned Area Developments), 17.01 (Introduction), 17.24 (Maintenance And Alterations), 17.27 (Parking Standards), and 17.34 (Design Review) to carry out the requirements of the Phase II Permit and implement LID principles and best management practices within the City (collectively, LID Amendments); and

WHEREAS, on December 1, 2016, the City issued a State Environmental Policy Act (SEPA) Determination of Non-Significance for the proposed LID Amendments, and submitted said amendments to the Washington State Department of Commerce for review pursuant to RCW 36.70A. 106; and

WHEREAS, the comment period for the Determination of Non-Significance expired on December 15, 2016 without any comments nor any SEPA appeals being filed, and the State Department of Commerce has not filed any comments with the City; and

**ORD. IMPLEMENTING PHASE II MUNICIPAL
STORMWATER PERMIT AND LID REQUIREMENTS - 1**

WHEREAS, on January 19, 2017, the Mill Creek Planning Commission held a duly noticed public hearing to review the proposed LID Amendments, the City's staff report, and take public testimony and comments thereon; and

WHEREAS, following deliberation and evaluation of the proposed LID Amendments, the Planning Commission adopted Resolution 2017-164 recommending approval of the LID Amendments to the City Council; and

WHEREAS, the City Council has reviewed Planning Commission Resolution 2017-164, attached and incorporated as **Exhibit 1** hereto, and concurs in the Planning Commission's Findings, Reasons, and Recommendations; and

WHEREAS the City Council specifically finds that the LID Amendments meet the requirements of the Phase II Permit and are consistent with the City's Comprehensive Plan, the Growth Management Act, MCMC Chapter 17.38, and other applicable local, state and federal law, and will benefit the public health, safety, and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MILL CREEK, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. The City Council adopts as its findings conclusions the foregoing recitals and those set forth and adopted in Planning Commission Resolution 2017-164 and its attachments.

Section 2. The City Council adopts the recommendation set forth in Planning Commission Resolution 2017-164, and adopts the changes to the Mill Creek Municipal Code set forth therein as code amendments to the specifically identified sections and subsections of the Mill Creek Municipal Code.

Section 3. The City Clerk is directed to take steps as required to implement and effectuate the terms of this Ordinance and incorporate the LID Amendments into the Mill Creek Municipal Code. The Clerk is authorized to correct scrivener's errors, internal references, and the like.

Section 4. This Ordinance shall be in full force and effect five days after publication of a summary hereof consisting of the title of this Ordinance, in accordance with RCW 35A.13.200.

Adopted this _____ day of _____, 2017, by a vote of _____ for, _____ against, and _____ abstaining.

APPROVED:

MAYOR PAMELA PRUITT

**ORD. IMPLEMENTING PHASE II MUNICIPAL
STORMWATER PERMIT AND LID REQUIREMENTS - 2**

ATTEST/AUTHENTICATED:

CITY CLERK PEGGY LAUERMAN

APPROVED AS TO FORM:

SCOTT M. MISSALL
OFFICE OF THE CITY ATTORNEY
SHORT, CRESSMAN, AND BURGESS PLLC

FILED WITH THE CITY CLERK: _____

PASSED BY THE CITY COUNCIL: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

ORDINANCE NO.: _____

**ORD. IMPLEMENTING PHASE II MUNICIPAL
STORMWATER PERMIT AND LID REQUIREMENTS - 3**

PLANNING COMMISSION RESOLUTION NO. 2017-164

A RESOLUTION OF THE CITY OF MILL CREEK)
 PLANNING COMMISSION, RECOMMENDING)
 APPROVAL TO THE MILL CREEK CITY COUNCIL)
 OF AMENDMENTS TO THE MILL CREEK) FINDINGS,
 MUNICIPAL CODE CHAPTERS 12.18 PAVEMENT) REASONS AND
 MANAGEMENT AND ROADWAY RESTORATION) RECOMMENDATIONS
 STANDARDS, 15.12 GRADING, EXCAVATION)
 AND LAND FILLING, 15.14 SURFACE WATER)
 MANAGEMENT PROGRAM, 16.02 DESIGN)
 STANDARDS, 16.04 PLATS, 16.06 SHORT)
 SUBDIVISIONS, 16.12 PLANNED AREA)
 DEVELOPMENT, 17.01 INTRODUCTION, 17.24)
 MAINTENANCE AND ALTERATIONS OF)
 STRUCTURES AND LANDSCAPING, 17.27)
 PARKING STANDARDS AND REQUIREMENTS,)
 AND 17.34 DESIGN REVIEW, TO COMPLY WITH)
 THE CITY OF MILL CREEK'S WESTERN)
 WASHINGTON PHASE II MUNICIPAL)
 STORMWATER PERMIT.)

WHEREAS, the Planning Commission is charged with the responsibility for conducting public hearings on proposed regulations concerning the use of land in the City of Mill Creek or amendments to existing regulations and for making recommendations to the City Council for appropriate action on such proposed land use regulations, as set forth in RCW chapter 35A.63 and Mill Creek Municipal Code Chapters 4.10 and 14.03; and

WHEREAS, RCW 36.70A.040 and 36.70A.120, portions of the Growth Management Act, require the City to adopt development regulations, including zoning regulations, to implement the City's Comprehensive Plan; and

WHEREAS, the Western Washington Phase II Municipal Stormwater Permit, dated August 1, 2013, requires that the City review, amend and make effective local development-related codes, rules, and standards to incorporate and require low impact development (LID) principles and LID Best Management Practices (BMPs); and

WHEREAS, the intent of the amendments is to make LID the preferred and commonly-used approach to site development; and

WHEREAS, the amendments are intended to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations; and

WHEREAS, on December 1, 2016, the City issued a SEPA threshold Determination of Non-Significance for the proposed amendments to the Development Code; and

WHEREAS, on December 15, 2016, the comment period for the Determination of Non-Significance expired. No comments were received; and

WHEREAS, notice of a public hearing before the Planning Commission on the proposed amendments was duly posted at City Hall on January 5, 2017, pursuant to MCMC Section 14.07.030(A); and

WHEREAS, notice of the public hearing before the Planning Commission on the proposed amendments was duly advertised in the Everett Herald on January 7, 2017, in accordance with MCMC 14.07.030; and

WHEREAS, on December 1, 2016, the proposed amendments were submitted to the Washington State Department of Commerce for review, as required by RCW 36.70A.106; and

WHEREAS, a staff report to the Planning Commission was prepared to present, analyze, and recommend to the Planning Commission adoption of the proposed amendments to the development code; and

WHEREAS, on January 19, 2017, the Planning Commission held a public hearing on the proposed amendments to the development code; and

WHEREAS, the Planning Commission considered the staff report, attached hereto as **Exhibit A** and incorporated in full by this reference, and the proposed amendments to the MCMC and found that the proposed amendments are consistent with the City's Comprehensive Plan, the Growth Management Act, MCMC Chapter 17.38, and other applicable state and federal law, including the Western Washington Phase II Municipal Stormwater Permit, dated August 1, 2013, the Comprehensive Plan, and will benefit the public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF MILL CREEK AS FOLLOWS:

Section 1: The Planning Commission finds the proposed amendments as described within the Planning Commission staff report, attached and incorporated in full by this reference as **Exhibit A**, are consistent with and implement the policies of the Comprehensive Plan, the Growth Management Act, and other applicable state and federal law, including the Western Washington Phase II Municipal Stormwater Permit, dated August 1, 2013, and further finds that the proposed Amendments make appropriate provisions for and further the public health, safety and general welfare.

Section 2: The Planning Commission adopts the findings, conclusions, and recommendations contained in the staff report, attached as **Exhibit A**, except as may be expressly modified herein by **Exhibit B**, attached and incorporated in full by this reference.

Section 3: The Planning Commission therefore recommends to the City Council adoption of the proposed Amendments as set forth in **Exhibit A** and as may be further modified by specific action of the Planning Commission as set forth in **Exhibit B**.

Passed in open meeting this 19th day of January, 2017, by a vote of 5 for, 0 against and 0 abstaining.

CITY OF MILL CREEK PLANNING COMMISSION


STAN EISNER, PLANNING COMMISSION CHAIR


TOM ROGERS, PLANNING COMMISSION SECRETARY

ATTACHMENT: Exhibit A – Staff Report
Exhibit B – Planning Commission Motion

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**EXHIBIT A
DEPARTMENT OF COMMUNITY DEVELOPMENT
STAFF REPORT
TO THE MILL CREEK PLANNING COMMISSION**

PART I - SUMMARY INFORMATION

- PUBLIC HEARING:** January 19, 2017
- REQUESTED ACTION:** Review of proposed Mill Creek Municipal Code Amendments that would make Low Impact Development (LID) the required approach to managing stormwater runoff where feasible. The revisions are designed to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations. The proposed regulations would apply citywide.
- SITE LOCATION:** City of Mill Creek
- PROPONENT:** City of Mill Creek
15728 Main Street
Mill Creek, Washington 98012
- COMPREHENSIVE
PLAN DESIGNATION:** Not applicable.
- ZONING DISTRICT:** Not applicable.

PART II - STATUTORY REQUIREMENTS

SEPA COMPLIANCE:

The proposed amendments to the MCMC are subject to the provisions of the State Environmental Policy Act (SEPA). The City's SEPA Official has determined that the proposed code amendments will not have a probable significant adverse impact on the environment. Thus, an Environmental Impact Statement (EIS) was not required.

On December 1, 2016, a Determination of Non-significance (DNS) was issued on the proposed code amendments. The comment period ended on December 15, 2016. No comments were received.

PUBLIC NOTICE:

Pursuant to Section 14.07.030 Mill Creek Municipal Code (MCMC), a notice of the public hearing was posted at Mill Creek City Hall on January 5, 2017, and published in the Everett Herald on January 7, 2017. All legal requirements for public notice have been satisfied.

**PART III - DESCRIPTION OF PROPOSED AMENDMENTS
TO THE MILL CREEK MUNICIPAL CODE**

ZONING ORDINANCE AMENDMENT:

The provisions governing amendments to the text of the Development Code are found in Section 17.38.020, MCMC. This section states that text amendments may be initiated by the City Council, the Planning Commission, or City staff. The proposed amendments listed below have been initiated by City staff.

KEY FACTS AND INFORMATION SUMMARY:

Mill Creek is responsible for operating the City storm drainage system under the requirements of the Western Washington Phase II Municipal Stormwater Permit issued by the State Department of Ecology. The current permit became effective on August 1, 2013 and expires on July 31, 2018. The full text of the permit and appendices is available online at the following link: <http://www.ecy.wa.gov/programs/wq/stormwater/municipal/phaseIIww/wwphiiipermmit.html>

As part of the Ecology Stormwater Permit, specifically Section S5.C.4.f, the City is required to review and revise the Mill Creek Municipal Code (MCMC) and other associated documents to incorporate and require LID principles and practices. As part of permit Section S5.C.4.a.ii, the City is also required to adopt the 2012 Stormwater Management Manual for Western Washington, which will replace the 2005 version.

Staff from the Public Works and Community Development Departments have spent several months reviewing the existing MCMC to determine appropriate revisions to meet the requirements of the Ecology permit. The issue of LID requirements was last reviewed by Council in 2009, and several changes were made to the MCMC with Ordinance 2009-702. In addition, many existing requirements for developments in Mill Creek, such as retaining native vegetation and reducing impervious surfaces, already meet the intent of LID practices. Consequently, relatively few code changes are necessary when compared to other agencies.

The bulk of the proposed code amendments consist of either changing “encourage” to “require when feasible” or referencing the 2012 Stormwater Manual, see language below. There are also various housekeeping changes to maintain consistency with current City practices, such as in Section 15.12, or the State Department of Ecology permit language. Additional updates were made to the LID related details in the City Standard Plans, which can be viewed online at the following link: <http://www.cityofmillcreek.com/DocumentCenter/View/24>

PROPOSED AMENDMENTS:

Each Section below addresses a different area of the Code that includes proposed amendments. Portions of the code proposed for deletion are in ~~strike~~through, while new language is underlined.

Section 1. MCMC Section 12.18.060.B, relating to pavement restoration standards, shall be amended as follows:

B. Unless the city engineer specifies different standards, the following standards shall apply to all pavement restoration and patches:

1. A full depth patch sufficient to match existing pavement depth or four inches, whichever is greater, shall be constructed on and over the disturbed area and to a minimum lateral distance of 12 inches beyond the boundaries of the disturbed area.
2. A minimum two-inch-thick grind and overlay is required for the restored area beyond the full depth patch.
3. Final restoration shall use ~~hot mix asphalt (HMA) material, class 1/2-inch, in accordance with WSDOT standard specifications in-kind~~ patching material to match the existing pavement that was removed, including permeable pavement or concrete.
4. All patch edges shall be sealed with city-approved material.
5. No irregular patch perimeter shall be allowed. Each patch shall have a single straight edge in both transverse (curb to curb) and longitudinal (direction of travel) directions.
6. The minimum patch dimension in both transverse and longitudinal directions shall be 24 inches.
7. A patch shall be extended to the curb and/or edge of lane if the patch is located within 36 inches of such feature.
8. If the transverse dimension of a patch is greater than half the lane width, then the patch shall be extended from the curb to the full lane width or the centerline of the roadway, whichever applies.

9. If two or more patches will be located within 48 inches of each other in the transverse direction, and/or within 10 feet of each other in the longitudinal direction, they shall be combined into a single larger patch.

10. If a new patch is made within any portion of an existing larger patch, then the entire original patch shall be replaced.

11. If a patch will extend over a lane edge or centerline of the roadway, then the patch shall be extended to the full roadway width or nearest lane edge.

Section 2. MCMC 15.12.030, relating to permit exemptions, shall be amended as follows:

A grading permit is not required for:

A. Excavation and grading in association with a building permit;

~~B. Excavations required for installation of public improvements;~~

CB. Excavations for the study of soil and ground water conditions;

DC. Landscape installation or site improvements which do not result in a fill placed behind a wall more than four feet in height or a cut more than four feet in depth or which does not exceed 50 cubic yards on any one lot; or

~~E. Excavations, grading or filling when required as a condition of a preliminary plat, short plat or binding site plan. (Ord. 2005-609 § 2)~~

Section 3. MCMC 15.12.040, relating to prohibited excavation, shall be amended as follows:

Excavation, grading or filling is prohibited ~~in the following areas within a designated critical area and/or a critical area buffer as defined by Chapter 18.06 MCMC~~ unless approved by the city engineer.

~~A. Within 50 feet of the city right of way;~~

~~B. Within a designated critical area and/or a critical area buffer as defined by Chapter 18.06 MCMC. (Ord. 2005-609 § 2)~~

Section 4. MCMC 15.12.050, relating to permit applications, shall be amended as follows:

An application for a grading permit shall include the following unless otherwise approved by the City Engineer:

- A. The name, address and telephone number of the owner of the property;
- B. The name, address and telephone number of the person doing the work;
- C. A map of the site which includes: topography, vegetation, wetlands and watercourses, public improvements, structures and rights-of-way or other easements and such features within 300 feet of the site;
- D. The names and addresses of all property owners and residents within 300 feet of the property;
- E. A grading plan indicating the areas to be filled or excavated, the contours of the land after filling or excavating and the amount of material to be moved. Contours shall be depicted at two-foot intervals or as specified by the city engineer;
- F. If material is to be imported from or exported to another location, the application shall include the location of the site, the route to be followed, and evidence of compliance with the regulations of the government with jurisdiction over the site to borrow from or receive material;
- G. A plan for the control of erosion and water quality during and after the site work;
- H. A plan for drainage of the site;
- I. A plan for restoration of vegetation or landscaping on the site;
- J. An estimate of the cost of the work to be undertaken;
- K. A SEPA environmental checklist; and
- L. Other such information as may be required by the city engineer, including traffic engineering ~~geological, soils and hydrological~~ and geotechnical or drainage studies as required in the 2012 Stormwater Management Manual for Western Washington as amended in December 2014. (Ord. 2005-609 § 2)

Section 5. MCMC Section 15.14.020.G, relating to purpose and goals, shall be amended as follows:

~~G. Encourage~~ Require ~~Low Impact Development (LID)~~ best management practices through the use of on-site stormwater facilities to manage stormwater as close to where it falls as possible when site and soil conditions make LID a feasible alternative.

Section 6. MCMC Section 15.14.050, relating to definitions, shall be amended by adding/amending the following definitions:

“Soil Management Plan, SMP” means a plan of best management practices for improving soil quality for new development in order to protect and restore soil function.

“Stormwater facility” means a constructed component or segment of the stormwater system. Stormwater facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention/retention/infiltration facilities, constructed wetlands, LID features, catch basins, oil/water separators, sediment basins, modular pavement, constructed ponds and streams, or any other constructed conveyance of or for stormwater.

“Stormwater system” means the entire system within the city, both public and private, whether naturally existing or manmade, which is designed for, intended for, or which handles the collection, drainage, conveyance, diversion, abatement, detention, retention, infiltration, treatment, storage, LID features or disposition of stormwater. By way of example only, the stormwater system may include pipes, culverts, ditches, open channels, streams, lakes, rivers, ponds, and stormwater facilities. The stormwater system is a subset of the drainage system.

“Stormwater site plan” means a plan that includes a SMP, TESCO, a PSQCP, and/or an SPESCP.

Section 7. MCMC Section 15.14.060, relating to the Ecology stormwater manual, shall be amended as follows:

The Thresholds, Definitions, Minimum Requirements and Exceptions, Adjustment and Variance found in ~~Appendix I of the 2012 NPDES Western Washington Phase II Municipal Stormwater Permit (dated as effective September 1, 2012) and the 2005 Edition of the State Department of Ecology’s the 2012 Stormwater Management Manual for Western Washington, as amended in December 2014~~ (hereinafter referred to as the “Ecology Manual”) are hereby adopted and incorporated by this reference. ~~The city clerk shall at all times maintain and make available for public inspection Appendix I of the 2012 NPDES Western Washington Phase II Municipal Stormwater Permit and the Ecology Manual.~~

Section 8. MCMC 15.14.095, relating to ~~low impact development (LID)~~ stormwater management, shall be amended as follows:

The use of LID best management practices for stormwater management is ~~encouraged~~ required whenever site and soil conditions make it feasible. LID stormwater management techniques include, but are not limited to, bioretention ~~and bioinfiltration~~ facilities, and other BMPs as outlined in the LID Technical Guidance Manual for Puget Sound (current edition) and the 2012 Stormwater Management Manual for Western Washington as amended in December 2014. LID facilities shall be maintained in accordance with the Maintenance of Low Impact Development Facilities Guidelines as interpreted by the city engineer, if applicable.

Section 9. MCMC Section 15.14.140.C.5, relating to construction of stormwater facilities, shall be amended as follows:

5. LID stormwater management facilities shall be constructed by contractors who have received approval from the utility to construct open conveyance systems that are consistent with submitted plans and in accordance with the best management practices in the LID Technical Guidance Manual for Puget Sound (current edition) and the 2012 Stormwater Management Manual for Western Washington as amended in December 2014.

Section 10. MCMC Section 15.14.150.B, relating to construction and warranty inspections – bonds, shall be amended as follows:

B. For newly installed LID stormwater management facilities, the director of public works or designee may require a ~~three~~two-year maintenance bond to be posted to ensure the viability of LID stormwater management facilities. The bond shall be in accordance with MCMC 16.16.090(B) through (D).

Section 11. MCMC Section 15.14.180.C.6, relating to stormwater system engineering and design requirements, shall be amended as follows:

6. LID stormwater management facilities shall be designed and constructed in accordance with the LID Technical Guidance Manual for Puget Sound (current edition) and the 2012 Stormwater Management Manual for Western Washington as amended in December 2014 and approved by the city engineer.

Section 12. MCMC Section 16.02.150, relating to roadway design, shall be amended as follows:

All roads shall be designed and constructed in accordance with the current edition of the American Association of State Highway and Transportation Officials “Geometric Design of Highways and Streets” and the city of Mill Creek “Design and Construction Standard Plans” in effect on the date a notice of complete application is issued for a complete development application.

The current edition of the Federal Highway Administration “Manual on Uniform Traffic Control Devices” shall be used as the design and operational regulatory guideline for all traffic control devices on public roads.

~~Low impact development (LID)~~ best management practices, such as permeable paving and bioretention facilities, are ~~encouraged~~ required when site and soil conditions make LID feasible. Permeable pavement is applicable to low traffic volume surfaces. LID facilities shall be designed and constructed in accordance with the LID Technical Guidance Manual for Puget Sound (current edition) and the city of Mill Creek “Design and Construction Standard Plans” and the 2012 Stormwater Management Manual for Western Washington as amended in December 2014.

Section 13. MCMC Section 16.02.160.B, relating to cul-de-sacs, shall be amended as follows:

B. Streets ending in cul-de-sacs may extend beyond 1,000 feet where there are special circumstances that cause the conformance with subsection A of this section to be impractical, and upon approval by the directors of community development and public works, and the fire marshal. Approval of streets extending beyond 1,000 feet must meet all of the following criteria:

1. The presence of special circumstances, including natural landforms/topography, adjacent parcel configuration, and the lack of secondary access to a parcel.
2. The provision of safety measures, such as approved fire suppression systems, sufficient to ensure the adequate provision of fire flow, fire prevention, and emergency vehicle access as determined by the fire marshal.
3. The installation of landscaped traffic circles. The quantity and location of the traffic circles shall be reviewed on a case-by-case basis by the fire marshal, city engineer, and director of community development. Said traffic circle shall have a minimum outside turning radius of 40 feet and a maximum inside turning radius of 20 feet. The use of LID techniques in the design and construction of traffic circles and cul-de-sacs is encouraged where site and soil conditions make LID feasible. Permeable pavement is applicable to low traffic volume surfaces. LID facilities shall be designed in accordance with the LID Technical Guidance Manual for Puget Sound (current edition) and Mill Creek "Design and Construction Standard Plans," and the 2012 Stormwater Management Manual for Western Washington as amended in December 2014.

Section 14. MCMC 16.04.020.B, relating to information required for preliminary plats, shall be amended as follows:

B. The following additional information shall be submitted with the preliminary plat site plan in order for an application to be evaluated for a determination of complete application:

1. An accurate and thorough tree survey including accurate drip lines of all significant trees determined by the director to be retained or located in areas to be preserved, submitted in accordance with the applicable submittal requirements of MCMC 15.10.050.
2. A preliminary grading plan in accordance with Chapters 15.10 and 15.12 MCMC.
3. A preliminary stormwater management plan including runoff calculations, documentation that the minimum technical requirements of the ~~current 2012 Department of Ecology Stormwater Management Manual for Western Washington as amended in December 2014~~ as adopted by the city have been met, upstream and downstream analysis, a maintenance plan for any new stormwater facilities and existing and proposed drainage facilities for the site and adjacent areas as specified by the city engineer, and feasibility analysis of using ~~low impact development (LID)~~ facilities, all consistent with Chapter 15.14 MCMC.

4. A letter of water and sewer availability from the purveyors.
5. A completed and signed environmental checklist and critical area identification forms pursuant to Chapter 18.06 MCMC.
6. Supplemental studies as determined necessary by the directors of community development and public works. Supplemental studies typically include but are not limited to traffic, drainage, critical areas, and geotechnical issues.

Section 15. MCMC Section 16.04.040.R, relating to information required for final plat submittal, shall be amended as follows:

R. Conditions of approval of the preliminary plat including but not limited to dedications, reservations, roadway buffer/cutting preserves, property buffers, open space tracts, critical areas and buffers, LID features, stormwater requirements and homeowners' association obligations.

Section 16. MCMC Section 16.06.070.S, relating to information required for final short subdivision submittal, shall be amended as follows:

S. Conditions of approval of the preliminary short subdivision, including but not limited to dedications, reservations, roadway buffer/cutting preserves, property buffers, open space tracts, critical areas and their buffers, slope setbacks, LID features, and stormwater requirements and homeowners' association obligations.

Section 17. MCMC Section 16.12.020.J, relating to purpose, shall be amended as follows:

J. To ~~encourage~~ require infiltration as a preferred method of stormwater drainage, when feasible.

Section 18. MCMC Section 17.01.010.I, relating to purpose, shall be amended as follows:

I. ~~Encourage~~ Require, when feasible, the use of ~~low impact development~~ LID techniques, and the use of ~~recycled or recyclable construction products~~.

Section 19. MCMC Section 17.01.010.L, relating to purpose, shall be added as follows:

L. Encourage the use of recycled or recyclable construction products.

Section 20. MCMC Section 17.24.020, relating to alterations, shall be amended as follows:

All additions to, alterations or renovations of existing buildings, or any maintenance project significantly affecting the exterior appearance of existing buildings, shall be subject to a review and approval process no less stringent than followed in approving the original use. Any landscape changes to LID features such as bioretention facilities or rain gardens shall be subject to City review and approval.

Section 21. MCMC Section 17.24.030.B, relating to maintenance, shall be amended as follows:

B. All landscaped and open space areas and LID landscape features on or adjacent to the property, excluding public sidewalks and public rights-of-way subject to Chapter 12.06 MCMC, shall be maintained by the property owner, and shall be:

1. Kept free of litter, debris, invasive vegetation/weeds and obstructions.
2. Maintained in a clean, neat and orderly fashion.
3. Maintained consistent with design review board and other approved landscape ~~and clearing and grading~~ plans if applicable.
4. Kept free of inoperable vehicles.
5. Maintained so that all deposited materials in garbage and recycle containers are wholly contained within the structure as required by MCMC 17.22.070. No litter or recyclable material shall be allowed to accumulate outside said containers. Containers shall be kept clean, free of odors and pests, shall not constitute a public nuisance and shall be maintained to meet the conditions of the design review board and/or other conditions of approval.

Section 22. MCMC Section 17.27.040.F, related to parking design and construction requirements, shall be amended as follows:

F. Surfacing. All parking facilities shall be constructed with a surface appropriate for the use and amount of associated traffic, as approved by the city. Paved surfaces are preferred, and the use of permeable surfacing materials is ~~encouraged~~ required when site and soil conditions make it feasible. In addition, the use of ~~low impact development (LID)~~ best management practices such as integrating LID stormwater management facilities into the required landscaping in parking lots is ~~encouraged~~ required whenever feasible.

Section 23. MCMC Section 17.34.040.A.1.f, relating to design criteria, shall be amended as follows:

f. The use of ~~low impact development (LID)~~ best management practices is ~~encouraged~~ required whenever site and soil conditions make it feasible, including pedestrian facilities such as trails and sidewalks. LID best management practices include, but are not limited to, minimizing impervious surfaces, designing on-site LID stormwater management facilities, and retaining native vegetation.

Section 24. MCMC Section 17.34.040.A.2, relating to parking lot design and screening, shall be amended as follows:

2. Parking Lot Design and Screening.
 - a. Project design shall avoid the appearance of domination by automobiles. Positive methods to achieve this concept include:
 - i. Orienting buildings to fronting streets and placing parking at the rear and/or sides;
 - ii. Designing the required parking area into smaller, discrete, connected lots rather than large, single-use lots;

iii. Designing parking areas to be partially screened from view from adjacent streets and building occupants. Screening can be accomplished through a number of methods including:

- (A) Orienting buildings away from parking areas;
- (B) Placing buildings between streets and parking lots;
- (C) Using extensive landscape screening, berms, and architecturally treated walls that also allow visibility to provide adequate safety and surveillance of the parking areas.

iv. The use of LID best management practices in parking lots is ~~encouraged~~ required whenever site and soil conditions make it feasible. Such BMPs include, but are not limited to, permeable surfacing materials and integrating LID stormwater management facilities into the required landscaping.

Section 25. MCMC Section 17.34.040.A.4, relating to storm drainage, shall be amended as follows:

4. Storm Drainage.

- a. Open stormwater facilities (i.e., ponds and bioswales) visible from public areas shall be designed as site amenities and shall provide a natural appearance through layout, design, and landscape treatment. If fencing is determined to be necessary by the city, it shall be installed in accordance with MCMC 17.22.040 and public works policies, and be obscured with landscaping.
- b. Stormwater facilities (whether open facilities or vaults) shall be located outside roadway buffers/cutting preserves unless there is no other feasible alternative and the facilities do not compromise the purpose and function of the roadway buffer/cutting preserve. In such cases, the facility may only be located in the outer portion of the roadway buffer/cutting preserve.
- c. Where located under areas to be landscaped, underground stormwater vaults shall have adequate soil cover to support the approved landscape plan. The soil shall be of sufficient quality to properly support vegetation.
- d. Stormwater ~~bioretention, biofiltration, and bioinfiltration swales~~ facilities that are integrated into interior landscape areas within parking lots, and that meet area and landscaping requirements may be counted toward the interior parking lot landscape requirements.

Section 26. MCMC Section 17.34.040.H.2.b, relating to perimeter landscaping and parking lots, shall be amended as follows:

- b. Pavers or stepping stones are encouraged in parking lot landscape islands to protect plant materials from damage by pedestrians. Permeable surfaces are ~~encouraged~~ required in parking lots whenever site and soil conditions make it feasible.

Section 27. MCMC Section 18.06.210, relating to definitions, shall be amended as follows:

“Stormwater conveyance facilities” means bioswales, dispersal trenches, stormwater pipes, and other facilities that carry stormwater from a detention or treatment facility to a discharge location.

PART IV – FINDINGS, CONCLUSIONS, AND RECOMMENDATION

The proposed amendments to the City's Municipal Code have been prepared to be consistent with the Growth Management Act, applicable state and federal regulations, including the Western Washington Phase II Municipal Stormwater Permit issued by the State Department of Ecology, the City's Comprehensive Plan, and the City's development code amendment process contained in Chapter 17.38. As reflected below, the proposed amendments have been reviewed for consistency with these requirements and are found to be consistent with applicable local, state and federal regulations.

FINDINGS AND CONCLUSIONS:

1. In accordance with the Growth Management Act (GMA), specifically RCW 36.70A.040 and 36.70A.120, the City is required to adopt development regulations, including development regulations, to implement the City's Comprehensive Plan.
2. In accordance with the Mill Creek Municipal Code (MCMC) Chapter 17.38, the City has the authority to initiate amendments to the code.
3. The Western Washington Phase II Municipal Stormwater Permit, dated August 1, 2013, requires that the City review, revise and make effective local development-related codes, rules, and standards to incorporate and require ~~low impact development~~ LID principles and LID Best Management Practices (BMPs).
4. The amendments to the Development Code, as proposed herein, make Low Impact Development the preferred and commonly-used approach to site development and are intended to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations.
5. In accordance to MCMC Chapter 18.04, the proposed code amendments are subject to the provisions of the State Environmental Policy Act (SEPA). The City's SEPA Official has determined that the proposed code amendments will not have a probable significant adverse impact on the environment. Therefore, an Environmental Impact Statement (EIS) was not required.
6. On December 1, 2016, a Determination of Non-significance (DNS) was issued on the proposed code amendments. The comment period ended December 15, 2016. No comments were received and the DNS is deemed final.
7. Pursuant to Section 14.07.030 Mill Creek Municipal Code (MCMC), notice of public hearing was posted at Mill Creek City Hall on January 5, 2017, and published in the Everett Herald on January 7, 2017. All legal requirements for public notice have been satisfied.
8. On December 1, 2016, the proposed amendments were submitted to the Washington State Department of Commerce for review, as required by RCW 36.70A.106.

9. In accordance with Chapter 35A.63 RCW and MCMC Chapters 2.04 and 14.03, the City Council is charged with the responsibility of making decisions on amendments to the existing Mill Creek Municipal Code (MCMC) regulations.
10. The proposed amendments are consistent with the City's Comprehensive Plan, the Growth Management Act, MCMC Chapter 17.38, and other applicable state and federal law, will implement the Comprehensive Plan, and will benefit the public health, safety, and welfare.

STAFF RECOMMENDATION:

Notwithstanding citizen testimony and revisions made by the Planning Commission in response to said testimony, staff recommends that the Mill Creek Planning Commission adopt the preceding findings and conclusions and recommend to the Mill Creek City Council adoption of the proposed code amendments.

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**Exhibit B
Planning Commission Motion**

MOTION: Vice Chair Nolan moved, seconded by Commissioner Mills, to adopt Resolution 2017-164 recommending approval to the Mill Creek City Council of proposed amendments to the Mill Creek Municipal Code. The motion was approved unanimously.

ORDINANCE NO. 2017- 814

AN ORDINANCE OF THE CITY OF MILL CREEK, WASHINGTON, AMENDING MILL CREEK MUNICIPAL CODE CHAPTERS 12.18 (PAVEMENT MANAGEMENT), 15.12 (GRADING AND EXCAVATION), 15.14 (SURFACE WATER MANAGEMENT), 16.02 (DESIGN STANDARDS), 16.04 (PLATS), 16.06 (SHORT SUBDIVISIONS), 16.12 (PLANNED AREA DEVELOPMENTS), 17.01 (INTRODUCTION), 17.24 (MAINTENANCE AND ALTERATIONS), 17.27 (PARKING STANDARDS), AND 17.34 (DESIGN REVIEW) TO IMPLEMENT THE 2013 PHASE II MUNICIPAL STORMWATER PERMIT REQUIREMENTS, INCLUDING LOW IMPACT DEVELOPMENT PRINCIPLES AND BEST MANAGEMENT PRACTICES; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the Western Washington Phase II Municipal Stormwater Permit, dated August 1, 2013 (Phase II Permit), requires that Mill Creek review and amend City development codes, rules, and standards to implement low impact development (LID) principles and best management practices; and

WHEREAS, the Growth Management Act, RCW chapter 36.70A, and other laws require the City to adopt and implement a Comprehensive Plan for the City together with conforming development regulations that meet state and local requirements and serve the public health, safety and welfare; and

WHEREAS, City staff prepared the necessary amendments to Mill Creek Municipal Code (MCMC) chapters 12.18 (Pavement Management), 15.12 (Grading and Excavation), 15.14 (Surface Water Management), 16.02 (Design Standards), 16.04 (Plats), 16.06 (Short Subdivisions), 16.12 (Planned Area Developments), 17.01 (Introduction), 17.24 (Maintenance And Alterations), 17.27 (Parking Standards), and 17.34 (Design Review) to carry out the requirements of the Phase II Permit and implement LID principles and best management practices within the City (collectively, LID Amendments); and

WHEREAS, on December 1, 2016, the City issued a State Environmental Policy Act (SEPA) Determination of Non-Significance for the proposed LID Amendments, and submitted said amendments to the Washington State Department of Commerce for review pursuant to RCW 36.70A. 106; and

WHEREAS, the comment period for the Determination of Non-Significance expired on December 15, 2016 without any comments nor any SEPA appeals being filed, and the State Department of Commerce has not filed any comments with the City; and

**ORD. IMPLEMENTING PHASE II MUNICIPAL
STORMWATER PERMIT AND LID REQUIREMENTS - 1**

WHEREAS, on January 19, 2017, the Mill Creek Planning Commission held a duly noticed public hearing to review the proposed LID Amendments, the City's staff report, and take public testimony and comments thereon; and

WHEREAS, following deliberation and evaluation of the proposed LID Amendments, the Planning Commission adopted Resolution 2017-164 recommending approval of the LID Amendments to the City Council; and

WHEREAS, the City Council has reviewed Planning Commission Resolution 2017-164, attached and incorporated as **Exhibit 1** hereto, and concurs in the Planning Commission's Findings, Reasons, and Recommendations; and

WHEREAS the City Council specifically finds that the LID Amendments meet the requirements of the Phase II Permit and are consistent with the City's Comprehensive Plan, the Growth Management Act, MCMC Chapter 17.38, and other applicable local, state and federal law, and will benefit the public health, safety, and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MILL CREEK, WASHINGTON, ORDAINS AS FOLLOWS:


Section 1. The City Council adopts as its findings conclusions the foregoing recitals and those set forth and adopted in Planning Commission Resolution 2017-164 and its attachments.

Section 2. The City Council adopts the recommendation set forth in Planning Commission Resolution 2017-164, and adopts the changes to the Mill Creek Municipal Code set forth therein as code amendments to the specifically identified sections and subsections of the Mill Creek Municipal Code.

Section 3. The City Clerk is directed to take steps as required to implement and effectuate the terms of this Ordinance and incorporate the LID Amendments into the Mill Creek Municipal Code. The Clerk is authorized to correct scrivener's errors, internal references, and the like.

Section 4. This Ordinance shall be in full force and effect five days after publication of a summary hereof consisting of the title of this Ordinance, in accordance with RCW 35A.13.200.

Adopted this 7th day of February, 2017, by a vote of 7 for, 0 against, and 0 abstaining.

APPROVED:

MAYOR PAMELA PRUITT

**ORD. IMPLEMENTING PHASE II MUNICIPAL
STORMWATER PERMIT AND LID REQUIREMENTS - 2**

ATTEST/AUTHENTICATED:



CITY CLERK PEGGY LAUERMAN

APPROVED AS TO FORM:

n/a

SCOTT M. MISSALL
OFFICE OF THE CITY ATTORNEY
SHORT, CRESSMAN, AND BURGESS PLLC

FILED WITH THE CITY CLERK: 2-7-17

PASSED BY THE CITY COUNCIL: 2-7-17

PUBLISHED: 2-12-17


EFFECTIVE DATE: 2-17-17

ORDINANCE NO.: 2017-814

**ORD. IMPLEMENTING PHASE II MUNICIPAL
STORMWATER PERMIT AND LID REQUIREMENTS - 3**

MEMORANDUM

TO: City Council
Rebecca Polizzotto
City Staff

FROM: Scott Missall 

DATE: February 7, 2017

RE: *Snohomish County et al v. Pollution Control Hearing Board* (S. Crt. 92805-3)

SUBJECT: Summary of Case and Effect on Washington's Vesting Doctrine; Compliance Implications for City Development Review and Approval Actions

1. Case Status

Decision Issued: December 29, 2016
Reconsiderations Filed: January 18, 2017
Final Decision: Pending

2. Summary

Topic: This case concerns the application of Washington's vested rights doctrine to municipal adoption of mandatory state and federal stormwater management regulations pursuant to the National Pollution Discharge Elimination System (NPDES) municipal stormwater permitting program.

Specific Issue: Do mandatory stormwater regulations adopted by cities pursuant to the federal/state NPDES program (e.g., the forthcoming low impact development [LID] regulations) fall under Washington's vested rights doctrine? Answer: No.

Larger Issue: Must municipalities retroactively apply their new stormwater regulations to land development projects that (i) filed applications after July 1, 2015; and (ii) those that were approved prior to July 1, 2015 but which have not started construction by June 30, 2020? Answer: Yes.

Current Decision: Under the 2013 Phase I NPDES Municipal Stormwater Permit issued by the Department of Ecology, the State mandates that local governments implement a stormwater management program, which typically takes the form of stormwater regulations establishing LID standards. Because such local regulations flow from federal and state authority, *and specifically not from municipal authority*, they do not comprise "land use control ordinances" under

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Washington's vesting statutes. Accordingly, they do not fall within the scope of the vested rights doctrine. For that reason, in order to comply with the NPDES permits (known as MS4s) issued to cities by Ecology, cities must *retroactively apply* their new stormwater regulations to two classes of land use actions: (i) land development actions for which applications were filed after July 1, 2015, as well as (ii) land development actions approved prior to July 1, 2015 that have not started construction by June 30, 2020.

3. Reconsideration Summary

Snohomish County: Is asking the Court to substantially change its decision and conclude that a countervailing state policy establishing the "finality" of preliminary and final plat decisions under RCW 58.17.170 effectively supersedes the NPDES program, meaning that retroactive application of the new stormwater regulations is not required. In short, Snohomish County is asking that it not be required to go back and "unwind" or redo the many dozens or hundreds of approved land use plats and subdivisions that would be subject to the new stormwater regulations.

King County: Is asking the Court to "clarify that its vested rights holding is limited to stormwater regulations adopted as a direct result of the NPDES permitting program administered by DOE." In short, King County wants the Court to expressly limit the Decision to its specific facts so that its analysis of the vesting doctrine does not bleed over into solely state and local environmental regulations (*e.g.*, critical areas, wetlands, etc.) that do not derive from the NPDES mandated program.

4. Practical Implications, Issues and Concerns for Mill Creek

Mill Creek's Vesting Regulations: Mill Creek's land use application vesting regulations are at MCMC chapter 14.05. A copy of that chapter is attached. Under those regulations, a development application that is declared to be a "complete application" is accorded vested status under Washington's vested rights doctrine, and thus must comply only with land use regulations in effect on the date of the application (with some exceptions).

Timeframe for Compliance with the Decision: The work to comply with the Decision will need to commence quickly upon issuance of the final Decision following the reconsideration period. In the meantime, a preliminary list of actions the City can begin considering follows below.

Determine What Previous Applications and Approvals Fall Within Scope of Decision: This will likely include: (i) all large-scale projects such as long and short plats, subdivisions, binding site plans, planned area developments, commercial and retail projects, multifamily projects, institutional or area-wide projects, schools and government projects, etc.; (ii) construction of individual houses or other structures on existing lots, commercial pads in shopping centers, etc.; (iii) road construction and infrastructure development projects; (iv) other approvals that involve the application of the LID stormwater regulations arising under the NPDES program; (v) development agreements for future or phased projects; and (vi) pending but incomplete applications for such projects.

Qualifying Time Periods for Previous Approvals and Applications: Per the Decision, the two qualifying time periods that will frame the foregoing lists are (i) land development actions for which applications were filed after July 1, 2015; and (ii) development actions approved prior to July 1, 2015 that have not started construction by June 30, 2020. The latter could require determinations of applicability to individual houses, units, commercial or retail structures, institutional structures, etc. located within an existing and approved project.

Implement a Notification Process: Once the lists are determined, a notification process will be needed to advise the responsible parties of the Decision, the potential implications on the land uses at issue, and the City's intended response.

Determine Scope and Understand Impact of the Retroactive Regulations: A qualitative analysis of the final Decision will be needed to determine the actual scope of the regulations that will need to be retroactively applied to the foregoing lists. It is likely that new permitting and reconstruction work could require substantial modification of existing (and potentially brand new) stormwater management facilities installed since July 1, 2015.

Consider a Temporary Hiatus in Development Approvals: Given the time it may take to bring the City into compliance with the Decision, it may be necessary or appropriate to consider a moratorium or other action to assure that new applications are properly conditioned and subject to the LID regulations.

Create an Enforcement Process: Given the disruption and costs attendant to retroactive application of the LID regulations, the City will need to establish a uniform administrative and enforcement process to work through the backlog of properties and projects.

Amend MCMC: Code changes will be necessary to implement the Decision, the corrective action it requires, and some forward-looking changes to try and preempt future problems.

Expect Appeals and Court Challenges: The disruption and cost is likely to be significant from the Decision. This goes without saying, but doesn't minimize the potential problem or impacts this will create.

Attachment:

MCMC chapter 14.05

**Chapter 14.05
CONSOLIDATED DEVELOPMENT APPLICATION PROCESS**

Sections:

- [14.05.010](#) Scope and intent.
- [14.05.020](#) Preapplication meetings.
- [14.05.030](#) Content of applications.
- [14.05.040](#) Notice of complete application.
- [14.05.050](#) Technical review committee.
- [14.05.060](#) Environmental review.
- [14.05.070](#) Mitigation impact review.
- [14.05.080](#) Issuance of public notice.
- [14.05.090](#) Preparation of staff report.

14.05.010 Scope and intent.

A. The purpose of this chapter is to describe the typical consolidated review process at the staff level as applied to development applications for plats, subdivisions, planned area developments, binding site plans, and associated permits and approvals. This chapter is intended to achieve the goals described in Chapter [14.01](#) MCMC.

B. This chapter is organized in the approximate order of the consolidated development application process occurring at the staff level. Subsequent review and action by other decision makers is set forth elsewhere in this title.

C. This chapter is not intended to, but may at the discretion of the director, apply to other permits or approvals that do not require the level of review specified herein.

D. This chapter does not apply to legislative or SEPA nonproject actions. (Ord. 2011-725 § 7; Ord. 2005-609 § 2)

14.05.020 Preapplication meetings.

A. Informal. Applicants for development are encouraged to schedule and participate in an informal meeting prior to the formal preapplication meeting. The purpose of the informal meeting is to discuss and exchange information, in general terms, concerning the nature of the proposed development, city design and development standards, critical area regulations, design alternatives, required permits and approvals, and the review and decision process.

B. Formal. With exception of building permits, every person proposing a development in the city shall schedule and attend a preapplication meeting. The purpose of the preapplication meeting is to review the specific location, nature and attributes of the proposed development, specific application and permit requirements, application and other fees, the review process and estimated schedule, and applicable plans, policies and regulations.

C. Information or regulations provided to an applicant prior to submittal of an application do not vest a project to those regulations and may not include all regulations or information pertinent to the project.

Applications for development shall be subject to regulations effective at the time an application is deemed complete.

D. Preapplication meetings are not public meetings. The director may determine who is entitled to attend such meetings. (Ord. 2010-717 § 2 (Exh. B); Ord. 2005-609 § 2)

14.05.030 Content of applications.

A. All development applications shall include the applicable information as specified in MCMC Titles [15](#) through [18](#). The director may require additional or supplemental information before or during the review process as reasonably necessary to fully and properly evaluate the development proposal and its impacts.

B. No development application shall be accepted unless the applicant has first attended a formal preapplication meeting. The applicant shall apply for all permits identified in the preapplication meeting.

C. All development applications shall be submitted on forms provided by the department of community development. All applications shall be submitted with the signatures of or be formally acknowledged by all of the owner(s) and any others having an ownership interest in the property subject to the application. If the signatory is not the property owner, or if the signatory is signing on behalf of an entity, documentation authorizing the signatory to sign on behalf of the individual or duly formed entity shall be provided. (Ord. 2010-717 § 2 (Exh. B); Ord. 2005-609 § 2)

14.05.040 Notice of complete application.

A. Within 28 days of receiving a date-stamped development application meeting the requirements of MCMC [14.05.030](#), the director shall review the application and determine whether the application is complete or incomplete. **The director shall issue a written determination to the applicant upon completion of his review in accordance with subsection B or C of this section.**

B. Notice of Complete Application. A development application may be declared complete by the director, and a notice of complete application issued, only when it contains all of the following:

1. A fully completed, signed, and acknowledged development application and all applicable fees and deposits.
2. A fully completed, signed, and acknowledged environmental checklist and critical area identification form and critical area reports required pursuant to MCMC [18.06.520](#) (and any other required addenda) for projects subject to review under the State Environmental Policy Act.
3. All of the information specified for the desired project in the applicable chapters of the development code.
4. The requirements of MCMC [14.05.030](#) have been met.
5. All supplemental information or special studies identified by the director.

C. Notice of Incomplete Application. For applications determined by the director to be incomplete, the director shall issue a notice of incomplete application identifying the specific requirements and/or

information necessary to constitute a complete application. Requested additional information shall be submitted within the lesser of the time specified by the director or 180 days of the notice. Upon submittal of the additional information by the applicant, the director shall, within 14 days of resubmittal, issue a notice in accordance with subsection B of this section or identify in accordance with this subsection what additional information is still required.

D. **Withdrawal of Application.** An applicant may terminate the review process by withdrawing the application. At the time an application is withdrawn, the applicant may request a refund in writing of the unexpended portion of the application fee. Failure to make a timely reimbursement request shall waive any rights to such funds, which shall be forfeited to the city.

E. **Lapsed Application.** If at any point during the review process the applicant is directed to submit additional information that is necessary to continue the review, and the applicant fails to submit the requested information within the specified time, the application shall lapse and be deemed invalid. The applicant shall have 30 days after receiving notice of the lapsed application to make a written request for a refund of the unexpended portion (if any) of the application fee. Failure to make a timely reimbursement request shall waive any rights to such funds, which shall be forfeited to the city. (Ord. 2006-633 § 2; Ord. 2005-609 § 2)

14.05.050 Technical review committee.

A. Following the issuance of a notice of complete application in accordance with MCMC [14.05.040](#) (B), the director shall schedule and convene a meeting of the technical review committee (TRC). The TRC shall be composed of representatives of all affected city departments, and should include representatives of water, sewer and utility districts, the fire district, and all other affected entities or agencies with jurisdiction. TRC meetings may be continued from time to time by the director as warranted.

B. The TRC shall review the development application for compliance with applicable policies, plans, codes and regulations, shall coordinate further project analysis and review, and provide input to the director and SEPA responsible official on the environmental and mitigation impacts of the development. TRC recommendations and decisions shall be memorialized in a letter to the applicant. (Ord. 2005-609 § 2)

14.05.060 Environmental review.

A. All developments and planned actions subject to the provisions of the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, shall be reviewed in accordance with the policies and procedures contained in Chapter 18.04 MCMC.

B. SEPA review shall be conducted concurrently with development project review. Threshold determinations will be issued following completion of TRC review.

C. The following actions are exempt from concurrent review under SEPA:

1. Projects categorically exempt from SEPA.

2. Components of previously completed planned actions, to the extent permitted by the development code and state law and so long as the proposed component of the planned action is consistent with the environmental impact statement (EIS) issued for the planned action. (Ord. 2005-609 § 2)

14.05.070 Mitigation impact review.

A. All developments and planned actions subject to Chapter [17.48](#) MCMC shall be reviewed in accordance with the policies and procedures contained in that chapter.

B. Development impact mitigation review shall be conducted concurrently with development project and environmental review. Mitigation impact determinations will be issued following completion of TRC review concurrently with SEPA threshold determination. (Ord. 2005-609 § 2)

14.05.080 Issuance of public notice.

Public notice of every development application shall be issued during the review process in accordance with Chapter [14.07](#) MCMC. (Ord. 2005-609 § 2)

14.05.090 Preparation of staff report.

A. Upon conclusion of the reviews specified above and any other staff review, the director shall prepare a staff report identifying the proposed development; evaluating and analyzing the consistency of the development with applicable plans, codes, criteria and regulations; consolidating the comments of all city departments and outside agencies on the development proposal; proposing findings, conclusions and appropriate conditions of development; and making a recommendation for action on the proposal to the decision making body.

B. The staff report shall be distributed to the applicant, to city departments and affected outside agencies, and to the decisional body for consideration in advance of the formal public meeting, hearing, or action on the proposed development. Staff reports will be available to the public prior to the formal public meeting, hearing, or action on the proposed development.

C. Staff reports may be amended, altered, supplemented, withdrawn and/or reissued by the director throughout the course of the development review process. (Ord. 2005-609 § 2)

The Mill Creek Municipal Code is current through Ordinance 2016-807, passed June 28, 2016.

Disclaimer: The City Clerk's Office has the official version of the Mill Creek Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.



Agenda Item # C
Meeting Date: **February 7, 2017**

CITY COUNCIL AGENDA SUMMARY

City of Mill Creek, Washington

AGENDA ITEM: PRESENTATION: PURPLE HEART PARKING DESIGNATIONS

ACTION REQUESTED:

None – This agenda item is for purposes of Council discussion only.

KEY FACTS AND INFORMATION SUMMARY:

Councilmember Cavaleri approached the City Manager with the idea of designating certain parking spaces in the City for wounded combat veterans only (i.e., Purple Heart recipients). Information on the program is attached for discussion purposes, along with a picture of the proposed parking sign. In addition to signage, the designated parking spaces could be painted purple for high visibility.

If the Council wishes to do so, the City could support the proposed program by designating one parking stall in front of both City Hall North and City Hall South as “Combat Wounded” parking. Additionally, through in-person and electronic communication, the City could encourage businesses throughout the City to participate in this project by providing “Combat Wounded” parking stalls in private parking lots.

Parking on public streets is regulated by Chapter 10.12 of the MCMC, specifically Article III. If the Council wishes to implement the proposed parking program, the City Manager does not recommend designating on-street parking as “Combat Wounded” parking. Further, the City Manager does not recommend making adjustments to the penalty section of the MCMC. Rather, it is recommended that “Combat Wounded” parking stalls be left to ‘self-police’ in much the same way as “*Over 55*,” “*15 minute*” and “*Police Only*” designated parking spaces. The City Manager believes enforcement of “Combat Wounded” parking stalls would prove too challenging, in that there is currently no legal mechanism in place to identify “Combat Wounded” or Purple Heart recipients other than the voluntary presence of a medal, citation or license plate. It is the City’s belief that common respect will prevent non-combat wounded motorists from using these designated parking stalls.

CITY MANAGER RECOMMENDATION:

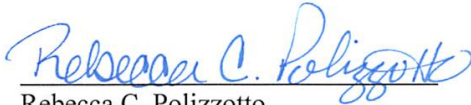
If the Council wishes to implement the proposed “Combat Wounded” Parking Program, the City Manager recommends the City Council adopt a resolution authorizing “Combat Wounded” parking stalls on City Property and encouraging Mill Creek businesses to follow suit and recognize the sacrifices of our Wounded Warriors.

City Council Agenda Summary
Page 2

ATTACHMENTS:

- Wounded Warriors Family Support information.
- Picture of proposed parking sign.

Respectfully Submitted:



Rebecca C. Polizzotto
City Manager

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COMBAT PARKING There are an estimated 1.8 million Purple Heart recipients, combat wounded service members who have transitioned back into civilian life. They have made great sacrifices to ensure our freedoms but often go unrecognized.

Wounded Warriors Family Support's founder, Colonel John Folsom, decided to change that. *Wounded Warriors Family Support* offers Combat Wounded Parking Signs to establishments as a way of honoring and recognizing these veterans.

The response has been tremendous, stretching from coast to coast. The signs have been placed in the parking lots of businesses, churches, schools and colleges, government, and medical facilities.

All combat wounded parking signs are intended for the sole purpose of designating parking spaces for our combat wounded veterans. They must be erected according to the same local guidelines that apply to similar handicap parking signs. Please check with your local city municipal codes before you place the sign. Please do not replace handicap signs with combat wounded parking signs.



FEBRUARY						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7 Council	8	9	10	11
12	13	14 Council	15	16	17	18
19	20	21	22	23	24	25
26	27	28 Council				

MARCH						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7 Council	8	9	10	11
12	13	14 Council	15	16	17	18
19	20	21	22	23	24	25
26	27	28 Council	29	30	31	

APRIL						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4 Council	5	6	7	8
9	10	11 Council	12	13	14	15
16	17	18	19	20	21	22
23	24 30	25 Council	26	27	28	29

Tentative Council Meeting Agendas
Subject to change without notice

Last updated: February 3, 2017

February 14, 2017

- Presentation: Review of the collective bargaining agreement between the City of Mill Creek & AFSCME for the period January 1, 2013 - December 31, 2016.
- Chip Seal Update

February 28, 2017

- Northshore Senior Center Lease
- Presentation of the financial statements for the period ending December 31, 2016
- Review & Recommendation regarding financial operations.

March 7, 2017

- Community Transit Presentation
- Work Session - Governance Manual

March 14, 2017

- Work Session
 - Communications Strategic Plan Review
 - Social Media Policy

March 28, 2017

- Work Session
 - Departmental Work Plans
 - Policy Development Process

April 4, 2017

- Code Revision - Art & Beautification Board
- Work Session - Updates to Traffic Calming Manual

April 11, 2017

- Legal Update: Public Records Act/Public Meetings Act
- Update: Health District Building Purchase

April 25, 2017 - City Manager Out of Town

- City Wide 911 Addressing Issues

Work in Progress - Upcoming Agenda Items

- Code Revision - Repeal of Board of Appeals/Adjustment
- City Hall North HVAC Control System Replacement Contract
- Fire Contract
- Public Works Shop Design
- Development code change to allow redevelopment along Mill Creek Blvd/North Creek
- SNOCOM Consolidation Updates
- SERS Radio Acquisition Updates
- 35th Ave Project Updates
- Partnerships with Everett School District