

## Chapter 20.80

## FOREST LAND CONVERSION

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**Part I. General Provisions**20.80.010 Authority.

This chapter is adopted pursuant to RCW 76.09 and WAC 222-20.

20.80.020 Purpose.

- (a) The purpose of this chapter is to assume regulatory authority from the Washington Department of Natural Resources over certain forest practices specified in §[20.80.050 \(Applicability\)](#) as permitted by Washington state law. This chapter assures that the forest practices and activities described in §[20.80.050 \(Applicability\)](#) occur in compliance with the Arlington Comprehensive Plan and other applicable development regulations, including but not limited to:
- (1) AMC Title 13 (Water, Sewer, & Stormwater);
  - (2) AMC Title 15 (Fire Code);
  - (3) AMC Title 16 (Building & Construction);
  - (4) AMC Title 20 (Land Use); and
  - (5) Shoreline Management Master Program.
- (b) This chapter establishes a process to implement and potentially lift development moratoria imposed by RCW 76.09.060 and WAC 222-20-050(3) subsequent to the harvesting of timber where a permit, approval, or a conversion option harvest plan agreement was not obtained pursuant to this chapter.
- (c) This chapter establishes procedures, criteria, and standards governing the timing and coordination of timber harvesting and development, and the imposition and lifting, or exemption from development moratoria required by RCW 76.09.060 and WAC 222-20-050(3).

20.80.030 Definitions.

Except as provided for in this section, this chapter will use existing definitions that are already in common use regarding the subject of forest practices. This shall include all the definitions contained in the Washington State Forest Practices Act (RCW 76.09.020), rules for the Washington State Forest Practices Act (WAC 222-16), and the AMC except as herein amended.

*Act.* The Forest Practices Act, Chapter 76.09 RCW.

*Bankfull depth.* The elevation of the water surface of a stream flow having a return period of approximately one and one-half years measured from the line of maximum depth of the stream or thalweg. (See *Forest Practices Board Manual* section 2 for measuring guidelines.)

*Bankfull width* means the horizontal projection of bankfull depth to the stream bank. (See *Forest Practices Board Manual* section 2 for measuring guidelines.)

*Board* means the Forest Practices Board established by RCW 76.09.

*Channel migration zone (CMZ)* means the area where the active channel of a stream is prone to move and this results in a potential near-term loss of riparian habitat adjacent to the stream. (See *Forest Practices Board Manual* section 2 for descriptions and illustrations of CMZs and delineation guidelines except as modified by a permanent levee or dike.)

*Classes of forest practices* means the four classifications of forest practices activities described in WAC 222-16-050. The class of forest practices is determined by considering several factors including but not limited to the type of activity proposed (e.g., harvesting, thinning, etc.), its scale, location of the property, the affected environment, and future use of the site. The description of the classes of forest practices paraphrased below are intended to summarize the

classifications and do not supersede the specific definitions described in WAC 222-16 and RCW 76.09 and this chapter.

- (1) **Class I** are those minor forest practices that have no direct potential for damaging a public resource that:
- (A) Occur entirely outside of land designed as an urban growth area;
  - (B) On land not platted after January 1, 1960; and
  - (C) On land not intended for immediate conversion to another use.

Examples of class I forest practices include timber harvests on parcels where contiguous ownership is less than two acres in size that are not within a shoreline designation or UGA, and none of the operation takes place within the riparian management zone of a type 2 or 3 water, or within the ordinary high water mark of a type 4 water or flowing type 5 water; the culture and harvest of Christmas trees and seedlings; tree planting and seeding; and cutting and/or removal of less than five thousand board feet of timber for personal use (e.g., firewood, fence post, etc.) in any consecutive twelve month period. Class I forest practices do not require approval or a permit by DNR.

- (2) **Class II** are those forest practices which have less than an ordinary potential for damaging a public resource that:
- (A) Occur entirely outside of land designed as an urban growth area;
  - (B) On land not platted after January 1, 1960; and
  - (C) On land not intended for immediate conversion to another use.

Examples of Class II forest practices include the construction of advance fire trails; timber harvests of less than forty acres; and the partial cutting of forty percent or less of the live timber volume on a site. Class II forest practices require notification to DNR prior to being conducted; they do not require an application. Property logged pursuant to a class II permit must be reforested and is intended to remain in timber production.

- (3) **Class III** are those forest practices not listed under class I, II, and IV. Class III forest practices require permit approval by the DNR. Property logged pursuant to a class III permit must be reforested and is intended to remain in timber production.

- (4) **Class IV** forest practices are divided into two categories as follows:

A. **Class IV-General** are those forest practices occurring:

- (i) On lands within UGAs and platted after January 1, 1960;
- (ii) On lands which are being converted to a use other than commercial timber production; or
- (iii) On all lots, tracts, or parcels, where a previous land development activity has been authorized and where a critical area site plan has been recorded against the title of the real property.

Examples of Class IV-general forest practices include harvest of timber and conversion of land to residential or commercial uses. Reforestation is not required under a class IV-general forest practices permit as the property subject to the permit is being converted to a non-forestry use. All class IV-general forest practices are considered conversion forest practices.

- B. **Class IV-special** are those forest practices that have the potential to result in a substantial impact to the environment. Examples of class IV-special forest practices include forest practices conducted on lands designated as critical wildlife habitat (state) or critical habitat (federal) for threatened or endangered wildlife species; forest practices or site preparation within one-half mile of a known active bald eagle nest site, documented by the Department Of Fish and Wildlife or the department, between the dates of January 1 and August 15 or one-quarter mile at other times of the year, and within one-quarter mile of a communal roosting site; timber harvest in National, State, or local parks; groundwater recharge areas for glacial deep-seated landslides;

and forest practices involving the filling or draining of more than one-half acre of wetland.

Class IV-special forest practices include two subcategories:

- (i) Class IV-special conversion forest practices include those practices, which result in the conversion of timber land to a non-forestry use, such as residential, commercial or industrial; or
- (ii) Class IV-special non-conversion forest practices include those practices that will result in uses of the property consistent with timber growing.

*Clear-cut* means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clear cut until:

- (1) It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and
- (2) The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

*Conversion, forest lands or forest lands conversion* means any Class IV general forest practices as defined by RCW 76.09.050. Also included are class I forest practices involving timber harvesting or road construction, and which are not directly associated with and supportive of commercial forest product production. In general terms, forest lands conversion refers to the cutting and removal of trees for the purpose of converting forest land to non-forestry use.

*Conversion Option Harvest Plan (COHP)* means a voluntary plan approved by the City indicating the limits (and types) of harvest areas, road locations, and open space. This approved plan, when submitted to the Washington State Department of Natural Resources as part of the forest practice application and followed by the forest land owner, gives a forest land owner the ability to harvest some timber on a site, while maintaining the option to convert lands to a non-forest production use in the future. A six-year moratorium shall not be imposed on a site that meets the conditions of an approved COHP.

*Conversion to a Use Other Than Commercial Timber Operation* shall mean a bona fide conversion to an active use that is incompatible with timber growing.

*Critical habitat (federal)* means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior or commerce under sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

*Critical wildlife habitat (state)* means those habitats designated by the board in accordance with WAC 222-16-080.

*Date of application approval* For those forest practices applications approved prior to July 27, 1997, date of application approval means the effective date listed on the Department of Natural Resources forest practices application. For those forest practices applications approved on or after July 27, 1997, date of application approval means the approval date as noted on the notice of moratorium recorded with Snohomish County.

*Date of discovery* is the date when a City of Arlington site visit in conjunction with a pre-application conference, an application, development activity, complaint or an enforcement action first discovers timber harvesting has occurred to an extent that would require a conversion permit, as specified in this chapter. The City of Arlington shall provide written notice of the date of discovery to the applicant during the review process for the underlying permit. Written notice shall not occur during pre-application conferencing.

*Deep-seated landslides* means landslides in which most of the area of the slide plane or zone lies below the maximum rooting depth of forest trees, to depths of tens to hundreds of feet. (See *Forest Practices Board Manual* section 16 for identification criteria.)

*Department* means the City of Arlington Development Services (COADS) department.

*Department of Ecology* means the Washington State Department of Ecology (DOE).

*Department of Fish and Wildlife* means the Washington state Department of Fish And Wildlife (DFW).

*Department of Natural Resources* means the Washington State Department of Natural Resources (DNR).

*Development moratorium* means the denial by the City of Arlington of any and all applications for permits or approvals for a period of time established in chapter 76.09 RCW. This shall include but not be limited to building permits, septic system permits, right-of-way permits, subdivision approvals, or change of zoning relating to the subject property.

*Even-aged harvest methods* means the following harvest methods:

- (1) Clear cuts;
- (2) Seed tree harvests in which twenty or fewer trees per acre remain after harvest;
- (3) Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;
- (4) Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;
- (5) Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;
- (6) Partial cutting in which fewer than fifty trees per acre remain after harvest;
- (7) Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and
- (8) Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

*Forest land* as defined in the Washington State Forest Practice Act means all land that is capable of supporting a merchantable stand of timber and is not actively used for a use that is incompatible with timber growing.

*Forest land owner* shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of forest land owner unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

*Forest practice* means practices related to growing, harvesting, or processing timber, including, but not limited to, road construction and maintenance, thinning, salvage, harvesting, reforestation, brush control, and using fertilizers or pesticides. These practices are regulated by the forest practices act and its corresponding rules.

*Forest practices application (FPA) or notification* means the application or notification required to be submitted to the Washington State Department of Natural Resources or the City of Arlington for the conduct of forest practices.

*Groundwater recharge areas for glacial deep-seated slides* means the area upgradient that can contribute water to the landslide, assuming that there is an impermeable perching layer in or under a deep-seated landslide in glacial deposits. (See *Forest Practices Board Manual* section 16 for identification criteria.)

*Harvesting and harvest* means the cutting or removal of timber from a subject property.

*Imminent danger* means exposure to loss or injury that is threatening to happen at once.

*Impact, moderate* means an impact that requires mitigation but can be reasonably addressed by the violator, with only limited staff review and assistance.

*Impact, severe* means an impact that results in severe on- or off-site impacts of such a magnitude or type that the department determines that professional assistance is necessary to mitigate the impacts and extensive staff review and assistance is required.

*Merchantable stand of timber* means a stand of trees that will yield logs and/or fiber suitable in size and quality for the production of lumber, plywood, pulp or other forest products.

*Non-conversion* means any class II, class III, or class IV-special forest practice as defined by WAC 222-16-050 where land is being retained for uses consistent with timber growing. Examples include but are not limited to the cutting and removal of trees and the replanting for commercial forest production. Non-conversion lands also include those lands, which were required to obtain a forest practices permit but failed to do so.

*Ordinary residential improvements* means those structures and facilities which are commonly found with, and are incidental to the development and use of a single-family residence and are located landward of the ordinary high water mark including, but not limited to, garages, decks, driveways and serving utility systems.

*Park* means any park included on the parks register maintained by the Department Of Natural Resources pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high-density outdoor recreation use.

*Partial cutting* means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

*Perennial initiation point* means the place where perennial flow begins on a type 4 Water. If the point of initiation of perennial flow using indicators such as non-migrating seeps or springs cannot be identified with simple, non-technical observations, type 4 Waters are perennial streams if their basin size is greater than fifty-two acres.

*Perennial streams* means waters downstream from a perennial initiation point. (See *Forest Practices Board Manual* section 13 for guidelines.)

*Personal use* means for use by the forest land owner on the site on which the trees were grown or on the property on which the primary residence of the forest land owner is located. Personal use does not include sale, trade, or barter for any goods or services.

*Public agency* means any agency or department of the United States; any agency or department of the state; any Indian tribe recognized as such by the United States; and any political subdivision, agency, municipal corporation or special purpose district of the state.

*Public resources* means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

*Riparian management zone (RMZ)* means:

- (1) The area protected on each side of a type 1, 2 or 3 water measured horizontally from the bankfull width or the CMZ, whichever is greater; and

| Site Class | Total RMZ Width |
|------------|-----------------|
| I          | 200'            |
| II         | 170'            |
| III        | 140'            |
| IV         | 110'            |
| V          | 90'             |

(2) The area protected on both sides of type 4 waters, measured horizontally from the bankfull width. (See WAC 222-30-021(2).)

(3) The area within the equipment limitation zone on type 4 and type 5 waters.

*RMZ core zone* means the fifty foot buffer measured horizontally outside of the bankfull width or the channel migration zone, whichever is greater, of a type 1, 2 or 3 water. (See WAC 222-30-021.)

*RMZ inner zone* means the area measured horizontally from the outside boundary of the core zone of a type 1, 2 or 3 water to the outer limit of the inner zone. The outer limit of the inner zone is determined based on the width of the affected water, site class and the management option chosen for timber harvest within the inner zone. (See WAC 222-30-021.)

*RMZ outer zone* means the area measured horizontally between the outer extent of the inner zone and the RMZ width as specified in the riparian management zone definition above. Width is measured from the bankfull width or the channel migration zone, whichever is greater. (See WAC 222-30-021 and 222-30-022.)

*Road construction* means any new road construction or reconstruction of existing roads.

*Salvage* means the removal of snags, down logs, windthrow, or dead and dying material.

*Scarification* means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

*Shorelines of the state* shall have the same meaning as in RCW 90.58.030 (shoreline management act).

*Site* means that portion of the subject property within two hundred feet of the development activity provided, however, that for subdivisions, short subdivisions, and projects with binding site plans, the site shall include the entire subject property. (Amended by Ord. 1312, 11/17/2003)

*Site class* means a grouping of site indices that are used to determine the one hundred-year site class. In order to determine site class, the forest land owner will obtain the site class index from the state soil survey, place it in the correct index range shown in the two tables provided in this definition, and select the corresponding site class. The site class will then drive the RMZ width. (See WAC 222-30-021.)

| Site Class | 50-year Site index range (state soil survey) |
|------------|--|
| I          | 137+   |
| II         | 119-136                                      |
| III        | 97-118                                       |
| IV         | 76-96  |
| V          | <75  |

For purposes of this definition, the site index at any location will be the site index reported by the *USDA Soil Conservation Service State Soil Survey*, and detailed in the associated forest soil summary sheets. If the site index reported by the *USDA Soil Conservation Service State Soil Survey* is nonexistent or indicates noncommercial or marginal commercial species, or the major species table indicates red alder, the following apply:

- (1) If the site index in the soil survey is for red alder, and the whole RMZ width is within that site index, then use site class V. If the red alder site index is only for a portion of the RMZ width, then use the site class for conifer in the adjacent soil polygon.
- (2) If there is no data on site index, use same procedure as for red alder.

(3) If the site index is noncommercial or marginally commercial, then use the same procedure as for red alder.

(See *Forest Practices Board Manual* section 7 for guidelines.)

*Site preparation* means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

*Slash* means pieces of woody material containing more than three cubic feet resulting from forest practice activities.

*Subject property* means the entire lot or parcel, or entire contiguous combination of lots or parcels thereof, on which any portion of, a development activity or conversion is proposed or has occurred.

*Timber* means woody plants characterized by one main stem or trunk and many branches and measuring six inches dbh or greater, or a multi-stemmed trunk system with a definitely formed crown.

*Tree* means any perennial woody plant species characterized by one main stem or multi-stemmed trunk system with a definitely formed crown, with a mature height of six meters (twenty feet) or more.

*Utility* means any public or private electrical, water, sewer, storm drainage, gas, radio, television, or telephone facility and/or other forms of communication facilities utilizing the electromagnetic or fiber optic spectrum to serve the public.

*Violation, major* means a violation of requirements of this chapter where a moderate or severe impact has been caused by a forest practice activity that occurred without the proper permit or approval.

*Violation, minor* means a violation of the requirements of this chapter where either little or no impacts have occurred and the impacts that occurred can be easily and immediately remedied.

*Water typing system* means the classification system adopted pursuant to ~~§20.88.70093.700~~

(Streams, Creeks, Rivers, Lakes and Other Surface Water—Classification).

*Wetland typing system* means the classification system adopted pursuant to ~~§20.88.80093.800~~

(Wetlands—Classification).

#### 20.80.040 Forest Practices Rules and Forest Practices Board Manual—Adoption by Reference.

The City adopts, by reference, the Washington Administrative Code chapters 222-16, 222-24 and 222-30, and the forest practices board manual as now or hereafter amended and as supplemented by this chapter and any other applicable provisions of the AMC.

#### 20.80.050 Applicability.

This chapter shall apply to:

- (a) Class IV-general forest practices and class IV-special forest practices for the purpose of conversion and/or mineral extraction;
- (b) Class IV-special forest practices when the forest land owner elects to obtain a conversion option harvest plan (COHP) agreement to permit development within the next six years without the imposition of a development moratorium;
- (c) Instances when lifting of a development moratorium is sought to allow development:
  - (1) Within six years of the date of harvesting under a class II or III permit, or
  - (2) Within six years of the date of discovery of timber harvesting conducted within the six years prior to discovery without an appropriate City or State Department of Natural Resources permit.

**Commented [AR1]:** This chapter no longer existing and updated with current chapter.



**20.80.060 Exemptions.**

The following activities are exempt from the requirements of this chapter when located outside of critical areas and their buffers:

- (a) Commercial nurseries or Christmas tree farms, where trees are grown for sale as Christmas trees or landscape trees;
- (b) Emergency removal of trees necessary to protect public safety or private or public property from imminent danger;
- (c) Removal of hazardous trees as defined in §20.08.010 (Basic Definition of Terms);
- (d) Timber harvest from subject properties of less than one-half acre where no more than five thousand board feet of timber are removed within any twelve consecutive month period;
- (e) Timber harvest on public rights-of-way when conducted by or on behalf of a federal, state, county, municipal, other governmental agency, or utility in pursuance of its lawful activities or functions in the construction, improvement or maintenance of public rights of way; and
- (f) Within recorded plats or short plats determined complete for regulatory purposes after the effective date of this chapter, timber harvest in areas approved for clearing on the approved clearing and grading plan for the plat or short plat when a valid forest practice permit was originally issued for the area to be logged.

**Part II. Requirements and Procedures****20.80.110 Permits and Approvals Required.**

A permit or approval, as specified below, must be obtained:

- (a) A forest practices permit shall be obtained prior to:
  - (1) Class IV general or IV special conversion forest practices; or
  - (2) Lifting a development moratorium as a means to regulate restoration and mitigation activities.
- (b) A conversion option harvest plan approval shall be required for all class II, III, and class IV special non-conversion forest practices on lands where the forest land owner desires to avoid the imposition of a six-year development moratorium.
- (c) An application for lifting a development moratorium shall be submitted and processed concurrently with the approval of any development permits associated with land subject to a development moratorium except for instances specifically exempted from this chapter in [§20.80.060 \(Exemptions\)](#).

**20.80.120 Submittal Requirements.**

An application for a permit or approval under this chapter shall be submitted on a form provided by the department and shall include a:

- (a) Completed and signed SEPA environmental checklist;
- (b) Marbled murrelet information sheet;
- (c) Plan at a scale no smaller than 1":100' that shows:
  - (1) The area of timber harvest showing, but not limited to, limits of the harvest area, all species of timber to be harvested, all areas where stump removal is proposed, and all existing and proposed roads and landings;
  - (2) All critical areas within two hundred feet of any proposed site disturbance including area of timber harvest;
  - (3) Areas to be developed for which the current permit is sought; and
  - (4) The date and location of past development and harvesting, if any;

- (d) Written statement describing the post-conversion use of the property;
- (e) Delineation of all channel migration zone and bankfull width landward boundaries and applicable riparian management zones;
- (f) Critical areas study for all critical areas within two hundred feet of any proposed site disturbance including area of timber harvest. In addition, where the lifting of a development moratorium is sought, the applicant shall:
  - (1) Indicate on the plan per ~~Chapter 20.88~~ Chapter 20.93 (Environmentally-Critical Areas Ordinance), critical areas on the subject property prior to the forest practice and the extent to which the forest practice infringed upon or did not infringe upon those areas and their buffers as defined by ~~Chapter 20.88~~ Chapter 20.93; and
  - (2) Complete and submit a functions and values analysis that includes a mitigation plan to restore any impacted functions and values to the levels existing prior to the forest practice activity within three years of development activity approval;
- (g) A drainage plan, when required per AMC Chapter 13.28 (Stormwater Management);
- (h) A grading plan, of grading is proposed;
- (i) All submittal requirements for any concurrent development activity permit(s); and
- (j) Payment of all applicable fees, fines and penalties.

### **Part III. Review and Approval**

#### 20.80.210 Approval Authority.

- (a) The Community Development Director shall review all applications for approvals, any comments received, and applicable regulations or policies and may inspect the property prior to rendering a decision.
- (b) The Community Development Director may grant a permit, approve a plan, or lift a moratorium; deny the same if it fails to comply with requirements of this chapter; approve the same with conditions; or require modification of the proposal to comply with specified requirements.

#### 20.80.220 Scope of Approval.

A permit, plan approval, or lifting granted under this chapter shall allow the harvesting only of the timber or the development activity specifically requested in the application for a subject property. Additional timber harvest or development beyond that specifically requested shall require separate applications for additional permits, plan approvals, or moratoria liftings.

#### 20.80.230 Review Criteria.

- (a) Requests for all permits and approvals authorized by this chapter shall be granted only when all of the following are met:
  - (1) The proposed activities are in compliance with applicable provisions governing forest practices contained in WAC 222-16, 222-24, and 222-30, and the forest practices board manual, unless such provisions are superseded by the provisions of this chapter;
  - (2) The proposed activities are in compliance with all applicable requirements of Arlington code, including but not limited to, the critical area protection requirements of AMC ~~Chapter 20.88~~ Chapter 20.93 (Environmentally-Critical Areas Ordinance) and the drainage provisions of AMC Chapter 13.28 (Stormwater Management); and
  - (3) All significant adverse environmental impacts resulting from the proposed activities are mitigated.

- (b) In addition to the requirements of Subsection (a), requests for Conversion Option Harvest Plan (COHP) approval shall be granted only when all of the following have been met:
- (1) No less than thirty percent of the volume of trees, by species, shall be retained throughout the gross areas of the site;
  - (2) Retained trees shall consist of timber that is equivalent to the average size, species, and age of the harvested trees;
  - (3) Trees shall be selected for retention based upon a consideration of windthrow potential, wildlife value, aesthetics, and compatibility with future development; and
  - (4) Narrow strips of trees shall be avoided along a site's perimeter boundaries unless it is demonstrated that no windthrow potential exists.

#### **Part IV. Development Moratoria**

##### 20.80.310 Imposition of Moratoria.

Moratoria shall be imposed pursuant to RCW 76.09.060 when any action identified in [§20.80.330 \(Actions That Result in a Development Moratorium\)](#) exists.

##### 20.80.320 General Moratoria Requirements.

- (a) All development moratoria imposed by the state pursuant to RCW 76.09.060 or by the City pursuant to this chapter shall be mandatory.
- (b) When a moratorium is imposed on a subject property all development applications and project construction for any development activity shall be prohibited for a term of six years.

##### 20.80.330 Actions That Result in a Development Moratorium.

A development moratorium is imposed for a six-year period when any of the following occur:

- (a) Moratoria imposed by the state shall occur when the DNR:
  - (1) Receives notification from the forest land owner of class II forest practices that do not have an associated COHP approval; or
  - (2) Gives approval of a class III or IV-special non-conversion forest practices permit that does not have an associated COHP approval.
- (b) Moratoria imposed by the City shall occur when the City:
  - (1) Determines that a violation of one or more conditions of an approved COHP has occurred;
  - (2) Discovers that an activity that meets the definition of class II, class III, or class IV forest practices has occurred without an approved forest practices application or notification; or
  - (3) Discovers that timber harvest has occurred outside the scope of an approved forest practices permit, approval, or lifting.

##### 20.80.340 Effective Date of Moratorium.

- (a) Where a class II forest practice that does not have an associated COHP has been received by the DNR the moratorium shall begin on the date of application as defined in [§20.80.030 \(Definitions\)](#) and continue for six years.
- (b) Where a class III or IV-special non-conversion forest practices permit that does not have an associated COHP has been approved by the DNR the moratorium shall begin on the date of application approval as defined in [§20.80.030 \(Definitions\)](#) and continue for six years.
- (c) Where a COHP has been approved for a class II, III, or IV non-conversion forest practices approval or permit the moratorium shall begin on the date of application approval as defined

in [§20.80.030 \(Definitions\)](#) for the associated forest practices approval or permit and continue for six years.

- (d) Where forest practices occur on a subject property without the appropriate forest practices permit or approval the moratorium shall begin on the date of discovery as defined in [§20.80.030 \(Definitions\)](#) and continue for six years.
- (e) Where forest practices on a subject property occur outside of the approved class II notification, or class III or IV-special non-conversion forest practices permit with or without a COHP; or approved class IV general or IV-special conversion forest practices permit, a conversion option harvest plan approval, or a lifting of a development moratorium; the moratorium shall begin on the date of discovery as defined in [§20.80.030 \(Definitions\)](#) and continue for six years.

#### 20.80.350 Consequences of a Development Moratorium.

- (a) All development moratoria imposed by the City shall extend to the entire subject property or properties indicated in the forest practices permit or COHP. If no forest practices permit or COHP approval was issued, the moratorium shall apply to the subject property or properties.
- (b) The City shall not accept, or if an application is currently under review, shall discontinue review of, any application for development on a subject property, which is, or becomes, subject to a six-year development moratorium during that moratorium period. If the application for the underlying permit(s) expire(s) before the development moratorium expires, then a new application shall be required after the expiration of the moratorium.

#### 20.80.360 Moratoria Lifting Criteria.

- (a) Where the applicant pursues the lifting of a forest practices development moratorium a class IV-general or IV-special conversion permit application on the subject property shall be submitted concurrent with a development permit application.
- (b) Forest practices permits that are issued to lift development moratoria shall stipulate conditions that must be met for the development activity.
- (c) In addition to the requirements of [§20.80.230\(a\) \(Review Criteria\)](#), requests for lifting a development moratorium that has been imposed pursuant to [§20.80.330 \(Actions That Result in a Development Moratorium\)](#) shall be approved only when one of the following have been met:
  - (1) The subject property contained no critical areas or their buffers prior to the forest practice(s);
  - (2) Critical areas or their buffers on the subject property were not impacted as a result of the forest practice(s);
  - (3) Impact(s) to the functions and values of the critical areas and their buffers can be restored to the levels existing prior to the forest practice(s). Impacted critical area and buffer functions and values shall be considered restorable if:
    - (A) Ten thousand square feet or less (measured as ground area) of critical area and their buffers has been impacted on the subject property; or
    - (B) Greater than 10,000 square feet (measured as ground area) of critical area and their buffers has been impacted on the subject property and the impacted functions and values can be restored within three (3) years of development activity approval.

#### 20.80.370 Appeals.

- (a) A decision to lift or to deny lifting of development moratoria associated with a permit for a single-family residence or ordinary residential improvements is not subject to appeal.

- (b) Appeals regarding the decision to lift or to deny lifting of development moratoria, not associated with a permit for a single family residence or ordinary residential improvements, may be filed and processed pursuant to the provisions of [Chapter 20.20](#) (Appeals, Variances, and Interpretations) and the public hearing on the appeal shall be combined with any public hearing on the underlying application.

## **Part V. Compliance**

### 20.80.410 Violations, Enforcement, and Penalties.

- (a) The department is authorized to take enforcement action pursuant to [Chapter 20.28](#) (Enforcement) when a condition exists in violation of any provision of this chapter, or in violation of any condition or requirement of a permit or approval imposed pursuant to this chapter.
- (b) Penalties shall be assessed pursuant to both [Chapter 20.28](#) (Enforcement) and the following provisions of this chapter.

### 20.80.415 Stop-Work Order.

- (a) Whenever the Community Development Director determines that work is being done in violation of a provision of this chapter, the department may order work at the site stopped if the department determines that it is necessary in order to obtain compliance with a provision of this chapter.
- (b) The stop-work order shall contain a description of the violation, and an order that work be stopped until the violation has been corrected and the department has approved the correction.
- (c) The stop-work order shall be posted conspicuously on the premises or personally served on any person engaged in, or causing such work to be done. Any person served with a stop-work order shall immediately stop all work or cause all work to be stopped, except work necessary to correct the violation or implement water quality measures until the violation can be corrected, until authorized by the Community Development Director to proceed.
- (d) Violation of a stop-work order shall be considered a separate violation of this Title in addition to that violation for which the stop-work order was issued.
- (e) A stop-work order that has been posted may not be removed, obscured, or mutilated.

### 20.80.420 Suspension or Revocation.

- (a) A permit or approval required by this chapter that is issued in error, or on the basis of incomplete, inaccurate, or misleading information supplied by the applicant, or in violation of any law, ordinance or regulation, may be suspended or revoked by the department in accordance with §20.28.050 (Permit Revocation).
- (b) Other permits or approvals required for the same development activity that has been suspended or revoked under this section, including certificates of occupancy or approvals for occupancy, may also be suspended or revoked by the department.
- (c) When a permit or approval is suspended or revoked, the department may require the applicant to take corrective action to bring the project into compliance with this chapter and may take any enforcement action available.

20.80.425 Withholding of Certificate of Occupancy.

In addition to the issuance of any order for abatement and correction of a violation of this chapter, the Building Official may withhold issuance of a certificate of occupancy or other forms of occupancy approval until the violation has been corrected.

20.80.430 Hazards.

Whenever the department determines that a condition caused by a development activity regulated by this chapter creates a present or imminent hazard, or is likely to create a hazard to the public safety, health or welfare, the environment, or public or private property, the department may declare such condition a public nuisance and may direct the property owner or persons causing or contributing the hazardous condition to abate the hazard within a specified period, or the department may take action to abate the hazard and recover all costs incurred.

20.80.435 Additional Relief.

In lieu of, or in addition to any enforcement procedure provided in this chapter, the department may seek any other available legal or equitable relief.

20.80.440 Abatement and Repair.

At the discretion of the department, a grading permit may be issued on subject properties where a state or City imposed moratorium exists, to abate or repair damage created by unpermitted development activities. Grading permits issued for the purposes of abatement, repair or restoration do not automatically constitute adequate mitigation for lifting a moratorium imposed by this chapter.

20.80.445 Mitigation and Restoration.

- (a) When a forest practice activity has occurred on a subject property in violation of permits or approvals subject to this chapter, restoration or mitigation of the subject property shall be required on a time schedule determined by the City. If the mitigation or restoration is not complied with, the City may mitigate or restore the site and charge the property owner for the full cost of such corrective action, restoration or mitigation.
- (b) All those trees designated on the timber harvest plan to be retained on the subject property shall be replaced if damaged, destroyed, or removed as follows:
  - (1) Outside of critical areas and their buffers:
    - (A) A tree of equal size, quality and species will be planted in the immediate vicinity of each tree(s) which was damaged, destroyed, or removed; or
    - (B) The City shall require a replacement planting of up to three trees of a species recommended by the City. The replacement trees shall be of sufficient caliper (minimum of 3 inches), root structures and canopy to adequately replace each tree(s) that was damaged, destroyed, or removed.
  - (2) Mitigation and restoration for disturbance that occurs within critical areas or their buffers shall pursuant to ~~Chapter 20.88~~ Chapter 20.93 (Environmentally Critical Areas Ordinance).

20.80.450 Violation Assessment.

The purpose of violation assessment is to provide a logical framework to consistently identify and characterize the violation and determine the magnitude of damage and establish an appropriate penalty. The penalties and/or fines set forth in this chapter shall be in addition to any moratorium otherwise imposed under this chapter.

20.80.455 Fines.

- (a) In determining the appropriate fine, the department shall complete an impact assessment and determine the severity of the impact. The following fines are in addition to applicable submittal fees.
- (b) The department shall note and assess the type of impacts that have occurred.
- (c) The department shall determine the severity of impact as moderate or severe.
- (d) Calculation of fines.
- (1) Areas of impact.
- \_\_\_ On-site erosion and sedimentation has occurred.
- \_\_\_ Off-site erosion and sedimentation has occurred.
- \_\_\_ Damage to adjacent properties (off-site damage).
- \_\_\_ Harvest of adjacent properties.
- \_\_\_ Impacts to critical areas or their buffers.
- \_\_\_ Harvesting without or in violation of a permit or approval required by this chapter.
- \_\_\_ Total number of categories above multiplied by a fee as set by resolution
- Subtotal = \$ \_\_\_\_\_

## (2) Severity of impact:

\_\_\_ Minor or moderate: All situations that require mitigation and that the violator can reasonably address with only limited staff review and assistance.

Subtotal x 1 = \$ \_\_\_\_\_ Impact fine

\_\_\_ Severe: The situation is of a magnitude or type that requires professional assistance to mitigate the impacts, and requires substantial staff review and assistance.

Subtotal x 2 = \$ \_\_\_\_\_ Impact Fine

Total fine assessment: The total fine assessment equals the sum of the impact fine and standard fine.

Standard fine pursuant to [Chapter 20.28](#) (Enforcement) \$ \_\_\_\_\_

+ Impact fine (from above) \$ \_\_\_\_\_

= Total Penalty Assessment \$ \_\_\_\_\_

20.80.460 Civil Penalties.

In addition to all fines required above, or any other provisions of the AMC, any person or successor who violates this code shall be subject to a civil penalty not to exceed five hundred dollars per violation. Each unlawfully destroyed tree shall constitute a separate violation. Each day upon which a violation is allowed to remain unabated shall constitute a separate violation. In addition the violator shall be liable for all damages to public or private property arising from such violations, including the cost of restoring the affected area to its condition prior to such violation.

**Part VI. General Administration****20.80.510 Administrative Rules Policies and Procedures.**

The Community Development Director is authorized to create, adopt and amend administrative rules, policies and procedures to implement and enforce the provisions of this chapter. All administrative rules, policies and procedures shall be available to the public at the front counter of the department.

**20.80.520 Time Limitations.**

- (a) A class IV-general or IV-special conversion permit shall be valid for two consecutive years following the date of issuance unless a different time limit has been established through an associated development permit approval. Expiration of the class IV-general or IV-special conversion permit shall be the same as the expiration date of the approved development permit.
- (b) A COHP shall be valid for a period of six years from the date the associated class II notification, class III permit, or class IV-special non-conversion permit is approved by DNR. If, however, a forest practices permit or notification is not approved by DNR and executed by the forest land owner within two years of the approval of the COHP, the COHP shall be void.
- (c) Expiration of an approval to lift a development moratorium shall be directly tied to the expiration of the associated class IV-general or IV-special conversion permit.

**20.80.530 Right of Entry.**

The department may inspect any development activity to enforce the provisions of this chapter. The applicant's signature on the application grants consent for entry upon the subject property by the department during regular business hours for the purposes of making reasonable inspections to verify information provided by the applicant and to verify that work is being or has been performed in accordance with the approved plans and permits and the requirements of this chapter.

**20.80.540 Fees.**

In addition to all other applicable review and permit fees, for all permits and approvals required or allowed by this chapter the appropriate fees, as set by resolution, shall be collected at submittal.