



**Community Development Department**

1321 S Market Blvd. Chehalis, WA 98532

(360) 345-2229 / Fax: (360) 345-1039

[www.ci.chehalis.wa.us](http://www.ci.chehalis.wa.us) email: [comdev@ci.chehalis.wa.us](mailto:comdev@ci.chehalis.wa.us)

## CHEHALIS PLANNING COMMISSION AGENDA

Regular meeting of January 10, 2023

6:00 PM - Chehalis City Hall Council Chamber, 350 N Market Boulevard

Position 1	Gladis Mendez	Staff:	Tammy Baraconi, Planning and Building Manager
Position 2	Melissa Cox		Nick Swanson, City Planner
Position 3	Scott Forsman		Laura Fisher, Permit Technician
Position 4	Kyle McKerricher, Vice chair		
Position 5	David Fitzpatrick		
Position 6	Derek Dodd		
Position 7	Vacant		

### AGENDA ITEMS:

1. Call to Order
2. Roll Call
3. Approval of minutes from November 8, 2022.
4. Citizen Business for items not listed elsewhere on the agenda.
5. Commission Business
  - a. Election of Chair and Vice-chair for 2023.
  - b. Work plan for 2023.

6. Public Workshop

Commission will review the preliminary draft of CMC 17.28 Landscaping Requirements.

7. Adjourn Meeting

- a. Next meeting will be on February 14, 2023.

Join Zoom Meeting

<https://us06web.zoom.us/j/89231546078?pwd=cDI5ZWQzeGZ6SUXMVTZHRy9objVnZz09>

Meeting ID: 892 3154 6078

Passcode: 970285

1 **Planning Commission**

2 **Meeting Minutes November 8, 2022**

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4 Kyle McKerricher calls meeting to order at 6:08pm.

5 Roll is taken. Present: Kyle McKerricher, David Fitzpatrick, Scott Forsman, Derek Dodd, via Zoom Melissa  
6 Cox.

7 Approval of the minutes from September 13 meeting.

8 No citizen business.

9 6:09pm Tammy Baraconi addresses the commission business. Next month there will be another public  
10 hearing for cryptocurrency code language staff is going to implement. The cryptocurrency mining that  
11 has come here as of late and has gone into incompatible uses which has caused problems. We will be  
12 trying to regulate it. They have been going into commercial locations that are not open to the public.  
13 They don't meet the intent of commercial zoning being to produce sales tax for the community. No  
14 sales tax is generated using cryptocurrency. It is a great fit for the industrial zones.

15 6:10pm Kyle moves to item number 6 on the agenda: Open House. There being no one present Kyle  
16 moves on to item number 7 on the agenda for the Public Hearing.

17 Tammy Baraconi introduces Tess Brandon with the Department of Ecology. The Shoreline Master Plan is  
18 their document that the city regulates. Tess is here to answer technical questions. Tammy provided the  
19 commissioners with a staff report that talks about the background behind the Shoreline Master Plan. It  
20 is a document of the state that the city regulates. There are four main bodies of water the city of  
21 Chehalis regulates: Salzer Creek, Chehalis River, The Newaukum River and Berwick Creek. These within  
22 our jurisdiction meet the definition of a shoreline. This project was originally started in 2015. Staff is  
23 finishing the update as well as the periodic update. The plan was originally written in 1981. The  
24 periodic updates are to review it and ensure that decisions made within the document are consistent  
25 with court cases and any changes to the codes, the RCWs, and the WACs. It was decided previously that  
26 there are two types of classifications for streams and shorelines within the city of Chehalis. That is  
27 Urban Conservancy and High Intensity. If the city were to change that, it would require a whole new  
28 analysis. Staff chose to stick with decisions that were made previously as they are reasonable. The

29 majority area of High Intensity is in the developed areas. Urban Conservancy is designated on the other  
30 side of Interstate 5 around Riverside Road, the Chehalis River, the Newaukum River, the airport area.  
31 We do not want a lot of development in that area anyways because it does flood quite a bit. Areas  
32 within the Port and areas within the city are designated High Intensity. The map in the Staff Report on  
33 page 4 show these areas. Because this is a state document, we do make the decisions at a local level. If  
34 there is a challenge to our decisions, it goes to the Shorelines Hearings Board which is a state level  
35 hearings board. Tammy then turns it over to Gary Cooper for his presentation.

36 Gary reiterates that they are doing a comprehensive update and a periodic update review. The periodic  
37 review is required every 8 years. That is based on a checklist the Ecology provides that reflects any  
38 changes in legislation, administration, or policies. Gary provides some history on the document and how  
39 decisions had been made in the past. It was a draft joint document between Lewis County and Chehalis.  
40 Then Chehalis decided to go on their own. Comments were made from Tessa's predecessor on the  
41 previous draft. There were things staff needed to address based on Ecology's comments. Staff had to  
42 decide how to adopt a related ordinance called the Critical Areas. They have done an extensive  
43 reformatting of the document too. To be a shoreline of the state, the reason why Chehalis only has four  
44 of them is because the mean annual flow of the waterbody whether it is a river, or a stream has to be 20  
45 cubic feet per second. If it is a lake it has to be a minimum of 20 acres. Those are the only water bodies  
46 that fall under the shoreline master program. The area that is regulated for those bodies is 200 feet  
47 landward from the ordinary high-water mark. You are not just regulating the stream, you are regulating  
48 the uses that occur within 200 feet of that stream. Sometimes that boundary can be extended if it is a  
49 floodplain or a wetland. This document applies to those four water bodies and the management area  
50 adjacent to those water bodies. The Critical Areas ordinance regulates streams, aquifer recharge areas,  
51 wetlands and all the other sorts of environments in the city irrespective of size. Tiny streams still fall  
52 into the Critical Areas ordinance. Ecology has provided a lot of feedback on how to improve the  
53 document. The proposed final draft was completed last July. The periodic review checklist has been  
54 completed. One of the goals of the shoreline management act is to make sure that there is no net loss  
55 of shoreline functions and environment. A no net loss analysis was required to review what protections  
56 or controls, buffers are in place when this document is completed and adopted to avoid impact  
57 whenever possible. The city is required to do a restoration plan for shorelines that are degraded within  
58 the city limits. That was completed by a consultant. It is there in the event that perhaps the city can get  
59 grants to do the restoration. After tonight's hearing if the commission does recommend sending this on  
60 for approval staff will do two more things. We are required under the State Environmental Policy Act to

61 do a threshold determination to say whether or not this would have an adverse impact on the  
62 environment. This has been drafted but has not yet been sent to Ecology which will get a determination  
63 of nonsignificance. We are also required to send this document to the Washington State Department of  
64 Commerce to ensure everything is consistent with the states Growth Management Act. It is a 60-day  
65 review process. If the commissioners say yes, it is taken to the city Council for adoption. If the council  
66 adopts it, it will be sent to Ecology for final review and hopefully final approval.

67 6:25pm Tess Brandon states that Ecology's perspective that this is a local document that implements  
68 state law. Her job is to make sure it is consistent with state law. Once the Council adopts, the staff will  
69 compile a submittal package. She explains what it includes and is sent to her. She then opens a 30-day  
70 state comment period. Department of Ecology will send notice to all interested parties as well as  
71 soliciting direct government to government with interested tribes. At the end of the 30-Day period the  
72 Department of Ecology will summarize the comments received and send them to the city. The city then  
73 has 45 days to review and consider comments and address any potential changes based on those  
74 comments. Ecology's focus is to review it against the RCW and WAC. It can either be approved as  
75 submitted or conditional approval where Ecology has identified things that need to be changed in order  
76 for it to be consistent with state law. If you receive a condition approval the city Council will need to  
77 formally reply to Ecology. Then Ecology will issue a final decision letter. 14 days after that your SMP will  
78 take effect. After local adoption, your SMP does not take into effect. You are still working with the 1981  
79 document. It has to go through final Ecology approval before you can start implementing it. The entire  
80 process can take several months.

81 6:30pm Scott Forsman asks if more land has been added since when the Shoreline Master Plan was first  
82 formalized in 1981. Has the shoreline plan grown since then?

83 Gary Cooper responds that he is not sure but would be surprised if anything has changed because it is  
84 based on the size of the water bodies that were regulated.

85 Tess Brandon adds that the definition of the state law of what constitutes a shoreline has not changed  
86 since then.

87 Scott Forsman asks if there are current businesses in that zone.

88 Tess Brandon replies no. The SMP applies to new development. It lays out a permit process. It is about  
89 any expansion or new actions. Existing uses and developments are allowed to continue.

90 Scott Forsman asks Tess if these properties are the city's responsibility.

91 Tess Brandon responds yes. The city implements their SMP through shoreline permits.

92 6:33pm Kyle McKerricher motions to make a positive recommendation to the city Council. Dave

93 Fitzpatrick seconds the motion. Motion carried unanimously. Meeting adjourned.

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95 Approved by: \_\_\_\_\_

96 Kyle McKerricher, Chair

97 Recorded by: \_\_\_\_\_

98 Laura Fisher, Permit Technician

## Chapter 17.28 LANDSCAPING REQUIREMENTS

Sections:

17.28.010	Statement of intent
17.28.020	General requirements
17.28.030	Special requirements
17.28.040	Preservation of significant trees
17.28.050	Types of landscaping
17.28.060	Alternative landscaping option
17.28.070	Species choice
17.28.028	Maintenance of plant materials
17.28.090	Performance assurance
17.28.100	Landscape features
17.28.110	<i>Repealed</i>

### 17.28.010 Statement of intent.

The purpose of this chapter is to establish minimum requirements and standards for landscaping and screening where needed to promote safety, to provide screening between incompatible land uses, to safeguard privacy and to protect the aesthetic assets of the city.

### 17.28.020 General requirements.

A. A plot plan of the proposed landscaping and screening shall be prepared by a licensed landscape architect, Washington-certified nurseryman, or Washington-certified landscaper and incorporated into plans submitted for preliminary plat, site plan review, administrative design review or building permit review. ~~For individual home owners, upon request the city will provide template landscape plans with approved tree species to fulfill this requirement.~~

**Commented [GC1]:** Which of these do we want to keep?

B. *Landscaping Plans.* The landscaping plan shall contain the following information (one inch equals twenty feet or larger):

1. Existing plant material and soil to be retained;
2. Proposed plant material to be placed on site. The type, size, number and spacing on plantings must be illustrated.
3. Surface parking location and design.
4. Bicycle parking location and design.
5. Loading and service areas location.
6. Screening and buffering: general; perimeter fencing and walls; parking structures; and surface parking lots.
7. All areas where soils are to be amended.
8. Locations where plant and soil materials will be stored during construction.
9. Timeline for site preparation and installation of plant materials.

The applicant shall utilize tree protection techniques approved by the ~~enforcing officer~~ Planning and Building Manager or designee, site plan review Design Review committee and/or hearings examiner in order to provide for the continued healthy life of retained significant trees including during land alteration and construction.

### **17.28.030 Special requirements.**

A. The following uses require Type I landscaping on all sides when located above ground and not housed within a building or accessory to another use, and if located outside a public right-of-way:

1. Utility substation
2. Sewage pumping station
3. Water distribution facility
4. Communication relay station.

B. Whenever a non-residential activity is proposed adjacent to a residential zone or use a minimum fifteen-foot buffer area of Type I landscaping shall be provided along the property boundary

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between the uses. Alternative configurations may be considered through the design review process, provided the proposed treatment minimizes negative visual and compatibility impacts.

C. The following uses require Type III landscaping along the street frontage and throughout the required front yard area and Type II landscaping between the required front yard area and improvements on the property and along interior property lines unless a more stringent requirement is specifically identified in a land use district:

1. Church.
2. Commercial or public parking lot or structure not serving a primary use.
3. Government service building.
4. Community club.
5. School.
6. Hospital.

D. An area around the base of each utility pole, ground-mounted sign or similar fixtures must be landscaped to improve the overall appearance of the area. This landscaping must include vegetation and may include other materials and components such as brick or concrete bases, planter boxes, or decorative framing. All refuse storage container areas shall be landscaped.

E. In front yard areas required to be landscaped under city requirements, a minimum of sixty percent of the required area shall be landscaped with natural plant materials. This may include grass or other ground cover, trees, shrubs, and other permitted plant materials. Planting areas shall be designed and constructed in a manner that will make possible normal maintenance such as mowing and watering.

#### **17.28.040 Preservation of significant trees.**

A. In required landscaping areas, the applicant shall retain significant trees which will not constitute a safety hazard. Areas devoted to access and sight areas as defined in this code, and areas to be cleared for required roads, utilities, sidewalks, trails or storm drainage improvements are exempt from this requirement. ~~provided modifications to design can be required by the city to save vegetation pursuant to the city tree and vegetation protection and preservation ordinance.~~

**Commented [GC2]:** I am assuming the City does not currently have a tree protection ordinance.



B. Outside of the required landscaping areas, the applicant shall be required to retain significant trees. The criteria for determining when a tree is significant shall be as follows:

1. The preservation of healthy significant trees over sixty feet in height and sixteen inches in diameter measured twenty-four inches above grade;
2. The preservation of significant trees that form a continuous canopy;
3. The preservation of significant trees that contribute to the character of the environment, and do not constitute a safety hazard.
4. To protect against blowdowns, the city encourages that areas of tall, older tree stands to be retained be at least fifty feet in width.

#### **17.28.050 Types of landscaping.**

A. All residential and nonresidential projects shall be required to provide landscaping that satisfies the functions and specific requirements of this section.

B. *Type I.*

1. *Purpose.* Type I landscaping is intended to provide a very dense sight barrier and physical buffer to significantly separate conflicting uses and land use districts and to enhance the visual character of the city.

2. *Description.*

- a. All plant materials and living ground cover must be selected and maintained so that the entire landscape area will be covered within three years.
  - b. Provide a minimum of one conifer at least seven feet tall for every one hundred fifty square feet arranged in a manner to obstruct views into the property. Permitted conifer species are those with the ability to develop a minimum branching width of eight feet within five years. Sufficient soil must be provided to enable growth of trees to maturity. Structural solutions may be required when necessary to support trees with limited soil availability.
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- c. Provide shrubs at a rate of one shrub per twenty square feet of landscaped area. Shrubs shall be at least sixteen inches tall at planting and have a mature height between three and four feet.
- d. Ground cover shall cover the remainder of the landscape strip within three years.
- e. A minimum of fifteen feet of width shall be required when Type I landscaping design is utilized.
- f. Fences, walls, and/or earthen berms may supplement landscape materials, except where they are inconsistent with other community design goals, policies, and standards in the Chehalis Comprehensive Plan or Municipal Code.
- g. Any other alternative mix of plantings can be considered provided the intent of the Type I landscaping type is satisfied.
- h. Landscaping shall be native and drought tolerant with exception of trees on the city's street tree list.

C. *Type II.*

1. *Purpose.* Type II landscaping is intended to provide visual separation of uses from streets, and visual separation of compatible uses so as to soften the appearance of streets, parking areas and building elevation. This landscaping is used around the perimeter of a site and adjacent to buildings and may be mixed with a Type III landscaping to provide interest along parking lot pedestrian corridors.

2. *Description.*

- a. All plant materials and living ground cover must be selected and maintained so that the entire landscape area will be covered within three years.
  - b. Provide at least one tree per three hundred square feet of landscaped area. At least fifty percent of the trees must be conifers. Trees may be clustered to avoid blocking views between windows and public spaces and/or private yard areas where desirable. Permitted tree species are those with the ability to develop a minimum branching width of eight feet within five years.
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- c. Provide shrubs at a rate of one shrub per twenty square feet of landscaped area. Shrubs shall be at least sixteen inches tall at planting and have a mature height between three and four feet.
- d. Trees shall be a minimum of two inches in caliper measured six inches above the base at planting and shrubs must be capable of growing to a minimum of four feet in height, within five years. Sufficient soil must be provided to enable growth of trees to maturity. Structural solutions may be required when necessary to support trees with limited soil availability.
- e. Provide ground cover to cover the remainder of the planting strip within three years.
- f. Any other alternative mix of plantings can be considered provided the intent of the Type II landscaping type is satisfied.
- g. When Type II landscaping is used to provide partial screening between uses, a minimum planting area of eight feet in width shall be provided. When Type II landscaping is used adjacent to a building, a minimum five-foot planting area shall be provided.
- h. Landscaping shall be native and drought tolerant with exception of trees on the city's street tree list.

D. *Type III.*

1. *Purpose.* Type III landscaping is intended to provide visual relief where clear sight is desired. This landscaping type is utilized along pedestrian corridors and walks for separation of pedestrians from streets and parking areas while providing an attractive setting and overstory canopy.

2. *Description.*

- a. This type of landscaping consists of street trees for a large overstory canopy along streets and pedestrian corridors and grass or other approved vegetation for ground cover.
  - b. Ground cover or low shrubs developed for conditions of the Northwest shall be planted. Turf grass is desirable in planting strips where on-street parking is present. Low shrubs are desirable in areas without on-street parking to provide both visual and physical separation between moving traffic and pedestrians.
  - c. Place trees to create a canopy in desired locations without obstructing necessary view corridors.
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d. Street trees along arterials and collectors shall be those species described in the city's urban beautification program. Trees used along local access streets or pedestrian walks through parking lots shall be a species approved by the community and economic development department and shall be chosen for attractiveness, rooting habits, disease and pest resistance, and habitat value. All trees shall be a minimum of two inches in caliper measured six inches above the base at planting. Decorative protection may be placed around trees. Sufficient soil must be provided to enable growth of trees to maturity. Structural solutions may be required when necessary to support trees with limited soil availability.

e. Provide ground cover to cover the remainder of the planting strip within three years.

f. Earthen berms with grass or other vegetative ground cover and other design features may be worked into landscaping, provided the resultant effect of providing a pedestrian-friendly environment and visual relief where clear sight is required can be achieved.

g. The minimum width for Type III landscaping shall be six feet to provide adequate rooting area for large street trees and to provide adequate streetscape. A four-foot width may be used through parking area pedestrian walks where accent trees are used and less width is required.

h. Landscaping shall be native and drought tolerant with exception of trees on the city's street tree list.

E. *Type IV.*

1. *Purpose.* To provide visual relief and shade in parking areas.

2. *Description.*

a. *Required Amount.*

(1) If the parking area contains no more than twenty-five parking spaces, at least thirty-five square feet of landscape development must be provided for each parking stall proposed.

(2) If the parking area contains more than twenty-five spaces, at least fifty square feet of landscape development must be provided for each parking stall proposed.

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b. *Design.*

(1) The minimum width for Type IV landscaping shall be six feet to provide adequate rooting area for large street trees and to provide adequate streetscape. A four-foot width may be used through parking area pedestrian walks where accent trees are used and less width is required.

(2) Each planting area should contain at least one tree. Planting areas shall be provided with the maximum number of trees possible given recommended spacing for species type. Deciduous trees shall have a minimum size of two inches in caliper measured six inches above the base and shall have the ability to reach a mature height of at least thirty-five feet. Conifers shall have a minimum height of seven feet at planting. Up to one hundred percent of the trees proposed for the parking area may be deciduous. A minimum of seventy percent must be deciduous. Sufficient soil must be provided to enable growth of trees to maturity. Structural solutions may be required when necessary to support trees with limited soil availability. No parking stall shall be located more than fifty feet from a tree.

(3) Provide shrubs at a rate of one shrub per twenty square feet of landscaped area. Shrubs shall be at least sixteen inches tall at planting and have a mature height between three and four feet. Up to fifty percent of shrubs may be deciduous.

(4) Provide ground cover to cover the remainder of the planting strip within three years.

(5) A landscaped area must be placed at the interior end of each parking row in a multiple-lane parking area. This area must be at least eight feet wide and must extend the length of the adjacent parking stall.

(6) Landscaping islands must be placed in every parking row with a maximum spacing of at least one island every seven parking spaces. Said islands shall be a minimum of eight feet in width and shall extend a minimum length of ten feet. Provided, that the site plan review committee may approve of a different configuration in order to provide a more attractive and functional design consistent with the intent of this chapter to promote aesthetic values and a pedestrian-friendly parking lot.

(7) Up to one hundred percent of the trees proposed for the parking area may be deciduous. A minimum of seventy percent must be deciduous.

(8) Landscaping islands and landscape portions of pedestrian corridors may be used for drainage treatment and given credit on drainage calculations under Chapter 5 of the Development Guidelines. However, the primary purpose shall remain landscaping and health of trees and ground cover and aesthetic character shall not be compromised. Additionally in no case shall the grade between the parking lot surface edge and the landscape island or pedestrian corridor surfaces be greater than six inches when a swale concept is utilized and it is intended to meet minimum landscaping space requirements.

(9) Landscaping shall be native and drought tolerant with exception of trees on the city's street tree list.

F. *Single-Family Residential*. Landscaping is required for the purpose of minimizing surface water runoff and diversion, preventing soil erosion, and promoting the aesthetic character of the community. Native vegetation, ground cover, stands of trees or shrubs existing prior to development of the site may be acceptable to meet the landscaping requirement. All areas subject to clearing and grading that have not been covered by impervious surface, incorporated into a drainage facility or engineered as structural fill or slope shall be amended in accordance with the current City of Chehalis Stormwater Design Manual and then landscaped with trees, native and drought-tolerant shrubs and suitable native and drought-tolerant ground cover. Suitable materials for ground cover are those which permit rain water infiltration of the soil and may include sod, shrubs, trees, and/or other native planting materials. Amended soils shall comply with the current City of Chehalis Stormwater Design Manual.

**Commented [GC3]:** I assume Chehalis's manual addresses this?

### **17.28.060 Alternative landscaping option.**

A. The applicant may request a modification of the landscaping requirements set forth in LMC [17.28.030](#) and [17.28.040](#).

B. The enforcing officer, site plan review committee and/or hearings examiner may approve a modification of the landscaping requirements of this chapter only if:

1. The proposed landscaping implements portions of an urban forestry program or plan duly adopted by the city council;

2. The proposed landscaping represents an equal result that could not have been achieved by strictly following the requirements of this chapter; and
  3. The proposed landscaping complies with the stated purpose of this chapter.
- C. Natural vegetation or stands of trees existing prior to development of the site may be acceptable to meet all or part of the landscaping requirements.

**17.28.070 Species choice.**

The applicant shall utilize native regional plant materials or plant materials that complement the natural character of the Pacific Northwest.

**17.28.028 Maintenance of plant materials.**

- A. It shall be the responsibility of the property owner/developer to ensure the provision of healthy, growing landscaping. The property owner shall replace any unhealthy or dead plant materials in conformance with the approved landscape development proposal and shall maintain all landscape material.
- B. Unless entirely landscaped with significant trees preserved under LMC [17.28.040](#), all areas where new landscaping is being required, excepting new single-family lots, shall be provided with irrigation systems designed by a licensed landscape architect, Washington-certified nurseryperson, Washington-certified landscaper or professional engineer. Said irrigation systems shall be designed, installed and operated to maintain the plant materials to the standards detailed in subsection [A](#) of this section. The city may waive landscape irrigation provided an alternative method to irrigate the plantings for three years is approved by the city and a maintenance assurance device in the amount of one hundred percent of the replacement cost of the landscape materials is provided.
- C. The city shall require a maintenance assurance device to insure compliance with the requirements of this chapter. The value of a maintenance assurance device must equal at least twenty percent of the replacement cost of the landscape materials, and shall be utilized by the city to perform any necessary maintenance, and to reimburse the city for documented administrative costs associated with action on the device. The maintenance assurance shall be for a minimum period of two years
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from the completion of planting; however, for Type I landscaping, the period shall be three years. The community and economic development director may adjust the period of maintenance assurances on a case-by-case basis. A separate financial guarantee for maintenance associated with landscaping in the right-of-way and stormwater facilities shall be submitted to the public works department in accordance with Section 3.090 of the Development Guidelines and Public Works Standards.

D. The city may accept, as an alternative to a maintenance assurance device, a contractual agreement or bond between the owner/developer and a licensed landscape architect, Washington-certified nurseryperson, or Washington-certified landscaper, along with a rider or endorsement specifically identifying the city as a party to the agreement for purposes of enforcement. Nothing in this alternative shall be interpreted to in any way modify the conditions of subsection [B](#) of this section.

E. If a maintenance assurance device or evidence of a similar device is required under subsections [B](#) and [C](#) of this section, the property owner shall provide the city with an irrevocable notarized agreement granting the city and its agents the right to enter the property and perform any necessary work.

F. Upon completion of the two-year maintenance period (three years for Type I landscaping), and if maintenance is not required, the city shall promptly release the maintenance assurance device or evidence thereof.

G. All trees, plant materials and landscaped areas shall receive sufficient water to be kept in a healthy and growing manner.

#### **17.28.090 Performance assurance.**

A. The city may accept, as an alternative to a performance assurance device, a contractual agreement or bond between the owner/developer and a licensed landscape architect, Washington-certified nurseryperson, or Washington-certified landscaper, along with a rider or endorsement specifically identifying the city as a party to the agreement for purposes of enforcement. Nothing in this alternative shall be interpreted to in any way modify the conditions of this subsection A.

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B. If a performance assurance device or evidence of a similar device is required under subsection A of this section, the enforcing officer shall determine the specific type of assurance device required in order to insure completion of the required landscaping in accordance with the approved landscaping plan. The value of this device must equal one hundred fifty percent of the estimated cost of the landscaping to be performed, and shall be utilized by the city to perform any necessary work, and to reimburse the city for documented administrative costs associated with action on the device. If costs incurred by the city exceed the amount provided by the assurance device, the property owner shall reimburse the city in full, or the city may file a lien against the subject property for the amount of any deficit.

C. The performance assurance shall be held for a maximum period of one year from the date of acceptance by the city until the landscaping has been installed to the satisfaction of the community and economic development director. Any landscaping not installed after the period of one year shall be grounds for the city to utilize the device to install the necessary landscaping.

D. If a performance assurance device or evidence of a similar device is required under subsection A of this section, the property owner shall provide the city with an irrevocable notarized agreement granting the city and its agents the right to enter the property and perform any required work remaining undone at the expiration of the assurance device.

E. Upon completion of the required landscaping by the property owner, at or prior to expiration of the assurance device, the city shall promptly release the performance assurance device or evidence thereof.

#### **17.28.100 Landscape features.**

Landscape features such as decorative paving, sculptures or fountains are permitted in the required landscaping area, except where they conflict with the purpose of this chapter. The area devoted to such a feature may not exceed twenty-five percent of the required area.

#### **17.28.110 Repealed.**

**Commented [GC4]:** Do we want to cite all the landscaping sections from R1, R2, etc. that are repealed upon adoption of this chapter?