

1 Introduction

1.1 Authority and Purpose

A top priority to implement the goals and policies of Clark County's Highway 99 Sub-Area Plan (adopted December 16, 2008) was to develop a form-based code. Established first in Florida in 1982 as an alternative to traditional zoning, form-based codes regulate development to achieve a specific urban form. Form-based codes create a predictable public realm by regulating the location and form of buildings and other site features along the street front, with a lesser focus on land use.

~~Traditional form-based codes have been applied to new towns, historic downtowns, or neighborhoods and often cover relatively small areas.~~ Over the years, various hybrids of form-based codes have been developed ~~for to apply them to~~ unique local conditions. Highway 99 Sub-Area's large size, suburban character, and long-term vision necessitated the development of a hybrid form-based code that is unique to this project. In addition, the design framework for this code follows the healthy community tenets that the design of the built environment can have a major impact on the health and safety of the community. Sustainable communities are characterized by improved public health and a better quality of life. Limiting waste, maximizing conservation, promoting vibrant neighborhoods, encouraging safe and convenient physical activity, reducing air pollution, reducing the reliance on automobiles, and preserving the natural environment through design supports a sustainable active lifestyle.

The following statement represents the citizen-based vision for the future of the sub-area:

"To revitalize historic Hazel Dell as a vital, attractive, cohesive, prosperous, accessible, safe community and destination in which to work, shop, live, and play." Team 99

The design framework for this code is based on a set of "General Principles" established by the Board of Clark County Commissioners. Below is a summary of the design related principles:

More Choices - in housing, shopping, neighborhoods, employment, business, recreation, cultural, entertainment, and transportation.

Balance Residential Products - a range of housing types for citizens of different incomes, ages, and family sizes.

Compact Development - wise and efficient use of land, infrastructure, transportation and human resources.

Unique Attributes - strengthen and reinforce the neighborhood's unique sense of place by honoring its desirable attributes and characteristics.

Easy Walking Distance - locate activities within easy walking distance of trails, community places, and transit stops.

Open Spaces - providing for a variety of usable and attractive open spaces to support existing and future residents and workers.

Public Spaces - providing for inviting and safe public spaces that encourage pedestrian activity.

Conservation - of resources and minimizing waste.

Sustainability - follow the sustainability principles of equity, economic development, design, and environment in new development.

1.2 Applicability and the Relationship to Title 40

Clark County's Unified Development Code Title 40 Appendix F, Highway 99 Overlay District Form-Based Standards code provisions herein are intended to supplement the provisions of Title 40 and other existing County codes applicable to developments. Where there is a conflict, the provisions herein shall apply.

Unless otherwise noted, code provisions in this document shall apply to all construction within the Highway 99 Sub-Area (see Figure 1-1). This includes master plans, planned unit developments, subdivisions, and new construction. Different chapters and sections of this document often apply only to specific types of development (such as commercial or multifamily development) and are thus clearly noted. New construction must comply with the code provisions in this document. (New construction means starting from raw land were any existent buildings have been intentionally demolished not accidentally destroyed by casualty or fire. For the purposes of this chapter, in the extreme case of total loss or near total loss of a building due to a natural disaster or fire, the building may be reconstructed under 1.2.b.)

Two thresholds are used to gauge the extent of code compliance on additions/remodels:

- a. Level I Remodels and additions include all remodels that are exempted from Type II Site Plan Review per CCC 40.520.040A(2). The requirement for such remodels is only that the proposed improvements do not lead to further nonconformance with the code.
- b. Level II Remodels and additions include all remodels that require Type II Site Plan Review per CCC 40.520.040A(2). Such remodels/additions shall not lead to further non-conformance with the code. Also, Level II Remodels shall employ four required elements and at least two five options not currently conforming ~~of the 20 code elements listed below:-~~

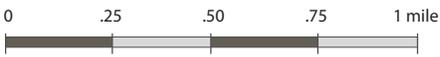
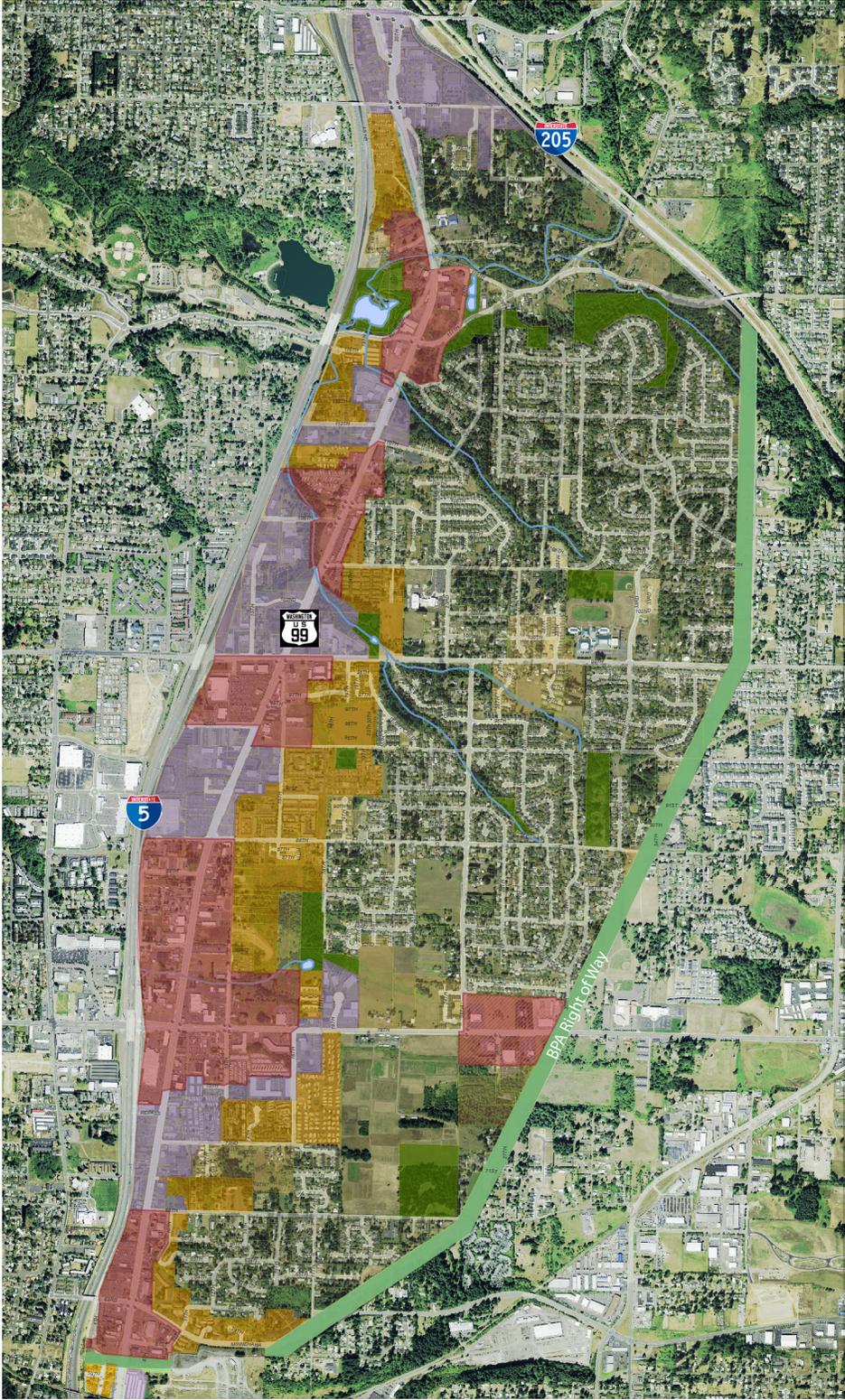
Required elements for all Level II Remodels and Additions:

- Chapter 3 - Transparency Requirements: Existing facades visible from public streets shall be brought into conformance with transparency standards. Where structural requirements of the building preclude this opportunity, other treatments will be considered that meet the intent of the standards.
- Section 5.3.1 - Pedestrian Access and Connectivity: Upgrading existing non-conforming sites to comply with this section.
- Section 6.4 - Blank Wall Treatment: Upgrading an existing non-conforming building to comply with this section.
- Upgrading non-conforming buildings/sites to full compliance with Americans with Disabilities Act (ADA) provisions.

Limited fee reductions and exemptions may be available per CCC 40.630.060. Pick at least two of the following options for all Level II Remodels and additions:

- ~~Sections 4.2, 5.2.1, and 5.2.2 – Internal Open Space: Upgrading the entire site to comply with the provisions of this section for commercial development in Activity Centers and all multifamily development, where applicable. (i)~~
 - Section 5.1 - Side and Rear Yard Design Options: Upgrading existing on-site non-conforming side/rear yards to comply with this section. (ii)
 - Section 5.3.2 - Walkway Width and Design: Upgrading all existing non-conforming walkways to comply with this section. (iii)
 - Section 5.4 - Internal Vehicular Access: Upgrading all existing non-conforming site features to comply with this section. (iv)
 - ~~Sections 5.5.1 – Minimum Parking Requirements: Upgrading existing non-conforming parking facilities to comply with this section. (v)~~
 - Sections 5.5.3 - Drive-Through Facilities: Upgrading existing non-conforming drive-through facilities to comply with this section. (vi)
 - ~~Sections 5.5.4 – Structured Parking: Providing for structured parking facilities (individual private garages don’t qualify) for customers, employees, and/or residents consistent with the standards herein as an alternative to surface parking for remodeled floor area and/or new floor area. (vii)~~
 - Section 6.1 - Building Articulation and Massing: Upgrading an existing non-conforming building to comply with this section. (viii)
 - Section 6.2 - Building Details: Upgrading an existing non-conforming building to comply with this section. (ix)
 - Section 8.2 - Lighting Standards: Upgrading all existing non-conforming lighting elements to comply with this section. (x)
 - Section 8.3.3 (2)(a) - Parking Lot Perimeter Landscaping Standards: Upgrading any existing non-conformities consistent with the provisions of this section. (xi)
 - Section 8.3.3 (2)(b) - Internal Parking Lot Landscaping Standards: Upgrading existing parking lot interiors to comply with this section. (xii)
 - Section 8.4.3 (1) - Monument Sign Standards: Replacing/updating a non-conforming pole or monument sign with a sign that complies with this section. (xiii)
 - Section 9.1.2 - Street Improvements: Upgrading existing non-conforming sidewalks and planting strips to comply with this section. (xiv)
 - Section 9.2 - Streetscape Amenity Standards: Provide amenities that comply with the standards in this section. (xv)
- Other Site Improvements:
- Undergrounding any overhead power lines along the street. (xvi)

Figure 1-1. This code applies to all lands within the Highway 99 Sub-Area Overlay District.



Total Area = 2,460 Acres

1.3 Development Review

Developments shall be reviewed per Title 40 Clark County, Washington Unified Development Code Subtitle 40.5 Procedures. The Procedures Subtitle identifies application types, review time line and extensions, review procedures, whether or not public notice is required, vesting issues, and appeals. Exceptions:

1. Detached single family dwellings, duplexes, and triplexes shall comply with applicable code provisions herein.
2. Master Planning. Applicants of mixed-use projects which are planned to be developed in phases shall comply with the provisions of CCC 40.520.070, Master Planned Development.

1.4 How Code is Applied

The requirements of this code are largely set forth by clear and measurable standards: Elements are either required, permitted, or prohibited, site/design elements must fall within a specified range, or the code offers a tool box method whereby applicants must pick a certain number of features from a list to meet the requirements.

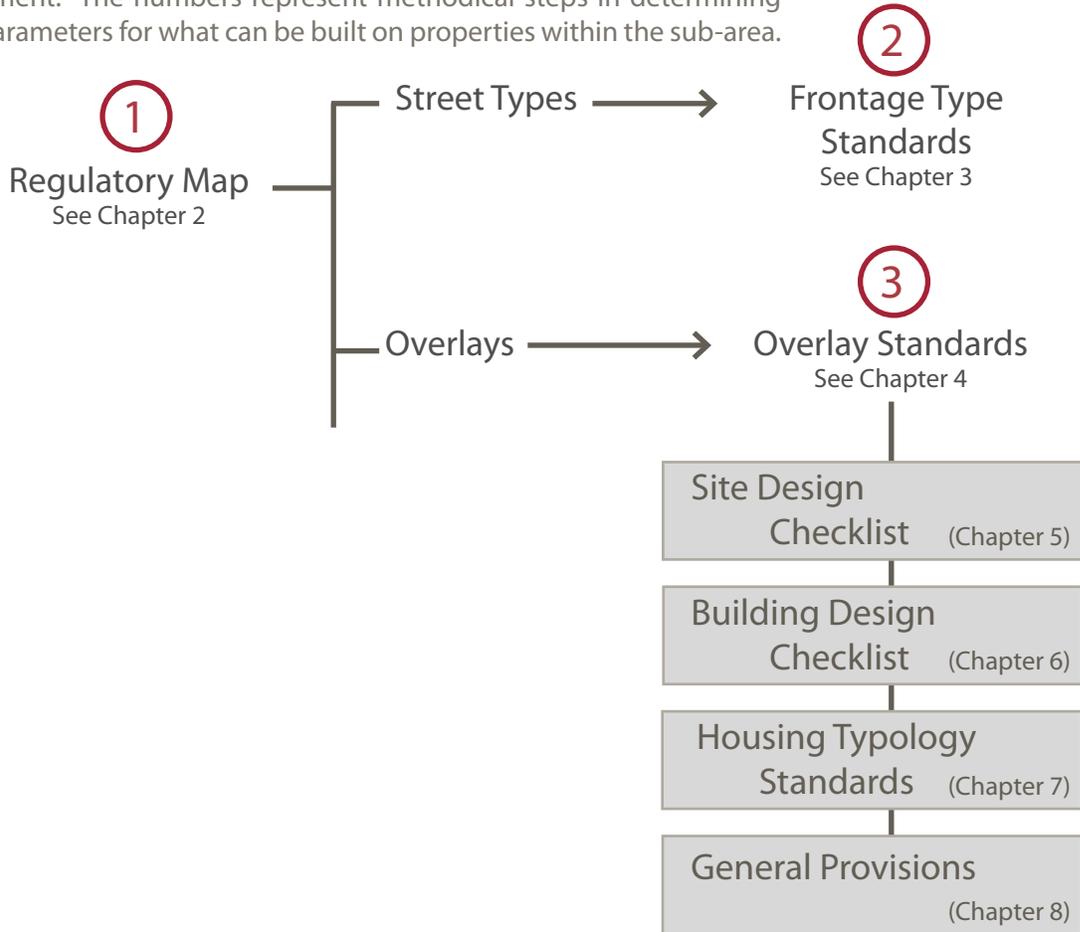
~~Other code provisions provide a level of discretion in how they are complied with.~~ To assist applicants, decision-makers, and community members in understanding the parameters of these code provisions, the document includes "Intent" statements, graphic illustrations (acceptable and unacceptable examples), and written criteria. ~~The burden is on the applicant to demonstrate to the Responsible Official, in writing, how their proposal meets the intent of the code.~~

Below are descriptions of the components of this code:

1. Intent statements are overarching objectives. ~~For example, one of the intent statements in Chapter 5 is to "provide a network of pedestrian pathways that can be expanded over time."~~
2. Codes using words such as "shall", "must", "is/are required", or "is/are prohibited" signify required actions.
3. Codes using words such as "should" or "is/are recommended" signify voluntary measures.
4. ~~Departure opportunities are allowed only when provided to specific code requirements. Unlike variances (which have very specific approval criteria related to unique on-site conditions), departures are intended to allow flexibility in how projects comply with specific prescriptive codes.~~ Applicants may seek departures due to unique site conditions or simply to allow other creative building and/or site designs that otherwise would not be allowed. Applicants for departure shall successfully demonstrate how the alternative design meets the intent of the code ~~and other applicable departure criteria. Applicable codes offering such departure opportunities often includes photos/illustrations on good and bad examples.~~

1.5 How to use this Code

This flow chart is intended to show a conceptual working of this Title 40 Appendix F Highway 99 Overlay District Form-Based Standards code document. The numbers represent methodical steps in determining the parameters for what can be built on properties within the sub-area.



1.6 Incentives

The economic development strategy for both the county and within the Highway 99 Sub-Area Plan are designed to support business by promoting ~~promote~~ private sector investment and compact forms of development in urban areas. While there are obvious limits to the types of economic activities the county may undertake, it is strategically investing public funds to promote desired development and help businesses. ~~The most typical investments are in the form of street and infrastructure improvements – of which there are several identified in Chapter 11 of the Sub-Area Plan. These improvements can enhance the character and/or circulation of the site/area and reduce costs to the development. The county will actively seek funding for these projects and coordinate the efforts of agencies, local jurisdictions, associations, property owners, and neighborhoods.~~

~~This Hybrid Form-Based Code is perhaps the most important implementation tool identified in the Sub-Area Plan – as it will guide the look, feel, and function of development into the foreseeable future. The challenge with any code and/or development code provisions is to find that appropriate balance: (1) predictability with flexibility, and (2) cost-consciousness (of regulations) while meeting community design goals. This code seeks to find that balance and provide incentives to build desirable developments.~~

Below are a number of incentive features built into to this code:

- Eliminate maximum density limit – Chapter 4. Except for the Single Family Overlay, this code removes maximum residential density limits and thus providing greater flexibility to configure residential developments. The density will ultimately be limited by market conditions as well as height limits and other related design provisions herein.
- Provide for a greater range of uses – Chapter 4. For most zones, this code provides for a greater range of land uses ~~(particularly residential)~~ provided the design of street frontages meet the standards. Also, all overlay districts allow most of the uses currently requiring a conditional use permits to be permitted outright. These changes provide more flexibility to property owners.
- Planned Action - Chapter 1. In most cases, a proposed project’s specific and cumulative environmental impacts have been adequately addressed in the Highway 99 Sub-Area Plan Final SEIS. If a project proposed for the Highway 99 Sub-Area qualifies as a “planned action” under SEPA, the project may be exempt from requirements for individual environment review and mitigation thus saving time and dollars.
- Type II Remodels and additions - Chapter 1. Limited fee reductions and exemptions may be available per CCC 40.630.060.
- Developments are exempt from complying with CCC40.340.010 (B) parking and loading standards.

On-street parking spaces abutting non-residential may be used to meet the minimum parking requirements (Section 5.5):

~~The Board of Clark County Commissioners will have further discussions on incentives in 2010. Possible actions include the reduction of Traffic Impact Fees for the following:~~

- ~~Where developments share parking between uses and thus reduce the number of parking spaces.~~
- ~~For developments that utilize structure parking as an alternative to surface parking.~~

1.7 Development Example

As part of the process of developing this code, a site plan EXAMPLE was crafted illustrating how a portion of the Totem Town Center could be redeveloped over time consistent with the proposed standards. This example assumes that the development would occur in several phases over a period of about 20 years. Most mixed-use buildings shown in the example would likely be built in the later phases. While it is assumed that the automobile will still be the primary mode of transport, the example illustrates that buildings, parking lots, and open spaces can be configured to better accommodate pedestrians, cyclists, and transit. This is accomplished by clustering storefronts, a mix of uses, and amenities to key locations accessible to the full range of users.

One of the keys to promoting a pedestrian-oriented mix of uses in this area could be enhancing and restoring Cougar Creek as a major amenity. Note how the site plan includes a trail along the southern edge of the creek and wetland buffer. Such an amenity could in turn attract some of the uses shown adjacent to the trail.

Lastly, it's important to note that the site plan assumes approval of one key code departure. The large parking area fronting NE 78th Street between Highway 99 and NE 13th Avenue exceeds the maximum percentage of allow parking areas fronting the street (50%). Section 5.5.2 provides an opportunity for departures to the parking lot location standards provided the alternative design meets special design criteria. In this case, the departure allows for the creation of a new Storefront Street paralleling NE 78th Street, which can better accommodate storefronts and a mix of uses. Figure 5-62 in Chapter 5 provides a closer look at this departure example.

Figure 1-2. A development example for the Totem Town Center.



1.8 Historic and Cultural Resources

The county encourages the preservation of Washington’s irreplaceable historic and cultural resources – significant buildings, structures, sites, objects, and districts – as assets for the future. Those buildings of historic value as designated under CCC Section 40.250.030 or designated by the county as a historic and cultural resources shall not be subject to Title 40 Appendix F.

Sites listed on the Clark County Heritage Register, may be redeveloped under Title 40 Appendix F subject to the provisions of CCC Section 40.250.303 that apply to the site and with administrative review by the Clark County Historic Preservation Commission (CCHPC). When located on any listed site that is redeveloped pursuant to Title 40 Appendix F, buildings shall be preserved in accordance with CCC Section 40.250.030 and shall not be subject to the prescriptions of Title 40 appendix F. In order to better incorporate sites listed on the Clark County Heritage Register into redevelopment scenarios, the CCHPC shall review all code departures. The **applicantResponsible Official** must **submit receive** a Certificate of Appropriateness issued by the CCHPC prior to the development application being deemed fully complete.

Application for departures from Title 40 Appendix F shall be made to the CCHPC for sites listed on the Washington Heritage Register, the National Register of Historic Places or the Clark County Cultural Resources Inventory. The CCHPC shall review such an application based on the historic value of the subject site, and recommend approval or denial of the departure(s).

1.9 Planned Action

If a project proposed for the Highway 99 Sub-Area qualifies as a “planned action” under the State Environmental Policy Act (SEPA) the project may be exempt from requirements for individualized environmental review and mitigation.

In 1995, the SEPA Rules were amended to help cities and counties combine SEPA and GMA processes and analyses, including issuing combined SEPA/GMA documents (WAC 197-11-210 through 235). The amendments allow the county to conduct environmental review at the planning stage so that impacts and mitigation can be analyzed system-wide, rather than on a project-by-project basis. Specifically, the legislature authorized a new category of project action in SEPA called a “planned action.” Designating specific types of projects as planned action projects shifts environmental review of a proposal from the time a permit application is made to an earlier phase in the planning process.

Clark County adopted the Highway 99 Sub-Area Plan Final Supplemental Environmental Impact Statement (FSEIS) as a Planned Action document. The FSEIS provided a framework for encouraging development proposals within the Highway 99 Sub-Area Plan Overlay District. Environmental impacts of qualifying projects within the Sub-Area have been adequately addressed in the FSEIS and DSEIS; complying with CCC40.570.020(D) and CCC40.570.040(B) to streamline and expedite the land use permit process.

When an implementing project is proposed, the county must verify that the proposal is the type of project contemplated in the Planned Action and that it is consistent with the Comprehensive Plan, Highway 99 Sub-Area Plan and CCC Title 40. The county must also determine that the probable significant adverse environmental impacts of the proposed project have been adequately addressed in the FSEIS and all adopted environmental documents within the FSEIS. The county, however, may require additional environmental review and mitigation if significant adverse environmental impacts were not adequately addressed in the Planned Action FSEIS or if the proposed project does not qualify as a Planned Action.

The ~~Responsible Official will review a~~ proposed project will be reviewed to assure that specific and cumulative environmental impacts have been adequately addressed in the FSEIS and will issue a written determination of whether the proposal qualifies as a planned action project.