

## Title 18

### ZONING\*

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\*Editor's note—Ord. No. 909, § 2, adopted June 18, 2009, repealed former Title 18 with the exception of Chapter 18.98, and enacted a new title as set out herein. Former Title 18 pertained to similar subject matter and derived from Ord. No. 231, §§ .01(A), .01(C), .01(D), .02(A)—.02(D), .02(D)(3), .03, .04(A), .04(A)(1)—.04(A)(6), .05(A), .05(A)(1), .05(A)(2), .05(A)(4), .05(A)(5), .06, .06(A), .06(A)(1), .06(B)—.06(G), .07(A)—.07(D), .08(A)—.08(D), .09(A)—.09(D), .10(A)—.10(D), .11(A)—.11(F), .12(A)—.12(D), .13(A)—.13(D), .14(A)—.14(D), .15(A)—.15(D), .16(A)—.16(E), .17(A)—.17(C), .18(A)—.18(D), .19(A)—.19(D), .20(A)—.20(C), .21(A)—.21(C), 1, 4, 1980; Ord. No. 280, §§ 1, 2(A)—2(E), 3(A), 4, 1983; Ord. No. 337, § 1, 1987; Ord. No. 364, § 1, 1987; Ord. No. 376, §§ 1, 2, 3(1)—3(6), 1987; Ord. No. 377, § 1, 1988; Ord. No. 413, § 1, 1989; Ord. No. 436, §§ 1, 2, 1990; Ord. No. 450, §§ 1—4, 1992; Ord. No. 485, 1993; Ord. No. 489, §§ 2—6, 1993; Ord. No. 542, §§ 1—9, 11, 12, 1995; Ord. NO. 546, § 1, 1995; Ord. No. 556, §§ 1—6, 1995; Ord. No. 567, § 1, 1995; Ord. No. 576, § 1, 1995; Ord. No. 616, § 1, 1997; Ord. No. 638, § 1, 1998; Ord. No. 690, §§ 1—4, 2000; Ord. No. 702, § 1, 2001; Ord. No. 704, § 2, 2000; Ord. No. 745, § 1, 2003; Ord. No. 760, § 1, 2004; Ord. No. 768, § 1, 2004; Ord. No. 810, § 3, 2006; Ord. No. 813, § 1, 2006; Ord. No. 857, §§ 27—46, 2008; Ord. No. 882, § 1, 12-4-2008; Ord. No. 892, §§ 2—9, 2-26-2009.

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## Chapter 18.04

### GENERAL PROVISIONS

#### Sections:

- 18.04.010 Adoption.**
- 18.04.020 Title.**
- 18.04.030 Intent.**
- 18.04.050 Additional requirements.**
- 18.04.060 Land use or zoning districts—  
Administration of title.**
- 18.04.070 Determination of use category.**
- 18.04.080 Official zoning map.**
- 18.04.090 Interpretation of map  
boundaries.**
- 18.04.100 Zoning regulations applicable  
within districts.**
- 18.04.110 Site plan approval required.**
- 18.04.120 Building permit required.**
- 18.04.130 Enforcement and violations.**

#### **18.04.010 Adoption.**

The zoning code of the city is adopted to facilitate land use control, orderly growth, development, preserve and protect vital aspects of the natural environment, designate land use districts, provide for compatibility between the districts and provide for the administration and enforcement of the regulations.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.04.020 Title.**

This title shall be known as the zoning code of the city of Black Diamond.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.04.030 Intent.**

It is the intent of this title to:

A. Facilitate orderly growth and development of the city consistent with the requirements of the Growth Management Act, RCW 36.70A, and with the policies, goals and objectives of the city of Black Diamond comprehensive plan;

B. Protect the health and general welfare of the city's residents;

C. Promote sound economic development;

D. Preserve and protect vital aspects of the natural environment;

E. Designate land use districts and provide for compatibility between the several districts;

F. Provide flexible and innovative development regulations to achieve the city's desired pattern, intensity and character of land use, and to preserve valuable resources and a network of open spaces;

G. Provide for the administration and enforcement of the regulations.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.04.040 Minimum requirements.**

In their interpretation and application, the provisions of this title shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Nothing in this title is intended to impair, annul or abrogate any easement, covenant or other agreements between parties, public or private; however, whenever the requirements of this title are at variance with the requirements of any lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or those imposing the higher standards shall govern.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.04.050 Additional requirements.**

A. The provisions of this chapter apply to the types, location and standards for all development occurring within the city. Other regulations and standards, adopted in other chapters or titles of the Black Diamond Municipal Code (BDMC) may also apply to particular uses or types of development and must be complied with if applicable. These include but are not limited to the following:

1. Design guidelines and standards and associated design overlays;
2. Environmental performance standards;
3. Sensitive areas regulations; and

4. Transfer of development rights.

B. In the event of a conflict between general provisions or standards of this title and any other more specific or conflicting provision of this or other titles of this code, the more restrictive standard shall apply.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.04.060 Land use or zoning districts—  
Administration of title.**

A. To carry out the purposes of this title, the city is divided into the following zoning districts:

Residential zones:

1. Single Family Residential—R4
2. Single Family Residential—R6
3. Medium Density Residential—MDR8

Commercial zones:

4. Neighborhood Center—NC
5. Community Commercial—CC
6. Town Center—TC

Industrial zones:

7. Business/Industrial Park—B/IP
8. Industrial District—I

Other zones:

9. Public—PUB
10. Master Planned Development (MPD)

B. This title shall be administered by the director of the community development department, and all references in this title to the "director" refer to that official unless otherwise specified.

C. Interpretation of Uses. The zoning districts established by this section identify permitted categories of uses, and provide examples of the types of uses within each category in the definitions contained in Chapter 18.100.100. Each zoning district also references *similar or related uses*. The determination of whether a particular use is similar or related and therefore permitted within a particular district shall be an administrative decision made by the director, pursuant to the procedures identified in Chapter 18.08.

D. Uses other than those identified or described as "permitted uses", "conditional uses" or "accessory or other uses" within each zone classification are prohibited.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.04.070 Determination of use category.**

A. All questions of what land use category a particular use falls within shall be determined pursuant to the procedures set forth in Chapter 18.08, using the following guidance:

1. The use shall be consistent with the function of the use category for the particular zone as stated in the comprehensive plan and intent statement for the zone;

2. The use shall exhibit similar environmental impacts as other permitted activities in the use category and zone; and

3. The use shall exhibit similar operational characteristics such as traffic generation and time of operation as other permitted activities in the use category and zone.

B. Determinations of use category by the director may be appealed according to the provisions of Sections 18.08.200—18.08.220.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.04.080 Official zoning map.**

The boundaries of the zoning districts are hereby established and delineated on the official zoning map entitled "City of Black Diamond Zoning Map." The map is hereby incorporated as a part of this title. The official zoning map shall be maintained by the director and an official copy kept on file with the city clerk and may consist of more than one map sheet for ease of use.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.04.090 Interpretation of map boundaries.**

A. Rules of Interpretation. When uncertainty exists as to the boundaries of any zoning district shown on the official zoning map, the following rules shall apply:

1. Where district boundaries are separated by a right-of-way, such boundaries shall extend to the

centerline of such right-of-way. Where a district boundary and city limit are separated by a right-of-way, such boundary shall extend to such city limit;

2. Where a district boundary is indicated as approximately following the centerline of an alley, street, highway, freeway, railroad track, creek or river, such centerline shall be construed to be the district boundary;

3. Where a district boundary is indicated as approximately following a lot line, such lot line shall be construed to be the district boundary;

4. Where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by use of the scale appearing on the official zoning map;

5. If a district boundary was created through a site-specific rezone action, the boundary shall be determined by the legal description contained in the ordinance affecting such rezone.

B. Uncertainty of District Boundary. If, after using the above rules, the director is unable to conclusively identify a district boundary, the planning commission shall recommend and the city council shall determine the location of the district boundary.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.04.100 Zoning regulations applicable within districts.**

A. Title Compliance. Except as provided elsewhere in this title:

1. No structure shall be erected and no existing structure shall be moved, altered, reconstructed, replaced or enlarged, nor shall any land or structure be used for any purpose or in any manner other than a use listed in this title as permitted in the zoning district in which such land or structure is located.

2. No structure shall be erected, nor shall any existing structure be moved, altered, reconstructed, replaced or enlarged to exceed in height the limit established by this title for the zoning district in which such structure is located.

3. No structure shall be erected nor shall any structure be moved, altered, reconstructed, replaced or enlarged, nor shall any open space surrounding any structure be encroached upon or reduced in any manner, except in conformity with the development requirements established by this title for the zoning district in which such structure is located.

4. No improvement, yard or open space on a lot shall be considered as providing improvement, yard or open space for another lot except as provided for by this title.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.04.110 Site plan approval required.**

Site plan review, pursuant to the provisions of this code, shall be required for all non-residential development occurring within the city, and for any multi-family building or non-subdivision project containing more than four units.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.04.120 Building permit required.**

No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the director. No building permit shall be issued unless the use:

A. Conforms to the requirements of this title;

B. Has been approved by the director as a *similar or related* use as described in the several zoning districts;

C. Has been approved by the hearing examiner as a conditional or special use as defined in Chapter 18.28 of this title; or

D. Has been granted a variance by the hearing examiner.

Provided, however, that the installation of a mobile home shall require a city installation (landing) permit and shall be installed and inspected in accordance with the rules and regulations of Washington Administrative Code Chapter 296-150B. Provided, further, that all city-required permits for connection to city utilities and/or permits required for all other activities related to the use of the land or construction within the city shall be

acquired in accordance with the rules and regulations of the city prior to connection to city utilities or structural alteration or construction.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.04.130 Enforcement and violations.**

A. Enforcement. The director shall administer and enforce this title. If the director finds that any of the provisions of this title are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall take any action authorized by this title to insure compliance with or to prevent violation of its provisions.

B. Violation—Penalty. Whoever violates any of the provisions of this title shall be fined not more than five hundred dollars for each offense. Each day a violation continues may be considered as a separate offense. A violation of this title shall constitute a misdemeanor. In the event an individual or legal entity does not correct the violation within thirty days of receiving notice of the violation, and in addition to the misdemeanor and potential fine, the city, at its discretion, shall seek to stop the violation through civil action in the appropriate courts in the state. In the event a civil action is necessary to abate the violation, the violator shall be responsible for reimbursing the city for all costs including legal fees and court expenses incurred by the city due to the necessity of bringing the action. In addition, the city shall have a lien for any criminal or civil penalty or cost of any work of abatement, against the real property on which the civil penalty was imposed and against any works performed. The civil penalty and/or criminal penalty and cost as set forth herein shall also be the personal obligation of the property owner. The city attorney for the city, on behalf of the city, may collect the civil penalty and criminal penalty and the costs of abatement by use of all appropriate legal remedies. No lien created by this title shall bind the property subject to the lien for a period longer than three years after the claim has been filed with the King County department of

records and elections unless an action is commenced in the proper court within that time to enforce the lien. The lien provided for in this section may be foreclosed and enforced by civil action in a court having jurisdiction.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

## Chapter 18.08

### ADMINISTRATION: PROCEDURES, NOTICE AND APPEALS

#### Sections:

- 18.08.010 Purpose.
- 18.08.020 Supersedence.
- 18.08.030 Decision types.
- 18.08.040 Ministerial decisions—Type 1.
- 18.08.050 Administrative decisions—Type 2.
- 18.08.060 Quasi-judicial decisions—Type 3.
- 18.08.070 Quasi-judicial decisions—Type 4.
- 18.08.080 Legislative decisions—Type 5.
- 18.08.090 Quasi-judicial decisions—Type 6.
- 18.08.100 Application.
- 18.08.110 Determination of completeness.
- 18.08.120 Notice of application.
- 18.08.125 Notice requirements table.
- 18.08.130 Consolidated permit process.
- 18.08.150 Public notice of decision.
- 18.08.180 Notice of public hearing.
- 18.08.190 Effective date of decision.
- 18.08.200 Appeal structure.
- 18.08.210 Administrative appeals.
- 18.08.220 Appeal process.
- 18.08.230 Judicial review.

#### 18.08.010 Purpose.

The purpose of this chapter is to establish standard procedures, for public notification and the timing of development decisions made by the city of Black Diamond. These procedures are intended to:

- A. Promote timely and informed public participation;
- B. Eliminate redundancy in the application, permit review, and appeals processes;
- C. Process permits equitably and expediently;

D. Balance the needs of permit applicants with project neighbors;

E. Ensure that decisions are made consistently and predictably; and

F. Result in development that furthers city goals, objectives and policies as set forth in the comprehensive plan.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.08.020 Supersedence.

The provisions of this chapter supersede all other procedural requirements that may exist in other sections of the city code. Where conflicts occur between provisions of this chapter and/or between this chapter and other city regulations, the requirements of this chapter shall apply.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.08.030 Decision types.

There are six types of decisions, actions, or permit applications that are reviewed under the provisions of this title. The types are based on who makes the decision, the amount of discretion exercised by the decision making individual or body, the level of impact associated with the decision, the amount and type of public input sought, and the type of appeal opportunity. This chapter sets forth procedural requirements for applications, decisions, and appeals. Decision criteria and additional standards for specific permit types and for GMA legislative decisions are set forth in Chapter 18.12. Decision types are summarized below.

Decision Type	Decision Maker(s)	Types of Permits
Type 1—Ministerial	Director	Boundary line adjustment Building permit Final short plat Shoreline exemptions Temporary use permits Use interpretation
Type 2—Administrative	Director or SEPA Responsible Official	Accessory dwelling unit Administrative conditional use Administrative variance Binding site plan Sensitive area buffer reduction and reasonable use exception Formal code interpretation SEPA threshold determination Preliminary short plat Site plan minor amendment
Type 3—Quasi-Judicial	Hearing Examiner	Conditional use permit Plat alteration or vacation Preliminary plat Shoreline substantial development, conditional use or variance Variance Site Plan Review Site plan major amendment
Type 4—Quasi-Judicial	Hearing Examiner/City Council	Development agreements Master Planned Development Rezoning (site specific)
Type 5—Legislative	Planning Commission/City Council	Comprehensive Plan amendments (text or map) Area-wide rezoning Zoning Code text amendments
Type 6—Quasi-judicial	City Council	Final Plat acceptance

If a proposal requires multiple permits with decisions of different types (e.g., site plan approval and conditional use permit, Type 2 and Type 3), the higher type process applies to the entire proposal. Refer to Section 18.08.130.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.08.040 Ministerial decisions—Type 1.**

A. Type 1 decisions are based on compliance with specific, nondiscretionary and/or technical standards that are clearly enumerated in the city code. These decisions are made by the director, are

exempt from notice requirements, and are final actions. Type 1 decisions of the director may be appealed to the Hearing Examiner and then to Superior Court (excepting building permits and related technical code decisions).

B. The following decisions, actions and permit applications require a Type 1 decision:

1. Building permits and related technical code applications (fire, mechanical, plumbing, etc.);
2. Boundary line adjustments;
3. Use interpretation;
4. Shoreline exemptions;

5. Final short plat;
  6. Temporary use permit.
- (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.08.050 Administrative decisions—Type 2.**

A. The director makes Type 2 decisions based on standards and clearly identified criteria. Type 2 decisions require written documentation that the proposal meets all applicable city standards or is appropriately conditioned to meet requirements. The supporting documentation may be in the form of a checklist, letter, staff report, or combination of forms, reports and checklists.

B. Type 2 decisions require public notice as set forth in Section 18.08.120.

C. Type 2 decisions are subject to an administrative appeal to the hearing examiner unless specifically modified or excluded pursuant to this section.

D. Shoreline substantial development permits and shoreline variances may be appealed only to the State Shorelines Hearings Board.

E. Administrative appeals of SEPA threshold determinations of significance (DS) are not allowed.

F. Administrative appeals of the adequacy of an environmental impact statement are not allowed.

G. Appeal of a SEPA decision associated with a Type 5 legislative action is allowed only in conjunction with appeal of the decision to the growth management hearings board.

H. The following decisions, actions and permit applications require a Type 2 decision:

1. SEPA threshold determinations/Use approval with SEPA;
2. Preliminary short plat;
3. Accessory dwelling unit;
4. Administrative conditional use permit (ACUP);
5. Administrative variance;
6. Critical areas reasonable use exception;
7. Formal code interpretation;
8. Binding site plan;

9. Site plan minor amendment.
- (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.08.060 Quasi-judicial decisions—Type 3.**

A. Type 3 decisions are made by the hearing examiner following an open record public hearing and involve the use of discretionary judgment in the review of each specific application.

B. Type 3 decisions require public notice as set forth in Section 18.08.120.

C. For each Type 3 decision, the department will forward a recommendation to the hearing examiner regarding whether the proposal is consistent with applicable city regulations and policies and whether the proposal should be approved, approved with modifications or conditions, or denied. The examiner will issue a written decision including findings, conclusions, and conditions, if any.

D. The department may require an applicant to participate in a public meeting to provide information and take public comment before the department forwards a recommendation to the hearing examiner.

E. Any administrative appeal of a SEPA threshold determination of non-significance (DNS), mitigated determination of non-significance (MDNS) or other Type 2 decision shall be consolidated with the open record public hearing on a Type 3 proposal.

F. A Type 3 decision may be appealed to the superior court, except that a Type 3 decision on a shoreline application may be appealed only to the State Shorelines Hearings Board. (See also Section 18.08.200 regarding consolidated permit processing and appeals.)

G. The following decisions, actions, and permit applications require a Type 3 decision:

1. Preliminary plat;
2. Conditional use permit;
3. Shoreline, substantial development, conditional use permit or variance;
4. Plat alteration or vacation;
5. Site plan approval or major amendment;
6. Variance.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.08.070 Quasi-judicial decisions—Type 4.**

A. Type 4 decisions are made by the city council following a closed record hearing based on a recommendation from the hearing examiner. Type 4 decisions proceed in the same way as Type 3 decisions, except that:

1. The hearing examiner makes a recommendation to the city council rather than making a decision.

2. The city council holds a closed record hearing to consider the recommendation from the hearing examiner. Only parties of record who testified at the hearing examiner hearing may speak at the closed record hearing; however, testimony is limited to discussion about the recommendation from the hearing examiner. All argument and discussion must be based on the factual record developed at the hearing examiner hearing.

3. The city council will decide the application by motion and will adopt formal findings and conclusions approving, denying, or modifying the proposal.

4. Appeal of the city council decision is to superior court. There is no administrative appeal.

B. Type 4 decisions require public notice as set forth in Section 18.08.120.

C. The following decisions, actions and permit applications require a Type 4 decision:

- 1. Rezone (site specific);
- 2. Development agreement;
- 3. Master planned development.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.08.080 Legislative decisions—Type 5.**

A. Type 5 decisions are legislative, non-project decisions made by the city council under its authority to establish substantive policies and regulations pursuant to the growth management act. Type 5 decisions do not include legislation of a procedural nature such as the adoption of fee ordinances or technical issues such as adoption of building codes, engineering standards and related matters.

B. Type 5 decisions require public notice as set forth in Section 18.08.120 a public hearing before the city planning commission who will make a recommendation to the city council, and broad public outreach prior to a decision by the city council.

C. There is no administrative appeal of Type 5 decisions, but they may be appealed to the State Growth Management Hearings Board.

D. The following actions require a Type 5 decision:

- 1. Comprehensive plan amendment (text or future land use map);
- 2. Sub-area plan adoption or amendment;
- 3. Area-wide rezone;
- 4. Amendment of the zoning code.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.08.090 Quasi-judicial decisions—Type 6.**

A. Type 6 decisions are quasi-judicial decisions made by the city council following a recommendation by staff.

B. Type 6 decisions include, but are not limited to, the following project applications:

- 1. Final plat.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.08.100 Application.**

A. Who may apply:

1. The property owner or an agent of the owner with authorized proof of agency may apply for a Type 1, 2, 3, or 4 decision, or for a site-specific comprehensive plan amendment.

2. The mayor, planning commission, or city council may initiate a site-specific rezone (a Type 4 decision) for city-owned or managed property, or an area-wide rezone, a comprehensive plan amendment, or an amendment to the text of the zoning code (Type 5 decisions).

3. Any person may propose a text amendment to the comprehensive plan or request that the city initiate an area-wide rezone, or amendments to the text of the zoning code.

B. All applications for Type 1, 2, 3, 4, 5 or 6 decisions, actions, or permits shall be submitted on official forms or as prescribed and provided by the department.

C. The department shall establish, and may revise from time to time, submittal requirements for each type of application.

1. Individual submittal requirements may be waived by the director, in writing, only if the applicant can demonstrate that normally required information is not relevant to the proposed action and is not required to show that an application complies with applicable city codes and regulations.

2. For project permit applications, the submittal requirements established by the director shall include a target turn-around period for initial review and an estimate of average turn-around times for permit issuance. Such time periods shall be established administratively and included in application submittal requirements available to the public, but shall not exceed one hundred twenty days.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.08.110 Determination of completeness.**

A. An application for a Type 1, 2, 3, 4 or 6 decision shall be determined complete when all information required in the applicable submittal requirements has been provided in a manner sufficient for processing the application. Additional information may be required by the city even though an application has been determined to be complete for processing.

B. The city may, at its discretion and at the applicant's expense, retain a qualified professional to review and confirm the applicant's reports, studies and plans.

C. If an application is determined to be incomplete, the city will mail written notification to an applicant of what information or material must be submitted to make the application complete. Notice that an application is not complete shall be mailed within twenty-eight days of receiving the application.

D. The city may choose to notify an applicant by mail, telephone or email that an application is complete. If the city does not notify the applicant of completeness or incompleteness within twenty-eight days of submitting the application, the application shall be considered complete on the twenty-ninth day.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.08.120 Notice of application.**

A. Within fourteen days of the determination of completeness, the city shall issue a notice of application for all Type 2, 3, and 4 applications.

B. The notice of application shall include the following information:

1. The dates of application, determination of completeness, and the date of the notice of application;

2. The location and description of the project;

3. A list of project permits included in the application and identification of other required permits, to the extent known by the department;

4. The identification of existing environmental documents that evaluate the proposal and the location where the application and any other relevant materials can be reviewed;

5. The date, time, and place of an open record hearing, if one is required and has been scheduled;

6. The name of the applicant or project contact and the name of the city staff person assigned to the project, along with city staff contact information;

7. A statement of the public comment period, which shall be 14 days, except for shoreline substantial development, shoreline variance, or shoreline conditional use permit applications, which shall have a thirty-day comment period for notice of application;

8. A statement of the rights of individuals to comment on the application, receive notice, participate in any hearings, request a copy of the decision (once made) and a summary of any appeal rights; and

9. Any other information the city determines to be appropriate.

C. The notice of application shall be made available to the public by one or more of the following methods, as specified for each permit application type in Table 18-1:

1. Mail. Mailing to owners of real property located within three hundred feet of the subject property. If the owner of the property that is the subject of the application owns other real property adjacent to the subject property, then the three-hundred-foot measurement shall be taken from the boundary of any such adjacently located parcels. This distance shall be increased to five hundred feet for a master planned development;

2. Publish. Publishing in the official city newspaper of record.

3. Post. Posting the property with a sign or placard as required by the department.

4. Online. Publishing or posting on the city's website a notice of the application. If online method is used, the department will either establish a specific calendar for online publishing or will maintain an email distribution list to alert interested parties that a new proposal has been applied for.

5. Other. Other methods of notice are supplementary to some primary method and may include press releases, notices to community newspapers, notifying public or private groups known to have an interest in an area or certain type of proposal.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.08.125 Notice requirements table.**

A. Notice shall be provided using the following methods:

**TABLE 18-1**

Application	Process Type	Mail	Publish	Post	Online	Other
SEPA Threshold Determination / Use Approval with SEPA, Draft and Final EIS/SEIS publication	Type 2	X	X	X	X	
Short Subdivision	Type 2	X	X	X	X	
Variance	Type 2	X	X	X	X	
Shoreline Variance	Type 2	X	X	X	X	
Shoreline Substantial Development Permit	Type 2	X	X	X	X	
Administrative Conditional Use	Type 2	X	X	X	X	
Critical Areas Reasonable Use Exception	Type 2	X	X	X	X	
Formal Code Interpretation	Type 2		X		X	X
Binding site plan approval	Type 2	X	X	X	X	
Site plan minor amendment	Type 2	X	X	X	X	
Preliminary Subdivision (Plat)	Type 3	X	X	X	X	
Plant Alteration or Vacation	Type 3	X	X	X	X	
Conditional Use Permit	Type 3	X	X	X	X	
Shoreline Conditional Use Permit	Type 3	X	X	X	X	
Site plan approval, or major amendment	Type 3	X	X	X	X	
Master Planned Development	Type 4	X	X	X	X	X

Application	Process Type	Mail	Publish	Post	Online	Other
Rezone	Type 4	X	X	X	X	
Development Agreement	Type 4	X	X		X	X
Comprehensive Plan Amendment (map or text)	Type 5	X	X	X	X	X
Zoning Code Text Amendment	Type 5	X			X	X

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.08.130 Consolidated permit process.**

A. If a project requires more than one type of land use application, the applications shall be processed concurrently unless the applicant demonstrates that separate processing will result in a more efficient or effective review process. The director may, however, require consolidated processing when concerns exist about cumulative impacts, inappropriate piece-mealing of the project, or when decision makers need clarity about later phases of a final development proposal.

B. Type 5 applications may not be consolidated with related project permit applications.

C. Consolidation of review processes shall modify decision making authority and appeal procedures only as follows.

1. When review of a Type 1 application is consolidated with a Type 2 or higher application, no change in decision making or appeal processes will occur. The effective date of the Type 1 decision shall be no sooner than the date of final city action on the related Type 2 or higher application.

2. When a Type 2 application is consolidated with a Type 3 or Type 4 application, no change in decision making or appeal processes will occur, except that shoreline applications (variance or substantial development permits) shall be decided by the higher level decision maker. Appeals of Type 2 decisions shall be consolidated into the required open record public hearing for the Type 3 or Type 4 decision.

3. When a Type 3 application is consolidated with a Type 4 application, the Type 3 decision shall be made as part of the Type 4 application.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.08.150 Public notice of decision.**

A. Each Type 2, 3, or 4 decision shall be made in writing. The form of a Type 2 decision may be a checklist, annotated checklist, letter, report, memo, or combination of forms. Type 3 and Type 4 decisions shall include findings and conclusions in support of the decision.

B. Notice of each Type 2, 3, or 4 decision shall be mailed to:

1. The applicant and applicant's contact person;
2. Each person who submitted a comment on the proposal during the public comment period;
3. Each person who spoke at any required public hearing; and
4. Each person who requested notice of the decision or who has requested notification of all permit decisions.

C. Notice of a decision shall include a description of how to appeal the decision.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.08.180 Notice of public hearing.**

Notice of the time and place of an open record hearing for Type 3 and 4 applications shall be provided by the Department no less than fourteen days prior to the hearing, through use of the same methods indicated for notice of application. See Sections 18.08.120 and 18.08.125.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.08.190 Effective date of decision.**

Type 1 decisions shall be effective on the date the decision is made. Type 2 and 3 decisions shall be effective at the close of the appeal period, or if appealed, on the date of final city action on the

appeal. Type 4 decisions are effective on the date final findings and conclusions are adopted by the city council. Type 5 decisions are effective on the date of passage of the ordinance or resolution regarding the application by the city council, or on a later date as may be specified in the resolution or ordinance.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.08.200 Appeal structure.**

Table 18.08.200-1 provides a summary of the appeal structure for Type 1-5 applications.

**Table 18.08.200-1 Summary of Appeal Structure**

Process Type	Decision maker	Appeal to	Further appeal
Type 1, except building permit appeals	Director	Hearing Examiner	n.a.
Type 2, except shoreline applications	Director	Hearing Examiner	Court
Type 3, except shoreline applications	Hearing Examiner	Superior Court	Court
Type 4	City Council	Court	n.a.
Type 5	City Council	Growth Management Hearings Board (GMHB)	Court
Type 2 Shoreline applications	Director	Shorelines Hearings Board	Court
Type 3 Shoreline application	Hearing Examiner	Shorelines Hearings Board	Court Note that a consolidated permit process may change the initial decision maker for Type 2 shoreline applications and for Type 3 applications consolidated with Type 4 applications.

**Table 18.08.200-2 SEPA Appeal Structure**

SEPA Action	Decision maker	Appeal to	Further Appeal
A. Determination of Non-Significance (DNS), Mitigated Determination of Non-significance (MDNS) for:			
Type 1, 2, 3, 4 decisions	Director/Responsible Official	Court	

SEPA Action	Decision maker	Appeal to	Further Appeal
Type 5 decisions	Director/Responsible Official	GMHB	Court
B. EIS Adequacy:			
Type 1, 2, 3 decisions		Court	
Type 4 or 5 decisions		City Council	GMHB and/or Court

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.08.210 Administrative appeals.

A. Who May Appeal. Any aggrieved party of record may file an administrative appeal of a Type 2 or Type 3 decision.

B. Time and Place to Appeal. Appeals of a Type 2 or 3 decision shall be addressed to the hearing examiner and filed in writing with the department within fourteen calendar days of the notice of decision, except for shoreline appeals and appeals associated with a SEPA comment DNS.

C. Shoreline Appeals. Appeals of a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance decision shall be filed with the state shorelines hearings board pursuant to RCW 90.58.180.

D. SEPA Determination of Nonsignificance (DNS) or Mitigated Determination of Nonsignificance (MDNS). When a SEPA DNS or MDNS is issued pursuant to WAC 197-11-340 or 350, appeals of the DNS/MDNS and any associated Type 2 decision shall be filed within fourteen days of the notice of decision.

E. Fees. Each appeal filed on a non-shoreline decision shall be accompanied by a filing fee in the amount established in the city's schedule of fees.

F. Form of Appeal. A person appealing a Type 1 decision must file a written statement setting forth:

1. Facts demonstrating that the person is aggrieved by the decision;

2. A concise statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria. An appeal of a SEPA environmental document shall

describe any alleged inadequacy in the threshold determination with respect to evaluation of a specific environmental element;

3. The specific relief requested; and

4. Any other information reasonably necessary to make a decision on appeal.

G. Limitation on New Appeal Issues. No new substantive appeal issues may be raised or submitted after the close of the time period for filing of the original appeal. The hearing examiner may allow an appellant not more than fifteen days to perfect an otherwise timely filed appeal.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.08.220 Appeal process.

A. Within fourteen calendar days following timely filing of an administrative appeal, the department shall mail notice of the date time and place for the appeal hearing to all parties who received notice of the decision.

B. Appeals shall be heard and decided within 90 days from the date the appeal is filed.

C. The hearing shall be limited to the issues included in the written appeal statement. Participation in the appeal shall be limited to the city, the applicant, and those persons or entities which have timely filed complete written appeal statements and paid the appeal fee.

D. The appellant shall carry the burden of proof in the appeal. The burden of proof shall be met by a preponderance of the evidence in order for the appellant to prevail; provided that in any appeal of a SEPA decision, the decision of the department shall be given substantial weight and may be overturned only if it is clearly erroneous.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.08.230 Judicial review.**

A. No person may seek judicial review of any decision of the city, unless that person first exhausts the administrative remedies provided by the city.

B. Any judicial appeal shall be filed in accordance with state law. If there is not a statutory time limit for filing a judicial appeal, the appeal shall be filed within twenty-one calendar days after a final decision is issued by the city. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**Chapter 18.12**

**DECISION CRITERIA FOR PERMITS**

**Sections:**

**18.12.010 Conditional use and administrative conditional use permits.**

**18.12.020 Zoning reclassification (rezone) and zoning text amendments.**

**18.12.030 Variances.**

**18.12.040 Preliminary plats and short plats.**

**18.12.060 Development agreements.**

**18.12.070 Comprehensive plan amendments.**

**18.12.010 Conditional use and administrative conditional use permits.**

A. Purpose. Conditional uses, which are identified in various zones in this title, are those uses which require additional review and special conditions to ensure that they are compatible with their site and surrounding area. This chapter sets forth the criteria that the city will use to review such proposals.

B. Criteria. The city, whether the director or the hearing examiner in the appropriate case, will consider the following criteria in reviewing conditional use permit applications, and may only approve an application if the applicant demonstrates that all of the criteria are met:

1. The proposal is consistent with the goals and policies of the comprehensive plan;
2. Environmental and operational impacts associated with the use can be adequately mitigated through the imposition of reasonable conditions;
3. The use is designed so as to be compatible with the character of the surrounding area;
4. The location, size and height of buildings, structures, walls and fences and screening vegetation for the conditional use will not hinder permitted development or discourage the use of neighboring properties;

5. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;

6. It is not in conflict with the health and safety of the community;

7. Pedestrian and vehicle traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and

8. The conditional use will be supported by adequate public services and facilities, including any services and facilities that the applicant funds or provides.

C. Process. Consideration of conditional use and administrative conditional use permit applications shall follow the procedures in Chapter 18.08.

D. Essential Public Facilities. In addition to the criteria set forth in Chapter 18.58, essential public facilities are also subject to the criteria of this section.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.12.020 Zoning reclassification (rezone) and zoning text amendments.**

A. Purpose. A reclassification of property or rezone is a mechanism through which the city can ensure that development occurs consistent with the comprehensive plan. It also recognizes that conditions applicable to individual properties may change over time in response to new or differing land use needs or practices, or new land use policies. A zoning text amendment is a mechanism for ensuring consistency between the comprehensive plan and development regulations, and a means to recognize new land use policies, implementing techniques, or land use practices.

B. Criteria—Map Amendments. The city will consider the following criteria in reviewing applications for zoning reclassifications, and may only approve an application if the applicant demonstrates that all of the criteria are met:

1. The proposal is consistent with the goals and policies of the comprehensive plan, and with the future land use map;

2. The subject property is suitable for development in conformance with the standards applicable to the requested zoning designation.

3. Environmental impacts associated with the use can be adequately mitigated through the imposition of reasonable conditions;

4. The proposal will not be materially detrimental to properties in the immediate vicinity or the community based on the range of uses allowed in the proposed zoning classification;

5. Adequate services and facilities, including transportation facilities, will be available to serve the range of uses permitted in the proposed zoning classification;

6. The proposed reclassification is warranted because of a change in circumstances, or because of a demonstrated need for additional land within the proposed zoning classification;

7. The reclassification does not reflect special treatment of the subject property; and

8. The reclassification will promote the general health, safety and welfare of the community.

C. Criteria—Text Amendments. The city will review proposed amendments to the text of the zoning code using the following criteria:

1. The amendment is consistent with and furthers the goals and policies of the comprehensive plan;

2. Amendment of the text of the code would not render the zoning code internally inconsistent;

3. The amendment corrects an error or omission in the text of the code; and/or

4. The amendment does not result in the grant of a special privilege to an individual property owner.

D. Process. Consideration of reclassification and text amendment applications shall follow the procedures in Chapter 18.08.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.12.030 Variances.**

A. Purpose. A variance is a mechanism whereby the city may allow variations to the provisions of the zoning code applicable to a specific property where unique conditions exist and make

compliance with zoning standards impractical or an unnecessary hardship. A variance is not appropriate, and shall not be granted, to change a use or to allow establishment of a use that is not otherwise permitted in the zone in which the proposal is located.

B. Criteria. The city will consider the following criteria in reviewing applications for variances, and may only approve an application if the applicant demonstrates that all of the criteria are met:

1. Granting of the proposed variance would not allow a use which is not classified as a permitted, accessory, or conditionally permitted use in the applicable zoning district;

2. The variance is necessary because of special circumstances relating to the unique size, shape, topography, location or surroundings of the subject property;

3. The need for the variance and the special circumstances applicable to the subject property are not the result of deliberate actions of the applicant or property owner;

4. Strict enforcement of the requirements of this title creates an unnecessary hardship to the property owner or would deprive the property owner of the rights commonly enjoyed by others in the same area;

5. The variance does not create health or safety problems, will not be injurious to the public welfare, and does not grant a special privilege to the property owners;

6. The variance from height or setback requirements does not infringe upon or interfere with the requirements of any easement or covenant; and

7. The variance is the minimum necessary to grant relief to the applicant.

C. Administrative Variance. An administrative variance may be granted if the application complies with the following criteria:

1. The variance would not decrease by more than twenty percent any required front, side or rear yard between buildings;

2. The variance would not increase by more than ten percent any permitted projection of cor-

nices, sills, eave projections, fences or structures, maximum permitted lot coverage, and unenclosed and uncovered decks into a front, side or rear yard; or

3. The variance would not increase by more than ten percent the permitted height of a structure.

4. Strict enforcement of the requirements of this title creates an unnecessary hardship to the property owner or would deprive the property owner of the rights commonly enjoyed by others in the same area;

5. The variance would not create health or safety problems, will not be injurious to the public welfare, and does not grant a special privilege to the property owner;

6. The variance is the minimum necessary to grant relief to the applicant.

D. Granting of a variance shall not relieve an applicant from complying with any other standard or requirement of this title unless and only to the extent that such standard or requirement is specifically addressed as part of the decision on the requested variance.

E. Process. Consideration of variance requests shall follow the procedures in Chapter 18.08. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.12.040 Preliminary plats and short plats.**

A. The city will consider the following criteria in reviewing applications for preliminary plats and short plats, and may only approve an application if the applicant demonstrates that all of the criteria are met:

1. The proposal is consistent with the goals, policies and map designations of the Black Diamond comprehensive plan;

2. The proposed lots sizes are consistent with those allowed within the applicable zoning classification and is consistent with applicable development standards and requirements of this title;

3. The subdivision or short subdivision adequately provides for the following facilities: open spaces, drainage ways, streets, roads, alleys, other public ways, transit stops (where applicable), po-

table water supplies, sanitary wastes, parks and recreation, playgrounds, sites for schools and school grounds, fire protection, other public facilities and utilities, and consideration of other relevant factors;

4. The layout of lots, and their size and dimensions take into account topography and vegetation on the site, and the presence of regulated critical areas;

5. The preliminary plat or short plat promotes the public health, safety, and general welfare;

6. The proposal satisfies the requirements of Title 17 of this code and any other criteria properly considered by the decision maker.

B. Consideration of proposed preliminary plats and short plats shall follow the procedures of Chapter 18.08.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.12.060 Development agreements.**

A. Purpose. RCW 36.70B.170 et seq. authorizes the city to enter into development agreements with property owners. Development agreements are intended to be used to address and establish development standards, mitigation requirements, vesting provisions and review procedures that will apply to and govern large, complex and/or phased development proposals located within the city during the term of any agreement.

B. Development Standards Subject to Agreement. Any development agreement shall be consistent with applicable city development regulations except as such regulations may be modified in the development agreement. For purposes of this chapter, "development standards" include but are not limited to:

1. Project elements such as uses, densities and intensities of land uses and buildings;

2. Mitigation measures, conditions and other requirements identified pursuant to RCW 43.21 C;

3. Design standards such as maximum heights, setbacks, landscaping and other development features;

4. Road and sidewalk standards;

5. Affordable housing;

6. Water, sewer, storm drainage, water quality, and other infrastructure and utility requirements;

7. Parks and open space preservation, and recreation facilities;

8. Phasing of development and construction;

9. Development review processes, procedures and standards for implementing decisions, including methods of reimbursement to the city for review processes;

10. A build-out or vesting period for applicable development standards;

11. A process for amending the development agreement; and

12. Any other appropriate development requirement or procedure.

C. Conformity with Standards. During the term specified in the development agreement, a development permit or approval issued by the city for the subject property shall be consistent with the standards contained in such agreement. The standards contained in the development agreement shall govern during the term of the agreement and may not be subject to an amendment of city development standards or regulations adopted after the effective date of the development agreement. Provided, that the development agreement shall reserve to the city the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

D. A development agreement shall be recorded with the real property documents of King County. During the term of the agreement, it shall be binding on the parties and their successors, including a city that assumes jurisdiction through incorporation or annexation of the area or property subject to the development agreement. Unless terminated, the agreement shall be enforceable by a party to the agreement.

E. A development agreement shall be reviewed and adopted following a public hearing pursuant to the procedures and requirements set forth in Chapter 18.08.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.12.070 Comprehensive plan amendments.**

A. Decision Criteria. The planning commission and city council shall consider the following criteria in their review of proposed map or text amendments to the comprehensive plan:

1. Consistency with the Growth Management Act;
2. Consistency with the King County countywide planning policies and other regional or inter-jurisdictional plans or agreements;
3. Consistency with the policies of the comprehensive plan, particularly land use, natural environment, transportation, capital facilities, public service and utilities;
4. Furtherance of the plan's vision statement;
5. Compatibility with adjacent land uses and land use map designations;
6. Impacts to the natural environment; and
7. Whether adopted development regulations will address anticipated impacts of the proposed amendment, or whether additional conditions or regulations are necessary.

B. Process. Additional requirements and procedures related to comprehensive plan amendments are contained in Chapter 18.08.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**Chapter 18.14**

**VESTING**

**Sections:**

- 18.14.010 Definitions.**
- 18.14.020 Period for review of permit applications—Lapsing of applications.**
- 18.14.030 Vesting of project permits.**
- 18.14.040 Amendments to permit—Effect on vesting.**
- 18.14.050 Duration of approvals—Effect of permit expiration.**
- 18.14.060 Suspension or revocation of permit—Effect on vesting.**
- 18.14.070 Lapsing of existing approvals—Notice required.**

**18.14.010 Definitions.**

For purposes of this chapter, the following definitions shall apply:

"Complete project permit application" means a project permit application that meets the procedural submission requirements required for such a permit by the Black Diamond Municipal Code and the city's administrative regulations, and includes payment of all applicable fees and provision of all information needed under the city's municipal code and administrative regulations to make an application sufficient for continued processing.

"Lapse" means that any rights or potential rights created by the filing of any project permit application, whether the application is complete or incomplete, shall cease, and the application shall be deemed void.

"Project action" means a specific activity, located in a defined geographic area, relating to construction or development of such area.

"Project permit" means any land use or environmental permit or license required from the city for a project action, including but not limited to building permits, subdivisions, binding site plans,

planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by sensitive area or critical area ordinances, master planned developments, and site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, master planned development regulations or other development regulations.

"Vesting" means the establishment of a date that is used to determine which zoning and other land use control ordinances will apply to the review by the city of a complete project permit application.

(Ord. No. 942, § 2, 5-17-2010)

**18.14.020 Period for review of permit applications—Lapsing of applications.**

A. (1) **Timeframe for Initial Review.** Within twenty-eight days of receipt of any type of project permit application, the City shall mail or provide in person to the applicant a written determination stating either: (a) that the application is complete, or (b) that the application is incomplete, and stating what is necessary to make the application complete. To the extent known to the city, the city shall identify other agencies of local, state, or federal government that may have jurisdiction over some aspect of the application.

(2) **Timeframe for Review After Additional Information Provided to City.** Within fourteen days after the applicant has submitted additional information requested by the city as necessary for a complete application, the city shall notify the applicant whether the application is complete or what additional information is necessary.

(3) **Timeframe for Review of a Complete Application.** Once an application is deemed complete, the review process should take no longer than one hundred twenty days to issue a determination or take other action unless the city issues written findings that a specified amount of additional time is needed to process specific complete project permit applications or project types.

B. In order to remain valid, project permit applications must be complete and all applicable fees paid within one hundred eighty days of filing. Project permit applications failing to satisfy these requirements are void. However, in the case of construction permits issued in accordance with the International Building Code, the building official is authorized to grant one or more extensions for additional periods of no more than ninety days each, but only where such extensions are requested in writing and justifiable cause is shown. The one hundred eighty days shall be tolled during any period in which the permit application is the subject of an appeal that has been properly and timely filed pursuant to the Black Diamond Municipal Code.

C. Except as prohibited by law, any of the terms and conditions of this section may in writing be waived or amended for a specific permit application for good cause shown, as determined in the sole discretion of the city.

(Ord. No. 942, § 3, 5-17-2010)

**18.14.030 Vesting of project permits.**

A. All project permit applications shall be considered under the zoning and other land use control ordinances in effect on the date a complete application for such permit is filed.

B. Vesting of a complete project permit application does not vest any subsequently required permits, nor does it affect the requirements for vesting of subsequent permits or approvals, provided: (1) a complete application for a subdivision or short subdivision shall be vested pursuant to the terms of RCW 58.17.033, as currently enacted or hereafter amended; (2) the specific use and density identified in an approved final subdivision shall be vested for the period of time allowed under RCW 58.17.170, as currently enacted or hereafter amended; (3) short subdivisions shall be vested for the specific use and density identified in the approved final short subdivision for a period of five years from the date of final plat approval; (4) vesting of subsequent permits and approvals as part of a master planned development shall be

governed by this chapter unless expressly amended by the terms of a development agreement executed pursuant to Chapter 18.98.

C. A complete application for a grading or filling permit vests only to the grading and filling on the property and does not vest any subsequent development or construction activities, including but not limited to water, sewer, storm water, plumbing, electrical, or other mechanical work. However, a project shall vest as to storm water management regulations if a complete storm water drainage permit application is submitted concurrently. Pursuant to BDMC 18.98, vesting of storm water permits for a Master Planned Development shall be on a phase-by-phase basis, unless otherwise provided by the terms of the approved Master Planned Development agreement.

D. Submittal of pre-application materials does not, by itself, vest a project. However, SEPA checklists and other SEPA submittals may be considered in determining whether the underlying project permit application is complete.

E. Notwithstanding any other provisions of this chapter, the city may amend, alter, or suspend any vested rights created by the filing of a complete permit application and/or preliminary or final plat approval where the city's legislative body finds that a change in conditions creates a serious threat to public health or safety in the permitted area if development were to proceed under the vested rights.

(Ord. No. 942, § 4, 5-17-2010)

#### **18.14.040 Amendments to permit—Effect on vesting.**

A. "Minor" Amendments. An applicant may be granted an amendment to any of the conditions or requirements of a permit: (1) upon a showing of changed circumstances and a determination by the mayor, or his or her designee, that (a) the requested amendments constitute "minor" adjustments that can be sufficiently mitigated through new actions that may be required as part of the permit amendment approval, and (b) each of the proposed amended conditions is not otherwise

prohibited under the municipal code and would not require additional environmental review under BDMC Title 19, and (2) the proposed amendments would not (a) increase gross building area by more than ten percent, (b) increase the number of dwelling units, (c) increase total impervious surface area, (d) change the number of ingress or egress points, or (e) increase the area of site disturbance by more than ten percent. Modifications to a permit required by the city shall be deemed "minor" amendments.

B. "Major" Amendments. An applicant shall not be granted an amendment to any condition or requirement of a permit if the mayor, or his or her designee, determines that the proposed amendment constitutes a "major" amendment. Any proposed amendment to the conditions and requirements of a permit that does not meet the requirements of subsection A shall be considered a "major" amendment. Approval to implement a "major" amendment shall require a new permit application to be filed and approved by the city, provided, any work or use covered by the existing permit that would be unaffected by the requested "major" amendment shall continue to be vested under the terms of the existing permit.

#### **C. Effect on Vesting.**

1. Unless otherwise agreed to in writing by the city, approval of "minor" amendments to permit conditions and requirements shall terminate any vested right to the original permit conditions insofar as those conditions are inconsistent with the approved amendments, and, unless also otherwise agreed, approval does not toll or otherwise change the date upon which the amended permit lapses under this chapter.

2. Any new permit application filed as part of seeking a "major" amendment to the conditions and requirements of the original permit shall not be vested to any of the conditions of the original permit and shall be subject to the current codes and regulations in effect at the time the complete new application is filed.

D. City's Decision is Final. The city's determination that a requested amendment is "minor" or "major" shall be final and not subject to appeal.

E. Amending MPD Permits. Amending of a master planned development approval is controlled by the provisions of Chapter 18.98, provided, amending of subsequent permits and approvals required as part of a master planned development shall be governed by this chapter unless expressly amended by the terms of a development agreement executed pursuant to Chapter 18.98.

(Ord. No. 942, § 5, 5-17-2010)

**18.14.050 Duration of approvals—Effect of permit expiration.**

A. Except where a different duration is established elsewhere in the Black Diamond Municipal Code, or by executed development agreement, administrative ruling or judicial order, or by state or federal law, all project permits shall expire two years after the date of issuance if construction of the project has not been substantially completed; provided, an extension of the permit may be granted as allowed under subsection B, and a building permit may become void after one hundred eighty days of inactivity, as detailed in subsection D; and provided further, permits that authorize an activity or use, rather than construction of a building or structure, shall expire as of the date indicated on the permit.

B. For project permits subject to the two-year duration set forth in subsection A, above, the City may extend the date of permit expiration up to two years for good cause, upon written request by the applicant at least thirty days prior to expiration of the permit. Requests for extensions shall be submitted in writing, together with payment of a fee equal to one-half of the permit application fee in effect at the time the request for extension is filed, and shall set describe good cause necessary for an extension. Good cause shall mean the applicant was unable to substantially complete construction due to circumstances beyond the applicant's control and not foreseeable at the time of permit issuance, and the applicant demonstrates the ability to complete the project within the extended time period.

C. Unless a project permit has been extended pursuant to subsection B of this section, or as otherwise provided by an executed development agreement, any vested rights to particular regulations or conditions of issuance associated with a project permit shall cease upon expiration of the permit, except as RCW 58.17.170 or other applicable law may apply. An individual or entity seeking to replace an expired permit shall be subject to each fee, regulation, or condition of issuance in effect at the time a new complete permit application is filed and to which no specific exemption applies.

D. Any otherwise valid building permit shall be deemed to have expired and become void if the work authorized by the permit has not been substantially commenced within one hundred eighty days after its issuance, or the work authorized by the permit is suspended or abandoned for a period of one hundred eighty days after the work has commenced.

(Ord. No. 942, § 6, 5-17-2010)

**18.14.060 Suspension or revocation of permit—Effect on vesting.**

A. The community development director, or his or her designee, is authorized to suspend or revoke any project or other permit issued by the city whenever the permit is issued in error or was issued on the basis of materially incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of the municipal code.

B. When the suspension or revocation of a permit is based on no fault of the applicant, a replacement permit issued for the same project within one hundred twenty days of the suspension or revocation shall be vested to the regulations and requirements in effect as of the date the original complete application was filed and no additional application fee shall be required, provided, the project must still fully comply with the regulations and requirements in effect at the time the original complete application was filed.

(Ord. No. 942, § 7, 5-17-2010)

**18.14.070 Lapsing of existing approvals—  
Notice required.**

Any project permit issued by the city prior to the enactment of this chapter, if such approval or permit is not already subject to a definite expiration date under the provisions of the city's municipal code, shall hereby lapse and become void on April 1, 2012; provided, the city shall take reasonable steps to notify persons who may possess such approval or permits of this deadline. Reasonable steps may include putting notice on the city's website or mailing written notice to any person whom the city is aware would be affected and for whom the city is able, through reasonable effort, to determine a current mailing address. Extension of such an approval or permit, or issuance of a new approval or permit, shall be subject to the provisions of this chapter.

(Ord. No. 942, § 8, 5-17-2010)

**Chapter 18.16**

**SITE PLAN REVIEW PROCESS**

**Sections:**

**18.16.010 Purpose.**

**18.16.020 Applicability.**

**18.16.030 Procedures.**

**18.16.040 Criteria for approval.**

**18.16.050 Amendments to approved site plans.**

**18.16.010 Purpose.**

Site plan review is an evaluation of development plans to identify compliance with applicable regulations, requirements and standards and to ensure that development will protect the health, safety and general of residents of the city.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.16.020 Applicability.**

Site plan review and approval is required prior to the location, occupancy or use of any commercial or industrial project, building or facility, for any multi-family residential use or structure containing four or more dwelling units, and for any proposal using the clustering provisions of Chapter 18.84. Site plan review shall apply to all new development, expansion or site improvements that will change the physical conditions of a site and is required prior to issuance of building permit. Site plan review is not intended to review and determine the appropriateness of a given use on a particular site.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.16.030 Procedures.**

A. Site plan review is processed as a Type 3 decision, or Type 2 decision for a minor amendment to an approved site plan, pursuant to Chapter 18.08. Site plan review may be conducted independently or concurrently with any other development permit required by this title, including but not limited to a preliminary plat, short plat or master planned development.

B. Pre-Application Conference Required. A pre-application conference between the site plan applicant or representative and city staff is mandatory. The purpose of this conference is for the applicant to familiarize the staff with the proposed site plan, and for the staff to review with the applicant the city's submittal requirements, processing procedures, development standards and city requirements applicable to site plans. The city may establish a fee for the pre-application conference.

C. Application Requirements. An application for site plan review shall include the following:

1. Vicinity map, showing site boundaries and existing roads and accesses within and bounding the site;
2. Site plans, drawn to a scale no less than one inch equals fifty feet, showing the location and size of uses, buffer and open space areas, landscaped areas, areas of disturbance outside building footprints, and any existing structures, easements and utilities;
3. Topographic map, based on a site survey delineating existing contours at no less than five-foot intervals, and which locates existing streams, wetlands and other natural features;
4. Conceptual landscape plan;
5. Parking and circulation plan;
6. Preliminary stormwater management plan;
7. Utilities plan;
8. An open space plan if the clustering provisions of Chapter 18.84 are being used;
9. Other reports or studies as determined applicable by the director, including but not limited to geotechnical, critical areas, and/or traffic;
10. SEPA environmental checklist unless the proposal is categorically exempt per Chapter 19.04, SEPA regulations; and
11. Narrative description of the proposal including: (i) site size, building size, and impervious surface coverage, and amount of area devoted to open space and recreation, landscaping and parking; calculations of gross and net density (ii) comprehensive plan and zoning designations; (iii) ele-

vations and perspective drawings of proposed structures and other proposed improvements; (iv) any agreements, covenants or other provisions that affect the proposal; and (v) signatures, mailing addresses and phone numbers of all owners of record or agents of the subject property.

The director may modify these requirements based on the size, scope and complexity of the proposal.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.16.040 Criteria for approval.**

To be approved, or approved with conditions, a site plan must be consistent with the city's comprehensive plan and must comply with all applicable development regulations, codes and other city requirements. Site plans that incorporate clustered development must also meet the criteria of Chapter 18.84.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.16.050 Amendments to approved site plans.**

A. Minor alterations to an approved site plan are Type 2 administrative decisions that may be approved by the director. "Minor alterations" are defined to mean and are limited to those which may affect the precise dimensions or siting of buildings, such as site coverage, height or setbacks, but which do not affect the basic character, arrangement or density of development, or the amount or quality of open space or landscaping. Such dimensional adjustments shall not vary more than ten percent and shall not exceed the standards of the applicable zoning district.

B. Major amendments are Type 3 permit applications and are processed in accordance with Chapter 18.08. Major amendments are those which substantially change the character, basic design, density, open space or other conditions or requirements of the site plan. No building or other permit shall be issued unless and until the major amendment has been approved pursuant to applicable procedures.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**Chapter 18.30**

**SINGLE-FAMILY RESIDENTIAL  
DISTRICTS—R4 & R6**

**Sections:**

**18.30.010 Intent.**

**18.30.020 Permitted uses.**

**18.30.030 Conditional uses.**

**18.30.040 Development standards.**

**18.30.050 Additional requirements.**

**18.30.010 Intent.**

It is the intent of this chapter to:

A. Enhance the residential quality of the city by providing a high standard of development for single-family residential areas.

B. Designate certain areas in which single-family structures on individual lots are the predominant type of dwelling unit.

C. Guide residential development to those areas where public sewers are in place or can be extended efficiently at reasonable cost.

D. Guide development of residential areas in such manner as to assure availability of public services and community facilities such as utilities, police and fire protection, schools, parks and recreation.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.30.020 Permitted uses.**

A. Residential.

1. Single-family detached structures on individual lots.

2. Manufactured housing as provided in Chapter 18.90.

B. Other or Related Uses.

1. Accessory buildings or structures as provided in Chapter 18.50.

2. Temporary uses as provided in Chapter 18.52.

3. Home occupations as provided in Chapter 18.54.

4. Utilities, underground.

5. Child day care for up to twelve children.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.30.030 Conditional uses.**

The following uses not allowed as permitted uses in Section 18.30.020 may be allowed by approval of a conditional use permit in accordance with Chapters 18.08 and 18.12:

A. Child care for more than twelve children, including nursery schools, day care centers and preschools.

B. Utilities, aboveground.

C. Public uses/facilities.

D. Religious institutions, not to exceed ten thousand square feet gross floor area.

E. Duplexes, subject to the following criteria:

1. The minimum lot size for a duplex shall be one and one-half times that required for a single family detached structure. Only one duplex shall be permitted per lot which meets this standard;

2. A lot on which a duplex is proposed shall not be located within three hundred feet of any other lot on which a duplex or multiple unit structure is found (accessory dwelling units excluded), or constitute more than ten percent of the dwelling units in a single block;

3. Duplexes shall be subject to design standards to ensure their compatibility in terms of bulk, scale and architectural style with the surrounding neighborhood.

F. Private schools, K-12.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.30.040 Development standards.**

A. Site area and dimensional standards.

1. Minimum lot area:

a. Districts designated R4: Nine thousand six hundred square feet.

b. Districts designated R6: Seven thousand two hundred square feet.

2. Maximum density.

a. R4 district: four dwelling units per acre.

b. R6 district: six dwelling units per acre.

3. Minimum lot width: Sixty feet.

4. Minimum lot depth: Eighty feet.

5. Minimum front yard:
    - a. On minor street: Twenty feet.
    - b. On major street: Twenty-five feet.
  6. Minimum side yards: Seven feet.
    - a. Minimum on a flanking street: Ten feet.
  7. Minimum rear yard: Twenty feet.
  8. Maximum building coverage: Thirty per cent.
    9. Maximum building height:
      - a. Primary dwelling unit: Thirty-two feet.
      - b. Accessory building: No greater than the height of the primary dwelling unit or twenty-six feet, whichever is less.
    - B. Parking. Off-street parking shall be provided in accordance with Chapter 18.80.
    - C. Landscaping.
      1. Landscaping shall be planned and provided in accordance with Chapter 18.72.
      2. Development shall also comply with the tree preservation requirements of Chapter 19.30.
    - D. Signs. Regulation of signs is provided in Chapter 18.92.
    - E. Lighting. Lighting shall comply with the requirements of Chapter 18.70.
    - F. Storage and Exterior Displays.
      1. Required landscaping or buffer areas shall not be used for storage of any sort.
      2. Storage or parking of motor vehicles for rental income is prohibited.
- (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.30.050 Additional requirements.**

- A. All development within the R4 and R6 zones shall comply with applicable environmental performance standards of Chapter 18.80 and, if applicable, the design review requirements of Chapter 18.76.
- (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**Chapter 18.32**

**MEDIUM DENSITY RESIDENTIAL  
DISTRICT—MDR8**

**Sections:**

**18.32.010 Intent.**

**18.32.020 Permitted uses.**

**18.32.030 Conditional uses.**

**18.32.040 Development standards.**

**18.32.050 Additional requirements.**

**18.32.010 Intent.**

It is the intent of this section to:

- A. Enhance the residential quality of the city by providing a high standard of development for multi-family residential areas;
  - B. Designate appropriate areas in which medium density residential structures on individual lots are the predominant type of dwelling unit;
  - C. Guide medium density residential development to those areas where (i) public sewers are in place prior to building construction, or (ii) where sewers can be extended at minimal cost;
  - D. Guide the development of multi-family residential dwellings to such areas and in such manner as to assure availability of public services and community facilities such as utilities, police and fire protection, schools, parks and recreation, and convenient access to public transportation consistent with city level of service standards;
  - E. Encourage the preservation of critical areas and other significant places identified in the city's transfer of development rights program (Chapter 19.24) by allowing increased densities when the TDR mechanism is used; and
  - F. Apply appropriate guidelines to ensure that structures developed for medium density residential use are well designed.
- (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.32.020 Permitted uses.**

**A. Residential.**

1. Single-family structures on individual lots, whether attached or detached.

2. Multi-family residential structures, provided that no individual structure shall contain more than six dwelling units.

3. Cottage housing, as provided in Chapter 18.88.

4. Manufactured housing as provided in Chapter 18.90.

**B. Other or Related Uses.**

1. Accessory buildings or structures as provided in Chapter 18.50.

2. Temporary uses as provided in Chapter 18.52.

3. Home occupations as provided in Chapter 18.54.

4. Utilities, underground.

5. Child day care for up to twelve children.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.32.030 Conditional uses.**

The following uses not allowed as permitted uses in Section 18.32.020 may be allowed by conditional use permit in accordance with Chapters 18.08 and 18.12:

A. Child care including nursery schools, day care centers and preschools for more than twelve children;

B. Utilities, aboveground;

C. Public uses/facilities;

D. Religious institutions, not to exceed ten thousand square feet gross floor area.

E. Bed and breakfast;

F. Senior housing;

G. Elderly housing—assisted;

H. Manufactured home parks;

I. Group homes;

J. Private schools, K-12.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.32.040 Development standards.**

**A. Site Area and Dimensional Standards.**

1. Maximum Density. Eight dwelling units per acre without transfer of development rights; twelve dwelling units per acre with transfer of development rights.

**2. Minimum lot area:**

a. Multi-family structures: Seven thousand two hundred square feet;

b. Single-family structures on individual lots: Three thousand six hundred square feet.

3. Minimum lot width: Fifty feet.

4. Minimum lot depth: Seventy feet.

5. Minimum front yard:

a. On minor street: Twenty feet.

b. On major street: Twenty-five feet.

6. Minimum side yards:

a. Minimum on interior lot lines: Seven feet.

b. Minimum on a flanking street: Ten feet.

7. Minimum rear yard: Ten feet.

8. Maximum building coverage: Fifty percent.

9. Maximum building height:

a. Main building: Thirty-five feet.

b. Accessory buildings: The height of the primary building(s) or twenty-six feet, whichever is less.

10. Structure Separation. On lots containing more than one structure, there shall be a distance of not less than ten feet, between all buildings, including accessory buildings.

11. Bonus Density. The inclusion of senior or elderly-assisted housing within a project may be granted a bonus density as follows:

a. The additional density may be one percent for each one percent of total project dwelling units dedicated to senior or elderly-assisted housing;

b. The bonus shall be calculated on the total units dedicated, regardless of type; and

c. The maximum bonus density shall not exceed twenty percent for a project.

B. Parking. Off-street parking shall be provided in accordance with Chapter 18.80.

C. Landscaping.

1. Landscaping shall be planned and provided in accordance with Chapter 18.72.

2. Development shall also comply with the tree preservation requirements of Chapter 19.30.

D. Signs. Regulation of signs is provided in Chapter 18.92.

E. Lighting. Lighting shall comply with the requirements of Chapter 18.70.

F. Storage and Exterior Displays.

1. Required landscaping or buffer areas shall not be used for storage of any sort.

2. Storage or parking of motor vehicles for rental income is prohibited.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.32.050 Additional requirements.**

A. All development within the MDR8 zone shall comply with the applicable environmental performance standards of Chapter 18.80, the site plan review requirements of Chapter 18.16, and design review requirements of Chapter 18.76.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**Chapter 18.34**

**SUPPLEMENTAL RESIDENTIAL  
STANDARDS**

**Sections:**

**18.34.010 Purpose.**

**18.34.020 Height.**

**18.34.030 Yards and open space.**

**18.34.040 Lots.**

**18.34.010 Purpose.**

The purpose of this chapter is to ensure adequate light, air and open space within residential areas, while protecting the rights of owners to attain a reasonable use of their property that would be denied by strict adherence to the development standards of the applicable zone district.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.34.020 Height.**

The maximum basic height limitation for all principal and accessory buildings in the various zone districts shall not apply to cupolas that do not extend more than three feet above the roof line, flagpoles, transmission lines, residential antennas, and other similar structures as determined by the director.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.34.030 Yards and open space.**

Except as provided in this section, every required yard shall be open and unobstructed from the ground to the sky.

A. The following may project from a building into a required yard setback no more than two feet:

1. Fireplace structures not wider than eight feet measured in the general direction of the wall of which it is a part;

2. Bay windows and garden windows which do not require a foundation;

3. Enclosed stair landings;

4. Personal television satellite dishes;

5. Cornices, sills, eave projections and awnings without enclosing walls or screening;

6. Planting boxes or masonry planters not exceeding 30 inches in height.

**B. Porches and Platforms.**

1. Uncovered porches and platforms which do not extend above the floor level of the first floor may project two feet into required side yards and six feet into required front and rear yards;

2. Covered but enclosed porches and platforms which do not extend above the floor level of the first floor and which are no wider than fifty percent of the building's frontage may project five feet into a required front yard.

**C. Special Front Yard Depth.** If buildings existing on July 17, 1980 occupy more than fifty percent or more of the buildings on one side of a street are set back less than the required front yard of the applicable zone district, then in lieu thereof, the depth of the front yard shall not be less than the average depth of the front yards on that block front, provided that:

1. No building shall be required to set back more than two feet further than a building on an adjoining lot;

2. No front yard shall be less than twenty feet to a garage, either attached or detached.

**D. Side Yard Width Reductions.** In the R4, R6 and MDR8 districts, where there exists a lot on which it is possible to construct a single family dwelling, and the lot has a width of less than forty feet, then the required interior side yard setback may be reduced to three feet for all portions of the structure, including those noted in subsection A of this section.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.34.040 Lots.**

**A.** A lot of record in existence at the date of passage of this code with an area and/or width or depth less than that prescribed for the applicable zone district may be developed with a single family residence, provided all other regulations of this title complied with.

**B.** Special provisions for lot coverage on substandard lots. Lot coverage may be determined by using the following formula:  $(A/B) * C = D (\%)$

A = lot area required by the applicable district

B = lot area of existing lot

C = percentage of lot coverage allowed by the applicable district

D = percentage of lot coverage allowed for the substandard lot.

In no case shall the lot coverage exceed fifty percent, unless otherwise allowed by this title.

**C.** Special front and rear yard setbacks on substandard lots. Either the front or rear yard setback may be determined by using the following formula:  $(A/B) * C = D$

A = depth of the existing lot

B = lot depth required by the applicable district

C = front or rear yard setback required by the applicable district

D = front or rear yard setback allowed for the substandard lot

In no case shall the front or rear yard setback be less than ten feet or twenty feet to a garage, either attached or detached, unless otherwise allowed by this title.

**D.** Side yard setbacks for substandard lots. Side yard setbacks may be determined by using the following formula:  $A = (A/B) * C = D$

A = width of the existing lot

B = lot width required by the applicable district

C = side yard setback required by the applicable district

D = side yard setback allowed for the substandard lot

In no case shall the interior side yard setback be less than three feet for all portions of the structure, including those noted in Section 18.46.030(A), nor shall a flanking street side yard setback be less than ten feet.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

## Chapter 18.36

### NEIGHBORHOOD CENTER—NC

#### Sections:

#### 18.36.010 Intent.

#### 18.36.020 Permitted uses.

#### 18.36.030 Conditional uses.

#### 18.36.040 Development standards.

#### 18.36.050 Additional requirements.

#### 18.36.010 Intent.

It is the intent of this section to:

A. Enhance residents' access to goods and services needed daily in a setting that contributes to neighborhood character, encourages pedestrian activity, reduces automobile use, and serves as a focus of neighborhood life;

B. Create a complementary mix of neighborhood-serving retail, personal service, general office, entertainment/cultural, public service, and residential uses for a range of lifestyles;

C. Guide the development of multi-family residential dwellings to such areas and in such manner as to assure availability of public services and community facilities such as utilities, police and fire protection, schools, parks and recreation, and convenient access to public transportation consistent with city level of service standards;

D. Allow mixed use developments that integrate residential uses into neighborhood centers, either within the same building or on the same development site, to enhance living convenience;

E. Encourage orientation to the street and pedestrian amenities to create a pleasant pedestrian environment; and

F. Ensure that the nature of development is harmonious with the surrounding single family neighborhood in intensity, scale, quality, and character.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.36.020 Permitted uses.

A. Retail. The following uses only are allowed:

1. Supermarket and grocery stores: Limited to not more than forty thousand square feet gross floor area.

2. All other typical neighborhood retail uses: Limited to not more than ten thousand square feet gross area for each individual use, whether in a separate building or combined with other uses in one building, not to exceed one hundred thousand square feet gross floor area in total; and excluding drive-through facilities and automobile fueling stations.

B. Personal services provided primarily to neighborhood residents: Limited to not more than four thousand square feet gross floor area per business.

C. General offices: Limited to not more than four thousand square feet gross floor area per business and excluding drive-through facilities.

D. Entertainment/culture: Limited to not more than five thousand square feet gross floor area or capacity of not more than one hundred patrons per business, whichever is greater, and excluding drive-through facilities.

E. Residential uses in attached structures if included as an element of mixed use site development or on upper floors of a mixed use structure.

F. Utilities, below ground.

G. Other or Related Uses:

1. Accessory uses and structures as provided in Chapter 18.50.

2. Temporary uses as provided in Chapter 18.52.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.36.030 Conditional uses.

The following uses may be allowed by conditional use permit in accordance with Chapters 18.08 and 18.12:

A. Bed and breakfast;

B. Religious institutions;

C. Drive-through facilities, maximum one per property;

- D. Essential public facilities;
- E. Utilities, aboveground;
- F. Public uses/facilities;
- G. Senior housing;
- H. Automobile fueling stations.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.36.040 Development standards.**

**A. Dimensional Standards.**

1. Bulk Limit: For structures without residential uses, floor area ratio (F.A.R.) shall not exceed 1.0 (total gross floor area shall not be greater than total site area); for mixed-use structures containing residential uses, F.A.R. shall not exceed 2.0 (total gross floor area shall not be greater than twice total site area).

2. Maximum Allowed Height: Thirty-five feet, without residential on upper floors; fifty feet, with residential on upper floors.

3. Minimum Lot Area, Width and Depth: None.

4. Maximum Front Yard Setback: At least sixty percent of the width of any street façade of a primary use shall be set back no more than ten feet from the front property line, provided that the maximum allowed setback is fifteen feet for structures with first floor residential uses.

5. Minimum Side Yard Setback: Twenty feet if abutting a residential zone plus one foot additional setback for each foot of building height over thirty-five feet.

6. Minimum Rear Yard Setback: If abutting a residential zone, fifteen feet for a building without residential use and twenty feet for a building with residential use plus one foot additional setback for each foot of building height over thirty-five feet.

7. Maximum Impervious Surface Coverage: Eighty percent.

**8. Maximum Residential Density:**

a. Without bonuses: Twelve dwelling units per acre in an exclusively residential building; in a mixed use building, none (only as limited by F.A.R., height, parking and other site development standards).

b. Inclusion of senior housing within a project may be granted a bonus density as follows:

c. A one percent density bonus for each percent of total project dwelling units dedicated to senior housing;

d. The bonus shall be calculated on the total units dedicated, regardless of type; and

e. The maximum bonus density shall not exceed twenty percent for a project.

9. Maximum Site Area: Ten acres.

**B. Parking.** Off-street parking shall be provided in accordance with Chapter 18.80.

**C. Landscaping.**

1. Landscaping shall be planned and provided in accordance with Chapter 18.72.

2. Development shall also comply with the tree preservation requirements of Chapter 19.30.

**D. Signs.** Regulation of signs is provided in Chapter 18.92.

**E. Lighting.** Lighting shall comply with the requirements of Chapter 18.70.

**F. Storage and Exterior Displays.**

1. Required landscaping or buffer areas will not be used for storage of any sort.

2. There shall be no exterior storage of any items whether or not for sale, other than sidewalk displays of retail items during operating hours only or as otherwise permitted as a temporary use. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.36.050 Additional requirements.**

A. All development within the NC zone shall comply with applicable environmental performance standards of Chapter 18.80, and the site plan review requirements of Chapter 18.16 and the design review requirements of Chapter 18.64. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

## Chapter 18.38

### COMMUNITY COMMERCIAL DISTRICT— CC

#### Sections:

#### 18.38.010 Intent.

#### 18.38.020 Permitted uses.

#### 18.38.030 Conditional uses.

#### 18.38.040 Development standards.

#### 18.38.050 Additional requirements.

#### 18.38.010 Intent.

It is the intent of this section to:

A. Encourage the development of retail facilities which offer a relatively wide range of goods to consumers within the community and the broader regional marketplace;

B. Encourage the clustering of such facilities on sites of sufficient size to provide opportunity for attractive design and arrangement of buildings, safe and convenient access and parking;

C. Limit location of such sites to major arterials or intersections of major traffic ways in order that said sites may serve the entire community and broader region; and

D. Encourage mixed-use developments that integrate residential uses into commercial projects, either within the same building or on the same development site, to enhance living convenience. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.38.020 Permitted uses.

A. Retail, including automobile fueling stations and uses involving outdoor product display or storage;

B. Personal and professional services;

C. Entertainment/cultural;

D. Religious institutions;

E. Drive-through facilities, including automobile fueling stations;

F. Hotel, motel, and other visitor lodging;

G. Residential, if developed as an element of mixed use site development, either in separate buildings or on the upper floors of a mixed use

building; provided that, residential is not allowed at street level within buildings fronting an arterial street;

H. Public uses/facilities;

I. Utilities, below-ground; and

J. Other or related uses:

1. Accessory uses and structures as provided in Chapter 18.50.

2. Temporary uses as provided in Chapter 18.52.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.38.030 Conditional uses.

The following uses not allowed as permitted uses in Section 18.38.020 may be allowed by conditional use permit in accordance with Chapters 18.08 and 18.12:

A. Major institutions;

B. Essential public facilities;

C. Utilities, aboveground;

D. Wholesale or retail establishments, or hybrid wholesale/retail establishments, larger than fifty thousand square feet; and

E. Mini storage facilities.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.38.040 Development standards.

A. Dimensional Standards.

1. Floor area ratio (F.A.R.) limit: For structures or sites without residential uses, F.A.R. shall not exceed 1.0 (total gross floor area shall not be greater than total site area); for mixed-use structures and/or sites with residential uses, F.A.R. shall not exceed 2.0 (total gross floor area shall not be greater than twice the total site area).

2. Maximum allowed height: Forty-five feet.

3. Minimum lot area, width and depth: None.

4. Maximum front yard setback: At least forty percent of the width of any street façade of a primary use shall set back no more than ten feet from the front property line.

5. Minimum side yard setback: Fifteen feet if abutting a residential zone plus one foot of additional setback for each additional foot of building height above thirty-five feet. All other zones: none.

6. Minimum rear yard setback: Fifteen feet if abutting a residential zone plus one foot of additional setback for each additional foot of building height above thirty-five feet. All other zones: none.

7. Maximum impervious surface coverage: Eighty percent.

8. Maximum residential density: None; only as limited by F.A.R., height, parking and other site requirements. Inclusion of senior housing within a project may be granted a bonus density as follows:

a. Density may be increased by one percent for each one percent of total project dwelling units that are dedicated to senior housing;

b. The bonus shall be calculated on the total units dedicated, regardless of type; and

c. The maximum bonus density shall not exceed twenty percent for a project.

B. Parking. Off-street parking shall be provided in accordance with Chapter 18.80.

C. Landscaping.

1. Landscaping shall be planned and provided in accordance with Chapter 18.86.

2. Development shall also comply with the tree preservation requirements of Chapter 19.30.

D. Signs. Regulation of signs is provided in Chapter 18.82.

E. Lighting. Lighting shall comply with the requirements of Chapter 18.70.

F. Storage and Exterior Displays.

1. Required landscaping or buffer areas shall not be used for storage or product display of any sort.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.38.050 Additional requirements.**

A. All development within the CC zone shall comply with applicable environmental performance standards of Chapter 18.78, the site plan review requirements of Chapter 18.16, and design review requirements of Chapter 18.76.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**Chapter 18.40**

**TOWN CENTER—TC**

**Sections:**

**18.40.010 Intent.**

**18.40.020 Permitted uses.**

**18.40.030 Conditional uses.**

**18.40.040 Development standards.**

**18.40.050 Additional requirements.**

**18.40.010 Intent.**

It is the intent of this section to:

A. Encourage a range of retail, service, civic, entertainment, recreation, and residential uses to maintain a town center as the primary district of community activity and social interaction;

B. Provide opportunities for an integration of living, working, shopping, entertainment, civic and recreation activities to serve a variety of lifestyles;

C. Insure that new development occurs in a manner that is complementary to surrounding uses and neighborhoods;

D. Encourage street-oriented store frontages and sidewalk amenities to enhance the pedestrian atmosphere;

E. Reduce the amount of vehicular travel required of the consumer to access goods and services needed in daily living;

F. Encourage mixed-use developments that integrate residential uses into commercial projects, either within the same building or on the same development site, to enhance living convenience; and

G. Create a place that serves as the social and activity heart of the community and is recognized as the central venue of community life.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.40.020 Permitted uses.**

A. Retail;

B. Personal and professional services;

C. General office;

D. Entertainment/culture;

E. Public uses/facilities, limited to general governmental administrative offices;

F. Residential, if in an attached building and developed as an element of mixed use site development or on the upper floors of a mixed use building; residential is not allowed at street level if fronting an arterial street;

G. Utilities, below-ground.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.40.030 Conditional uses.

The following uses not allowed as permitted uses in Section 18.40.020 may be allowed by conditional use permit in accordance with Chapters 18.08 and 18.12:

A. Child care including nursery schools and day care centers;

B. Utilities, aboveground;

C. Major institution;

D. Private clubs, fraternal lodges and similar organizations;

E. Religious institutions;

F. Public uses/facilities not otherwise permitted in Section 18.40.020;

G. Parking structures not associated with a primary, permitted use;

H. Senior housing.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.40.040 Development standards.

A. Development Within the Town Center District.

1. All new construction and reconstruction of existing buildings shall be designed and built so that the exterior appearance of the finished building complements and enhances the historic character of the district.

2. At the time of site plan review, the applicant shall submit a color architectural rendering showing the elevations of the proposed construction including the types of materials to be used.

3. The director shall solicit and the hearing examiner shall consider the comments of the Black

Diamond Historical Society, and any other agency or entity with expertise, in reaching a decision on the proposed building and site plan.

B. Dimensional Standards.

1. Floor area ratio (F.A.R.) limit: For structures without residential uses, F.A.R. shall not exceed 1.0 (total gross floor area shall not be greater than total site area); for mixed-use structures with residential uses, F.A.R. shall not exceed 2.0 (total gross floor area shall not be greater than twice the total site area).

2. Maximum allowed height: Thirty-five feet, without residential; fifty feet, with residential.

3. Minimum lot area, width and depth: None.

4. Maximum front yard setback: One hundred percent of the width of any street façade of a primary use shall set back no more than five feet from the front property line, unless a public plaza or similar amenity is provided between the façade and the street. The maximum allowed setback is ten feet for structures.

5. Minimum side yard setback: Ten feet if abutting a residential zone plus one foot additional setback for each foot of building height over thirty-five feet.

6. Minimum rear yard setback: If abutting a residential zone, ten feet for a building without residential use and fifteen feet for a building with residential use, plus one foot additional setback for each foot of building height over thirty-five feet.

7. Maximum impervious surface coverage: One hundred percent.

8. Maximum residential density: None; only as limited by F.A.R., height, parking and other site requirements. Inclusion of senior housing within a project may be granted a bonus density as follows:

a. Density may be increased by one percent for each one percent of total project dwelling units that are dedicated to senior housing;

b. The bonus shall be calculated on the total units dedicated, regardless of type; and

c. The maximum bonus density shall not exceed twenty percent for a project.

d. Parking. Off-street parking is not required for any use in the town center zone.

e. Landscaping.

C. Landscaping.

1. Landscaping shall be planned and provided in accordance with Chapter 18.86.

2. Development shall also comply with the tree preservation requirements of Chapter 19.30.

D. Signs. Regulation of signs is provided in Chapter 18.82.

E. Lighting. Lighting shall comply with the requirements of Chapter 18.70.

F. Storage and Exterior Displays.

1. Landscaping or buffer areas will not be used for storage of any sort.

2. There shall be no exterior storage of any items whether or not for sale, other than sidewalk displays of retail items during operating hours only.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.40.050 Additional requirements.**

A. All development within the TC zone shall comply with applicable environmental performance standards of Chapter 18.80, the site plan review requirements of Chapter 18.16, and design review requirements of Chapter 18.76.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**Chapter 18.42**

**BUSINESS/INDUSTRIAL PARK—B/IP**

**Sections:**

**18.42.010 Intent.**

**18.42.020 Permitted uses.**

**18.42.030 Conditional uses.**

**18.42.040 Development standards.**

**18.42.050 Other requirements.**

**18.42.010 Intent.**

It is the intent of this section to:

A. Provide areas for the development and growth of non-retail businesses engaged in high technology and software development, research and development, general office, wholesale, distribution and limited manufacturing activities to expand the community's economic and employment base;

B. Promote concentrated, master-planned developments with cohesive design elements for architecture, landscaping, and circulation; development with high-visual quality and park-like site characteristics; functional and aesthetic compatibility with adjacent uses and neighborhoods; and enhanced opportunities for walking, biking and transit; and

C. Insure a mix of complementary support uses, including technical consulting, personnel and productivity support services, and limited retail and service uses to support the principal business/ industrial uses and reduce off-site vehicle trips to access business support services.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.42.020 Permitted uses.**

A. Office, research and technology and light manufacturing activities that do not create significant noise, emissions, risk of explosion or release of hazardous materials, or air or water pollution;

B. General office, including call centers and other customer service communication centers;

C. Research and development;

D. Technology, biotechnology and medical equipment;

E. Light manufacturing, providing all production and storage activity is conducted indoors;

F. Wholesaling;

G. Business support services, such as technology services and support, copy centers, and eating and drinking establishments to serve the occupants of the business park. The total gross floor area of such uses is not to exceed twenty percent of the total project gross floor area and a five thousand gross square feet maximum for any individual use;

H. Child care including nursery schools and day care centers integrated within a master-planned development;

I. Utilities, below-ground;

J. Private schools; and

K. Other uses.

1. Accessory uses as provided in Chapter 18.50.

2. Temporary uses as provided in Chapter 18.52.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.42.030 Conditional uses.**

The following uses may be allowed by conditional use permit in accordance with Chapters 18.08 and 18.12:

A. Adult-oriented businesses, consistent with the requirements of Chapter 18.60;

B. Religious institutions;

C. Essential public facilities including secure community transition facilities;

D. Major institutions;

E. Parks and open space whether public and private;

F. Public uses/facilities;

G. Utilities, aboveground;

H. Entertainment/culture facilities;

I. Parking structures not associated with a primary, permitted use.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.42.040 Development standards.**

A. Development Standards.

1. Minimum lot size: One and one-half acres.

2. Floor area ratio (F.A.R.): 1.0.

3. Maximum allowed height: Forty-five feet.

4. Minimum front yard setback: Forty feet.

5. Minimum side yard: Thirty feet, and one additional foot for each foot of height above thirty-five feet if abutting a residential zone.

6. Minimum rear yard: Thirty feet, and one additional foot for each foot of height above thirty-five feet if abutting a residential zone.

7. Maximum impervious surface coverage: Seventy-five percent.

B. Parking and Loading.

1. Off-street parking shall be provided in accordance with Chapter 18.80.

2. One off-street loading area shall be provided for each twenty thousand square feet of building area, sufficient in size and location so as not to interfere with customer parking areas.

3. Buildings, parking spaces and loading areas are to be so arranged as to make it unnecessary to back out into the public right-of-way to leave the site.

4. There shall be no loading area within one hundred feet of any residential zone.

C. Landscaping.

1. Landscaping shall be provided pursuant to Chapter 18.72.

2. Development shall also comply with the tree preservation requirements of Chapter 19.30.

D. Signs. Regulation of signs is provided for in Chapter 18.82.

E. Lighting. Lighting shall comply with the requirements of Chapter 18.70.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.42.050 Other requirements.**

A. All development within the B/IP zone shall comply with applicable environmental performance standards of Chapter 18.78, the site plan review requirements of Chapter 18.16, and the design review requirements of Chapter 18.76.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

## Chapter 18.44

### INDUSTRIAL DISTRICT—I

#### Sections:

#### 18.44.010 Purpose.

#### 18.44.020 Permitted Uses

#### 18.44.030 Conditional uses.

#### 18.44.040 Development standards.

#### 18.44.050 Other requirements.

#### 18.44.010 Purpose.

The intents of this section are to:

A. Provide areas for the development and growth of general manufacturing and other industrial activities to contribute to the community's economic health, provide employment opportunities for residents, and generate tax revenues to support the provision of public services;

B. Keep industrial activities within reasonable scale and consistent with the character of the city;

C. Protect industrial areas from such other uses as may interfere with the purpose and efficient functioning of such areas;

D. Protect residential and other non-industrial areas from adverse or damaging impact of any kind emanating or resulting from industrial areas; and

E. Provide standards for development of industrial areas.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.44.020 Permitted uses.

A. Heavy manufacturing;

B. Light manufacturing;

C. Research and development;

D. General office associated with a primary manufacturing use;

E. Wholesaling;

F. Warehousing and distribution;

G. Business support services including eating establishments primarily serving the immediate work force; the total gross floor area of such uses

shall not exceed twenty percent of the total district area and a five thousand gross square feet maximum area for any individual use;

H. Utilities;

I. Public uses/facilities;

J. Private schools; and

K. Other uses:

1. Accessory uses as provided in Chapter 18.50.

2. Temporary uses as provided in Chapter 18.52.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.44.030 Conditional uses.

The following uses may be allowed by conditional use permit in accordance with the requirements of Chapters 18.08 and 18.12:

A. Adult-oriented businesses, consistent with the requirements of Chapter 18.60;

B. Major institution;

C. Essential public facilities;

D. Automobile wrecking yards.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.44.040 Development standards.

A. Development standards:

1. Minimum site area: Five acres.

2. Floor area ratio (F.A.R.): 1.0.

3. Maximum allowed height: Fifty feet.

4. Minimum front yard setback: Twenty feet.

5. Minimum side and rear yard setback: Twenty-five feet, or fifty feet if abutting a residential zone, provided that there are no required setbacks along a property line abutting another I-zoned property.

6. Maximum impervious surface coverage: ninety percent.

B. Parking. Off-street parking shall be provided in accordance with Chapter 18.80.

C. Landscaping.

1. Landscaping shall be planned and provided in accordance with Chapter 18.72.

2. Development shall also comply with the tree preservation requirements of Chapter 19.30.

D. Signs. Regulation of signs is provided in Chapter 18.82.

E. Lighting. Lighting shall comply with the requirements of Chapter 18.70.

F. Storage and Exterior Displays.

1. Required landscaping or buffer areas shall not be used for storage of any sort.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.44.050 Other requirements.**

A. All development shall comply with applicable environmental performance standards of Chapter 18.78, the site plan review requirements of Chapter 18.16 and design review requirements of Chapter 18.76.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**Chapter 18.46**

**PUBLIC—PUB**

**Sections:**

**18.46.010 Intent.**

**18.46.020 Permitted uses.**

**18.46.030 Conditional uses.**

**18.46.040 Development standards.**

**18.46.050 Additional requirements.**

**18.46.010 Intent.**

It is the intent of this section to:

A. Recognize publicly-owned uses that may not be appropriate within other zone districts due their current or intended use.

B. Limit the use of these properties to protect the public interest in their long-term maintenance.

C. Provide public awareness of the potential uses of neighboring public land.

D. Allow for a more accurate assessment of other land use designations as they relate to the overall growth and development of the city.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.46.020 Permitted uses.**

A. Utilities, below-ground;

B. Public uses/facilities;

C. Parks;

D. Caretakers' quarters;

E. Other or related uses:

1. Accessory uses and structures as provided Chapter 18.50.

2. Temporary uses as provided in Chapter 18.52.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.46.030 Conditional uses.**

The following uses not allowed as permitted uses in Section 18.46.020 may be allowed by conditional use permit in accordance with Chapters 18.08 and 18.12:

A. Major institutions;

B. Essential public facilities; and

C. Utilities, aboveground.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.46.040 Development standards.**

- A. Dimensional Standards. None.
- B. Parking. Off-street parking shall be provided in accordance with Chapter 18.80.
- C. Landscaping.
  - 1. Landscaping shall be planned and provided in accordance with Chapter 18.86.
  - 2. Development shall also comply with the tree preservation requirements of Chapter 19.30.
- D. Signs. Regulation of signs is provided in Chapter 18.82.
- E. Lighting. Lighting shall comply with the requirements of Chapter 18.70.
- F. Storage and exterior displays.
  - 1. Landscaping or buffer areas shall not be used for storage of any sort.
  - 2. There shall be no exterior storage of any items whether or not for sale, other than sidewalk displays of retail items during operating hours only or as otherwise allowed by a temporary use permit.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.46.050 Additional requirements.**

A. All development within the PUB zone shall comply with applicable environmental performance standards of Chapter 18.78, the site plan review requirements of Chapter 18.16, and design review requirements of Chapter 18.76.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**Chapter 18.50**

**ACCESSORY USES AND STRUCTURES**

**Sections:**

- 18.50.010 Intent.**
- 18.50.020 General provisions.**
- 18.50.030 Residential zone accessory uses and structures.**
- 18.50.040 Commercial zones accessory uses and structures.**
- 18.50.050 Industrial zone accessory uses and structures.**
- 18.50.060 Fences and walls.**

**18.50.010 Intent.**

This chapter recognizes activities and structures that are customarily subordinate and incidental to a principal use of the land or building and that are not otherwise regulated by this title.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.50.020 General provisions.**

A. Accessory structures shall be complementary to the basic architectural character of the main building on the lot, and appropriate to the nature of the accessory use, and are subject to the applicable design guidelines of Chapter 18.76.

**B. Required Setbacks:**

1. Accessory structures shall observe the front, side and rear yard setback requirements of the zone in which they are located, except as provided in this chapter.

**C. Maximum Accessory Structure Height:**

- 1. Residential zones: Twenty-six feet or the height of the principal structure, whichever is less.
- 2. Neighborhood commercial, community business and town center zones: Twenty-six feet.
- 3. Business/industrial park and industrial zones: Thirty-five feet or the height of the principal use structure, whichever is less.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.50.030 Residential zone accessory uses and structures.**

A. The following accessory uses/activities are allowed in residential zones:

1. The cultivation of flowers, trees or produce intended primarily for personal use or enjoyment.

2. The keeping of animals is permitted in compliance with the Title 6 of this code.

3. Accessory dwelling units in accordance with Chapter 18.56.

4. Detached garage(s), carport(s), and parking facilities for the residents of the property.

5. Storage sheds not greater than two hundred square feet in gross floor area.

6. Playhouses, patios, cabanas, porches, gazebos, swimming pools, workshops, garden sheds and incidental household storage buildings.

7. Common recreational vehicle storage facilities limited to serving the development in which they are located.

8. Temporary storage containers used during an active construction project.

**B. Detached Accessory Buildings.**

1. For any lot nine thousand six hundred square feet or less, a detached accessory building not exceeding twenty-six feet in height may disregard rear and interior side yard setback requirements if such building is no greater than six hundred fifty square feet in floor area, is located in the rear thirty percent of the lot or further than seventy-five feet from the front lot line, and is no closer than twelve feet from the centerline of an adjacent alley.

2. The total area of all accessory buildings located within a required rear yard shall not exceed twenty-five percent of the area of the required rear yard.

3. Accessory buildings that exceed the building area, height and location standards noted above shall comply with all required yard setbacks.

4. No accessory building shall be larger than fifty percent of the ground floor area of the primary structure on any lot; provided that this lim-

itation shall not apply to accessory dwelling units or for agricultural buildings on lots greater than thirty-five thousand square feet in size.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.50.040 Commercial zones accessory uses and structures.**

The following accessory uses are allowed in the NC, CC, and TC zones:

A. Storage buildings not to exceed the gross floor area of the principal use and in no case greater than two thousand square feet.

B. Common storage facilities (including outdoor storage of recreational vehicles) limited to serving the residents of a mixed use development.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.50.050 Industrial zone accessory uses and structures.**

The following accessory uses are allowed in the B/IP and I zones:

A. Caretaker/security guard residence;

B. Storage buildings.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.50.060 Fences and walls.**

The height of the fence or wall shall be determined from the existing, established grade on the property.

A. Fences and walls may be constructed to a height not to exceed the following in each of the required setback areas, as regulated per each zone, or as modified by subsection B of this section:

1. Front yard: Forty-two inches; provided, that fences constructed of wrought iron or similar materials that provide visibility may be seventy-two inches in height;

2. Side yard: Seventy-two inches;

3. Rear yard: Seventy-two inches;

4. Street side yard: Seventy-two inches.

5. These limitations do not apply within the public zone district.

B. Special Height Restrictions. There shall not be anything constructed or reconstructed, and no obstruction permitted to grow, other than a

post, column or tree not exceeding one foot square or one foot in diameter, between a height three feet and ten feet above the established grade within the triangular areas described below, without the express approval of the public works director:

1. The triangular area formed by a line extending twenty feet along the right-of-way lines of a street and alley or edge of a private driveway, measured from the point of intersection and the line connecting the two ends of the two twenty-foot lines;

2. Fences located at the corner of intersecting streets shall comply with the sight distance requirements of the city public works standards.

C. In general, no fence, wall, hedge, structure or other obstruction shall act as a sight hazard to traffic, and the public works director may order the removal of such hazard whether or not such object otherwise complies with the provisions of this title.

D. Other than in the public, industrial or business/industrial park zones, no fence may include the use of barbed wire, razor wire, etc.; provided, that pasture areas a minimum of one acre in area may be fenced with barbed wire in any zone. Barbed wire may be attached to the top of and in addition to the height of a seventy-two-inch fence, provided it does not extend more than one additional foot in height.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**Chapter 18.52**

**TEMPORARY USES**

**Sections:**

**18.52.010 Intent.**

**18.52.020 General provisions.**

**18.52.030 Uses allowed only by temporary use permit.**

**18.52.040 Uses allowed without a temporary use permit.**

**18.52.010 Intent.**

This chapter regulates temporary or seasonal activities that are commonly experienced in the community but are only appropriate for a limited time. Because of their short duration and anticipated limited impact on their surroundings, some temporary uses may be allowed as-of-right if meeting prescribed limits of operation, while others of a more visible nature require review by the director prior to issuing a required permit.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.52.020 General provisions.**

A. A temporary use conducted in a parking area that is accessory to a permitted use shall not occupy or remove from availability more than twenty-five percent of the spaces required for that use.

B. Each site occupied by a temporary use must provide or have available sufficient parking and vehicular maneuvering area for customers. Such parking need not comply with all parking standards of this title but must provide safe and efficient interior circulation and ingress and egress to and from public rights-of-way.

C. The temporary use shall comply with all applicable standards of the King County health department.

D. No temporary use shall occupy or operate for more than six months within any calendar year unless approved by the hearing examiner under a long-term temporary use permit (Type 3 application pursuant to Section 18.08.060). A day of

operation shall mean any or part of any day in which the business is conducted. The six months need not run consecutively. The six months may occur at any time within a calendar year as long as each day is designated and approved.

E. All temporary uses shall obtain, prior to occupancy of the site, all applicable permits, licenses and other approvals (i.e., business license, building permit, administrative approvals, etc.)

F. The applicant for a temporary use shall supply written authorization from the owner of property on which the temporary use is located.

G. Each site occupied by a temporary use shall be left free of debris, litter, or other evidence of the temporary use upon completion of removal of the use.

H. All materials, structures and products related to the temporary use must be removed from the premises between days of operation on the site, provided that materials, structures and products related to the temporary use may be left on-site overnight between consecutive days of operation.

I. The director may establish such additional conditions as may be deemed necessary to ensure land use compatibility and to minimize potential impacts on nearby uses. These include but are not limited to, time and frequency of operation, temporary arrangements for parking and traffic circulation, requirement for screening or enclosure, and guarantees for site restoration and cleanup following temporary uses.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.52.030 Uses allowed only by temporary use permit.**

A. The following temporary uses, activities and associated structures are allowed by a Type 1 application temporary use permit, subject to the specific limitations of this chapter and as may be established by the director:

1. Outdoor art and craft shows and exhibits;
2. Retail sales of Christmas trees, agricultural or horticultural products, firewood, seafood, and other items typically marketed seasonally;

3. Mobile services such as veterinary services for purposes of giving vaccinations;

4. Group retail sales such as swap meets, flea markets, parking lot sales, Saturday market, auctions, etc.;

5. A mobile home or travel trailer with adequate water and sewer service used as a dwelling while a residential building on the same lot is being constructed or while a damaged residential building is being repaired;

6. When elderly or disabled relatives of the occupant of an existing residence require constant supervision and care, a mobile home with adequate water and sewer services located adjacent to such residence may be permitted to house the relatives;

7. Circuses, carnivals, fairs, or similar transient amusement or recreational activities.

B. The director may authorize additional temporary uses not listed in this subsection, when it is found that the proposed uses are in compliance with the provisions of this section.

C. Temporary uses that exceed any of the standards of this section or are proposed to exist longer than six months shall require approval by the hearing examiner (Type 3 application).

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.52.040 Uses allowed without a temporary use permit.**

The following activities and structures are exempt from requirements to obtain a temporary use approval:

A. Mobile homes, residences or travel trailers used for occupancy by supervisory and security personnel on the site of an active construction project.

B. Guests of residents in recreational vehicles for not more than fourteen consecutive days and not more than sixty days per calendar year.

C. Model homes or apartments and related real estate sales and display offices/activities located within the subdivision or residential development to which they pertain.

D. Contractor's office, storage yard, and equipment parking and servicing on the site of an active construction project.

E. Garage sales, moving sales, and similar activities for the sale of personal belongings when operated not more than three days in the same week and not more than twice in the same calendar year. Allowed in all residential zoning districts only between the hours of 7:00 a.m. and 7:00 p.m.

F. Fund raising carwashes.

G. Vehicular or motorized catering such as popsicle/ice cream scooters and self-contained lunch wagons which cater to construction sites or manufacturing facilities.

H. Weekend (Saturday and Sunday) only, warehouse sales when held no more than once a calendar quarter in an existing facility in business/industrial park or industrial zoned districts.

I. Fireworks stands, which comply with the requirements of Chapter 8.04, and subject to the following requirements:

1. Only one sign is allowed.
2. Signage must be attached to the firework stand.
3. No "sandwich" board type signs are allowed.
4. All firework stand operations and sales must take place outside of landscaped areas and public rights-of-way.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**Chapter 18.54**

**HOME OCCUPATIONS**

**Sections:**

- 18.54.010 Intent.**
- 18.54.020 General requirements.**
- 18.54.030 When permitted as a matter of right.**
- 18.54.040 When permitted by administrative conditional use permit.**
- 18.54.050 Exemptions.**
- 18.54.060 Enforcement.**
- 18.54.070 Activities not permitted as home occupations.**

**18.54.010 Intent.**

It is the intent of this section to:

A. Permit residents of the community a broad choice in the use of their homes as a place of livelihood and the production or supplementing of personal/family income.

B. Protect residential areas from potential adverse impact of activities defined as home occupations.

C. Establish criteria and development standards for the use of residential structures or dwelling units for home occupations.

1. *Home occupation* means any activity conducted for financial gain or profit in a dwelling unit, in a building other than a dwelling unit, but located on the property of the dwelling unit, or located on adjacent property to the dwelling unit but having the same zoning as the dwelling unit, or activity conducted on the property, even though not within the structure, and which activity is not generally or customarily characteristic of the activities for which the dwelling units and/or their property surrounding are intended or designed.

2. The activity is clearly incidental or secondary to the residential use of the dwelling units; and is conducted only by persons residing in the dwelling unit.

3. A garage sale shall not be considered to be a home occupation.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.54.020 General requirements.**

A. Home occupations shall not occupy more than twenty-five percent of the total floor area of the residence, and in no case shall occupy more than five hundred square feet. Any portion of an accessory building used for a home occupation shall not exceed four hundred square feet; nor shall the total floor area in the residence and/or an accessory building that is occupied with a home occupation exceed five hundred square feet. Bed and breakfast lodging is exempt from the floor area limitation.

B. Any occupation which may produce waste products of a quality or quantity not normally associated with residential use shall not qualify as a home occupation.

C. Home occupations shall comply with all other local, state, or federal regulations pertinent to the activity pursued, and the requirements or permission granted or implied by this chapter shall not be construed as an exemption from such regulations.

D. Any person engaging in a home occupation shall register as a business under Title 5 of this code, and shall be subject to the provisions of the business and occupations tax levied by the city.

E. Home occupations shall emit no noise, air pollutants, waste products or other effects detrimental to the environment or the neighborhood beyond those normally emanating from residential use.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.54.030 When permitted as a matter of right.**

Home occupations are permitted as a matter of right in any residential district provided that:

A. No signs, logos, trademarks or other symbols are displayed indicating the nature or location of the business or occupation.

B. No exterior structural alterations are made to accommodate the occupation.

C. No merchandise or stock in trade is sold or displayed on any exterior portion of the premises.

D. No equipment or material is stored on any exterior portion of the premises.

E. No person or persons other than bona fide residents of the dwelling unit are employed in the home occupation.

Home occupations are permitted as a matter of right in non-residential districts subject to the development standards of the applicable zone.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.54.040 When permitted by administrative conditional use permit.**

A. Home occupations which do not comply with all the provisions of Section 18.54.030 and the following activities shall require approval of an administrative conditional use permit:

1. Building and construction contractor services;
2. Landscaping services;
3. Personal service shops;
4. Music and dancing studios;
5. Craft classes; and
6. Animal grooming.

B. Home occupations which require an administrative conditional use permit shall comply with the following conditions:

1. Only one sign is permitted on the premises. Signs shall not exceed two square feet in area, shall be unlit and shall use nonflashing, nonreflective materials. Such sign may be flush-mounted on the main residential structure, or may be post or pedestal-mounted at a height not exceeding four feet above grade. Such sign shall not be placed in the public right-of-way.

2. Exterior structural alterations or additions or the use of accessory buildings for home occupations shall be so designed and built as to maintain or preserve the residential character of the premises. In no event shall such structural alter-

ations or additions exceed the development standards permitted for structures in the zoning district in which the premises are situated.

3. Traffic generated by home occupations shall not exceed two commercial vehicles per week, excepting parcel delivery services.

4. Parking of customers' or clients' vehicles shall create no hazard or unusual congestion.

5. Off-street parking spaces shall not be reduced in size or number, below the minimum required in the district, nor used for any purpose other than parking.

6. When merchandise, material or equipment is stored or displayed, such storage shall be entirely within the residential structure or in an accessory building which meets the criteria of subsection (B)(2) of this section, except as provided in Chapter 18.80 of this title pertaining to storage.

7. Employment of more than two persons who are not bona fide residents of the premises is prohibited.

C. In considering these applications, the director shall consider the nature and conditions of all adjacent uses and structures. An administrative conditional use permit shall not be issued unless the director finds that:

1. Authorizing the home occupation will not be materially detrimental to the public welfare or injurious to the property in the zone or vicinity in which the property is located; and

2. The authorization will be consistent with the spirit and intent of this title.

D. In authorizing an administrative conditional use permit to allow a home occupation, the director may impose such requirements and conditions with respect to location, installation, construction, maintenance and operation and extent of open spaces, in addition to those expressly set forth in this title, as may be deemed necessary for the protection of other properties in the zone or vicinity and the public interest.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.54.050 Exemptions.**

A. Home occupations which were in existence prior to the adoption of the ordinance codi-

fied in this title shall be exempt from the limitations pertaining to floor area and structural alterations if such alterations and excess floor area were in place prior to the adoption of this ordinance. However, any further expansion of floor area or future structural alterations to the premises shall require a conditional use permit.

B. Garage sales, yard sales, bake sales, temporary home boutiques or bazaars for handcrafted items, parties for the display of domestic products, and other like uses are not required to comply with the provisions of this chapter, so long as the use does not operate for more than twenty days in any one calendar year or in violation of any other provision of this title. Provided that garage and yard sales must involve only the sale of household goods, none of which were purchased for the purpose of resale.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.54.060 Enforcement.**

A. The director shall be responsible for the enforcement of this chapter and for the correction of any violations.

B. The director shall act on his own initiative when violations are detected or suspected; and shall take appropriate investigative and corrective actions, when warranted, if a complaint is filed in writing by any person who feels aggrieved or damaged by such alleged violation.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.54.070 Activities not permitted as home occupations.**

The following uses shall not be permitted as home occupations:

A. Automobile and motorcycle repair and body work (including painting);

B. Automobile services, including stereo installation, car alarms and detailing;

C. Heavy equipment repair and maintenance;

D. Landscaping services that involve storage, for any duration of time, of lawn clippings, cut sod, branches and other removed organic material.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

## Chapter 18.56

### ACCESSORY DWELLING UNITS

#### Sections:

#### 18.56.010 Definitions.

#### 18.56.020 Where authorized.

#### 18.56.030 Performance standards for accessory dwelling units.

#### 18.56.040 Review process.

#### 18.56.050 Recognition of existing accessory dwelling units.

#### 18.56.010 Definitions.

A. "Accessory dwelling unit" means a second dwelling unit either attached to or located on a lot occupied by a single-family detached dwelling. This unit provides a separate and completely independent dwelling unit with facilities for cooking, sanitation and sleeping, and has a separate and independent entry/exist than one utilized for the primary residence.

B. "Owner occupancy" means a property owner, as reflected in the real estate tax rolls, who makes his or her legal residence at the subject lot, as evidenced by voter registration, vehicle registration, or similar means, and actually resides upon the lot more than six months out of any given year. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.56.020 Where authorized.

Accessory dwelling units shall be permitted within any residential district subject to review and compliance with the standards and requirements of this chapter. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.56.030 Performance standards for accessory dwelling units.

A. Minimum Lot Size. All performance standards, including minimum yard setbacks and overall building coverage as set forth for the applicable zoning district shall be met with respect to the

accessory dwelling unit. An accessory dwelling unit shall not be permitted upon any lot that is nonconforming due to lot size.

B. Number. No more than one accessory dwelling unit shall be permitted on a lot.

C. Location in Relation to Principal Residence. The accessory dwelling unit may be either detached or a part of the principal residence or an accessory building.

D. Zoning/Building Code Compliance. All new construction associated with an accessory dwelling unit shall meet the development standards for the applicable zone, except as modified by this chapter, and shall comply with all applicable city codes, including requirements for an efficiency dwelling unit as set forth in the International Building Code adopted by the city.

E. Owner Occupancy. An owner of the property for which an accessory dwelling unit permit is requested must occupy at least one dwelling unit located on the property.

F. Future Subdivision. Parcels upon which an accessory dwelling unit has been approved shall not be subdivided or otherwise segregated in ownership in a manner that would separate the accessory dwelling unit from the principal dwelling.

G. Maximum Size. An accessory dwelling unit shall not exceed fifty percent of the size of the primary dwelling on the lot or eight hundred square feet, whichever is less. Accessory dwelling units shall comply with the required site coverage, yard area requirements or building code setbacks as provided within the subject property's zone.

H. Scale. A detached accessory dwelling unit or accessory structure containing an accessory dwelling unit shall not exceed the maximum height allowed for a detached accessory building per the underlying zoning district.

I. Additions. Additions to an existing structure or newly constructed detached structures created for the purpose of creating an accessory dwelling unit, shall be designed in a manner consistent with existing roof pitch, siding and windows for the principal dwelling unit.

J. Detached Structures. An accessory dwelling unit may be permitted in a detached structure, subject to compliance with the requirements of this chapter.

K. Parking. At least one off-street parking space in addition to the minimum required off-street parking from the primary dwelling unit shall be provided for an accessory dwelling unit of nine hundred square feet of living area or less. All accessory dwelling units greater than nine hundred square feet of living space shall provide the minimum off-street spaces required for a single-family residence.

L. Utility Connections. Utility accounts for accessory dwelling units shall be maintained in the name of the property owner. Accessory dwelling units may be served by the same water meter and sewer connection utilized for the primary residence if approved by the city, but shall be assessed a monthly service fee as established by the city's fee schedule or applicable ordinance. The city may require an applicant to provide documentation demonstrating capacity availability prior to allowing a joint connection. The city may require upgrades to a utility connection and the cost of such upgrades shall be borne by the applicant. Accessory dwelling units having nine hundred square feet or greater of living area shall pay for the cost of a separate single-family water and sewer service connection in accordance with the city's adopted fee schedule regardless of whether separate physical connections are required. If water or sewer service is not provided by the city, then the rules of the water or sewer district shall apply as to whether an additional hook-up and connection fees are required. Any water or sewer service as referenced in this section is subject to water or sewer availability.

M. Number Permitted. A maximum of one accessory dwelling unit shall be permitted on a lot otherwise meeting the requirements of this chapter.

N. Design and Appearance. The accessory dwelling unit shall be designed so that, to the degree reasonably feasible, the appearance of the

building is consistent with that of the primary residence. At a minimum, the new exterior construction associated with creating an accessory dwelling unit should match the existing exterior materials and design of the principal residence, and the pitch of any new roof should match that of the principal residence. New landscaping shall conform with or improve existing landscaping.

O. Entrance Location. An attached accessory dwelling unit shall have a separate entrance to the outside from the entrance for the primary dwelling. For attached accessory dwelling units, the entrance to the accessory dwelling unit shall be located in such a manner as not to appear as a second primary entrance to the structure which contains the principal residence in an effort to maintain the appearance of a single-family residence.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.56.040 Review process.**

A. Application. An applicant for an accessory dwelling unit shall submit an application on a form as provided by the department, including all application fees as set forth in the city's fee schedule. At a minimum, an application for accessory dwelling unit permit shall include plans for creating the accessory dwelling unit, evidence of current ownership and a certification of owner occupancy.

B. Certification of Owner Occupancy. The certification of owner occupancy shall be in the form of a notarized affidavit completed by the property owner as reflected in title records affirming that they make their legal residence upon the subject lot.

C. Review by Director. Accessory dwelling unit permit applications shall be processed as Type 2 permit pursuant to Chapter 18.08. Upon receipt of a complete application for an accessory dwelling unit, the director shall review and either approve, disapprove or approve with conditions an application for an accessory dwelling unit. As a condition of approval, the applicant shall record a covenant in a form approved by the city attorney

with the King County department of records and elections, providing notice to future owners for the subject lot of the existence of the accessory dwelling unit, the owner occupancy requirements of the city, any conditions imposed as a part of the approval of the accessory dwelling unit and notice of the requirements for continued use of an accessory dwelling unit as set forth in this chapter. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.56.050 Recognition of existing accessory dwelling units.**

Accessory dwelling units that existed on or before the effective date of the ordinance codified in this chapter may be granted an accessory dwelling unit permit subject to the provisions of this section.

A. **Time Limit.** An application for an accessory dwelling unit permit for a pre-existing unit must be filed with the city for review by the planning commission within eighteen months of the effective date of the ordinance codified in this chapter.

B. **Construction Code Compliance.** Any space used for or included in the accessory dwelling unit shall have been constructed pursuant to a building permit issued by the city, and in compliance with the building and other construction codes that were in effect when construction was completed. The applicant must provide written documentation to verify construction code compliance. Alternatively, the applicant may verify code compliance for existing construction through the building department.

C. **Development and Use Standards.** Development and use of the pre-existing accessory dwelling unit shall comply with all provisions of this section.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**Chapter 18.58**

**ESSENTIAL PUBLIC FACILITIES**

**Sections:**

**18.58.010 Purpose.**

**18.58.020 Review procedures.**

**18.58.030 Decision criteria.**

**18.58.010 Purpose.**

The purpose of this chapter is to establish standards that the city will apply to guide the review, siting and development of essential public facilities, consistent with the definitions and requirements of RCW 36.70A.200. The city's review procedures and criteria are intended to ensure that it has an opportunity to identify and address the scale and nature of essential public facilities that serve a regional or state-wide interest.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.58.020 Review procedures.**

A. The process for reviewing proposed essential public facilities will be consistent with the direction in the King County countywide planning policies.

B. Essential public facilities are processed as conditional uses according to the procedures and criteria in Chapters 18.08 and 18.12, respectively. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.58.030 Decision criteria.**

In reviewing applications for essential public facilities, and in identifying and imposing reasonable conditions of approval, the hearing examiner and the city council will apply the following criteria:

A. The proposal is consistent with the goals and policies of the comprehensive plan and applicable provisions of the city code;

B. The proposal supports adopted land use patterns and designations;

C. The applicant has conducted a site selection process that has evaluated alternative sites within the region;

D. Appropriate public participation in the siting decision has occurred consistent with state law;

E. The project site meets the facility's minimum site requirements, including setbacks, access, support facilities, public services, topography, geology, and on-site mitigation needs;

F. The proposal incorporates specific features to ensure that it responds to the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property;

G. Appropriate environmental review pursuant to SEPA has occurred and has evaluated significant impacts of the proposal to the environment, including economic development programs of the city; and

H. Reasonable mitigation measures have been developed that are appropriate in light of the project's scope, applicable requirements of the city code, and state and federal law, and impacts identified pursuant to SEPA.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

## Chapter 18.59

### SECURE COMMUNITY TRANSITION FACILITIES

#### Sections:

**18.59.010 Purpose.**

**18.59.020 Review procedures.**

**18.59.030 Decision criteria.**

**18.59.040 Development requirements.**

#### **18.59.010 Purpose.**

The purpose of this chapter is to establish standards that the city will apply to guide the review, siting and development of any secure community transition facility (SCTF), consistent with the definitions and requirements of RCW 71.09 as well as community well-being. The city's review procedures and criteria are intended to ensure that it has an opportunity to identify and address the location, security and impacts of any SCTF that may be sited within the city at the direction of the State Department of Social and Health Services. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.59.020 Review procedures.**

A. An application to site a SCTF within the city is processed as a conditional use according to the procedures of Chapter 18.08.

B. A city decision to approve a SCTF as a conditional use may include reasonable conditions of approval to address operational issues or mitigate potential impacts to the community as identified in Section 18.12.010.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.59.030 Decision criteria.**

An application for a secure SCTF may be approved only if all of the following criteria are satisfied:

The proposal satisfies the decision criteria of Chapter 18.12;

A. No other SCTF as provided in Chapter 71.09 RCW has been approved for siting within King County;

B. The proposed location for a SCTF complies with all provisions of state law, including requirements for public safety, staffing, security, and training, and those standards must be maintained for the duration of the use;

C. The proposed location for a SCTF is not adjacent to, immediately across the street or parking lot from, or within line-of-site of a "risk-potential activity/facility." A "risk-potential activity/facility" is a public or private school, school bus stop, licensed day care, licensed pre-school, public park, publicly dedicated trail, sports field, playground, recreational and/or community center, church, synagogue, temple, mosque, or public library. A "risk-potential activity/facility" does not include bus stops established primarily for public transit; and

D. An analysis of the proposed site and alternative locations, prepared by the applicant, concludes that the proposed site is the most appropriate. The analysis shall include, at a minimum, the following:

1. Each site's capability to meet the basic siting criteria for the facility, such as site area, physical characteristics of the site, access, availability of necessary utilities and support services, and the location-relevant criteria in 18.59.030;

2. An assessment of the need for the proposed facility in the selected location, compared to identified alternative sites that meet the applicant's basic siting criteria. This evaluation shall give greater weight to sites that are farther from risk-potential activity/facilities as identified in 18.59.030(F). Potential response time by law enforcement agencies shall also be included in the assessment of the proposed and alternative locations; and

3. Proposed mitigation measures to alleviate or minimize significant potential impacts to adjacent properties and the community in general.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.59.040 Development requirements.**

A. An SCTF shall be located on property of sufficient size and frontage to allow the residents

an opportunity for secure, on-site recreational activities typically associated with daily needs and routines for group living;

B. The State Department of Social and Health Services shall execute a mitigation agreement with the city if State funds are available to train, educate, and inform local law enforcement and governmental staff in coordination, emergency procedures, program and facility information, legal requirements, and resident profiles;

C. No SCTF shall house more than four persons or the number of persons requested by DSHS after DSHS both demonstrates a need for additional beds in compliance with Chapter 71.09 RCW and it demonstrates compliance with Chapter 71.09 RCW's "equitable distribution" requirements; and

D. The SCTF shall be located in relation to transportation facilities in a manner appropriate to the transportation needs of the SCTF residents. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

## Chapter 18.60

### ADULT-ORIENTED BUSINESSES

#### Sections:

#### 18.60.010 Definitions.

#### 18.60.020 Location of adult-oriented businesses.

#### 18.60.030 Conditional use permit requirements.

#### 18.60.040 Business operation—Advertising restrictions.

#### 18.60.010 Definitions.

For the purposes of this chapter, the following terms shall have the meaning respectively ascribed:

A. *Adult arcade* means a movie arcade or game "penny" arcade which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

B. *Adult bookstore* means an establishment which, as a principal business purpose, offers to customers books, magazines, films or videotapes "whether for viewing on or off premises," periodicals, or other printed or pictorial materials which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

C. *Adult cabaret* means an establishment whose primary business is offering live entertainment to customers which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

D. *Adult novelty shop* means an establishment which, as a principal business purpose, sells products which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

E. *Adult-oriented business* means any arcade, adult bookstore, adult theater, adult novelty shop,

adult cabaret, massage parlor, nude modeling studio, or any other similar commercial enterprise whose major business is the offering of service which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

F. *Adult theater* means an establishment which, as a principal business purpose, exhibits to customers motion pictures which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

G. *Specified anatomical areas* means:

1. Less than completely covered (1) human genitals or public region, (2) buttocks, and (3) female breasts below a point immediately above the top of the areola;

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

H. *Specified sexual activities* means:

1. Human genitals in a state of sexual stimulation or arousal;

2. Acts of human masturbation, sexual intercourse or sodomy;

3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breasts.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.60.020 Location of adult-oriented businesses.

A. Permitted Where. An adult-oriented business shall only be allowed as a conditional use in the B/IP Business/Industrial Park or "I" Industrial Zones, or as a component of a master planned development.

B. Relation to Other Adult-Oriented Businesses. Adult-oriented businesses shall not be located on any lot within one thousand feet of any lot on which there is located another adult-oriented business.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.60.030 Conditional use permit requirements.**

An application for a conditional use permit for an adult-oriented business must meet the requirements of Chapter 18.08. In addition to such requirements, an application for a conditional use permit shall not be granted unless information is permitted by the applicant and/or is presented in a public hearing substantiates the following findings:

A. The requested use at the proposed location will not adversely affect the use of religious institution, school, park, playground or similar use within a one-thousand foot radius;

B. The requested use at the proposed location is sufficiently buffered in relation to residentially zoned areas within the immediate vicinity so as not to adversely affect said areas; and

C. The exterior appearance of the structure will not be inconsistent with the external appearance of the commercial structures already constructed or in the course of construction within the immediate vicinity, so as to cause blight, deterioration or substantial depreciation in property values within the area.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.60.040 Business operation—Advertising restrictions.**

For the purposes of this chapter, the following regulations shall apply to all adult-oriented businesses.

A. Advertisement, displays or other promotional materials for an adult-oriented business which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other public or semipublic places.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**Chapter 18.66**

**DEVELOPMENT AGREEMENTS**

**Sections:**

**18.66.010 Intent.**

**18.66.020 Applicability and procedures.**

**18.66.010 Intent.**

The purpose of this chapter is to authorize the use of development agreements, as authorized by state law, as a means to document conditions and procedures for certain types of development and to thereby provide greater certainty to the city, applicants and the public regarding how property will be developed. Development agreements may be used for any type of proposals but are anticipated to be applied most often to master planned development, per Chapter 18.98, and to other large, complex, phased, and/or sensitive development proposals where useful.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.66.020 Applicability and procedures.**

A. The city may enter into development agreements with property owners as authorized by RCW 36.70B.170 et seq. Development agreements are intended to be used to address and establish development standards, mitigation requirements, vesting provisions and review procedures that will apply to and govern large, complex and/or phased development proposals located within the city during the term of any agreement.

B. Any development agreement shall be consistent with applicable city development regulations except as such regulations may be modified in the development agreement. For purposes of this chapter, "development standards" include but are not limited to:

1. Project elements such as uses, densities and intensities of land uses and buildings;

2. Mitigation measures, conditions and other requirements identified pursuant to SEPA (RCW 43.21 C);

3. Design standards such as maximum heights, setbacks, landscaping and other development features;

4. Road and sidewalk standards;

5. Affordable housing;

6. Water, sewer, storm drainage, water quality, and other infrastructure and utility requirements;

7. Parks and open space preservation, and recreation facilities;

8. Phasing of development and construction;

9. Development review processes, procedures and standards for implementing decisions, including methods of reimbursement to the city for review processes;

10. A build-out or vesting period for applicable development standards;

11. A process for amending the development agreement; and

12. Any other appropriate development requirement or procedure.

C. During the term specified in the development agreement, a development permit or approval issued by the city shall be consistent with the standards in such agreement. The standards contained in the development agreement shall govern during the term of the agreement and may not be subject to an amendment of city development standards or regulations adopted after the effective date of the development agreement. Provided, that the development agreement shall reserve to the city the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

D. A development agreement shall be recorded with the real property documents of King County. During the term of the agreement, it shall be binding on the parties and their successors, including a city that assumes jurisdiction through incorporation or annexation of the area or property subject to the development agreement. Unless terminated, the agreement shall be enforceable by a party to the agreement.

E. A development agreement shall be reviewed and adopted following a public hearing pursuant to the procedures and requirements set forth in Chapter 18.08.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

## Chapter 18.68

### NONCONFORMING USES, STRUCTURES AND LOTS

#### Sections:

- 18.68.010 Intent.**
- 18.68.020 General provisions.**
- 18.68.030 Nonconforming uses.**
- 18.68.040 Cancellation or revocation of an administrative conditional use permit granted for a nonconforming use.**
- 18.68.050 Nonconforming structures.**
- 18.68.060 Nonconforming lots of record.**

#### **18.68.010 Intent.**

Within the districts established by this title, there exist uses, lots and structures which were lawful before the adoption of this title, but which would be prohibited, regulated, or restricted under the terms of this title. It is the intent of this chapter to permit these nonconformities to continue until they are removed. It is also the intent of this chapter to, under certain circumstances and controls, and subject to public review, to potentially allow the enlargement, intensification or other modification of nonconforming uses and structures, consistent with the objectives of maintaining the economic vitality of such uses and structures, and protecting the rights of other property owners to use and enjoy their properties. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.68.020 General provisions.**

A. Abandonment or Discontinuance. A nonconforming use shall be deemed abandoned by discontinuance or abandonment for a period of one year or more, and any subsequent future use of such land or buildings shall be in conformity with the provisions of this title. In general, evidence of abandonment or discontinuance shall be based upon cessation of use of public water, sewer

and/or other utilities; if a business use, failure to obtain a city or state business license; or by corroborated observation.

B. Restoration of Structures which Contain a Nonconforming Use After Damage or Destruction. Any structure which contained a nonconforming use that is damaged or destroyed by fire, earthquake, explosion or other casualty, may be repaired or restored and the occupancy or use which existed prior to such destruction or damage may be reestablished, provided the extent of damage does not exceed seventy-five percent of current replacement cost. Such activity shall not increase the extent, floor area or physical dimensions of the original structure or increase the nonconformance of the original pre-existing use unless an administrative conditional use permit has been issued pursuant to the standard contained within this chapter. Any actions to rebuild, repair or restore shall commence within twelve months from the date of such damage and shall be completed within eighteen months of the date that the damage occurred.

C. Hardship. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building for which a complete building permit application has been accepted prior to adoption of this chapter and for which construction is conducted such that the permit remains valid. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.68.030 Nonconforming uses.**

A. Nonconforming uses are declared to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, and land in combination shall not be extended or enlarged after the effective date of the ordinance codified in this chapter, by attachment on a building or premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved except as provided for in this chapter.

B. A nonconforming use may be expanded or extended throughout the structure occupied by

the original nonconforming use. The structure's usable floor area may only be increased pursuant to granting of an administrative conditional use permit.

C. Normal upkeep, repairing and maintenance of a structure which contains a nonconforming use is allowed, provided such activities shall not increase the usable floor area, height, or alter the physical dimensions of the structure.

D. A nonconforming use of a structure may continue and may be transferred to a new owner of the property.

E. A nonconforming use of a structure may be changed outright and at any time to a use permitted in the zone classification in which the use is located, provided the standards generally applied to the zone classification and which allow occupancy are met.

F. A nonconforming use of a structure may be changed to another nonconforming use in the same or less intensive use category as defined in this title provided the following conditions are met:

1. The change will not increase the cumulative generation of vehicle trips by more than ten percent, as determined by the director after consulting the most recent version of the Institute of Transportation Engineers Trip Generation Handbook or review of a trip generation data submitted by a professional traffic engineer;
2. The change will not increase the amount of required parking by more than ten percent;
3. The change in use will not result in an increase in noise perceptible at the boundary lines of the property;
4. The change will not result in any additional light or glare perceptible at the boundary lines of the property;
5. The change will not result in an increase in outdoor storage of goods or materials.
6. A proposed change in use that does not meet all of criteria 1—5 above may be approved by the granting of an administrative conditional use permit.

G. A nonconforming use that has been determined to have been abandoned or discontinued may potentially be re-established to the same use or a use in the same or less intensive use category as defined by this title, subject to the granting of an administrative conditional use permit and conformance with the criteria noted in Section 18.68.030(F)(1)—(5). The director may require an applicant to furnish financial surety to ensure compliance with any conditions of approval. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.68.040 Cancellation or revocation of an administrative conditional use permit granted for a nonconforming use.**

A. An administrative conditional use permit granted to allow a nonconforming use to re-establish, be changed in use, or expand pursuant to Section 18.68.030 may be cancelled by the director after receiving written request from the property owner. Said permit shall become null and void within 30 calendar days thereafter.

B. Any affected individual may petition the hearing examiner to revoke an administrative conditional use permit granted to allow a nonconforming use to re-establish, be changed in use, or expand pursuant to Section 18.68.030. Following a public hearing, the hearing examiner may revoke or add additional conditions to any issued permit on any one or more of the following grounds:

1. The approval was obtained by fraud or that erroneous information was presented by the applicant and considered in the granting of the permit;
2. That the use for which the permit was granted is not being conducted;
3. That the use for which such approval was granted has ceased to exist or has been suspended for one year or more;
4. That the permit granted is being, or recently has been, conducted contrary to the terms of conditions of approval, or in violation of any statute, ordinance, law or regulation;

5. That the use for which the permit was granted is being conducted so as to be detrimental to the public health, safety or general welfare or so as to constitute a nuisance.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.68.050 Nonconforming structures.**

A. A structure which is nonconforming only by reason of substandard yards, open spaces or other development standards may be structurally altered, enlarged or repaired provided such activities shall not increase the extent of the nonconformity except through the granting of a variance or as otherwise allowed in subsection C.

B. A structure which is nonconforming only by reason of height may be structurally altered, enlarged or repaired provided such activities shall not increase the height of the structure except through an approved variance.

C. Enlargement or modifications of a nonconforming structure may be permitted if the extent of encroachment is not increased as a result of the enlargement or modification and the requested structural addition does not result in more than a twenty-five percent increase in the square footage of all structural floor area currently within the setback area.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.68.060 Nonconforming lots of record.**

A. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record in existence on the date of adoption of this title, notwithstanding limitations imposed by other provisions of this title. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.

B. This provision shall apply even though such lot fails to meet the requirements for lot area or minimum lot depth or width, that are applicable in the district. Variance of yard requirements shall be obtained only through action as provided in this title.

C. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this title, and no portion of the parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this title; nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this title.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

## Chapter 18.70

### LIGHTING/DARK SKY

#### Sections:

- 18.70.010 Intent.**
- 18.70.020 Applicability.**
- 18.70.030 Exemptions.**
- 18.70.040 General standards.**
- 18.70.050 Types of lighting prohibited.**
- 18.70.060 Required submittals.**
- 18.70.070 Additional definitions.**

#### **18.70.010 Intent.**

The intent of the lighting/dark sky regulations is to manage and/or limit outdoor lighting in order to preserve and recover the visibility of the night sky; prevent light pollution, light trespass, and glare; to conserve energy and protect natural resources; and to facilitate safety and security of persons and property.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.70.020 Applicability.**

A. All exterior lighting fixtures within the city of Black Diamond, installed after the effective date of this code, regardless of zoning classification or ownership, shall comply with the requirements of this chapter, unless expressly exempted herein.

B. Streetlights installed prior to the adoption of the ordinance from which this title was derived must be replaced with a compliant luminaire when the streetlight becomes inoperable.

C. All exterior lighting fixtures established or permitted as of the date of this code, shall be brought into conformance with the standards herein within one year for multifamily, commercial or industrial properties and three years for residential properties.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.70.030 Exemptions.**

The following types of lighting shall be exempt from the provisions of this chapter.

A. Federally funded and state funded roadway construction projects, are considered exempt from the ordinance from which this title was derived only to the extent that it is necessary to comply with state and federal requirements.

B. Full cutoff street lighting, which is part of a federal, state, or municipal installation.

C. Holiday lighting and other seasonal decorations do not have to be shielded provided they are not in use for more than sixty consecutive days.

D. Specialized lighting necessary for safety, such as navigation or runway lighting of airports, temporary lighting associated with emergency operations, or roadway hazard warnings, etc.

E. Traffic control signals and devices.

F. Sports field lighting, subject to the provisions contained in the general standards.

G. Lighting of the United States flag pursuant to U.S. Flag Code guidelines.

H. Motion-activated, intermittent home security lighting within residential zones.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.70.040 General standards.**

The following general standards apply to all outdoor lighting fixtures and accent lighting, unless otherwise exempt.

A. All light trespass is prohibited.

B. All area lights, including street lights and parking area lighting, shall be full cut-off fixtures.

C. In all zones except residential districts, accent lighting shall be directed downward onto the illuminated object or area, and not upward into the sky, or onto adjacent properties. Direct accent light emissions shall not be visible above the roofline, building, or other associated structure.

D. Canopy lights shall be recessed sufficiently so that no light spills onto adjacent property or right-of-ways.

E. Illumination levels and uniformity ratios shall be in accordance with current recommended

standards set by the Illumination Engineering Society of North America (IESNA), and not exceeded.

F. The developer or builder must be able to verify to the city in writing that all outdoor lights were installed as described on the approved photometric plans.

G. All non-essential exterior commercial and residential lighting is required to be turned off after business hours or when not in use. Light timers or sensors are required when existing lighting is replaced.

H. Outdoor lighting fixtures and accent lighting may not illuminate non-navigable public bodies of water.

I. All radio, communication, and navigation towers that require lights shall have dual lighting capabilities. For daytime, a white strobe light may be used, and for nighttime, only red lights shall be used.

J. Uplighting is prohibited, except in cases where the fixture is shielded by a roof overhang or similar structural shield from the sky, and a licensed architect or engineer has stamped a prepared lighting plan that ensures that the light fixture(s) will not cause light to extend beyond the structural shield, except as specifically permitted in this chapter.

K. New and existing service stations are required to have lighting levels no greater than thirty footcandles, as set by the IESNA for urban service stations. Existing service stations shall comply with this standard within one year of the effective date of this code.

L. External illumination for signs shall conform to the provisions of the ordinance from which this title was derived.

M. Illumination for outdoor recreation facilities must conform to the shielding requirements of this chapter, except when such shielding would interfere with the intended activity (including but not limited to, baseball, softball, and football). For such facilities, partially-shielded luminaries are permitted, and may operate only with a permit from the city recognizing that steps have been

taken to minimize glare and light trespass. Where fully-shielded luminaries are required (including but not limited to tennis, volleyball, racquetball and handball courts, and swimming pools), the light fixtures must also conform to the requirements of light trespass. Illumination for outdoor recreation facilities shall be turned off between the hours of 10:00 p.m. and 6:00 a.m.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.70.050 Types of lighting prohibited.**

A. The provisions of this chapter are not intended to prevent the use of any design, material or method of installation unless specifically prohibited as follows.

B. The following fixtures and luminaries are not allowed:

1. Newly installed fixtures which are not full-cutoff fixtures.

2. Search lights, laser source lights, and other high-intensity lights, are not permitted except in emergencies by police, fire fighters and other emergency or rescue operations.

3. Uplighting unless specifically permitted by this chapter.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.70.060 Required submittals.**

A. All projects requiring site plan review per Chapter 18.16, and MPDs being reviewed pursuant to Chapter 18.64, shall include a photometric plan as part of the required application.

B. The plan shall include the following information:

1. The location of all light standards or wall fixtures;

2. The manufacturer and model number of each fixture; and

3. A drawing that shows the light footprint of each fixture.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.70.070 Additional definitions.**

The following definitions shall apply to implementation of this chapter:

A. Accent Lighting. Lighting used to emphasize or draw attention to a special object or building.

B. Area Light. Area lights include, but are not limited to, street lights, parking lot lights and yard lights.

C. Bulb or Lamp. The source of electric light (to be distinguished from the whole assembly (see luminaries)). The term "lamp" is often used to denote the bulb and its housing.

D. Cutoff-Fixture. A fixture that provides a cutoff (shielding) of the emitted light.

E. Exterior Lighting. Temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outside. Fixtures that are installed indoors that are intended to light something outside are considered exterior lighting for the intent of this code.

F. Fixture. The assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

G. Floodlight. A fixture or lamp designed to "flood" an area with light. Generally, floodlights produce from 1000 to 1800 lumens.

H. Footcandle. A measure of light falling on a surface. One foot candle is equal to the amount of light generated by one candle shining on a square foot surface one foot away (Lux is the metric equivalent of footcandles). The Illuminating Engineering Society of North America (IESNA) provides lighting standards for typical applications.

I. Full-Cutoff Fixture. A fixture which, as installed, gives no emission of light above a horizontal plane. See Figures 1 and 2.

J. Glare. Intense and blinding light that may impair visibility.

K. Light Pollution. Any adverse effect of man-made light. Often used to denote urban sky glow, but also includes glare, light trespass, visual clutter, and other adverse effects of lighting.

L. Light Trespass. Light falling where it is not wanted or needed; or shines beyond the property on which the luminaries is installed. See figures 3 and 4.

M. Lighting. Any or all parts of a luminaries that function to produce light.

N. Lumen. A measure of light energy emitted by a light source. Measured by a light meter.

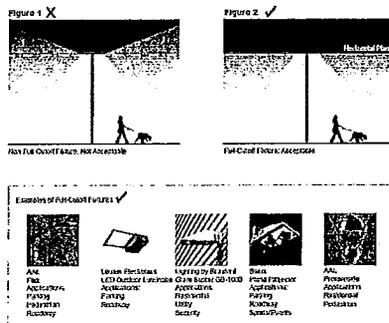
O. Luminaries. The complete lighting unit, including the lamp, the fixture, and other parts.

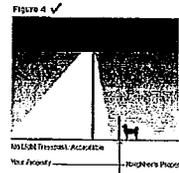
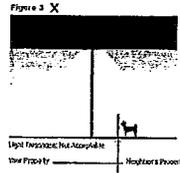
P. Recessed. When a light is built into a structure or portion of a structure such that the light is fully cut-off and no part of the light extends or protrudes beyond the underside of a structure or portion of a structure.

Q. Shielded. When the light emitted from the fixture is projected below a horizontal plane running through the lowest point of the fixture where light is emitted. The bulb is not visible with a shielded light fixture, and no light is emitted from the sides of the fixture. Also considered a full cut-off fixture.

R. Uplighting. Lighting that is directed in such a manner as to shine light rays above the horizontal plane.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)





## Chapter 18.72

### LANDSCAPE REQUIREMENTS

#### Sections:

- 18.72.010 Intent.**
- 18.72.020 Landscape plan.**
- 18.72.030 Landscaping requirements.**
- 18.72.040 Maintenance and irrigation.**
- 18.72.050 Landscape plan modification.**

#### **18.72.010 Intent.**

A. It is the intent of this chapter to:

1. Protect natural habitats, air quality, and groundwater recharge;
2. Improve the appearance of the community;
3. Provide shade and wind protection;
4. Reduce storm water discharge;
5. Conserve water supplies; and
6. Provide buffering and/or screening of potentially incompatible land uses.

B. This chapter is intended to help achieve these purposes by:

1. Retaining trees and other significant native vegetation, without reducing development densities from those indicated in the comprehensive plan;
2. Requiring landscaping as specified;
3. Reducing the need to irrigate by retaining and encourage the use of native vegetation; and
4. Requiring that landscapes be adequately maintained and irrigated.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.72.020 Landscape plan.**

A. A landscape plan that shows the landscape improvements required by this chapter shall be prepared and submitted for approval under the site plan review procedures of this title.

B. Exemption. Landscaping standards do not apply to residential uses within the, R4 and R6 zones, except that all undeveloped areas of exempt properties shall be landscaped and continually maintained or retained in a natural undisturbed state.

C. Landscaping plans for any residential project of greater than twelve dwelling units or any commercial or industrial development of greater than ten thousand square feet in building area or one-half acre of site size shall be prepared by a professional landscape architect licensed in the State of Washington or by a Washington state nurseryman;

D. New landscaping materials shall include species native to the coastal regions of the Pacific Northwest or non-invasive naturalized species that have adapted to those climatic conditions, in the following amounts: seventy-five percent of groundcovers and shrubs; and fifty percent of trees.

E. At least sixty percent of new landscaping materials shall consist of drought-tolerant species.

F. Existing vegetation may be used to augment new plantings to meet the standards of this chapter.

G. The director may waive or reduce any requirement(s) of this chapter if:

1. The remodel of an existing building results in the expansion of floor area that is ten percent or less of the existing floor area; or
2. An expansion of a use results in no modifications (except normal maintenance and repair of the structure) to the outdoor area of the site.

H. **Alternative Landscaping Plan.** The requirements of this chapter may be modified to encourage better landscaping design as follows:

1. A request for approval of an alternate landscaping shall be submitted and accompanied by a landscape plan as required above;

2. An application for an alternative landscaping plan shall include a description of the superior site development that an alternative landscape design will produce, including identification of the specific public benefit to be gained.

3. An alternative plan shall only be approved during site plan review if supported by written findings of public benefit and that the total area of landscaping shall be equal to or exceed that created by adherence to the standard requirements of this chapter.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.72.030 Landscaping requirements.**

Proportion of landscape areas: a portion of the land surface of new development shall include the following site landscaping:

A. The minimum portion of a site which must be a landscaped area or maintained as native vegetation depends on the zone district as follows:

1. R4 and R6: thirty percent;
2. MDR8: thirty percent;
3. NC, CC: twenty percent;
4. Light industrial/business park: twenty-five percent;
5. Industrial: ten percent.

B. All required setback areas shall be landscaped unless other activities are authorized by this title.

C. All portions of a site not devoted to buildings, parking and loading, or outdoor storage areas as permitted in this title shall be landscaped.

D. Critical areas, public parks, and land designated as open space shall not count toward this requirement. All other lands, including lands devoted to meeting other requirements of this chapter, shall count toward this requirement.

E. A portion of the required percentage of landscape areas may be met by leaving land in its

natural state including not disturbing grade and native vegetation, providing that the provisions of this chapter are otherwise satisfied.

F. Landscaping requirements for non-residential site perimeters and parking lots:

1. **Street Trees.** At time of street construction, or time of development of the adjoining land, street trees and related landscaping shall be provided in medians and parking strips within the street right-of-way in accordance with the city's public works standards. Street trees shall be:

a. Provided at least one per thirty lineal feet of frontage;

b. Located within the street right-at-way;

c. Of the same species as other street trees in the same streetscape or as otherwise specified on a city-approved street tree planting plan;

d. Spaced to accommodate sight distance requirements for driveways; and

e. At least three-inch caliper DBH (diameter at breast height) at the time of planting.

2. **Buffering of non-residential uses abutting residential zones:** for non-residential uses, all required side and rear yard areas shall be landscaped with densely planted, evergreen vegetation to provide full visual screening of any adjacent residentially-zoned properties to a height of four feet at time of planting and at least eight feet high at maturity. Minimum planting width is equal to the required yard setback.

3. **Parking areas:**

a. All parking areas for multi-family and non-residential uses shall include a minimum six foot wide perimeter of landscaping, including trees, groundcover and shrubs, to provide full visual screening to a minimum height of forty-two inches at maturity; trees shall be planted at no more than twenty-five foot intervals.

b. The interior of all parking lots with twelve or more stalls shall include landscape islands comprising not less than ten percent in area of the total parking lot exclusive of required perimeter landscaping. Individual islands shall not be less than one hundred fifty square feet in area and not separated by more than one hundred twenty lineal

feet in any direction from another island. Landscaping of these islands shall consist of trees, shrubs and groundcovers.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.72.040 Maintenance and irrigation.**

To the extent necessary to remain healthy and attractive, all non-native landscaping shall be watered, weeded, pruned, freed of pests, and replaced if necessary. Shrubs near parking lots or driving lanes shall be cropped to prevent blockage of vision necessary for safe driving. Shrubs shall not be allowed to grow so as to block public sidewalks or required pedestrian walkways.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.72.050 Landscape plan modification.**

Procedures applicable to modification to an approved landscape plan, or appeal of a denial of landscape plan, shall follow the procedures of Chapters 18.08 and 18.16.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**Chapter 18.74**

**DESIGN STANDARDS AND GUIDELINES**

**Sections:**

**18.74.010 Design standards and guidelines adopted by reference.**

**18.74.020 Compliance with design standards and guidelines.**

**18.74.030 Amendments to design standards and guidelines.**

**18.74.010 Design standards and guidelines adopted by reference.**

There is hereby adopted by reference, the city of Black Diamond design guidelines applicable to the following types of development and/or geographic areas:

- A. Multi-family development;
- B. Historic town center;
- C. Commercial development;
- D. Business park/industrial development;
- E. Master planned developments;
- F. Historic village core residential.

A copy of these guidelines shall be maintained by the city clerk and in the community development department.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.74.020 Compliance with design standards and guidelines.**

All development shall comply with the design standards and guidelines applicable to the type of use and/or the district in which the proposed development is located. The director (or hearing examiner) shall have the authority to apply the standards to specific development proposals as conditions of site plan or (for single family and duplex residential) building permit approval. For all projects subject to design review, the director or hearing examiner shall provide written documentation concerning the project's compliance with the adopted design standards.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.74.030 Amendments to design standards and guidelines.**

Amendments to these standards shall be considered as a Type 5 legislative decision per Section 18.08.080 and shall follow all procedures provided therein.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**Chapter 18.76**

**GATEWAY CORRIDOR OVERLAY DISTRICT**

**Sections:**

- 18.76.010 Intent.**
- 18.76.020 Area of application.**
- 18.76.030 Definitions.**
- 18.76.040 Exemptions from standards.**
- 18.76.050 Submittal requirements and administration.**
- 18.76.060 Site design standards.**
- 18.76.070 Provisions regarding buildings and structures.**
- 18.76.080 Sustainable design incentives.**
- 18.76.090 Driveways, paths and parking.**

**18.76.010 Intent.**

It is the intent of this section is to provide standards to:

A. Protect the scenic character of the city's gateways along (1) the State Route 169 corridor, with its commanding views of Mount Rainier and other attractive natural features and (2) the Auburn-Black Diamond Road, where the transition into the heart of the city from the adjacent rural unincorporated area is now seamless;

B. Protect views from these corridors to natural conditions and other features with historic quality;

C. Regulate the development of land so it preserves, enhances and complements, rather than detracts, from a scenic experience;

D. Provide tree canopies;

E. Allow a gradual transition into a more urban environment.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.76.020 Area of application.**

The gateway corridor overlay district shall apply to all parcels, all or a portion of which are:

A. Within two hundred feet of the State Route 169 right of way, commencing at the city's northern most boundary to the north side of the Roberts Drive intersection; and

B. Within two hundred feet of Auburn Black Diamond Road from the western city limits eastward to its first intersection with an arterial street.

C. Development shall comply with all provisions of this district in addition to those prescribed by the underlying zone. In case of conflict between the provisions of the gateway corridor overlay district and the underlying zone requirements, the provisions of the overlay district shall apply. In case of conflict between the provisions of the gateway corridor overlay district and an existing development agreement, condition of annexation, or recorded conservation easement, the provision that provides the greatest amount of buffering of development from the public right of way shall apply.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.76.030 Definitions.**

A. Development. The division of land into two or more parcels, or ownerships in the case of a condominium; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; and mining, excavation, landfill, or land disturbance; and any use or extension of the use of land.

B. Development Setback. The minimum distance by which any building or site improvement must be separated from the SR 169 or Auburn-Black Diamond Road right-of-way boundary.

C. Multi-Modal Path. An eight-foot wide concrete path developed to Americans with Disabilities Act (ADA) standards and connecting to adjacent properties and other internal sidewalks or pathways.

D. Scenic Corridor. A roadway and its accompanying right-of-way that offers the traveling public an unobstructed opportunity to observe scenic views and scenic sites in one or more directions, and which usually has a high percentage of open landscape and mature trees within and alongside it. A corridor may include adjacent private property, depending on the context.

E. Scenic View. A scene that offers significant viewing opportunities beyond a maximum distance of one-quarter mile.

F. Sustainable Design. Design in which the impact of a building on the environment will be minimal over the lifetime of the structure. Buildings should incorporate the principles of energy and resource efficiency, practical applications of waste reduction and pollution prevention, high standards of indoor air quality and natural light to promote occupant health and productivity, and transportation efficiency in design and construction, during use and reuse.

G. Topping. The severe cutting back of tree limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy, disfigure the tree, and/or threaten its continued health or growth.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.76.040 Exemptions from standards.**

All new development within the gateway corridor overlay district shall comply with the provisions of this chapter, except that the following shall be exempt:

A. Farm or agricultural-related structures and activities occurring outside the development setback.

B. Single-family dwellings, manufactured homes and allowed accessory uses on existing lots of record.

C. All developments existing on the effective date of this code, provided that expansions or additions to existing development on or after the effective date of this code shall not be exempt.

D. Existing lots of record that are one acre or less in size are not exempt, but the director may grant an administrative deviation from the strict application of this code to the minimum extent that is necessary to allow a reasonable use of the parcel while not compromising the intent and purpose of the overlay district.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.76.050 Submittal requirements and administration.**

All non-exempt development shall submit with the appropriate application, an existing condi-

tions map, a site plan of the proposed development and a landscaping plan as specified in Section 18.76.060(C). When a preliminary plat is required to be filed for a subdivision in accordance with this code, this chapter shall be administered and enforced at the time a preliminary plat is filed as part of the subdivision review process by the director and the hearings examiner. In other cases such as a grading permit, development permit or building permit, this chapter shall be administered and enforced by the director.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

### **18.76.060 Site design standards.**

A. **Development Setback.** All development shall maintain a minimum twenty-five-foot setback for all buildings, structures and property improvements such as parking lots, except for approved road, driveway and utility crossings. With the approval of the director, the development setback may be reduced to twenty feet for one-half of the principal street frontage, with the remaining frontage setback to thirty feet.

1. **Retention of Significant Vegetation.** Where existing trees and significant vegetation exist within the development setback, they should be retained as determined appropriate by the director. Setback areas where existing trees and significant vegetation is sparse may require re-vegetation with native species, as determined by the director. Vegetation within a setback area that is required to remain may be pruned and/or removed only if necessary to ensure proper sight visibility for traffic safety, to remove safety hazards or dying/diseased vegetation, or for other good cause. In all cases, it shall be unlawful to top or severely prune any tree within the development setback unless determined necessary by the director for purposes of protecting existing overhead utility lines or other safety considerations.

2. **Allowed Uses and Activities Within the Development Setback.** For sites with an underlying non-residential zone designation or that are planned for non-residential use as part of a master planned development, limited portions of the de-

velopment setback may be used for public plazas with seating, sidewalk café outdoor seating areas, and similar uses and activities. Signage shall be limited to directional signage and to monument signs as allowed herein. Other minor accessory features of the development may be included within the setback if compatible with the purpose of the setback or essential to the identification of the development, subject to the approval of the director. Maximum encroachment for all uses within the development setback (other than for signage) is five feet.

3. **Exceptions to Development Setback for Scenic View Shed Protection.** When the application of the development setback requirement of this chapter would have the practical effect of screening from view important scenic sites, natural qualities or historic qualities, the director may modify these provisions so that views of such sites or qualities are retained. The intent of this provision is to preserve lines of sight to view distant scenery from scenic corridors. In requiring the modification, the director shall impose such other conditions as are necessary to mitigate the effect of the deviation to ensure the purpose and intent of the overlay district is met. Any modification that is allowed or imposed under this provision shall be supported by written findings setting forth the factual reasons supporting the modification.

B. **Access.** All development within the gateway corridor overlay district shall provide for internal vehicle and pedestrian connectivity to abutting properties, including the opportunity for shared driveway access. Only one access point to SR 169 or the Auburn-Black Diamond Road shall be allowed for every three hundred feet of frontage. Access shall be designed and constructed to accommodate future shared access when abutting properties are developed. The director may allow a reduced distance between access points if access to an existing lot would not be possible due to lot size, topographical or other conditions, and there is no reasonable way to provide access through adjoining properties.

C. Landscaping Plan. A landscaping plan shall be submitted with all applications for development, showing all existing and proposed features, including existing significant trees and other relevant features. Significant trees should not be removed unless their removal is necessary for placement of a structure or approved parking or access corridor, or as otherwise as approved by the director. In general, native plant materials are required, although the use of ornamental plant materials may be approved if planted in a naturalistic manner and allowed to develop in their natural form. The landscape plan must also demonstrate pedestrian connectivity within the development, to the required multi-modal path, and to future access roads and path systems. These landscaping requirements are in addition to any landscaping required in the underlying zone.

1. Tree Requirement. In addition to the preservation of significant trees, all development shall provide an additional two trees, with an expected height at maturity of at least thirty feet, per each twenty linear feet of road frontage along either SR-169 or Auburn-Back Diamond Road. These trees shall be a planted within the development setback in a staggered or clustered configuration to ensure maximum canopy development when not in conflict with scenic view protection. These trees shall be a mixture of both native evergreen and deciduous trees, with deciduous trees preferred near buildings to allow for winter solar access. Trees shall have a minimum caliper of three inches at planting, as measured two feet from base of tree.

2. Screening. If the required development setback does not provide adequate screening of parking lots and service and loading zones from the public right-of-way, there shall be additional landscaping, walls, fences, hedges, shrubbery and/or earthen berms to provide the screening of utilities and loading areas.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.76.070 Provisions regarding buildings and structures.**

A. Building Height. No building or structure shall exceed the following heights limits, which are

intended to create a "step-back" effect to preserve view sheds. Cross-section drawings demonstrating how proposed structures meet the height requirements may be required to ensure compliance with this section.

Distance from ROW	Description	Maximum Building Height if Permitted*
0 to 25'	Development Setback	Not permitted
Edge of setback	Development Area	15'
45' or more	Development Area	35'

\* Additional height may be permitted if the applicant meets the sustainable technologies or public amenities incentives as described below.

B. Architectural Features. Building facade modulation is required for all facades facing a public street at intervals of no greater than thirty feet. Street-facing windows shall vary in size and height; clerestory and storefront windows are encouraged. Buildings shall have a minimum of fifty percent transparency into first floor commercial, working space or public area.

C. Utilities. All utility lines including electric, telephone, data and cable television, shall be installed underground. Underground utility trenches within landscaped areas must be revegetated. Utility boxes and cabinets that are now or must, by necessity, be located above ground, shall be shielded from view from the right-of-way with existing vegetation and/or revegetation. Any aboveground boxes and cabinets shall, in addition to the required vegetative screening, be painted black or an earth tone color to otherwise blend in with its surroundings.

D. Signage. Monument signs shall be permitted within the required development setback in accordance with provisions of this section and subject to the approval of the director. Pole signs are not permitted. Signs located beyond the set-

back area and not visible from the public right-of-way are not subject to the requirements of this section, but shall comply with the requirements of the underlying zone.

1. The total allowed sign area of all signage permitted within the development setback on any one lot shall not exceed fifty-four square feet. A double-faced sign shall be considered a single sign. No more than two signs shall be permitted within the development setback area per lot, provided that this limitation shall not apply to signs pertaining to the identification of the corridor and those signs and/or interpretive panels identifying and directing the traveling public to archaeological sites, historic sites and other similar non-commercial places and features of interest.

2. All signage shall be designed with a theme compatible with the architectural style of the development and have a brick, stone or similar masonry base. Signs should be painted a single neutral or earth tone color as determined by the director to be compatible with the architectural theme or style of the development. Signs may be indirectly lit.

3. In general, no internally illuminated signs shall be permitted, nor shall any flashing, blinking, fluctuating or otherwise changing light source be permitted. Provided, an internally lit sign may

be allowed if the sign face only allows light to illumine the lettering of the business or development name.

4. The main supporting structure of all signs shall be set back at least five feet from the edge of the public right-of-way.

5. If a business entrance opens onto the development setback, then a pedestrian oriented sign may be allowed, not to exceed twelve square feet, at the entrance to the business.

E. Walls and Fences. Walls within or along the development setback shall not be allowed, except for low-lying decorative stone walls (maximum thirty-six inches in height) for enhancement of the scenic corridor, or walls that are needed for slope stabilization. Where permitted, walls shall be located so that scenic views are maintained. Walls must consist of natural materials and shall only be of colors that blend with the vegetation or abutting landscape features. Privacy fences shall not be permitted within or along the development setback area.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.76.080 Sustainable design incentives.**

In an effort to encourage the more widespread use of sustainable design, building heights may be increased as noted below for use of one or more of the following elements:

Sustainable Design Technology	Criterion
Solar panels	Must be sufficient to reduce estimated energy consumption by 20%
Green roofs on commercial buildings	Must be constructed to National Roof Construction Association standards
The installation of storm water runoff collection systems to re-circulate runoff as landscaping irrigation	Designed and stamped by a civil engineer
The planting of at least 25 percent more trees than required by code	Landscape plan must be submitted with additional trees identified by species and location

Sustainable Design Bonus:

Distance from ROW	Description	Maximum Building Height if Permitted	Maximum Building Height Bonus, if One or More Technologies Employed
0 to 25'	Development Setback	Not permitted	Not applicable
25' to 45'	Development Area	15'	Additional 10' with one technology employed
45' or more	Development Area	35'	Additional 20' with two technologies employed

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.76.090 Driveways, paths and parking.**

A. Internal roadways within a development shall be designed and constructed to contribute to the scenic character of the corridor and shall be the minimum width allowed. Internal roadways shall provide connectivity to abutting properties. If an abutting property is undeveloped, the site shall be designed and constructed so connectivity can occur when the abutting property develops.

B. Stormwater runoff shall be collected in bio-swales per city standards or best management practices.

C. Pedestrian-scale lighting shall be employed for internal circulation and shall use horizontal cut-off fixtures. Lighting shall be installed to provide a consistent two foot-candles along any path.

D. A continuous eight-foot-wide concrete, ADA accessible, multi-modal path shall connect all properties and shall be constructed either within the development setback or public right-of-way (or both). This path may meander as needed to protect existing significant vegetation and/or provide interest. The multi-modal path shall be connected to the front doors of all commercial development by a minimum five-foot-wide walkway.

E. Parking. Parking lots shall not be visible from public right-of-way. Buildings should be used to screen parking whenever possible. In the case of access points where buildings at or near the set-

back cannot screen parking areas, internal lot landscaping shall be used to screen parking areas from view.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**Chapter 18.78**

**ENVIRONMENTAL PERFORMANCE  
STANDARDS**

**Sections:**

**18.78.010 Intent.**

**18.78.020 Environmental performance  
standards generally.**

**18.78.030 Noise.**

**18.78.040 Emissions.**

**18.78.050 Storage and appearance.**

**18.78.060 Other ordinances.**

**18.78.070 Enforcement.**

**18.78.010 Intent.**

It is the intent of this section to:

A. Protect public health and general welfare;

B. Establish minimum standards for the control of environmental pollution;

C. Minimize the adverse effects of contaminants which may result from the use of land by any activity or person.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.78.020 Environmental performance  
standards generally.**

It shall be the responsibility of the operator and/or the proprietor of any permitted use to provide such reasonable evidence and technical data as the director may require to demonstrate that the use or activity is, or will be, in compliance with the performance standards of this chapter.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.78.030 Noise.**

A. The maximum allowable noise levels as measured at the property line of noise impacted uses or activities shall be those set forth in WAC Chapter 173-60, entitled "Maximum Environmental Noise Levels," which chapter is incorporated by reference.

B. The "Environmental Designation for Noise Abatement" (EDNA) for the several land use classifications of this title shall be as follows:

1. All living areas (single-family, multifamily, etc.): A;

2. All commercial areas: B;

3. Industrial: C.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.78.040 Emissions.**

A. Air pollution, including the emission of odors, shall be controlled by the operator and/or proprietor of any land use or activity; and the ambient air quality standards of the Puget Sound Clean Air Agency shall apply to all air contaminants listed therein.

B. Toxic substances shall be kept to concentrations not exceeding one-fiftieth of interior standards by use of the best available control methods and technology in all phases of plant operation and handling of materials, and by an active commitment to good housekeeping practices.

1. Toxic substances not listed in Regulation I of PSCAA, but released into the air shall be limited in accordance with the most current publication entitled "Threshold Limit Values," of the American Conference of Governmental Hygienists.

C. Liquid wastes shall be disposed of through local sanitary sewer systems only upon approval of affected sewer district authorities.

D. Liquid or solid wastes unacceptable to public sewer authorities shall be disposed of on a regular basis in keeping with the best operating characteristics of the industry, and in compliance with the regulations and requirements of local, regional, state or federal agencies having jurisdiction in waste disposal and environmental health and safety.

E. Heat and Glare. Any operation producing intense heat or glare shall be performed within an enclosure so as to completely obscure such operation from view from any point along the property line.

F. Radioactive Materials and Radiation Devices. The use, storage, transportation and disposal of all radioactive materials and radiation machines shall be subject to the regulatory jurisdiction and control of the Radiation Control Agency of the Washington State Department of Social and Health Services as amended.

G. Vibration and Concussion. No use shall cause earth vibrations or concussions detectable without the aid of instruments beyond its lot lines, with the exception of the temporary vibration produced as a result of construction activity. Such temporary construction activity shall be restricted to the hours between seven a. m. and six p.m. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.78.050 Storage and appearance.**

In the conduct of any business, the storage of merchandise, raw materials, equipment, fixtures, scraps or solid wastes shall comply with the following requirements:

A. Every reasonable effort shall be made by persons operating a business to store all such materials within an enclosed building, with the following exceptions:

1. Where such inside storage is not practical or desirable for reasons related to health, fire or safety codes.

2. Where the outside storage of merchandise, manufactured products, or raw materials is normal and standard practice, such as in the sale of automotive equipment, mobile homes, lumber, gardening materials, nursery stock and the like, or on the site of construction projects.

3. When materials or products are temporarily stored outside incidental to shipping, delivery, loading or unloading thereof.

B. Outside storage shall be maintained in an orderly manner and shall create no:

1. Visual offense to the premises, adjacent properties or the public right-of-way;

2. Fire, safety, health or sanitary hazard.

C. Storage in residential areas shall comply with the same requirements as those specified for business establishments and shall, in addition, comply with the following:

1. Motor vehicles, appliances, and any other mechanical equipment which is no longer operable shall not be stored outside for a period exceeding thirty days.

2. Operable motor vehicles, boats, trailers, recreational vehicles and the like may be stored on the premises provided that they do not obstruct the use of public right-of-way or interfere with traffic visibility, especially the visibility of and at intersections of streets. Vehicles so stored shall not be used as living quarters.

D. Storage in or on the public right-of-way is prohibited. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.78.060 Other ordinances.**

A. All uses in every zoning district shall be in compliance with the city's shoreline master program.

B. Wherever applicable, all construction, site preparation, drainage and erosion controls and the like, shall comply with the requirements of the International Building Code and International Residential Code or as those codes may be amended. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.78.070 Enforcement.**

A. The director is authorized and required to enforce the minimum standards of this chapter.

B. In the enforcement of this chapter, the director may require the operator or owner of an existing or proposed activity or use to submit reasonable evidence and technical data to demonstrate that the use or activity is or will be in compliance with the performance standards of this chapter.

C. The director may undertake independent studies and engage such technical assistance as may be needed for such studies or to evaluate data

or information submitted by an applicant in connection with the performance standards of any activity.

D. The applicant, owner, operator or developer shall pay for or reimburse the city for the costs incurred in the conduct of such tests as the city may require and for costs incurred by the city to engage technical consultants for review and interpretation of data and findings submitted by or on behalf of the developer.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

## Chapter 18.80

### OFF-STREET PARKING AND LOADING REQUIREMENTS

#### Sections:

**18.80.010 Intent**

**18.80.020 General requirements.**

**18.80.030 Minimum requirements.**

**18.80.040 Off-street loading.**

**18.80.045 Stacking space requirements for drive-up windows.**

**18.80.050 Development standards.**

**18.80.060 Motorcycle/bicycle parking requirements.**

#### **18.80.010 Intent**

It is the intent of this section to:

A. Assure that space is provided for the parking, loading and unloading of motor vehicles on the site of premises or uses which attract motor vehicles.

B. Provide minimum standards of space and parking arrangements, and for the movement of motor vehicles into and out of such spaces.

C. Avoid or reduce traffic congestion on public streets by:

1. Minimizing the need for on-street parking; and

2. Controlling access to sites.

D. Enhance safety for pedestrians and motor vehicle operators.

E. Encourage the creation of an aesthetically pleasing and functionally adequate system of off-street parking and loading facilities.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.80.020 General requirements.**

A. Off-street parking spaces and driveways required by this chapter shall not be used at any time for purposes other than their intended use, e.g., the temporary storage of motor vehicles used by persons visiting or having business to conduct

on the premises for which the parking is provided, unless a temporary use as been authorized by this title.

B. Minimum parking spaces required and intended for use by occupants or users of specific premises shall not be leased or rented to others, nor shall such space be made unavailable through other means to the users for whom the parking spaces are intended. This, however, does not preclude shared parking arrangements.

C. Except where specifically permitted in certain zoning districts, off-street parking spaces shall not be used for loading or unloading of commercial vehicles larger than those vehicles for which the parking spaces are intended.

D. Whenever a building or a parcel of land is put to a use different from the immediately preceding use, or when a building is remodeled, reconstructed or expanded, adequate off-street parking shall be provided consistent with the new use, reconstruction or expansion of the premises.

E. Site development activities are prohibited if they would either render a site or land use nonconforming as to the standards of this chapter or make the site more nonconforming.

F. These regulations shall not be retroactive to include any building or use existing at the time of passage of this code, except as follows:

1. When a building is located on a different site, off-street parking spaces shall be provided as required for a new building;

2. Within any three-year period, when an addition to a building or expansion of an existing use would result in the requirement to provide five or less additional parking stalls, then additional off-street parking need not be provided.

3. Whenever any existing nonresidential use is changed to another use in the same building, the requirements of this chapter shall only apply in full to the new use if the change in parking requirements between the old and new use is greater than five spaces.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.80.030 Minimum requirements.**

A. The requirements for off-street parking and loading facilities and their design shall be regarded as the minimum; however, the owner, developer, or operator of the premises for which the parking facilities are intended shall be responsible for providing adequate amount and arrangement of space for the particular premises even though such space or its arrangement is in excess of the minimum set forth in this title.

B. For conditional uses permitted under this title that are not within a category in the table at 18.80.030(E), the parking requirement shall be as provided by the applicable decision maker in the conditions of approval.

C. There shall be no parking or loading allowed in any required side or rear yard that abuts a residential zone.

D. The parking requirement tables (subsections (E), (F), and (G) below) group uses in the zone in which they are most commonly found, but these uses may also be permitted in other zones and are subject to the same parking standards.

E. Parking requirements in residential zones, unless otherwise modified by other provisions within this code.

USES	REQUIRED SPACES (*Gross sq ft of primary building area)
Single-family dwellings	2
Multi-family structures (3 or more dwellings)	1.75 per unit
Multi-family studio/efficiency dwellings	1 per unit
Senior housing	¾ per unit
Manufactured home on individual lot	2

<b>USES</b>	<b>REQUIRED SPACES (*Gross sq ft of primary building area)</b>
Manufactured or mobile home in a manufactured home park	2 per home, of which one may be located in on-site, shared parking areas
Religious institutions, less than 10,000 gsf*	0.5 per seat or 4 lineal feet of pew space or 1 per 4 seats

F. Parking requirements in commercial zones.

<b>USES</b>	<b>REQUIRED SPACES (*Gross sq ft of primary building area)</b>
Retail, 10,000 gsf* and less	1 per 350 gsf*
Retail, over 10,000 gsf*	1 per 300 gsf*
Entertainment/Culture	
Restaurant	1 per 150 gsf*
Theaters and place of public assembly	1 per 4 seats
Other Entertainment/Culture	1 per 4 seats
General Office	1 per 500 gsf*
Personal and Professional Service	1 per 400 gsf*
Public Uses/Facilities	Depends on use and determined at site plan review
Major Institution	Depends on use and conditions of approval
Multi-family residential structures in a mixed-use project	1.5 per unit in a free-standing building; 1 per unit if within a mixed-use building
Day Care Center serving more than 12 children	Minimum of 6, plus one for each employee
Religious Institutions, 10,000 gsf* or larger	0.7 per seat or 4 lineal feet of pew space or 1 per 4 seats

G. Parking requirements in business/industrial park and industrial zones.

<b>USES</b>	<b>REQUIRED SPACES (*Gross sq ft of primary building area)</b>
Research and Development	1 per employee, plus 0.5 per 1,000 gsf*
Light Manufacturing	1 per employee, plus 0.25 per 1,000 gsf*
Heavy Manufacturing	1 per employee, plus 0.25 per 1,000 gsf*
Business Support Services	1 per 400 gsf*
Warehousing and Distribution	1 per 1,000 gsf, plus 1 per 400 gsf* of office
Wholesaling	1 per 1,000 gsf, plus 1 per 400 gsf* of office or display

\* gsf = gross square feet  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.80.040 Off-street loading.**

Off-street loading shall be provided for commercial, business /industrial park and industrial uses as follows:

Total Gross Floor Area of Building(s)	Space Required
Less than 5,000 sq. ft.	1
5,000 sq. ft. to 25,000 sq. ft.	2
25,000 sq. ft. to 50,000 sq. ft.	3
Each additional 50,000 sq. ft. or fraction thereof in excess of 25,000 sq. ft.	1 additional

All off-street loading and unloading spaces shall be of adequate size and with adequate access thereto to accommodate a vehicle forty-five feet in length, eight feet in width, and fourteen feet in height. Each loading space shall be surfaced with asphalt, concrete or similar pavement so as to provide a surface that is durable and dust-free and shall be so graded and drained as to properly dispose of all surface water.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.80.045 Stacking space requirements for drive-up windows.**

Businesses including drive-up windows shall provide at least six stacking spaces for each window, equal to fifteen linear feet for each stacking space.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.80.050 Development standards.**

A. Parking lot construction shall provide surfaces sufficient for the function and loads for which such lots are intended.

1. Within residential zones, required parking shall be accessed by a driveway improved with an

all-weather surface (crushed rock, gravel, asphalt or concrete). Driveway approaches within the public right-of-way to the public street shall be improved in compliance with the city's Public Works Standards.

2. In all zones, parking areas for more than four vehicles shall be surfaced with asphalt, concrete or similar pavement so as to provide a surface that is durable and dust-free and shall be so graded and drained as to properly dispose of all surface water.

**B. Parking Area Design.**

1. Ingress and Egress. The location of all points of ingress and egress to parking areas shall be subject to the review and approval of the city.

2. Backing Out Prohibited. In all nonresidential developments and in all residential buildings containing five or more dwelling units, parking areas shall be so arranged as to make it unnecessary for a vehicle to back out into any street or public right-of-way; provided that, the director may approve direct individual parking stall access to private or public alleys.

3. Parking Spaces—Access and Dimensions. Adequate provision shall be made for individual ingress and egress by vehicles to all parking stalls at all times by means of unobstructed maneuvering aisles. Maneuvering aisles and parking stall dimensions shall be as shown in Diagrams 1, 2, and 3 of this chapter.

4. Compact Car Parking Spaces. In all parking facilities containing twenty-five or more parking spaces, a maximum of twenty-five percent of the required parking spaces may be reduced in size for the use of compact cars, provided these spaces shall be clearly identified markings containing the notation, "compact" spaces designed for compact cars may be reduced in size to a minimum of seven and one-half feet in width and fifteen feet in length.

C. Location of Parking. The following provisions shall apply in all zoning districts:

1. Single-family dwellings: required parking shall be located on the same lot as the building it is to serve.

2. Multifamily dwellings: required parking may be on a contiguous lot in the same zone if located within a walking distance of five hundred feet of dwelling units. The lot shall be legally encumbered by an easement or other appropriate means to ensure continuous use of the parking facilities. Documentation shall require review and approval of the city attorney.

3. Other uses: may be in areas other than on the premises if the required amount of parking area is set aside for a particular use in such a lot, and such area is located within a walking distance of five hundred feet from the premises and is in the same zone as the use. The lot or area to be utilized shall be legally encumbered by an easement or other appropriate means to ensure continuous use of the parking facilities. Documentation shall require review and approval of the city attorney.

4. Whenever required parking facilities are located off-site, sidewalks, or an approved pedestrian facility, shall be provided connecting the satellite parking facility to the development being served. If lighting is provided, it shall be installed in conformance with Chapter 18.70.

D. Mixed Occupancies and Shared Uses.

1. In the case of two or more principal uses in the same building or when a residential use is located on the same development site as a commercial use, the total requirements for off-street parking facilities shall not exceed seventy-five percent of the sum of the requirements for the principal uses computed separately.

2. Other than for residential uses, in order for a use to be considered a separate principal use under the terms of this section, the uses must be physically and managerially separated in a manner which clearly sets the principal uses apart as separate businesses or operations. Various activities associated with single businesses shall not be considered separate uses.

E. Reduced Parking Demand Study.

1. The director may allow a development to provide less than the required parking spaces by submitting a parking study that describes how parking demand can be met with a reduced parking requirement. Reasons for reducing the parking requirement under this section may include, but are not limited to:

- a. Unique characteristics of the use;
- b. Location adjacent to transit facilities; or
- c. Adoption of an approved transportation demand management plan.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.80.060 Motorcycle/bicycle parking requirements.**

A. Parking spaces for motorcycles shall be provided as follows:

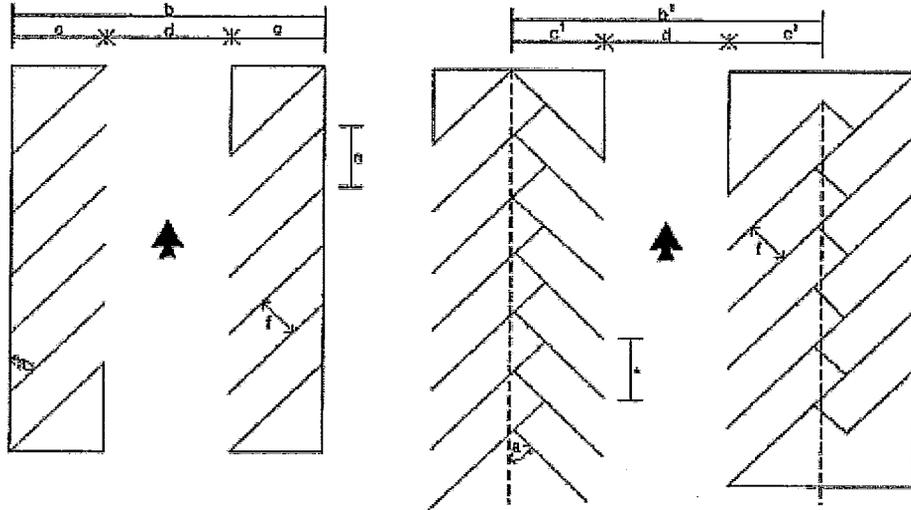
1. All multiple-family developments and non-residential uses may provide one motorcycle space for every twenty-five required automobile spaces in lieu of a required automobile space.

2. Each motorcycle space shall be easily accessible and have adequate space for a standard-size motorcycle.

3. Motorcycle parking areas shall be clearly identified with appropriate striping.

B. All commercial, industrial, institutional, and recreational uses which require twenty-five or more parking spaces pursuant to this chapter shall provide a designated bicycle parking area to accommodate a minimum of five bicycles. Such bicycle parking areas shall provide a secure facility (e.g., rack, posts) to which to lock bicycles and shall be located so as to be reasonably convenient to the on-site use and not interfere with pedestrian and automobile traffic. Prior to issuing permits for facilities requiring one hundred or more parking spaces pursuant to this title and/or uses with high expected bicycle traffic (e.g., schools) the director may require reasonable additional bicycle parking capacity over and above the minimum five spaces.

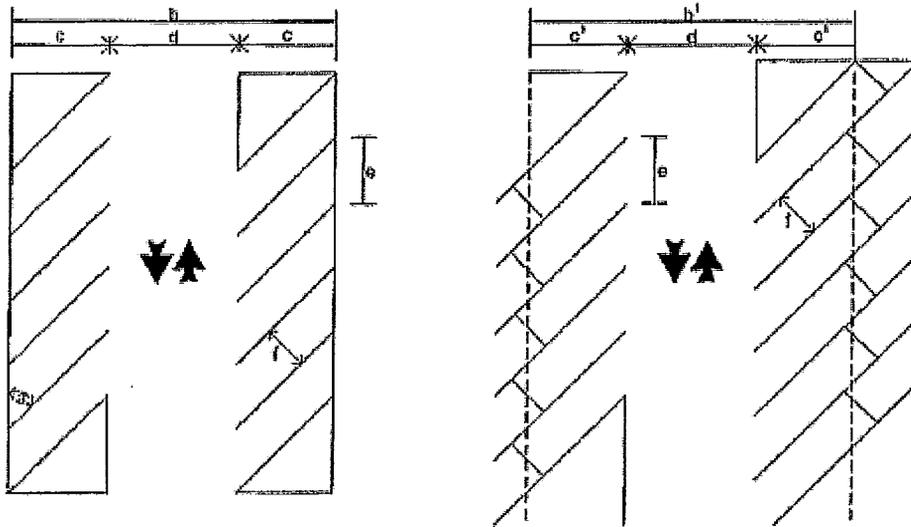
DIAGRAM 1



ONE-WAY TRAFFIC

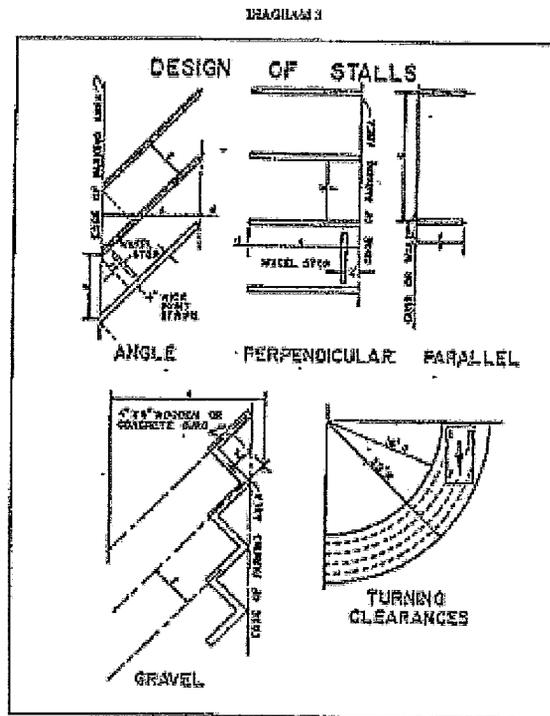
	a	b	c	d	e	f	b1	c1
	0°	28'	8'	12'	23'	8'		
	35°	48'	18'	12'	14.8'	8.5'	41'	14.5'
	40°	49'	18.5'	12'	13.2'	8.5'	42'	15'
	45°	50'	19'	12'	12'	8.5'	43'	15.5'
	50°	51'	19.5'	12'	11.1'	8.5'	45'	16.5'
	55°	53'	20'	13'	10.4'	8.5'	48'	17.5'
	60°	55'	20'	15'	9.8'	8.5'	50'	17.5'
	65°	57'	20'	17'	9.7'	8.8'	53'	18'
	70°	59'	20'	19'	9.6'	9'	56'	18.5'
COMPACT CAR PARKING	45°		17'	11'		9'		
	60°		16.7'	14'		8.7'		
	75°		16.3'	17.4'		7.8'		
	90°		15'	20'		7.5'		

DIAGRAM 2



TWO-WAY TRAFFIC

	a	b	c	d	e	f	b1	c1
	0°	36'	8'	20'	23'	8'		
	35°	56'	18'	20'	14.8'	8.5'	49'	14.5'
	40°	57'	18.5'	20'	13.2'	8.5'	50'	15'
	45°	58'	19'	20'	12'	8.5'	51'	15.5'
	50°	59'	19.5'	20'	11.1'	8.5'	53'	16.5'
	55°	60'	20'	20'	10.4'	8.5'	55'	17.5'
	60°	60'	20'	20'	9.8'	8.5'	55'	17.5'
	65°	60'	20'	17'	9.7'	8.8'	56'	18'
	70°	60'	20'	24'	9'	9'		
COMPACT CAR PARKING	45°		17'	20'		9'		
	60°		16.7'	20'		8.7'		
	75°		16.3'	20'		7.8'		
	90°		15'	20'		7.5'		



(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**Chapter 18.82**

**SIGNS**

**Sections:**

- 18.82.010 Purpose and scope.
- 18.82.020 Definitions.
- 18.82.030 Permits—General regulations.
- 18.82.040 Permit requirements.
- 18.82.050 Sign standards and conditions.
- 18.82.060 Temporary signs.
- 18.82.070 Reserved.
- 18.82.080 Permits not required when.
- 18.82.090 Prohibited signs.

**18.82.100 Administration and enforcement.**

**18.82.110 Liability.**

**18.82.010 Purpose and scope.**

A. Purpose. It is the purpose of this chapter to promote a quality visual environment by establishing reasonable standards for the size, placement, height and maintenance of outdoor signs, graphics and advertising. It is further intended to encourage quality design and material composition which create an attractive community and business climate. Special emphasis should be placed on achieving harmony with building design, settings and the character of the surrounding areas.

B. This chapter shall not regulate traffic and directional signs installed by a governmental en-

tity; signs not readable from nor intended to be viewed from a public right-of-way; merchandise displays; point of purchase advertising displays, such as product dispensers; national flags; flags of a political subdivision; symbolic flags of an institution; legal notices required by law; barber poles; historic site plaques; gravestones; structures intended for a separate use, such as phone booths, bus shelters, donation containers and recycling containers; or lettering or symbols painted directly onto or flush-mounted magnetically onto a motor vehicle operating in the normal course of business.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

### 18.82.020 Definitions.

The following definitions shall apply for the purpose of this code.

*Abandoned sign* means a sign that no longer correctly identifies, exhorts or advertises any person, business, lessor, owner, product or activity conducted or available on the premises where such sign is located.

*Advertising copy* means any letters, figures, symbols, logos or trademarks which identify or promote the sign user or any product or service; or which provides information about the sign user, the building or the products or services available.

*Banner* means any sign of lightweight fabric, vinyl or similar material that is mounted to a building or pole by any means. National flags, state or municipal flags, seasonal flags, or the official flag of any institution or business shall not be considered as banners.

*Building* means a roofed and walled structure built for permanent use.

*Bulletin board* means a board or small sign on which notices, community events or hours of operation are posted.

*Change* means a change to a sign consists of relocating the sign, or replacing fifty percent or more of the structural material in the sign area. Normal maintenance and a change of name are not changes which require a permit.

*Code administrator* means the community development director or his appointee, who shall be authorized to enforce all of the provisions of the sign code.

*Double-faced sign* means a sign that has advertising copy on opposite sides of a single display surface or sign structure.

*Electrical sign* means a sign or sign structure in which electrical wiring, connections and/or fixtures are used as part of the sign proper.

*Facade* means the entire building front or street wall face of a building extending from the grade of the building to the top of the parapet or eaves and the entire width of the building elevation.

*Flashing signs* means a sign or a portion thereof which changes light intensity or switches on and off in a constraint pattern or contains motion or the optical illusion of motion by use of electrical energy. Changing message centers shall not be considered flashing signs.

*Freestanding sign* means a sign attached to the ground by a sign structure and supported by up-rights placed on or in the ground.

*Gas station price sign* means a sign advertising the price of motor fuel and contains no other business advertising.

*Grade* means the elevation as measured at the relative ground level in the immediate vicinity of the sign.

*Ground sign* means a sign of limited height (maximum of twelve feet) constructed and affixed on a foundation upon or in the ground. Also known as a monument sign.

*Incidental sign* means a small nonelectric information sign four square feet or less in area which pertains to goods, products, services or facilities which are available on the premises where the sign occurs and is intended primarily for the convenience of the public while on the premises.

*Institutional sign* means a sign to identify educational, civic and religious institutions.

*Landscaping* means the planned use of trees, shrubs and other living plant materials used in conjunction with a sign and other decorative features.

*Lot identification sign* means a sign to identify the occupants of the premises.

*Mansard roof* means a sloped roof or roof-like facade architecturally able to be treated as a building wall.

*Marquee* means a permanent structure attached to, supported by and projecting from a building and providing protection from the weather elements, but does not include a projecting roof. For purposes of this chapter, a freestanding permanent roof-like structure providing protection from the elements, such as a service station gas pump island, will also be considered a marquee. This also includes canopies.

*Neighborhood identification sign* means a sign to identify a particular residential area or development four acres or greater in size.

*Neon sign* means a symbol, logo, or message comprised of illuminated neon tubing used to attract attention for advertising purposes. Neon signs shall not flash, oscillate or revolve.

*Off-premises directional sign* means a permanently installed sign which provides directional information to a business or service, but not located on the same property as the sign in question.

*On-premises directional sign* means a permanent sign that directs the public to a specific place such as an entrance, exit or parking or service area, or a particular aspect of a business establishment.

*Off-premises sign* means a sign relating, through its message and content to a business activity, use, product or service not available on the premises on which the sign is erected.

*On-premises sign* means a sign which carries only advertisements and messages strictly applicable to a lawful use of the premises on which it is located.

*Political sign* means any temporary sign that advertises a candidate for elected office or an opinion on a ballot measure in a pending public election.

*Portable sign* means a sign made of any material, which by its design is readily movable and is not permanently affixed to the ground, structures or buildings.

*Projecting sign* means a sign which is attached to and projects more than one foot from a structure, building face or marquee.

*Public service/ civic event sign* means a temporary sign which may be placed in the public right-of-way, advertising a city-approved service or event.

*Readerboard* means a sign face consisting of tracks to hold readily changeable letters allowing frequent changes of copy.

*Real estate sign* means any sign that advertises the sale, rental or lease of real property.

*Revolving sign* means a sign which rotates or turns in a circular pattern.

*Roof sign* means a sign supported by and erected on and above a roof or parapet of a building or structure (shall not include a sign erected on the face of a mansard roof).

*Sandwich board sign* means a temporary sign set upon the ground, consisting of two sign faces hinged at the top and separated at the bottom to make it self-standing upon the ground.

*Sign* means any visual communication device, structure or fixture which is legible from any right-of-way and is intended to aid the establishment in question in promoting the sale of products, goods, services, events or to identify a building. Signs may consist of words, logos, insignias, symbols, flags, banners, balloons, inflatable devices, pennants or other feature intended to direct attention to or promote the interest of any person, institution or business. Works of art, fountains, mosaics and building or structural design features that do not contain a commercial message, logo, symbol, or identification are not signs according to this definition.

*Sign area* means the entire area of a sign on which copy is to be placed. Sign structure, architectural embellishments, framework and decorative features which contain no written or advertising copy shall not be included. Sign area shall be calculated by measuring the area of the smallest rectangle that can be drawn around all parts of the sign from the viewpoint exposing the largest sign surface area, excluding simple support structures.

Sign-supporting structures which are part of the sign display shall be included in the area rectangle.

*Special sale/promotional/business opening sign* means a temporary sign such as a banner, flags, pennants, and similar devices, or wind-driven sign accents (such as spinners) attached to a sign to attract the attention of the public, used for short durations of time.

*Temporary construction sign* means a sign jointly erected and maintained on premises undergoing construction, by an architect, contractor, subcontractor and/or materialman, upon which property such person is furnishing labor or material.

*Temporary sign* means any sign or advertising display, intended to be displayed for a limited time only and not permanently attached to a building or site.

*Wall sign* means a sign attached or erected parallel to and extending not more than one foot from the facade or face of any building to which it is attached and supported throughout its entire length, with the exposed face of the sign parallel to the plane of said wall or facade. Signs incorporated into mansard roofs, marquees or canopies shall be treated as a wall sign.

*Wall graphics* means a wall sign of which color and form are part of an overall design on the building.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009; Ord. No. 920, § 1, 8-20-2009)

#### **18.82.030 Permits—General regulations.**

No sign shall be installed, constructed, structurally altered, posted or applied without first obtaining a sign permit unless exempted by this chapter. A single permit shall be required for each group of signs on a single supporting structure installed simultaneously. Thereafter, each additional sign erected on the structure must have a separate permit.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.82.040 Permit requirements.**

A. Applications/Fees. Applications for signs shall be accompanied by:

1. Two site plans showing the location of the affected lot, building(s) and sign(s), showing both existing and proposed signs;

2. Two copies of a scale drawing of the proposed sign or sign revision, including size, height, proposed copy, structural and footing details, material specifications, method of attachment, illumination, front and end views of marquees, calculation for dead load and wind pressure, photograph or building elevation marked to show where sign or marquee is proposed and any other information required to ensure compliance with appropriate laws;

3. Written consent of the owner of the building, structure or property where the sign is to be erected;

B. Administrative Requirements. The city shall ascertain that the sign installer has a valid Washington State contractors license, unless the sign is being installed by the owner of the sign.

#### C. Variances.

1. Any person may apply to the hearing examiner for a variance from the requirements of this chapter. Before the hearing examiner may grant, amend or deny an application for a variance, the hearing examiner shall hold at least one duly noticed public hearing. Upon the filing of a complete application for a variance by a property owner or by a lessee, the director shall set a time and place for said public hearing to consider the application. A written notice thereof shall be mailed to all property owners of record within a three-hundred-foot radius of the external boundaries of the subject property. In addition, notice shall be posted on the property at least ten days prior to the hearing. Said notice shall include the time, date, place and purpose of the hearing and shall identify the subject matter property by address, written description, legal description or vicinity sketch.

2. Upon completion of the public hearing, the hearing examiner shall grant, deny or amend the application in accordance with the provisions of this chapter. Before any variance can be granted, the hearing examiner shall make findings of fact setting forth and showing that the following circumstances exist:

a. The granting of the variance would not be materially detrimental to the property owners in

the vicinity and the variance sought is of minimum sign size, height and scope to meet the conditions and needs of the applicant;

b. The granting of the variance would not be contrary to the objectives of this chapter;

c. The signage of the property in question cannot be adequately met under the literal interpretation and strict application of this chapter; and

d. The granting of the variance is necessary because of special circumstances relating to property location, topography, shape and size; site distance and limited view to property; and/or dependency of business to visual access of freeway traffic in the interchange area.

3. Within twenty-one days of the date of the public hearing, the hearing examiner shall issue its written findings, conclusions and decision setting forth the reasons for its decision to grant, amend or deny the application. A copy of said decision shall be promptly mailed to the applicant by first class mail addressed to his or her last known address.

4. The applicant, the property owner or any person aggrieved or adversely affected by a final decision of the hearing examiner under this chapter may appeal said decision to the King County Superior Court pursuant to Chapter 36.70C RCW. A petition for judicial review must be filed within twenty-one days of the issuance of a decision.

**D. Administrative Waiver—Off-Premises Signs.** Off-premises commercial signs are prohibited, unless a waiver is granted by the director for an off-premises directional sign. Waivers shall only be granted upon a clear demonstration that the applicant's business or property is not visible from any streets or roads or on-premises signing cannot adequately convey the location and identity of the business to consumers who would normally use the business.

1. Such signs shall be directional only (no advertising other than name and location).

2. No more than two such signs for each business shall be approved.

3. The total area of the sign shall not exceed twenty-four square feet, such sign(s) must be permanently installed on private property, and the application must be accompanied by written permission of the owner of the property where the sign is to be located.

4. Such sign shall meet all other applicable provisions of this chapter.

5. If more than one business in an immediate area has need for an off-premises directional sign, all must be identified on the same sign.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

### **18.82.050 Sign standards and conditions.**

#### **A. General Regulations.**

1. No sign or any part of a sign shall be designed or constructed to be moving by any means, and shall not contain items such as banners, ribbons, streamers and spinners, except as authorized for temporary signs.

2. Exposed braces and angle irons are prohibited. Guywires are prohibited unless there are no other practical means of supporting the sign.

3. No sign shall have blinking, flashing, fluttering or moving lights or other illuminating device which has a changing light intensity or color; provided, however, temperature and/or time signs that conform in all other respects to this chapter are allowed.

4. The structure and installation of all signs shall comply with the latest adopted edition of the Uniform Building Code.

5. Such sign shall meet all other applicable provisions of this chapter.

6. If more than one business in an immediate area has need for an off-premises directional sign, all must be identified on the same sign.

7. All signs, together with all of their supports, braces, guys and anchors, shall be maintained in good repair and in a safe, neat, clean and attractive condition.

8. The light directed on, or internal to, any sign shall be so shaded, shielded and/or directed so that the intensity or brightness shall not adversely affect safe vision of operators of vehicles

moving on private or public property or pedestrians on a public right-of-way. Electric signs shall not use incandescent bulbs for internal illumination. Lighted signs visible from nearby residences shall have low or soft illumination or be shielded in a manner to not adversely affect such residents.

9. Portable signs shall not exceed twelve square feet in sign area and no more than one such sign may be displayed per business. Portable signs must be located on the premise to which they relate, except real estate directional signs.

10. Abandoned signs shall be removed by the owner or lessee of the premises upon which the sign is located within ninety days after the business or service advertised is no longer conducted on the premises.

**B. Freestanding and Ground Signs.**

1. Sign height is the vertical distance from the highest point of the sign to the finished grade at the base of the supports.

2. Freestanding signs shall not be permitted in any zone.

3. Height standards:

All non-residential zone districts: Ground signs shall not exceed twelve feet in height.

Residential zones: Ground signs shall not exceed six feet in height.

4. Sign area standards:

All non-residential zone districts: Fifty square feet for a single side or one hundred square feet total both sides.

Residential zones: Twenty-four square feet for a single side or forty-eight square feet total both sides.

5. Location. Ground signs shall be set back a minimum of five feet from a front property line. Placements in these locations are subject to approval by the public works director. The placement of ground signs shall be in such a fashion and location as to not obstruct the view of signs of adjacent property owners.

6. Number. One ground sign shall be permitted on each street frontage of property on which the business is located.

7. Landscaping:

a. Each sign shall have a landscaped area at the base of the sign equal to twice the size of the sign area. The landscaping and sign base shall be protected from vehicles by substantial curbing.

b. Permits for signs shall not be granted until required landscaping is installed or a bond or assigned funds in the amount of one hundred fifty percent of the estimated cost of the landscaping is provided.

c. These requirements may be waived if the sign is located in an area that is part of an approved overall site landscape plan.

**C. Wall-Mounted Signs.**

1. Total Area. Painted or attached signs on any wall shall not exceed the following ratios:

a. Community Commercial District: Two square feet of sign area to one lineal foot of building front; provided, however, fifty square feet of sign area is guaranteed each business frontage. Those businesses with both a building front and one side wall exposure to vehicular and pedestrian traffic may, as an option for purposes of calculating total wall sign area, add the lineal footage of the building front and side wall then divide by two.

b. Town Center District: One and one-half square feet of sign area to one lineal foot of building front. Those businesses with both a building front and one side wall exposure to vehicular and pedestrian traffic may, as an option for purposes of calculating total wall sign area, add the lineal footage of the building front and side wall then divide by two.

c. Area 3 (all other non-residential zone districts or for non-residential uses in residential districts): One square foot of sign area for every lineal foot of wall upon which the sign is mounted or fifty square feet, whichever is less.

2. Wall signs shall not project above roof lines.

**D. Window Signs.**

1. Where a window sign is utilized in place of a wall sign, the area standards contained in subsection (C)(1) of this section shall apply.

2. In addition to the area requirements of subsection (D)(1) above, businesses are allowed

one painted window sign identifying the business or proprietor and hours of business. The maximum area of these signs is six square feet.

3. Window signs above the first floor are not included in the maximum sign area of a site, and are allowed to businesses located above the first floor with a maximum area of one square foot of sign area for each lineal foot of window frontage.

#### E. Projecting Signs.

##### 1. Surface area:

a. Commercial zone districts: Thirty-two square feet total both sides.

b. All other non-residential districts: Eighteen square feet total both sides

2. All projecting signs must be at least eight feet above sidewalks and walkways and fifteen feet above vehicular ways.

3. Sign shall not project more than three feet or one-third the width of the sidewalk or walkway.

4. Businesses choosing to use projecting signs shall reduce the amount of allowable wall mounted or window sign area by the proportionate amount of sign area allowed under subsections (C)(1) and (D)(1) of this section.

F. Shopping Center Identification Sign(s). Each shopping center having eight or more tenants may be permitted one shopping center identification ground sign. Any shopping center having eight or more separate tenants may have one shopping center identification sign that includes identification of each of the separate tenants, if and only if, all of the following conditions are met:

1. All existing signs in the shopping center must be brought into conformance with the city sign standards in effect at the time of application, prior to issuance of a sign permit for the shopping center identification sign. Provided, however, existing roof signs shall be removed within eighteen months from issuance of the shopping center identification sign;

2. Individual tenants/businesses within a shopping center using a shopping center identification sign shall only be allowed to use wall signs;

3. The shopping center identification sign shall be consistent with the city's adopted design standards and guidelines with regard to height, size and design;

4. The sign may only contain the names of the tenant businesses, and the name of the shopping center;

5. The tenant business names shall be of uniform type and size; and

6. The landscape requirements for ground signs shall be met.

G. Office Building Identification Sign. In addition to those signs permitted by this chapter, each office building consisting of at least four tenants may be permitted a building identification sign. The sign shall be architecturally compatible with the design of the building to be identified. The office building identification sign shall be limited to one sign per street frontage, and subject to the height and size requirements of the zone in which the building is located. One such sign(s) shall be permitted per office building or any institutional use, and the copy shall include only the name of the office building or institutional use. A directory or other exclusively informational listing of tenant's names may be attached, provided the area does not exceed twelve square feet.

H. Sandwich Board. In non-residential zones, one sidewalk or sandwich board sign per business shall be permitted subject to the following:

1. Signs may be located on private property provided they do not interfere with the opening of car doors, bus stops, loading zones or pedestrian traffic, or create a traffic safety hazard by interfering with the vision of drivers entering or leaving the premises.

2. Signs may be located in the public right-of-way directly adjacent to the property upon which the advertising business is located, provided that no sign shall: block a sidewalk; encroach into any portion of a required handicapped ramp; be located closer than two feet from the face of curb to the nearest sign edge; or, along roadways with no curbs, be located six feet from the edge of payment to the nearest sign edge.

3. Owners of such signs shall assume liability for damage resulting from their use.

4. Maximum allowable sign area shall be six square feet per side. Maximum allowable sign height shall be thirty-six inches.

5. Signs shall only be displayed during the hours the premises or business is open to the general public.

6. There shall be no more than one sign per premises in non-residential zones and no more than three signs per premises in residential zones.

7. The provisions of this subsection shall expire on December 31, 2010.

I. Wall Graphics. There are no area restrictions on wall graphics if they do not constitute advertising of a business or product normally subject to the provisions for painted signs.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009; Ord. No. 920, §§ 2, 3, 8-20-2009)

**18.82.060 Temporary signs.**

No permit is required for. The following standards shall apply to all temporary signs:

A. Special sale/promotional or business opening signs shall be permitted in all non-residential zones.

1. Maximum duration shall be one month or upon termination of the sale or event that they advertise, whichever is less.

2. Maximum area, per site, shall not exceed fifty percent of the size of the permitted wall/ façade sign; this area shall not count towards the total allowable sign area.

3. All banners shall be attached to the façade, wall or window of the building which includes the business which they advertise; provided that, until December 31, 2010, banners may be attached to other site features such as fences, poles, etc.

4. Pennants may be anchored on lighting poles or similar features on private property.

5. The use of pennants, wind-driven accents and other attention-attracting devices attached to a sign shall be prohibited after December 31, 2010.

B. Real estate signs are permitted in all zones and shall be located upon the property to which they apply, except as provided for in this subsection.

1. Residential "For Sale" and "Sold" Signs. On-premise signs shall be limited to one sign per street frontage not to exceed six square feet in sign area per side, placed wholly on the property for sale, and not to exceed a height of six feet. Directional signs, not to exceed two square feet in area per side, may be placed within the public right-of-way no greater than one-half mile from the property available for sale.

2. Residential Open House Sandwich Board Signs. Such signs shall be limited to sandwich board signs or similar portable signs and shall be limited to a maximum of one sign per street frontage on the premises for sale and three off-premises signs. Such signs are permitted only during daylight hours and when the broker/agent or seller or an agent is in attendance at the property for sale. No such sign shall exceed five square feet in sign area per side. Signs may be placed within the public right-of-way provided they do not interfere with vehicular or pedestrian traffic or the ability of the city to maintain the right-of-way.

3. Undeveloped Commercial and Industrial Property "For Sale or Rent" Signs. One sign per street frontage advertising undeveloped commercial or industrial property for sale is permitted while the property is for sale. The sign shall not exceed thirty-two square feet in sign area per side and six feet in height.

4. Developed Commercial and Industrial Property "For Sale or Rent" Signs. One sign per street frontage advertising a commercial or industrial building for rent or sale is permitted while the building is actually for rent or sale. If freestanding, the sign shall not exceed six feet in height; it shall be located more than fifteen feet from any abutting property line and a public right-of-way line; and shall not exceed thirty-two square feet in sign area per side. For rental space in multi-occupancy buildings, one sign, four square feet in area, is allowed per window.

C. **Construction Signs.** Construction signs shall be permitted within all zones.

1. Sign copy shall be limited to information about a building or project under construction or being remodeled.

2. Maximum duration shall be until construction is completed or one year, whichever is shorter.

3. Maximum area shall be twelve square feet in residential zones and thirty-two square feet in non-residential zones.

4. Only one construction sign per contractor per site shall be allowed.

D. **Political Signs.** Political signs are permissible in all zones on both private property and within public rights-of-way.

1. It shall be the responsibility of the candidate to have his or her campaign/political signs removed within ten days after the election, or the city will remove such signs at the candidate's expense. Provided, that signs promoting successful candidates or ballot propositions in a primary election may remain displayed through the general election period.

2. Political signs placed within the public right-of-way shall not interfere with vehicular or pedestrian traffic or the ability of the city to maintain the right-of-way.

3. Maximum sign area shall be twelve square feet.

E. **Public Service/Civic Event Signs.** Signs advertising community events or public issues may be permitted to locate in or over public right-of-ways. If located within the public right-of-way, such signs shall not be permitted to advertised or promote any business or the sale of any product or commodity. Banners shall only be suspended over public rights-of-way at locations approved by the public works director. Maximum duration shall be from one month before the event to five days after the event. Signs shall be removed by the promoters of the event, or the city will remove such signs at the promoter's expense.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009; Ord. No. 920, § 4, 8-20-2009)

#### **18.82.070 Reserved.**

*Editor's note*—Ord. No. 920, § 5, adopted Aug. 20, 2009, repealed § 18.82.070, which pertained to additional standards for specific signs, and derived from Ord. No. 909, § 2, June 18, 2009.

#### **18.82.080 Permits not required when.**

The following shall not require a permit; provided, however, these exemptions shall not be construed as relieving the owner from the responsibility to comply with the provisions of this chapter or any other law or ordinance:

A. The changing of the advertising copy or message on a lawfully erected, painted or printed sign, reader-board or similar sign specifically designed for the use of replaceable copy;

B. Painting, repainting or cleaning of a lawfully erected sign or the changing of the advertising copy, thereof and other normal maintenance unless a structural or electrical change is made;

C. Temporary decorations customary for special holidays erected entirely on private property;

D. On-premises directional signs when not exceeding sixteen square feet in area and the distance from the ground level at the base of the sign to the top of the sign is not greater than eight feet;

E. Incidental signs;

F. Political signs;

G. One nonelectric on-premises bulletin board not exceeding twelve square feet in area for each charitable or religious organization;

H. Institutional identification signs not exceeding eighteen square feet on all faces. The top of the sign shall not be higher than six feet from the ground level;

I. One emblem of organization sign per city entrance and the total area of the sign on all of its faces shall not exceed twenty-four square feet;

J. One lot identification sign with the total area not to exceed: (a) two square feet per residential dwelling unit, not to exceed a maximum of eighteen square feet for multifamily projects; and (b) eighteen square feet for nonresidential uses.

K. One neighborhood identification sign not exceeding a total of twelve square feet on all its faces and the height from the base of the sign to the top shall not exceed six feet;

L. One non-electric portable sign not exceeding four square feet located on-premises. (Ord. No. 909, § 2 (Exh. A), 6-18-2009; Ord. No. 920, § 6, 8-20-2009)

#### **18.82.090 Prohibited signs.**

The following signs are prohibited:

A. Signs which by coloring, shape, wording or location resemble or conflict with traffic control signs or devices;

B. Signs which the director of public works determines to be a safety hazard for pedestrian or vehicular traffic. Such signs shall be removed if they already exist;

C. Flashing signs or lights;

D. Signs or parts of signs which revolve;

E. Portable signs exceeding six square feet each side;

F. Signs attached to or placed on a vehicle or trailer parked on public or private property; provided, however, this provision shall not be construed as prohibiting the identification of a firm or its products on a vehicle operating during the normal course of business. Franchised buses and taxis are exempt from this provision;

G. Off-premises signs, except real estate directional signs, political signs, public service civic event signs, garage sale signs, as allowed under Section 18.82.060;

H. Any sign affixed to or painted on trees, rocks or other natural features or utility poles;

I. Roof signs.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009; Ord. No. 920, § 7, 8-20-2009)

#### **18.82.100 Administration and enforcement.**

The director shall be responsible for enforcing the provisions of this code.

A. Removal of Signs. The director may order the removal of any sign erected, installed or maintained in violation of this chapter. He/she shall give written notice specifying the violation to the holder of the sign permit, or the owner of the property where the sign is erected, to correct said violation specifying the violation to the holder of

the sign permit, or the owner of the property where the sign is erected, to correct said violation or remove the sign within thirty days. In the event the violation is not corrected within thirty days, a citation shall be issued to the owner of the sign or the owner of the property where the sign is located. If, in the opinion of the city engineer/designee, the condition of the sign presents an immediate threat to the safety of the public, the city engineer may cause immediate removal of the sign at cost to the owner of the premises.

B. Cumulative Civil Penalty. Any person found in violation of this chapter shall incur a cumulative civil penalty in the amount of one hundred dollars per day from the date set for correction thereof until the violation is corrected.

C. Nonconforming Signs. Nonconforming signs which are permanently installed and were legally installed prior to the adoption of this chapter shall be allowed to continue in use as long as such signs are continuously maintained, are not relocated, and are not structurally altered or made more nonconforming in any way. A nonconforming sign(s) shall be required to be brought into compliance upon: abandonment of the premises, change in the use of the property where the sign(s) is located, or destruction of the sign beyond fifty percent of its value, provided that the director may allow for the re-establishment of a nonconforming sign damaged beyond fifty percent of its value where the reason for the nonconformance is limited to height and/or size of the sign, upon a finding that the cause of damage to the sign was the result of a significant natural event such as a wind storm or earthquake, and a complete sign application to repair or reconstruct the sign is submitted within six months of the natural event. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.82.110 Liability.**

This chapter shall not be construed to relieve from or lessen the responsibility of any person owning, building, altering, constructing or removing any sign for damages to anyone injured or damaged either in person or property by any de-

fect or action therein, nor shall the city, or any agent thereof, be held as assuming such liability by reason of permit or inspection authorized herein or a certificate of inspection issued by the city or any of its agents.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

## Chapter 18.84

### WIRELESS TELECOMMUNICATIONS FACILITIES

#### Sections:

**18.84.010 Intent.**

**18.84.020 General provisions.**

**18.84.030 Permits required.**

**18.84.040 Priority of locations.**

**18.84.050 Application submittal  
requirements.**

**18.84.060 Development standards.**

#### **18.84.010 Intent.**

A. The intent of this section is to provide specific regulations for the placement, construction, modification and removal of wireless communication facilities, consistent with federal regulations and community values. To meet these conditions, the regulations are intended to:

1. Satisfy the guidelines of Section 704 of the Federal Telecommunications Act of 1996, 47 U.S.C. Section 332(c)(7), which promote the accessibility of wireless communications to the general public;

2. Not be interpreted to prohibit or to have the effect of prohibiting the provision of wireless telecommunications facilities nor be applied in such a manner as to unreasonably discriminate among providers of functionally equivalent wireless services;

3. Distinguish between telecommunications towers on their relative height and consequential visual impact on the community; and

4. Provide for the distribution and installation of necessary wireless communication facilities in a way that does not adversely impact the health, safety and welfare of the community including aesthetic values.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.84.020 General provisions.**

A. Wireless telecommunications facilities shall not be considered or regulated as essential public facilities as provided in Chapter 18.58.

B. For the purposes of this chapter, there are two classes of telecommunication towers:

Class I, not to exceed sixty feet in height, and Class II, over sixty feet in height.

C. Exemptions. The following are exempt from the provisions of this section:

1. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the Federal Communications Commission (FCC);

2. Antennas and related equipment no more than fifteen feet in height that are displayed outdoors for sale;

3. Facilities used for the purpose of public safety by public or semi-public entities including, but not limited to, police communications, hospital communications and 911 system communications;

4. Wireless radio utilized for emergency communications in the event of a disaster;

5. Licensed amateur (ham) radio installations;

6. Satellite dish antennas less than two meters in diameter, including direct home satellite services, when an accessory use of the property;

7. Routine maintenance of otherwise permitted wireless telecommunications facilities; or

8. Subject to compliance with all applicable city, state, and federal standards, an emergency repair of a wireless telecommunications facility; provided, that a permit is applied for within thirty days after completion of such emergency repair.

D. Wireless telecommunications facilities may be either a principal or accessory use. A different use of an existing structure on the same lot shall not preclude the installation of a wireless telecommunications facility on that lot.

E. Prohibited Use in Single-Family Zones. Other than licensed amateur (ham) radio installations, any wireless communication structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including but not limited to self-supporting lattice towers, guy towers or monopole towers, is prohibited in the R4 and R6 zones.

F. Reimbursement of Costs. In addition to the application fee, the applicant shall reimburse the city for costs of professional engineers and other consultants, mutually acceptable to both the applicant and the city, hired by the city to review and inspect the applicant's proposal when the city is unable to do so with its existing staffing resources. By way of illustration and not limitation, these professional services may include engineering and technical review, legal review, planning review, hearing examiner services, environmental review, critical areas review, financial and accounting review, soils review, and mechanical and structural engineering review. In the event that a project requires professional services beyond that which is included in the base fee, the applicant shall reimburse the city per the adopted fee schedule. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.84.030 Permits required.**

Approval of a permit(s) is required to site a wireless communication facility in accordance with the following and the procedures set forth in Chapter 18.08:

A. Type 1 decision is required for:

1. Co-location of antennas on existing towers per this section in nonresidential zones;

2. Co-location of antennas on existing support structures per this section, excluding towers, in any zone.

B. Type 2 decision is required for a Class I tower and associated equipment and antennas in non-residential zones.

C. Type 3 decision is required for any wireless telecommunications facility not stated above, including the following:

1. Any Class I tower in a MR12 zone and associated antenna and equipment enclosures;

2. Any Class II tower and associated antennas and equipment enclosures in any zone where permitted.

D. Expiration of Permits. A permit shall expire consistent with the provisions of the building code, except that the permit for construction of a

wireless telecommunications facility shall expire one year after the effective date of the permit approval.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.84.040 Priority of locations.**

The order of priorities for locating new personal wireless service facilities shall be as follows:

A. Combine service into existing antennas where possible.

B. Co-locate antennas on existing structures, such as buildings, towers, water towers and smokestacks.

C. Place antennas and towers on public property where consistent with adjacent planned development.

D. Place antennas and towers in districts zoned Community Commercial (CC), Business/Industrial Park (B/IP), or Industrial (I).

E. Place antennas and towers in other zone districts which do not adjoin or adversely impact residential neighborhoods.

F. Only after an applicant has provided an alternative sites report as specified in Section 18.84.050(A)(8) that demonstrates that priority sites have been investigated shall other sites be approved.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.84.050 Application submittal requirements.**

A. Application Submittal Requirements. Application for any Type 1 or Type 2 permit and other related requests shall include any combination of site plans, surveys, maps, technical reports, or written narratives necessary to convey the following information, unless waived or modified by the director as unnecessary. The following information shall be submitted with a permit:

1. A site or combined site and vicinity plan clearly indicating the site location, type and height of the proposed tower (if any) and antenna, on-site and nearby land uses and zoning, roadways, proposed means of access, and setbacks from property lines, sufficient to demonstrate that setbacks and other pertinent requirements have been met.

Such drawings shall specifically include elevation drawings of the proposed tower (if any), and any other proposed structures.

2. A site elevation and landscaping plan indicating the specific placement of the facility on the site, the location of existing structures, trees, and other significant site features, the type and location of plant materials used to screen the facility, and the proposed color(s) of the facility, the method of fencing, finished color and, if applicable, the method of camouflage and illumination. The director may adjust these requirements when co-locating on an existing support structure.

3. A completed Federal Aviation Regulation (FAR) 7460-1 Airspace Form with applicable agency comments if the facility is located within five miles of any airport. The city may incorporate comments provided in the FAR Part 77 Airspace Form into its decision as conditions.

4. Photo simulations of the proposed facility from affected residential properties and public rights-of-way at varying distances.

5. Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by FCC Paragraph 1.1307, or, in the event that an FCC environmental assessment is not required, a statement that describes the specific factors that obviate the requirement for an environmental assessment.

6. A legal description of the parcel.

7. A signed statement indicating that:

a. The applicant and landowner (if different) agree they will diligently negotiate in good faith to facilitate co-location of additional wireless telecommunications facilities by other providers on the applicant's structure or within the same site location; and

b. The applicant and/or landlord agree to remove the facility within one hundred eighty days after abandonment per subsection (i) of this section.

c. A letter signed by the applicant stating the tower will comply with all FAA regulations and EIA standards and all other applicable federal and local laws and regulations.

d. Certification that the antenna usage will not interfere with other adjacent or neighboring transmission or reception functions.

e. The telecommunications provider must provide documentation that it is licensed by the FCC or has received FCC approval to proceed with construction if it is required to be licensed under FCC regulations.

f. The telecommunications provider must supply documentation that it has consulted with local emergency and government services, hospitals, medical clinics, and other similar medical uses within a radius of one thousand feet of the proposed wireless telecommunications facility and that such local emergency and government services, hospitals, clinics and medical uses verify that the wireless facility will not cause interference, malfunctions, or improper operation of any emergency and government services, diagnostic, analytical, or therapeutic equipment uses in the care, treatment, or diagnosis of medical patients.

g. The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with an FCC-licensed telecommunications provider if such telecommunications provider is required to be licensed by the FCC.

h. An agreement between the applicant and the city shall be provided establishing that if technology should change and a wireless telecommunications facility becomes obsolete, and the use of the facility abandoned or discontinued, the applicant shall remove facilities per subsection (i) of this section.

i. A technical report demonstrating the service requirements of the applicant and demonstrating need for the proposed facility at the location proposed. At a minimum, the technical report shall include:

i. A map of the area to be served by the tower or antenna;

ii. Its relationship to other cell sites in the applicant's network including technical data related to frequencies, range, capacity, etc.; and

iii. An evaluation of existing buildings taller than thirty feet, within one-quarter mile of the

proposed tower or antenna which from a location standpoint could provide part of a network to provide transmission of signals. The technical report should demonstrate how the proposed site fits into the provider's overall network.

8. An alternative sites report must be submitted. The report shall discuss all potential sites investigated, including at a minimum all nearby priority locations as listed in subsection (d) of this section; summarize technical data and other rationale as to why a potential site was not appropriate and considered further; and include a demonstration that:

a. The applicant has contacted the owners of structures in excess of thirty feet high within a one-quarter mile radius of the site proposed and which from a location standpoint could provide part of a network for transmission of signals;

b. The applicant asked for permission to install the antenna on those structures; and

c. Access/location was denied for reasons other than economic feasibility.

d. When there is a technical disagreement relating to location, height or related issues, the city and the applicant may retain a mutually acceptable technical expert in the field of RF engineering to provide technical advice to the city on the proposal. The cost for such a technical expert will be at the expense of the applicant.

9. Engineering specifications indicating the maximum load the structure may bear and how much reserve capacity remains. Applications to load a structure beyond its original specification or to modify the structure to increase its capacity, must include a new structural analysis prepared by a licensed engineer.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.84.060 Development standards.**

A. Wireless with the development:

1. A Class I or Class II tower shall be set back a distance equal to one and one-half times the height of the tower from a nonconforming residential use as measured from the wall of any supporting equipment enclosures of building or

the base of the tower, whichever is nearer. The setback shall be measured to the nearest property line of the parcel upon which the nonconforming residential use is located.

2. A Class I or Class II tower shall be set back a distance equal to three times the height of the tower from any conforming residential use as measured from the wall of any supporting equipment enclosures of building or the base of the tower, whichever is nearer. The setback shall be measured to the nearest property line of the parcel upon which the conforming residential use is located.

3. Wireless telecommunications facilities shall be screened or camouflaged by employing the best available technology. This may be accomplished by use of compatible materials, location, color, stealth technologies, and/or other techniques to minimize visibility of the facility as viewed from public streets or residential properties.

4. Tower bases, equipment enclosures and cabinets and related security fencing shall be screened from public view. This screening requirement may be met in a number of ways, including use of a solid masonry wall, earthen berms, or landscaping. If landscaping is employed, it shall meet all applicable requirements of Chapter 18.72.

5. In reviewing the proposed placement of a wireless facility on the site and any associated landscaping, the city may make a condition of the permit that the applicant supplement existing trees and mature vegetation to more effectively screen the facility.

6. Class I and Class II towers, antennas, and any associated hardware and equipment shall be painted a non-reflective color or color scheme appropriate to the background against which the facility would be viewed from a majority of points within its view-shed.

7. Security fencing, if used, shall conform to the following:

- a. No fence shall exceed eight feet in height;
- b. Security fencing shall be effectively screened from view through the use of appropriate landscaping materials; and

c. Chain-link fences shall be painted or coated with a non-reflective color, and shall have a minimum three-foot deep area to be planted with approved plant species in a manner that will completely screen the fencing.

8. No wireless equipment enclosures reviewed under this section shall be located within required yard setback areas.

9. Class I and Class II towers shall not be illuminated nor have lights located upon them except as required under Federal Aviation Administration (FAA) or other state or federal regulations.

10. No equipment shall be operated so as to produce noise levels above forty-five dB as measured from the nearest property line on which the wireless telecommunications facility is located, except temporary generators used during power outages and natural disasters.

B. Class I and Class II towers shall be designed to accommodate co-location. The following provisions shall apply:

1. All new Class I towers shall be designed to accommodate at least one additional provider. Class II towers shall be designed to accommodate at least two additional carriers. The city may deny a project for a wireless telecommunications facility if co-location is not provided.

2. Additional tower height provided for co-location shall be the minimum needed. Separation between existing and potential additional antenna arrays shall not exceed fifteen feet unless a technical rationale for a larger separation, acceptable to the city, is provided during permit approval for initial tower construction or for any modification of existing towers adding tower height.

3. An owner of a Class I or Class II tower approved under this chapter may not deny a wireless provider the ability to co-locate on their facility at a fair market rate or at another cost basis agreed to by the affected parties.

4. In the event co-location is found to be not feasible, a detailed written statement or report demonstrating the reasons for the unfeasibility shall be prepared by the applicant. The city and

the applicant may retain a mutually acceptable technical expert in the field of RF engineering to review the applicant's unfeasibility report. The technical expert will provide comments on the unfeasibility report and provide comments on how the facility could be designed to accommodate co-location if possible. The cost for such a technical expert will be at the expense of the applicant.

C. Wireless telecommunications facilities may be co-located on existing or proposed support structures other than Class I or Class II towers under the following conditions:

1. Class I and Class II towers may not be placed on any other existing or proposed support structure;

2. Whip antennas may exceed the structure height by a maximum of fifteen feet, and other omni-directional antennas may exceed the structure height by a maximum of ten feet;

3. Wireless telecommunications facilities may be mounted on one or more building facades or on one or more sides of a mechanical equipment enclosure;

4. The wireless telecommunications facilities of one provider, including all appurtenances and screening, shall not exceed five percent of any facade of a building. The wireless telecommunications facilities of all providers located in the support structure shall not exceed ten percent of the building facade;

5. Exterior equipment structures placed on existing support structures may not exceed five hundred cubic feet with a five foot height limit above existing building height in residential zones; and

6. Antennas may be attached to ball field light standards, electrical transmission towers, water tanks or existing utility poles; provided, that:

a. In residential zones, supporting equipment enclosures and structures shall be in side or rear yards and otherwise adhere to the building setback requirements of the zone; and

b. Utility poles in any zone shall not be extended or replaced such that overall height is in-

creased more than twenty feet above the preexisting pole or the average height of existing poles within three hundred feet, whichever is less.

D. Abandonment or Discontinuation of Use.

1. At such time that a provider plans to abandon or is required to abandon the operation of a wireless telecommunications facility, such provider will notify the city by certified U.S. mail of the proposed date of abandonment. Such notice shall be given no less than thirty days prior to abandonment.

2. In the event that a licensed provider fails to give such notice, the personal wireless facility shall be considered abandoned.

3. Upon abandonment, the provider shall physically remove the wireless telecommunications facility within ninety days from the date of abandonment. Removal shall include, but not be limited to:

a. Removal of antennas, mounts, equipment cabinets and security barriers from the subject property.

b. Removal of Class I or Class II towers.

c. Transportation of the antennas, mounts, equipment cabinets, security barriers, and towers to a location outside of the city.

d. Restoring the location of the personal wireless facility to its natural condition, except any remaining landscaping and grading.

E. Maintenance. Wireless telecommunications facilities shall be maintained, including but not necessarily limited to the following:

1. Keeping of all plant materials used for screening in a live and healthy condition;

2. Regular painting of towers, enclosures, fences and all paintable items on the site such that rust, peeling paint, or oxidation is not evident;

3. Repair of any loose or hanging equipment or parts; and

4. Replacement of missing plants, fencing or fencing parts, or other portions of towers, enclosures, and other equipment.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

## Chapter 18.86

### RESIDENTIAL CLUSTER DEVELOPMENT (RCD)

#### Sections:

#### 18.86.010. Intent.

#### 18.86.020 Applicability.

#### 18.86.030 Procedures and criteria.

#### 18.86.040 Development standards.

#### 18.86.010. Intent.

The intent of the residential cluster development (RCD) provisions is to accommodate the overall density of the underlying zoning district while allowing residential development to utilize less land area. The RCD standards are intended to allow for innovative design, and promote the city's vision of a "Rural by Design" development pattern.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.86.020 Applicability.

A. All residential zoning districts are eligible to apply for approval of residential cluster development.

B. Cluster development may be applied to both multi-family and attached/detached single-family residential developments of three or more dwelling units.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.86.030 Procedures and criteria.

A. Review Procedures. RCD applications are processed as a Type 3 hearing examiner decision (site plan approval) pursuant to the provisions set forth in Chapter 18.08. Proposals for clustering shall be subject to and consolidated with the provisions and procedures for site plan review, Chapter 18.16 and preliminary plat approval, if individual lot ownership is proposed.

B. Criteria for Approval. The hearing examiner may approve a RCD only if it is found that:

1. The location, design, and uses are consistent with the goals and policies of the comprehensive plan, the city's development codes and other city plans and ordinances;

2. The residential development integrates with its surroundings and is designed to harmonize with existing or proposed development in the neighborhood, including the project's response to section 18.86.040(F);

3. The traffic generated by the development can be accommodated safely and within adopted level of service for affected streets;

4. All development will be served by existing or planned facilities and services;

5. The development makes provision for the preservation of the natural environment and/or identified open space or trails per the comprehensive plan.

#### C. Scope of Approval.

1. Approval of an RCD occurs as an element of site plan review and is not a separate permit. Through a RCD, modifications to the setbacks, height, lot area, building coverage and development coverage standards of the underlying zone district may be granted.

2. Approval of an RCD shall constitute a deviation of standards on the design of the site for only those designs and standards that are specifically included. Such revision of standards shall remain in effect until the residential development is constructed, or until its approval expires, at which time the underlying zoning standards automatically return to effect.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### 18.86.040 Development standards.

A. The following standards are applicable to an RCD application:

1. Density. The maximum density of the underlying zone shall apply. Maximum density is determined by multiplying the allowable maximum density of the underlying zone district by the gross acreage of the site prior to development.

2. Minimum Site Size. Three times the minimum lot size as required in the underlying zone district.

3. Minimum Lot Size. The minimum lot size by underlying zone district is:

a. R4 Zone: six thousand square feet.

b. R6 Zone: four thousand square feet.

c. MR8 Zone: two thousand eight hundred square feet.

4. Height. The maximum building height of the underlying zone may be increased, provided the height of buildings is compatible with the scale of the surrounding neighborhood, does not adversely affect existing scenic views, and ensures a reasonable balance of light and shadow on adjacent properties. Increased setbacks and location of structures may be used to mitigate effects of increased height and to insure compatibility.

5. Other Lot Standards. Deviations may be granted to the underlying zone development standards including setbacks, lot area, building coverage, and development coverage, except as limited herein.

B. Perimeter Setbacks. At a minimum, structures shall comply with the setbacks of the underlying zone along all perimeter lot lines of the overall site.

C. Circulation.

1. All public or private streets within the development and adjacent rights-of-way shall be designed and constructed in accordance with city street standards. Private driveways may provide different design alternatives.

2. Provision shall be made for a functional pedestrian circulation system that assures the safe movement of pedestrians both on the site and between nearby properties and activities.

3. All streets and parking areas shall contribute to the overall aesthetic design of the project while minimizing traffic congestion and the amount of impervious surface area.

4. The provision for adequate parking, loading, access and circulation facilities within the RCD shall be those contained in the parking requirements as set forth in Chapter 18.80. The hearing examiner may modify these standards to best meet the needs and objectives of the project, provided project parking will not spill over into nearby neighborhoods.

D. Screening. All utility facilities, loading areas, trash containers, and outdoor storage areas

shall be screened from surrounding properties. Solid fences, walls, and blank walls of buildings shall be softened through the use of trees and/or other landscaping materials if their impact cannot be minimized through architectural design or orientation.

E. Open Space.

1. Open Space Designation. The remaining land not developed for a permitted use shall be maintained as common open space. If an RCD is being subdivided, open space areas shall be located on a separate tract or tracts and shall be developed for recreational uses or set aside to preserve environmentally sensitive areas. Open space shall not include land for streets, driveways, parking or other infrastructure improvements, unless such facilities are integral to providing public accessibility to an open space amenity.

2. Development. Facilities and other improvements that enhance recreational use may be located in an open space.

3. Open Space Plan. An open space plan is required to identify all improvements, including trails and other active and passive recreational facilities and areas, environmentally sensitive areas, significant trees pursuant to Chapter 19.30, other vegetation to be preserved, and designation of areas for general public access. A management plan outlining maintenance responsibility shall be included as part of the plan.

4. Guarantees. A legal instrument approved by the city and recorded with King County, which shall include a notice on the title referencing the legal instrument, shall be executed by the property owner. The legal instrument shall include the following types of guarantees:

a. Retention of the open space per the open space plan prescribed in subsection (E)(3) of this section;

b. Provision for perpetual maintenance of the open space and commonly owned facilities;

c. Grant to or reservation for the use of property owners of all open space and commonly owned facilities within the development;

d. Conveyance to a property owners' association or corporation;

e. Execution of a conservation easement in favor of the city; and

f. Conveyance by deed or easement for public use.

F. Site Design Elements Reflecting the Setting and Community Heritage. An RCD application shall indicate how the RCD proposal responds to the following community interests:

1. Maintaining, enhancing, or replacing existing native vegetation along arterial and collector streets;

2. Integration of local cultural or historical features into site design; and

3. Integration of local architectural components as identified in the design guidelines adopted pursuant to Chapter 18.74.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

## Chapter 18.88

### COTTAGE HOUSING

#### Sections:

**18.88.010 Intent.**

**18.88.020 Applicability.**

**18.88.030 Procedures.**

**18.88.040 Development standards.**

#### **18.88.010 Intent.**

It is the intent of this section to:

A. Provide an alternative type of detached, single-family housing that is designed for the changing demographics of age and household size;

B. Provide a form of medium-density housing development that is an alternative to traditional multi-family structures, adds to the diversity of available housing types, and responds to a broader range of lifestyles;

C. Foster an increased sense of community and shared social experiences of a small neighborhood by promoting a form of housing development with features, such as a common central open space, that bring residents together in daily living; and

D. Enable a type of high-efficiency housing that responds to the increasing costs of land, construction materials, and energy, while maintaining compatibility with existing neighborhoods.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.88.020 Applicability.**

A. Cottage housing development is a permitted use in the medium density residential (MDR8) zone;

B. The minimum cottage housing project size is four dwelling units on a minimum fourteen thousand four hundred square foot site;

C. Cottage housing is limited to no more than twelve dwelling units in any single project; and

D. No cottage housing project shall be developed contiguous with another cottage housing project.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.88.030 Procedures.**

A. Review Procedures. A cottage housing development is processed as a Type 2 director's decision pursuant to the provisions set forth in Chapter 18.08. Proposals shall be subject to and consolidated with the provisions and procedures for site plan review, Chapter 18.16.

B. Cottage housing is subject to all development standards and requirements of the zone in which it is developed unless superseded by the standards of this chapter.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.88.040 Development standards.**

A. Density and minimum lot area.

1. Maximum permitted density: one dwelling unit per three thousand six hundred square feet of lot area (twelve dwelling units/acre).

2. Minimum unit lot area: two thousand eight hundred square feet.

3. On a parcel to be developed for cottage housing, one existing detached single-family residence, which may be nonconforming with respect to the standards of this section, shall be permitted to remain.

B. Height limit and roof pitch.

1. Maximum height for structures: eighteen feet.

2. The ridge of pitched roofs with a minimum slope of six to twelve (6:12) may extend up to twenty-five feet.

C. Lot coverage and floor area.

1. Maximum lot coverage permitted for all structures: forty-five percent;

2. Maximum impervious surface coverage for the total project: seventy percent.

D. Maximum first floor or main floor area for an individual principal structure:

1. For at least fifty percent of the units, the floor area may not exceed six hundred fifty square feet.

2. For no more than fifty percent of the units, the floor area may be up to eight hundred square feet.

3. The total floor area of each dwelling unit shall not exceed one and one-half times the area of the main floor area.

4. Maximum garage floor area (if on individual lot): fifty percent of principal structure main floor area.

E. Yards.

1. Minimum front yards: an average of ten feet throughout the project and shall not be less than five feet.

2. Minimum rear yards: ten feet.

3. There shall be a minimum fifteen-foot yard on any frontage with a public street, provided that for garages facing a public street, the minimum setback shall be twenty feet.

F. Required open space.

1. A minimum of four hundred square feet of common open space per dwelling unit is required. Open space with a dimension of less than twenty feet shall not be included as common open space.

2. A minimum of two hundred square feet of private open space shall be provided with no dimension less than ten feet on one side. Private open space shall be located contiguous to each cottage and oriented toward the common open space.

G. Unit orientation.

1. At least fifty percent of the dwelling units shall abut the common open space;

2. All of the dwelling units shall be within sixty feet walking distance of the common open space;

3. The common open space shall have dwelling units abutting at least two sides; and

4. The main entry of all abutting dwelling units shall be oriented towards the common open space.

H. Parking.

1. One and one-quarter spaces per dwelling unit shall be required.

2. All required parking shall be provided within the boundaries of the development.

3. Parking may be in or under a structure or outside a structure, provided that parking is: screened from direct street view by one or more

street facades, by garage doors, or by a fence and landscaping; not located in a front yard; allowed between structures only when it is located toward the rear of the principal structure and is served by an alley or private driveway; and/or located between any structure and the rear lot line of the lot or between any structure and a side lot line which is not a street side lot line.

4. No more than five stalls shall be located in a single parking area on the site.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

## Chapter 18.90

### MANUFACTURED HOUSING

#### Sections:

**18.90.010 Intent.**

**18.90.020 Applicability.**

**18.90.030 Development standards for home on individual lot.**

**18.90.040 Development standards for manufactured home parks.**

**18.90.050 Manufactured home subdivisions.**

**18.90.060 Additional requirements.**

#### **18.90.010 Intent.**

It is the intent of this chapter to:

A. Provide choices for single-family factory-built housing in various community settings as a part of the spectrum of affordable or cost-efficient housing;

B. Establish standards for the location and development of manufactured homes on individual lots and in manufactured home parks;

C. Insure consistency with Washington State law; and

D. Insure minimum standards of development to protect community aesthetics and property values.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

#### **18.90.020 Applicability.**

A. Manufactured homes are permitted in all zones where a single-family dwelling is a permitted use, subject to the development standards of Section 18.90.030.

B. Manufactured home parks are permitted in the MDR8 zone district as a conditional use as provided in Chapters 18.08 and 18.12, subject to the standards of Section 18.90.040.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.90.030 Development standards for home on individual lot.**

A. Manufactured homes are permitted on one individual parcel, lot, or tract in residential zones; provided, that the home is:

1. Approved by the Washington State Department of Labor and Industries or the U.S. Department of Housing and Urban Development, and the appropriate certification insignia is affixed to the unit, in accordance with the provisions of Chapter 43.22 RCW;

2. Comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long;

3. Set upon a permanent foundation, as specified by the manufacturer, and that the space from the bottom of the home to the ground be enclosed by concrete or an approved concrete product which can be either load-bearing or decorative;

4. Compliant with all local design standards applicable to all other homes within the neighborhood in which the manufactured home is to be located;

5. Thermally equivalent to the State Energy Code;

6. Originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of nominal three to twelve (3:12) pitch or greater;

7. Sided with exterior siding similar in appearance to materials commonly used on conventional site-built International Building Code single-family residences; and

8. A new manufactured home as defined in RCW 35.63.160(2).

a. A manufactured home which was legally placed and maintained prior to the date of adoption of this chapter, and does not meet the requirements of this chapter, shall be deemed to be a nonconforming structure. If a legal nonconforming manufactured home is partially or wholly destroyed, replaced, or altered, it shall be required to meet the relevant requirements set forth in the nonconforming provisions of this title. The building official or designee shall inspect the installa-

tion of manufactured homes prior to occupancy and issue certificates of occupancy for manufactured homes placed in accordance with this chapter. No manufactured home shall be occupied until after the city issues a valid certificate of occupancy.

b. If a manufactured home is replaced by another manufactured home, a new certificate of occupancy shall be required for the installation of any manufactured home completed after the date of adoption of this chapter.

c. Age and dimension limitations do not apply to mobile homes or manufactured homes within a mobile home park or manufactured housing community, as defined in RCW 59.20.030, which were legally in existence before June 12, 2008. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.90.040 Development standards for manufactured home parks.**

A. Permitted Uses. Manufactured homes or mobile homes, on a condominium basis, or on leased lots.

B. Accessory Uses. A manufactured home park may include:

1. Accessory buildings, such as laundry, grounds maintenance shop, recreation, restroom and swimming pool, subject to Chapter 18.50.

2. Secure areas for shared storage of motor homes, recreational or camping vehicles and trailers.

C. Minimum project area: ten acres.

D. Setbacks. All manufactured homes, and extensions thereof, accessory structures and other buildings must be set back as follows:

1. Twenty feet from the boundary of the park.

2. Twenty feet from a public street.

3. Ten feet from an interior private street, walking or parking area; and

4. Ten feet from any other manufactured home.

E. Open Space.

1. At least fifteen percent of the gross site area must be in open space or recreational areas available for use by all residents.

2. Parking, driving and setback areas and open areas less than five thousand square feet do not count as required open space.

F. Density: minimum density is four units per acre; maximum density is ten units per acre.

G. Buffer Strips.

1. A twenty foot strip around the boundary of the park must be landscaped to provide a visual screen.

2. All open spaces and other unimproved areas must be suitably landscaped. All landscaping must be maintained and furnished with an automatic irrigation system.

H. Landscaping areas shall be provided in accordance with Chapter 18.72 and the tree preservation requirements of Chapter 18.74.

I. Signs. One monument identification sign may be erected at each park entrance from a public street so long as such sign:

1. Does not exceed an area of fifteen square feet;
2. Does not exceed six feet in height;
3. Is set back from the street at least ten feet; and
4. Is indirectly lit; internal illumination is prohibited.

J. Parking.

1. Paved off street parking must be provided at the ratio of one and one-half space per manufactured home.

2. At least one space must be at the individual manufactured home site.

3. Other spaces may be in a common parking area as long as each space is within two hundred feet of the manufactured home or mobile home stand to which it relates.

K. Pedestrian Access. There shall be a paved or graveled system of walkways, which gives safe and convenient access to every manufactured home and all common facilities; sidewalks developed in conjunction with public or private streets may meet this requirement.

L. Utilities. The park must be connected to the public water and sewer systems. Utility lines are required to be underground.

M. Streets.

1. Each lease lot, space or unit must be about a public or private street;

2. All interior public streets shall be approved by the city and shall meet the standards for streets, curbing, sidewalks, lighting, pedestrian buffer strips and other adopted street standards. Private streets shall comply with fire access standards.

N. Each manufactured home or mobile home shall be securely installed upon a stand and shall be skirted to conceal the undercarriage.

O. Lighting. On-site lighting shall comply with the requirements of Chapter 18.70.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.90.050 Manufactured home subdivisions.**

A. Any manufactured home development involving a subdivision of land into separately owned parcels or lots must be platted as provided by Title 17 of this code.

B. A manufactured home subdivision is subject to the minimum lot size requirements of the underlying zone.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.90.060 Additional requirements.**

A. All development shall comply with applicable environmental performance standards of Chapter 18.78, the site plan review requirements of Chapter 18.16, and design review requirements of Chapter 18.76.

B. Sites located within a master planned development overlay shall also comply with the requirements of Chapter 18.64.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

Chapter 18.98

MASTER PLANNED DEVELOPMENT\*

Sections:

- 18.98.005 MPD zoning district created.
- 18.98.010 Master planned development (MPD) permit—Purpose.
- 18.98.020 MPD permit—Public benefit objectives.
- 18.98.030 MPD permit—Criteria for MPD eligibility.
- 18.98.040 MPD permit—Application requirements.
- 18.98.050 MPD permit—Required approvals.
- 18.98.060 MPD permit—Review process.
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- 18.98.140 MPD standards—Open space requirements.
- 18.98.150 MPD standards—On-site recreation and trail requirements.
- 18.98.155 MPD standards—Sensitive areas requirements.

- 18.98.160 MPD standards—Transfer of development rights.
- 18.98.170 MPD standards—Street standards.
- 18.98.180 MPD standards—Stormwater management standards.
- 18.98.190 MPD standards—Water and sewer standards.
- 18.98.195 Vesting.
- 18.98.200 Revocation of MPD permit.

18.98.005 MPD zoning district created.

The master plan development (MPD) zoning district is created. No development activity may occur, or any application accepted for processing, on property subject to an MPD zoning designation, or for which the submittal of an MPD is required by a development agreement, unless it is done in accordance with the terms and conditions of a valid MPD permit or consistent with this chapter. Development activity shall include, but not be limited to, grading, clearing, filling, tree harvesting, platting, short platting, building or any other activity for which a city permit or other approval is required.

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

18.98.010 Master planned development (MPD) permit—Purpose.

The purposes of the master planned development (MPD) permit process and standards set out in this chapter are to:

- A. Establish a public review process for MPD applications;
- B. Establish a comprehensive review process for development projects occurring on parcels or combined parcels greater than eighty acres in size;
- C. Preserve passive open space and wildlife corridors in a coordinated manner while also preserving usable open space lands for the enjoyment of the city's residents;
- D. Allow alternative, innovative forms of development and encourage imaginative site and

\*Editor's note—Ord. No. 897, § 1(Exh. A), adopted April 16, 2009, amended Ch. 18.98 in its entirety to read as herein set out. Former Ch. 18.98, §§ 18.98.005—18.98.200, pertained to similar subject matter, and derived from Ord. 796, §§ 1, 2, 4, adopted 2005; Ord. 779, § 2 Exh. 1 (part), adopted 2005.

building design and development layout with the intent of retaining significant features of the natural environment;

E. Allow flexibility in development standards and permitted uses;

F. Identify significant environmental impacts, and ensure appropriate mitigation;

G. Provide greater certainty about the character and timing of residential and commercial development and population growth within the city;

H. Provide environmentally sustainable development;

I. Provide needed services and facilities in an orderly, fiscally responsible manner;

J. Promote economic development and job creation in the city;

K. Create vibrant mixed-use neighborhoods, with a balance of housing, employment, civic and recreational opportunities;

L. Promote and achieve the city's vision of incorporating and/or adapting the planning and design principles regarding mix of uses, compact form, coordinated open space, opportunities for casual socializing, accessible civic spaces, and sense of community; as well as such additional design principles as may be appropriate for a particular MPD, all as identified in the book *Rural By Design* by Randall Arendt and in the city's design standards;

M. Implement the city's vision statement, comprehensive plan, and other applicable goals, policies and objectives set forth in the municipal code.

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

**18.98.020 MPD permit—Public benefit objectives.**

A specific objective of the MPD permit process and standards is to provide public benefits not typically available through conventional development. These public benefits shall include but are not limited to:

A. Preservation and enhancement of the physical characteristics (topography, drainage, vegetation, environmentally sensitive areas, etc.) of the site;

B. Protection of surface and groundwater quality both on-site and downstream, through the use of innovative, low-impact and regional stormwater management technologies;

C. Conservation of water and other resources through innovative approaches to resource and energy management including measures such as wastewater reuse;

D. Preservation and enhancement of open space and views of Mt. Rainier;

E. Provision of employment uses to help meet the city's economic development objectives;

F. Improvement of the city's fiscal performance;

G. Timely provision of all necessary facilities, infrastructure and public services, equal to or exceeding the more stringent of either existing or adopted levels of service, as the MPD develops; and

H. Development of a coordinated system of pedestrian oriented facilities including, but not limited to, trails and bike paths that provide accessibility throughout the MPD and provide opportunity for connectivity with the city as a whole.  
(Ord. No. 897, § 1(Exh. A), 4-16-2009)

**18.98.030 MPD permit—Criteria for MPD eligibility.**

A. *Where required.* An MPD permit shall be required for any development where:

1. Any of the property within the development is subject to an MPD designation on the Comprehensive Plan Future Land Use Map or an MPD zoning designation;

2. The parcel or combined parcels to be included in a development total at least eighty gross acres; or

3. Any of the property within the development is subject to a development agreement that requires an MPD permit to be obtained.

4. Provided, however, the above provisions notwithstanding, any commercial area that is intended to be used to meet the economic objectives of an MPD and is geographically separated from the residential component of a proposed MPD

may be approved through the site plan approval process of Chapter 18.16, subject to the following conditions:

a. The commercial area is included in an MPD application that has been determined to be complete and is identified in the application as being intended to meet the economic objectives of the MPD application;

b. The MPD design and development standards shall be applied, unless modified in accordance with the provisions of section 18.98.130(A);

c. The approved conditions shall include the requirements of section 18.98.080(A);

d. If the environmental review on the MPD permit application has not been completed, then, if determined appropriate, an environmental determination may be issued for the commercial area, provided the determination contains provisions that the commercial area shall still be considered for cumulative impact purposes, and appropriate additional mitigation requirements in the environmental review for the MPD application;

e. The provisions of the subsequent MPD approval shall apply to the site plan approval, including vesting, but only to the extent that they do not adversely impact complete building applications that have been submitted, or on-site infrastructure improvements that have already been permitted.

**B. Eligibility.** Where not required under subsection (A) of this section the city may accept an MPD permit application, and process a development proposal as an MPD, only for contiguous properties that are in a single ownership, or if in multiple ownerships, specific agreements satisfactory to the city shall be signed by each property owner that place the properties under unified control, and bind all owners to the MPD conditions of approval.

1. All properties within its proposed MPD are within the city limits or within the PAA provided that, if a proposed MPD includes lands

within the PAA, approval of the entire MPD will not be granted until such time annexation of unincorporated lands is completed.

**C. Contiguity.** All properties to be included in an MPD must be contiguous, excepting those areas intended to be used for commercial purposes, other than neighborhood commercial. (Ord. No. 897, § 1(Exh. A), 4-16-2009)

#### **18.98.040 MPD permit—Application requirements.**

**A. Application requirements.** All applications for approval of an MPD permit shall, at a minimum, include all of the information and documents set forth in this section.

1. A set of master plan drawings, drawn at a scale as determined by the director, showing:

a. Proposed open space, parks, recreation areas, trail networks, wildlife corridors, and perimeter buffers, and the intended ownership and acreage for each area;

b. Existing environmentally sensitive areas and their buffers, together with the reports, surveys or delineations used to identify their locations and areas for which development within a wetland, bog, stream or its related buffer is proposed and for which mitigation or buffer averaging will be required;

c. Proposed locations and preliminary street sections of all streets having a function higher than neighborhood access, and all pedestrian connections including trails; if the local access street section is intended to vary from the adopted city standard;

d. Proposed sites for schools and other public facilities required to serve the development;

e. Conceptual public utility plans (sewer, water, stormwater);

f. Types, generalized locations, acreages, and densities of proposed residential and nonresidential development;

g. Proposed sites for public transit facilities;

h. Any existing easements located upon the property;

i. Identify areas that will be protected from development by the requirements of Chapter 19.10 (sensitive areas ordinance).

2. A map, drawn at a scale as determined by the director showing property boundaries and existing topography (five-foot contour intervals), areas of vegetation by type, other natural features, and existing structures.

3. A legal description of the MPD property, together with a title report no more than thirty days old, disclosing all lien holders and owners of record.

4. A projected phasing plan and development time schedule, regardless of intended ownership, for all development, including but not limited to housing, stormwater systems, sanitary sewer facilities, public water facilities, roads, trails, commercial (including required neighborhood commercial) areas, recreational facilities, and open space, including any off-site improvements.

5. A completed SEPA checklist, with various environmental studies and SEPA documents. If the city and the applicant have agreed that an environmental impact statement will be prepared for the proposal, a checklist shall not be required.

6. A comprehensive fiscal analysis disclosing the short and long-term financial impacts of the proposed MPD upon the city both during development and following project completion, including an analysis of required balance of residential and commercial land uses needed to ensure a fiscal benefit to the city after project completion, and including an analysis of personnel demands and fiscal short-falls anticipated during the development phase of the MPD together with recommended mitigations to ensure that the MPD does not negatively impact the fiscal health of the city, nor the ability of the city to adequately serve existing residents, provided that if an EIS will be prepared, the fiscal analysis may be prepared concurrently.

7. A narrative description and illustrations of the MPD planning/design concept, demonstrating how the proposed MPD is consistent with the adopted MPD design standards, the comprehensive

plan, all elements of Sections 18.98.010 and 18.98.020, and other applicable policies and standards. If deviations from these standards are proposed, the narrative shall describe how the proposed deviations provide an equal or greater level of public benefit.

8. Typical cross-sections of all proposed street and trail types, including landscaping, pedestrian facilities, and any other proposed improvements within the right-of-way or trail corridors.

9. A listing of all property owners of record within five hundred feet of the exterior boundaries of all parcels proposed to be included within the MPD (When one or more of the MPD property owners own property adjacent to but not included within the MPD, the five hundred feet shall be measured from the exterior boundary of this adjacent property.). The applicant shall update the list prior to each proposed public meeting or required public mailing, as requested by the city, in order to assure a current list of all required notices.

10. A narrative description and illustrations of how street alignments and land uses in the proposed MPD will coordinate and integrate with existing adjacent development, and adjacent undeveloped properties.

11. A narrative description of proposed ownership and proposed maintenance program for all lands and facilities required to be shown on the master plan drawings by subsection (A)(1)(a) of this section.

12. A proposed water conservation plan for the MPD pursuant to Section 18.98.190.

13. If applicable, a description of any mineral (or other resource) extraction operations proposed within the MPD, the timing and phasing of the proposed operation and reclamation of the land for subsequent proposed uses.

14. Proof of proper notice for the public information meeting.

15. A narrative description, with reference to the drawings required by subsection (A)(1)(a) above, of how the proposal will comply with the sensitive areas ordinance (Chapter 19.10);

16. Proposed floor area ratios (FAR) for both residential and non-residential areas;

17. A narrative description, with associated tables, showing the intended residential density, the number of development rights that are needed to meet the intended density, the number of development rights that are already associated with the property included within the proposed MPD boundaries, and the number of development rights that must be acquired to meet the intended density;

18. If transfer of development rights are needed to attain proposed densities, a phase plan for the acquisition of development rights certificates shall be submitted, demonstrating that for each residential phase, no more than sixty percent of the proposed density is based upon the land area included in that phase. Prior to approval of implementing project actions (subdivision approval, site plan approval, etc.), the originals or documentation of the right to use development rights held in trust by the city pursuant to the terms of the transfer of development rights program (Chapter 19.24), shall be provided.

B. The director shall have the authority to administratively establish additional detailed submittal requirements.

C. The applicant shall pay all costs incurred by the city in processing the MPD permit application, including, but not limited to, the costs of planning and engineering staff and consultants, SEPA review, fiscal experts, legal services, and overall administration. A deposit in an amount equal to the staff's estimate of processing the MPD, as determined after the preapplication conference shall be required to be paid at the time of application, and shall be placed in a separate trust account. The city shall establish procedures for periodic billings to the applicant of MPD review costs as such costs are incurred, and may require the maintenance of a minimum fund balance through additional deposit requests.

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

#### **18.98.050 MPD permit—Required approvals.**

A. *MPD permit required.* An approved MPD permit and development agreement shall be required for every MPD.

B. *Consolidated review.* An MPD permit will be allowed as part of a consolidated permit action as authorized by RCW 36.70B. Consolidation shall not be allowed for comprehensive plan amendments. At the city's discretion, an MPD permit may be processed concurrently with amendments to the development regulations or interlocal agreements, provided that the applicant acknowledges in writing that they assume the risk of the MPD permit application being denied or otherwise conditioned as a result of final action on any requested amendment.

C. *Implementing development applications.* An MPD permit must be approved, and a development agreement as authorized by RCW 36.70B completed, signed and recorded, before the city will grant approval to an application for any implementing development approval. An application for an MPD permit may be processed with amendments to the comprehensive plan, zoning code, inter-local agreements and land development permits associated with the MPD permit, such as forest practice permits, clearing and grading permits, shorelines permits, and permits required by other public agencies. The city shall not grant approvals to related permits before the granting of an MPD permit and recording of a development agreement except as provided in [Section] 18.98.030.A.4.

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

#### **18.98.060 MPD permit—Review process.**

A. *MPD permit—Preapplication conference, public information meeting and planning commission informational meeting required.*

1. A preapplication conference between the MPD applicant or representative and staff is required before the city will accept an MPD permit application.

a. The purpose of this conference is for the applicant to familiarize the staff with the pro-

posed MPD, and for the staff to review with the applicant the city's submittal requirements, anticipated staffing needs, and processing procedures for MPD permit approval. The goal is to identify the city's objectives and likely issues, and to eliminate potential problems that could arise during processing of the MPD permit application prior to formal processing on the MPD permit application.

b. The applicant or representative shall present the information required as part of the MPD application. The city's intent is that the conference occurs after site inventory and analysis has been substantially completed, but prior to the completion of detailed survey, architectural or engineering work on the proposal.

c. A nonrefundable preapplication conference fee in an amount set forth in the adopted fee schedule resolution shall be paid before the preapplication conference will be scheduled.

d. If, at the preapplication conference, the city determines that it does not have adequate staff, space, or equipment, to process the application, then the applicant shall deposit with the city an amount sufficient for the city to hire the additional staff and/or consultants, and acquire the space and/or equipment necessary to process the application. The deposit must be made no less than four months or more than five months before the application is submitted. The public information meeting may not be scheduled until the deposit has been made. The city council may waive or shorten the four-month period if it is determined the necessary arrangements for staffing, space and equipment can be made in less than four months.

2. After the preapplication conference has been completed, a public information meeting shall be conducted by the applicant prior to acceptance of an MPD permit application.

a. The applicant shall schedule and conduct a public information meeting regarding the proposed application. The public information meeting shall be conducted at City Hall, or at such other public location within the city that will ac-

commodate the anticipated attendees. The applicant shall attend the meeting and provide information to the public regarding the proposed project, its timing, and consistency with the city's MPD code, the comprehensive plan, and other applicable city codes and regulations.

b. The public information meeting shall not be a public hearing, but shall allow for an informal exchange of comments between the applicant and the general public. Notice of this meeting shall be provided in the newspaper of record at least fourteen days in advance of the meeting and shall be mailed to the property owners identified in subsection (B)(7)(c) of this section.

3. After the public information meeting has been completed, a planning commission informational meeting shall be conducted. The planning commission informational meeting is required before the city will accept an application for MPD permit approval.

a. The planning commission informational meeting will take place at a regular meeting of the commission. At this meeting, the applicant shall present the overall planning and design concept of the proposed MPD, and the commission shall provide preliminary feedback to the applicant regarding the consistency of this concept with the city's adopted standards, goals and policies. The planning commission may bring specific issues of interest or concern to the attention of the applicant.

b. While a public meeting, the purpose of the planning commission informational meeting is not intended for the receipt of comments from the public regarding the proposed MPD.

*B. MPD permit public review process.*

1. *Completeness check and SEPA.* Staff shall review the MPD application for completeness and, once it is determined to be complete, provide the required notice of application. Staff will then initiate the SEPA process.

2. *Optional EIS scoping meeting.* If the responsible official makes a determination of environmental significance regarding an MPD application, staff may schedule and conduct an EIS

scoping meeting. The applicant shall attend the meeting and provide information regarding the proposed project, scope, planning, timing, and the results of any relevant environmental studies performed by the applicant's consultants.

3. *Staff review.* At the conclusion of the SEPA process, staff will conduct its detailed review of the proposal. This review may include requesting additional information, or proposal revisions, from the applicant.

4. *Staff report.* The staff will prepare a written staff report to the hearing examiner. The completed staff report shall be sent to the hearing examiner and to the applicant at least ten calendar days prior to the public hearing.

5. *Hearing examiner public hearing.* The city's hearing examiner shall hold a public hearing on the MPD permit application. At least fourteen calendar days prior to the public hearing, the city shall provide notice of the hearing as follows:

- a. Publication in the city's newspaper of record;
- b. Posting of the proposal site, in at least three locations visible from public streets or rights-of-way;
- c. Mailing to owners of record of properties within five hundred feet of the perimeter of the proposed MPD per [Section] 18.98.040(A)(9); and
- d. Any person(s) formally requesting notice.

6. *MPD permit approval criteria.* The hearing examiner shall prepare recommended findings of fact, conclusions of law, and conditions of approval or a recommendation for denial for the city council's consideration, and shall transmit these to the city council within fourteen calendar days of the close of the public hearing. The examiner shall evaluate the MPD application and other evidence submitted into the record, to determine if the application, when appropriately conditioned, meets or exceeds the approval criteria set forth in Section 18.98.080.

7. *City council.* At its first regular meeting following the receipt of the hearing examiner's

recommendations, the city council shall schedule a time for its consideration of the MPD. The council may:

- a. Accept the examiner's recommendation;
- b. Remand the MPD application to the examiner with direction to open the hearing and provide supplementary findings and conclusions on specific issues; or
- c. Modify the examiner's recommendation. If modifying the examiner's recommendation, the council shall enter its own modified findings and conclusions as needed.

8. *Appeals.* The council's decision with regard to an MPD permit shall be the city's final action for the purpose of any and all appeals. (Ord. No. 897, § 1(Exh. A), 4-16-2009)

#### **18.98.070 MPD permit—Environmental review (SEPA).**

A. Pursuant to the requirements of the State Environmental Policy Act (SEPA) and local SEPA regulations, the city shall determine whether an environmental impact statement is required for the MPD proposal. An application for an MPD permit shall include, at a minimum, a completed environmental checklist. Prior to or concurrent with application submittal, the city and the applicant may agree to prepare an environmental impact statement for the proposal.

B. If desired by the applicant and deemed appropriate by the city, an MPD proposal may be designated by the city as a planned action pursuant to RCW 43.21C.031(2) and WAC 197-11-164 et seq.

C. Implementing city permits and approvals, such as preliminary plats, building permits, and design reviews, shall be subject to applicable SEPA requirements.

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

#### **18.98.080 MPD permit—Conditions of approval.**

A. An MPD permit shall not be approved unless it is found to meet the intent of the follow-

ing criteria or that appropriate conditions are imposed so that the objectives of the criteria are met:

1. The project complies with all applicable adopted policies, standards and regulations. In the event of a conflict between the policies, standards or regulations, the most stringent shall apply unless modifications are authorized in this chapter and all requirements of Section 18.98.130 have been met. In the case of a conflict between a specific standard set forth in this chapter and other adopted policies, standards or regulations, then the specific requirement of this chapter shall be deemed the most stringent.

2. Significant adverse environmental impacts are appropriately mitigated.

3. The proposed project will have no adverse financial impact upon the city at each phase of development, as well as at full build-out. The fiscal analysis shall also include the operation and maintenance costs to the city for operating, maintaining and replacing public facilities required to be constructed as a condition of MPD approval or any implementing approvals related thereto. This shall include conditioning any approval so that the fiscal analysis is updated to show continued compliance with this criteria, in accordance with the following schedule:

a. If any phase has not been completed within five years, a new fiscal analysis must be completed with regards to that phase before an extension can be granted; and

b. Prior to commencing a new phase.

4. A phasing plan and timeline for the construction of improvements and the setting aside of open space so that:

a. Prior to or concurrent with final plat approval or the occupancy of any residential or commercial structure, whichever occurs first, the improvements have been constructed and accepted and the lands dedicated that are necessary to have concurrency at full build-out of that project for all utilities, parks, trails, recreational amenities, open space, stormwater and transportation improvements to serve the project, and to provide for connectivity of the roads, trails and other open

space systems to other adjacent developed projects within the MPD and to the MPD boundaries; provided that, the city may allow the posting of financial surety for all required improvements except roads and utility improvements if determined to not be in conflict with the public interest; and

b. At full build-out of the MPD, all required improvements and open space dedications have been completed, and adequate assurances have been provided for the maintenance of the same. The phasing plan shall assure that the required MPD objectives for employment, fiscal impacts, and connectivity of streets, trails, and open space corridors are met in each phase, even if the construction of improvements in subsequent phases is necessary to do so.

5. The project, at all phases and at build-out, will not result in the lowering of established staffing levels of service including those related to public safety.

6. Throughout the project, a mix of housing types is provided that contributes to the affordable housing goals of the city.

7. If the MPD proposal includes properties that are subject to the Black Diamond Urban Growth Area Agreement (December 1996), the proposal shall be consistent with the terms and conditions therein.

8. If the MPD proposal includes properties that were annexed into the city by Ordinances 515 and 517, then the proposal must be consistent with the terms and conditions therein.

9. The orientation of public building sites and parks preserves and enhances, where possible taking into consideration environmental concerns, views of Mt. Rainier and other views identified in the comprehensive plan. Major roads shall be designed to take advantage of the bearing lines for those views.

10. The proposed MPD meets or exceeds all of the public benefit objectives of [Section] 18.98.020 and the MPD purposes of [Section] 18.98.010(B) through (M).

11. If the MPD project is adjacent to property already developed, or being developed as an

MPD, or adjacent to property which is within an MPD zone, then the project is designed so that there is connectivity of trails, open spaces and transportation corridors, the design of streetscape and public open space amenities are compatible and the project will result in the functional and visual appearance of one integrated project with the adjacent properties subject to an MPD permit or, if not yet permitted, within an MPD zone.

12. As part of the phasing plan, show open space acreages that, upon build-out, protect and conserve the open spaces necessary for the MPD as a whole. Subsequent implementing approvals shall be reviewed against this phasing plan to determine its consistency with open space requirements.

13. Lot dimensional and building standards shall be consistent with the MPD Design Guidelines.

14. School sites shall be identified so that all school sites meet the walkable school standard set for in the comprehensive plan. The number and sizes of sites shall be designed to accommodate the total number of children that will reside in the MPD through full build-out, using school sizes based upon the applicable school district's adopted standard. The requirements of this provision may be met by a separate agreement entered into between the applicant, the city and the applicable school district, which shall be incorporated into the MPD permit and development agreement by reference.

B. So long as to do so would not jeopardize the public health, safety, or welfare, the city may, as a condition of MPD permit approval, allow the applicant to voluntarily contribute money to the city in order to advance projects to meet the city's adopted concurrency or level of service standards, or to mitigate any identified adverse fiscal impact upon the city that is caused by the proposal.  
(Ord. No. 897, § 1(Exh. A), 4-16-2009)

**18.98.090 MPD permit—Development agreement.**

The MPD conditions of approval shall be incorporated into a development agreement as

authorized by RCW 36.70B.170. This agreement shall be binding on all MPD property owners and their successors, and shall require that they develop the subject property only in accordance with the terms of the MPD approval. This agreement shall be signed by the mayor and all property owners and lien holders within the MPD boundaries, and recorded, before the city may approve any subsequent implementing permits or approvals (preliminary plat, design review, building permit, etc.).

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

**18.98.100 MPD permit—Amendments to an approved MPD permit.**

An applicant may request an amendment to any element or provision of an approved MPD. All applications for amendments shall be deemed either "minor" or "major." An amendment application shall be considered minor if it meets all of the following criteria:

A. Would not increase the total number of dwelling units in an MPD above the maximum number set forth in the approved MPD permit or reduce the number by more than ten percent;

B. Would not increase the total floor area of nonresidential uses by more than ten percent;

C. Would not decrease the minimum, or increase the maximum density for residential areas of the MPD beyond density ranges approved in the MPD permit;

D. Would not decrease the approved amount of open space or recreation space;

E. Would not increase any adverse environmental impact, provided that additional environmental review may be required to determine whether such change is likely to occur;

F. Would not adversely impact the project's fiscal projections to the detriment of the city;

G. Would not significantly impact the overall design of the approved MPD; and

H. Would not significantly alter the size or location of any designated open space resulting in a lowered level of service and does not reduce the total amount of required open space.

I. Minor amendments may be approved administratively in accordance with the procedure set forth in the MPD development agreement, where applicable. Any amendment application that is not "minor" shall be deemed to be major. The final determination regarding whether an amendment is "minor" or "major" shall rest with the director, subject to appeal to the hearing examiner. Applications for major modifications shall be reviewed by the same procedures applicable to new MPD permit requests. The city, through the development agreement for the approved MPD, may specify additional criteria for determining whether a proposed modification is "major" or "minor", but the criteria listed in this section cannot be modified or reduced in a development agreement.

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

**18.98.110 MPD standards—Design review required.**

A. *Design standards.* The MPD master plan and each subsequent implementing permit or approval request, including all proposed building permits, shall be consistent with the MPD design standards that are in effect at the time each application is determined to be complete.

B. *Design review process.*

1. *MPD permit.* The hearing examiner shall evaluate the overall MPD master plan for compliance with the MPD design standards, as part of the examiner's recommendation to the city council on the overall MPD permit.

2. *Implementing permits or approvals—Residential subdivisions.* Each residential subdivision that is part of an approved MPD shall be reviewed at the time of preliminary plat review for compliance with the city's MPD design standards. This review shall include typical elevations, and exterior material samples for the single-family residences and other structures to be built on the subdivided lots. This review shall be merged with the hearing examiner's review of the preliminary plat.

3. *Implementing permits or approvals—Short subdivisions (short plats).* Short subdivisions (short plats) within an approved MPD shall be reviewed by the director for compliance with the city's MPD design standards as required in [subsection] (2) above.

4. *Implementing permits or approvals—Residential building permits.* Staff shall administratively review residential building permit applications in approved and recorded subdivisions and short subdivisions for consistency with the MPD design guidelines.

5. *Implementing permits or approvals—Other building permits.* All other structures shall be reviewed by the director for compliance with the MPD design standards. The director shall make a decision on the proposal's compliance with the MPD design standards and adopt findings, conclusions and, where applicable, conditions of approval. Building permit applications that are found to be not consistent with the approved design standards shall be rejected, subject to appeal to the hearing examiner.

6. *Future project consistency.* The decision-maker shall not approve a preliminary plat or short plat, or issue a building permit or site plan review approval for a parcel located within an MPD, unless the city has found that the proposal is consistent with applicable MPD design standards.

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

**18.98.120 MPD standards—Permitted uses and densities.**

A. MPDs shall include a mix of residential and nonresidential use. Residential uses shall include a variety of housing types and densities.

B. The MPD shall include those uses shown or referenced for the applicable parcels or areas in the comprehensive plan, and shall also provide neighborhood commercial uses, as defined in the comprehensive plan, sized and located to primarily serve the residential portion of the MPD.

C. The MPD shall, within the MPD boundary, or elsewhere within the city, provide for suffi-

cient properly zoned lands, and include sufficient incentives to encourage development as permit conditions, so that the employment targets set forth in the comprehensive plan for the number of proposed residential units within the MPD, will, with reasonable certainty, be met before full build-out of the residential portion of the MPD.

E. Property that is subject to a preannexation agreement, development agreement or annexation ordinance conditions relating to residential density will have as its base density the minimum density designated in such agreement or ordinance. All other property will have as its base density the minimum density designated in the comprehensive plan.

F. The council may authorize a residential density of up to twelve dwelling units per acre so long as all of the other criteria of this chapter are met, the applicant has elected to meet the open space requirements of Section 18.98.140(G), or otherwise is providing the open space required by Section 18.98.140(F), and the additional density is acquired by participation in the TDR program. In any development area within an MPD, for which the applicant has elected to meet the open space requirements of Section 18.98.140(G) or is otherwise meeting the open space requirement of [Section] 18.98.140(F), an effective density of development up to a maximum of eighteen dwelling units per gross acre may be approved, so long as the total project cap density is not exceeded and the development, as situated and designed, is consistent with the provisions of [Sections] 18.98.010 and 18.98.020. A MPD may include multi-family housing at up to thirty dwelling units per gross acre, subject to the following:

1. Areas proposed for development at more than eighteen dwelling units per gross acre shall be identified on the MPD plan; and
2. Identified sites shall be located within one-quarter mile of shopping/commercial services or transit routes; and
3. The maximum building height shall not exceed forty-five feet; and

4. Design guidelines controlling architecture and site planning for projects exceeding eighteen dwelling units per gross acre shall be included in the required development agreement for the MPD; and

5. Residential uses located above ground floor commercial/office uses in mixed use areas within a MPD are not subject to a maximum density, but areas subject to the maximum building height, bulk/massing, and parking standards as defined in the design guidelines approved for the MPD. No more than two floors of residential uses above the ground floor shall be allowed.

G. Unless the proposed MPD applicant has elected to meet the open space requirements of Section 18.98.140(G), or is otherwise meeting the open space requirements of Section 18.98.140(F), the following conditions will apply, cannot be varied in a development agreement, and shall preempt any other provision of the code that allows for a different standard:

1. Clustering of residential units shall not be allowed;
2. Residential density shall not exceed four dwelling units per acre in any location;
3. The lot dimension requirements of [Section] 18.44.040 shall be met.  
(Ord. No. 897, § 1(Exh. A), 4-16-2009)

#### **18.98.130 MPD standards—Development standards.**

A. Where a specific standard or requirement is specified in this chapter, then that standard or requirement shall apply. Where there is no specific standard or requirement and there is an applicable standard in another adopted city code, policy or regulation, then the MPD permit and related development agreement may allow development standards different from [those] set forth in other chapters of the Black Diamond Municipal Code, if the proposed alternative standard:

1. Is needed in order to provide flexibility to achieve a public benefit; and
2. Furthers the purposes of this chapter and achieves the public benefits set forth in Section 18.98.010; and

3. Provides the functional equivalent and adequately achieves the purpose of the development standard from which it is intended to deviate.

B. Any approved development standards that differ from those in the otherwise applicable code shall not require any further zoning reclassification, variances, or other city approvals apart from the MPD permit approval.

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

**18.98.140 MPD standards—Open space requirements.**

A. Open space is defined as wildlife habitat areas, perimeter buffers, environmentally sensitive areas and their buffers, and trail corridors. It may also include developed recreation areas, such as golf courses, trail corridors, playfields, parks of one-quarter acre or more in size, pocket parks that contain an active use element, those portions of school sites devoted to outdoor recreation, and stormwater detention/retention ponds that have been developed as a public amenity and incorporated into the public park system. An MPD application may propose other areas to be considered as open space, subject to approval. It shall not include such space as vegetative strips in medians, isolated lands that are not integrated into a public trail or park system, landscape areas required by the landscape code, and any areas not open to the public, unless included within a sensitive area tract as required by Chapter 19.10.

B. Natural open space shall be located and designed to form a coordinated open space network resulting in continuous greenbelt areas and buffers to minimize the visual impacts of development within the MPD, and provide connections to existing or planned open space networks, wildlife corridors, and trail corridors on adjacent properties and throughout the MPD.

C. The open space shall be located and designed to minimize the adverse impacts on wildlife resources and achieve a high degree of compatibility with wildlife habitat areas where identified.

D. The approved MPD permit and development agreement shall establish specific uses for open space within the approved MPD.

E. The approved MPD permit and development agreement shall establish which open space shall be dedicated to the city, which shall be protected by conservation easements, and which shall be protected and maintained by other mechanisms.

F. An approved MPD shall contain the amount of open space required by any prior agreement.

G. If an applicant elects to provide fifty percent open space, then the applicant may be allowed to vary lot dimensions as authorized elsewhere in this chapter, cluster housing, and seek additional density as authorized in Section 18.98.120(F).

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

**18.98.150 MPD standards—On-site recreation and trail requirements.**

A. An MPD shall provide on-site recreation areas and facilities sufficient to meet the needs of MPD residents, exceeding or at a minimum consistent with levels of service adopted by the city where applicable. This shall include providing for a coordinated system of trails and pedestrian linkages both within, and connecting to existing or planned regional or local trail systems outside of the MPD.

B. The MPD permit and development agreement shall establish the sizes, locations, and types of recreation facilities and trails to be built and also shall establish methods of ownership and maintenance.

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

**18.98.155 MPD standards—Sensitive areas requirements.**

A. The requirements of the sensitive areas ordinance (Chapter 19.10) shall be the minimum standards imposed for all sensitive areas.

B. All development, including road layout and construction, shall be designed, located and constructed to minimize impact of wildlife habitat

and migration corridors. This shall include minimizing use of culverts in preference to open span crossings.

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

**18.98.160 MPD standards—Transfer of development rights.**

A. All proposed transfers of development rights shall be consistent with the TDR program (Chapter 19.24). An MPD permit and development agreement shall establish the TDR requirements for a specific MPD. Maximum allowable MPD residential densities can only be achieved through participation in the city's TDR program as a receiving site.

B. Property that is subject to a preannexation agreement, development agreement or annexation ordinance conditions relating to residential density will have as its base density the density designated in such agreement or ordinance. All other property will have as its base density the minimum density designated in the comprehensive plan.

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

**18.98.170 MPD standards—Street standards.**

A. Street standards shall be consistent with the MPD design guidelines, which may deviate from city-wide street standards in order to incorporate "low impact development" concepts such as narrower pavement cross-sections, enhanced pedestrian features, low impact stormwater facilities, and increased connectivity or streets and trails. Any increased operation and maintenance costs to the city associated therewith shall be incorporated into the fiscal analysis.

B. The street layout shall be designed to preserve and enhance views of Mt. Rainier or other views identified in the city's comprehensive plan to the extent possible without adversely impacting sensitive areas and their buffers.

C. The approved street standards shall become part of the MPD permit approval, and shall apply to public and private streets in all subse-

quent implementing projects except when new or different standards are specifically determined by the city council to be necessary for public safety.

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

**18.98.180 MPD standards—Stormwater management standards.**

A. The stormwater management system shall enhance the adopted standards that apply generally within the city, in order to implement the concepts in Sections 18.98.010(C), (H), and (L), 18.98.020(B) and (C), and 18.98.180(C). The stormwater detention system shall be publicly owned. Provided, in non-residential areas, the use of private vaults and filters may be authorized where: (1) the transmission of the stormwater by gravity flow to a regional system is not possible and (2) there is imposed a maintenance/replacement condition that requires vault filters to be regularly inspected and maintained by the property owner.

B. The stormwater management system shall apply to public and private stormwater management systems in all subsequent implementing projects within the MPD, except when new or different standards are specifically determined by the city council to be necessary for public health or safety, or as modified as authorized in Section 18.98.195(B).

C. Opportunities to infiltrate stormwater to the benefit of the aquifer, including opportunities for reuse, shall be implemented as part of the stormwater management plan for the MPD.

D. The use of small detention/retention ponds shall be discouraged in favor of the maximum use of regional ponds within the MPD, recognizing basin constraints. Ponds shall be designed with shallow slopes with native shrub and tree landscaping and integrated into the trail system or open space corridors whenever possible. Small ponds shall not be allowed unless designed as a public amenity and it is demonstrated that transmitting the stormwater to a regional pond within the MPD is not technically feasible.

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

**18.98.190 MPD standards—Water and sewer standards.**

A. An MPD shall be served with public water and sanitary sewer systems that:

1. Employ innovative water conservation measures including metering technologies, irrigation technologies, landscaping and soil amendment technologies, and reuse technologies to reduce and/or discourage the reliance upon potable water for nonpotable uses including outdoor watering.

2. Are designed in such a way as to eliminate or at a minimum reduce to the greatest degree possible the reliance upon pumps, lift stations, and other mechanical devices and their associated costs to provide service to the MPD.

B. Each MPD shall develop and implement a water conservation plan to be approved as part of the development agreement that sets forth strategies for achieving water conservation at all phases of development and at full build-out, that results in water usage that is at least ten percent less the average water usage in the city for residential purposes at the time the MPD application is submitted. For example, if the average water usage is two hundred gallons per equivalent residential unit per day, then the MPD shall implement a water conservation strategy that will result in water use that is one hundred eighty gallons per day or less per equivalent residential unit.

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

**18.98.195 Vesting.**

A. Except to the extent earlier terminated, modified by the provisions of this chapter, or as otherwise specified in the conditions of approval, the MPD permit approval vests the applicant for fifteen years to all conditions of approval and to the development regulations in effect on the date of approval.

B. Vesting as to stormwater regulations shall be on a phase by phase basis.

C. Vesting as to conditions necessary to meet the fiscal impacts analysis criteria required by Section 18.98.060(B)(6)(c) shall only be for such period of time as is justified by the required updated analysis.

D. Building permit applications shall be subject to the building codes in effect at the time a building permit application is deemed complete.

E. The council may grant an extension of the fifteen year vesting period for up to five years for any phase so long as the applicant demonstrates with clear and convincing evidence that all of the following are met:

1. The phase approval has not been revoked in accordance with the provisions of Section 18.98.200;

2. The failure to obtain the implementing entitlement approval for the applicable phase is a result of factors beyond the applicant's control;

3. The granting of an extension will not adversely impact any of the purposes or public benefit provisions of this chapter; and

4. The city has not adopted ordinances of general application that impose a more stringent development standard than those in effect for the phase for which a time extension is requested or, in the alternative, the applicant agrees to comply with the more stringent standard.

Any request for an extension shall be considered as a major amendment to the MPD. The council may impose such additional conditions to the phases as it deems appropriate to further the purposes and public benefit objectives of the MPD code in light of the number of years that have passed since the original MPD permit approval and taking into consideration the effectiveness of the existing permit conditions in meeting those purposes and public benefit objectives.

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

**18.98.200 Revocation of MPD permit.**

The city council may amend or revoke any or all conditions of MPD approval, after public hearing and notice under the following circumstances:

A. If the MPD permit allowed for phasing and the implementing action (i.e., final plat approval, site plan approval, etc.) for the development of the next phase has not been approved within five years of the approval of the previous phase or, in the case of the first phase, from the

original MPD approval and an extension of said phase has not been previously granted. An extension may be granted for up to an additional two years on such additional conditions as the council determines are necessary in order to assure that the extension does not adversely impact the intent and purpose of the initial MPD approval.

B. A condition of the MPD approval has been violated and the violation has not been corrected after sixty days notice of the violation unless said violation can be corrected through the use of a duly posted performance or maintenance bond provided at the time of MPD approval.

C. A violation of an MPD condition of approval that cannot be corrected, such as the destruction of wetlands or removal of trees and vegetation that was specifically prohibited and cannot be restored to their original state within sixty days.

D. The MPD permit has been approved for more than five years and the city council finds that further development will present a threat to the public health, safety and welfare unless the amendment or revocation is implemented; provided, however, the city shall first determine that the condition cannot be amended in order to eliminate the threat to the public health, safety or welfare before it revokes the permit approval.

The above provisions notwithstanding, the vacation and/or amendment of the MPD approval shall not affect previously approved building permits.

E. If the MPD permit is revoked for undeveloped phases, the parcels for which the permit is revoked cannot be developed without a new MPD permit being obtained, even if the revoked parcels are less than the minimum acreage required by Section 18.98.030.

(Ord. No. 897, § 1(Exh. A), 4-16-2009)

**Chapter 18.100**

**DEFINITIONS**

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- 18.100.005 Intent and interpretation.**
- A. It is the intent of this chapter to:
1. Promote consistency and precision in the interpretation of this title; and
  2. Define (and illustrate, where necessary) certain words, terms and phrases in the interest of reducing to a minimum the misunderstanding which may occur in the absence of such definition.
- B. General Rules Regarding Use of Language and Interpretation.
1. Words, terms and phrases not specifically defined in this section or in other sections of this title (where more special terms may be defined) shall have the meaning as defined in any recognized, standard dictionary of the English language.

2. Words, terms and phrases defined herein may have meanings more specific than their meanings in common usage, standard dictionaries or other ordinances.

3. The meaning and construction of words and phrases, as set forth in this section shall apply throughout this title except where the context of such words or phrases clearly indicates a different meaning or construction.

4. Rules of Construction.

a. Illustration. In case of any difference of meaning or implication between the text of any provision and any illustration, the text shall control.

b. Shall and May. *Shall* is always mandatory and not discretionary. *May* is discretionary.

c. Tenses and Numbers. Words used in the present tense include the future, and words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.

d. Conjunctions. Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:

i. *And* indicates that all connected items or provisions shall apply.

ii. *Or* indicates that the connected items or provisions may apply singly or in any combination.

iii. *Either . . . or* indicates that the connected items or provisions shall apply singly but not in combination.

iv. Gender. The masculine gender *he* includes the feminine gender *she* and the feminine gender *she* includes the masculine gender *he*.

5. General Terms.

a. *Planning commission* means the city planning commission of the city of Black Diamond.

b. *City* means the city of Black Diamond.

c. *County* means King County.

d. *Federal* means the government of the United States.

e. *State* means the state of Washington.

f. *Comprehensive plan* or *the plan*, means the comprehensive land use plan of the city as adopted, and as amended from time to time.

g. *Section* means any of the various sections of this title unless otherwise clearly indicated by the context.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.010 Generally.**

In addition to the words and terms defined in this chapter, several sections of this title contain definitions specifically related to those sections. In the event of conflict between definitions in this list and those shown in other sections of this title the definition in the other section shall govern within the context of the section within which it appears. (See sections on Home Occupations, Special Uses and Mobile Homes.)

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.020 Abutting.**

Having a common boundary except that parcels having no common boundary other than a common corner shall not be considered abutting.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.030 Accessory building.**

A building, or structure, or portion of a building, devoted to an activity subordinate to the principal use of the premises detached accessory buildings in residentially zoned districts not exceeding one story of fifteen feet in height and not occupying greater than fifty percent of the area of a rear or side yard and not closer than ten feet to each other or the principal building are permitted.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.040 Accessory living quarters.**

Living quarters, which may include kitchen facilities, within an accessory building or the main building for the sole use of persons employed on the premises and not rented or otherwise used as a separate dwelling.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.050 Accessory.**

A use customarily incidental and/or subordinate to the principal use of the land or building site, or to a building or other structure located on the same building site as the accessory use.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.060 Acres or acreage, gross.**

The total area of a parcel of land, may be expressed in square feet or fractions of an acre.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.070 Acres or acreage, net.**

The area of a parcel of land, less the area devoted to streets, roads or alleys, public or private; may be expressed in square feet or fractions of an acre.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.080 Alley.**

A public or private way not more than twenty feet wide permanently reserved as a secondary means of access to abutting property.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.090 Amendment.**

Any change, modification, deletion, or addition to the wording, text or substance of the zoning title, or any change, modification, deletion, or addition to the application of the zoning title to property within the city, including any alteration in the boundaries of a zone, when adopted by ordinance passed by the city council.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.110 Automobile wrecking.**

The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of five or more motor vehicles which for a period exceeding thirty days have not been capable of operating under their own power, and from which parts have

been or are to be removed for reuse or sale shall constitute prima facie evidence of an automobile wrecking yard.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.120 Basement.**

That portion of a building between floor and ceiling, which is partly below and partly above the finished grade, but so located that the vertical distance from the finished grade to the floor below is less than the vertical distance from the finished grade to the ceiling. If a basement has a ceiling height of seven feet or more, it shall be considered a story unless it is used exclusively for parking, storage, and/or housing of mechanical or central heating equipment.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.130 Billboards.**

Any board, fence, sign or structure upon which any advertisement is shown, or whereupon any poster, bill, printing, painting, device or other advertising matter of any kind whatsoever may be placed, stuck, tacked, pasted, printed, or fastened.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.135 Bed and breakfast.**

A lodging use, within a single family dwelling unit that is the principal residence of the proprietors, where short-term overnight lodging and meals are provided to unrelated individuals for compensation.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.150 Buffer.**

An area of land or a structure used or created for the purpose of insulating or separating a structure or land use from other uses or structures in such manner as to reduce or mitigate any adverse impacts of one on the other.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.160 Buildable area.**

That portion of the land that remains after required yards and buffers have been excluded from the building site.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.170 Building.**

Any structure built for the support, shelter or enclosure of persons, animals, or property of any kind.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.180 Building coverage.**

The amount or percentage of ground area covered or occupied by a building or buildings; usually expressed in square feet or percentage of land on the lot, and measured horizontally at the foundation. (See also, Development Coverage.)  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.190 Building height.**

The vertical distance from average grade level to the highest point of a building or structure, excluding any chimney, antenna or similar appurtenance.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.210 Business support service.**

An establishment primarily engaged in providing services to businesses on a fee or contract basis, such as advertising, mailing, consulting, protection, equipment rental, leasing, convenience retail, financial services, and restaurants.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.220 Carport.**

A roofed structure, or a portion of a building, open on two or more sides; primarily for the parking of automobiles belonging to the occupants of the property.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.230 Conditional uses.**

Certain uses which because of special requirements, unusual character, size or shape, infrequent

occurrence or possible detrimental effects on surrounding property and for other similar reasons may be allowed in certain use districts only by the granting of a conditional use permit by the either the director or hearing examiner.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.235 Cottage housing.**

A form of residential development consisting of small, detached dwelling units, with one or more units on a lot. A cottage housing development has the following characteristics: 1) each unit is of a size and function suitable for a single person or very small family; 2) each unit has the building characteristics of a single family house; 3) units may be located on platted lots or as units in a condominium and may share use of common facilities such as a community room, tool shed, garden, orchards, workshop or parking areas; and 4) the site is designed with a coherent concept in mind, including: shared functional open space, off-street parking, access within the site and from the site, and a shared, consistent landscape design.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.240 Density.**

The number of dwelling units per acre.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.245 Department.**

The community development department or such other department as designated by the city administrator.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.250 Development coverage.**

The amount or percentage of ground area covered by impervious surfaces (i.e., surfaces which do not absorb moisture, specifically rain water). Impervious surfaces include rooftops and all paved surfaces such as parking areas, roads, driveways, walkways and the like.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.255 Director.**

The community development director of the city of Black Diamond or his/her designee; or such other individual that may be appointed by the city administrator.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.260 Dwelling.**

A building, or portion thereof designed exclusively for residential purposes, with sleeping and cooking facilities, including one family, two family, multiple family or apartment dwellings and manufactured homes.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.270 Dwelling unit.**

A building or portion thereof designed exclusively for residential purposes providing complete housekeeping services for one family.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.280 Easement.**

A grant by the property owner for use by the public, a corporation, or person(s) of land for specified purposes, such as vehicular access, pedestrian paths, bicycle paths, utility easements, or drainage facilities; and within which the owner is prohibited from placing any permanent aboveground structures.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.285 Elderly housing, assisted.**

A shared multifamily residential living environment that combines living, support services, personalized assistance, and varying degrees of health care; includes assisted living, congregate care, life care, and residential care facilities, but not facilities for active seniors who require no outside assistance for daily living.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.290 Entertainment/cultural use.**

A venue, either indoor or outdoors, that offers entertainment, cultural experiences or places of social gathering, that may serve food and/or bev-

erages; includes theaters, nightclubs, art galleries, taverns, restaurants, brew-pubs, arcades, wine bars, and other civic and commercial premises for entertainment or cultural experiences.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.295 Essential public facilities.**

Those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140; state and local correctional facilities; solid waste handling facilities; and in-patient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.300 Family.**

One or more persons (but no more than six unrelated persons) living together as a single housekeeping unit. For purposes of this definition, children with familial status within the meaning of Title 42 United States Code, Section 3602(k) and persons with handicaps within the meaning of Title 42 United States Code, Section 3602(h), will not be counted as unrelated persons.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.310 Floor area.**

The sum of the gross horizontal area of the floor or floors measured from the exterior faces of the exterior walls, including elevator shafts and stairwells on each floor and all horizontal areas having a ceiling height of seven feet or more, but excluding all parking and loading spaces, unroofed areas, roofed areas open on two sides, areas having ceiling height of less than seven feet and basements or portions thereof used exclusively for storage or housing of mechanical or central heating equipment.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.315 General office uses.**

A business that as a principal activity provides direct, non-retail business services to the general

public or private clients, including office activities such as administration, consulting, real estate sales, accounting, legal services, financial advisors, professional design services, insurance companies, post offices, customer service and call centers and governmental offices.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.320 Grade, average.**

The average of the natural or existing topography at the midpoint of all exterior walls of a building or structure to be placed on a site.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.325 Heavy industry.**

Manufacturing, materials storage or other activities with significant external environmental or operational effects, or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other processes. Includes any manufacturing or industrial activity that cannot be considered "light manufacturing."

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.330 Home occupation.**

See Chapter 18.54.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.340 Hotel.**

Any building containing six or more guest rooms where lodging, with or without meals, is provided for compensation,

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.355 Light manufacturing.**

An establishment engaged in manufacturing predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales and distribution of such products, provided all manufacturing activities are contained entirely within a building and noise, odor, smoke, heat,

glare and vibration resulting from the manufacturing activity are confined entirely within the building.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.370 Lot.**

A platted or unplatted parcel of land unoccupied, occupied or intended to be occupied by a principal use or building and accessory buildings, together with all yards, open spaces and setbacks required by this title.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.380 Lot area.**

The total land space or area contained within the boundary lines of any lot, tract or parcel of land; may be expressed in square feet or acres.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.390 Lot line, front.**

That boundary of a lot which is located along an existing or dedicated public street, or, where no public street exists, along a public right-of-way or private way. For corner lots, the boundary line with less frontage on a public street shall be considered the front lot line unless otherwise specified on a recorded subdivision.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.400 Lot line, rear.**

The lot line which is opposite and most distant from the front lot line, except in the case of a triangular or pie-shaped lot, it shall mean a straight line ten feet in length which:

A. Is parallel to the front lot line; or,

B. Intersects the two other lot lines at points most distant from the front lot line

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.410 Lot depth.**

The horizontal distance between the front lot line and the rear lot line measured within the lot boundaries.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.420 Lot width.**

The horizontal distance between side lot lines measured at right angles to the lines comprising the depth of the lot at a point midway between the front lot line and the rear lot line.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.430 Lot, corner.**

A lot that abuts two or more intersecting streets.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.440 Lot, interior.**

A lot that has frontage on one street only.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.450 Lot, through.**

A lot that fronts on two parallel or nearly parallel streets.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.455 Major institution.**

A use provided by a public or private organization providing significant educational or medical services to the community, such as high schools; colleges and universities and hospitals.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.460 Mobile home.**

See Chapter 18.90.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.470 Manufactured home park.**

See Chapter 18.90.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.480 Manufactured home subdivision.**

See Chapter 18.90.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.490 Motel.**

A building or group of buildings containing guest rooms which may or may not contain cooking facilities, and where lodging with or without meals is provided for compensation. Motels are

designed to accommodate the automobile tourist or transient, and parking spaces or garages are conveniently located near each guest room.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.500 Nonconforming building or structure.**

A building, structure, or portion thereof that was legally in existence, either constructed or altered prior to the effective date of this title, which does not conform with the requirements of this title.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.510 Nonconforming lot.**

A parcel of land, in separate ownership, and of record prior to the effective date of this title, which does not conform to the dimensional or area requirements of this title.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.520 Nonconforming use.**

An activity in a structure or on a tract of land that was legally in existence prior to the effective date of this title, which does not conform to the use regulations of the use district in which it is located.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.530 Open space.**

An area or portion of land, either landscaped or predominantly unimproved, which is used to meet human recreational or spatial needs or to protect the natural environment.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.540 Open space, common.**

Open space dedicated or shared in ownership among multiple parties for common use and benefit.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.550 Open space, useable.**

Undeveloped or unbuilt portions of land designed and maintained in a manner which makes said open space accessible and usable by and for the persons for whom the space is intended.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.560 Parcel.**

A contiguous quantity of land in the possession of, or owned by, or recorded as the property of, the same person.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.570 Parking area.**

An open area, other than a street or alley, which contains one or more parking spaces, and the aisles which provide access to such spaces.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.580 Parking space.**

An unobstructed space or area other than a street or alley which is permanently reserved and maintained for the parking of one motor vehicle.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.590 Person.**

An individual or any group of individuals, acting as a unit, whether or not legally constituted as an association, company, corporation, estate, family, partnership, syndicate, trust or other entity.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.595 Personal and professional service uses.**

*Personal services* include establishments that provide frequent, needed services to individuals such as barbers, beauticians, health clubs, massage parlors, instruction studios, dry-cleaning, shoe repair, tanning salon, space and tailor/seamstress.

*Professional services* include consulting, real estate sales, accounting, legal services, financial advisors, professional design services, insurance companies and medical and dental offices providing out-patient care.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.600 Premises.**

An area of land with its appurtenances and buildings which because of its unity of use may be regarded as the smallest conveyable unit.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.610 Principal use.**

The specific and primary purpose for which land or building is occupied, arranged, designed or intended, or for which either land or building is or may be occupied or maintained.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.615 Private club.**

A structure or premises housing a fraternal or other membership organization. A club typically has a meeting room or rooms, cooking and dining facilities, and may include recreation and entertainment facilities.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.620 Property line.**

A line bounding and indicating the ownership, or intended ownership, of a parcel of land.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.625 Public use/facility.**

A use owned, operated and/or maintained by a governmental entity (federal, state, local or special purpose district) that provides services to the public, such as fire stations, police stations, jails, cemeteries, libraries, athletic stadiums, parks and recreation facilities, and K-12 education.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.630 Religious institution.**

A building, together with its accessory buildings and uses, which primary use is for persons to regularly assemble for religious purposes and related social events, and which is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes. Other associated activities such as child care, community services, etc., may also occur.

(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.640 Research and development.**

An establishment that conducts research, development, testing, or controlled production of high technology electronic, industrial or scientific products or commodities for sale; or laboratories conducting educational or medical research or testing; includes such industries as bio-technology, pharmaceuticals, medical instrumentation or supplies, communication and information technology, and computer hardware and software.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.645 Resource use.**

Mineral extraction and processing, including asphalt or concrete plants and facilities and structures related to such activities; and forestry.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.650 Retail use.**

A commercial enterprise that provides goods available for immediate purchase or rental and removal from the premises directly to the consumer; includes both indoor and outdoor product display and storage.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.655 Senior housing.**

Multifamily or attached single family housing for seniors that is age-restricted to occupancy or ownership by residents of which at least one in each dwelling unit is sixty-five years or older and that does not provide on-site life-care services and staffing for living support and health care.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.658 Shoreline.**

A line determined by the "ordinary high water mark" as defined in the Shoreline Management Act of 1971.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.660 Street, flanking.**

A street, alley or right-of-way other than the one on which a corner lot has its main frontage.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.670 Street, major.**

A state highway, county road or city thoroughfare designated as a primary or secondary arterial in the transportation element of the comprehensive plan.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.680 Street, minor.**

A street or road not designated as a primary or secondary arterial.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.690 Structure.**

Anything erected, the use of which has fixed location on or in the ground, or attachment to something having fixed location on the land, including but not limited to buildings, fences, signs and walls.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.700 Use district.**

A specific zoned area or district designated on the official zoning map. Such area is subject to all the regulations applicable to the district that are contained in this title.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.710 Utilities.**

Facilities, either publicly or privately owned, for the conveyance of power, water, waste and storm water, and communications, whether "above ground" or "below ground" installations.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.715 Variance.**

A modification of the regulations because of the unusual nature, shape, exceptional topographic conditions, or extraordinary situation or conditions connected with a specific piece of property, where the literal enforcement of this title would pose undue hardship unnecessary in carrying out the spirit of this title.  
(Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.720 Warehousing and distribution uses.**

Storage, wholesale, and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are flammable or explosive or that present hazards or characteristics commonly recognized as offensive. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.725 Wholesaling.**

An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers and not the general public; to industrial, commercial, institutional or professional business uses, or to other wholesalers; or acting as agents or brokers and buying merchandise for or selling merchandise to such individuals or companies. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.730 Yard.**

An open space unoccupied from the ground to the sky of uniform depth or width which lies between the property line and building line, or between the shoreline and the building line. The inside boundary shall be considered parallel to the nearest property line. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.735 Yard, front.**

A yard extending across the full width of the lot from one property line to another and measured as to depth at the least horizontal distance between street line and the required setback applicable to the particular zone district. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.740 Yard, rear.**

A yard extending from one property line to another except in the case of corner lots when the rear yard shall extend from the interior side property line to the opposite side yard. A yard is measured as to depth at the least horizontal distance between the rear site line and the required setback applicable to the particular zone district. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)

**18.100.745 Yard, side.**

A yard extending from the front yard to the rear yard except in the case of corner building sites when the side yard on the flanking street shall extend to the rear property line. (Ord. No. 909, § 2 (Exh. A), 6-18-2009)