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

Comment: There are no "special uses" or "special use permit" defined in the code; therefore, this reference is unnecessary.

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. ~~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.~~ Any violation of any of the provisions of this title shall be subject to code enforcement action pursuant to BDMC 8.02.

Comment: Code enforcement provisions are contained within BDMC 8.02, which was adopted independent of the Zoning Code.

Chapter 18.12
DECISION CRITERIA FOR PERMITS

Sections:

18.12.010 Conditional Use & Administrative Conditional Use Permits
18.12.020 Zoning Reclassification (Rezone)
18.12.030 Variances
~~**18.12.040 Preliminary plats & Short plats**~~
~~**18.12.060 Development Agreements**~~
~~**18.12.070 Comprehensive Plan Amendments**~~
~~**18.12.010 Conditional use & administrative conditional use permits.**~~

Comment: Preliminary plat & short plat criteria is located in Title 17; the Development Agreement criteria isn't really decision criteria and is otherwise addressed in the Dev. Agreement chapter of the Code; Comprehensive Plan amendment criteria is addressed in Title 16; the second 18.12.010 in the list is a typographical error.

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 Chapter18.08.

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.

18.12.020 Zoning reclassification (rezone) & 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;~~

Comment: the SEPA process addresses environmental impacts; does not need to be repeated here. Also, this would imply there might be site-specific conditions of rezone approval imposed, which are difficult to track over time and generally, should not be imposed.

~~4~~3. 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~~4. Adequate services and facilities, including transportation facilities, will be available to serve the range of uses permitted in the proposed zoning classification;

~~6~~5. 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~~6. The reclassification does not reflect special treatment of the subject property; and

~~8~~7. 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.

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 (20) percent any required front, side or rear yard between buildings;
   2. The variance would not increase by more than ten (10) percent any permitted projection of cornices, 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 (10) 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.

~~18.12.040 Preliminary plats & 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), potable 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 BDMC and any other criteria properly considered by the decision maker.~~

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

~~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 43.21C;~~
~~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 Chapter18.08.~~

~~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~~

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 welfare of residents of the ~~City~~city.

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 and~~,~~ for any multi-family residential use or structure containing four or more dwelling units~~, and for any proposal using the clustering provisions of Chapter18.84~~. 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.

18.16.030 Procedures.

A. Site plan review is processed as a Type ~~3~~ 2 decision, ~~or Type 2 decision~~ for both new applications and ~~a~~ minor amendments to an approved site plan, pursuant to Chapter18.08. 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 that 5-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~~8. Other reports or studies as determined applicable by the director, including but not limited to geotechnical, critical areas, and/or traffic;

~~10~~9. SEPA environmental checklist unless the proposal is categorically exempt per BDMC 19.04, SEPA regulations

~~11~~10. 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) elevations 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.

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 Chapter18.84.~~

18.16.050 Amendments to approved site plans.

~~A. Minor a~~Alterations to an approved site plan ~~are Type 2 administrative decisions that~~ may be approved by the director, subject to the same procedures required for the initial site plan approval. ~~"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.~~

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.

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. Accessory dwelling units as provided in Chapter 18.56.
   Comment: Helpful cross-reference.
   ~~4~~5. Utilities, under-ground.
   ~~5.~~6 Child day care for up to 12 children.

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 12 children, including nursery schools, day care centers and preschools.
B. Utilities, above-ground
C. Public uses/ facilities
D. Religious institutions, not to exceed 10,000 sq. ft. gross floor area.
E. Bed and breakfast.

Comment: Since a B&B would typically occur within a single family home, it makes sense to include them as conditionally permitted uses. .

~~E~~F. Duplexes, subject to the following criteria:
1. The minimum lot size for a duplex shall be 1.5 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 300 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 (10%) 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~~G. Private schools, K-12.

18.30.040 Development standards.

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

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~~78 and, if applicable, the design review requirements of Chapter18. ~~76~~74.

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;~~

Comment: This is more of a Comp Plan policy statement and, since a developer will bear the cost of sewer extension, costs are a moot point from a City perspective.

~~D~~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;
~~E~~D. Encourage the preservation of critical areas and other significant places identified in the City's Transfer of Development Rights Program (BDMC 19.24) by allowing increased densities when the TDR mechanism is used; and
~~F~~G. Apply appropriate guidelines to ensure that structures developed for medium density residential use are well designed.

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.
   5. Accessory dwelling unit, as provided in Chapter 18.56.

   Comment: Helpful cross-reference.

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, under-ground.
   5. Child day care for up to 12 children.

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 12 children;
B. Utilities, above-ground;

C. Public uses/ facilities;
D. Religious institutions, not to exceed 10,000 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.

18.32.040 Development standards.

A. Site area and dimensional standards
   1. Maximum density: Eight (8) dwelling units per acre without Transfer of Development Rights; twelve (12) dwelling units per acre with Transfer of Development Rights.
   2. Minimum Lot Area:
      a. Multi-family structures: seven thousand two hundred (7,200) square feet;
      b. Single-family structures on individual lots: three thousand six hundred (3,600) square feet.
   3. Minimum Lot Width: Fifty (50) feet.
   4. Minimum Lot Depth: Seventy (70) feet.
   5. Minimum Front Yard:
      a. On minor street: Twenty (20) feet.
      b. On major street: Twenty-five (25) feet.
   6. Minimum Side Yards:
      a. Minimum on interior lot lines: Seven (7) feet.
      b. Minimum on a flanking street: Ten (10) feet.
   7. Minimum Rear Yard: Ten (10) feet.
   8. Maximum Building Coverage: Fifty percent (50%).
   9. Maximum Building Height:
      a. Main building: Thirty-five (35) feet.
      b. Accessory buildings: The height of the primary building(s) or twenty-six (26) feet, whichever is less.
   10. Structure separation: On lots containing more than one structure, there shall be a distance of not less than ten (10) 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 20% for a project.~~

Comment: The bonus density factor in this section doesn't make a lot of sense, as it is very low. The Commission is recommending to eliminate this provision at this time.

B. Parking. Off-street parking shall be provided in accordance with Chapter18.80.
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 BDMC 19.30.

D. Signs. Regulation of signs is provided in Chapter 18.~~92~~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.
   2. Storage or parking of motor vehicles for rental income is prohibited.

18.32.050 Additional requirements.

A. All development within the MDR8 zone shall comply with the applicable environmental performance standards of Chapter 18.~~80~~78, the site plan review requirements of Chapter 18.16, and design review requirements of Chapter 18.~~76~~74.

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.

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 (3) feet above the roof line, flagpoles, transmission lines, residential antennas, and other similar structures as determined by the director.

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 (2) feet:
   1. Fireplace structures not wider than eight (8) 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 (2) feet into required side yards, ~~and~~ six (6) feet into required front yards and ten (10) feet into required rear yards;

Comment: recommend allowing greater intrusions into these required yards, since these porches/decks won't be very high above the ground.

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 (50%) of the building's frontage may project five (5) feet into a required front yard.

C. Special Front Yard Depth. If buildings existing on July 17, 1980 occupy more than fifty (50%) 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 (2) feet further than a building on an adjoining lot;
2. No front yard shall be less than twenty (20) 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 (40) feet, then the required interior side yard setback may be reduced to three feet for all portions of the structure, including those noted in (A) above.

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.
G. Allow more intensive uses to be maintained and expanded under certain conditions.

18.36.020 Permitted uses.

A. Retail; the following uses only are allowed:
   1. Supermarket and grocery stores: limited to not more than 40,000 square feet gross floor area.
   2. All other typical neighborhood retail uses: limited to not more than 10,000 square feet gross area for each individual use, whether in a separate building or combined with other uses in one building, not to exceed 100,000 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 4,000 square feet gross floor area per business.
C. General offices: limited to not more than 4,000 square feet gross floor area per business and excluding drive-through facilities.
D. Entertainment/culture: limited to not more than 5,000 square feet gross floor area or capacity of not more than 100 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. Existing light manufacturing uses, provided no expansion is allowed.
H. Veterinary clinics and pet stores; no boarding of dogs or outdoor kennels allowed.
Comment: Staff had a recent contact from a vet looking to locate in the city and realized the code did not address this issue.
I~~H~~. Other or Related Uses:
   1. Accessory uses and structures as provided Chapter 18.50.
   2. Temporary uses as provided in Chapter 18.52.

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 (1) per property;
D. Essential public facilities;
E. Utilities, above-ground;
F. Public Uses / Facilities;
G. Senior housing.
H. Automobile fueling stations.
I. Any expansion of the space, volume or facilities of any light manufacturing use that existed before June 27, 2009. Any such expansion must be contained within the same lot as the existing use.

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 (35) feet, without residential on upper floors; fifty (50) feet, with residential on upper floors.
   3. Minimum Lot Area, Width and Depth: None.
   4. Maximum Front Yard Setback: At least 60% of the width of any street façade of a primary use shall be set back no more than ten (10) feet from the front property line, provided that the maximum allowed setback is (fifteen) 15 feet for structures with first floor residential uses.
   5. Minimum Side Yard Setback: Twenty (20) feet if abutting a residential zone plus one foot additional setback for each foot of building height over thirty-five (35) feet.
   6. Minimum Rear Yard Setback: If abutting a residential zone, fifteen (15) feet for a building without residential use and twenty (20) 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 (80%).
   8. Maximum residential density:
      ~~(a)~~ Without bonuses: twelve (12) 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 (1%) 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~~

~~(c) The maximum bonus density shall not exceed twenty percent (20%) for a project.~~
Comment: Same issue as before.

9. Maximum Site Area: 10 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 BDMC 19.30.

D. Signs. Regulation of signs is provided in Chapter 18.~~98~~82.

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.

18.36.050 Additional requirements.

A. All development within the NC zone shall comply with applicable environmental performance standards of Chapter 18.~~80~~78, and the site plan review requirements of Chapter 18.16 and the design review requirements of Chapter 18.~~64~~74.

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;

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.

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. Veterinary clinics and pet daycare.
Comment: allow vet clinics with no limitations, also doggie daycare.
H. Public Uses / Facilities
I. Utilities, below-ground; and
J. Other or Related Uses:
   1. Accessory uses and structures as provided Chapter 18.50.
   2. Temporary uses as provided in Chapter 18.52.

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, above-ground;
D. ~~Wholesale or retail establishments, or h~~Hybrid wholesale/retail establishments,~~ larger than 50,000 square feet~~; and
Comment: Recommend cleaning this up to require some retail sales and to not allow an exclusive wholesale establishment (those are typically only allowed in industrial zones).
E. Mini storage facilities.

18.38.040 Development standards.

C. Landscaping.
   1. Landscaping shall be planned and provided in accordance with Chapter 18.~~86~~72.
   2. Development shall also comply with the tree preservation requirements of BDMC 19.30.

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 Chapter18.16, and design review requirements of Chapter 18.~~76~~74.

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.

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

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, above-ground;
C. Major Institution;
D. Private clubs, fraternal lodges and similar organizations;
E. Religious institutions;
F. Public Uses / Facilities not otherwise permitted in 18.40.020;
G. Parking structures not associated with a primary, permitted use;
H. Senior housing.

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.

   Comment: recommend that Site Plan Review be an exclusively administrative process.

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 (35) feet, without residential; fifty (50) feet, with residential.
   3. Minimum Lot Area, Width and Depth: None.
   4. Maximum Front Yard Setback: One hundred percent (100%) of the width of any street façade of a primary use shall set back no more than five (5) 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 (10) feet for structures.
   5. Minimum Side Yard Setback: Ten (10) feet if abutting a residential zone plus one foot additional setback for each foot of building height over thirty-five (35) feet.
   6. Minimum Rear Yard Setback: If abutting a residential zone, ten (10) feet for a building without residential use and fifteen (15) feet for a building with residential

use, plus one foot additional setback for each foot of building height over thirty-five (35) feet .

7. Maximum impervious surface coverage: one hundred percent (100%).
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 (20%) 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~~72.
   2. Development shall also comply with the tree preservation requirements of BDMC 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.

18.40.050 Additional requirements.

A. All development within the TC zone shall comply with applicable environmental performance standards of Chapter 18.~~80~~78, ~~-~~the site plan review requirements of Chapter 18.16, and design review requirements of Chapter 18.~~76~~74.

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 Additional 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.

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 (20%) of the total project gross floor area and a 5,000 gross square feet maximum for any individual use;
H. Child care, including nursery schools and day care centers, when -integrated within a ~~master-planned~~ development;

Comment: An MPD is a distinct zone district, so this reference is not needed here.

I. Utilities, below-ground;
J. Private schools; and
K. Other Uses.

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 Chapter18.16, and the design review requirements of Chapter18.~~76~~74.

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 Additional 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.

18.44.020 Permitted Uses

A. Heavy ~~manufacturing~~ industry.

Comment: "industry" is the term used in the definitions section.

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 (20%) of the total district area and a 5,000 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.

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~~74.

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

18.46.040 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~~72.
   2. Development shall also comply with the tree preservation requirements of BDMC 19.30.

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 Chapter18.16, and design review requirements of Chapter 18.~~76~~74.

Chapter 18.50

ACCESSORY USES AND STRUCTURES

Sections:

18.50.010 Intent.
18.50.020 General provisions.
18.50.030 Residential zones accessory uses and structures.
18.50.040 Commercial zones accessory uses and structures.
18.50.050 Industrial zones 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.

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~~18.74.

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 (26) feet or the height of the principal structure, whichever is less.
2. Neighborhood Commercial, Community Business and Town Center zones: twenty-six (26) feet.
3. Business/Industrial Park & Industrial zones: thirty-five (35) feet or the height of the principal use structure, whichever is less.

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 BDMC.
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 (200) square feet in gross floor area.~~ ***Comment: no need for a size limitation in the Zoning Code.***
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 9600 sq. ft. or less, a detached accessory building not exceeding 26 feet in height may disregard rear and interior side yard setback requirements if such building is no greater than 650 sq. ft. in floor area, is located in the rear thirty percent (30%) of the lot or further than 75 feet from the front lot line, and is no closer than 12 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 (25%) 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 (50%) of~~ the ground floor area of the primary structure on any lot; provided that this limitation shall not apply to ~~accessory dwelling units or for agricultural buildings on~~ lots greater than 35,000 sq. ft. in size.

Comment: This amendment will allow larger accessory buildings than currently allowed.

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~~ Accessory living quarters.

Comment: This is the proper term, as it is included in the Definitions chapter.

B. Storage buildings.

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" - 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/exit 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.

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.

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 (50%) of the size of the primary dwelling on the lot or 800 sq. ft., 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.~~

Comment: Detached ADUs already allowed by definition.

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.~~

Comment: leftover from old code; this current version will not allow 900+ sq. ft. ADUs.

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.

Comment: leftover from old code; this version will not allow 900+ sq. ft. ADUs.

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

Comment: already addressed in (B) above.

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.

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 Applicable
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.

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.

~~**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.~~

Comment: allowable noise standards are established in BDMC 8.12 and in State law.

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.

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.

~~**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.~~

Comment: this section is redundant and unnecessary.

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.

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 (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
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.

USES	REQUIRED SPACES **(*Gross sq ft of primary building area)**
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 places 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

Comment: only one reference to entertainment/culture is needed.

Chapter 18.86

RESIDENTIAL CLUSTER DEVELOPMENT (RCD)

Sections:

18.86.010 Intent
18.86.020 Applicability
18.86.030 Procedures
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.

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 (3) or more dwelling units.

18.86.030 Procedures and Criteria

A. Review Procedures. RCD applications are processed as a Type 3 Hearing Examiner decision ~~(site plan approval)~~ [Note: this change will also require a change to 18.08] 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~~ for preliminary plat approval, if individual lot ownership is proposed.

Comment: With Site Plan Review becoming an administrative decision process, RCD will be separately addressed as a Type 3 decision. .

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 ~~F of this 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.

Comment: same reason as noted above.

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.

CHAPTER 18.100

DEFINITIONS

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, Accessory Dwelling Units, ~~Special Uses~~ Signs and ~~Mobile Homes~~ Manufactured Housing.)

Comment: additional areas that include specific definitions are added to this list, while other terms that are not found in the code are proposed for deletion.

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~~

Comment: This is a code writing faux pas 101; never put a standard in a definition. Plus, it is inconsistent with what the R zones otherwise allow.