



CITY OF BLACK DIAMOND  
PLANNING COMMISSION  
SPECIAL MEETING AGENDA RVSD 4/24/26

April 27, 2026

Council Chambers, 25510 Lawson St., Black Diamond

**THIS IS OFFERED AS A HYBRID MEETING AND MAY BE ATTENDED IN PERSON AT THE ABOVE NOTED ADDRESS OR BY JOINING VIRTUAL/TELEPHONICALLY. CALL IN AND JOINING INFORMATION FOLLOWS:**

**Zoom link to join meeting:**

<https://blackdiamondwa.gov.zoom.us/j/4955579936?pwd=M4D6hWgwbDEVme9nb1cgaxqL4xnOr.1&omn=89160898389>

Meeting ID: 495 557 9936

Passcode: PC

**Telephone dial in options:**

+12063379723 US (Seattle)

+12532158782 US (Tacoma)

Meeting ID: 495 557 9936

Passcode: 970317

**6:00 P.M. - CALL TO ORDER, FLAG SALUTE, AND ROLL CALL**

**APPROVAL OF MINUTES:** - None

**PUBLIC COMMENTS:** Persons wishing to address the Planning Commission regarding items of *new business* are encouraged to do so at this time. Please use the "raise your hand" feature and once recognized by the Chair, you may unmute and state your name and city for the record. Please limit your comments to 3 minutes. For those dialing in, please press \*9 to raise your hand and \*6 to unmute yourself.

**PUBLIC HEARINGS:** None

**STUDY/WORK SESSION:** None

**UNFINISHED BUSINESS:**

1. Proposed Amendments to Title 18 Development Regulations

**NEW BUSINESS:** None

**COMMUNITY DEVELOPMENT DEPARTMENT REPORT:**

**PUBLIC COMMENTS:**

**ADJOURNMENT:**



# CITY OF BLACK DIAMOND

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## PLANNING COMMISSION STAFF REPORT BLACK DIAMOND MUNICIPAL CODE TITLE 18 UPDATES For April 27, 2026 Workshop

Submitted by: Jill Kuzaro (Senior Planner)

Prepared by: AHBL Consulting Planning team: Wayne Carlson (Principal in Charge), Nicole Stickney (Project Manager), Ethan Stoneburner

Date Prepared: April 21, 2026

## BACKGROUND

The GMA requires the city's **development regulations** to be updated in connection to the periodic update and this work should ideally be carried out quite promptly. This is required in order to:

- Implement the new plan;
- Achieve compliance with a wide array of new state laws; and
- Allow the city to officially adopt the new zoning map.

The suite of codes that form the “development regulations” for the city includes Title 17 Divisions of Land, Title 18 Zoning, and Title 19 Environment<sup>1</sup>. *It is no small effort to make changes to these codes!* All of these codes are detailed, extensive, and intertwined.

As a reminder, In early 2023 AHBL prepared a gap analysis which included a completed (filled-out) Commerce Checklist, and a *Gap Analysis Memo (dated May 2023)* that called out changes in context, local policies, and planning efforts since the last Comprehensive Plan update, identifying necessary amendments to the Comprehensive Plan and to the Development Regulations to align with the updated King County Countywide Planning Policies, the Multi-County Planning Policies, and state laws. There are many new laws, and/or revisions to recent ones, that we have had to also include.

The Planning Commission held three workshops to discuss amendments to Title 18 of the Black Diamond Municipal Code (Zoning). The purpose of this fourth meeting is to quickly recap what we've provided and to hear your thoughts about the amendment package.

The purpose of the amendments to Title 18 BDMC are to make the municipal code consistent with the adopted Comprehensive Plan. Other important objectives of our work are to ensure that the City complies with the spate of recent housing-related state legislation.

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<sup>1</sup> The City is granted more time to update the Critical Areas Ordinance which is codified in Title 19.

## DISCUSSION – CHANGES TO TITLE 18

City staff and consultants have also examined Title 18 BDMC for ways to make the code clearer for staff, applicants, and the public. Many of these “housekeeping” changes did not involve amendments to existing numeric standards for bulk and density beyond what was depicted in the February 6, 2026, draft. To that end, we have removed uses, density, and dimensional standards from the individual zone chapters and have migrated those into tables. These amendments are reflected in Chapter 18.20 BDMC (Zoning Use Matrix) and the newly created Chapter 18.25 BDMC (Density and Dimensional Standards). These tables are attached to the memo. All substantial changes to the code that have been added since February are highlighted in yellow.

We will be looking for your comments on the amendment package on April 27, 2026, prior to our distribution of Title 18 BDMC to the Department of Commerce for its 60-day review. We look forward to a meaningful discussion.

Within your agenda packet you will find the following documents for our discussion:

1. Commissioner Sauskojus Comments
2. Title 18 Zoning Working Draft with Tables 4-21-26
3. Proposed Zoning Map

## NEXT STEPS

After our April 27, 2026, meeting, the proposed amendments will be distributed to the Department of Commerce for a 60-day review. We will compile their comments and prepare a public hearing draft for your consideration in the June to July timeframe. We request and encourage all members of the Planning Commission to carefully review the set of proposed amendments prepared for past workshops and bring questions and comments to the meeting.

Please publish the following with Planning Commission meeting packet for April 2026. Also Please publish entire attached Title 18 Amendments. Suggested Revisions to the staff-provided February 11, 2026 Working Draft are as follows:

Page 8-9 of 148

Page 16 of 148

Page 39 of 148

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Page 84 of 148

**Page 8** - change to “note” only: remove the note with blue-background because Final Plats should remain Type 6 and not change to Type 1.

**Page 9** – Final Plats to remain as City Council approved. A complete Final Plat review in the City Council packet materials with the opportunity for Council to question interpretations is a much better public process. It allows Council to understand the impacts of development regulations and whether the intent is being followed. It offers another opportunity for correct interpretation and is a process visible to the public. Black Diamond is not required to change Final Plat approval to a staff-only review shielded from the public. The Council should retain its power, and the public visibility should be retained.

Although council review is optional under state law, Black Diamond does not need to take away Council’s right to review Final Plats.

**Page 16** – Require that for a project that has multiple land use decision types, that the applications be processed concurrently. Do not allow Piecemeal review, which makes it difficult to do a correct review and difficult to follow SEPA requirements ensuring cumulative impacts are reviewed for the project. Separate reviews are also confusing to the public who are most impacted by the land use actions.

Example: A separation of land use permit review led to the improper tree cutting on the 31-acre parcel on highway 169 near FATS auto in 2019. Now 7 years later, that land still does not have the zoning the developer wants to build at, but the public has an eye sores from looking at an orange silt fence and clear-cut lot the entire time. Further, the SEPA for the proposed development is still not complete, and a SEPA mitigation could yet recommend preservation of certain vegetation, but that option is no longer available to the city.

Processing the tree removal along with the overall project permits and not allowing them to be separate would have prevented this problem.

**Page 39** – For 18.30 Low Density Residential (R4 and R6), remove suggested changes to setbacks. These changes are not required by state law, and would have negative consequences for Black Diamond of both loss of green space and negative impact on neighbors, and further exceedance of Countywide Planning Policy Growth Targets. Further exceeding Growth Targets hurts our community because we have more traffic congestion when we travel into and out of our city, and we stretch thin our shared services like schools and fire and rescue protection.

**Page 43** – For 18.32 Medium Density Residential (R8 and R12), remove suggested changes to setbacks. Same rationale as for page 39.

**Page 44** – no changes to this page. But, note that on page 44, in 18.32.040 #10, staff recommends increased building heights to forty and forty-five feet. This is yet another reason that requiring larger setbacks are very reasonable. Developers are already getting increased square footage through increased height. The larger setbacks will contribute to small-town feel and increase fire safety.

**Page 83** – 18.68 Nonconforming uses.

Note: The city has not conducted a review of existing nonconforming uses, and the Planning Commission is not aware of any harm or problems resulting from existing nonconforming uses. Current residential development or current businesses that operate as nonconforming uses are respected as part of Black Diamond that may reasonably continue. For example, a person with a home that is nonconforming but is destroyed in a fire should not be forced to move or prevented from rebuilding.

Further, given the potential difficulty of finding qualified personnel to rebuild, find materials, engineers, etc, the timelines in the current code are unrealistic and should be extended.

See proposed changes to 18.68.020 General Provisions to allow reasonable time to replace nonconforming uses.

# WORKING DRAFT – APRIL 21, 2026

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**Color coding used:**

State Law Change or RCW / WAC citation

Staff Recommendation

Further Changes or refinements are still needed (pending)

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## **Title 18 ZONING**

### **Chapter 18.04 GENERAL PROVISIONS**

#### **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.

#### **18.04.020 Title.**

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

#### **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. Incorporate low impact development (LID) best management practices (BMPs) and principles.
- H. Provide for the administration and enforcement of the regulations.

#### **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.

#### **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.

**18.04.060 Zoning districts—Administration of title.**

- A. To carry out the purposes of this title, the city is divided into the following zoning districts which relate to the comprehensive plan land use map classifications:

Residential zones:

1. Low Density Residential—R4
2. Low Density Residential—R6
3. Medium Density Residential— R8
4. Medium Density Residential with potential TDRs—R8-TDR
5. Medium Density Residential—R12
6. Medium Density Residential with potential TDRs—R12-TDR
7. High Density Residential—R18
8. High Density Residential with potential TDRs—R18-TDR
9. High Density Residential—R30

Commercial zones:

10. Neighborhood Commercial—NC
11. Community Commercial—CC
12. Town Center—TC

Industrial zones:

13. Business/Industrial Park—B/IP
14. Industrial District—I

Other zones:

15. Public—PUB
16. Master Planned Development (MPD) Overlay

- 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 BDMC. 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 BDMC.

- D. Uses other than those identified or described as "permitted uses", "conditional uses" or "accessory or other uses" within each zone classification are prohibited.
- E. The city's transfer of development rights program is set out in Chapter 19.24 BDMC; increased densities are allowed when the TDR mechanism is used.

**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 BDMC, 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 BDMC 18.08.200—18.08.220.

**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.

**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.

**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.

**18.04.105 Prohibited uses.**

Cannabis-related land uses, including cannabis retail sales, cannabis production, cannabis processing, cannabis research, cannabis dispensaries, and cannabis cooperatives and collective gardens are prohibited in all zoning districts within the city. Siting or operating a cannabis-related business on property within the city is prohibited and constitutes a public nuisance.

**18.04.110 Site plan approval required.**

Site plan review, pursuant to the provisions of this code including Chapter 18.16 BDMC, 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, unless the development is categorized as middle housing (in accordance with BDMC 18.34.060).

**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 use as defined in Chapter 18.28 BDMC; or
- D. Has been granted a variance by the hearing examiner.

The installation of a mobile home or manufactured home shall require a city installation (placement) permit and shall be installed and inspected in accordance with the rules and regulations of the International Residential Code and International Building Code. 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.

**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 ensure compliance with or to prevent violation of its provisions.
- B. Violation—Penalty. Any violation of any of the provisions of this title shall be subject to code enforcement action pursuant to Chapter 8.02 BDMC.

**Chapter 18.08 ADMINISTRATION OF DEVELOPMENT REGULATIONS: PROCEDURES, NOTICE AND APPEALS**

**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.

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► Note: The following is a **staff recommended** update, to aid in the use and understanding of local processes

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**18.08.020 Relation to the SEPA.**

- A. All developments and permits subject to the provisions of the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, shall be reviewed in accordance with Chapter 19.04 BDMC. SEPA review shall be conducted concurrently with development project review.
- B. Under Chapter 36.70B RCW, the procedure for review of project permit applications (as defined in RCW 36.70B.020) shall be combined with the environmental review process, both procedural and substantive.

**18.08.030 Decision types.**

There are five types of decisions that may be made 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 are set forth in Chapter 18.12 BDMC. Decision types are summarized below; not all permits are listed.

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► Note: **State law was changed** and now City Councils do not need to approve Final Plats but may instead delegate that authority to staff per RCW 58.17.100 (see also RCW 58.17.170). **We show "Final plat" as added to Type 1 and deleted from Type 6.**

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Decision Type	Decision Maker(s)	Types of Applications
Type 1—Ministerial	Director	Lot line adjustment Building permits and related technical code applications referenced in Title 15 (fire, mechanical, plumbing, etc.) Final short plat

		<ul style="list-style-type: none"> <li>Final plat</li> <li>Shoreline exemptions</li> <li>Temporary use permits</li> <li>Use interpretation</li> <li>Development Right Certificate</li> <li>Transfer of Development Rights</li> <li>Tree removal permits</li> <li>Business license</li> </ul>
Type 2— Administrative	Director	<ul style="list-style-type: none"> <li>Preliminary short plats</li> <li>Accessory dwelling unit</li> <li>Administrative conditional use permit</li> <li>Administrative variance</li> <li>Binding site plan</li> <li>Sensitive area reasonable use exception</li> <li>Formal code interpretation</li> <li>Preliminary short plat</li> <li>Site plan review</li> <li>Pocket neighborhood housing development review</li> <li>Certain wireless communication facilities</li> </ul>
Type 3—Quasi-Judicial	Hearing Examiner	<ul style="list-style-type: none"> <li>Conditional use permit</li> <li>Plat alteration or vacation</li> <li>Preliminary plat</li> <li>Shoreline substantial development permit, Shoreline conditional use permit, or shoreline variance</li> <li>Variance</li> <li>Sensitive Areas exceptions</li> <li>Long-term temporary use permit</li> <li>Residential cluster development</li> <li>Certain wireless communication facilities</li> </ul>
Type 4—Quasi-Judicial	Recommendation by Hearing Examiner/ City Council	<ul style="list-style-type: none"> <li>Development agreements</li> <li>Master Planned Development</li> <li>Rezoning (site specific)</li> <li>LID/ULID final assessment rolls</li> </ul>
Type 5—Legislative	Recommendation by Planning Commission / City Council	<ul style="list-style-type: none"> <li>Comprehensive Plan amendments (text or map)</li> <li>Sub-area plan adoptions or amendments</li> <li>Area-wide rezoning</li> <li>Zoning Code text amendments</li> </ul>
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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 BDMC 18.08.130.

**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 code. These decisions are made by the director, are exempt from notice requirements, and are final actions. Type 1 decisions may be appealed to the hearing examiner and then to Superior Court.
- B. The following decisions, actions and permit applications require a Type 1 decision:
  - 1. Building permits and related technical code applications referenced in Title 15 (fire, mechanical, plumbing, etc.);
  - 2. Lot line adjustments;
  - 3. Use interpretation (BDMC 18.04.060);
  - 4. Shoreline exemptions;
  - 5. Final short plat;
  - 6. Final plat;
  - 7. Temporary use permit (Chapter 18.52 BDMC);
  - 8. Tree removal permits (Chapter 19.30 BDMC)
  - 9. Business license
  - 10. Certain wireless communication facilities identified in BDMC 18.84.030.
  - 11. Development Right Certificate
  - 12. Transfer of Development Rights program (Chapter 19.24 BDMC)

**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 BDMC 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. The following decisions, actions and permit applications require a Type 2 decision:
  - 1. Preliminary short plats;
  - 2. Accessory dwelling unit;
  - 3. Administrative conditional use permits ; (Chapter 18.68 BDMC for nonconformities; Chapter 18.54 BDMC for home occupations)
  - 4. Administrative variances; (BDMC 18.12.030)
  - 5. Sensitive areas ~~private property~~ reasonable use exceptions(BDMC 19.10.080(E)(2) and/or (3));

6. Formal code interpretations;
7. Binding site plans;
8. Site plan reviews (including review of landscaping plan in accordance with Chapter 18.72 BDMC) ;  
and
9. Pocket neighborhood housing development review (Chapter 18.88 BDMC).
10. Certain wireless communication facilities as identified in BDMC 18.84.030.

**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 BDMC 18.08.120.
- C. For each Type 3 decision, the department shall forward a recommendation to the hearing examiner regarding whether the proposal is consistent with applicable regulations and policies and whether the proposal should be approved, approved with modifications or conditions, or denied. The examiner shall issue a written decision including findings, conclusions, and conditions, if any.
- D. The director 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. A Type 3 decision may be appealed to Superior Court, except that a Type 3 decision on a shoreline application may be appealed only to the State Shorelines Hearings Board. (See also BDMC 18.08.200 regarding consolidated permit processing and appeals.)
- F. The following decisions, actions, and permit applications require a Type 3 decision:
  1. Preliminary plats;
  2. Conditional use permits (including but not limited to essential public facilities per Chapter 18.58 BDMC and adult-oriented businesses per Chapter 18.60 BDMC);
  3. Shoreline substantial development permit, shoreline conditional use permit or shoreline variance;
  4. Plat alterations or vacations;
  5. Variances (including but not limited to BDMC 18.12.030, and variances from Chapter 18.82 BDMC signs;
  6. Sensitive areas exceptions (BDMC 19.10.080);
  7. Long-term temporary use permit (Chapter 18.52 BDMC);
  8. Residential cluster developments (Chapter 18.86 BDMC); and
  9. Certain wireless communication facilities identified in BDMC 18.84.030.

**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 makes 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 open record hearing;
  3. The city council shall decide the application by motion and shall adopt formal findings and conclusions approving, denying, or modifying the proposal; and
  4. Appeal of the city council decision is to the Superior Court.
- B. Type 4 decisions require public notice as set forth in BDMC 18.08.120.
- C. The following decisions, actions and permit applications require a Type 4 decision:
1. Site specific Rezones;
  2. Development agreements (Chapter 18.66 BDMC);
  3. Master planned developments (Chapter 18.98 BDMC); and
  4. LID/ULID final assessment rolls

**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 BDMC 18.08.120 and a public hearing before the planning commission, which will make a recommendation to the city council.
- C. There is no administrative appeal of Type 5 decisions, but they may be appealed to the Washington State Growth Management Hearings Board.
- D. The following actions require a Type 5 decision:
1. Comprehensive plan amendments (text or future land use maps);
  2. Sub-area plan adoptions or amendments;
  3. Area-wide rezones (i.e. rezones conducted to implement a change to the city’s future land use map); and
  4. Amendments of the zoning code or other development regulations.

**18.08.090 Repealed.**

**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, 4 or 5 decision. Eligibility and procedures for amending the comprehensive plan are found in Title 16.
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 or map amendment to the comprehensive plan or request that the city initiate an area-wide rezone, or amendments to the text of the zoning code. Procedures for amending the comprehensive plan are outlined in Chapter 16.30 BDMC.

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► Note: **Staff recommends relocating** the below phrase “the city may, at its discretion....” From the Determination of Completeness process 18.08.110 (B) to this location

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- B. All applications for Type 1, 2, 3, 4, or 5 decisions, actions, or permits shall be submitted on official forms or as prescribed and provided by the department and be accompanied by the required filing fee. 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. The department shall establish, and may revise from time to time, application requirements for each type of application.
  1. Individual application 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 application 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 the review time periods set out in BDMC 18.08.140.

**18.08.110 Determination of completeness.**

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► Note: Changes are made to this chapter to conform to the Local Project Review Act as revised by **SB 5290 (2023)**. Additionally, BDMC 18.14.020 which was also named “Determination of Completeness” is proposed by city staff to be repealed to eliminate conflicts and remove duplicated information.

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- A. Within twenty-eight days after receiving a project permit application for a Type 1, 2, 3, or 4 decision, the city shall provide a determination that states either: (1) that the application is complete; or (2) that the application is incomplete and exactly what is necessary to make the application complete.
- B. A project permit application is complete when the application includes all of the information identified in the development regulations in this chapter as well as the chapter relating to the individual permit/approval. The city's issuance of a determination of completeness means that the application is sufficiently complete to initiate review, even though additional information may be required by the city during processing or when subsequent application modifications are made. Issuance of a determination of completeness does not bar the city from requesting additional information or studies whenever new information is required, or substantial changes are made to the proposal.

- C. If more than one application is submitted under the consolidated permit review process, the determination of completeness shall include all project permits being reviewed in a consolidated manner. To the extent known by the city, other agencies with jurisdiction over the project shall be identified in the determination of completeness. However, it is the applicant's responsibility to determine which permits are required from other agencies for a development, and to submit the appropriate permit applications.
  
- D. The city may choose to notify an applicant by mail or email that an application is complete. If the city does not furnish written notice of completeness or incompleteness within twenty-eight days of the applicant's submittal of the application, the application shall automatically be deemed procedurally complete on the twenty-ninth day.
  
- E.. If an application is determined to be incomplete, the city will furnish written notification by mail or email 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 or emailed within twenty-eight days of receiving the application. If the city timely notifies the applicant that the application is incomplete, the notification shall advise the applicant that he or she must submit the additional information requested by the city within ninety days. If the applicant submits the additional information within ninety days, the application will be deemed complete unless the director sends written notice to the applicant within 14 days of receipt of the additional information that the additional information is insufficient or otherwise incomplete and that the applicant will have an additional 90 days to submit the missing information. The applicant may continue to attempt to cure the deficiency in the application until the applicant either supplies the additional information requested by the director or fails to timely respond to the director's requests for additional information, at which point the application will be deemed abandoned for failure to submit the information necessary to complete review and processing. Each time that an applicant responds with additional information, the director shall have 14 days to determine whether the application is then complete or, if not, to notify the applicant that the required information remains missing and allow an additional 90 days to supplement the application.

Failure (or refusal) to submit the information requested by the city within ninety days. After this period expires, the community development director shall send a letter to the applicant, informing the applicant that unless the information is received within thirty days from the date of the letter, the director will make written findings and issue a decision that the application has expired for lack of the information necessary to complete review and processing. The decision shall be sent to the applicant and will also state that the city shall take no further action on the application, and if no arrangements are made within thirty days to pick up the application materials, they will be destroyed. If the application expires under this procedure, the applicant may request a refund of the application fee remaining after the city's determination of incompleteness. A decision that an application has expired does not preclude the applicant from submitting new applications that are the same or substantially similar to the expired application.

- G. Effect of Determination of Completeness or Application Deemed Complete. If an application has been determined complete or deemed complete under this section, it does not mean that the application is "vested" to the applicable development regulations in place at the time the application was determined complete or deemed complete under this section. Not all applications are subject to the vested rights doctrine. An application that is "deemed complete" may not trigger vesting.

H. "Holding" of Applications. Applicants may not request that the city "hold" incomplete or complete applications in abeyance, indefinitely or for any set period of time. Once an application is submitted to the city, it will be processed according to the timeframes in this title to a final decision, or the applicant may withdraw the application.

**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, that shall be 14 days long, except for shoreline substantial development, shoreline variance, or shoreline conditional use permit applications, which shall have a comment period for notice of application as required by Chapter 19.08 BDMC;
  - 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 primary methods, as specified for each permit application type in Table 18-1:
  - 1. By mailing a notice of the application 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. By publishing a notice of the application in the official city newspaper of record;
  - 3. By posting the property with a sign or placard as required by the department; or
  - 4. By publishing or posting on the city's website a notice of the application. If this method is used, the department shall either establish a specific calendar for online publishing or maintain an email distribution list to alert interested parties that a new proposal has been applied for.

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

**18.08.125 Notice requirements table.**

- A. Notice shall be provided using the following methods for each decision type. Specific applications with unique noticing requirements are noted individually.

**TABLE 18-1**

Decision Type	Mail	Publish	Post the property with a sign or placard	Online Notice
Type 1				
Type 2	X	X	X	X
• Formal code interpretation		X		X
Type 3	X	X	X	X
Type 4	X	X	X	X
Type 5	X	X	X	X
• Zoning Code text amendment		X		X

**18.08.130 Consolidated permit process.**

► Note: "Shall" changed to "may" (**staff recommendation**)

*Commerce guidance says "While the permitting department should allow applicants to submit all pieces of their application simultaneously, it should also encourage and facilitate applicants who wish to submit their applications in several ways so they can quickly get underway. The decision on which course to take should be left to the applicant."*

- A. If a project requires more than one type of land use application, the applications may be processed concurrently unless the director determines that separate processing will result in a more efficient or effective review process or the applicant indicates in writing that he/she does not want this to occur.
- 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.

**18.08.140 Time periods for application review and decisions.**

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► Note: **RCW 36.70B.110, as amended by SB 5290(2023)** stipulates time limitations which we have incorporated below.

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- A. The city must issue a final decision on all Type 1 applications, excluding building permits and final plat decisions, within 65 days of the determination of completeness.
- B. The city must issue a final decision on all Type 2 applications within 100 days of the determination of completeness.
- C. Decisions on Type 3 and Type 4 applications, excluding preliminary plats, must be issued as a final decision within 170 days of the determination of completeness.
- D. No review time periods are established for Type 5 legislation decisions.
- E. See the city’s Shoreline Master Program for review time periods and procedures for Shoreline Permits.
- F. RCW 58.17.140(1) sets out a limit of 90 days for preliminary plats; RCW 58.17.140(2) sets out a limit of 30 days for final plats.
- G. This Title does not address the timing for issuing a final decision building permits or other permits or approvals issued pursuant to the State Building Code as adopted in RCW Chapter 19.27.

**18.08.145 Limitations and exceptions to application review time periods.**

- A. Final decisions by the City on all permits and approvals subject to the procedures of this chapter shall be issued within a maximum number of days from the date the applicant is notified by the Department pursuant to this chapter that the application is complete as provided in BDMC 18.08.140. The following periods shall be excluded from the time limit:
  - 1. Any period of time during which the applicant has been requested by the city (including the director, planning commission, hearing examiner, or city council) to correct plans, perform required studies or provide additional information. The period shall be calculated from the date of notice to the applicant of the need for additional information until the earlier of the date the city advises the applicant that the additional information satisfies the city’s request, or 14 days after the date the information has been provided. If the city determines that the correction, study or other information submitted by the applicant is insufficient, the city shall notify the applicant of the deficiencies, and the procedures of this section shall apply as if a new request for information had been made.
    - a. There shall be a 90-day deadline for the submittal of corrections, studies or other information when requested. An extension of this deadline may be granted upon submittal by an applicant of a written request providing satisfactory justification of an extension.
    - b. Failure by the applicant to meet such deadline shall be cause for the city to deny the application.
    - c. When granting a request for a deadline extension, the city shall give consideration to the number of days between receipt by the city of a written request for a deadline extension and the mailing to the applicant of the city’s decision regarding that request.

2. The period of time, as set forth in Chapter 19.04 BDMC, during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW.
  3. Any period of time during which an applicant fails to post the property, if required by this chapter, following the date notice is required until an affidavit of posting is provided to the Department by the applicant.
  4. Any time extension mutually agreed upon by the applicant and the Director.
- B. The time limits established in this section shall not apply if a proposed development:
1. Requires an amendment to the comprehensive plan or a development regulation, or modification or waiver of a development regulation as part of a demonstration project;
  2. Requires approval of the siting of an essential public facility as provided for in RCW 36.70A.200; or
  3. Is substantially revised by the applicant, when such revisions will result in a substantial change in a project's review requirements, as determined by the Department, in which case the time limit shall start from the date at which the revised project application is determined to be complete.

**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 provided 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.

**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 fewer than fourteen days prior to the hearing, through use of the same methods indicated for notice of application. See BDMC 18.08.120 and 18.08.125.

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- Note: The following language is relocated here from 18.14.030 ("deadline for submission of materials prior to decision/ hearing" with minor changes and a new section name. **This part is pending further review**)
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**18.08.185 Receipt of comments for Type 2,3, and 4 decisions.**

All documents and other evidence including comments from the public in relation to an application and relied upon by the applicant for approval shall be submitted to the community development director no more than seven days after the city issues the notice of application or the notice of public hearing on the

application. Documents or evidence submitted after that date shall be received by the director, but may be too late to be considered in the decision (if no hearing is allowed before an appeal). If a hearing is allowed on the application, documents or evidence received after that date shall be received by the director and transmitted to the hearing body, but may be too late to include with or to integrate in the staff report and staffs’ evaluation of the application.

**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.

**18.08.195 Permit expiration and extension.**

A. Except where a different duration is established elsewhere in the Black Diamond Municipal Code or by an executed development agreement or applicable law, all project permits shall expire two years after the date of issuance if substantial progress on the project has not begun; provided, an extension of the permit may be granted as allowed under subsection B.

B. The city may extend the date of permit expiration for up to one year with good cause shown by the permittee, and as long as the permittee submits a written request at least thirty days prior to the 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 an extension is filed. The "good cause" that must be described in the written request for an extension shall include documentation of the facts supporting the permittee's claim that he/she was unable to substantially begin construction during the life of the original permit because of circumstances that were beyond the permittee's control and not foreseeable at the time of permit issuance. The permittee must also demonstrate the ability to complete the project within the extended time period.

**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	Director	Hearing Examiner	N.A.
Type 2	Director	Hearing Examiner	Court
Type 3, except shoreline applications	Hearing Examiner	Superior Court	Court
Type 4	City Council	Superior Court	N.A.
Type 5	City Council	Growth Management Hearings Board (GMHB)	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.

**18.08.210 Administrative appeals.**

- A. Who May Appeal. Any aggrieved party of record may file an administrative appeal of a Type 1 or 2 decision.
- B. Time and Place to Appeal. Appeals of a Type 1 or 2 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.
- 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. 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.
- E. Form of Appeal. A person appealing a Type 1 or Type 2 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;
  - 3. The specific relief requested; and
  - 4. Any other information reasonably necessary to make a decision on appeal.
- F. 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.
- G. Electronic submittal of comments and supporting documents for all administrative reviews and appeals shall be allowed, subject to any procedural conditions that may be imposed by the hearing examiner during the pendency of an appeal.

**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 ninety days from the date the appeal is filed unless the hearing examiner determines by written findings that a specified amount of additional time is necessary because the matter is of unusual complexity or scope or for other good cause shown.
- 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.

**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.

## Chapter 18.12 DECISION CRITERIA FOR SELECTED PERMIT TYPES

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- ▶ Note: **Staff recommends** chapter / section name changes (improves code use /organization)
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### 18.12.010 Conditional use and administrative conditional use permits and review of essential public facilities.

- A. Purpose. Conditional uses, which are identified in various zones in this title, are those uses that 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:

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- ▶ Note: Staff has identified that while a Comprehensive Plan forms the policy foundation for projects, it should not be used as a criterion for these permits [This is a “best practice” **recommendation** in a Commerce Guide]
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1. *Repealed.* ;
  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 BDMC.
  - D. Essential Public Facilities. In addition to the criteria set forth in Chapter 18.58 BDMC, essential public facilities are also subject to the criteria of this section.

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- ▶ Note: Edits shown below for BDMC 18.12.020 are intended to clean-up and fix some problems identified by the City Attorney who noted it doesn't properly reflect the distinction between legislative and quasi-judicial zoning code amendments. We have revised and trimmed the language to only address site specific rezones which are Type IV actions.
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**18.12.020 Zoning reclassification (site-specific rezone)**

- A. Purpose. A zoning reclassification of property, or site-specific rezone, is a mechanism through which the city can review an application made by an applicant to change the zoning classification of a property. 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.
- B. Applicability. This section addresses site-specific rezones which are Type 4 (quasi-judicial) actions. Rezones which are legislative in nature, for instance rezones done in direct connection to a change to the Comprehensive Plan Future Land Use Map, are Type 5 decisions and are addressed in Title 16.
- C. Criteria. The city will consider the following criteria in reviewing applications for site-specific zoning reclassifications, and may only approve an application if the applicant demonstrates that all of the criteria are met:
  - 1. The proposal is generally consistent with, and does not conflict with, the goals and policies of the comprehensive plan, and the change will implement the future land use map (FLUM) included in the comprehensive plan;
  - 2. The subject property is suitable for development in conformance with the standards applicable to the requested zoning designation;
  - 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;
  - 4. Adequate services and facilities, including transportation facilities, will be available to serve the range of uses permitted in the proposed zoning classification;
  - 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;
  - 6. The reclassification does not reflect special treatment of the subject property; and
  - 7. The reclassification will promote the general health, safety and welfare of the community.
- D. Process. Consideration of zoning reclassification shall follow the procedures in Chapter 18.08 BDMC.

**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 that 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 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 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. Limitations. 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 BDMC.

**18.12.040 Reserved.**

**18.12.060 Reserved.**

**18.12.070 Reserved.**

**Chapter 18.14 REPEALED**

**18.14.010 Repealed.**

**18.14.020 Repealed .**

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▶ Note: Some of this language is relocated to BDMC 18.08.110.

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▶ Note: BDMC 18.14.030 relocated to BDMC 18.08.185

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**18.14.030 Repealed.**

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**18.14.040 Repealed.**

**18.14.050 Repealed.**

## Chapter 18.16 SITE PLAN REVIEW PROCESS

### 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.

### 18.16.020 Applicability.

- A. 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 (unless the structure is middle housing in which case site plan review is only required in cases where a site plan review would be required for a single-family building; e.g. where the location triggers a review for the requirements set out in Chapter 18.76 BDMC).
- B. 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.
- C. Site plan review is not intended to review and determine the appropriateness of a given use on a particular site.

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► Note: The following added per requirements of SHB 1935 (2025) - RCW 36.70B.140(3)

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- D. Interior alteration project permits excluded. Project permit applications for interior alterations (construction activities that do not modify the existing site layout or its current use and for which no exterior work or change to the building footprint is involved) that do not result in additional sleeping quarters or bedroom, and which do not increase the total square footage or valuation of a structure thereby requiring upgraded fire access or fire suppression systems are excluded from the requirements of a site plan review. This exclusion does not exempt interior alterations from otherwise applicable building, plumbing, mechanical, or electrical codes.

### 18.16.030 Procedures.

- A. Site plan review is processed as a Type 2 decision, for both new applications and minor amendments to an approved site plan, pursuant to Chapter 18.08 BDMC. Site plan review may be conducted independently or concurrently with any other development permit required by this title.
- B. The director may modify or waive these procedural and/or application and review requirements in cases where an approved Binding Site Plan renders further review unnecessary or duplicative.
- C. 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 application requirements, processing procedures, development standards and city requirements applicable to site plans. The city may establish a fee for the pre-application conference.
- D. Application Requirements. An application for site plan review shall include the following:
  - 1. A vicinity map, showing site boundaries and existing roads and accesses within and bounding the site;
  - 2. Site plans, drawn to a scale of 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, utilities, and significant trees;

3. A topographic map, based on a site survey delineating existing contours at no less than five-foot intervals, and that identifies (symbolizes) existing streams, wetlands and other natural features;
4. A conceptual landscape plan;

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► Note: the following is a **staff proposed change**

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5. A lighting plan pursuant to Chapter 18.70 BDMC;
6. A parking and circulation plan;
7. A preliminary stormwater management plan;
8. A utilities plan;
9. Other reports or studies as determined applicable by the director, including but not limited to geotechnical, critical areas, and/or traffic;
10. A SEPA environmental checklist, unless the proposal is categorically exempt per Chapter 19.04 BDMC, SEPA regulations; and
11. A 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.

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► Note: the following is a **staff proposed change**

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

**18.16.040 Criteria for approval.**

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► Note: the following is a **staff proposed change**

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- A. The community development director will consider the following criteria in reviewing site plan review applications, and may only approve an application if the applicant demonstrates that all of the criteria are met:
- 1.
  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 and adheres to applicable design guidelines;
  4. The location, size and height of buildings, structures, walls and fences and screening vegetation for the use will not hinder permitted development or discourage the use of neighboring properties;
  5. The 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 use will be supported by adequate public services and facilities, including any services and facilities that the applicant funds or provides.

**18.16.050 Amendments to approved site plans.**

This section provides the criteria and limitations for amending an approved site plan, including conditions of approval. Modifications of projects shall first be evaluated and then, depending on the extent of the modifications, a process as identified below will be followed:

- A. *Administrative.* The city will evaluate each modification with the project proponent. Proposed changes that do not increase impacts to surrounding property owners or modify the intent of the original decision may be considered. In those instances where the modification increases adverse impacts, such as stormwater, traffic, reduced open space, or noise, in a manner that was not disclosed in this project approval, the amendment will be deemed ‘major’ and will be reviewed through the same process as the original project approval.
- B. *Minor Amendment.* Minor amendments address those changes to an approval that fall within the scope of the original approval and do not increase impacts to surrounding properties.
  1. Any additions or expansions proposed through minor amendments that individually or cumulatively exceed the requirements of this section shall be reviewed as a major amendment and shall be subject to current development regulations.
  2. *Required Written Findings and Determinations.* The Director's written decision on a minor amendment shall include findings and conclusions, based on the record, to support the decision. A finding that addresses the applicability of any specific conditions of approval from the original permit shall be required. A proposed minor amendment shall not be approved unless the Director makes written findings that:
    - a. Any change of use, or modification of housing type, is permitted outright in the current zone classification;
    - b. Proposed changes to conditions of approval fall within the scope of the original approval and comply with the intent of the original condition;
    - c. Proposed changes to conditions of approval or the proposal do not result in increased impacts to the surrounding property owners or modify the intent of the original decision. Impacts may include, but are not limited to, stormwater, traffic, open space, or noise;
    - d. The perimeter boundary of the original site is not being increased 5 percent of the original area;
    - e. The change does not increase the overall residential density of the project;
    - f. The proposal does not add more than 25 percent gross square footage of structures to the site;
    - g. The proposal does not increase the overall hard surface on the site by more than 25 percent;
    - h. Access points are not reduced, increased or significantly altered; and
    - i. The proposal does not reduce designated open space.
  3. *Approvals.* The Director has the authority to approve or deny any proposed minor amendment and may impose additional or altered conditions and requirements as necessary to assure that the proposal conforms with the intent of the Comprehensive Plan and other applicable city codes and state laws.

**18.16.060 Duration of approval.**

Site plan approvals granted pursuant to this chapter shall expire two years after the date of approval if substantial progress on the project has not been completed; provided that, an extension of the approval period may be granted pursuant to BDMC 18.08.195(B)..

**Chapter 18.20 ZONING USE MATRIX**

**18.20.010 Zoning use matrix.**

- A. The zoning use “matrix” (or table) below combines the uses permitted in all zones within the city. For further information on each zone, see the zone-specific chapters in Chapters 18.30—18.46 BDMC.
- B. The table lists the zones in the vertical columns and the land use activities in the horizontal rows. If no symbol appears in the box at the intersection of a row and column, the use is not allowed and is prohibited unless otherwise noted.
- C. If the letter "P" appears in the box, the use is permitted outright subject to the provisions of this title. If the letter "C" appears in the box, the use is conditional and is only allowed with a conditional use permit. If the box contains a number, the corresponding footnote further specifies the conditions applicable to the use in the zone.
- D. Residential uses are grouped together under the subheading “Residential.”

Use	R4, R6	R8, R8-TDR, R12, R12-TDR	R18, R18-TDR, R30	NC	CC	TC	B/IP	I	PUB
Accessory uses per BDMC 18.50	P	P	P	P	P		P	P	P
Adult oriented business per BDMC 18.60							C	C	
Agricultural stands for sales of produce/ plants grown onsite	P	P							
Agricultural uses	p <sup>13</sup>	p <sup>13</sup>							
Any expansion of light manufacturing spaces that existed before 6/27/2009				C					
Automobile fueling stations				C	P				
Automobile wrecking yards								C	
Bed and breakfasts	C	C	C	C					
Business support services							p <sup>15</sup>	p <sup>16</sup>	
Child care center	P	P	P	P	P	P	p <sup>18</sup>		P
Drive through facilities				C	P				
Entertainment/ cultural facilities				p <sup>9</sup>	P	P	C		
Essential public facilities				C	C		C	C	C
General office uses				p <sup>8</sup>		P	P	p <sup>17</sup>	
Heavy Industry								P	
Home Occupations per BDMC 18.54	P	P	P	p <sup>20</sup>	p <sup>20</sup>	p <sup>20</sup>			
Hotels/motels/ visitor lodging					P				

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Use	R4, R6	R8, R8-TDR, R12, R12-TDR	R18, R18-TDR, R30	NC	CC	TC	B/IP	I	PUB
Hybrid wholesale/ retail establishments					C				
Light manufacturing							P <sup>1</sup>	P	
Major institutions					C	C	C	C	C
Self storage facilities					C				
Parking structures (not associated with primary use)						C	C		
Parks	P	P	P				C		P
Personal and professional services				P <sup>7</sup>	P	P			
Pet daycare					P				
Pet stores				P <sup>19</sup>					
Private clubs, fraternal lodges and similar						C			
Private schools, K-12	C	C	C				P	P	
Public uses/facilities	C	C	C	C	P	P <sup>2</sup> /C	C	P	P
Religious Institutions <sup>14</sup>	C <sup>11</sup>	C <sup>11</sup>	C <sup>11</sup>	C	P	C	C		
Research and development							P <sup>1</sup>	P	
<b>Residential</b>									
Accessory dwelling units per BDMC 18.56	P	P	P						
Assisted living facilities		C	C						
Co-living housing		P	P						
Caretakers quarters									P
Pocket neighborhood housing		P	P						
Emergency housing and emergency shelters					P				
Family day care	P	P	P						
Group care homes for adults or children	P	P	P						
Housing in Existing Buildings per BDMC 18.34	P	P	P	P	P	P			
Manufactured home parks		C	C						
Manufactured housing per BDMC 18.90	P	P	P						
Middle housing per BDMC 18.34.060	P	P	P						
Housing in a Mixed-use project				P <sup>4</sup>	P <sup>5</sup>	P <sup>5</sup>			
Multi-family		P	P						

Use	R4, R6	R8, R8-TDR, R12, R12-TDR	R18, R18-TDR, R30	NC	CC	TC	B/IP	I	PUB
Permanent supportive housing	P	P	P		P				
Single-family structures	P	P	P						
Senior housing		C	C	C		C			
Transitional housing	P	P	P		P				
Retail				P <sup>6</sup>	P <sup>3</sup>	P			
Technology, biotechnology, and medical equipment							P		
Temporary uses per BDMC 18.52	P	P	P	P	P		P	P	P
Utilities, above ground	C	C	C	C	C	C	C	P	C
Utilities, below ground	P	P	P	P	P	P	P	P	P
Veterinary clinics				P <sup>19</sup>	P				
Warehousing / distribution								P	
Wholesaling							P	P	

<sup>1</sup> That does not create significant noise, emissions, risk of explosion or release of hazardous materials, or air or water pollution; and provided all production and storage activity is conducted indoors.

<sup>2</sup> Permitted limited to general administrative offices, otherwise a conditional use.

<sup>3</sup> Including uses involving outdoor product display or storage.

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► **Note to Codifier: "Mixed-use" should be hyphenated throughout this code**

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<sup>4</sup> In attached structures if included as an element of mixed-use site development or on upper floors of a mixed-use structure.

<sup>5</sup> 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.

<sup>6</sup> Supermarket and grocery stores limited to forty thousand square feet, typical neighborhood retail uses limited to ten thousand square feet per individual use and one building not to exceed one hundred thousand square feet. Excludes drive throughs and gas stations.

<sup>7</sup> Personal services provided primarily to neighborhood residents limited to four thousand square feet per business.

<sup>8</sup> Limited to four thousand square feet per business and excluding drive throughs.

<sup>9</sup> Limited to five thousand square feet or capacity of not more than 100 patrons per business, whichever is greater and excluding drive-throughs.

<sup>10</sup> *Repealed.*

<sup>11</sup> Not to exceed ten thousand square feet.

<sup>12</sup> *Repealed.*

<sup>13</sup> Including farms, nurseries, and community gardens/ pea patches. Greenhouses, storage sheds, and similar buildings accessory to such uses are also permitted.

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► Note to codifier: The following footnote about hosting the homeless by religious organizations is added in accordance with ESHB 1754 (2020)

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<sup>14</sup> Outdoor encampments, safe parking efforts, indoor overnight shelters, and temporary small houses are allowed on property owned or controlled by a religious organization and may be regulated according to the provisions of RCW 35.21.915. These uses are also addressed in Chapter 18.62 BDMC.

<sup>15</sup> 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 square feet maximum for any individual use.

<sup>16</sup> Including eating establishments primarily serving the immediate work force. The total gross floor area of such uses is not to exceed twenty percent of the total district area and a five thousand square feet maximum for any individual use.

<sup>17</sup> Associated with primary manufacturing use.

*Repealed.*

<sup>18</sup> When integrated within a development.

*Repealed.*

<sup>19</sup> No boarding of dogs or outdoor kennels allowed.

<sup>20</sup> Only permitted in residential units of a mixed-use development in the NC, CC, and TC zones, or in any legally nonconforming residential use/structure.

**Chapter 18.25 DENSITY AND DIMENSIONAL STANDARDS**

**18.25.010 Density and dimensional standards matrices.**

**FIGURE 18.25.010.A RESIDENTIAL ZONE DENSITY AND DIMENSIONAL STANDARDS**

Zone		R4	R6	R8	R8-TDR	R12	R12-TDR	R18	R18-TDR	R30
<b>Residential Density (du/ac)</b>	<b>Maximum</b>	4	6	8	8 <sup>3</sup>	12	12 <sup>3</sup>	18	18 <sup>3</sup>	30
<b>Lot Dimensions</b>	<b>Min. Area (sf)</b>	9,600	7,200	3,600 (single-family) 7,200 (multi-family)	1,000 (single-family attached) 2,200 (single family detached)	2,500	1,000 (single-family attached) 2,200 (single family detached)	1,700	1,000 (single-family attached) 2,200 (single family detached)	1,000
	<b>Min. Width (ft)</b>	<del>60</del> 50	<del>60</del> 50	<del>50</del> 40	none	25	none	25	none	25
	<b>Min. Depth (ft)</b>	80	80	70	none	50	none	50	None	50
<b>Building Dimensions</b>	<b>Max. Height (ft)</b>	32	32	<del>35</del> 40	45	45	45	45	45	45
	<b>Max. ADU Height (ft)</b>	26	26	26	26	26	26	26	26	26
	<b>Max. Building Cvg.</b>	<del>30%</del> 40%	<del>30%</del> 50%	<del>50%</del> 60%	60%	60%	60%	70%	70%	70%

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Zone		R4	R6	R8	R8-TDR	R12	R12-TDR	R18	R18-TDR	R30
Setbacks (ft)	Min. Front	10 (Minor street Garage 20)	10 (Minor street Garage 20)	<del>20 (Minor)</del> <del>25 (Major)</del> 10 (Garage 20)	<del>20 (Minor)</del> <del>25 (Major)</del> 10 (Garage 20)	<del>20 (Minor)</del> <del>25 (Major)</del> 10 (Garage 20)	<del>20 (Minor)</del> <del>25 (Major)</del> 10 (Garage 20)	10	10	10
	Min. Side <sup>1</sup>	<del>7, 10 on a flanking street</del> 5 (Interior) 10 (Side Street)	<del>7, 10 on a flanking street</del> 5 (Interior) 10 (Side Street)	<del>7, 10 on a flanking street</del> 5 (Interior) 10 (Side Street)	5 (Interior) 10 (Side Street)	5 (Interior) 10 (Side Street)	5 (Interior) 10 (Side Street)	5 (Interior) 10 (Side Street)	5 (Interior) 10 (Side Street)	5 (Interior) 10 (Side Street)
	Rear	<del>20</del> 10	<del>20</del> 10	10	10	5	5	5	5	5
Structure Separation	Minimum	<del>None</del> 10	<del>None</del> 10	10	10	10	10	10	10	10
Impervious Surface Coverage	<del>Base<sup>2</sup></del>	<del>50%</del>	<del>50%</del>							
	Max	70%	70%	80%	80%	80%	80%	80%	80%	80%

NOTES:

1: Townhouses and other zero lot line developments require no side setback

3: The base density for land within a TDR district is the maximum density of that land at the time of its annexation into the city. This can be increased up to the maximum density listed with assignment of transferrable development rights.

4: This measurement applies to an exclusively residential building; in a mixed-use building, there is no maximum residential density (only as limited by F.A.R., height, parking and other site development standards).

5: Only if abutting a residential zone

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6: Plus one additional foot per each foot of height over 35 feet

7: Unless a public plaza or similar amenity is provided between the facade and the street. The maximum allowed setback is ten feet for structures.

" 8: 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;
- c. The maximum bonus density shall not exceed twenty percent for a project. "

9: Fifty feet if abutting a residential zone. Zero feet if abutting another I-zoned property.

**FIGURE 18.25.010.B COMMERCIAL AND INDUSTRIAL ZONE DENSITY AND DIMENSIONAL STANDARDS**

Zone		NC	CC	TC	B/IP	I	PUB
<b>Residential Density (du/ac)</b>	<b>Maximum</b>	12 <sup>4</sup>	0 <sup>4</sup>	0 <sup>8</sup>	N/A	N/A	N/A
<b>Lot Dimensions</b>	<b>Min. Area (sf)</b>	0	0	0	<del>65,340</del> (1.5 ae) 0	<del>217,800 (5 ae)</del> 0	N/A
	<b>Min. Width (ft)</b>	0	0	0	N/A	N/A	N/A
	<b>Min. Depth (ft)</b>	0	0	0	N/A	N/A	N/A
<b>Building Dimensions</b>	<b>Max. Height (ft)</b>	50 with residential, 35 without	45	50 with residential, 35 without	45	50	N/A
	<b>Floor Area Ratio (FAR)</b>	2.0 with residential, 1.0 without	2.0 with residential, 1.0 without	2.0 with residential, 1.0 without	1	1	N/A
	<b>Max. Site Area</b>	10 ac	None		N/A	N/A	N/A
<b>Setbacks (ft)</b>	<b>Front</b>	60% of façade no more than 10	40% of façade no more than 10	No more than 5 <sup>7</sup>	<del>40</del> 20	20	None
	<b>Side<sup>1</sup></b>	20 <sup>5,6</sup>	15 <sup>5,6</sup>	10 <sup>5,6</sup>	<del>30</del> 25 <sup>6</sup>	25 <sup>9</sup>	None
	<b>Rear</b>	20 with residential, 15 without	15 <sup>5,6</sup>	15 with residential, 10 without <sup>5,6</sup>	<del>30</del> 25 <sup>6</sup>	25 <sup>9</sup>	None
<b>Impervious Surface Coverage</b>	<b>Max</b>	80%	80%	100%	75%	90%	70%

## Chapter 18.30 LOW DENSITY RESIDENTIAL DISTRICTS (R4 AND R6)

### 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 low-density residential areas;

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► Note: The following addition references **HB 1110 (2023) later modified by ESHB 2321 (2024) and by ESSHB 1096 (2025) - RCW 36.70A.635** which says that Tier III cities (which includes Black Diamond) must allow densities under the “middle housing” laws (at a minimum)

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- B. Designate certain areas where single-family and compatible structures are the predominant type of dwelling unit and allow development meeting the minimum lot densities requirement that applies to Black Diamond required per in RCW 36.70A.635;
- 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 ensure availability of public services and community facilities such as utilities, police and fire protection, schools, parks and recreation; and
- E. Preserve existing agricultural activities within the city and provide opportunities for small-scale agricultural uses meeting the needs of city residents.

### 18.30.020 Permitted uses.

For permitted uses in Low Density Residential districts, please see BDMC 18.20.010 Zoning use matrix.

### 18.30.030 Conditional uses.

For uses that may be allowed by approval of a conditional use permit, please see BDMC 18.20.010 Zoning use matrix.

### 18.30.040 Development standards.

- A. Site area and Dimensional Standards.

For a detailed matrix of Density and Dimensional Standards, please see BDMC Table 18.25.010(A)

- B. Parking. Off-street parking shall be provided in accordance with Chapter 18.80 BDMC.
- C. Landscaping.
  - 1. Landscaping shall be planned and provided in accordance with Chapter 18.72 BDMC.
  - 2. Development shall also comply with the tree preservation requirements of Chapter 19.30 BDMC.
- D. Signs. Regulation of signs is provided in Chapter 18.82 BDMC.
- E. Lighting. Lighting shall comply with the requirements of Chapter 18.70 BDMC.
- 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.

**18.30.050 Additional requirements.**

- A. All development within the R4 and R6 zones shall comply with applicable environmental performance standards of Chapter 18.78 BDMC and, if applicable, the design review requirements of Chapter 18.74 BDMC.

**Chapter 18.32 MEDIUM DENSITY RESIDENTIAL DISTRICTS— (R8, R8-TDR, R12, AND R12-TDR)**

**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 medium density residential areas;
- B. Designate appropriate areas in which medium density residential structures on individual lots and compatible structures are the predominant type of dwelling unit;
- C. Guide the development of medium density residential dwellings to such areas and in such manner as to ensure 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. Encourage the preservation of critical areas and other significant places identified in the city's transfer of development rights program (Chapter 19.24 BDMC) by allowing increased densities when the TDR mechanism is used; and
- E. Apply appropriate regulations to ensure that structures developed for medium density residential use are well designed.

**18.32.020 Permitted uses.**

For permitted uses in Medium Density Residential districts, please see BDMC 18.20.010 Zoning use matrix.

**18.32.030 Conditional uses.**

For uses that may be allowed by approval of a conditional use permit, please see BDMC 18.20.010 Zoning use matrix.

**18.32.040 Development standards.**

- A. Site Area and Dimensional Standards.

For a detailed matrix of Dimensional Standards, please see BDMC Table 18.25.010(A)

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

- C. Landscaping.

- 1. Landscaping shall be planned and provided in accordance with Chapter 18.72 BDMC.
- 2. Development shall also comply with the tree preservation requirements of Chapter 19.30 BDMC.

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

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

- 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.

- G. Exceptions for townhome lots.

- 1. Minimum lot area does not apply to individual townhome parcels, units, or lots.

2. Maximum Building Coverage does not apply to individual townhome parcels, units, or lots.
3. Maximum Impervious Area does not apply to individual townhome parcels, units, or lots.

**18.32.050 Additional requirements.**

- A. All development within the medium density districts shall comply with the applicable environmental performance standards of Chapter 18.78 BDMC, the site plan review requirements of Chapter 18.16 BDMC, and design review requirements of Chapter 18.74 BDMC.

**Chapter 18.33 HIGH DENSITY RESIDENTIAL DISTRICTS (R18, R18-TDR, AND R30)**

**18.33.010 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 high density residential areas;
- B. Designate appropriate areas in which high density residential structures are the predominant type of dwelling unit;
- C. Guide the development of high density residential dwellings to such areas and in such manner as to ensure 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. Encourage the preservation of critical areas and other significant places identified in the city's transfer of development rights program (Chapter 19.24 BDMC) by allowing increased densities when the TDR mechanism is used; and
- E. Apply appropriate guidelines to ensure that structures developed for high density residential use are well designed.

**18.33.020 Permitted uses.**

For permitted uses in High Density Residential districts, please see BDMC 18.20.010 Zoning use matrix.

**18.33.030 Conditional uses.**

For uses that may be allowed by approval of a conditional use permit, please see BDMC 18.20.010 Zoning use matrix.

**18.33.040 Development standards.**

- A. Site Area and Dimensional Standards.

For a detailed matrix of Dimensional Standards, please see Table 18.25.010(A)

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

- C. Landscaping.

- 1. Landscaping shall be planned and provided in accordance with Chapter 18.72 BDMC.
- 2. Development shall also comply with the tree preservation requirements of Chapter 19.30 BDMC.

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

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

- 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.

- G. Exceptions for townhome lots.

- 1. Minimum Lot Area does not apply to individual townhome parcels, units, or lots.

2. Maximum Building Coverage does not apply to individual townhome parcels, units, or lots.
3. Maximum Impervious Area does not apply to individual townhome parcels, units, or lots.

**18.33.050 Additional requirements.**

- A. All development within the high density districts shall comply with the applicable environmental performance standards of Chapter 18.78 BDMC, the site plan review requirements of Chapter 18.16 BDMC, and design review requirements of Chapter 18.74 BDMC.

## Chapter 18.34 SUPPLEMENTAL RESIDENTIAL STANDARDS

### 18.34.010 Purpose.

- A. One 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.
- B. This chapter contains particular or specific requirements or provisions for housing as directed by the state legislation or as otherwise required under the growth management act.

### 18.34.050 Definitions.

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

- 
- ▶ Note: The following definition is per **HB 1042 (2023) and HB 1757 (2025)** - RCW 35A.21.440
- 

A. Existing building. A building that received a certificate of occupancy at least three years prior to the permit application to add housing units.

- 
- ▶ Note: The following the definitions are per **HB 1110 requirement** (RCW 36.70A.635; Definition is from RCW 36.70A.030) However, the square footage shown for cottage housing is not dictated by the state and is a **staff recommendation**.
- 

B. Administrative design review. A development permit process whereby an application is reviewed, approved, or denied by the community development director based solely on objective design and development standards without a public predecision hearing, unless such review is otherwise required by state or federal law, or the structure is a designated landmark, King County landmark, or historic district established under a local preservation ordinance.

- 
- ▶ Note: Section C below will no longer be needed and can be removed if the setbacks in the zoning districts are reduced to allow for more compact development. However, if the changes aren't made then these opportunities for relief are still needed and will need to remain. *Monitor for the Planning Commission's recommendations.*
- 

C. Cottage housing. A type of middle housing which includes residential units on a lot with a common open space that either: (a) is owned in common; or (b) has units owned as condominium units with property owned in common and a minimum of 20 percent of the lot size as open space. Cottage housing is further defined as units having at least 800 square feet but no more than 1,600 square feet per unit.

D. "Major transit stop" is defined in RCW 36.70A.030 (27). The city does not have any such facilities as of the date of the adoption of this ordinance.

### 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.

### 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. Stormwater conveyance and control facilities, both above and below ground, are allowed so long as such encroachments are:
  - 1. Consistent with setback, easement, and access requirements specified in the Stormwater Management Manual adopted by the City (see Chapter 14.04 BDMC); or
  - 2. In the absence of said specifications, not within five feet of a rear or interior lot line.
- B. 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 thirty inches in height.

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► Note: Section C below will no longer be needed and can be removed If the setbacks in the zoning districts are reduced to allow for more compact development. However, if the changes aren't made then these opportunities for relief are still needed and will need to remain. *Monitor for the Planning Commission's recommendations.*

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- C. 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, six feet into required front yards and five feet into required rear yards.
  - 2. Covered, 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.
- D. 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.
- E. Side Yard Width Reductions. In the R4, R6 and medium density residential 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 BDMC 18.34.030(A).

**18.34.040 Special provisions for substandard Lots.**

A. A lot of record in existence on June 18, 2009, the date Ordinance No. 909 was passed with an area and/or width or depth less than that prescribed for the applicable zone district may be developed with a detached single-family residence, provided all other regulations of this title are 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 BDMC 18.46.030(A), nor shall a flanking street side yard setback be less than ten feet.

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► Note: The following section is required per **HB 1042 (2023) and HB 1757 (2025)** - RCW 35A.21.440

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**18.34.050 New housing in existing buildings.**

A. The purpose of this section is to allow new housing to be established in existing buildings, implementing state requirements in RCW 35A.21.440.

B. In the residential zoning districts and in the NC, CC, and TC zones, existing non-residential buildings may be converted to multi-family housing according to the following provisions.

1. Density. This subsection applies only to zoning districts which permit multi-family housing.
    - a. Housing that is constructed entirely within the envelope of an existing non-residential building may be granted an automatic density increase equal to 50% above what is normally permitted in the underlying zone, provided that the requirements of subsection (b) applies.
    - b. All generally applicable health and safety standards, including but not limited to building code standards and fire and life safety standards, can be met within the buildings.
  2. Parking. The establishment of additional parking is not required for any new housing units established under the provision of BDMC 18.34.050(A). However, this does not prevent the city from applying the parking requirements for the pre-existing residential units (if any) and for any nonresidential uses that remain, after new housing units are added.
  3. Permitting requirements and design standards.
    - a. Only those permitting requirements which normally apply to residential development in the applicable zone, together with the provisions of Chapter 18.62 BDMC when applicable, shall be applied.
    - b. Except as provided in RCW 36.70A.810 and 36.70A.812, the city may only apply design standards (specifically including setbacks, lot coverage and floor area ratio requirements) which are generally applicable to all residential development in the underlying zone,
    - c. Exterior design or architectural requirements which are applicable to the project may only be imposed when necessary for health and safety pertaining to the use in the interior of the building, with the exception that gateway corridor overlay district requirements of Chapter 18.76 BDMC do apply (even when not necessary for health and safety purposes) to achieve the intent of the overlay district such as preservation of character-defining streetscapes.
  4. Energy code. The city does not require those unchanged portions of an existing building that have been used for residential purposes or previously permit-approved “conditioned space” to meet the current energy code solely because of the addition of the new dwelling units within the building. However, for any portion of an existing building converted to new dwelling units, such new units must meet the current energy code except as listed in RCW 35A.21.440(2)(g).
  5. Non-conformities. In the event that conversion of a non-residential building involves a non-conformity with respect to: parking, heights, setbacks, elevator size for gurney transportation, or modulation, the director may deny a building permit due to such existing nonconformity or nonconformities only after where the director enters findings that the nonconformity is causing a significant detriment to the surrounding area.
- C. Any requirements for a transportation study under RCW 36.70A.070 or an environmental study under Chapter 43.21C RCW, which would normally be required, and are based on the addition of residential units within an existing building (due to the development) apply pursuant to this chapter.

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► Note: The following addition is required per **HB 1110 (2023)** which was later **modified by ESHB 2321 (2024) and by ESSHB 1096 (2025) - RCW 36.70A.635**. Please note that the state statute uses a “per lot” description for middle housing and ADUs which is challenging for cities to incorporate with density descriptions and controls that already exist. See our **recommended definition** for “Density, Standard”

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**18.34.060 Middle housing provisions, standards, and restrictions to implement the residential density allowances in the R4 and R6 districts.**

A. Applicability.

1. This section complements and in some cases, modifies the codes in this Title for the purpose of facilitating and regulating the siting of “middle housing” as required in RCW 36.70A.635.
2. This section only applies in the R4 and R6 districts because those districts were determined to be:
  - a. Zoned predominantly for residential use as defined in RCW 36.70A.030(42); and
  - b. Do not meet the criterion of RCW 36.70A.635(c) which sets out that the City must allow development of up to two units per lot, in multiple forms (such as duplexes), except where higher densities or intensities apply.
3. This section does not apply to the city’s other zoning districts which are predominately for residential because higher densities or intensities are permitted above the minimum density threshold allowed.

B. Purpose. This section implements the requirements of Engrossed Second Substitute House Bill 1110 and Engrossed Substitute House Bill 2321 codified in RCW 36.70A.030, 36.70A.280, 36.70A.635, 36.70A.636, 36.70A.637, 36.70A.638, 43.21C.450 and 43.21C.495, and Chapters 64.32, 64.34, 64.38, and 64.90 RCW, by providing land use, development, design, and other standards for middle housing developed on all lots zoned predominantly for residential use.

C. General.

1. The same development permit and environmental review processes that apply to detached single-family residences shall also apply to middle housing, unless otherwise required by state law; including, but not limited to, shoreline regulations under Chapter 90.58 RCW, building codes under Chapter 19.27 RCW, energy codes under Chapter 19.27A RCW, or electrical codes under Chapter 19.28 RCW.
2. In the event of a conflict between this section and other development regulations applicable to an application, the standards of this section control, except that the city’s shoreline regulations (SMP) in Title 19, promulgated under the State’s Shoreline Management Act Chapter 90.58.RCW, take precedence.

D. Exceptions. The provisions of this section do not apply to:

1. Portions of a lot, parcel, or tract designated with sensitive areas or their buffers as identified in Chapter 19.10 BDMC (except that restrictions for critical aquifer recharge areas are not included in this limitation).
2. A lot that was created through the splitting of a single residential lot or via unit lot subdivision.
3. Lots after subdivision below 1,000 square feet.

E. Allowed middle housing types and unit lot density.

1. The following uses are permitted by-right in the R4 and R6 zoning districts and up two units per lot are allowed, unless other provisions allowing a higher intensity otherwise applies, including but not limited to the provisions of BDMC 18.34.060(E)(3):
  - a. Duplexes.
  - b. Townhouses.

- c. Stacked flats.
  - d. Cottage housing.
2. Design and development standards which are applicable to detached single-family homes in the same zoning district may be reviewed, and applied to middle housing, subject to the following:
- a. The city may only use the Type 1 administrative review process in applying such standards.
  - b. The city may apply design and development regulations that are required for single-family residences including but not limited to setback, lot coverage, clearing, and tree canopy and tree retention requirements but may not apply such standards that would be more restrictive.
3. Unit lot density.

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► Note: The language proposed in section 3a is not required. Instead, “Tier 3” cities under the middle housing laws (which includes Black Diamond) “may” choose to count ADUs towards unit lot density as a policy choice. **We recommend the city count ADUs toward the unit lot density.**

Discussion: The result of counting ADUs is that a lot in R4 or R6 zoning with an existing home could have 2 ADUs added *or* one additional home added. [Alternatively, If the city instead chooses not to include ADUs toward unit density then up to 2 homes and 2 ADUs could potentially be possible.]

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- a. For the purposes of this section and to meet the requirements set out in RCW 36.70A.635, accessory dwelling units shall count as units for calculating unit lot density.

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**The following is pending further review by the City’s attorney**

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- b. Other restrictions, expressed as “standard density” or effectively establishing density via a minimum lot area per unit, or maximum number of housing units per acre, are invalid in relationship to the minimum number of units per lot that the city allow according to this section and under RCW 36.70A.635.

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► Note: “Lot splits” are not currently addressed in BDMC but they are required to be added to the city’s codes by July 27, 2028 (**RCW 58.17.145**)

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- c. A lot that was created through the splitting of a single residential lot or via unit lot subdivision is not subject to a calculation of unit lot density.

4. Relief from normal parking requirements.

- a. Required off-street parking for middle housing shall be subject to the following:
  - i. No off-street parking shall be required for units within one-half mile walking distance of a major transit stop.
  - ii. A maximum of one off-street parking space per unit shall be required on lots less than or equal to 6,000 square feet, before any zero lot line subdivisions or lot splits.
  - iii. A maximum of two off-street parking spaces per unit shall be required on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits.

- b. All other parking regulations shall apply.

## **Chapter 18.36 NEIGHBORHOOD COMMERCIAL — NC**

### **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 ensure 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 services, 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;
- F. Ensure that the nature of development is harmonious with the surrounding neighborhood in intensity, scale, quality, and character; and
- G. Allow more intensive uses to be maintained and expanded under certain conditions.

### **18.36.020 Permitted uses.**

For permitted uses in the Neighborhood Commercial district, please see 18.20.010 Zoning use matrix.

### **18.36.030 Conditional uses.**

For uses that may be allowed by approval of a conditional use permit, please see BDMC 18.20.010 Zoning use matrix.

### **18.36.040 Development standards.**

- A. Dimensional Standards.

For a detailed matrix of Dimensional Standards, please see Table 18.25.010(B)

- B. Parking. Off-street parking shall be provided in accordance with Chapter 18.80 BDMC.
- C. Landscaping.
  - 1. Landscaping shall be planned and provided in accordance with Chapter 18.72 BDMC.
  - 2. Development shall also comply with the tree preservation requirements of Chapter 19.30 BDMC.
- D. Signs. Regulation of signs is provided in Chapter 18.82 BDMC.
- E. Lighting. Lighting shall comply with the requirements of Chapter 18.70 BDMC.

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 18.78 BDMC, the site plan review requirements of Chapter 18.16 BDMC, and the design review requirements of Chapter 18.74 BDMC.

**Chapter 18.38 COMMUNITY COMMERCIAL DISTRICT—CC**

**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.

**18.38.020 Permitted uses.**

For permitted uses in the Community Commercial district, please see 18.20.010 Zoning use matrix.

**18.38.030 Conditional uses.**

For uses that may be allowed by approval of a conditional use permit, please see BDMC 18.20.010 Zoning use matrix.

**18.38.040 Development standards.**

- A. Dimensional Standards.

For a detailed matrix of Dimensional Standards, please see Table 18.25.010(B)

- B. Parking. Off-street parking shall be provided in accordance with Chapter 18.80 BDMC.
- C. Landscaping.
  - 1. Landscaping shall be planned and provided in accordance with Chapter 18.72 BDMC.
  - 2. Development shall also comply with the tree preservation requirements of Chapter 19.30 BDMC.
- D. Signs. Regulation of signs is provided in Chapter 18.82 BDMC.
- E. Lighting. Lighting shall comply with the requirements of Chapter 18.70 BDMC.
- F. Storage and Exterior Displays.
  - 1. Required landscaping or buffer areas shall not be used for storage or product display of any sort.

**18.38.050 Additional requirements.**

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

## **Chapter 18.40 TOWN CENTER—TC**

### **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. Ensure 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.**

For permitted uses in the Town Center district, please see 18.20.010 Zoning use matrix.

### **18.40.030 Conditional uses.**

For uses that may be allowed by approval of a conditional use permit, please see BDMC 18.20.010 Zoning use matrix.

### **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 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.

For a detailed matrix of Dimensional Standards, please see Table 18.25.010(B)
- C. Parking. Off-street parking is not required for any use in the town center zone.
- D. Landscaping.

- 1. Landscaping shall be planned and provided in accordance with Chapter 18.72 BDMC.
- 2. Development shall also comply with the tree preservation requirements of Chapter 19.30 BDMC.
- E. Signs. Regulation of signs is provided in Chapter 18.82 BDMC.
- F. Lighting. Lighting shall comply with the requirements of Chapter 18.70 BDMC.
- G. 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 18.78 BDMC, the site plan review requirements of Chapter 18.16 BDMC, and design review requirements of Chapter 18.74 BDMC.

## **Chapter 18.42 BUSINESS/INDUSTRIAL PARK—B/IP**

### **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. Ensure 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.**

For permitted uses in the Town Center district, please see 18.20.010 Zoning use matrix.

### **18.42.030 Conditional uses.**

For uses that may be allowed by approval of a conditional use permit, please see BDMC 18.20.010 Zoning use matrix.

### **18.42.040 Development standards.**

For a detailed matrix of Dimensional Standards, please see Table 18.25.010(B)

#### **B. Parking and Loading.**

1. Off-street parking shall be provided in accordance with Chapter 18.80 BDMC.
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 BDMC.
2. Development shall also comply with the tree preservation requirements of Chapter 19.30 BDMC.

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

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

### **18.42.050 Other requirements.**

- A. All development within the B/IP zone shall comply with applicable environmental performance standards of Chapter 18.78 BDMC, the site plan review requirements of Chapter 18.16 BDMC, and the design review requirements of Chapter 18.74 BDMC.

## **Chapter 18.44 INDUSTRIAL DISTRICT—I**

### **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.**

For permitted uses in the Industrial district, please see 18.20.010 Zoning use matrix.

### **18.44.030 Conditional uses.**

For uses that may be allowed by approval of a conditional use permit, please see BDMC 18.20.010 Zoning use matrix.

### **18.44.040 Development standards.**

For a detailed matrix of Dimensional Standards, please see Table 18.25.010(B)

- B. Parking. Off-street parking shall be provided in accordance with Chapter 18.80 BDMC.
- C. Landscaping.
  - 1. Landscaping shall be planned and provided in accordance with Chapter 18.72 BDMC.
  - 2. Development shall also comply with the tree preservation requirements of Chapter 19.30 BDMC.
- D. Signs. Regulation of signs is provided in Chapter 18.82 BDMC.
- E. Lighting. Lighting shall comply with the requirements of Chapter 18.70 BDMC.
- F. Storage and Exterior Displays.
  - 1. Required landscaping or buffer areas shall not be used for storage of any sort.

### **18.44.050 Other requirements.**

- A. All development shall comply with applicable environmental performance standards of Chapter 18.78 BDMC, the site plan review requirements of Chapter 18.16 BDMC and design review requirements of Chapter 18.74 BDMC.

## **Chapter 18.46 PUBLIC—PUB**

### **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 to 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.

### **18.46.020 Permitted uses.**

For permitted uses in the Public district, please see 18.20.010 Zoning use matrix.

### **18.46.030 Conditional uses.**

For uses that may be allowed by approval of a conditional use permit, please see BDMC 18.20.010 Zoning use matrix.

### **18.46.040 Development standards.**

For a detailed matrix of Dimensional Standards, please see Table 18.25.010(B)

- B. Parking. Off-street parking shall be provided in accordance with Chapter 18.80 BDMC.
- C. Landscaping.
  - 1. Landscaping shall be planned and provided in accordance with Chapter 18.72 BDMC.
  - 2. Development shall also comply with the tree preservation requirements of Chapter 19.30 BDMC.
- D. Signs. Regulation of signs is provided in Chapter 18.82 BDMC.
- E. Lighting. Lighting shall comply with the requirements of Chapter 18.70 BDMC.
- 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.

### **18.46.050 Additional requirements.**

- A. All development within the PUB zone shall comply with applicable environmental performance standards of Chapter 18.78 BDMC, the site plan review requirements of Chapter 18.16 BDMC, and design review requirements of Chapter 18.74 BDMC.

**Chapter 18.50 ACCESSORY USES AND STRUCTURES**

Currently being revised.

## **Chapter 18.52 TEMPORARY USES**

### **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.

### **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, except 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.

### **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).

**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.

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► Note: the following edits are **proposed by staff** because the Sign Code will be updated separately and will address such topics.

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- I. Fireworks stands, which comply with the requirements of Chapter 8.04 BDMC  
. All fireworks stand operations and sales must take place outside of landscaped areas and public rights-of-way.



**Chapter 18.54 HOME OCCUPATIONS**

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▶ Note: No changes are proposed to [this chapter](#).

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## Chapter 18.56 ACCESSORY DWELLING UNITS

### 18.56.005 Intent.

This chapter is intended to promote and encourage the creation of accessory dwelling units (ADUs) in a manner that enhances residential neighborhoods in order to meet the city's housing needs and realize the benefits of ADUs to: (1) provide homeowners flexibility in establishing separate living quarters within or adjacent to their homes for the purpose of caring for and providing housing for family members or obtaining rental income; (2) increase the range of housing choices and the supply of accessible and affordable housing units within the city; and (3) ensure that the development of ADUs does not cause unanticipated impacts on the character or stability of neighborhoods.

### 18.56.010 Reserved.

### 18.56.020 Where authorized.

ADUs 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. Performance Standards. All performance standards, including lot size, minimum yard setbacks and overall building coverage as set forth for the applicable zoning district shall be met with respect to the ADU.

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► Note: **HB 1337** (2023) requires the city to allow two ADUs, and the city already complies with that provision as stated below.

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B. Number. Two ADUs may be permitted in conjunction with the primary dwelling unit on a single lot of record in instances where adequate provisions for water and sewerage are met. ADUs may be attached to an existing structure, detached or created through the conversion of an existing structure such as a basement, attic or garage.

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► Note: The following should be removed because "Unit lot subdivision" standards must be added to the City's Subdivision title by July 27, 2027 (**RCW 58.17.060(3)**)

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C. *Repealed.*

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► Note: the size detail below complies with **HB 1337** requires the city to allow two ADUs, and the city already complies with that provision as stated below.

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D. Maximum Size. An ADU shall be no greater than 1,000 square feet, not including a garage or covered porches. The following areas shall be counted when calculating the size of an ADU:

1. Habitable space as defined by the International Residential Code (IRC), and
2. Kitchens, bathrooms, and utility/laundry rooms.

ADUs shall comply with the required site coverage, yard area requirements or building code setbacks as provided within the subject property's zone.

E. Scale. A detached ADU 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.

- F. 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 each ADU, except as provided for in RCW 36.70A.681(2).
- G. Utility Connections. ADUs may be served by the same water meter and sewer connection utilized for the primary residence if approved by the city. 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. Utility fees charged for the ADU shall be in accordance with Chapter 13.04 BDMC. 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.

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► Note: The "entrance location" regulation (H) and design guideline specification (I) must be removed for compliance with **HB 1337** which disallows these types of requirements

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- H. *Repealed.*
- I. *Repealed. \**
- J. ADUs are prohibited on lots within shoreline jurisdiction that are not served by sanitary sewer.

**18.56.040 Review process.**

- A. Application. An applicant for an ADU 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 an ADU permit shall include plans for creating the ADU..

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► Note: The phrase "evidence of current ownership...." above must be removed in accordance with **RCW 36.70A.681(1)(b)**

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- B. Review by Director. ADU permit applications shall be processed as Type 2 permit pursuant to Chapter 18.08 BDMC. Upon receipt of a complete application for an ADU, the director shall review and either approve, disapprove or approve with conditions the ADU application.

Note: This following was a provision that applied to structures within 18 months of the adopted ordinance; the specified time period has now passed (sunset) and therefore the section should be repealed.

**18.56.050 Repealed.**

### Chapter 18.58 ESSENTIAL PUBLIC FACILITIES

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- ▶ Note: No changes are proposed to [this chapter](#).
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### Chapter 18.59 SECURE COMMUNITY TRANSITION FACILITIES

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- ▶ Note: No changes are proposed to [this chapter](#).
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### Chapter 18.60 ADULT-ORIENTED BUSINESSES

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- ▶ Note: No changes are proposed to [this chapter](#).
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### Chapter 18.62 REPEALED

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- ▶ Note: No changes are proposed to this chapter (which was repealed in 2025).
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- ▶ Note: The following chapter is proposed to meet **E2SHB 1220** requirements and a long list of related applicable laws listed on pages 9 and 10 of this report: [STEP Model Ordinance user guide](#). Black Diamond and other cities are extremely limited by the state in how they can regulate these uses and must remove regulatory barriers for these uses. Further, the city MUST allow emergency shelters and emergency housing as permitted uses (meaning, a conditional use permit can't be required) in zones that allow hotels/ motels. The city MUST allow transitional housing and permanent supportive housing as permitted uses in all zones that allow Hotels / motels, single family homes, and multi-family housing. To write this chapter we used the model ordinance set out in the user guide. Part C "spacing" is not required to be included but the city can include this as an option.
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### Chapter 18.62 EMERGENCY, TRANSITIONAL, AND PERMANENT SUPPORTIVE HOUSING

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- ▶ Note: Chapter 18.62 BDMC is proposed, in order to meet **E2SHB 1220** requirements and a long list of related applicable laws listed on pages 9 and 10 of this report: [STEP Model Ordinance user guide](#). Black Diamond and other cities are extremely limited by the state in how they can regulate these uses and must remove regulatory barriers for these uses. Further, the city MUST allow emergency shelters and emergency housing as permitted uses (meaning, a conditional use permit can't

be required) in zones that allow hotels/ motels. The city MUST allow transitional housing and permanent supportive housing as permitted uses in all zones that allow Hotels / motels, single family homes, and multi-family housing. To write this chapter we used the model ordinance set out in the user guide. Part C "spacing" is not required to be included but the city can include this as an option which is recommended by staff.

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**18.62.010 Regulations.**

- A. Indoor emergency shelters, transitional housing, indoor emergency housing and permanent supportive housing must meet the same development and operating regulations as permitted residential dwellings except as specified in subsection (C) of this section. This includes adhering to building and fire codes and American Disability Act requirements, to ensure consistency in health and safety for all residents.
- B. Parking/ Minimum parking requirements are waived for all indoor emergency shelters, transitional housing, indoor emergency housing and permanent supportive housing.
- C. Spacing. Indoor emergency shelters, transitional housing, indoor emergency housing and permanent supportive housing may not be located within a community protection zone, which means the area within 880 feet of the facilities and grounds of a public or private school (RCW 9.94A.030 and RCW 9.94A.703) to ensure community health and safety.

**18.62.020 Exemptions.**

Exemptions to development regulations, including but not limited to setback requirements, density limits, restrictions on support spaces inside buildings (e.g., office space for tenants) and public noticing requirements, for indoor emergency shelters, transitional housing, emergency housing and permanent supportive housing may be permitted with administrative approval by the Planning Director to address Black Diamond's housing needs allocation through shelter and housing forms that do not meet building codes or other requirements. These types may include, but are not limited to, pallet shelters and tiny shelters. Regardless of the form, the housing or shelter must be indoors and allow access to bathrooms and showers.

**18.62.030 Special provisions for religious organizations.**

- A. Any affordable housing development as set out in subsection (A), including permanent supportive housing and transitional housing with a lease, of any single-family or multifamily residence located on real property owned or controlled by a religious organization is allowed an increased density bonus consistent with local housing needs allocation with administrative approval by the Director.
- B. For the purpose of this chapter, affordable housing development means a housing development in which at least twenty-five percent of the dwelling units within the development are set aside for or are occupied by low-income households at a sales price or rent amount that is considered affordable by a federal, state or local government housing program. (RCW 36.130.010) Indoor emergency housing or transitional housing that is administered through a lease or occupancy agreement and permanent supportive housing are determined to be affordable housing under RCW 36.130.020.

- C. Outdoor encampments, safe parking efforts, indoor overnight shelter and temporary small houses are permitted on property owned or controlled by a religious organization and must adhere to state regulations in RCW 35.21.915 and RCW 36.01.290.

### **Chapter 18.66 DEVELOPMENT AGREEMENTS**

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► Note: No changes are proposed to [this chapter](#).

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## **Chapter 18.68 NONCONFORMING USES, STRUCTURES AND LOTS**

### **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.

### **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, so long as 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 and in accordance with BDMC 18.12.010. Actions, including filing permits and other progress toward rebuilding, repair or restoration shall commence within eighteen months from the date of such damage.
- 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.

### **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 June 18, 2009, 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, so long as such activities do 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, but the standards generally applied to the zone classification and which allow occupancy must still be 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.

**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.

**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 if such activities will not increase the extent of the nonconformity.
- B. A structure which is nonconforming only by reason of height may be structurally altered, enlarged or repaired if such activities will not increase the height of the structure.

**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 subject to limitations imposed by other provisions of this title.
- 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 set out in this title.

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► Note: City staff proposes to remove provision C below.

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**Chapter 18.70 LIGHTING/DARK SKY**

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▶ Note: No changes are proposed to [this chapter](#).

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## Chapter 18.72 LANDSCAPE REQUIREMENTS

### 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.

### 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.

**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. R8, R8-TDR, R12, R12-TDR, R18, R18-TDR, R30: Twenty percent;
  3. NC, CC, TC: Twenty percent;
  4. Light industrial/business park: Twenty-five percent;
  5. Industrial: Ten percent;
  6. Public: Thirty 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. Existing significant trees meeting the criteria below may count toward the planting requirement. Street trees shall be:
    - a. Provided at least one per thirty lineal feet of frontage, clustering of street trees may be permitted by the community development director, so long as the total number of street trees proposed is at least one per thirty lineal feet of frontage;
    - b. Located within the street right-of-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. Landscape-based stormwater management facilities are permitted within yard screening areas, so long as the screening objectives are met.
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.
  - c. Landscape-based stormwater management facilities are permitted within perimeter and interior parking lot areas, as long as they meet the applicable landscaping intent.

**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.

**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 BDMC.

## **Chapter 18.74 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.

Middle Housing development is generally excluded from this requirement, however, standards set out under items (A), (B), (C), (E) and (F) above shall be applied to projects using the same process (administrative review with a building permit approval) with the same criteria and requirements as single-family residential development.

A copy of these guidelines shall be maintained by the city clerk and in the community development department.

### **18.74.020 Compliance with design standards and guidelines.**

- A. 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 except as limited by subsection B of this section. 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.
- B. Interior alteration project permits. Project permit applications for interior alterations (construction activities that do not modify the existing site layout or its current use and for which no exterior work or change to the building footprint is involved) that do not result in additional sleeping quarters or bedroom, and which do not increase the total square footage or valuation of a structure thereby requiring upgraded fire access or fire suppression systems are excluded from the requirement of site plan review.

### **18.74.030 Amendments to design standards and guidelines.**

Amendments to standards referenced in this chapter are processed as a Type 5 action per Section 18.08.080 and all procedures provided therein apply.

## **Chapter 18.76 GATEWAY CORRIDOR OVERLAY DISTRICT**

### **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.

### **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 northernmost boundary to the north side of the Roberts Drive intersection; and
- B. Within two hundred feet of Roberts Drive from the western city limits eastward to the Lake Sawyer Road/Roberts Drive roundabout.
- 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.

### **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 pervious path developed to Americans with Disabilities Act (ADA) standards and connecting to adjacent properties and other internal sidewalks or pathways. Impervious surfacing may be used if it is demonstrated by the applicant that pervious paving is infeasible.
- 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.

**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, middle housing development, manufactured homes and allowed accessory uses on existing lots of record.
- C. All developments existing on June 18, 2009, 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.

**18.76.050 Application requirements and administration.**

All non-exempt development shall submit with the appropriate application, an existing conditions 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.

**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 development 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. Landscape-based stormwater management facilities are permitted within the required screening area, so long as that the screening objectives are met.

**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.

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► Note: City staff had previously noted that the height restrictions are confusing and 15 feet height limit for buildings less than 45 feet from ROW is onerous. **Adjustments are proposed** to provide some relief / flexibility.

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Distance from Right-of-Way	Description	Maximum Building Height if Permitted*
0 to 25'	Development Setback	Not permitted
Edge of setback	Development Area	25'
35' 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 new utility lines including electric, telephone, data and cable television, shall be installed underground. All existing utility lines shall also be installed underground unless an exception is granted under 18.76.070(C)(1), or unless a deferral is granted under 18.76.070(C)(2). 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 above ground 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. **As an alternative to painting aboveground boxes and cabinets, these features can be wrapped with utility box art as approved by the Public Works Director.**

**1. Exceptions**

**The following exceptions to the undergrounding requirement may be allowed by the Public Works Director in the following situations:**

- a. **Single Family Home. On a parcel with an existing single-family home within the Gateway Corridor District, a new overhead electric and telecommunications utility line may be installed overhead only as a replacement to an existing overhead service line. Such**

replacement lines may be of larger capacity, phasing, voltage, circuit count, or diameter, but may not increase the total number of distinct lines or bundle of lines between the utility pole and customer. The elevation of the replacement line shall not be lower than the existing line.

b. Franchised Utilities. The Public Works Director may grant an exception to the requirement that new utility wires be installed underground to a utility franchisee or licensee if the following conditions are satisfied:

- i. The franchisee is a utility franchise in good standing with a current franchise agreement;
- ii. A complete application is received, including the applicable fee set forth in the City's fee schedule; and
- iii. One of the following conditions are met as determined by the Public Works Director in his or her sole judgment:
  - a. No new poles will be installed unless an existing pole is removed for each proposed new pole (i.e. the net number of poles shall not increase unless approved by the Public Works Director)
  - b. It is physically impractical to place the new utility wires underground due to topographic constraints such as unstable or steep slopes, wetlands, or other physical impediments;
  - c. The existing overhead line, or a portion of the line, is being converted to underground and a pole for transition from overhead to underground may be necessary, along with appropriate guy poles and guying;
  - d. A transition pole is required to serve new development and the surrounding poles do not have adequate space for additional equipment;
  - e. Adequate easements or property could not be reasonably obtained to install underground equipment;
  - f. It is technically impractical to place wires underground due to serious electrical system and/or public safety concerns, such as: main feeder lines; installation of overhead switching devices; line sections less than 1,000 feet in length; close proximity to gas lines, petroleum lines, or high-capacity fiber optic cable; or hazardous soil conditions; or
- iv. If the effective franchise agreement describes a methodology or cost-sharing arrangement towards undergrounding between the City and franchisee, the franchise agreement shall take precedent.

2. Deferral of Underground Requirements. The Public Works Director may grant deferral of undergrounding electric or telecommunications utility wires to a property owner if all the following conditions are met:

- a. A complete application is received, including the applicable fee set forth in the City's fee schedule;
- b. No new poles will be allowed unless an existing pole is removed for each proposed new pole (i.e., the net number of poles shall not increase);

- c. The deferral applies only to distribution lines or secondary lines between distribution poles (or distribution lines or secondary lines attached to transmission poles); new service lines shall be installed underground unless it is physically impractical to place the new utility wires underground due to topographic constraints such as unstable or steep slopes, wetlands, or other physical impediments, or technically impractical due to serious electrical system and/or public safety concerns, such as: main feeder lines; installation of overhead switching devices; line sections less than 1,000 feet in length; close proximity to gas lines, petroleum lines, or high-capacity fiber optic cable; or hazardous soil conditions;
- d. The total length of the line subject to the proposed deferral is less than 600 feet;
- e. Underground conduits are installed in the area where the deferral is granted suitable for anticipated future underground lines;
- f. Cost estimates prepared by the utility companies are submitted demonstrating that the cost of converting overhead lines to underground lines exceeds 50 percent of the unimproved land value of the site at the time of site plan application, as determined by King County assessor records; and
- g. A binding and assignable covenant, in a form acceptable to the city attorney, is recorded against the property, committing the property owner to:
  - i. Participate in any local improvement district formed for the conversion of those overhead utilities fronting on and within 300 feet of the subject property; and
  - ii. Accept a lien, filed at the City's option, against the property to fully reimburse the City if overhead lines fronting on the subject property are converted to underground at City expense or at a cost outlined by tariffs.

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 setback 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 the standards of BDMC 18.82. 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, except that this limitation does 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.
3. Internally illuminated signs are allowed; however, no flashing, blinking, fluctuating or otherwise changing light source is permitted.

- 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. These signs shall not be internally illuminated, but may be indirectly lit.
- 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.

**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 percent
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:

► Note: **Adjustments are proposed** consistent with the table modifications above.

Distance from Right-of-Way	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 35'	Development Area	25'	Additional 10' with one technology employed
35' or more	Development Area	35'	Additional 10' with two technologies employed

**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 landscape-based stormwater facilities 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 setback cannot screen parking areas, internal lot landscaping shall be used to screen parking areas from view.

**Chapter 18.78 ENVIRONMENTAL PERFORMANCE STANDARDS**

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▶ Note: No changes are proposed to [this chapter](#).

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## Chapter 18.80 OFF-STREET PARKING AND LOADING REQUIREMENTS

### 18.80.010 Intent.

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- ▶ Note: ESSB 5184 “Minimum Parking Requirements” (2025) was passed but it only applies to cities with a population over 30,000 and so no changes are proposed for that bill because it does not apply to Black Diamond
  - ▶ SSB 6015 “Minimum Parking Requirements – Residential Development” (2024) is codified in RCW 36.70A.622 and applies to Black Diamond
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It is the intent of this section to:

- A. Ensure 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.
- F. Minimize impervious surface coverage created by under-utilized parking areas.
- G. Use low impact development (LID) best management practices (BMPs) within required landscaping areas.

### 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 permit has been authorized by this title.
- B. The maximum amount of parking permitted shall be one hundred fifty percent of the required minimum, as established by the use tables in this subsection. The parking maximum may be exceeded through the approval of a parking study, pursuant to BDMC 18.80.050(E).
- C. 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.
- D. 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.

- E. 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.
- F. 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 except as set out in BDMC 18.80.030(D).
- G. These regulations shall not be retroactive to include any building or use existing at the time of passage of this code or amendment thereto, 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.

**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.

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► Note: The following edits are to attain compliance with SSB 6015 "Minimum Parking Requirements – Residential Development" (2024) RCW 36.70A.622

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- B. Parking spaces that count towards the minimum parking requirements may be enclosed or unenclosed.
- C. Parking spaces in tandem count towards meeting minimum parking requirements at a rate of one space for every 20 linear feet with any necessary provisions for turning radius.
  - 1. For purposes of this subsection, "tandem" is defined as having two or more vehicles, one in front of or behind the others with a single means of ingress and egress.
- D. In cases where legally nonconforming gravel surfacing is present in existing designated parking areas the city must count the existing spaces (up to six parking spaces) in the parking area towards meeting the parking standards.
- E. In cases where compliance with tree retention projects would otherwise make a proposed residential development or redevelopment infeasible, the requirement for off-street parking shall be waived.
- F. 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.
- G. There shall be no parking or loading allowed in any required side or rear yard that abuts a residential zone.

H. The parking requirement tables (subsections (i), (J), and (K)) 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.

► Note: The parking requirement listed below for Co-living housing is the maximum that a city may require per **E2SHB 1998** (2024) requirements – RCW 36.70A.535

I. 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 per unit
Multi-family structures (2 attached dwellings)	2 per unit
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 per unit
Manufactured or mobile home in a manufactured home park	2 per home, of which one may be located in on-site, shared parking areas
Co-living housing	0.25 spaces per sleeping unit
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*
Restaurant	1 per 150 gsf*
Theaters and places of public assembly	1 per 4 seats
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.

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

**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.

**18.80.045 Stacking space requirements for drive through facilities.**

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► Note: **Staff proposes changes** because six spaces per window is onerous because some stands may have two windows (and 12 spaces for that would be excessive) Also, five spaces that are 20 feet in length are better than six that are 15 feet in length. Fifteen-foot spaces are very short.

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- A. Drive through facilities shall provide at least five vehicle stacking spaces for each drive through lane, equal to twenty linear feet for each stacking space.
- B. The requirements above may be reduced by the Community Development Director if the applicant provides a traffic study or analysis proving fewer spaces are necessary and that public safety can be maintained with the proposed configuration .

**18.80.050 Development standards.**

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► The following edits for parking spaces sizes and allowing grass block pavers are to attain compliance with SSB 6015 "Minimum Parking Requirements – Residential Development" (2024) RCW 36.70A.622

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- 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. Grass block pavers may also be used for the parking spaces.
  - 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. Grass block pavers may also be used.
- 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; however, 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. Minimum widths of maneuvering drive aisles and minimum parking stall dimensions shall be as shown in BDMC Table 18.80.050(C)(3), provided that parking spaces are not required to exceed 8 feet by 20 feet (except for required parking for people with disabilities).

**Table 18.80.050(C)(3)**

<b>aOrientation</b>	<b>Width</b>	<b>Depth</b>	<b>One-Way Drive Aisle Width</b>	<b>Two-Way Drive Aisle Width</b>	
0 degrees	8'	23'	12'	20'	
45 degrees	8'	19'	12'	20'	
60 degrees	8'	20'	16'	20'	

Compact Car Parking	90 degrees	8'	18'	20'	24'	
	45 degrees	8'	17'	12'	20'	
	60 degrees	7.5'	16'	16'	20'	
	90 degrees	7.5'	15'	20'	24'	

Table 18.80.050(C)(3)

	Orientation	Width	Depth	One-Way Drive Aisle Width	Two-Way Drive Aisle Width
	0 degrees	8'	23'	12'	20'
	45 degrees	8'	19'	12'	20'
	60 degrees	8'	20'	16'	20'
	90 degrees	8'	18'	20'	24'
Compact Car Parking	45 degrees	8'	17'	12'	20'
	60 degrees	7.5'	16'	16'	20'
	90 degrees	7.5'	16'	20'	24'

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. Such spaces shall be clearly identified markings containing the notation, "compact"

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. Multi-family 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 BDMC.

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 fewer 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.

**18.80.060 Motorcycle/bicycle parking requirements.**

A. Parking spaces for motorcycles shall be provided as follows:

1. All multiple-family developments and nonresidential 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.



**Chapter 18.82 SIGNS**

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- ▶ Note: [Chapter 18.82 BDMC](#) is excluded from this document as a separate review is underway.
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**Chapter 18.84 WIRELESS TELECOMMUNICATIONS FACILITIES**

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- ▶ Note: No changes are proposed to [Chapter 18.84 BDMC](#).
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## Chapter 18.86 RESIDENTIAL CLUSTER DEVELOPMENT (RCD)

### 18.86.010. Intent.

The intent of the residential cluster development (RCD) provisions is to accommodate the density of the underlying zoning district while allowing residential development to be clustered or built more compactly. 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. Residential cluster developments may only be approved in the residential zoning districts R4, R6, and R8 .
- B. Cluster development may be applied to both multi-family and attached/detached single-family residential developments of three or more dwelling units.

### 18.86.030 Procedures and criteria.

- A. Review Procedures. RCD applications are processed as a Type 3 Hearing Examiner decision pursuant to the provisions set forth in Chapter 18.08 BDMC. Proposals for clustering shall be subject to and consolidated with the provisions for preliminary plat approval, if individual lot ownership is proposed.

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► Note: **We recommend a change;** While a Comprehensive Plan forms the policy foundation for projects, the goals and policies should probably not be used as a criterion for RCD applications

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- 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 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 BDMC 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; and
  - 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. Through a RCD, modifications to the setbacks, height, lot area, building coverage and development coverage standards of the underlying zone district may be granted.

### 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, less any area containing sensitive areas and buffers required pursuant to BDMC 19.10.

2. Minimum Site Area Required. 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. R8 Zone: No minimum lot size.
  4. Height. The maximum building height of the underlying zone may be increased, by up to 25 percent of the height limitations of the zoning district but not exceeding 45 feet, in cases where the height of building 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 ensure 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 ensures 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 BDMC. 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 BDMC, 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 BDMC 18.86.040(E);
  - 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 BDMC.

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- Note: **HB 1110 (and related legislation)** mandates that a certain definition of “Cottage housing” be used for the Middle Housing requirements. As a result, we **recommend changing using the term** “Pocket neighborhood” as a substitute for all previous references to “Cottage Housing” and cottage housing. *The codifier is requested to include a footnote or other notation about the change.*
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## **Chapter 18.88 POCKET NEIGHBORHOOD HOUSING**

### **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.

### **18.88.020 Applicability.**

- A. Pocket neighborhood housing development is a permitted use in the medium density residential (MDR8) zone;
- B. The minimum pocket neighborhood housing project size is four dwelling units on a minimum fourteen thousand four hundred square foot site;
- C. Pocket neighborhood housing is limited to no more than twelve dwelling units in any single project; and
- D. No pocket neighborhood housing project shall be developed contiguous with another pocket neighborhood housing project.

### **18.88.030 Procedures.**

- A. Review Procedures. A pocket neighborhood housing development is processed as a Type 2 director's decision pursuant to the provisions set forth in Chapter 18.08 BDMC. Proposals shall be subject to and consolidated with the provisions and procedures for site plan review, Chapter 18.16 BDMC.
- B. Pocket neighborhood 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.

### **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 pocket neighborhood 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 dwelling 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.

## **Chapter 18.90 MANUFACTURED HOUSING**

### **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. Ensure consistency with Washington State law; and
- D. Ensure minimum standards of development to protect community aesthetics and property values.

### **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 BDMC 18.90.030.
- B. Manufactured home parks are permitted as a conditional use in certain zones as provided in BDMC 18.20010, Zoning use matrix.

### **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 of 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 June 18, 2009, 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 installation 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.

**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 BDMC.
  - 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 BDMC and the tree preservation requirements of Chapter 18.74 BDMC.
- I. Signs. Signs shall comply with the requirements of Chapter 18.82 BDMC.
- 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 BDMC.

**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.

**18.90.060 Additional requirements.**

- A. All development shall comply with applicable environmental performance standards of Chapter 18.78 BDMC, the site plan review requirements of Chapter 18.16 BDMC, and design review requirements of Chapter 18.76 BDMC.
- B. Sites located within a master planned development overlay shall also comply with the requirements of Chapter 18.64 BDMC.

## **Chapter 18.98 MASTER PLANNED DEVELOPMENT OVERLAY**

### **18.98.005 MPD overlay zoning district created.**

The master plan development (MPD) overlay zoning district is created. Development activity may occur, and applications may be accepted for processing, on property subject to an MPD overlay zoning designation, via a development agreement and 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.

### **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 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.

### **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.

**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 overlay 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. However, 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 BDMC, 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 BDMC 18.98.130(A);
    - c. The approved conditions shall include the requirements of BDMC 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 BDMC 18.93.030(A) 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.

**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 sensitive areas ordinance (Chapter 19.10 BDMC).
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 BDMC 18.98.010 and BDMC 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 ensure 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 BDMC 18.98.040(A)(1)(a).
12. A proposed water conservation plan for the MPD pursuant to BDMC 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 BDMC 19.98.040(A)(1)(a), of how the proposal will comply with the sensitive areas ordinance (Chapter 19.10 BDMC);
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 BDMC), shall be provided.

- B. The director shall have the authority to administratively establish additional detailed application 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 pre-application 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.

**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 BDMC18.98.030(A)(4).

**18.98.060 MPD permit—Review process.**

- A. MPD permit—Pre-application conference, public information meeting and planning commission informational meeting required.
  - 1. A pre-application 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 proposed MPD, and for the staff to review with the applicant the city's application 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 pre-application conference fee in an amount set forth in the adopted fee schedule resolution shall be paid before the pre-application conference will be scheduled.
  - d. If, at the pre-application 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 fewer 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 fewer than four months.
2. After the pre-application 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 accommodate 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 is not a public hearing. The meeting should involve 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 BDMC 18.98.060(A)4.e.(c).
  3. After the public information meeting has been completed, a planning commission informational meeting shall be conducted. The planning commission information meeting is required before the city will accept an application for MPD permit approval.
    - a. The planning commission information 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.
  4. MPD permit public review process.
    - a. 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.

- b. 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.
- c. 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.
- d. 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.
- e. 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 BDMC 18.98.040(A)(9); and
  - (d) Any person(s) formally requesting notice.
- 5. 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 unless the hearing examiner determines by written findings that a specified amount of additional time is necessary because the matter is of unusual complexity or scope or for other good cause. 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 BDMC 18.98.080.
- 6. 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.
- 7. 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.

**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.

**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 following 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 BDMC 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 ensure 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 BDMC18.98.020 and the MPD purposes of BDMC18.98.010(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 overlay 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 overlay 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, that 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.

**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.).

**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.

**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 BDMC 18.98.110(B)(2).
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.

**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 sufficient 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.
- D. 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 standard density the minimum density designated in the comprehensive plan.
- E. 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 BDMC 18.98.140(G), or otherwise is providing the open space required by BDMC 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 BDMC 18.98.140(G) or is otherwise meeting the open space requirement of BDMC 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 BDMC 18.98.010 and BDMC 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.
- F. Unless the proposed MPD applicant has elected to meet the open space requirements of BDMC 18.98.140(G), or is otherwise meeting the open space requirements of BDMC 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 the underlying zoning district in any location and in accordance with Transfer of Development Right provisions, as applicable;
  3. The lot dimension requirements of the underlying zoning district shall be met.

**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 BDMC 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.

**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 BDMC.

- 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 BDMC 18.98.120(F).

**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.

**18.98.155 MPD standards—Sensitive areas requirements.**

- A. The requirements of the sensitive areas ordinance (Chapter 19.10 BDMC) 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.

**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 BDMC). 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 standard density which is the minimum density designated in the comprehensive plan.

**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 subsequent implementing projects except when new or different standards are specifically determined by the city council to be necessary for public safety.

**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 BDMC 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 BDMC 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.

**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.

**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 BDMC 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 BDMC 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.

**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 ensure 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 BDMC 18.98.030.

## Chapter 18.100 DEFINITIONS

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- Note: This chapter includes **staff proposed** re-numbering for the terms *which is not shown as tracked changes*. We request the codifier remove the individual section numbers previously assigned to each definition and instead organize by sections for each letter of the alphabet. Doing so will make future adjustments easier.
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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 that 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.

**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, signs and manufactured housing.)

**18.100.015 “A” definitions.**

**Abandon.** Knowing relinquishment of right or claim to the subject property or structure on that property by the owner without any intention of transferring rights to the property to another owner or of resuming the use of the property (such as sale, loss of lease, eviction, etc.).

**Abutting.** Having a common boundary; except, that parcels having no common boundary other than a common corner shall not be considered abutting.

**Accessory building.** A building, or structure, or portion of a building, devoted to an activity subordinate to the principal use of the premises, e.g., detached garage, shed.

**Accessory dwelling unit.** A smaller, auxiliary dwelling unit located on a lot occupied by a principal dwelling. This unit provides a separate and completely independent dwelling unit with facilities for cooking, sanitation and sleeping.

**Accessory dwelling unit, attached.** An accessory dwelling unit that is attached to or part of the principal dwelling. Examples include converted living space, basements or attics, attached garages, additions, or a combination thereof.

**Accessory dwelling unit, detached.** An accessory dwelling unit that consists of a building that is separate and detached from the principal dwelling. Examples include converted garages or new standalone construction.

**Accessory living quarters.** Living quarters, that 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.

**Accessory use.** 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.

**Adjacent.** Directly next to, touching, as in a common property line, or directly across a street.

**Adult oriented business.** See BDMC 18.60.010.

Alley. A public or private way not more than twenty feet wide permanently reserved as a secondary means of access to abutting property.

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.

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► Note: The following definition is proposed to be updated (was "elderly care")

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Assisted living facilities. A shared multi-family residential living environment that combines living, support services, personalized assistance, and varying degrees of health care; includes nursing homes, congregate care, life care, and residential care facilities, but not facilities for older adults who require no outside assistance for daily living.

Automobile fueling station. An automotive retail sales and service use in which fuel for motorized vehicles is sold, and in which accessory uses may include, tow trucks, minor vehicle repair, car wash facilities, and a convenience store.

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.

**18.100.020 "B" definitions.**

Basement. That portion of a building between floor and ceiling, that 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.

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.

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.

Best management practices (BMPs). "Best management practices" or "BMPs" means the best available and reasonable physical, structural, behavioral, and/or managerial practices that, when used singly or in combination, eliminate or reduce the contamination of both surface waters and groundwaters.

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.

Buildable area. That portion of the land that remains after required yards and buffers have been excluded from the building site.

**Building.** Any structure built for the support, shelter or enclosure of persons, animals, or property of any kind.

**Building permit.** A permit issued pursuant to the State Building Code as adopted in RCW Chapter 19.27.

**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 roofline, including eaves/overhangs. (See also, Development Coverage.)

**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.

**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.

**18.100.025 “C” definitions.**

"Cannabis" has the meaning provided in RCW 69.50.101.

"Cannabis processor" has the meaning provided in RCW 69.50.101.

Cannabis processing means the processing of cannabis into cannabis concentrates, useable cannabis, and cannabis-infused products; the packaging and labeling of cannabis concentrates, useable cannabis, and cannabis-infused products for sale in retail outlets; and the selling of cannabis concentrates, useable cannabis, and cannabis-infused products at wholesale to cannabis retailers.

"Cannabis producer" has the meaning provided in RCW 69.50.101.

Cannabis production means the production and sale of cannabis at wholesale to cannabis processors and other cannabis producers.

"Cannabis-infused products" has the meaning provided in RCW 69.50.101.

Cannabis research means the conduct of research on cannabis and cannabis-derived drug products.

"Cannabis researcher" has the meaning provided in RCW 69.50.101.

Cannabis retail means the sale of cannabis concentrates, useable cannabis, and cannabis-infused products in a retail outlet.

"Cannabis retailer" has the meaning provided in RCW 69.50.101.

Cannabis retail outlet means a "retail outlet" as provided in RCW 69.50.101

**Caretaker's quarters.** A residence that is accessory to a site with a nonresidential primary use and that is needed for security, twenty-four-hour care or supervision, or monitoring of facilities, equipment, or other conditions on the site.

**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.

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► Note: Child care center definition below per **ESSB 5509 (2025)**

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"Child day care center" and "child care center" mean an agency (as defined in RCW 43.216.010) that regularly provides early childhood education and early learning services for a group of children for periods of fewer than 24 hours.

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► Note: The following definition is from **RCW 36.70A.535(11)(a)**

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Co-living housing. A residential development with sleeping units that are independently rented and lockable and provide living and sleeping space, and residents share kitchen facilities with other sleeping units in the building.

Complete project permit application. A project permit application that meets the requirements established in the Black Diamond Municipal Code and administrative regulations needed for a complete application, including the payment of applicable fees.

Conditional uses. Certain uses that 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, imposing such performance standards to make the use compatible with other permitted uses in the same vicinity and zone (RCW 36.70.020(7)).

Courtyard apartments means attached dwelling units arranged on two or three sides of a yard or court.

**18.100.030 “D” definitions.**

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► Note: The following definition is proposed by staff to explain how the state requirements for additional units on a “per lot” basis can be applied and understood

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Density, base. As detailed in Chapter 18.98 BDMC, 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.

Density, standard. The number of dwelling units per acre. Accessory dwelling units (ADUs) and units allowed pursuant to middle housing regulations are not counted in the standard density which is expressed in the number of principal housing units allowed on a per acre basis. Instead, ADUs and middle housing units are based on the number of units per lot which is similar to a density bonus.

Density, gross. The total area of a parcel of land, may be expressed in square feet or fractions of an acre.

Density, 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.

Department. The community development department or such other department as designated by the city administrator.

Development coverage. The amount or percentage of ground area covered by impervious surfaces (i.e., surfaces that 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.

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.

Drive through facilities. A business or a portion of a business where a customer is permitted or encouraged, either by the design of physical facilities or by service and/or packaging procedures, to carry on business while seated in a motor vehicle and passing by one or more service windows in order to pay for and receive food, beverages, and other products. This definition shall include, but not be limited to, car washes, pharmacies, drive-through restaurants, coffee stands, dry cleaners, or banks.

Duplex. Residential housing that is a single structure comprised of two dwelling units. Single-family dwellings with attached accessory dwelling units are not duplexes.

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, duplexes, triplexes, (and similar examples) and manufactured homes. This does not include hotels or motel units having no kitchens.

Dwelling unit. A residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking and sanitation.

**18.100.035 “E” definitions.**

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 above ground structures.

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► Note: The following two definitions must be added to meet **E2SHB 1220** requirements

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Emergency housing. Temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement. (RCW 36.70A.030(14))

Emergency shelter. A facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities are indoor may include day and warming centers that do not provide overnight accommodations. (RCW 36.70A.030(15))

Entertainment/cultural use. A venue, either indoors or outdoors, that offers entertainment, cultural experiences or places of social gathering, that may serve food and/or beverages; includes theaters, nightclubs, art galleries, taverns, restaurants, brew-pubs, arcades, wine bars, and other civic and commercial premises for entertainment or cultural experiences.

Environmental review. Review under the State Environmental Policy Act (Chapter 43.21C RCW).

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. See WAC 365-196-550.

Examiner. The City of Black Diamond Hearing Examiner.

**18.100.040 “F” definitions.**

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► Note: RCW 35A.21.314 says: Except for occupant limits on group living arrangements regulated under state law or on short-term rentals as defined in RCW 64.37.010 and any lawful limits on occupant load per square foot or generally applicable health and safety provisions as established by applicable building code or

city ordinance, a code city may not regulate or limit the number of unrelated persons that may occupy a household or dwelling unit. (ESSB 5235 of 2021) The following definition therefore is not needed and should be removed.

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► Note: Family day care definition below per RCW 43.216.010

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"Family day care provider" and "family home provider" mean a child care provider who regularly provides early childhood education and early learning services for not more than 12 children at any given time in the provider's home in the family living quarters except as provided in RCW 43.216.692.

► Note: RCW 36.70B.110 (as amended by SB 5280) uses the term "final decision". Chapter 36.70B does not define "final decision" but RCW 36.70B.080(1)(g) defines the review time period as including the time to "final decision," and RCW 36.70B.080(1)(g)(iii) indicates that any period before an administrative appeal is resolved is counted as part of the review time period. *The proposed definition below is from Commerce's guidebook.*

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Final decision means the final local government decision on an application, including the final decision on a local appeal, if any.

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.

#### 18.100.045 "G" definitions.

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.

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.

► Note: Group Homes def. needs to be checked, to ensure conformance to current state law – AHBL has done some research but further investigation is pending

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Group Homes. Any dwelling unit used as a home for six to 14 unrelated persons, children or adults, (excluding live-in support staff) living as a single housekeeping unit. Incidental medical or psychological treatment, supervision, training, or other support services may be provided to members of the household and are subordinate to the residence. Supervision may be provided by a resident or nonresident. Examples of uses include, but are not limited to, group homes for the disabled, and any other homes for the disabled that must be accommodated where similar residential structures for families are allowed pursuant to State and Federal law, foster homes, domestic violence shelters, and homes for individuals who are

undergoing or have completed substance abuse treatment (other than addiction caused by current, illegal use of a controlled substance).

**18.100.050 “H” definitions.**

Heavy industry. Manufacturing, materials storage or other activities with significant external environmental or operational effects, or that 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."

Home occupation. See Chapter 18.54 BDMC.

Homeless. People, including families, who, on one particular day or night, do not have decent and safe shelter or sufficient funds to purchase or rent a place to stay.

Hotel. Any building containing six or more guest rooms where lodging, with or without meals, is provided for compensation,

Hybrid wholesale/ retail establishment use. An establishment or place of business engaged in selling and/or distributing merchandise to retailers; 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, as well as providing 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.

**18.100.055 “I” definitions.**

Impervious surface. "Impervious surface" means a non-vegetated surface that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, areas which are paved, graveled or made of packed or oiled earthen materials, or other surfaces that similarly impede the natural infiltration of surface and stormwater. Impervious surfaces do not include areas of turf, landscaping, or natural vegetation.

**18.100.060 “J” definitions.**

*Reserved.*

**18.100.065 “K” definitions.**

*Reserved.*

**18.100.070 “L” definitions.**

Lapse, permit. Any project permit application submitted to the city for processing that has expired and/or void under BDMC 18.14.050.

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.

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.

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.

Lot line, front. That boundary of a lot that 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 (or public right-of-way or private street if there is no public street) shall be considered the front lot line unless otherwise specified on a recorded subdivision. See Yard, front definition for front setback determination information.

Lot line, rear. The lot line that 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 that: 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. See Yard, rear definition for rear setback determination information.

Lot, Unit. A unit lot is subdivided lot within a residential development as created from a "parent lot" and approved through the unit lot subdivision process.

Lot depth. The horizontal distance between the front lot line and the rear lot line measured within the lot boundaries.

Lot width. The horizontal distance of a lot measured at right angles to the lines comprising the depth of the lot. The distance shall be measured along a straight line at the minimum required front setback line and the minimum required rear setback line, and then the two distances averaged to determine the lot width.

Lot, corner. A lot that abuts two or more intersecting public or private streets or rights-of-way.

Lot, interior. A lot that has frontage on one street only.

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► Note: the following added per **SB 5258 (2023) and SB 5559 (2025)**

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Lot, Parent. A parent lot is a residential lot that was or is proposed to be subdivided into unit lots through the unit lot subdivision process.

Lot, through. A lot that fronts on two parallel or nearly parallel streets.

Low impact development (LID)/LID best management practices (BMPs). "Low impact development (LID)" means a stormwater management and land development strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design. Other common names for "LID" are "Green Stormwater Infrastructure" or "Natural Drainage Systems." "LID best management practices" or "LID BMPs" means distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs are referred to as flow control BMPs in the Stormwater Management Manual and include, but are not limited to, bioretention, permeable pavements, limited infiltration systems, roof downspout controls, dispersion, soil quality and depth, and minimal excavation foundations.

**18.100.075 “M” definitions.**

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.

Manufactured home park. A residential development in which the land is owned, operated, and maintained as a commercial business. Manufactured home. A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle." See Chapter 18.90 BDMC.

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- ▶ Note: The following definition is a **HB 1110 requirement** (RCW 36.70A.635; Definition is from RCW 36.70A.030) **The city does not need to allow all of the uses in the state law as middle housing, and so staff recommends the ones that would be most compatible under this particular permitting type.** Please note that triplexes can be allowed in many, cases, but just wouldn't fit into this permitting type (which offers relief for parking and other aspects). This is a "minimal" / least impactful approach.
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Middle housing. Buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes, townhouses, stacked flats, and cottage housing. For the purposes of this Title and permitting within the City of Black Diamond, courtyard apartments, triplexes, fourplexes, fiveplexes and sixplexes are not included as middle housing.

Mixed-use. A land use development, in one or more buildings, that may combine at least two of the following uses: Residential, commercial, and/or office.

Mobile home. A factory-built dwelling built prior to June 15, 1976, to standards other than the United States department of housing and urban development code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. It must bear the "mobile home" insignia of the Washington state department of labor and industries. See Chapter 18.90 BDMC.

Motel. A building or group of buildings containing guest rooms that 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.

Multi-family development, or Multi-family dwelling. A development in which a dwelling unit shares one or more walls with another dwelling unit, and specifically includes duplexes, triplexes, attached townhomes of any number, and apartments.

**18.100.080 “N” definitions.**

Nonconforming building or structure. A building, structure, or portion thereof that was legally in existence, either constructed or altered prior to June 18, 2009, the date Ordinance No. 909 was passed, that does not conform with the requirements of this title.

Nonconforming lot. A parcel of land, in separate ownership, and of record prior to June 18, 2009, the date Ordinance No. 909 was passed t, that does not conform to the dimensional or area requirements of this title.

Nonconforming use. An activity in a structure or on a tract of land that was legally in existence prior to June 18, 2009, the date Ordinance No. 909 was passed, that does not conform to the use regulations of the use district in which it is located.

**18.100.085 “O” definitions.**

Open space. An area or portion of land, either landscaped or predominantly unimproved, that is used to meet human recreational or spatial needs or to protect the natural environment.

Open space, common. Open space dedicated or shared in ownership among multiple parties for common use and benefit.

Open space, useable. Undeveloped or unbuilt portions of land designed and maintained in a manner that makes said open space accessible and usable by and for the persons for whom the space is intended.

Outside storage. All or part of a lot that is used for the keeping of materials or products in an open, uncovered yard or in an unwallled building.

**18.100.090 “P” definitions.**

Parcel. A contiguous quantity of land in the possession of, or owned by, or recorded as the property of, the same person.

Parking area. An open area, other than a street or alley, containing one or more parking spaces, and the aisles which provide access to such spaces.

Parking space. An unobstructed space or area other than a street or alley that is permanently reserved and maintained for the parking of one motor vehicle.

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► Note: The following definition must be added to meet **E2SHB 1220** requirements

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**Permanent supportive housing.** A subsidized, leased housing type with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in Chapter 59.18 RCW. (RCW 36.70A.030(31))

Permeable pavement. "Permeable pavement" means pervious concrete, porous asphalt, permeable pavers or other forms of pervious or porous paving material intended to allow passage of water through the pavement section. It often includes an aggregate base that provides structural support and acts as a stormwater reservoir.

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.

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.

Pet daycare. Any establishment, or part thereof, or premises or in-home care maintained for the purpose of providing socialization, training, or housing, in the absence of the owner, for less than 24 hours for pets owned by the general public for which a fee is charged. Exceptions to this definition would include state-inspected veterinary hospitals.

Pet store. Any licensed establishment or store that acquires live animals bred elsewhere, including mammals, birds, reptiles, fowl and fish, but excluding livestock and sells or rents, or offers to sell or rent, the live animals to the public or to retail outlets. This definition shall not include livestock auctions, livery stables, or the operating residence of a breeder.

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- ▶ Note: The city's existing definition for cottage housing is shown below, which is proposed to be renamed to "pocket housing" and therefore was relocated for alphabetization (There is now a specific definition for "cottage housing" following the state law requirements in BDMC 18.34.060 for middle housing)
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Pocket neighborhood housing. A form of residential development consisting of small, detached dwelling units, with one or more units on a lot. A pocket neighborhood 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.

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.

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.

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.

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- ▶ Note: The following definition updated for consistency with RCW 36.70B.020(4)(a) and RCW 36.70B.020(4)(b).
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Project permit. Any land use or environmental permit or license required from the city for a project action, including but not limited to 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. The term "Project permit" does not include building permits.

Property line. A line bounding and indicating the ownership, or intended ownership, of a parcel of land.

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.

**18.100.095 “Q” definitions.**

Quasi-judicial means a process determining the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding.

**18.100.100 “R” definitions.**

Religious institution / organization. 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 that 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. "Religious organization" has the same meaning as in RCW 36.01.290.

Restaurant. Any establishment that sells prepared food for consumption on, near, or off its premises by customers. "Restaurant," includes itinerant restaurants, pushcarts and vehicular food vendors.

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.

Resource use. Mineral extraction and processing, including asphalt or concrete plants and facilities and structures related to such activities; and forestry.

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.

Rezone, site specific: Site specific rezones (also referred to as zone reclassifications) are changes made to the city’s zoning map by the City Council for a specific site concurrent with a project approval. Site-specific rezones are approved quasi-judicially and are distinguished from area-wide rezones that require a Comprehensive Plan amendment.

**18.100.105 “S” definitions.**

“Self-storage” means an establishment containing separate storage spaces of varying sizes that are leased or rented as individual units and used directly by the renters for the storage of personal items. Habitation is prohibited.

Senior housing. Multi-family housing, cottage housing, 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 fifty-five years or older and that does not provide on-site life-care services and staffing for living support and health care.

Shoreline. See the adopted Shoreline Master Program for shoreline-related definitions.

Sixplex. Residential building with six attached dwelling units.

Stacked flat. Dwelling units in a residential building of no more than three stories on a residential zoned lot in which each floor may be separately rented or owned.

Street, flanking. A street, alley or right-of-way other than the one on which a corner lot has its main frontage.

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.

Street, minor. A street or road not designated as a primary or secondary arterial.

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.

**18.100.110 “T” definitions.**

Technology/biotechnology/medical equipment use. Technical research and the design, development, and testing of technological and/or with biological components and products in advance of product manufacturing. Includes assembly of related products from parts produced off-site and limited on-site manufacturing of components where the manufacturing activity is secondary to the primary activities. Excludes any marijuana-related uses.

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- ▶ Note: The following definition must be added to meet **E2SHB 1220** requirements
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Transitional housing. A housing type that provides supportive services to homeless persons or families for up to two years and facilitates the movement of homeless persons and families into independent living. (RCW 84.86.043(3)(c)).

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- ▶ Note: The following definition is a **HB 1110 requirement** (RCW 36.70A.635; Definition is from RCW 36.70A.030)
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Townhouses or townhomes. Buildings that contain three or more attached single-family dwelling units that extend from foundation to roof and that have a yard or public way on not less than two sides.

Triplex. A residential building with three attached dwelling units.

**18.100.115 “U” definitions.**

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- ▶ Note: The following three definitions must be added to meet **SB 5258 (2023)** and **SB 5559 (2025)** requirements; “Unit lot subdivision” standards must be added to the City’s Subdivision title by July 27, 2027 (**RCW 58.17.060(3)**)
  - ▶ Additionally, the term “unit lot density” is needed **per HB 1110 (2023), later modified by ESHB 2321 (2024) and by ESSHB 1096 (2025)** - RCW 36.70A.635
- 

Unit density. The number of dwelling units allowed on a lot or unit lot, regardless of lot size. This term is synonymous with unit lot density.

Unit lot subdivision. A subdivision or short subdivision proposed as part of a residential development project that meets the development standards applicable to the parent lot at the time the application is vested, but that may result in development on one or more individual unit lots becoming nonconforming as to specified land use and development standards based on the analysis of the individual unit lot.

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.

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.

**18.100.120 “V” definitions.**

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- ▶ Note: The following definition updated to match **RCW 36.70.020**
-

Variance. The means by which an adjustment is made in the application of the specific regulations of a zoning ordinance to a particular piece of property, which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity and zone and which adjustment remedies disparity in privilege.

Veterinary clinic. Any establishment or premises operated under the supervision of a duly licensed veterinarian for surgical or medical treatment of domestic animals and pets; it may include overnight accommodations for purposes of recovery.

**18.100.125 “W” definitions.**

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.

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.

**18.100.130 “X” definitions.**

*Reserved.*

**18.100.135 “Y” definitions.**

Yard. An open space unoccupied from the ground to the sky of uniform depth or width that 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.

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. See Lot line, front definition for how to determine which property line is the front lot line.

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. See Lot line, rear definition for how to determine which property line is the rear lot line.

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. See Street, flanking for definition to determine if a street is considered flanking.

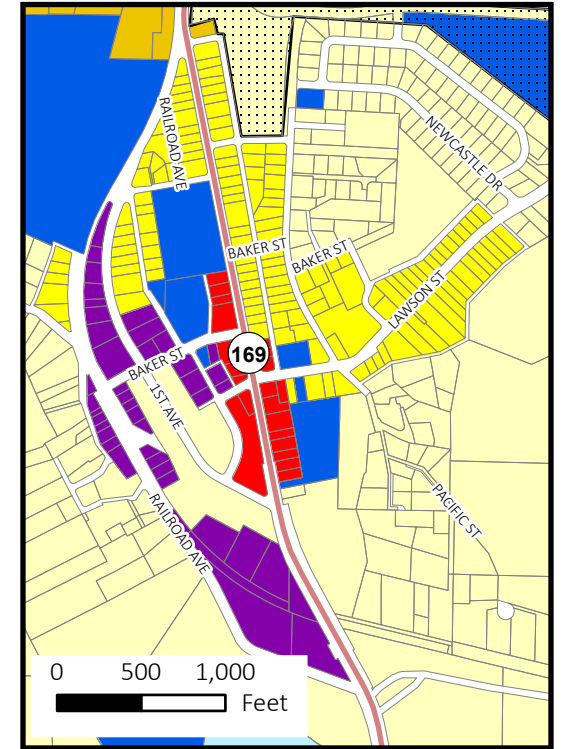
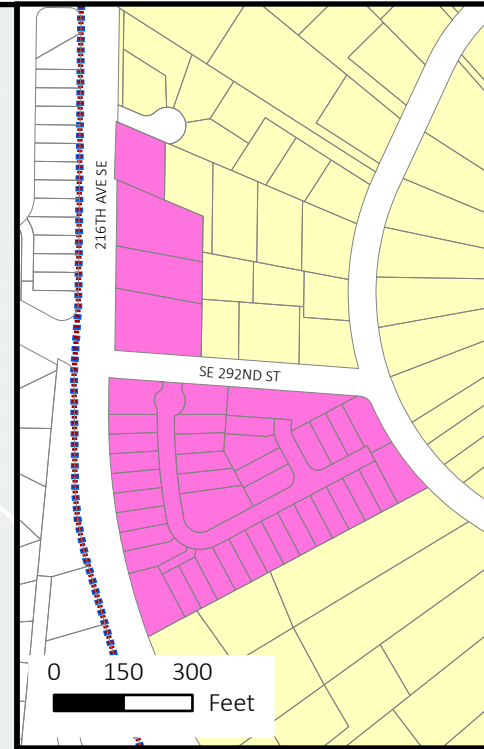
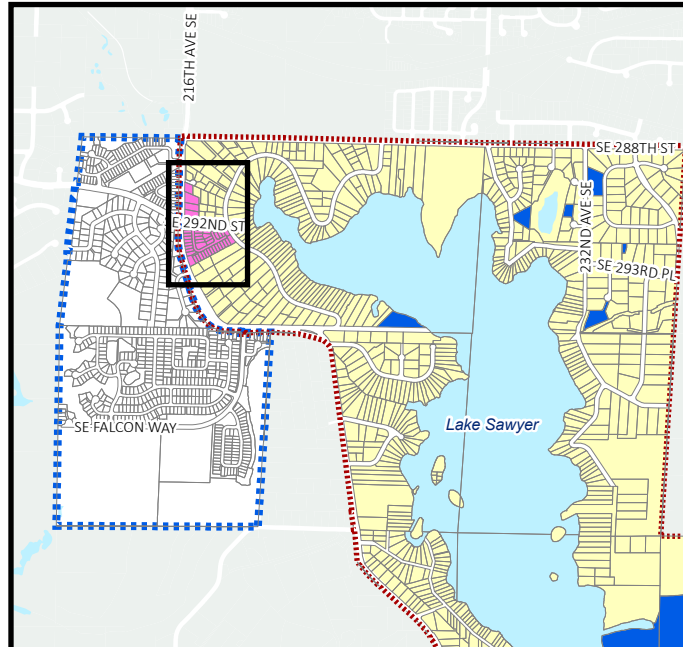
**18.100.140 “Z” definitions.**

*Reserved.*

# City of Black Diamond

## PROPOSED ZONING MAP

This map shall not take effect unless approved via subsequent amendments to Title 18 BDMC.



- City Limits
- Urban Growth Area (UGA)
- MPD Overlay
- LDR 4 du/ac (R4)
- LDR 6 du/ac (R6)
- MDR 8 du/ac (R8)
- MDR 8 du/ac with TDRs (R8-TDR)\*
- MDR 12 du/ac (R12)\*
- MDR 12 du/ac with TDRs (R12-TDR)\*
- HDR 18 du/ac (R18)\*
- HDR 18 du/ac with TDRs (R18-TDR)\*
- HDR 30 du/ac (R30)\*
- Neighborhood Commercial (NC)
- Community Commercial (CC)
- Town Center (TC)
- Business/Industrial Park (B/IP)
- Industrial (I)
- Public (PUB)

\* new zones

Abbreviations:  
 LDR = Low Density Residential  
 MDR = Medium Density Residential  
 HDR = High Density Residential  
 TDR(s) = Transfer of Development Right(s)

