

Title 17

COMPREHENSIVE ZONING ORDINANCE¹

Commented [BJ1]: BJ – 3-28-2023 – This page revised to reflect revised zoning designation system shown on zoning and comprehensive plan maps.

Chapters:

- 17.01 **General Provisions**
- 17.05 ~~District Establishment~~ **Land Use Zones, Maps and Boundaries**
- 17.15 ~~R-1 Land Use Districts~~ **RD Zones – Residential Detached**
- 17.20 ~~R-2 Two-Family Residence Districts~~ **RA-1 Zone – Residential Attached**
- 17.25 ~~R-3 Multifamily Residence Districts~~ **RA-2 Zone – Residential Attached**
- 17.30 ~~R-S Semi-Public District~~ **MUR-1 Zone – Mixed-Use Residential**
- ~~17.35 **OSP Open Space and Parks District**~~
- 17.40 ~~MR-NB Medium Density Residential and Neighborhood Business District~~ **MUR-2 Zone – Mixed-Use Residential**
- 17.45 ~~B-1 Business District~~ **MUC-1 Zone – Mixed-Use Commercial**
- 17.50 ~~C-1 General Commercial District~~ **MUC-2 Zone – Mixed-Use Commercial**
- 17.55 ~~CI-1 Zone – Commercial & Industrial~~ **C-2 Heavy Commercial District**
- 17.60 ~~M-1 Industrial District~~ **CI-2 Zone – Commercial & Industrial**
- ~~17.65 **BP Business Park District**~~
- 17.66 **PC-1 Zone – Parks & Conservation**
- 17.67 **PC-2 Zone – Parks & Conservation**
- 17.68 **PFT-1 Zone – Public Facilities and Transportation Zone**
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- 17.70 ~~Supplemental General~~ **Development Standards**
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- 17.85 **Access, Parking, and Loading**
- 17.90 **Public Utilities, and Telecommunications**
- 17.95 **Signs**
- 17.100 **Nonconforming Structures, Lots and Uses**
- 17.105 **Essential Public Facilities**
- 17.110 **Agricultural Heritage Credit Program**
- 17.115 **Planning Commission**
- 17.120 **Hearing Examiner**
- 17.125 **Amendments to Comprehensive Plan and Development Regulations**

Commented [BJ2]: BJ – 3-28-2023 – General Note: intent is to repeal Chapter 17.35 and replace with new chapters 17.66, and 17.67 (parks and conservation) to implement comprehensive plan by creating a low intensity conservation zone and passive recreation zone (PC-1) and a zone for active recreation and traditional park uses (PC-2).

¹ Prior legislation: Ords. 890, 979, 1108, 1136, 1158, 1162, 1187, 1199, 1200, 1206, 1221, 1227, 1230, 1233, 1237, 1252, 1260, 1271, 1284, 1291, 1304, 1318, 1320, 1322, 1327, 1333, 1340, 1344, 1345, 1356, 1361, 1363, 1365, 1382, 1388, 1396, 1431, 1451, 1454, 1470, 1473, 1502, 1532, 1535, 1547, 1584, 1630, 1666, 1668, 1670, 1694, 1706, 1717, 1720, 1725, 1737, 1763, 1782, 1784, 1788, 1798, 1799, 1819, 1839 and 1843.

Chapter 17.01
GENERAL PROVISIONS

Sections:

- 17.01.010 Title.
- 17.01.020 Application.
- 17.01.030 Purpose.
- 17.01.040 Authority.
- 17.01.050 Definitions.
- 17.01.060 Land use permit required.
- 17.01.070 Condition of ministerial errors.
- 17.01.080 Administrative interpretations.
- 17.01.090 Zoning for annexed land.
- 17.01.100 Relationship to other titles, chapters and codes.
- 17.01.110 Violation and penalties.
- 17.01.115 Duty to enforce.
- 17.01.120 Appeal.
- 17.01.125 Severability.

17.01.010 Title.

This title shall be called the “Comprehensive Zoning Ordinance.” This chapter shall be called “General Provisions.” (Ord. 1857 § 2 (Exh. B), 2018).

17.01.020 Application.

A. This chapter shall apply to all chapters in this title. The provisions of this title shall apply to both public and private use of all land within the corporate limits of the city of Burlington.

B. No use shall be conducted, and no development, building, structure, or appurtenance shall be initiated, erected, relocated, remodeled, reconstructed, altered, or enlarged unless in compliance with the provisions of this title and with the comprehensive plan, and then only after securing all permits and approvals required hereby. It shall be unlawful to build or use any building or structure, or to use premises in the city, for any purpose or use other than the uses listed as being permitted in the district in which such building, land, or premises is located.

C. In interpreting and applying the provisions of this title, they shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. Except when otherwise noted it is not intended by this title to interfere with, abrogate or annul any easements, covenants or other agreements between private parties. However, where this title imposes a greater restriction upon the use of land and/or building or in general requires higher standards than other ordinances, rules, or private agreements, the provisions of this title shall govern.

D. No division of land pursuant to BMC Title 16 shall occur unless in compliance with the provisions of this title.

E. Except as otherwise noted tThis title is not intended to regulate the erection, construction, or reconstruction of public streets, power poles, streetlights, utility lift stations, transmission lines, or other public uses within an existing improved, and maintained, city right-of-way necessary to serve local development and support the general public welfare and conducted, or carried out, by the city of Burlington, or agents of the city working under a contract or franchise. Private utilities, projects serving a regional, international, or state-wide need, and infrastructure improvements, and public utilities located outside an improved public right-of-way, shall be subject to this title unless explicitly preempted by state or federal law. (Ord. 1857 § 2 (Exh. B), 2018).

17.01.030 Purpose.

The provisions of this chapter shall be liberally construed to accomplish the following purposes:

A. This title is intended to address the requirements of chapter 36.70A RCW, the Growth Management Act, and shall be used to implement and enforce the provisions of city’s comprehensive plan. This title is also intended to protect the health, safety, morals, convenience, comfort, prosperity, and general welfare of the city’s population.

Commented [BJ3]: BJ – 3-28-2023 – Revised to reflect that fact that language has been added to explicitly reject racially biased covenants, plat notes, and deed restrictions and to reflect that code language has been included to prohibit the use of title restrictions or plat notes that are contrary to code requirements.

Commented [BJ4]: BJ – 3-28-2023 – Added to differentiate between common local improvements and large scale improvements such as transmission lines, pipelines, etc. Also added notation addressing potential state and federal preemption.

B. The specific zones and regulations herein are designed to facilitate adequate provisions of utilities, schools, parks and housing with essential light, air, privacy, and open space; to lessen congestion on streets and facilitate the safe movement of traffic thereon; to stabilize and enhance property values; to prevent the overcrowding of land; to facilitate adequate provisions for doing public and private business and thereby safeguard the community's economic structure upon which the prosperity and welfare of all depends and through such achievements help ensure the safety and security of home life, foster good citizenship, create and preserve a more healthful, serviceable and attractive municipality and environment in which to live.

C. To most effectively accomplish these purposes, this title divides the city into zones wherein the location, height and use of buildings, the use of land, the size of yards and other open space, and the provision of off-street parking and loading are regulated and restricted in accordance with the comprehensive plan for the city of Burlington. These zones and regulations are hereby deemed necessary and are made with reasonable consideration, among other things, as to the character of each zone and its particular suitability for specific uses, the need for such uses, the common rights and interests of all within the zone as well as those of the general public, and with the view of conserving and encouraging the most appropriate use of land throughout the city. (Ord. 1857 § 2 (Exh. B), 2018).

17.01.040 Authority.

This title is created pursuant to the authority set forth in chapters 35A.63, 36.70A, and 36.70B RCW and other applicable laws and regulations. (Ord. 1857 § 2 (Exh. B), 2018).

17.01.050 Definitions.

For the purpose of this title, the words listed in this chapter shall have the following meanings unless the context clearly indicates otherwise. Words used in the singular include the plural, and words used in the plural include the singular. The word "shall" is always mandatory, the word "may" denotes a use of discretion in making a decision; the words "used" or "occupied" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied."

"A"

"Abandoned sign" means a sign structure that has ceased to be used, and the owner or lessor of the sign structure intends no longer to use the sign structure for the display of sign copy, or as otherwise defined by state law. It shall be a rebuttable presumption that a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product or activity, and/or for which no legal owner can be found, is an abandoned sign.

"Arborist" means a person accredited by the International Society of Arboriculture (ISA).

"Accessory building" or "accessory structure" means a subordinate building or structure, the use of which is incidental to the use of the main, or primary, building on the same lot.

"Accessory dwelling unit" or "accessory dwelling" see dwelling definitions.

"Accessory use" means a use incidental and subordinate to a principal use and located on the same lot or in the same building as the principal use.

"Adult entertainment use" means an adult motion picture theater or topless club as defined below:

1. "Adult motion picture theater" means a place of public assembly in which, in an enclosed building, motion picture films, video cassettes, cable television, or any other such visual media, are presented which are distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified anatomical areas" or "specified sexual activities," as defined herein.

~~1-2.~~ "Topless club" means a public or private club employing persons exposing "specified anatomical areas" as defined herein.

"Affordable housing" means, unless the context clearly indicates otherwise, residential housing whose monthly costs, including utilities other than telephone, do not exceed thirty percent of the monthly income of a household whose income is:

Commented [BJ5]: BJ – 3-28-2023 – consolidated separate uses under one heading to avoid duplicate terms in individual zones. No substantive change.

Commented [BJ6]: BJ _ 3-28-2023 – Added definition consistent with GMA definition from RCW 36.70A.0.30(2).

1. For rental housing, sixty percent of the median household income adjusted for household size for Skagit County as reported by the United States department of housing and urban development; or
2. For owner-occupied housing, eighty percent of the median household income adjusted for household size for Skagit County as reported by the United States department of housing and urban development.

“Agriculture” means the production of horticultural, viticulture, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock. Agriculture does not include community gardens or residential gardening.

1. “Agriculture, rural” means agricultural uses or activities other than urban agriculture. Rural agriculture specifically includes animal husbandry, the keeping of large domestic animals such as horses, cattle, goats, and hogs, commercial activities involving livestock and poultry, the keeping of roosters or more than four hens, and the construction or use of agricultural buildings such as barns or equipment sheds associated with an activity falling within the definition of rural agriculture.
2. “Agriculture, urban” means the commercial production of plants or crops, nurseries, apiaries and beekeeping, the keeping of up to four hens in residential areas, and the construction of greenhouses, potting sheds, chicken coups, and other structures associated with an activity falling with the definition of urban agriculture.

Commented [BJ7]: BJ – 3-28-2023 – definition added consistent with GMA definitions in RCW 36.70A.030(3)

Commented [BJ8]: BJ – 3-28-2023 – new definitions created to differentiate between urban agriculture, which is allowed throughout the City, and rural agriculture which is allowed in unincorporated Skagit County.

“Alley” means a public thoroughfare which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

“Alteration” means a change, rearrangement, expansion, or modification of an existing building, structure, use, development, or facility. Alterations also include moving buildings, structures, and uses from one location to another. In buildings used for business, commercial, industrial or other similar purposes the installation or rearrangement of interior partitions affecting more than one-third of a single floor area shall be considered an alteration.

“Animated sign” means a sign employing actual motion or the illusion of motion. Note that animation is prohibited by BMC 17.95.135(B)(2), except for temporary signs in BMC 17.95.125. Animated signs, which are differentiated from changeable signs as defined and regulated by this code, include the following types:

1. “Electrically activated” means animated signs producing the illusion of movement by means of electronic, electrical, or electro-mechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:
 - a. Flashing. Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of nonillumination. For the purposes of this chapter, “flashing” will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds four seconds.
 - b. Patterned Illusionary Movement. Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.
2. “Environmentally active” means animated signs or devices motivated by wind, thermal changes or other natural environmental input, including spinners, pinwheels, pennant strings, and/or other devices or displays that respond directly to naturally occurring external motivation. Time or temperature displays shall not be construed as a direct response to the natural environment.
3. “Mechanically activated” means animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

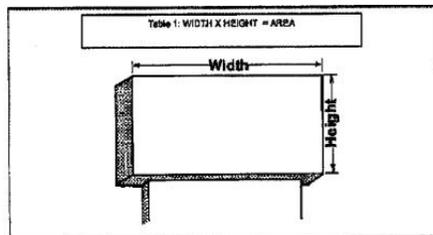
“Antenna” means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio frequency signals.

1. “Omnidirectional antenna” (also known as a “whip antenna”) transmits and receives radio frequency signals in a 360-degree radial pattern. For the purpose of this title, an omnidirectional antenna is up to 15 feet in height and up to four inches in diameter.
2. “Directional antenna” (also known as a “panel antenna”) transmits and receives radio frequency signals in a specific directional pattern of less than 360 degrees.
3. “Parabolic antenna” (also known as a “dish antenna”) is a bowl-shaped device for the reception and/or transmission of radio frequency communications signals in a specific directional pattern.

“Area of sign,” “surface area of sign,” or “sign area” means the area of a sign excluding sign support structures, which do not form part of the sign proper or the display. Surface area shall be measured as follows:

1. The surface area of the sign is determined by the height times the width of a typical rectangular sign or other appropriate mathematical computation of surface area for nonrectangular signs.
2. Surface area includes only one face of a double-faced sign where the faces of the sign are parallel. If any face is offset from parallel by more than five degrees, such face shall be counted as a separate surface area.
3. Surface area of a sign with more than two faces, such as a cube or pyramid, shall be calculated as the sum of the surface area of all faces, divided by two.
4. In the event of an irregular, three-dimensional object that serves as signage, where the surface area is not readily measurable, the surface area shall be calculated by the largest area of the three-dimensional object visible from any one viewing angle.

Figure 1. Sign Surface Area Calculation



“Attached wireless communication facility” means a wireless communication facility that is affixed to an existing structure and is not considered a component of the attached wireless communication facility.

“Automobile wrecking yard”: ~~see “wrecking yard” definition. means a salvage and recycling business establishment in which vehicles are dismantled or junked, or where one or more vehicles not in operable condition or used parts of motor vehicles are stored in an area outside an enclosed structure.~~

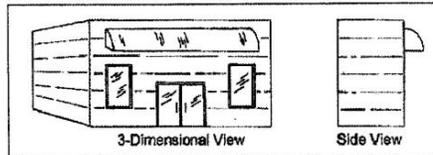
Commented [BJ9]: BJ – 3-28-2023 – revised definitions for consistency with state definitions regulating wrecking yards. Relocated to “W” section.

“Automotive parts and accessories sales” means an automotive retail sales and service use in which goods are rented or sold primarily for use in motorized vehicles, but excluding gas stations.

“Automotive retail sales and service” means a retail sales and service use in which goods are rented or sold primarily for use in motorized vehicles, but excluding gas stations.

“Awning” means a roof-like cover that projects from the wall of a building for the purpose of shielding a door or window from the elements.

Figure 2. Awning



“Awning sign” means any sign erected upon, or against, an awning.

“B”

“Banner” means a flexible substrate on which copy or graphics may be displayed, including blade banners.

“Banner sign” means a sign utilizing a banner as its display surface.

“Bed and breakfast” means a single-family dwelling where up to two rooms or lodging units are let as temporary accommodations for travelers or guests by the owner or occupant of the single-family dwelling. Bed and breakfast establishments may provide limited food service to guests.

“Billboard” means an outdoor advertising sign containing a message, commercial or otherwise, unrelated to the use or activity on the property on which the sign is located, and which is customarily leased for commercial purposes, but not including attached directional signs (not within the billboard face) as defined herein. Billboards are regulated in BMC 17.95.130(A).

“Boarding house” or “rooming house” means a ~~detached dwelling unit, other than a hotel, where meals and/or lodging are provided for compensation~~ two or more rooms are separately rented. This term does not include ~~buildings meeting the definition of a hotels, bed and breakfasts, duplexes, or multifamily-multiunit dwelling buildings~~. Boarding houses are differentiated from hotels and bed breakfasts by providing accommodations for periods of 30 days or more. A boarding house does not constitute a duplex or multiunit building because the kitchen and other housekeeping facilities are shared by the building occupants. The individual rooms within a boarding house are not equipped with kitchens or complete housekeeping facilities.

1. “Boarding house, small” means a boarding house where up to four rooms are separately rented.

4-2. “Boarding house, large” means a boarding house where five or more rooms are separately rented.

“Building” means a structure as defined in this chapter. ~~When separated by division walls without openings each portion so separated shall be considered a separate building~~ For purposes of interpreting this title (Title 17) the term building shall mean all architecturally integrated components of the structure under a single roof or built upon a single foundation. The term building may be defined differently in other titles of the Burlington Municipal Code.

“Building area” means the total ground coverage of a building or structure which provides shelter measured from the outside of its external walls or supporting members ~~or from a point 18 inches in from the outside edge of a cantilevered roof.~~

“Building height” means the vertical distance measured from the finished grade to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs. If a structure has none of the above features then the height shall be measured from the finished grade to the highest portion of the structure.

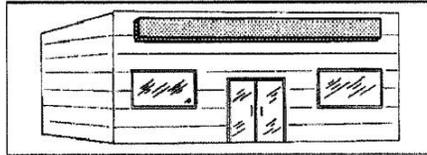
“Building-mounted sign” means a single- or multiple-faced sign of a permanent nature, made of rigid material, attached to the facade of a building or the face of a marquee.

Commented [BJ10]: BJ – 12-17-2021 – Revised size limit to be consistent with how other types of residential units are regulated (for example a small multiunit building has four units) also changed from people to rooms since it's tough to regulate the number of people

Commented [BJ11]: BJ – 3-28-2023 – Previous term is similar to building code definition but does not work for implementing zoning code, particularly with respect to building coverage limits, setbacks, etc.

Commented [BJ12]: BJ – 3-28-2023 – revised to prevent conflict with impervious surface coverage limits which, due to previous LID update are not different from building coverage.

Figure 3. Building-Mounted (Wall) Sign



“Bulk material sales and storage” means the sale, storage, stockpiling, or blending of bulk materials including, but not limited to, sand, gravel, bark, topsoil, dirt, rock, and other similar materials. This definition does not include the following:

1. The sale of prepacked products or incidental quantities to consumers at nurseries, lumber yards, building supply stores, or similar establishments;
2. Temporary stockpiles associated with an authorized and ongoing construction project;
3. Rock crushing plants, concrete mixing and batching plants, ready-mix concrete facilities, or other similar uses.

“Burlington hill special management area” means those portions of Burlington Hill with a ground elevation 40 feet or more above sea level.

“C”

“Canopy” means a multi-sided overhead structure or architectural projection that provides protection from the elements to persons or property. The surface(s) or soffit may be illuminated by means of internal or external sources of light. This includes marquees.

“Canopy-mounted sign” means any sign or awning erected upon or against a canopy, including marquee-mounted signs.

“Capital improvement” or “capital facility” means major durable public investments in land, facilities or equipment such as streets, roads, sidewalks, paths, parks improvements, sanitary sewer facilities, public water systems, pedestrian safety and streetscape features, firefighting equipment, and City buildings.

“Capital improvement plan” or “CIP” means a component of the Burlington Comprehensive Plan providing a detailed list of planned capital improvements covering a six-year period and identifying the sources of money that will be used to pay for the planned improvements. The CIP serves as the six-year financing plan required by Chapter 36.70 RCW (GMA).

“Caretaker apartment” or “caretaker dwelling” mean an apartment or dwelling unit associated with, and subordinate to, a primary permitted use or development and used to provide housing for a person(s) employed to care for, or operate, the primary permitted use or development.

“Certificate of occupancy” means a written document issued by the City in accordance with the provisions of the building permit. The certificate of occupancy indicates that the project has been inspected for compliance with applicable uniform and development code requirements. The certificate of occupancy give permission to use or occupy the premises for the approved proposed use. “Certificate of occupancy” means a written document issued by the governing authority in accordance with the provisions of the building permit. The certificate of occupancy indicates that, in the opinion of the building official, the project has been completed in accordance with the building and zoning codes. This document gives the owner permission from the authorities to occupy and use the premises for the intended purpose.

“Changeable sign” means a sign with the capability of content change by means of manual or remote input without reworking, repainting, or otherwise altering the physical composition of the sign, including signs which are:

Commented [BJ13]: BJ – 3-28-2023 – creation of new term to consolidate a large number of related activities previously listed under their own terms in the industrial zones.

Commented [BJ14]: BJ – 3-28-2023 – added to implement comp plan and BAS recommendations related to steep slopes, geo-hazards, locally important habitat, and fire hazards.

Commented [BJ15]: BJ – 3-28-2023 – terms connect to PFT zones

Commented [BJ16]: BJ – 3-29-2023 – revised for consistency with title 15, which contains building code requirements.

1. Electrically Activated. A changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also “electronic message sign or center.”

2. Manually Activated. A changeable sign whose message copy or content can be changed manually.

“Charging station” means equipment used to charge electric vehicles.

Commented [BJ17]: BJ – 3-28-2023 – code revised to allow charging stations as an accessory use wherever parking spaces are allowed. Needed definition to implement code changes.

“Craft industries” means a use where arts or crafts are manufactured in a small scale facility using skilled labor. Craft industries include art studios, woodworking and cabinet shops, bakeries, kitchens, breweries, distilleries, wine making, and other similar activities. Craft industries are owner operated enterprises where the owner staffs, directly participates in, and manages, the day-to-day operations of the business. Craft industries may employ a small number of employees in addition to the owner and members of the owner’s immediate family. Craft industries have a total floor area of 5,000 square feet or less and primarily operate during normal business hours.

Commented [BJ18]: BJ – 3-23-2023 – this term added to allow a range of small scale, low impact, manufacturing uses in commercial and mixed use areas.

“Co-location exists” means that more than one wireless communications provider mounts equipment on a single support structure (i.e., building, monopole, lattice tower).

“Commercial child day care center” means a building, or a portion of a building, used to provide early childhood education and learning services as defined in RCW 43.215.010.

1. “Commercial child daycare center, small”, “mini commercial child day care center”, or “mini commercial day care” means a commercial child day care center that provides services to not more than 12 children at any one time.

2. “Commercial child daycare center, large” or “commercial day care, large” means a commercial child day care center that provides services to more than 12 children at a time.

3. “Commercial child daycare center, public” or “child daycare, public” means a large or small daycare center owned, operated by, or located on land owned by a government agency.

Commented [BJ19]: BJ – 11-2-2020 Added separate large and small terms so we don’t have to repeat the numbers over and over in the code.

“Commercial entertainment, indoors” means a use offering equipment, space, instruction, or facilities for recreation, entertainment, or games of skill and wholly enclosed in a building. Typical uses include arcades, athletic or health clubs, gyms, pool or billiard halls, indoor swimming pools, bowling alleys, skating rinks, climbing gyms, concert venues, and dance halls. This definition excludes public facilities.

1. Indoor commercial entertainment, minor means an indoor commercial recreation facility with a ground floor area of 2,500 square feet or less and a total floor area of 5,000 square feet or more.

2. Indoor commercial entertainment, major means an indoor commercial recreation facility with a ground floor area of more than 2,500 square feet or a total floor area in excess of 5,000 square feet.

“Commission” shall mean the planning commission of the city.

“Community development director” means the official appointed and acting as the Community Development Director.

Commented [BJ20]: BJ – 3-14-2023 – revised to reflect current city administrative structure.

~~“Community development director” means the city administrator or designee.~~

“Comprehensive Plan” means the plan adopted by the City of Burlington pursuant to the requirements of Chapter 36.70A RCW (The Washington State Growth Management Act). The City’s comprehensive plan contains maps, illustrations, and descriptive text addressing a number of elements, or subjects, including, but not limited to, land use, housing, transportation, capital facilities, utilities, parks and recreation, and economic development. The comprehensive plan also includes a number of related functional or implementation plans that are either included within the body of the comprehensive plan, incorporated by reference, or incorporated by statute. These related

functional or implementation plans include, but are not limited to, the sewer plan, storm-water plan, capital improvement plan (CIP), and transportation improvement plan (TIP).

“Conditional use” means a use or development which may, through a discretionary approval process, be conditionally permitted in one or more zones. Conditional uses are those uses and developments which are either identified as conditional in a particular zone, or which are not listed as permitted or conditional in any zone. Conditional uses generally have the following characteristics:

1. The impacts associated with the use or development are difficult to predict or ascertain due to variabilities in the size, scale, and design of the use or development, or because the activities associated with, or the technological processes employed by, the use or development are untested, experimental, unproven, or poorly documented;
2. The exact location of the use or development may determine its impact on, and compatibility with, surrounding uses, public streets, improvements and facilities;
3. The use or development requires a high level of analysis to determine if it will be, or can be made to be, consistent with applicable comprehensive plan goals and policies, abutting and adjacent uses, and the character of the surrounding neighborhood;
4. The use or development requires detailed and specific conditions of approval in order to be compatible with surrounding uses, public streets, improvements, and facilities;
5. The use or development is not substantially similar in form, function, size, scale, or impact to another use listed as permitted in one or more zones.

“Contractor services” or “contractor offices” means a facility housing a business or entity engaged in a common trade or profession related to the maintenance or construction of buildings and grounds such as construction, plumbing, electrical, HVAC, or landscaping. This definition includes facilities where equipment or materials related to the contractor’s business are stored or maintained as an accessory use.

“Corner lot”: means a lot at the junction of, and fronting on, two or more intersecting streets. A corner lot has a front lot line and a street side lot line see “lot” definitions.

“Council” or “city council” shall mean the city council of the city of Burlington.

“Coverage,” “lot coverage,” or “building coverage” means the area of a lot which is covered by a roofed structure.

“D”

“Density” means the ratio of dwelling units to lot area.

“Detached building” means a building surrounded on all sides by open space.

“Developed land area” means those parts of a lot, site, or area of land that have been extensively improved for an existing land use including building coverage, parking and loading areas, service yards, impervious surfaces, and landscaped areas.

“Development” means any activity that results in a use or modification of land or its resources. Development activities include, but are not limited to: dredging, drilling, dumping, filling, earth movement, grading, clearing or removal of vegetation; storage of materials or equipment; building or construction; land division, boundary line adjustments, lot segregations, subdivision and short subdivisions; binding site plans; land use permit approvals; variances; shoreline development or substantial development; and activities or uses allowed through conditional use permits.

“Development complex sign” means a free-standing sign identifying a multiple-tenant development, such as a shopping center or planned industrial park, which is controlled by a single owner or landlord.

“Development right” means one residential unit of credit. This is calculated for unincorporated Skagit County in the agriculture natural resource land zoning district (AgNRL) at the rate of one residential unit per 40 acres of farmland, or at the rate of one residential unit per county certified lot of record for development. ~~The farmland legacy program will accumulate Burlington heritage credits until a willing seller is identified and there is enough funding to acquire one or more development rights from agricultural resource land in the area specified on Map Exhibit A, attached to the ordinance codified in this chapter.~~

Commented [BJ21]: BJ – 3-29-2023 – this information is too detailed to be included in the definitions section. Revised Ag Heritage Program section to include this info.

“Directional sign” means any sign that is limited to the purpose of providing direction and/or orientation for pedestrian or vehicular traffic. Directional signs typically indicate entrances, exits, one-way circulation, drive-up windows, or provide similar types of information.

“Director” means the community development director or designee.

“District” or “zone” means a zoning district as described in chapter 17.05 BMC or as shown on the city’s adopted zoning map.

“Double-faced sign” means a sign with two faces, back to back.

~~“Drive Aisle” means a vehicle access path abutting, and providing access to, no more than two rows of parking spaces.~~

“Driveway” means an area improved with an all-weather driving surface providing vehicle access to a single dwelling unit from a public or private street or alley in accordance with applicable city standards and requirements. This term does not include public or private streets.

~~“Driveway, shared”, or “Shared driveway” means an area improved with an all-weather driving surface providing primary vehicle access from a public or private street or alley in accordance with applicable city standards and requirements. A shared driveway may be serve up to four individual dwellings or provide access to no more than two drive aisles. This term does not include alleys or public or private streets. More information on driveways and access requirements is located in Chapter 17.85 BMC.~~

“Duplex”: ~~see “dwelling” definitions, means a building containing two dwelling units. See “two family dwelling.”~~

~~“Dwelling” or “Dwelling unit” means a building, or a portion of a building, providing complete housekeeping facilities for one family or housekeeping unit. Dwellings are differentiated from transient accommodations by providing a permanent, non-transient, residence or place of habitation. “Dwelling-unit” means a building, or a portion of a building, providing complete housekeeping facilities for one family or housekeeping unit.~~

Commented [BJ22]: BJ – 11-2-2020 – Added additional clarity

1. ~~“Dwelling, accessory”, “accessory dwelling unit”, or “ADU” means a building, or a portion of a building, used as a self-contained dwelling that is secondary and subordinate to a primary detached or horizontally attached dwelling. Accessory dwellings may be either attached or detached. An attached accessory dwelling is located within the primary dwelling. A detached dwelling is located in a detached accessory building located on the same lot as the primary dwelling.~~
2. ~~“Dwelling, attached” or “attached dwelling unit” means a dwelling unit located in a building that contains other dwelling units or any structure where multiple dwellings share common walls or are located on top of, or below, one another. This term includes duplexes, horizontally attached dwellings, and multiunit buildings.~~
 - a. ~~“Duplex” means a building containing two attached dwelling units. The dwellings in a duplex may share common walls or one unit may be located above the other.~~
 - b. ~~“Dwellings, horizontally attached” means a building containing three or more dwelling units where the individual dwelling units are separated by common walls and where no unit is located above or below another unit. Horizontally attached dwellings include townhomes, row houses, and other similar residential buildings. This term shall have the same meaning as, and may be used interchangeably with, the terms “townhouse”, “townhome”, and “row house”.~~

Commented [BJ23]: BJ – 11-2-2020 – This is an increasingly popular housing type that was not previously considered or identified in the code. Added definition.

c. “Multiunit building” means a building, or a portion of a building, containing three or more dwelling units. A multiunit building contains dwellings located above or below one another. Examples of multiunit buildings include apartments, condominiums, and multifamily buildings. This term shall have the same meaning as, and may be used interchangeably with, the terms “multifamily building” and “multifamily dwelling(s)” but does not include horizontally attached dwellings or duplexes as defined in this chapter.

i. “Multiunit building, small” means a multiunit building containing up to four dwelling units.

ii. “Multiunit building, medium” means a multiunit building containing five to eight dwelling units.

iii. “Multiunit building, large” means a multiunit building containing more than eight dwelling units.

3. “Dwelling, cottage” or “cottage dwelling unit” means a small detached dwelling unit located in an approved cottage development.

4. “Dwelling, detached” or “detached dwelling unit” means a single dwelling unit occupying a single detached building. A detached dwelling may also include an attached accessory dwelling unit as defined in this chapter.

5. “Dwelling, small lot” means a small detached dwelling located in an approved small lot development.

“E”

“Eating and drinking establishment” means a retail sales and service use in which food and/or beverages are prepared and sold at retail for immediate consumption. Eating and drinking establishments may include onsite brewing, distilling, baking, and kitchen facilities.

1. “Eating and drinking establishment, small” means an eating and drinking establishment with a floor area of 1,000 square feet or less.

2. “Eating and drinking establishment, large” means an eating and drinking establishment with a floor area of more than 1,000 square feet.

“Electric sign” means any sign activated or illuminated by means of electrical energy.

“Electronic message sign or center” means an electrically activated changeable sign whose variable message capability can be electronically programmed. The electronic sign includes text and/or graphic messages that may change every few seconds. Advertising messages may contain words, phrases, sentences, symbols, trademarks and logos. See BMC 17.95.120 for requirements regarding electronic signs.

“Emergency housing” or “emergency shelter” means temporary housing or shelter provided by a governmental entity, or a private organization sanctioned by a governmental entity, to house those persons who would otherwise be without housing or suitable shelter due to natural disaster, personal circumstances, fire, economic calamity, disability, addiction, health issues, or other similar circumstances. Emergency housing is typically provided in a congregate setting for stays of limited duration and may include the provision of supportive services including, but not limited to, food service, counseling, and screening for benefits eligibility.

“Emergency services” means fire, police, and emergency medical service (EMS) stations and facilities.

“Enhanced pedestrian amenities” means convenience and safety improvements provided for the benefit of pedestrians that exceed the minimum requirements identified in the Burlington Municipal Code. Enhanced pedestrian amenities include plazas, raised crosswalks, benches, pedestrian lighting, street trees, pedestrian signage, wider sidewalks, and awnings or overhangs providing weather protection for pedestrians. Information on enhanced pedestrian amenities is located in Chapter 17.85 BMC.

Commented [BJ24]: BJ – 3-29-2023 – added reference to onsite food and drink manufacturing to address common questions about these uses. Absent onsite sales these types of uses would have previously been considered industrial.

Commented [BJ25]: BJ – 3-29-2023 – added to address uses like the First Step Center which do not fit into the definition of a hotel or dwelling.

“Essential public facility (EPF)” means any public facility or facilities owned or operated by a unit of local or state government, public or private utility, transportation company, or any other entity that provides a public service as its primary mission, and is difficult to site. EPFs include those facilities listed in RCW 36.70A.200.

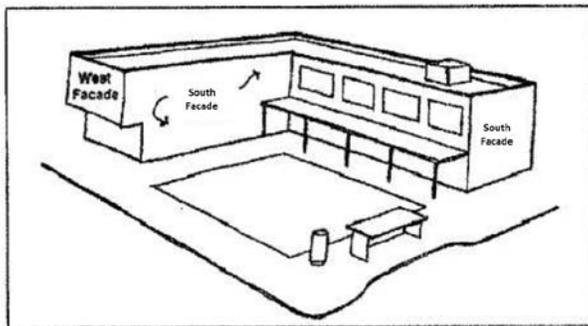
“Exterior lot” means a lot which directly abuts or adjoins at least one public or private street.

“Exterior sign” means any sign placed outside a building.

“F”

“Facade” means the exterior wall face of a building, extending from the ground to the top of the parapet or eaves, but not including any portion of the roof. Each side of a building (i.e., each architectural elevation) is considered one facade (see Figure 4). For buildings with more than one occupant, the facade for each occupant shall be that portion of the exterior wall face between the points where the interior walls between tenants intersect with the exterior wall.

Figure 4. Facade



Commented [BJ26]: 4-12-2023 – BJ – Revised Image to correct incorrect direction labels – Code reviser please use this image.

“Family” means a person, or two or more persons, related by blood or marriage or law living together as a single housekeeping unit in a single dwelling. In addition, the following shall be included in the definition of family pursuant to the requirements of state and/or federal law:

1. Adult family homes licensed pursuant to RCW 70.128.150;
2. Foster homes for the placement of the disabled, or expectant mothers in a residential setting including, but not limited to, foster family homes licensed pursuant to chapter 74.15 RCW, community group care facilities licensed pursuant to chapter 74.15 RCW and crisis residential centers pursuant to chapter 13.32A RCW;
3. Consensual living arrangements of the disabled protected pursuant to the Federal Fair Housing Act amendments; and
4. A housekeeping unit as defined in this chapter.

Secure community transition facilities, as defined in chapter 71.09 RCW, are not included in the definition of “family.”

“Family day care home” means a residential dwelling used by a family day care provider to provide day care services in accordance with the provisions of RCW 36.70A.450 and 43.215.010.

“Family day care provider” means a child care provider who regularly provides early childhood education and early learning services for not more than 12 children in the provider’s home in the family living quarters.

Flashing Sign. See “animated sign, electrically activated.”

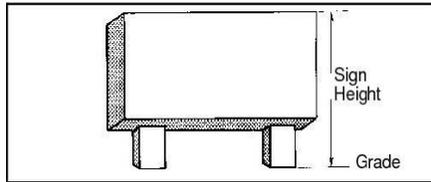
“Floor area” means the sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls and from the centerline of division walls. Floor area shall include: basement space, elevator shafts and stairwells at each floor, mechanical equipment rooms or attic spaces with headroom of seven feet, six inches or more, penthouse floors, interior balconies and mezzanines, enclosed porches. Floor area shall not include: accessory water tanks and cooling towers, mechanical equipment or attic spaces with headroom of less than seven feet, six inches, exterior steps or stairs, terraces, breezeways and open spaces.

“Footprint” means the area covered by a building or structure.

“Foster family home” means a dwelling unit used as a foster family home as defined in WAC 388-25-010 and chapter 74.13 RCW.

“Freestanding sign” means a sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground. Freestanding signs include those signs otherwise known as pedestal signs, pole signs, pylon signs, and monument signs.

Figure 5. Freestanding Sign



“Frontage (building)” means the length of an exterior building wall or structure of a single premises oriented to the public way or other properties that it faces as determined by the community development director or designee.

“Fueling station” or “Gas station” means an automotive retail sales and service use where the primary use of the property is the sale of fuel for motorized vehicles or the provision of access to electric vehicle charging stations. This definition does not include charging stations associated with a primary permitted use, the addition of charging stations to a parking area serving a primary permitted use, or charging stations associated with publicly owned on-street or off-street parking areas.

“G”

“Gas station” means an automotive retail sales and service use in which fuel for motorized vehicles is sold, and in which accessory uses including, but not limited to, towing by no more than two tow trucks, minor automobile repair, or rental of vehicles under 10,000 pound gross vehicle weight may also be provided. Facilities for washing no more than one car at a time or for the collection of used motor oil shall also be considered accessory to a gas station.

“Government agency” means any state or local governmental body, commission, department, or officer, including, but not limited to, state agencies, cities, towns, counties, political subdivisions, public utility districts, public corporations, and special purposes districts. This term shall also include the United State government, federal agencies, and tribal governments unless doing so would conflict with federal preemption or tribal sovereignty.

“Guest cottage” or “guest house” means a detached accessory building secondary and subordinate to a dwelling unit used by the family occupying the dwelling unit for the purpose of housing members of the family or guests. A guest cottage does not contain a kitchen or cooking facilities and is not used as a separate dwelling unit. This term does not include accessory dwelling units as defined in this chapter which may contain kitchens or cooking facilities and which may be used as separate dwelling units.

“Guyed tower” means a wireless communication support structure which is usually over 100 feet tall, which consists of metal crossed strips or bars and is steadied by wire guys in a radial pattern around the tower. Guyed towers are often constructed in rural areas and are used to support antennas and related equipment.

“H”

“Health care facility,” “medical service” or “outpatient clinic” means a building, or a portion of a building, containing offices for providing medical, dental, immediate care clinics, or psychiatric services not involving overnight housing of patients. This term does not include hospitals or nursing homes as defined in this chapter.

“Height of sign” or “sign height” means the vertical distance from the adjacent ground level to the highest point of a sign or, in the case of freestanding signs, to any vertical projection thereof including its supporting columns.

“Heliport” means an area or facility for the landing or takeoff of rotary-wing aircraft. This term does not include runways or facilities for fixed-wing aircraft.

“Holographic display” means any display that creates a three-dimensional image through projection.

“Home occupation” means an occupation or profession which is customarily incidental to or carried on in a dwelling unit and not one in which the use of the premises as a dwelling place is largely incidental to the occupation carried on, and which occupation is carried on by a member of the family residing within the dwelling place.

“Hospital” means a building designed and used for the medical and surgical diagnosis, treatment and housing of persons under the care of doctors and nurses. Rest homes, nursing homes, convalescent homes and clinics are not included.

“Hotel” or “motel” means a building, or a portion of a building, designed or used to provide transient accommodations in exchange for compensation and consisting of three or more lodging units. An eating and drinking establishment and accessory shops and services catering to the general public may be provided as accessory uses. This definition does not include institutions housing persons under legal restraint, ~~or~~ requiring medical attention or care, or facilities providing emergency housing.

“Housekeeping unit” means one household where all the members have common access to and common use of all living, kitchen, and eating areas within the dwelling unit, and household activities and responsibilities such as meals, chores, expenses, and maintenance of the premises are shared or carried out according to a household plan or other customary method. If the dwelling unit is rented, the household members must jointly occupy the unit under a single lease in order to be considered a housekeeping unit. This term does not include boarding or rooming houses as defined in this chapter where rooms within a dwelling unit are rented or leased to individuals under separate leases.

“I”

“Illegal sign” means a sign that does not meet the requirements of this chapter and has not received legal nonconforming status.

“Illuminated sign” means a sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated).

“Impervious surface” means a hard surface which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a hard surface area which 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, rooftops and eaves, walkways, patios, decks (both covered and open slat construction shall both be considered impervious), driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, rockeries and oiled macadam or other surfaces which similarly impede the natural infiltration of surface and storm water runoff. Open, uncovered storm water retention and detention facilities shall not be considered impervious surfaces for purposes of this definition. For purposes of calculating impervious surface coverage and demonstrating compliance with this title, the following impervious surfaces shall be included at a ratio of 50 percent:

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

2. “Open slatted decking” means a deck surface constructed of boards with intermittent gaps that allow water to pass through to the surface below. Only open, uncovered decks installed over a permeable surface shall be included in impervious surface calculations at a 50 percent ratio. Covered decks, or decks installed over an impermeable surface, shall be considered an impervious surface and included in all coverage calculations accordingly.

3. “Green roof” or “vegetated roof” means a roof, or a portion of a roof, consisting of waterproofing material, growing medium or soil, and vegetation used in place of or over the top of a conventional roof. Green roofs provide storm water management by capturing, filtering, and evaporating rainfall.

“Industrial, minor” or “light industrial” means a use or activity involving the assembly of goods or products from pre-manufactured materials or components, the repair, servicing, or sale of goods or products, and the processing or preparation of food and beverage products for offsite consumption. Minor industrial activities can be performed with minimal adverse impact on, and pose no special hazard to, the environment or community. Minor industrial uses and activities are differentiated from major industrial activities by taking place entirely within an enclosed building and by not generating external emissions such as smoke, objectionable odors, noise, vibrations, or nuisances outside the building where the use or activity takes place. Minor industrial uses and activities may involve outdoor sales or storage but do not involve outdoor manufacturing, assembly, or material processing. Examples of minor industrial uses and activities include, but are not limited to:

1. Assembly, repair, and servicing of mechanical, automotive, marine, contractor’s or builder’s equipment and supplies (other than heavy vehicle and equipment repair);
2. Assembly, repair, and servicing of electrical and electronic equipment and products.
3. Commercial bakeries and kitchens not associated with an eating and drinking establishment;
4. Breweries and distilleries not associated with an eating and drinking establishment;
5. Commercial printers and publishing companies (not including retail photocopying and printing services);
6. Assembly, repair, and servicing of scientific, medical, and precision instruments and equipment;
7. Repair and servicing of bulky items including, but not limited to, small engines, lawn and garden equipment, appliances, commercial and industrial electronics and controls, pumps and hydraulic equipment, marine equipment and engines, boats, HVAC equipment, and tools;
8. Precision machine and mechanical work including rebuilding and servicing engines, transmissions, and similar mechanical components;
9. Cold storage plants.

Commented [BJ27]: BJ – 10-25-2021 – moved from major industrial to minor industrial. Cold storage is low impact similar to conventional storage and warehousing. No reason this can’t be in CI-1.

“Industrial, major” or “heavy industrial” means a use or activity involving the transformation of materials and substances into new products including additive or subtractive processes, construction, testing, and assembly of component parts and the blending of materials such as lubricating oils, plastics, or resins. Major industrial uses and activities may generate external emissions such as smoke, objectionable odors, noise, vibrations, or nuisances which may be perceptible beyond the site boundaries but which can be mitigated to a level of non-significance through the application of appropriate permit conditions. Major industrial uses and activities may involve the use of large outdoor areas for manufacturing, assembly, or material processing. Such uses and activities include, but are not limited to:

1. Manufacturing, processing, blending, and packaging of lime, gypsum, abrasives, chalk, pumice, clay and cement products such as tile, pipe, brick etc.;

2. Manufacturing and assembly of automotive and aerospace vehicles;
3. Manufacturing paints, printing ink, and leather goods;
4. Basic wood processing including sawmills, planing mills, veneering and laminating woods, processing, or production of firewood, and the production of engineered wood products such as trusses, beams, and panels;
5. Commercial laundries;
6. Enameling, galvanizing, and electroplating;
7. Bulk material sales and storage;
8. Manufacturing, processing, blending and packaging of the following:
 - a. Drugs, pharmaceuticals, toiletries, and cosmetics;
 - b. Food and kindred products, such as confectionery products, chocolate, cereal breakfast food, bakery products, paste products, fruits and vegetables, beverages, prepared food specialties (such as coffee, dehydrated and instant food, extracts, spices and dressings) and similar products;
 - c. Dairy products and byproducts such as milk, cream, cheese and butter, including the processing and bottling of fluid milk, and cream and wholesale distribution;
 - d. Soaps, detergents, and other basic cleaning and cleansing materials;
 - e. Mineral products.

“Industrial, high impact” means a use or activity that may generate significant emissions or impacts perceptible beyond the site boundaries that cannot be mitigated or are difficult or impractical to mitigate. High impact industrial uses and activities may also involve the production, processing, handling, storage, or disposal of hazardous or dangerous substances or materials. Such uses and activities include, but are not limited to:

1. Animal and food processing including slaughterhouses, the tanning and dressing of hides, curing, canning, and processing meat and seafood, or pickling and brining;
2. Bulk storage, processing, production, or refining of oil, gas, petroleum and petroleum products, butane, chemicals, shellac, varnish, turpentine, paper, pulp, rubber from crude material;
3. Rock crushing plants;
4. Concrete mixing and batching plants, including ready-mix concrete facilities;
5. Production, processing, or recycling of metal;
6. Disposal, processing, or storage of solid waste including transfer and recycling facilities;
7. Commercial composting and production of mulch, bark, or wood chips;
8. Truck stops.

“Informational sign” means a single- or double-faced sign intended primarily for the safety and convenience of the public or to ensure the orderly operation of the site, including but not limited to signs designating restrooms, address numbers, hours of operation, business directories, help wanted, public telephones, and instructions regarding parking.

“Inoperable vehicle” means a car, truck or van that cannot be started and moved under its own power. A vehicle that is not currently licensed, including a recreational vehicle or trailer that is designed for travel on the public roads is

~~also considered an inoperable vehicle. "Inoperable vehicle" means a car, truck or van that cannot be started and moved under its own power. A vehicle that is not currently licensed, including a recreational vehicle or trailer, that is designed for travel on the public roads, is also considered an inoperable vehicle.~~

~~"Internal access street" means a street providing vehicle and pedestrian access within a development or parking area. Internal access streets provide access to three or more drive aisles.~~

~~"Interior lot": see "lot" definitions. means a lot which has no street frontage and which can only be accessed through a driveway or shared driveway.~~

"Interior sign" means any sign placed within a building, but not including window signs as defined by this chapter. Interior signs, with the exception of window signs as defined, are not regulated by this chapter.

"J"

"Junk storage" means the temporary or permanent storage outdoors of junk, waste, discarded, salvaged or used materials or inoperable vehicles or vehicle parts. This definition shall include, but not be limited to, the storage of used lumber, scrap, metal, tires, household garbage, furniture, and inoperable machinery, and as further defined in the current edition of the International Fire Code. See also chapter 8.12 BMC, Nuisances.

"Junk yard" means a lot, land or structure, or part thereof, used for the collection, storage and sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage, salvaging or sale of parts of machinery or vehicles not in running condition.

"K"

~~"Kennel": see "pet boarding" definition. means a facility, structure, property, or development where more than four dogs and/or one litter of unweaned pups are kept.~~

"L"

"Land use" means the type of use activity occurring on a land parcel or within a building situated upon a land parcel.

"Land use permit" means a document issued by the city which documents or authorizes a particular use or development. A land use permit formally documents the city's land use decision and may establish, or document, the conditions and restrictions applicable to the use or development.

"Lattice tower" means a wireless communication support structure which consists of metal crossed strips or bars to support antennas and related equipment.

"Lodging unit" means a room, or a group of interconnected rooms, intended for sleeping, that is rented on a short-term basis to guest(s) to provide transient accommodation and is individually designated by number, letter, or other means of identification. Lodging units may contain cooking facilities; however, this definition does not include long-term, non-transient accommodations such as multifamily dwellings and/or boarding houses.

"Lot" means a single unit of land having fixed boundaries, no matter how legally described.

1. "Lot, corner" means a lot at the junction of, and fronting on, two or more intersecting streets. A corner lot has a front lot line and a street side lot line.
2. "Lot, illegal" means a lot, tract, parcel, or site created in violation of applicable zoning and platting regulations.
3. "Lot, interior" means a lot other than a corner lot or a through lot.
4. "Lot, legal" means a lot, tract, parcel, or site created in compliance with the zoning and platting regulations in effect at the time of its establishment or creation. This term also includes illegally created lots that are

Commented [BJ28]: BJ – 10-25-2021 – Revised to include sub definitions for legal and illegal lots. Previously the term lot was defined as only including legal lots creating a conflict with the non-conforming uses section and title 16, both of which describe lots as being either legal or illegal.

subsequently recognized by the city as separate lots consistent with the requirements of Title 16 BMC and Chapter 57.17 RCW.

~~“Lot” means a single tract of land, no matter how legally described, whether by metes and bounds and/or by lot or lots and block designation as in a recorded plat, that at the time of applying for a building permit is designated by its owner or developer as the tract to be used, developed or built upon as a unit of land under single ownership or control and assigned to the particular use for which the building permit is being secured. This definition includes only those lots, tracts, parcels, and sites which were created in compliance with the zoning and platting regulations in effect at the time of their establishment, or which are subsequently recognized by the city as separate lots consistent with applicable municipal code requirements and Washington State law.~~

“Lot area” means the area of a lot contained within the lot lines. Lot area includes areas within easements, submerged lands, and wetland areas. For purposes of determining compliance with this title the city may require that lot area(s) be calculated by a licensed land surveyor.

“Lot depth” means the mean dimension of the lot from the front lot line to the rear lot line.

“Lot line” means a line or boundary which separates a lot, tract, parcel, or site from another lot, tract, parcel or site, or from an adjoining public street or right-of-way. For purposes of compliance with this title the city may require that the location of lot lines be determined by a licensed land surveyor.

1. “Front lot line” means the lot line parallel to and abutting a public or private street. For interior lots, or lots with more than one street frontage, the front lot line shall be side which provides the primary means of access to the lot. If a lot has frontage on a street and an alley, the property line adjoining the alley shall not be considered a front lot line regardless of the point of access.
2. “Rear lot line” means the lot line which is opposite from and generally parallel to the front property line.
3. “Side lot line” means any lot line other than the front line or rear lot line. Generally a side property line is perpendicular to and connects the front and rear property lines.
4. “Street side lot line” means a lot line, other than a front lot line, which adjoins a public or private street.

“Lot width” means the dimension across the lot between the side lot lines at the front setback line.

“Low impact development” or “LID” means a storm water and land use management strategy that strives to mimic predisturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed storm water management practices that are integrated into a project design. Low impact development features, practices, and techniques include bioretention, rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, vegetated or green roofs, minimum excavation foundations, and water reuse.

“M”

“Macro facility” means an attached wireless communication facility which consists of antennas equal to or less than 15 feet in height or a parabolic antenna up to one meter (39.37 inches) in diameter and with an area not more than 100 square feet in the aggregate as viewed from any one point.

“Manufactured home” means a single-family dwelling unit built in accordance with regulations adopted under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.) and (RCW 43.22.335). This term includes modular homes as defined in this chapter but does not include mobile homes. This term also does not include recreational vehicles, park models, trailers, and other similar vehicles which are licensed for use on public roads, capable of being licensed for use on public roads, or designed and constructed to be licensed for use on public roads. Only structures which are certified by the state of Washington or federal government for use as a permanent habitable dwelling are included in this definition.

“Manufactured home park” means an area of land occupied or designed for the occupancy of two or more manufactured homes.

“Marijuana processor” means a person licensed by the State Liquor and Cannabis Board to process marijuana into usable marijuana and marijuana-infused products, package and label usable marijuana and marijuana-infused products for sale in retail outlets, and sell usable marijuana and marijuana-infused products at wholesale to marijuana retailers.

“Marijuana producer” means a person licensed by the State Liquor and Cannabis Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

“Marijuana retailer” means a person licensed by the State Liquor and Cannabis Board to sell usable marijuana and marijuana-infused products in a retail outlet.

“Mean depth” of a lot is the depth of such lot measured on a line approximately perpendicular to the fronting street and midway between the side lines of such lot.

“Medical service” means a retail sales and service use in which health care for humans is provided on an outpatient basis including, but not limited to, offices for doctors, dentists, chiropractors, and other health care practitioners.

“Meeting facility” means an assembly use such as a church, community building, or fraternal organization where people gather for meetings, lectures, religious services, instruction, debates, ceremonies, or other similar events. Meeting facilities do not include “commercial entertainment” as defined in this chapter. Meeting facilities are differentiated from commercial entertainment by primarily providing meeting space for a membership group or association on a private, not for profit, basis.

1. “Meeting facility small” means a meeting facility with a ground floor area of 2,500 square feet or less and a total floor area of 5,000 square feet or less.
2. “Meeting facility large” means a meeting facility with a ground floor area of more than 2,500 square feet or a total floor area in excess of 5,000.
3. “Meeting facility, public” means a public facility intended to accommodate public meetings, events, and gatherings such as a city hall, court, hearing rooms, auditoriums, community center, or theatre.

“Mini commercial child day care center” or “mini commercial day care” means a commercial child day care center that provides services to not more than 12 children at any one time.

“Mobile home” means a factory built dwelling unit that does not meet current state or federal standards for factory built dwellings, modular homes, or manufactured homes. This definition does not include manufactured or modular homes as defined in this chapter or site built homes constructed in accordance with city building code requirements. Mobile homes may not be placed within the city of Burlington; however, existing legally established mobile homes shall be considered a nonconforming use and shall be subject to the nonconforming standards set forth in chapter 17.100 BMC.

“Modular home” means factory built housing as defined by RCW 43.22.450(3) which has been approved by the Department of Labor and Industries in accordance with RCW 43.22.455.

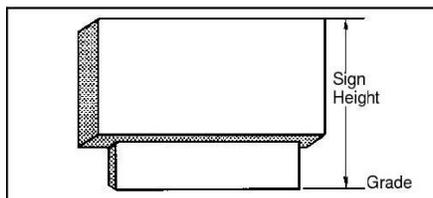
“Modulation” means an architectural technique for breaking up the apparent bulk of a structure’s continuous exterior walls or façade. Modulation involves stepping back or projecting forward portions of the façade within specified intervals of width and depth.

“Monopole I” is a wireless communication facility which consists of a support structure, the height of which shall not exceed 60 feet.

“Monopole II” is a wireless communication facility which consists of a wireless communications support structure greater than 60 feet in height erected to support wireless communication antennas and connecting appurtenances.

“Monument sign” means a ground-mounted, fixed sign. The base (not included in the sign surface area calculation) is attached to the ground as a wide base of solid construction.

Figure 6. Monument Sign



“Multiunit building” or “Multifamily dwelling”: see definition under “dwelling” means a building containing three or more dwelling units.

“Multiple-tenant development” means a group of structures housing at least one retail business, office, commercial venture, or independent or separate part of a business or a single structure containing more than one business with separating walls and at least one outside access for each business which shares a common lot, access, and/or parking facility.

“N”

“Noncommercial public service sign” means a noncommercial sign devoted to religious, charitable, cultural, governmental, or educational messages including, but not limited to, the advertising of events sponsored by a governmental agency, a school, church, civic or fraternal organization or other organizations.

“Nonconforming lot” means a lot which was legally established but which does not conform to current zoning or development regulations including any applicable standards for width, depth, or area. For purposes of interpreting this definition, “legally established” means the lot was created in compliance with the zoning and platting regulations, if any, in effect at the time the lot was created. A lot may also be considered a legal nonconforming lot if it is subsequently recognized by the city as a separate lot consistent with applicable municipal code requirements and Washington State law.

“Nonconforming structure” means a structure which was lawfully established but which does not conform to current zoning or development regulations. A structure shall be considered lawfully established if it conformed to the applicable zoning and development regulations in effect at the time it was built or established. This includes the requirement to obtain city approvals or permits. A structure shall also be considered lawfully established if a permit for the structure has been granted and has not expired. Subsequent expansions or modifications of a legally established structure shall conform to all applicable zoning and development regulations in effect at the time of the modification or expansion. Specific regulations governing nonconforming structures can be found in chapter 17.100 BMC.

“Nonconforming use” means the use of land or a structure for a purpose which was lawful at the time the use was established or initiated but which does not now conform to currently applicable zoning or development regulations. A use shall be considered lawfully established if it was consistent with all of the applicable zoning and development regulations in effect at the time it was established or initiated. This includes the requirement to obtain city approvals or permits. A use shall also be considered lawfully established if a permit authorizing the use has been granted and has not expired. Subsequent expansions or modifications of a legally established use shall conform to all applicable zoning and development regulations in effect at the time of the modification or expansion. Specific regulations governing nonconforming uses can be found in chapter 17.100 BMC.

“Nuisance tree” means any tree which, in the opinion of an arborist, is causing or is likely to cause significant damage to a street, sidewalk, above or below ground utilities, or building, that cannot be mitigated without removal of the tree.

“Nursing home” or “convalescent home” means a facility licensed by the state of Washington providing 24-hour supervised nursing care, personal care, therapy, nutrition management, organized activities, social services, room, board, and laundry for persons requiring regular medical attention by reason of chronic illness or infirmity, but

excluding surgical or emergency medical services. This definition excludes hospitals, multifamily dwellings, boarding houses, and hotels as defined in this chapter.

1. “Nursing home, small” means a nursing home with 8 beds or less.

a-2. “Nursing home, large” means a nursing home with more than 8 beds.

“O”

“Off-premises sign” means a sign which displays a message relating to a use of property or sale of goods or services at a location other than that on which the sign is located.

“Office” means a commercial use which provides administrative, contractors, professional or customer services to individuals, businesses, institutions and/or government agencies in an office setting.

1. “Administrative office” means an office use in which services are provided to customers primarily by phone or mail, by going to the customer’s home or place of business, or on the premises by appointment; or in which customers are limited to holders of business licenses. Examples of services provided include, but are not limited to, general contracting, janitorial and housecleaning, legal, architectural, data processing, broadcasting companies, administrative offices or businesses, unions or charitable organizations, and wholesalers and manufacturer’s representatives’ office. Administrative offices may include accessory storage, but not the storage of building materials, contractor’s equipment or items, other than samples, for wholesale sale.

2. “Customer service office” means an office use in which on-site customer services are provided in a manner which encourages walk-in clientele and in which generally an appointment is not needed to conduct business. Examples include branch banks, travel agencies, airline ticket offices, brokerage firms, real estate offices, and government agencies which provide direct services to clients.

3. “Professional office” means a small scale office used as a place of business by licensed professionals, or persons in other generally recognized professions, which use training or knowledge of a technical, scientific or other academic discipline as opposed to manual skills, and which does not involve outside storage or fabrication, or on-site sale or transfer of commodity. This term includes office space for lawyers, accountants, engineers, architects, consultants, and other similar professions.

Commented [BJ29]: BJ – 5-17-2021 – Relocated from its own heading. Improves clarity and organization. This way “offices” as a general category can be listed in zones where all types are allowed, but more specific use allowances can be made in other zones. No changes to substance

“On-premises sign” means a sign which displays a message which is directly related to the use of the property on which it is located.

“Outdoor storage” means the keeping of materials, supplies, equipment, machinery, or the long term storage of vehicles outdoors or in a building without walls.

“Outdoor vending machine” shall mean a mechanical device located on the outside of a building that provides a product or service to the public for compensation, including but not limited to drink dispensers, food dispensers, movie rental or other product vending machines. The definition shall also include freestanding automated teller machines that are not on the same property as the financial institution. For purposes of this chapter, news boxes, pay phones, youth amusement rides, and bottled soda, juice or water machines shall not be deemed to be outdoor vending machines.

“P”

“Parking column” means two parking rows abutting one another and arranged back-to-back.

“Parking lot” or “parking area” means an area, or a portion of a development site, established for the purpose of accommodating parking spaces. Parking lots include both individual parking spaces and any associated drive aisles and circulation areas.

“Parking row” means a row of abutting parking spaces arranged alongside one another.

“Parking space” means a space used to temporarily park an operable motor vehicle and having access to a public street or alley. This term does not include a space used for the storage of a junk, wrecked, or inoperable vehicle.

“Pedestrian scale lighting” means outdoor lighting fixtures used to illuminate sidewalks and pedestrian paths with a scale an intensity suitable for pedestrians. Pedestrian scale lighting is mounted no higher than 14 feet above the surrounding grade and includes freestanding fixtures (pole lights), lighted bollards, and building mounted lights.

“Pet boarding” means any use or property where seven or more pets or more than four dogs are kept and any use where daytime or overnight care or boarding services are provided for household pets.

1. “Pet boarding, daycare” means a type of pet boarding where care is provided to household pets during the day and where pet training or grooming services may also be provided but does not include breeding or overnight boarding.

~~a-2.~~ “Pet boarding, overnight” or “kennel” means a type of pet boarding where overnight care is provided to household pets and where pet training or grooming services may also be provided. This term also includes the breeding of household pets and the keeping of more than one litter of un-weaned pups.

“Parking space” means a space used to temporarily park a motor vehicle and having access to a public street or alley.

“Permitted use” means any use authorized or permitted alone or in conjunction with another use in a specific district and subject to the limitations of the regulations of such use district.

“Personal and household retail sales and service” see “retail” definition, means a retail sales and service use in which goods are rented or sold or services are provided primarily for household and personal use, rather than for business establishments, institutions, or governmental agencies, but excluding uses in which primarily building materials and/or heating fuel are sold. Examples of personal and household retail sales are bookstores, furniture stores, and grocery stores. Examples of personal and household services are shoe repair, hair-cutting salons, and dry cleaning.

1. “General personal and household retail sales and service” means a personal and household retail sales and service use which is not a multipurpose convenience store, major durables sales and service or a specialty food store.

2. “Major durables sales, service, and rental” means a personal and household retail sales and service use in which large household items such as, but not limited to, furniture or appliances, are rented or sold.

3. “Multipurpose convenience store” means a personal and household retail sales and service use in which a wide range of items frequently purchased for household use are rented or sold. Examples of multipurpose convenience stores include, but are not limited to, grocery, hardware, drug, and variety stores.

4. “Specialty food store” means a personal and household retail sales and service use in which food such as salads, deli meats, desserts, baked goods, whole pizzas, and other ready-to-eat foods are prepared and sold, generally for consumption on other premises. Specialty packaged foods, and/or bulk items such as cheese, and aged foods may also be sold, and the square footage of any area used for seating for the immediate consumption of food shall be no more than 300 square feet. If more than 300 square feet are devoted to seating space, the entire use shall be considered an eating and drinking establishment rather than a specialty food store.

“Personal services” means a use where personal services are provided and goods accessory to the provision of such services may be sold. This term includes beauty salons, barber shops, consumer dry cleaning services and laundromats, jewelry and watch repair, tailors, tattoo shops, small electronic device repair, pet grooming, and other similar businesses.

“Personal and household storage” means a building, group of buildings or other facility having compartments, rooms, spaces, containers or other type of units that are individually leased, rented, sold or otherwise contracted for by customers for the storage of personal or household goods or property, and where the facility owner/operator has limited access to the units. For purposes of this title, “self-service storage facility” shall be considered synonymous with self-storage warehouse, self-storage facility, mini-warehouse or mini-storage. This term does not include warehouses and freight distribution facilities.

“Placement of a recreational vehicle” means to store a wrecked, inoperable, or unlicensed recreational vehicle on a lot for a period of more than 30 days, or to store a wrecked, inoperable, or unlicensed recreational vehicle outdoors or on an unpaved surface.

“Portable sign” means a movable sign that is not permanently attached to a structure or the ground. Portable signs include A frame signs and signs mounted on a portable base, but not portable readerboards.

“Primary residential building” or “principal residential building” means a building containing one or more dwelling units. This term does not include accessory dwelling units as defined in this chapter.

“Primary use (or principal use)” means the use for which a lot, structure or building, or the major portion thereof is designed or actually employed.

“Private passenger transportation services” means a use where transportation services are provided to paying customers. Private transportation services include bus and train terminals, taxi dispatch centers, and other similar uses. This term does not include publicly operated transportation services such as transit stops.

“Private school” means a privately operated school.

1. “Private school, small” means a privately operated school with a ground floor area no greater than 2,500 square feet and a total floor area of 5,000 square feet or less.
2. “Private school, large” means a privately operated school with a ground floor area greater than 2,500 square feet or a total floor area greater than 5,000 square feet.

“Professional office” means a small scale office used as a place of business by licensed professionals, or persons in other generally recognized professions, which use training or knowledge of a technical, scientific or other academic discipline as opposed to manual skills, and which does not involve outside storage or fabrication, or on-site sale or transfer of commodity. This term includes office space for lawyers, accountants, engineers, architects, consultants, and other similar professions.

“Projecting sign” means a building mounted sign which projects past the face of a building for the purpose of displaying the sign content in a direction other than parallel to the building facade.

“Public hearing” means a duly advertised public meeting called by the hearing examiner, council, or commission of the city for the purpose of taking formal public comment, both in favor and opposition to a proposed action.

“Public services” or “public facilities” means services, facilities, and uses owned, operated by, or operated on land owned by a government agency.

1. Public services, administrative and customer service means public offices, buildings and facilities that provide administrative or institutional services or involve direct customer interactions, such as an office, library, school, or city hall.
2. Public services, industrial means a use or facility used for minor industrial purposes or having characteristics similar to private uses categorized as industrial. Examples of such uses include storage buildings, equipment repair shops, maintenance facilities, storage and service yards, and sewage treatment plants.

“R”

“Reader board” means a sign or part of a sign on which the letters are replaceable by manual means, such as changing magnetic letters on a sign board see definition under “sign”.

“Recreation facility, active” means areas, improvements, or structures dedicated to the enjoyment of physical activities and recreational activities, including but not limited to organized athletic events such as tennis, soccer, running, basketball and baseball; scheduled spectator sports requiring large improved land areas, fields, courts, or facilities; and bicycle tracks or courses. Active recreation facilities are differentiated from passive recreation facilities by the level of site alterations and improvements required to support the activity. Active recreation uses may require large parking areas, cleared and improved fields, large areas of impervious surfaces, outdoor lighting, sound systems, spectator seating, large buildings, and other related improvements.

“Recreation facility, passive” means areas or improvements dedicated to protecting or enhancing critical area functions and values; providing opportunities for the public to enjoy the natural environment or scenic landscapes; educational or research activities primarily related to the natural environment; recreational activities that require no significant site alterations or physical improvements such as trails, paths, viewing platforms, and interpretive signs. Passive recreation facilities may include minor accessory improvements such as benches, picnic tables, ornamental landscaping, community gardens, signage, and small parking areas.

“Receiving site” means the site in the recipient zoning district that will receive the increased density by purchasing Burlington heritage credits at a set fee or transferring development rights from the sending site. Receiving sites in the city of Burlington are further described in the MR-NB, B-1, C-1 and R-3 zoning districts.

“Recreational vehicle” or “RV” means a structure or vehicle containing living space intended to provide short-term transient accommodations for recreational purposes or travel and licensed for use on public roads, designed to be licensed for use on public roads, or capable of being licensed for use on public roads. This term includes trailers, campers, motor homes, park models, and other similar vehicles but does not include manufactured homes as defined in this chapter. A recreational vehicle shall not be considered, or used as, a dwelling unit and shall not be used as a permanent place of habitation, or as sleeping quarters for periods of 30 days or more.

“Residential small lot”, “residential small lot development”, or “small lot development” means a process by which lots, smaller than would normally be permitted, may be created through a short subdivision or subdivision process.

“Related equipment” is all equipment ancillary to the transmission and reception of voice and data via radio frequencies. Such equipment may include, but is not limited to, cable, conduit and connectors.

“Retail”, retail sales and service”, or “personal household retail sales and service” means a commercial use in which goods are rented or sold at retail to the general public for direct consumption and not for resale, or in which services are provided to individuals and/or households. Merchandise may be bought as well as sold and may be processed as long as the items processed are sold on the premises, and production is incidental or subordinate to the selling, rental or repair of goods. See the following definitions: “personal and household retail sales and service,” “medical services,” “automotive retail sales and service,” and “eating and drinking establishments.” This term does not include marijuana retailers.

1. “Retail sales and service, small scale” means a retail sales and service establishment with a floor area of 1,000 square feet or less.
2. “Retail sales and service, medium scale” means a retail sales and service establishment with a floor area greater than 1,000 square feet but less than 5,000 square feet.
3. “Retail sales and service, large scale” means a retail sales and service establishment with a floor area of 5,000 square feet or more.

“Residential zone”, means an area zoned RD or RA.

“Rezone” means an amendment to the official land use map to change the zone classification of an area.

~~“Roof sign” means a sign or sign structure erected above a roof, parapet, canopy, or porte cochere of a building or structure.~~

“S”

“Sales and rental of motorized vehicles” means an automotive retail sales and service use in which motorized vehicles, such as cars, trucks, buses, recreational vehicles or motorcycles, or related nonmotorized vehicles, such as trailers, are rented or sold.

“School” means an institution of learning, whether public or private, which offers instruction in those courses of study required by the Washington Education Code or which is maintained pursuant to standards required by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, junior high school, senior high school or any special institution of education, and also includes higher education institutions and vocational schools, but does not include health and fitness clubs or facilities that solely provide artistic or musical instruction.

“Secure community transition facilities (SCTF)” means, under RCW 71.09.020, a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under chapter 71.09 RCW. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include but are not limited to the facility established pursuant to RCW 71.09.250 and any community-based facilities established under this chapter and operated by the Washington State Secretary of Social and Health Services or under contract with the Secretary.

“Sending site” means the site that is to be preserved as agricultural resource land by selling or transferring its residential development rights to the Skagit farmland legacy program or other entity approved by the Skagit farmland legacy program. Sending sites shall be maintained permanently as agricultural lands and no structures may be built on the land. Sending sites may not be in public ownership. If the sending site consists of more than one tax lot, the lots must be contiguous. For purposes of this section, lots divided by a street are considered contiguous if the lots would share a common lot line if the street was removed. See Map Exhibit A, attached to the ordinance codified in this chapter, for land generally eligible as sending sites for the purpose of this chapter.

“Service yard” or “storage yard” means an accessory yard or outdoor area used to store functional equipment, operable vehicles, materials, or used for outdoor fabrication or processing of materials. This term does not include junk storage, junk yards, or wrecking yards.

“Setback” means the space or distance required between a lot line and a building, structure, or development. Required setback areas are intended to remain free of buildings and structures and open to the sky as specified in this title. Setbacks may also be required between different and incompatible uses.

1. “Front setback” means an open unoccupied space parallel and adjacent to the front property line and extending from one side property line to the opposite side property line. No building or structure shall be placed within or extend into a required front setback unless explicitly authorized by this title.
2. “Rear setback” means an open, unoccupied space parallel and adjacent to the rear property line and extending from one side property line to the opposite side property line. No building or structure shall be placed within or extend into a required rear setback except as explicitly authorized by this title.
3. “Side setback” means an open unoccupied space parallel and adjacent to a side property line and extending from the front property line to the rear property line. Buildings and structures shall not be placed within or extend into a required side setback except as explicitly authorized by this title.
4. “Street setback” means an open unoccupied space parallel and adjacent to a public or private street and extending from one side property line to the opposite side property line. No building or structure shall be placed within or extend into a required street setback unless explicitly authorized by this title. This definition does not

Commented [BJ30]: BJ – 10-25-2021 - Verify this is definition does what we want it to.

include the front setback area as defined in this title and is intended to be applied to property lines which adjoin or abut streets when a lot has more than one street frontage.

~~“Shared driveway” means an area improved with an all-weather driving surface providing vehicle access to two to four dwelling units from a public or private street in accordance with applicable city standards and requirements. This term does not include public or private streets. see definition under “driveway”.~~

“Sign” means all surfaces/structures (permitted, exempt, or prohibited) regulated by this chapter that have letters, figures, designs, symbols, trademarks or devices intended to attract attention to any activity, service, place, subject, person, firm, corporation, public performance, article, machine or merchandise whatsoever.

- ~~a.1.~~ “Sign, off-premises” means a sign which displays a message relating to a use of property or sale of goods or services at a location other than that on which the sign is located.
- ~~b.2.~~ “Sign, on-premises” means a sign which displays a message which is directly related to the use of the property on which it is located.
3. ~~“Sign, sSingle-faced sign”~~ means a sign with only one face, displaying content on only one side and in only one direction.
4. ~~“Sign, portable”~~ means a movable sign that is not permanently attached to a structure or the ground. ~~Portable signs include A-frame signs and signs mounted on a portable base, but not portable reader-boards.~~
5. ~~“Sign, projecting”~~ means a building mounted sign which projects past the face of a building for the purpose of displaying the sign content in a direction other than parallel to the building facade.
6. ~~“Sign, reader-board”~~ means a sign or part of a sign on which the letters are replaceable by manual means, such as changing magnetic letters on a sign board.
7. ~~“Sign, roof” or “roof mounted sign”~~ means a sign or sign structure erected above a roof, parapet, canopy, or porte-cochere of a building or structure.
8. ~~“Sign, traffic control”~~ means a sign located in a public or private street right-of-way for the purposes of traffic safety and control. Common traffic control signs include stop signs, speed limits, and parking restrictions. ~~Traffic control signs are not used for advertising or commercial purposes.~~
- ~~e.9.~~ “Sign, wayfinding” means a sign consistent with, and approved under, the City’s adopted wayfinding signage program.

~~“Single-family dwelling” means a detached building used as a single dwelling unit. This definition does not include “accessory dwelling unit” as defined in this chapter see definition for “dwelling, detached”.~~

“Site area” means the total horizontal area within the property lines excluding external streets.

~~“Small lot development” or “residential small lot” means a subdivision or short subdivision process that allows lots to be created that are smaller than would be allowed under the normally applicable zoning requirements. Small lot development, construction on lots created through the small lot development process, and boundary line adjustments of lots created through the small lot development process are subject to the standards set forth in BMC 17.15.110 see definition under “residential, small lot”.~~

“Specified anatomical areas” means:

1. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

“Specified sexual activities” means:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

“Story” means the part of a building lying between two floors or between the floor and ceiling of the highest usable level in the building.

“Street” means a public or private thoroughfare which is consistent with the classification scheme identified in chapter 12.28 BMC and which affords the principal means of access to abutting properties, dwelling units, or commercial premises. This term does not include “driveway” or “shared driveway” as defined in this chapter.

“Structure” means a combination of materials constructed and erected permanently on the ground or attached to something having a permanent location on the ground. Not included are residential fences, retaining walls less than three feet in height, rockeries and similar improvements of a minor character.

“T”

“Telecommunication micro facility” means an attached wireless communication facility which consists of antennas equal to or less than four feet in height (except omnidirectional antennas which may be up to six feet in height) and with an area of not more than 580 square inches in the aggregate (e.g., one-foot diameter parabola or two-foot by one-and-one-half-foot panel) as viewed from any one point. The permitted antenna height includes the wireless communication facility support structure.

“Telecommunication mini facility” means an attached wireless communication facility which consists of antennas equal to or less than 10 feet in height or a parabolic antenna up to one meter (39.37 inches) in diameter and with an area of not more than 50 square feet in the aggregate as viewed from any one point.

~~“Topless club” means a public or private club employing persons exposing “specified anatomical areas” as defined herein; see definition under “adult entertainment use”.~~

~~“Towing service” means the place of business of a tow truck operator as defined in Chapter 46.55 RCW where vehicles may be impounded, stored or sold, but not disassembled or junked. This term does not include wrecking yards, or hulk haulers, means an automotive retail sales and service use in which more than two tow trucks are employed in the hauling of motorized vehicles, and where vehicles may be impounded, stored or sold, but not disassembled or junked.~~

Commented [BJ31]: BJ – 3-29-2023 – changed to be consistent with state laws for licensing and regulation of towing services, hulk haulers, and wrecking yards.

~~“Tract” means a lot, usually several acres in area, created through a land division process that is designated and reserved for a particular use or function such as open space, park land, storm-water management, utilities, streets, access, or community buildings.~~

“Traffic control devices” means signs, signals, directional symbols, and similar devices specifically intended to direct traffic to, from, and within a site.

~~“Trailer park” or “RV park” means a facility designed to accommodate recreational vehicles on a temporary, transient, and recreational basis for periods of less than 30 days. This term does not include manufactured home parks or emergency housing as defined in this chapter. “Trailer park” means a facility designed to accommodate recreational vehicles or trailers no longer than 40 feet and capable of being pulled with a one-ton truck. Units shall at all times be prepared for evacuation in event of a flood warning. This term does not include manufactured home parks.~~

“Transient accommodations” means the provision of lodging units, room, board, or sleeping space to guests on a short-term basis for periods of less than 30 days. This term does not include multifamily dwellings or boarding houses as defined in this chapter.

“Transmission tower” is a freestanding structure, other than a building, on which communication devices are mounted. Transmission towers may serve either as a major or minor communication facility. Examples include, but are not limited to:

1. Monopoles;
2. Lattice towers;
3. Guyed towers.

“Two-family dwelling” or “duplex” ~~means a building containing two dwelling units~~ see definition under “dwelling”.

“Utilities” means utility lines and facilities related to the provision, distribution, collection, transmission or disposal of water, storm and sanitary sewage, oil, gas, power, and telephone cable, and includes facilities for the generation of electricity. This definition does not include wireless communication facilities, or solid waste disposal/recycling facilities.

1. “Utilities, small” means small scale facilities serving local areas within the City, including street lights, underground power lines, water, sewer, and storm water facilities, fiber optic cable, pump stations and hydrants, switching boxes, and other structures normally found in a street right-of-way and necessary to serve abutting properties. Small utilities are distinguished from medium and large utilities by being limited in scale and capacity sufficient only to serve abutting properties and immediately surrounding areas. Small scale utilities are not significantly larger than necessary to serve the forms and intensities of development permitted in the zones in which they are located.
2. “Utilities, medium” Moderate scale facilities with the capacity to serve the entire City or significant portions of the City, including sub-regional switching stations (115 kv and smaller), and municipal sewer, water, and storm water facilities that do not otherwise qualify as minor or major utilities.
- a.3. “Utilities, large” Large scale facilities with either major above-ground visual impacts, or serving a regional need such as two hundred thirty (230) kv power transmission lines, natural gas transmission lines, regional water storage tanks and reservoirs, regional water transmission lines, sewer collectors and interceptors, and sewage and water treatment facilities.

“V”

“Variance” means a process for granting relief from certain provisions of this title. Variance approval criteria and procedures are more fully described in Title 14A BMC, as authorized by the hearing examiner after determining that the criteria established for the granting of variances have been satisfied.

“Vehicle repair” means a use where motor vehicles are repaired or serviced.

1. “Vehicle repair, major” means an automotive retail sales and service use in which one or more of the following activities are carried out:
 - a. Reconditioning of any type of motorized vehicle including any repairs made to vehicles over 10,000 pounds gross vehicle weight;
 - b. Collision services, including body, frame, or fender straightening or repair;
 - c. Overall painting of vehicles in a paint shop or major paint work;
 - d. Dismantling of motorized vehicles in an enclosed structure.
2. “Vehicle repair, minor” means an automotive retail sales and service use in which general motor repair work is done as well as the replacement of new or reconditioned parts in motorized vehicles of 10,000 pounds or less gross vehicle weight, but not including any operation included in the definition of “major vehicle repair.” Minor vehicle repair uses typically include service stations, detail shops, mechanics, oil

change establishments, or business specializing in replacement of specific vehicle components such as batteries, breaks, and exhaust systems.

“Vehicle charging station” see definition under “charging station”.

“W”

“Walking advertisers” means persons carrying or wearing portable advertising signs or costumes designed to advertise a business, event, sale or season/holiday with a permit describing location, supervision and public safety.

“Warehouse” means a structure, room, or rooms for the storage of merchandise or commodities. This term include freight terminals and distribution facilities but does not include to “personal storage” facilities.

“Wireless communication facility” is an unstaffed facility for the transmission and reception of low-power radio signals consisting of an equipment shelter or cabinet, a support structure, antennas (e.g., omnidirectional, panel/directional or parabolic) and related equipment.

“Wireless communication support structure” is the structure erected to support wireless communication antennas and connecting appurtenances. Support structure types include, but are not limited to, stanchions, monopoles, lattice towers, wood poles or guyed towers.

“Wrecking yard” or “junk yard” means the buying, selling, or dealing in vehicles for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of a vehicle, or the buying or selling of integral secondhand parts of component material thereof, in whole or in part, or the dealing in secondhand vehicle parts. This term also includes hulk haulers, as defined in Chapter 46.79 RCW, and the storage of inoperable, wrecked, or junk vehicles except where explicitly authorized in conjunction with a lawfully established vehicle repair facility.

“Wrecked vehicle” or “junk vehicle” means a vehicle which is disassembled or dismantled or a vehicle which is acquired with the intent to dismantle or disassemble and never again to operate as a vehicle, or a vehicle which has sustained such damage that its cost to repair exceeds the fair market value of a like vehicle which has not sustained such damage, or a damaged vehicle whose salvage value plus cost to repair equals or exceeds its fair market value, if repaired, or a vehicle which has sustained such damage or deterioration that it may not lawfully operate upon the highways of this state for which the salvage value plus cost to repair exceeds its fair market value, if repaired; further, it is presumed that a vehicle is a wreck if it has sustained such damage or deterioration that it may not lawfully operate upon the highways of this state. This term also includes any vehicle meeting the definition of a junk vehicle under RCW 46.79.010.

Commented [BJ32]: BJ – 3-29-2023 – Added these terms and included language from state definition used to regulate and license such facilities. Ensure consistency with state law.

“Y”

Yard. See “setback.”

“Z”

“Zone” or “zoning district” means a zoning district as described in chapter 17.05 BMC or as shown on the city’s adopted zoning map. (Ord. 1857 § 2 (Exh. B), 2018).

17.01.060 Land use permit required.

A land use permit issued pursuant to BMC Title 14A shall be required to establish or change use as provided by this title. Compliance with the procedural requirements set forth in BMC Title 14A shall be required. (Ord. 1857 § 2 (Exh. B), 2018).

17.01.070 Condition of ministerial errors.

The director may at any time amend an administrative decision to correct ministerial errors clearly identifiable from the public record. Such a correction does not affect any time limit provided for in this chapter. (Ord. 1857 § 2 (Exh. B), 2018).

17.01.080 Administrative interpretations.

A. The director shall be authorized to interpret the meaning of words, phrases and sentences which relate to the determining of uses permitted in the various districts, approval or disapproval of development plans, or other related zoning actions.

B. The director may permit a use in a zone that is not listed as permitted or conditional in the zone, if the director determines the use is consistent with the intent of the zone, the applicable goals and policies of the comprehensive plan, and has similar characteristics and impacts to the other uses listed as permitted or conditional in the zone; provided, that the use is not prohibited or listed as permitted or conditional in another zone.

C. An administrative interpretation may be appealed using the process set forth in BMC Title 14A.

D. Should a conflict occur between the provisions of this title or between this title and the laws, regulations, codes or rules promulgated by another authority having jurisdiction within the city, the most restrictive requirement shall be applied, except when constrained by federal or state law, or where specifically provided otherwise in this code.

E. In all cases this title shall be interpreted and applied in a manner which is consistent with, and best implements the comprehensive plan. (Ord. 1857 § 2 (Exh. B), 2018).

17.01.090 Zoning for annexed land.

At the time of any parcel of land being annexed to the city, the property shall be zoned consistent with the Burlington zoning districts and the comprehensive plan amended if necessary. Application for the rezone and necessary amendment may be done simultaneously with the request for annexation. (Ord. 1857 § 2 (Exh. B), 2018).

17.01.100 Relationship to other titles, chapters and codes.

The administrative provisions of BMC Title 14A shall apply to requests for project permits under this title. (Ord. 1857 § 2 (Exh. B), 2018).

17.01.110 Violation and penalties.

A. All acts or omissions in violation of any provision contained within this title, or acts or omissions that cause or contribute to a violation of any provision contained within this title, are hereby determined to be detrimental to the public health, safety and general welfare and shall constitute a public nuisance. Further, as specified in chapter 1.24 BMC, such acts or omissions shall be subject to enforcement fines and abatement under chapter 8.12 BMC, criminal penalties as set forth in chapter 1.24 BMC, penalties for civil infractions as set forth in chapter 1.34 BMC, or civil violations as set forth in chapter 1.44 BMC.

B. It is a violation of this title for any person to initiate or maintain or cause to be initiated or maintained the use of any structure, land or property within the city without first obtaining the permits or authorization required for the use by this title.

C. It is a violation of this title for any person to use, construct, locate, demolish or cause to be used, constructed, located, or demolished any structure, land or property within the city in any manner that is not permitted by the terms of any permit or authorization issued pursuant to this title; provided, that the terms or conditions are explicitly stated on the permit or the approved plans.

D. It is a violation of this title to remove or deface any sign, notice, complaint or order required by or posted in accordance with BMC Title 15 or this title.

E. It is a violation of this title to misrepresent any material fact in any application, plans or other information submitted to obtain any land use authorization.

F. It is a violation of this title for anyone to fail to comply with the requirements of this title. (Ord. 1857 § 2 (Exh. B), 2018).

17.01.115 Duty to enforce.

A. It shall be the duty of the director to enforce this title. The director may call upon the police, fire, health or other appropriate city departments to assist in enforcement.

B. Upon presentation of proper credentials, the director may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued warrant, enter any building or premises subject to the consent or warrant to perform the duties imposed by the zoning code.

C. This title shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

D. It is the intent of this title to place the obligation of complying with its requirements upon the owner, occupier or other person responsible for the condition of the land and buildings within the scope of this code.

E. No provision of or term used in this code is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action. (Ord. 1857 § 2 (Exh. B), 2018).

17.01.120 Appeal.

Appeals of decisions made pursuant to this title shall be subject to the procedures and regulations set forth in BMC Title 14A. (Ord. 1857 § 2 (Exh. B), 2018).

17.01.125 Severability.

If any portion of this title is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other section of this title. (Ord. 1857 § 2 (Exh. B), 2018).

Chapter 17.05

DISTRICT ESTABLISHMENT LAND USE ZONES, MAPS AND BOUNDARIES

Commented [BJ33]: BJ – 3-29-2023 – change from “district” to “zone” which is more modern term.

Sections:

- 17.05.010 Title.
- 17.05.020 Application.
- 17.05.030 Purpose.
- 17.05.040 Authority.
- 17.05.050 ~~Districts~~ Land use zones established.
- 17.05.060 ~~District~~ Land use zone boundaries – Established.
- 17.05.070 ~~District~~ Land use zone boundaries – Shown on zoning map.
- 17.05.080 ~~District~~ Land use zone boundaries – Rules for interpretation.
- 17.05.090 Conformity with ~~district~~ zoning regulations required.
- 17.05.100 Adoption of ~~special planning areas map overlay and supplemental maps.~~

17.05.010 Title.
This chapter shall be called “District Establishment, Maps and Boundaries.” (Ord. 1857 § 2 (Exh. B), 2018).

17.05.020 Application.
This chapter shall apply to all zoning in the city and all zoning actions as specified in this title. (Ord. 1857 § 2 (Exh. B), 2018).

17.05.030 Purpose.
This chapter sets forth the zoning classifications for the city and general provisions applicable to such classifications. This chapter is also intended to describe how zoning boundaries and designations are identified and interpreted and describes the relationship between the City’s comprehensive plan and zoning maps. (Ord. 1857 § 2 (Exh. B), 2018).

17.05.040 Authority.
This chapter is created pursuant to the authority set forth in BMC 17.01.040, chapters 35A.63, 36.70A, and 36.70B RCW and other applicable laws. (Ord. 1857 § 2 (Exh. B), 2018).

17.05.050 ~~Districts~~ Land use zones established.
The city is divided into a number of ~~zoning districts~~ land use zones. ~~in order~~ Land use zones are used to implement the city’s comprehensive plan and to classify, segregate, and regulate the uses of land, buildings, and structures. Each ~~zone zoning district~~, and its corresponding comprehensive plan designation, is shown below.

Comprehensive Plan Designation	Zoning Designation
RD (Residential Detached) SF-D (Single-Family and Duplex)	R-1-6 RD-1 R-1-7-6 RD-2 R-1-8-4 R-1-9-6 R-2
M-F (Multifamily Residential) RA (Residential Attached)	RA-1 R-3 RA-2
MUR (Mixed Use Residential) OSPA (Open Space, Parks, and Agriculture)	OSPMUR-1 MUR-2
C-B (Commercial Business) MUC (Mixed Use Commercial)	B-1 MUC-1 C-1 MUC-2 MR-NB R-S
HC I (Heavy Commercial and Industrial) CI (Commercial & Industrial)	C-2 CI-1 M-1 CI-2 BP
PC (Parks & Conservation)	PC-1

Comprehensive Plan Designation	Zoning Designation
	PC- 1
PFT (Public Facilities & Transportation)	PFT-1 PFT-2
UH (Urban Holding)	UH

(Ord. 1857 § 2 (Exh. B), 2018).

17.05.060 Land use zone District boundaries – Established.

The ~~Land use zone~~ boundaries of ~~such use districts as~~ are shown ~~upon any on the~~ zoning maps adopted by this title, or amendments thereto, are adopted and approved and the regulations of this title governing the uses of land, buildings and structures, the height of buildings and structures, setbacks, and other matters as set forth in this title are hereby established and declared to be in effect upon all land included within the boundaries of each and every ~~use district~~ land use zone shown upon each zoning map. (Ord. 1857 § 2 (Exh. B), 2018).

17.05.070 Land use zone District boundaries – Shown on zoning map.

The land use zone boundaries ~~of use districts~~ shall be determined and defined or redefined from time to time, by the adoption of zoning maps covering the city and showing the geographical area and location of said land use districts/zones. Each zoning map shall be, upon its final adoption, a part of the zoning ordinance codified in this title, and said map, and all notations, references and other information shown thereon, thereafter shall be as much a part of this title as though all matters and information set forth on said map were fully described in this title. (Ord. 1857 § 2 (Exh. B), 2018).

17.05.080 Land use zone District boundaries – Rules for interpretation.

When uncertainty exists as to the boundaries of any use district/zone shown on zoning maps, the following rules of construction shall apply:

- A. Where zone/district boundaries are indicated as approximately following the centerline of a street, alley, highway, public right-of-way, or railroad the actual centerline shall be construed to be the boundary.
- B. Where zone/district boundaries are indicated as running approximately parallel to the centerline of a street, alley, highway, public right-of-way, or railroad the boundary line shall be construed to be parallel to the centerline.
- C. Where zones/districts, or district-zone boundaries, appear to follow both sides of, and thereby exclude from designation, a street, alley, highway, public right-of-way, or railroad the boundaries of the adjoining districts shall be construed to extend to the centerline. Where the same zoning designation is present on both sides of such a feature, that zoning designation shall be construed to extend across the feature. These provisions shall not apply in cases where the right-of-way has been designated as a public facilities and transportation zone on the zoning map.
- D. Where zone/district boundaries are indicated on such map as approximately following the lot or tract lines, the actual lot or tract lines shall be construed to be the boundary of such use district.
- E. Where a zone/district boundary on such zoning map divides a tract in unsubdivided property, the location of such use district boundary, unless the same is indicated by dimensions thereon, shall be determined by use of the scale appearing on such zoning map.
- F. Where a public street or alley is officially vacated or abandoned, the regulations applicable to the abutting property to which the vacated portion shall revert shall apply to such vacated or abandoned street or alley.
- G. In case uncertainty exists which cannot be determined by application of the foregoing rules, the hearing examiner upon application by the city or affected property owner shall recommend, and the city council shall determine, the location of such use district boundaries. (Ord. 1857 § 2 (Exh. B), 2018).

Commented [BJ34]: Consistent with the adopted land use element and the planning commission’s direction, this table has been amended to reflect the new comp plan designation and zone names, the number of detached residential zones has been reduced from four to two and the former duplex zone has been associated with the RA comp plan designation. Substantive changes include only the elimination of the 7,600 and 8,400 square foot zones. Planning commission felt there was not enough difference between the various lots size requirements to justify the confusion created by the additional code provisions. 9-18-2020

Commented [BJ35]: BJ – Because we’re creating a new “public facilities and transportation” zone which will encompass major roads, railroads, and utility alignments, it was necessary to change this provision. 9-18-2020

17.05.090 Conformity with ~~district zoning~~ regulations required.

Except as otherwise provided in this title:

A. All development within the city of Burlington shall be consistent with the requirements of this title. An exemption from a requirement to obtain a permit shall not be construed as an exemption from compliance with other applicable requirements.

B. No building or structure shall be erected and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land, building, structure or premises be used, or modified to be used for any purpose or in any manner other than a use listed in this title or amendments thereto or permitted in the ~~use district zone~~ in which such land, building, structure or premises is located.

C. No building or structure shall be erected, nor shall any building or structure be moved, altered, enlarged or rebuilt, nor shall any open spaces surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the building site requirements and the area, setback and height regulations established by this title or amendments thereto for the ~~use district zone~~ in which such building or structure is located.

D. No setback or other open spaces provided about any building or structure for the purpose of complying with the regulations of this title or amendments thereto shall be considered as providing a setback or open space for any other building or structure.

E. If a use is not listed as permitted or conditional in a district, but is listed as permitted or conditional in one or more other districts, it shall be considered a prohibited use in the district in which it is unlisted. If a use is not listed as permitted or conditional in any district it shall be considered a conditional use unless the director determines the use is substantially similar to and has the same characteristics, functions, and impacts as a use listed as permitted in the district in which it is being considered. (Ord. 1857 § 2 (Exh. B), 2018).

17.05.100 Adoption of ~~overlay and supplemental maps~~ special planning areas map.

~~A series of overlay maps, adopted as part of the Burlington comprehensive plan, are hereby adopted as part of the zoning code for the purpose of identifying the location and boundaries of areas where additional regulations apply. The special planning areas map, adopted as part of the Burlington comprehensive plan, is hereby adopted as part of the zoning code for the purpose of identifying the location of areas where there may be specific additional regulations under the applicable chapter of this code. See Exhibit A, attached to the ordinance codified in this section. The following descriptions apply to the special planning areas:~~

A. Subareas.

1. Commercial Core.
2. Downtown.
3. Northern Gateway.
4. North and South Burlington Industrial.
5. Urban Holding.
6. Western Gateway.
7. Westside Freeway Sales.

B. Special Management Areas.

1. Burlington Hill. Includes those portions of Burlington Hill with a ground elevation 40 feet or more above sea level as shown on the most current USGS 7.5 minute topographic quadrangle map.
2. Gages Slough. Includes the open water areas of Gages Slough together with all associated wetlands, deep-water habitat, wetland buffers, and special flood risk areas.

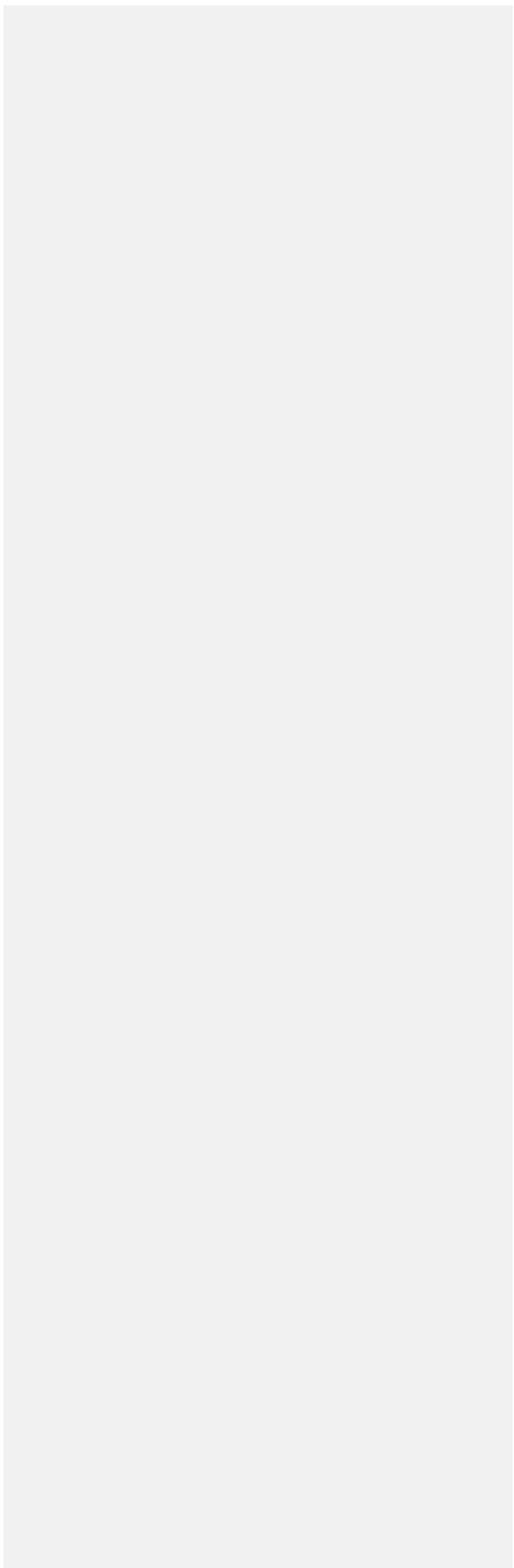
3. Skagit River. Includes the Skagit River and its associated floodway areas, all dikes, levees, flood control improvements, and a strip of land extending inland 300 feet from the landward toe of all dikes, levees, and flood control improvements. The Skagit River Special Management Areas also includes any properties owned or controlled by the dike district that are used for, or are planned to be used for, dikes, levees, or flood control improvements.

A. ~~Downtown. This area encompasses the original downtown of Burlington and adjacent areas that are directly linked to the main street, Fairhaven Avenue. The intent is to implement the downtown plan, encourage new activity, and gradually retrofit the area to enhance the focus on customer service retail, office and restaurant, keeping medical uses east of Anacortes Street and north of Fairhaven Avenue.~~

B. ~~North and South Entrance Areas. These areas are uniquely constrained by freeway interchanges and major interchanges including the Skagit River Bridge and, as a result, have traffic problems that may require study and mitigation. High traffic generating uses are discouraged.~~

C. ~~Retail Core. This area is the shopping and entertainment district that attracts regional traffic. Drive-ins are limited to tenant pads and signalized intersection, banks are limited to multiple-tenant buildings, gas stations, car washes and automobile sales are prohibited and vehicle repair is limited to side streets.~~

D. ~~West Side Commercial Area. This area provides a wide array of uses, but the emphasis in terms of overall land use is on vehicle sales and related activities. (Ord. 1857 § 2 (Exh. B), 2018).~~



Chapter 17.15

R-1RD LAND USE DISTRICTS ZONES

Sections:

- 17.15.010 Title.
- 17.15.020 Application.
- 17.15.030 Purpose.
- 17.15.040 Authority.
- 17.15.050 ~~District-Sub-zones subdivisions~~ designated.
- 17.15.060 Permitted primary uses.
- 17.15.070 Permitted accessory uses.
- 17.15.080 Conditional uses.
- 17.15.090 Additional regulations.
- 17.15.100 Development standards.
- 17.15.105 Cluster developments.
- 17.15.110 Residential small lot.

17.15.010 Title.
This chapter shall be called “R-1 Land Use Districts Zones.” ~~(Ord. 1857 § 2 (Exh. B), 2018).~~

17.15.020 Application.
This chapter shall apply to all uses and developments in areas ~~designated zoned RD-1.~~ ~~(Ord. 1857 § 2 (Exh. B), 2018).~~

17.15.030 Purpose.
~~The primary purpose of the R-1D district zone is intended to implement the RD comprehensive plan designation by accommodating lower density residential development in areas that cannot support more intensive forms of development due to factors such as infrastructure constraints, natural hazards, access limitations, existing development patterns, or emergency response times and compatible accessory uses. The primary uses permitted in this zone consist of small residential buildings, such as detached dwellings or duplexes, and related accessory uses. Other uses may also be permitted in limited circumstances when consistent with the goals and policies of the comprehensive plan. Development in the R-1 district should generally be limited to single-family dwellings and detached structures. The RD zone is intended to create and maintain a pattern of development characterized by small, low lying residential buildings surrounded by open space. Other uses and structures may be appropriate in limited circumstances when not inconsistent with the primary purpose of the zone.~~ ~~(Ord. 1857 § 2 (Exh. B), 2018).~~

Commented [BJ1]: BJ_10-30-2020_Revised for consistency with comp plan language for RD designation. No fundamental changes, but more detail is provided.

17.15.040 Authority.
This chapter is adopted pursuant to the provisions of chapters 35A.63, 36.70A and 36.70B RCW, and other applicable laws and regulations. (Ord. 1857 § 2 (Exh. B), 2018).

17.15.050 ~~District-Subdivisions ub-zones~~ designated.
~~District-The R-1RD zone consists of two sub further subdivided into subdistricts-ubzones as follows differing only in the requirements for minimum lot area:~~

Commented [BJ2]: BJ_10-30-2020_No major changes here, but detached residential zones have been reduced from four to two consistent with Planning Commission direction. Also, provided better description of where designations apply.

A. RD-1. This subzone is a very low density designation that is generally applied to remote or peripheral areas that are difficult to access, suffer from poor emergency response times, or have infrastructure deficiencies that will not be remedied by planned improvements. The RD-1 zone is also appropriate in areas characterized by widespread or severe natural hazard or critical area constraints.

4-B. RD-2. The RD-2 subzone is applied to all areas designated “RD” on the comprehensive plan map that are not designated RD-1.

Subdistrict	Minimum Lot Area Per Dwelling Unit
R-1-6.0	6,000 sq. ft.
R-1-7.6	7,600 sq. ft.
R-1-8.4	8,400 sq. ft.
R-1-9.6	9,600 sq. ft.

~~In addition residential small lots with a minimum lot area of 3,000 square feet may be developed in any subdistrict in accordance with the standards and procedures set forth in BMC 17.15.110. The minimum lot area requirements and density limits identified in this chapter shall not be construed to prohibit accessory dwelling units. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.15.060 Permitted primary uses.

Buildings, structures, and lots in the ~~R-1D-1 and RD-2~~ district zones shall only be used for the following, unless otherwise provided for in this title:

~~AA. Single family Detached dwelling units;~~

~~B. Duplex dwellings; provided, that no more than one single family dwelling unit shall be permitted on a single lot;~~

~~B. Municipal parks and playgrounds;~~

~~CC. Small boarding houses accommodating 10 persons or less. (Ord. 1857 § 2 (Exh. B), 2018);~~

~~D. Small utilities.~~

17.15.070 Permitted accessory uses.

~~The following buildings, structures, and uses may be authorized as accessory uses. Accessory uses shall only be permitted when incidental and subordinate to a legally established primary use.~~

~~A. Normal residential appurtenances. The following uses and structures may be authorized as an accessory use in conjunction with a residential dwelling: garage, guest cottage, recreation room, storage shed, noncommercial greenhouse, swimming pool, decks, patios, driveway, on-site utilities and utility connections, fences, and solar panels and swimming pool;~~

~~B. Keeping of not more than six household pets, four of which may be dogs, kept in the home. This limit shall not include birds, fish or suckling young of pets;~~

~~C. Family day care home services;~~

~~D. Foster family care home accessory to a dwelling unit services;~~

~~E. Accessory dwelling units associated with a single family dwelling unit subject to the following approval criteria;~~

~~F. Home occupations; ±~~

~~1. The general appearance and character of the single family residence shall be maintained.~~

~~2. New entrances shall face the side or rear property lines.~~

~~3. Parking shall be provided in accordance with the applicable standards set forth in BMC 17.85.070.~~

~~4. Accessory dwelling units shall be contained within, or attached to, the existing single family home. A detached accessory building may only be used as an accessory dwelling unit if the subject lot is 12,000 square feet or larger.~~

Commented [BJ3]: BJ – Amended to reflect the change to only two detached residential zones. One lower density zone (RD-1) for areas with significant critical area constraints, deficient services, or poor emergency response, and a normal detached zone that applies to all other areas in the RD comp plan designation. 9-18-2020

Commented [BJ4]: BJ – revised to reflect structure type rather than family composition consistent with the adopted land use element and previous revisions to the code. 9-18-2020

Commented [BJ5]: BJ – moved this restriction to the additional standards section

Commented [BJ6]: BJ – added intro statement to clarify what these are and when they're permitted. 9-24-2020

~~5. The primary dwelling or the accessory dwelling shall be occupied by the owner. The residence must have been owner-occupied for at least three years since the construction date. A covenant or declaration regarding ownership requirements shall be recorded with the Skagit County auditor.~~

~~6. In all cases the accessory dwelling unit must be located on the same lot as the single-family dwelling it is associated with;~~

GF. Telecommunication micro facility, subject to the following requirements, except as limited by the Telecommunication Act of 1996 as amended:

1. Micro facility shall be located on existing buildings, poles or other existing support structures. A micro facility may locate on buildings and structures; provided, that the interior wall or ceiling immediately adjacent to the facility is not designated residential space.
2. Antennas equal to or less than four feet in height (except omnidirectional antennas which can be up to six feet in height) and with an area of not more than 580 square inches in the aggregate (e.g., one-foot diameter parabola or two-foot by one-and-one-half-foot panel as viewed from any one point) are exempt from the height limitation of the zone in which they are located. Structures which are nonconforming with respect to height may be used for the placement of omnidirectional antennas providing they do not extend more than six feet above the existing structure. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.
3. The micro facility shall be exempt from design review if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.
4. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.
5. Micro facilities for a specific wireless provided shall be separated by a distance equal to or greater than 1,320 linear feet from other micro facilities of the same wireless provider. (Ord. 1857 § 2 (Exh. B), 2018).

~~H. Private parks, playgrounds, open space areas, and community buildings established in conjunction with, and serving, a residential development permitted by this chapter;~~

I. Urban agriculture.

17.15.080 Conditional uses.

The following uses shall require a conditional use permit:

A. Horizontally attached dwellings;

B. Small multiunit buildings;

A. Mini-commercial child day care center;

CB. Small cCommercial child day care center, if located on an arterial;

C. Duplex on a corner lot in any residential zone; provided, that a duplex shall be located no closer than 300 feet from another duplex, measured along the right of way; except that when the blocks are more than 300 feet long, duplexes shall not be limited to the corner as long as they are located no closer than 300 feet to another duplex;

D. Government facilities, other than those listed as a permitted use;

E. Kennels;

F. Manufactured home park;

G. Neighborhood recreational buildings and facilities;

Commented [BJ7]: BJ – special standards moved to the end of the chapter for clarity. Also changed terminology. 9-18-2020.

Commented [BJ8]: BJ_10-30-2020_ This used to be listed in permitted uses section but it's really an accessory use.

Commented [BJ9]: BJ – With the establishment of the PFT zones this is not necessary. Land owned or controlled by a public agency is zoned PFT.

~~H. Private country clubs and golf courses, excluding driving ranges;~~

~~DI. Small meeting facilities Religious facilities and fraternal organizations;~~

~~DJ. Small private sSchools;~~

~~FK. Utility substations Medium utilities; - (Ord. 1857 § 2 (Exh. B), 2018).~~

~~G. Accessory buildings with a footprint greater than 800 square feet;~~

17.15.090 Additional regulations.

~~A. Manufactured Hhomes. Manufactured homes may be placed on any lot in an R-4RD zone and regulated in accordance with the same standards and requirements applicable to site built detached single family homes, except that the following additional regulations shall apply. These standards and requirements do not apply to legally established, nonconforming manufactured homes or manufactured homes placed within a manufactured home park.~~

1. The manufactured home shall be set upon a permanent foundation, as specified by the manufacturer, and the space between the bottom of the home and the ground shall be enclosed by concrete or an approved concrete product which may be either load bearing or decorative;
2. The manufactured home shall have been originally constructed with and shall now have a composition or wood shake or shingle, coated metal, or similar roof of nominal 3:12 pitch;
3. The manufactured home shall have exterior siding similar in appearance to siding materials commonly used on conventional site-built uniform building code single-family residences;
4. The placement of the manufactured home shall be consistent with all other regulatory requirements generally applicable to new homes.

~~B. Accessory Buildings.~~

~~1. All accessory buildings shall be located behind the primary structure, and individually, or cumulatively, shall not cover more than 50 percent of the required rear setback area for the primary structure; and~~

~~2. All accessory buildings shall comply with the setback, height, and size limits specified in BMC 17.15.100(E).~~

~~C. Horses, beef cattle or other domestic farm animals are permitted on the condition that the number of animals not exceed a ratio of one per one-half acre of fenced pasture area. The keeping of mink, goats, foxes or hogs is prohibited.~~

~~CD. No trailer, recreational vehicle, boat, camping trailer, fifth wheel, camper, van, car, or other similar type of mobile unit that is not a permanent structure attached to the ground, shall be used as a place of habitation or as a dwelling. Only site built structures which comply with all applicable building code requirements and manufactured or modular homes which meet applicable state or federal standards for use as a dwelling unit may be used as a place of habitation or as a dwelling.~~

~~E. All uses and developments shall comply with the parking requirements set forth in chapter 17.85 BMC.~~

~~EF. Junk and inoperable vehicles shall not be stored outdoors unless Junk storage is only permitted outdoors when completely surrounded by a solid, site obscuring fence and not visible from an adjoining street or public right-of-way. Outdoor storage shall also be subject to the following additional restrictions and requirements:~~

1. Litter, trash, used appliances, used interior furnishings and discarded exterior furnishings and similar items are prohibited outdoors regardless of location.
2. Junk storage is further limited to piled used lumber, yard cleanup equipment and similar types of items; it is not intended to include the storage of any items that would be classified as a nuisance under chapter 8.12 BMC.

Commented [BJ10]: BJ – Under the new comp plan designation system this would be zoned Parks and Conservation.

Commented [BJ11]: BJ – included heading for formatting consistency. 9-23-2020

Commented [BJ12]: 4-12-2023 – BJ – Not needed – based on council feedback and Plannign Commission action this has been simplified. Regulations concerning urban vs rural agriculture are sufficient to address this.

Commented [BJ13]: BJ – 3-29-2023 – Simplified requirements to address council concerns and planning commission guidance on remand.

Commented [BJ14]: BJ – 11-5-2020 – added clarification to tie to definitions

~~Whenever it is stated in writing by two or more persons having separate residences in a neighborhood that any person is violating the provisions of this subsection, the police chief or designee shall investigate, and, if appropriate, advise the person of the complaint and that such violations must cease. Failure to comply shall constitute a violation of this code.~~

~~FG. Where alley access is available, off-street parking spaces and garages shall be located off accessed from the alley and no curb cuts shall be permitted. This requirement shall apply to all land divisions, the construction of new homes and accessory buildings, and requests for curb cuts to serve existing homes and accessory buildings.~~

~~H. Home occupations are allowed subject to compliance with BMC 17.70.090.~~

~~GI. Heat pumps or other noise-producing mechanical equipment shall not be located only be permitted within 10 feet of a property line abutting another lot and if all equipment shall be equipped with a noise-baffling screen so that there shall be no audible sound at the property line.~~

~~HI. New subdivisions or developments that will result in 40 or more lots or dwellings shall include a common open space area for outdoor recreation. New subdivisions with 40 or more lots shall provide common open space, a playground or a park. (Ord. 1857 § 2 (Exh. B), 2018).~~

I. Duplexes

1. Each dwelling unit shall have its own exterior entrance and a covered porch or landing shall be provided. The covered area of the porch or landing shall have a minimum area of 20 square feet and a minimum depth of 3 feet;
2. For duplexes located on corner lots, the primary entrance of each dwelling unit shall face a different street frontage;
3. Flat roofs are prohibited. Roofs shall have a pitch of no less than 4:12;
4. If an attached garage is provided the building wall containing the garage door shall not extend past the building wall containing the dwelling;
4. Except as authorized as part of a cluster development, no duplex shall be permitted on a lot adjoining another lot containing a duplex. This restriction shall only apply to lots that share a common side property line.
5. Trim with a minimum depth of .75 inches and a minimum width of 3.5 inches shall be used to mark rooflines, windows, and doors.

Commented [BJ15]: BJ – 11-5-2020 – Duplexes on corner lots, on interior lots in limited circumstances, were previously allowed in the RD zone but no standards existed. Land use and Housing Elements previously adopted by the Planning Commission call for expanding the circumstances under which horizontally attached dwellings can be constructed, particularly near schools, parks, businesses, and services. Previous Planning Commission feedback suggested the need for design standards to ensure compatibility with surrounding residential development

J. Horizontally attached dwellings and small multiunit buildings.

1. Except as authorized as part of a cluster development, horizontally attached dwellings and small multiunit buildings may only be permitted on lots within 1,320 feet (travel distance) of a school, park, bus route, or commercially zoned parcel;
2. Buildings shall be designed by a licensed architect and detailed elevation drawings shall be provided with the conditional use permit application.
3. For horizontally attached dwellings, each unit shall have frontage on a public or private street and shall have its own exterior entrance. Each unit's primary exterior entrance shall face the street and direct pedestrian access to the street shall be provided;
4. Building entrances facing the street shall incorporate a covered porch or landing with a minimum area of 20 square feet and a minimum depth of three feet;
5. A consolidated garbage and recycling area shall be provided and shall be screened from view in accordance with the applicable landscaping standard;

Commented [BJ16]: BJ – Currently permitted under the cluster provisions and included in land use element as a conditional use, but we have not design standards to regulate them. Included basic design standards here to ensure architectural compatibility with detached homes. 9-23-2020

6. The maximum building length shall not exceed 100 feet;

7. Except as authorized as part of a cluster development, buildings shall be limited to two floors or stories;

8. No more than four horizontally attached dwellings shall be permitted in a single building;

9. Horizontally attached units shall incorporate design features that clearly identify each dwelling unit as individual residences such as a change in materials, color, articulation, rooflines, gable orientation, or other similar architectural techniques;

10. Each building shall include architectural design elements, materials, and features that break up the mass of the building and provide greater compatibility with the scale and appearance of surrounding detached residential structures. At a minimum buildings must incorporate at least three of the following design elements:

a. Modulations along the front building wall at intervals of no more than 30 feet. Each modulation shall step the building wall back or forward by at least four feet;

b. Changes in the roofline at intervals of no more than 30 feet, such as variations in roof pitch, overhangs, projections, or extended eaves;

c. Include at least two dormers with a minimum width of three feet;

d. Include at least two balconies on front building wall. Balconies shall have a minimum depth of 6 feet between the building wall and the balcony railing;

e. For buildings with a second floor, reduce the area of the second floor so that its area is less than that of the first floor. To receive credit for this design element, the front building wall on the second floor shall be stepped back from the first floor a minimum of two feet. The portion of second floor stepped back from the first floor shall have a minimum width of eight feet. Uncovered, or covered unenclosed, balconies can be used to receive credit for this design element provided they satisfy the minimum dimensional requirements of this provision.

f. Include trim with a minimum depth of .75 inches and a minimum width of 3.5 inches to mark rooflines, windows, and doors.

K. Accessory Dwelling Units. The following standards shall apply to the accessory dwelling units (ADUs):

1. Type. ADUs may be attached to the primary dwelling or be located in an accessory building;

2. Number. One accessory dwelling unit is permitted for each primary dwelling;

3. Maximum floor area:

a. Detached: 1,000 square feet, exclusive of any area used as a garage, carport, or covered patio. In all cases detached ADUs shall comply with the size limits applicable to accessory buildings identified in this chapter;

b. Attached: 1,000 square feet or 30 percent of the floor area of the primary dwelling, whichever is less, provided that in all cases at least 500 square feet may be permitted;

4. Design standards.

a. Entrances and addressing: Separate entrances shall be provided for the primary dwelling and the ADU. The ADU entrance shall be oriented so that it faces a different direction than the entrance to the primary dwelling. ADUs shall be assigned their own addresses.

Commented [BJ17]: BJ – 11-5-2020 – relocated ADU requirements to this section. Made changes to implement Planning Commission direction to encourage ADU construction by simplifying requirements. Requirements have been simplified and design guidelines have been established to ensure better visual compatibility.

b. Setbacks: Detached ADUs shall comply with the setback standards applicable to accessory buildings identified in in this chapter.

c. Access: Direct pedestrian access shall be provided between the ADU and a street or alley.

5. Tenure and ownership. The ADU must be located on the same lot as the primary dwelling it is associated with and may not be separately sold.

L. Nonresidential uses. The following standards shall apply to schools, meeting facilities, and commercial day care centers, and other nonresidential uses other than utilities:

1. Schools, meeting facilities, and commercial day care centers shall be located on a corner lot and adjoin an arterial street;

2. The total building footprint shall not exceed 2,500 square feet;

3. Parking areas shall not be located between the building and the street and shall be completely screened from view with landscaping and fencing;

4. Outdoor play areas shall be screened from adjacent streets and residences with landscaping and fencing;

5. The lot on which the nonresidential use will be located shall have an area of at least 10,000 square feet;

6. Flat roofs are prohibited. Roofs shall have a pitch of no less than 4:12;

7. The primary exterior entrance shall face the street and direct pedestrian access shall be provided between the entrance and the street.

17.15.100 Development standards.

A. Lot Area and Dimension. The following requirements shall apply to land divisions and boundary line adjustments in the RD -R-1-zones. Small lot and cluster developments shall be subject to the applicable standards in this chapter, except that small lot development shall be subject to the standards and requirements set forth in BMC 17.15.110 and cluster developments shall be subject to the standards in BMC 17.15.105.

1. Minimum Lot Area:

a. ~~R-1-6-0RD-1: 10,000~~6,000 square feet.

b. ~~R-1-7-6RD-2: 6,000~~7,600 square feet.

~~c. R-1-8-4: 8,400 square feet.~~

~~d. R-1-9-6: 9,600 square feet.~~

2. Minimum lot width: 30 feet.

3. Minimum lot depth: 80 feet.

B. Minimum Setback Requirements.

1. Front: 17 feet.

2. Street side: ~~20-17~~ feet

3. Side: five feet. Provided, that the total of the two side ~~yards-setbacks~~ shall ~~not be at leasts than~~ 15 feet.

4. Rear: 20 feet.

Commented [BJ18]: BJ – Reflect PC direction to reduce # of detached residential zones, creating one normal detached residential zone, and one large lot residential zone for areas with significant critical area constraints or natural hazards – 9-24-2020

Commented [BJ19]: BJ – During the last code update this was intended to be changed to 17 feet for consistency with front setback. It doesn't make sense to treat two street frontages differently. 9-18-2020

5. Setback Exceptions:-

a. Accessory buildings, small lots, and cluster developments shall be subject to the setback requirements outlined in the applicable sections of this chapter;

s: see subsection (E) of this section. b. When authorized pursuant to this chapter, no property line setback shall apply to the common walls of zero lot line structures or horizontally attached dwellings;

c. For lots adjoining streets on more than two sides, the street side setback shall be five feet and the total of the two side setbacks need not be more than 10 feet;

d. All other buildings and structures: see BMC 17.70.080.

6. Minimum Building Separation

a. Primary structures: 10 feet. All detached structures shall be subject to a minimum building separation of 10 feet, except that when authorized pursuant to this chapter, no separation requirement shall apply between zero lot line structures or horizontally attached dwellings that share a common wall.

a-b. Accessory structures: 5 feet.

C. Maximum Building and Impervious Surface Coverage.

1. Building coverage: 35 percent.

2. Impervious surface coverage: 40 percent.

3. For new plats building and impervious surface coverage limits may be averaged across lots within the plat boundaries. When coverage limits are averaged restrictive notes shall be included on the face of the plat identifying the coverage limits applicable to each lot.

D. Maximum Building Height: 35 feet. Buildings and structures in the R-1 zones shall be subject to the following maximum height limits, except that spire, fleche, campanile or high nave, a dome and lantern, or a clock tower may exceed these limits if authorized by a conditional use permit.

1. Primary structures: 35 feet.

2. Accessory structures: 20 feet, see table in subsection (E) of this section.

E. Accessory buildings and structures shall not cover more than 50 percent of the required rear yard setback and shall comply with the following requirements comply with all of the requirements of this chapter except as follows:

1. Maximum Height: 25 feet;

2. Maximum Building Footprint: 800 square feet, provided that open uncovered decks and patios shall not be subject to this limit and larger buildings may be permitted with a conditional use permit;

3. Maximum rear yard coverage: Accessory buildings and structures shall not cover more than 50 percent of the required rear yard setback area;

4. Minimum Setback Requirements:

a. Side: 5 feet

b. Street side: 17: feet

c. Rear: 5 feet

Commented [BJ20]: BJ – 11-5-2020 – this addresses a problem staff has encountered administering the code. People want to build zero-lot line townhomes so the individual units can be sold. While the code allows townhomes to be built they all have to be on the same lot due to property line setback and building separation requirements. No substantive change, merely allows separate ownership of townhouse units.

Commented [BJ21]: BJ – 11-5-2020 – addresses problem encountered by staff. On rare occasions a lot will have streets on more than two sides. After all of the required setbacks are deducted very little buildable area remains.

Commented [BJ22]: BJ – 5-24-2021 – Revised to allow accessory buildings to be closer to primary structure. People often want their garage or shed to be closer to their house to avoid wasting the available yard or open space and the current 10 foot separation requirement is an impediment.

Commented [BJ23]: BJ – 11-5-2020 – see comment above regarding zero-lot line townhomes.

Commented [BJ24]: The exceptions to the height limit apply to all zones and are already in the general development standards section. Repeating the exemptions here is redundant and confusing.

Commented [BJ25]: BJ – 11-5-2020 – table has been eliminated and standards for accessory uses have been simplified.

d. Alley: 0 feet

Lot Size	Maximum Building Size	Setback	Maximum Eave Height at Minimum Setback Line
Up to 9,600 square feet	640 square feet	5 feet	12 feet
9,601—10,890 square feet (1/4-acre)	960 square feet	7 feet	12 feet
10,891—21,780 square feet (1/2-acre)	1,200 square feet	10 feet	12 feet
21,781—43,560 (1-acre)	1,600 square feet	12 feet	12 feet
> 43,560 (1-acre)	2,000 square feet	15 feet	15 feet

F. Maximum Density. One primary residential building per lot excluding accessory dwelling units. Consistent with the requirements of this chapter, an accessory dwelling unit may be permitted on any lot in addition to a primary residential building. Cluster developments shall be subject to the density limits identified in section BMC 17.15.105.

(Ord. 1857 § 2 (Exh. B), 2018).

17.15.105 Cluster developments.

Cluster developments may be permitted through a subdivision or short subdivision process. ~~For such developments, a variety of building types and site layouts may be authorized and alternative standards~~ the normally applicable requirements for lot width and lot width at the building line, lot depth, lot area, building and impervious surface coverage, and property line setbacks may be ~~reduced or altered~~ employed. Cluster developments shall comply with all of the requirements of this chapter except as follows: provided, that:

A. Permitted housing types may include, but are not limited to, single family detached dwellings, townhouses duplex dwellings, horizontally attached dwellings, zero lot line, multifamily multiunit buildings, cottage housing, zero lot line development, or a combination of housing types; provided, that no structure or building shall contain more than eight dwelling units.

B. The maximum allowable density of a cluster development may be averaged across the entire site. The maximum permitted density shall not exceed the following limits. The maximum number of dwelling units permitted within the boundaries of the subdivision or short subdivision shall Accessory dwelling units shall be excluded from maximum density calculations

a. —

1. RD-1: 7 dwellings per acre
2. RD-2: 11 dwellings per acre

C. When the building or impervious surface coverage of individual lots exceeds the permissible limits for the zone in which the development is located, additional open space areas shall be set aside so that the total coverage of development is consistent with the coverage limits prescribed by the underlying zone.

D. The resulting subdivision or short subdivision design shall clearly retain a substantial area of continuous, publicly accessible open space, wetlands, areas adjacent to wetlands, steep slopes, geologically hazardous areas, wildlife habitat areas, or other critical areas. ~~Cluster developments may also be authorized if the resulting o~~ Open space areas may also(s) be used for nonstructural low impact development features, such as bio-retention areas, which mimic natural environmental and hydrologic processes. All such low impact development features shall be extensively landscaped using native vegetation. The following minimum open space requirements shall apply to cluster developments:

Commented [BJ26]: BJ – This is a list of examples, the purpose of this provision is to provide flexibility with respect to building type while maintaining the same overall density. I don't think the intent was to restrict a building type we may not have thought of – 9-24-2020

Commented [BJ27]: BJ – corrected terminology – 9-24-2020

Commented [BJ28]: BJ – 3-29-2023 – changed from initial drafts to increase maximum allowable density by one unit per acre to more closely equate to a 30 percent bonus.

1. ~~Special management areas: 75 percent;~~

~~a.2. All other locations: 30 percent.~~

~~E. Lot size reductions shall be limited to 20 percent of the minimum lot size required by the zoning district in which the subdivision or short subdivision is located. For example, if the underlying zoning has a minimum lot size of 9,600 square feet, the maximum reduction in lot size is 1,920 square feet, or a minimum lot size of 7,680 square feet.~~

~~EF. When deviations from lot size and dimension requirements are granted, ~~r~~Restrictive plat notes shall be included identifying the approved building types and densities, ~~estric~~ restrictive plat notes shall be included prohibiting future divisions or adjustments if such divisions or adjustments would have the effect of increasing the overall density of the subdivision or short subdivision.~~

~~FG. Open space areas created through a cluster development shall be placed within separate tracts.~~

~~GH. Restrictive notes shall be included on the face of the plat, or short plat, limiting future use and development of open space tracts to uses and developments that are consistent with the intended purpose of the open space tracts. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.15.110 Residential small lot.

Residential small lots may be created in any ~~R-4RD~~ zone through a subdivision or short subdivision process. ~~Small lot developments shall comply with all of the requirements of this chapter except as follows: if the following requirements are met:~~

A. Minimum lot area: 3,000 square feet.

B. Maximum height limit: ~~250~~ feet.

C. ~~All structures placed on a residential small lot shall have a pitched Minimum roof as follows:~~
~~pitch:~~

1. Structures with finished living space on only one floor shall have a minimum roof pitch of 4:12.

2. Structures with finished living space on more than one floor shall have a minimum roof pitch of 12:12.

D. Maximum ~~structure depth~~ ~~building footprint~~: ~~8060~~ square feet, ~~excluding bay windows and~~ ~~Garages~~ ~~uncovered~~ ~~decks, patios, and balconies, and bay windows shall be excluded from measurement for the purposes of this provision.~~

~~E. Maximum interior floor area: 1,000 square feet, excluding garages, carports, and covered patios or decks.~~

E. Setback Requirements.

1. Front:

~~a. For lots with no alley access or where curb cuts are permitted: 17 feet~~

~~b. For lots with alley access or where curb cuts are prohibited by plat notes: 10 feet: 17 feet. The front setback for residential small lots may be reduced to 10 feet through the subdivision or short subdivision process if alley access is provided and setback requirements are noted on the face of the plat.~~

2. Street side: ~~20-10~~ feet

3. Rear: 10 feet.

4. Side: five feet.

Commented [BJ29]: BJ – 3-29-2023 – Added minimum open space requirement. No objective standard previously existed.

Commented [BJ30]: BJ – changed to reflect current examples – 9-24-2020

Commented [BJ31]: BJ – 11-5-2020 – revised for more appropriate setback for small lot buildings

F. Maximum building coverage: 45 percent.

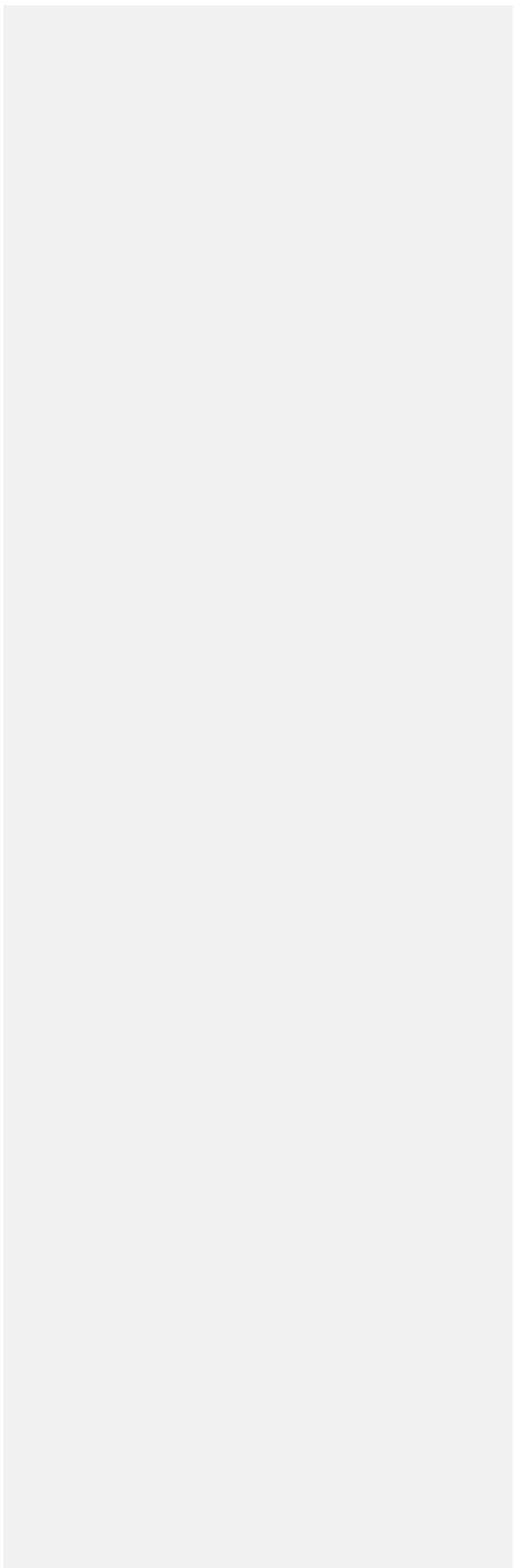
G. Maximum impervious surface coverage: 60 percent.

H. Small lot subdivisions and short subdivisions shall include restrictive plat notes identifying the requirements of this section. ~~(Ord. 1857 § 2 (Exh. B), 2018).~~

I. Maximum density: One primary residential building per lot.

J. Accessory dwellings shall not be permitted on a lot created through the small lot development process.

17.15.120 Cottage housing. (Reserved)



Chapter 17.20

~~R-2RA-1 – RESIDENTIAL ATTACHED ZONE TWO-FAMILY RESIDENCE DISTRICTS~~

Commented [BJ1]: BJ – Changed Title to reflect adopted land use element. 9-23-2020

Sections:

- 17.20.010 Title.
- 17.20.020 Application.
- 17.20.030 Purpose.
- 17.20.040 Authority.
- 17.20.050 Permitted primary uses.
- 17.20.060 Permitted accessory uses.
- 17.20.070 Conditional uses.
- 17.20.080 Additional regulations.
- 17.20.090 Development regulations.
- 17.20.100 Cluster developments.
- 17.20.105 Residential small lot.

17.20.010 Title.

This chapter shall be called “~~R-2 Two-Family Residence Districts-RA-1 – Residential Attached Zone~~” (Ord. 1857 § 2 (Exh. B), 2018).

17.20.020 Application.

This chapter shall apply to all uses and developments in areas ~~designated-zoned R-2RA-1~~. (Ord. 1857 § 2 (Exh. B), 2018).

17.20.030 Purpose.

~~The R-2, two-family residence, zone is intended to permit up to two dwelling units on a single lot at moderate densities above those permitted in the R-1 zones, but below those permitted in the R-3 zone. (Ord. 1857 § 2 (Exh. B), 2018). The RA-1 zone is intended to implement the RA comprehensive plan designation by accommodating a variety of small scale attached residential buildings such as duplexes, townhomes, small multiunit buildings, and related accessory uses. Other uses may also be permitted in limited circumstances when consistent with the goals and policies of the comprehensive plan. RA-1 zone is intended to provide a transition in scale between lower density, detached residential areas and areas of more intensive development. It is generally applied to areas characterized by a pattern of small lots, fragmented property ownership, or a mix of attached and detached dwellings. It can also be applied to areas within walking distance of schools, parks, or commercial services that lack the infrastructure to support more intensive forms of residential development.~~

Commented [BJ2]: BJ – 11-5-2020 – revised for consistency with RA comp plan policy.

17.20.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 35.63A, 36.70A, and 36.70B RCW and other applicable laws and regulations. (Ord. 1857 § 2 (Exh. B), 2018).

17.20.050 Permitted primary uses.

~~Buildings, structures, and lots in the RA-1 zone shall only be used for the following, unless otherwise provided for in this title: Any use listed as a permitted use in the R-1 zone shall be considered a permitted use in the R-2 zone. The following additional uses shall also be considered permitted uses in the R-2 zone:~~

- ~~A. Two-family (dDuplex) dwellings; provided, that no more than one duplex building shall be permitted on a single lot. (Ord. 1857 § 2 (Exh. B), 2018).~~
- ~~B. Horizontally attached dwellings;~~
- ~~C. Small multiunit buildings;~~
- ~~D. Detached dwellings;~~
- ~~E. Small boarding houses;~~

Commented [BJ3]: BJ – Added to implement permitted housing types identified in the land use element – 9-24-2020

F. Small commercial child daycare center;

~~a-G. Small utilities;~~

17.20.060 Permitted accessory uses.

~~The following buildings, structures, and uses are permitted accessory uses in the RA-1 zone. Accessory uses shall only be permitted when associated with, and incidental and subordinate to, a legally established primary use.~~

~~A. Normal residential appurtenances. The following uses and structures may be authorized as an accessory use in conjunction with a dwelling: garage, guest cottage, recreation room, storage shed, noncommercial greenhouse, swimming pool, decks, patios, driveway, on-site utilities and utility connections, fences, and solar panels;~~

~~B. Keeping of not more than six household pets, four of which may be dogs, kept in the home. This limit shall not include birds, fish or suckling young of pets;~~

~~C. Family day care services;~~

~~D. Foster family care services;~~

~~E. Accessory dwelling units;~~

~~F. Urban agriculture;~~

~~G. Telecommunication micro facility, subject to the following requirements, except as limited by the Telecommunication Act of 1996 as amended:~~

~~1. Micro facility shall be located on existing buildings, poles or other existing support structures. A micro facility may locate on buildings and structures: provided, that the interior wall or ceiling immediately adjacent to the facility is not designated residential space.~~

~~2. Antennas equal to or less than four feet in height (except omnidirectional antennas which can be up to six feet in height) and with an area of not more than 580 square inches in the aggregate (e.g., one-foot diameter parabola or two-foot by one-and-one-half-foot panel as viewed from any one point) are exempt from the height limitation of the zone in which they are located. Structures which are nonconforming with respect to height may be used for the placement of omnidirectional antennas providing they do not extend more than six feet above the existing structure. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.~~

~~3. The micro facility shall be exempt from design review if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.~~

~~4. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.~~

~~5. Micro facilities for a specific wireless provided shall be separated by a distance equal to or greater than 1,320 linear feet from other micro facilities of the same wireless provider. Any use identified as a permitted accessory use in the R-1 zone shall be considered a permitted accessory use in the R-2 zone, subject to any standards identified in BMC 17.15.070. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.20.070 Conditional uses.

~~Any use listed as a conditional use in the R-1 zone may be permitted as a conditional use in the R-2 zone subject to the procedural requirements applicable to conditional use permits. The following additional uses may also be permitted as conditional uses in the R-2 zone. The following uses shall require a conditional use permit:~~

~~A. Large bBoarding houses accommodating more than 10 persons;~~

~~B. Duplexes, more than one per lotMedium multiunit buildings;~~

Commented [BJ4]: BJ – 11-5-2020 – revised for consistent language and connection to defined terms.

Commented [BJ5]: BJ – 11-5-2020 – The code used to cross reference the RD zone for these standards which was confusing since the RD zone has different permitted uses.

Commented [BJ6]: BJ – added intro statement to clarify what these are and when they're permitted. 9-24-2020

Commented [BJ7]: BJ – special standards moved to the end of the chapter for clarity. Also changed terminology. 9-18-2020.

Commented [BJ8]: BJ – 11-5-2020 – revised for use of consistent language and to link to defined terms.

C. Small meeting facilities~~Museums~~;

D. Small private schools~~Nursing homes~~;

E. Large commercial child daycare centers;

FE. Utility substations~~Medium utilities~~;

G. ~~Accessory buildings with a footprint greater than 800 square feet~~;

H. Cluster developments; (~~Ord. 1857 § 2 (Exh. B), 2018~~);

I. Small nursing homes.

17.20.080 Additional regulations

A. ~~Manufactured Homes. Manufactured homes may be placed on any lot in an RA-1 zone and regulated in accordance with the same standards and requirements applicable to site built detached homes, except that the following additional regulations shall apply. These standards and requirements do not apply to legally established, nonconforming manufactured homes or manufactured homes placed within a manufactured home park.~~

1. The manufactured home shall be set upon a permanent foundation, as specified by the manufacturer, and the space between the bottom of the home and the ground shall be enclosed by concrete or an approved concrete product which may be either load bearing or decorative;

2. The manufactured home shall have been originally constructed with and shall now have a composition or wood shake or shingle, coated metal, or similar roof of nominal 3:12 pitch;

3. The manufactured home shall have exterior siding similar in appearance to siding materials commonly used on conventional site-built uniform building code single-family residences;

4. The placement of the manufactured home shall be consistent with all other regulatory requirements generally applicable to new homes.

B. Rural agricultural uses are not permitted.

C. No trailer, recreational vehicle, boat, camping trailer, fifth wheel, camper, van, car, or other similar type of mobile unit that is not a permanent structure attached to the ground, shall be used as a place of habitation or as a dwelling. Only site built structures which comply with all applicable building code requirements and manufactured or modular homes which meet applicable state or federal standards for use as a dwelling unit may be used as a place of habitation or as a dwelling.

E. Junk storage is only permitted outdoors when completely surrounded by a solid, site obscuring fence and not visible from an adjoining street or public right-of-way. Outdoor storage shall also be subject to the following additional restrictions and requirements:

1. Litter, trash, used appliances, used interior furnishings and discarded exterior furnishings and similar items are prohibited outdoors regardless of location.

2. Junk storage is further limited to piled used lumber, yard cleanup equipment and similar types of items; it is not intended to include the storage of any items that would be classified as a nuisance under chapter 8.12 BMC.

F. Where alley access is available, off street parking spaces and garages shall be accessed from the alley and no curb cuts shall be permitted. This requirement shall apply to all land divisions, the construction of new homes and accessory buildings, and requests for curb cuts to serve existing homes and accessory buildings.

G. Heat pumps or other noise-producing mechanical equipment shall only be permitted within 10 feet of a property line abutting another lot if all equipment shall be equipped with a noise-baffling screen so that there shall be no audible sound at the property line.

Commented [BJ9]: BJ – 11-5-2020 – the code use to cross reference the RD zone for these regulations which created confusion.

Commented [BJ10]: BJ – included heading for formatting consistency. 9-23-2020

H. New subdivisions or developments that will result in 40 or more lots or dwellings shall include a common open space area for outdoor recreation.

I. Larger residential buildings: The following requirements shall apply to multiunit or townhouse buildings that contain more than four dwelling units:

1. Except as authorized as part of a cluster development, medium multiunit buildings may only be permitted on lots within 1,320 feet (travel distance) of a school, park, bus route, or commercially zoned parcel;

2. Buildings shall be designed by a licensed architect and detailed elevation drawings shall be provided with the conditional use permit application.

3. For horizontally attached dwellings, each unit shall have frontage on a public or private street and shall have its own exterior entrance. Each unit's primary exterior entrance shall face the street and direct pedestrian access to the street shall be provided;

4. Primary building entrances shall incorporate a covered porch or landing with a minimum area of 20 square feet and a minimum depth of three feet;

5. A consolidated garbage and recycling area shall be provided and shall be screened from view in accordance with the applicable landscaping standard;

6. The maximum building length shall not exceed 180 feet.

7. Horizontally attached units shall incorporate design features that clearly identify each dwelling unit as individual residences such as a change in materials, color, articulation, rooflines, gables orientation, or other similar architectural techniques;

8. Each building shall include architectural design elements or materials intended to break up the mass of the building and provide greater compatibility with the scale and appearance of surrounding residential structures. At a minimum all buildings must incorporate at least three of the following design elements:

a. Modulations along the front façade at intervals of no more than 30 feet. Each modulation shall step the façade back or forward by at least four feet;

b. Changes in the roofline at intervals of no more than 30 feet, such as variations in roof pitch, overhangs, projections, or extended eaves;

c. Include at least two dormers with a minimum width of three feet;

d. Include at least two balconies on front façade. Balconies shall have a minimum depth of 6 feet between the building wall and the balcony railing;

e. For buildings with more than one floor, reduce the area of the upper floor so that its area is less than that of the first floor. To receive credit for this design element, the front building wall on the upper floor shall be stepped back from the first floor a minimum of two feet. The portion of upper floor stepped back from the first floor shall have a minimum width of eight feet. Uncovered, or covered unenclosed, balconies can be used to receive credit for this design element provided they satisfy the minimum dimensional requirements of this provision;

f. Use trim with a minimum depth of .75 inches and a minimum width of 3.5 inches to mark rooflines, windows, and doors.

K. Accessory Dwelling Units. The following standards shall apply to the accessory dwelling units (ADUs).

1. Type. ADUs may be attached to the primary dwelling or be located in an accessory building;

Commented [BJ11]: BJ – 11-5-2020 – added standards to implement planning commission's direction from housing and land use elements to revise the former "duplex zone" to be more of an attached housing zone to promote affordable housing for families. Also, at the planning commission's direction design regulations have been added to ensure visual compatibility.

2. Number. One accessory dwelling unit is permitted for each primary dwelling;

3. Maximum Size:

a. Detached: 1,000 square feet, exclusive of any area used as a garage, carport, or covered patio. In all cases detached ADUs shall comply with the size limits applicable to accessory buildings identified in this section;

b. Attached: 1,000 square feet or 30 percent of the floor area of the primary dwelling, whichever is less, provided that in all cases at least 500 square feet may be permitted;

4. Design standards:

c. Entrances and addressing: Separate entrances shall be provided for the primary dwelling and the ADU. The ADU entrance shall be oriented so that it faces a different direction than the entrance to the primary dwelling. ADUs shall be assigned their own address.

d. Setbacks: Detached ADUs shall comply with the setback standards applicable to accessory buildings identified in in this chapter.

e. Access: Direct pedestrian access shall be provided between the ADU and a street or alley.

5. Tenure and ownership. The ADU must be located on the same lot as the primary dwelling it is associated with and may not be separately sold.

L. Nonresidential uses. The following standards shall apply to schools, meeting facilities, and commercial day care centers, and other nonresidential uses other than utilities:

1. Schools, meeting facilities, and commercial day care centers shall be located on a corner lot and adjoin an arterial street;

2. The total building footprint shall not exceed 2,500 square feet;

3. Parking areas shall not be located between the building and the street and shall be completely screened from view with landscaping and fencing;

4. Outdoor play areas shall be screened from adjacent streets and residences with landscaping and fencing;

5. The lot on which the nonresidential use will be located shall have an area of at least 10,000 square feet;

6. Flat roofs are prohibited. Roofs shall have a pitch of no less than 4:12;

7. The primary exterior entrance shall face the street and direct pedestrian access shall be provided between the entrance and the street.

All structures, uses, and developments located in the R-2 zone shall be subject to the “additional regulations” identified in the R-1 zone (BMC 17.15.090). (Ord. 1857 § 2 (Exh. B), 2018).

17.20.090 — Development regulations.

All structures, uses, and developments shall comply with the “development standards” identified in the R-1 zone (BMC 17.15.100) except as follows:

A. Lot Area and Dimension. The following requirements shall apply to land divisions and boundary line adjustments in the RA-1 zone. Small lot and cluster developments shall be subject to the applicable standards in this chapter.

1. Minimum Lot Area: 1,500 square feet.

Commented [BJ12]: BJ – relocated ADU standards to this section.

Commented [BJ13]: BJ – 11-5-2020 – Code used to cross reference the RD zone which created confusion. Added code directly here.

Commented [BJ14]: BJ -11-5-2020 – see detailed explanation in the RD zone. No standards existed for these uses.

2. Minimum lot width.

- a. For lots with no alley access or where curb cuts are permitted: 30 feet
- b. For lots with alley access or where curb cuts are prohibited by plat notes: 15 feet

3. Minimum lot depth: 60 feet.

B. Minimum Setback Requirements.

1. Front.

- a. For lots with no alley access or where curb cuts are permitted: 17 feet
- b. For lots with alley access or where curb cuts are prohibited by plat notes: 10 feet

2. Street side: 10 feet.

3. Side: 5 feet.

4. Rear: 20 feet.

5. Alley: 0 feet.

5. Setback Exceptions.

- a. Accessory buildings, small lots, and cluster developments shall be subject to the setback requirements outlined in the applicable sections of this chapter;
- b. When authorized pursuant to this chapter, no property line setback shall apply to the common walls of zero lot line structures or horizontally attached dwellings;
- c. All other buildings and structures: see BMC 17.70.080.

6. Minimum Building Separation:

- a. Primary structures: 10 feet, except that when authorized pursuant to this chapter, no separation requirement shall apply between zero lot line structures or horizontally attached dwellings that share a common wall.
- b. Accessory structures: 5 feet.

C. Maximum Building and Impervious Surface Coverage.

- 1. Building and impervious surface coverage: 70 percent.
- 2. For new plats coverage limits may be averaged across lots within the plat boundaries. When coverage limits are averaged restrictive notes shall be included on the face of the plat identifying the coverage limits applicable to each lot.

D. Maximum Building Height: 35 feet.

E. Accessory buildings and structures shall comply with all of the requirements of this chapter except as follows:

- 1. Maximum Height: 25 feet;
- 2. Maximum Building Footprint: 800 square feet, provided that open uncovered decks and patios shall not be subject to this limit and larger buildings may be permitted with a conditional use permit;

Commented [BJ15]: BJ – Reflect PC direction to reduce # of detached residential zones, creating one normal detached residential zone, and one large lot residential zone for areas with significant critical area constraints or natural hazards – 9-24-2020

Commented [BJ16]: BJ – During the last code update this was intended to be changed to 17 feet for consistency with front setback. It doesn't make sense to treat two street frontages differently. 9-18-2020

Commented [BJ17]: BJ – 11-5-2020 – this addresses a problem staff has encountered administering the code. People want to build zero-lot line townhomes so the individual units can be sold. While the code allows townhomes to be built they all have to be on the same lot due to property line setback and building separation requirements. No substantive change, merely allows separate ownership of townhouse units.

Commented [BJ18]: BJ – 11-5-2020 – see comment above regarding zero-lot line townhomes.

Commented [BJ19]: BJ – 3-29-2023 – revised based on public comment

3. Maximum rear yard coverage: Accessory buildings and structures shall not cover more than 50 percent of the required rear yard setback area;

4. Minimum Setback Requirements:

a. Front: 17 feet, provided that no accessory building shall be located closer to the front property line than the primary structure it is associated with;

b. Side: 5 feet except no property line setback shall apply to the common walls of zero lot line structures;

c. Street side: 10 feet;

d. Rear: 5 feet;

e. Alley: 0 feet.

F. Maximum driveway width. The following restrictions shall only apply to new lots created for the purpose of accommodating detached, horizontally attached, or duplex dwellings.

1. For driveways accessing a public or private street: 10 feet;

2. For driveways accessing an alley: no maximum width.

A. Lot Area and Dimension. The following requirements shall apply to land divisions and boundary line adjustments in the R-2 zone except that small lot development shall be subject to the standards and requirements in BMC 17.15.110 and cluster developments shall be subject to the standards and requirements in BMC 17.15.105.

1. Minimum lot area: 7,600 square feet;

2. Minimum lot width: 70 feet.

B. Maximum Building and Impervious Surface Coverage.

1. Building coverage: 40 percent.

2. Impervious surface coverage: 60 percent. See table in BMC 17.15.100(C).

All other area and dimensional regulations shall be the same as those identified in the R-1 zone. (Ord. 1857 § 2 (Exh. B), 2018).

17.20.100 Cluster developments.

Cluster developments may be permitted through a subdivision or short subdivision process. A variety of building types and site layouts may be authorized and alternative standards for lot width, lot depth, lot area, building and impervious surface coverage, and property line setbacks may be employed. Cluster developments shall comply with all of the requirements of this chapter except as follows:

A. Permitted housing types may include, but are not limited to, detached dwellings, townhouses, multiunit buildings, cottage housing, zero lot line development, or a combination of housing types.

B. The maximum allowable density of a cluster development may be averaged across the entire site. The maximum permitted density shall not exceed 39 dwelling units per acre. Accessory dwelling units shall be excluded from maximum density calculations.

C. When the building or impervious surface coverage of individual lots exceeds the permissible limits for the zone in which the development is located, additional open space areas shall be set aside so that the total coverage of development is consistent with the coverage limits prescribed by the underlying zone.

D. The resulting subdivision or short subdivision design shall clearly retain a substantial area of continuous, publicly accessible open space, wetlands, areas adjacent to wetlands, steep slopes, geologically hazardous areas, wildlife habitat areas, or other critical areas. Cluster developments may also be authorized if the resulting open space area(s) is used for nonstructural low impact development features, such as bio-retention areas, which mimic natural environmental and hydrologic processes. All such low impact development features shall be extensively landscaped using native vegetation. The following minimum open space requirements shall apply to cluster developments:

Commented [BJ20]: BJ – Based on PC guidance eliminated the cross references to the RD zone which were difficult to interpret. Cluster and small lot provisions are identified in each zone now.

Commented [BJ21]: BJ – This is a list of examples, the purpose of this provision is to provide flexibility with respect to building type while maintaining the same overall density. I don't think the intent was to restrict a building type we may not have thought of – 9-24-2020

Commented [BJ22]: BJ – corrected terminology – 9-24-2020

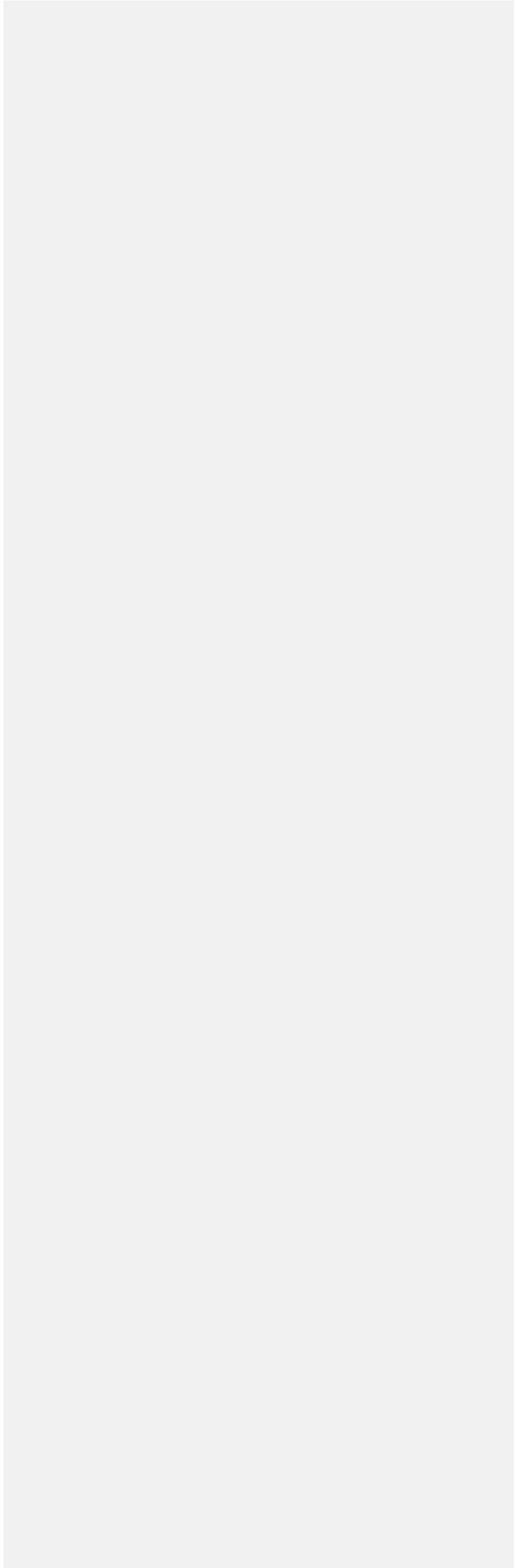
1. Special management areas 60 percent.

2. All other locations: 30 percent.

E. Restrictive plat notes shall be included identifying the approved building types and densities.

G. Open space areas created through a cluster development shall be placed within separate tracts.

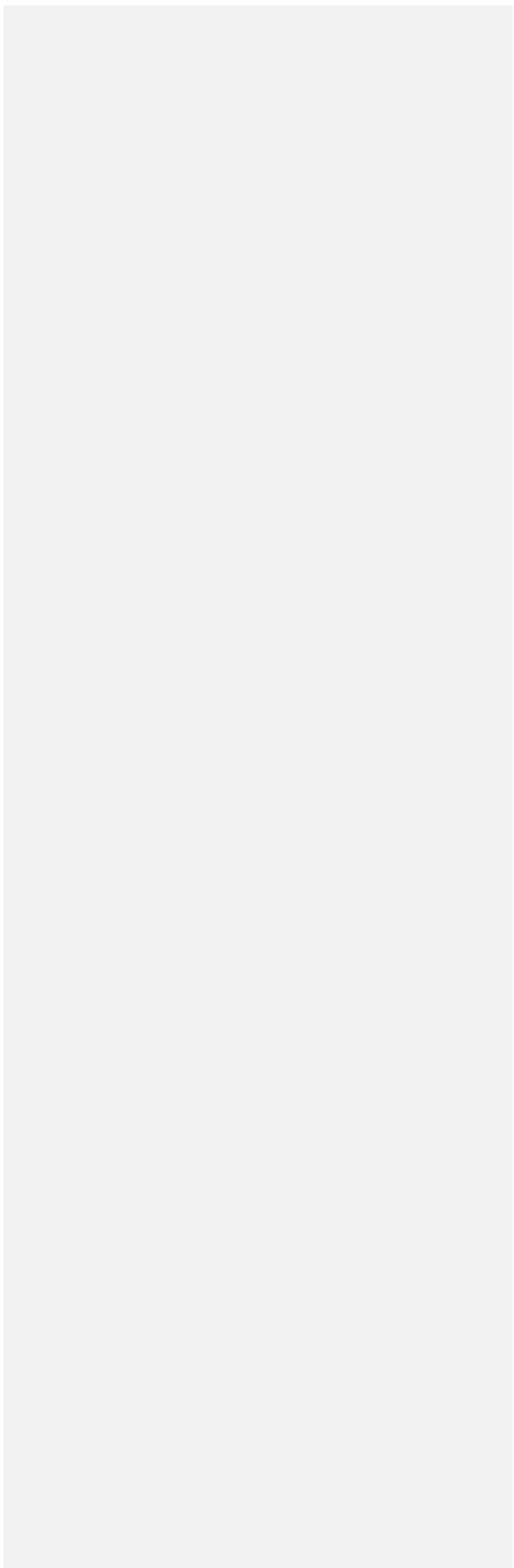
H. Restrictive notes shall be included on the face of the plat, or short plat, limiting future use and development of open space tracts to uses and developments that are consistent with the intended purpose of the open space tracts. (Ord. 1857 § 2 (Exh. B), 2018).



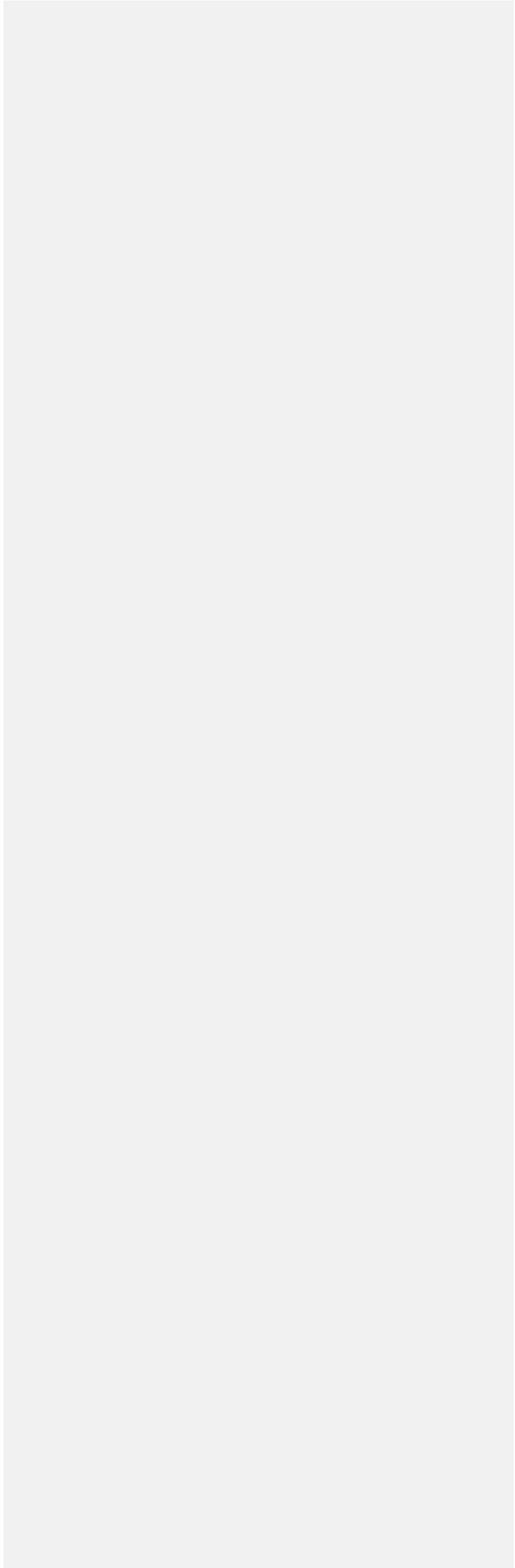
~~Cluster developments may be permitted in the R-2 zone as part of the subdivision or short subdivision process subject to the applicable provisions set forth in the R-1 zone (BMC 17.15.105). (Ord. 1857 § 2 (Exh. B), 2018).~~

~~**17.20.105 Residential small lot.**~~

~~Residential small lots may be created in an R-2 zone through a subdivision or short subdivision process subject to the applicable provisions set forth in the R-1 zone (BMC 17.15.110). (Ord. 1857 § 2 (Exh. B), 2018).~~



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Chapter 17.25

R-3 MULTIFAMILY RESIDENCE DISTRICTS RA-2 RESIDENTIAL ATTACHED ZONE

Sections:

- 17.25.010 Title.
- 17.25.020 Application.
- 17.25.030 Purpose.
- 17.25.040 Authority.
- 17.25.050 Permitted primary uses.
- 17.25.060 Permitted accessory uses.
- 17.25.070 Conditional uses.
- 17.25.080 ~~Additional General use~~ regulations.
- 17.25.090 ~~Development-Design~~ standards.
- 17.25.100 ~~Cluster developments~~ Development standards.
- 17.25.1005 ~~Residential small lot~~ Cottage housing.

17.25.010 Title.

This chapter shall be called "RA-2 – Residential Attached Zone" "R-3 Multifamily Residence Districts." (Ord. 1857 § 2 (Exh. B), 2018).

17.25.020 Application.

This chapter shall apply to all uses and developments in areas designated ~~R-3~~ RA-2. (Ord. 1857 § 2 (Exh. B), 2018).

17.25.030 Purpose.

The RA-2 zone is intended to implement the RA comprehensive plan designation by accommodating a variety of larger scale residential buildings such as multiunit buildings, including apartments and condominiums, townhomes, duplexes, and related accessory uses. Other uses may be permitted in limited circumstances when consistent with the goals and policies of the comprehensive plan. The RA-2 zone permits more intensive development than the RA-1 zone and is generally applied to areas that adjoin a detached residential zones where commercial development would not be appropriate due to a lack of traffic, visibility, or inadequate infrastructure. The R-3 district is intended to accommodate a variety of higher density housing types, including, but not limited to, attached townhomes, multifamily apartment buildings, and duplexes. (Ord. 1857 § 2 (Exh. B), 2018).

17.25.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 35.63A, 36.70A, and 36.70B RCW and other applicable laws and regulations. (Ord. 1857 § 2 (Exh. B), 2018).

17.25.050 Permitted primary uses.

Buildings, structures, and lots in the RA-2 zone shall only be used for the following, unless otherwise provided for in this title. Any use listed as a permitted use in the R-1 or R-2 zone shall be considered a permitted use in the R-3 zone. The following additional uses shall also be considered permitted uses in the R-3 zone:

- A. Detached dwellings;
- B. Duplex dwellings;
- C. Horizontally attached dwellings;
- D. Multiunit buildings, all sizes;
- E. Boarding houses, all sizes;
- F. Commercial child daycare center;
- G. Small utilities;

Commented [BJ1]: BJ – Added to implement permitted housing types identified in the land use element – 9-24-2020

H. Small private schools;

I. Small meeting facilities;

J. Small nursing homes.

A. Multifamily dwellings. The construction and development of multifamily dwellings shall be subject to the following requirements:

1. Parking areas shall be screened from the street.
2. Pedestrian access shall be provided throughout the site and shall provide a complete and logical circulation system that connects each dwelling unit with streets, adjoining developments, parking areas, common areas, and recreation areas. Any additional pedestrian access circulation and access requirements identified in chapter 17.85 BMC (Access, Parking and Loading) shall also be addressed.
3. Trash and recycling areas and containers shall be fully enclosed and screened from view with a solid site-obscuring fence or wall and gate. Trash and recycling containers shall not be visible from adjoining public streets or adjacent properties.
4. Developments with 40 or more units shall provide a children's play area(s) at a rate of 225 square feet plus 20 additional square feet for each unit.
5. Developments with 40 or more units shall provide common open space for passive or active recreation at the rate of 50 square feet per unit.
6. Laundry and storage facilities shall be provided, either in each unit or in a central facility.
7. Exterior lighting shall be provided for parking areas, access streets and pedestrian walkways. Lighting shall be designed to direct light away from residential units to prevent glare. (Ord. 1857 § 2 (Exh. B), 2018).

17.25.060 Permitted accessory uses.

The following buildings, structures, and uses are permitted accessory uses in the RA-2 zone. Accessory uses shall only be permitted when associated with, and incidental and subordinate to, a legally established primary use.

Any use identified as a permitted accessory use in the R-1 or R-2 zone shall be considered a permitted accessory use in the R-3 zone, subject to any standards identified in BMC 17.15.070. The following additional uses shall also be considered permitted accessory uses in the R-3 zone:

A. Normal residential appurtenances. The following uses and structures may be authorized as an accessory use in conjunction with a dwelling, multiunit building, or residential development: garages, recreation or exercise facilities, community room, manager's office, storage shed, noncommercial gardens and greenhouses, swimming pools, laundry rooms and facilities, decks, patios, driveways, on-site utilities and utility connections, fences, and solar panels;

B. Keeping of not more than six household pets, four of which may be dogs, kept in the home. This limit shall not include birds, fish or suckling young of pets;

C. Family day care services;

D. Foster family care services;

F. Telecommunication mini facility, subject to the following requirements:

1. The mini facility may be located on buildings and structures; provided, that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.
2. The mini facility shall be exempt from design review if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.
3. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.
4. Mini facilities shall comply with the height limitation specified for all zones except as follows: Omnidirectional antennas may exceed the height limitation by 10 feet, or in the case of nonconforming structures the antennas may extend 10 feet above the existing structure. Panel antennas may exceed the height

Commented [BJ2]: BJ – 11-5-2020 – revised for consistent language and connection to defined terms.

limitation if affixed to the side of an existing nonconforming building and blends in architecturally with the building. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure. ~~(Ord. 1857 § 2 (Exh. B), 2018)~~

G. Parking facilities. -

17.25.070 Conditional uses.

~~The following uses shall require a conditional use permit. Any use listed as a conditional use in the R-1 or R-2 zone may be permitted as a conditional use in the R-3 zone subject to the procedural requirements applicable to conditional use permits. The following additional uses may also be permitted as conditional uses in the R-3 zone:~~

B. Large meeting facilities;

C. Large private schools;

D. Medium utilities;

E. Professional offices;

F. Personal services;

G. Specialized instruction;

H. Large nursing homes.

A. Commercial child day-care center;

B. Health care facilities;

C. Professional offices;

D. Government facilities, other than those listed as a permitted use. (Ord. 1857 § 2 (Exh. B), 2018).

17.25.080 Additional General use regulations.

A. Rural agricultural uses are not permitted.

B. No trailer, recreational vehicle, boat, camping trailer, fifth wheel, camper, van, car, or other similar type of mobile unit that is not a permanent structure attached to the ground, shall be used as a place of habitation or as a dwelling. Only site built structures which comply with all applicable building code requirements and manufactured or modular homes which meet applicable state or federal standards for use as a dwelling unit may be used as a place of habitation or as a dwelling.

C. Junk storage is only permitted outdoors when completely surrounded by a solid, site obscuring fence and not visible from an adjoining street or public right-of-way. Outdoor storage shall also be subject to the following additional restrictions and requirements:

1. Litter, trash, used appliances, used interior furnishings and discarded exterior furnishings and similar items are prohibited outdoors regardless of location.

2. Junk storage is further limited to piled used lumber, yard cleanup equipment and similar types of items; it is not intended to include the storage of any items that would be classified as a nuisance under chapter 8.12 BMC.

17.25.090 Design standards.

A. Parking facilities and access.

Commented [BJ3]: BJ – 11-5-2020 – revised for use of consistent language and to link to defined terms.

Commented [BJ4]: 4-12-2023 – Revised for consistency with language used in RD code chapters.

1. Where alley access is available, off street parking spaces and garages shall be accessed from the alley and no curb cuts shall be permitted. This requirement shall apply to all land divisions, the construction of new homes and accessory buildings, and requests for new curb cuts.
2. Parking shall not be located between the building and the street. This restriction shall not apply to driveways serving detached dwellings on individual lots or duplexes and townhome in developments of eight units or less.

B. Heat pumps and other mechanical equipment shall be located at least 10 feet from any property line adjoining another residential development or dwelling and all equipment shall be equipped with a noise-baffling screen so there is no audible sound at the property line. All such equipment shall be fully screened from view using landscaping or fencing. Rooftop mechanical equipment shall be fully screened from view.

C. The following exterior finishes and materials shall be prohibited:

1. Vinyl siding;
2. T-111 plywood;
3. Exterior insulation finishing system (EIFS).

D. New subdivisions or developments that will result in 40 or more lots or dwellings shall include a common open space area for outdoor recreation.

E. Detached dwellings. Detached dwellings shall only be permitted in the following circumstances:

1. On existing lots that have an area of 4,000 square feet or less;
2. The construction of two or more detached dwellings on an existing lot provided the resulting density is at least one unit per 4,000 square feet
3. In a cottage development with a gross density of at least 15 units per acre;
4. As part of a development with a mix of building types that has a gross density of at least 15 units per acre.

F. Multiunit and horizontally attached dwellings.

1. Large multiunit buildings and residential buildings in any development that includes more than eight dwellings shall be designed by a licensed architect and detailed elevation drawings shall be provided with the land use permit application;
2. Large multiunit buildings and residential buildings in any development that includes more than eight dwellings shall have frontage on a public or private street. The primary entrance for each building shall face the street and direct pedestrian access shall be provided between the entrance and the street.
3. For horizontally attached dwellings, each unit shall have its own exterior entrance and a direct pedestrian connection shall be provided between the entrance and the nearest street. For developments that include more than eight units, each unit shall have frontage on a public or private street and the primary entrance to each unit shall face the street.
4. Primary building entrances shall incorporate a covered porch or landing with a minimum area of 20 square feet and a minimum depth of three feet;
5. A consolidated garbage and recycling area shall be provided and shall be screened from view in accordance with the applicable landscaping standard;
6. The maximum building length shall not exceed 180 feet.

7. Street facing facades of large multiunit buildings shall incorporate modulations at intervals of 60 feet or less as follows:

- a. Each modulation shall have a minimum width of 15 feet and a minimum depth of 6 feet;
- b. Balconies can be used to meet a portion of this requirement provided each balcony has an area of at least 80 square feet and a depth of at least 6 feet.

8. For the purpose of breaking up the vertical mass of buildings, the first floor of a multistory building shall be distinguished from the upper floors through the use of at least one of the following design elements:

- a. Change in materials;
- b. Change in color;
- c. Molding or other horizontally distinguishing transition trim, treatment, or embellishment.

9. Each building shall include architectural design elements or materials intended to break up the mass of the building and provide greater compatibility with the scale and appearance of surrounding residential structures. At a minimum all buildings must incorporate at least two of the following design elements:

- a. Changes in the roofline at intervals of no more than 30 feet, such as variations in roof pitch, height, overhangs, projections, or extended eaves;
- c. Include at least two dormers with a minimum width of three feet;
- d. Include at least two balconies on the front façade. Balconies shall have a minimum depth of 6 feet between the building wall and the balcony railing;
- e. For buildings with more than one floor, reduce the area of the upper floor so that its area is less than that of the first floor. To receive credit for this design element, the front building wall on the upper floor shall be stepped back from the first floor a minimum of two feet. The portion of upper floor stepped back from the first floor shall have a minimum width of eight feet. Uncovered, or covered unenclosed, balconies can be used to receive credit for this design element provided they satisfy the minimum dimensional requirements of this provision.

10. Transition areas. For developments that abut property zoned RD the following standards shall apply:

- a. All residential buildings shall be setback at least 20 feet from parcels zoned RD. Any portion of a building higher than 25 feet or containing more than two stories shall be setback at least 40 feet from parcels zoned RD.
- b. Balconies that face a parcel zoned RD shall be faced with a material such as frosted or opaque glass to provide visual privacy to neighboring properties.
- c. Parking spaces and access roads shall not be located within 20 feet of a parcel zoned RD.
- d. A landscaped buffer shall be provided in accordance with the requirements of Chapter 17.81 BMC.

K. Nonresidential uses.

- 1. Nonresidential uses shall have frontage on a public street. The primary exterior entrance providing access to the non-residential uses shall face the street and direct pedestrian access to the street shall be provided;

2. Schools, meeting facilities, and commercial day care centers shall be located on a corner lot;
3. Professional offices and personal service establishments shall have frontage on a public street;
4. The total floor area of any single building devoted to a non-residential use shall not exceed 2,500 square feet, provided this restriction shall not apply to residential accessory uses such as community rooms, gyms, pools, or leasing offices;
5. Parking areas shall not be located between the building and the street and shall be completely screened from view with landscaping and fencing;
6. Outdoor play areas shall be screened from adjacent streets and residences with landscaping and fencing;
7. Flat roofs are prohibited. Roofs shall have a pitch of no less than 4:12;

L. Manufactured Homes. Manufactured homes may be placed on any lot in an RA-2 zone where detached dwellings are permitted and regulated in accordance with the same standards and requirements applicable to site built detached homes, except that the following additional regulations shall apply. These standards and requirements do not apply to legally established, nonconforming manufactured homes or manufactured homes placed within a manufactured home park.

1. The manufactured home shall be set upon a permanent foundation, as specified by the manufacturer, and the space between the bottom of the home and the ground shall be enclosed by concrete or an approved concrete product which may be either load bearing or decorative;
2. The manufactured home shall have been originally constructed with and shall now have a composition or wood shake or shingle, coated metal, or similar roof of nominal 3:12 pitch;
3. The manufactured home shall have exterior siding similar in appearance to siding materials commonly used on conventional site-built uniform building code single-family residences;
4. The placement of the manufactured home shall be consistent with all other regulatory requirements generally. All structures, uses, and developments located in the R-3 zone shall be subject to the "additional regulations" identified in the R-1 zone (BMC 17.15.090). (Ord. 1857 § 2 (Exh. B), 2018).
5. Manufactured homes shall comply with all of the regulatory requirements and permit processing procedures identified in the chapter for site built detached homes.

17.25.090100 Development standards.

All structures, uses, and developments shall comply with the "development regulations" identified in the R-1 zone (BMC 17.15.100) except as follows:

A. Lot Area and Dimension. The following requirements shall apply to land divisions and boundary line adjustments in the RA-2 zone except that cluster developments shall be subject to the standards in BMC 17.20.105. The following requirements shall apply to land divisions and boundary line adjustments and not to the use of existing lots:

1. Minimum lot area: ~~6,000 square feet~~ 1,500 square feet.
2. Minimum lot width:
 - a. For lots with no alley access or where curb cuts are permitted: 30 feet
 - b. For lots with alley access or where curb cuts are prohibited by plat notes: ~~15 feet~~ 60 feet.
3. Minimum lot depth: ~~60 feet~~ 80 feet.

B. Minimum setback requirements.

- 1. Front: 10 feet
- 2. Street side: 10 feet
- 3. Side: None.
- 4. Rear: None.

C. Minimum building separation.

- 1. Primary structures: 30 feet.
- 2. Accessory structures: 10 feet.
- 3. Exceptions: When authorized pursuant to this Chapter no separation requirement shall apply between zero lot line structures or horizontally attached dwellings that share a common wall.

~~B. Maximum Density. The maximum permissible density for multifamily development shall be calculated as follows: one unit per lot plus one additional unit for every 3,000 square feet of lot area; provided, that additional density may be permitted through the agricultural heritage credit program.~~

~~DC. Maximum building and impervious surface coverage: 70 percent.~~

~~ED. Maximum building height: 435 feet.~~

~~E. Minimum Building Separation:~~

- ~~1. Between primary structures located on the same lot: 30 feet.~~
- ~~2. Between primary structures and accessory structures: 10 feet.~~

~~F. Maximum Building Dimension. In no instance shall the greatest dimension of a multifamily building exceed 150 feet, measured parallel to exterior building walls.~~

~~G. Maximum Building Gross Floor Area. In no instance shall the gross floor area exceed 8,000 square feet for any multifamily building. (Ord. 1857 § 2 (Exh. B), 2018).~~

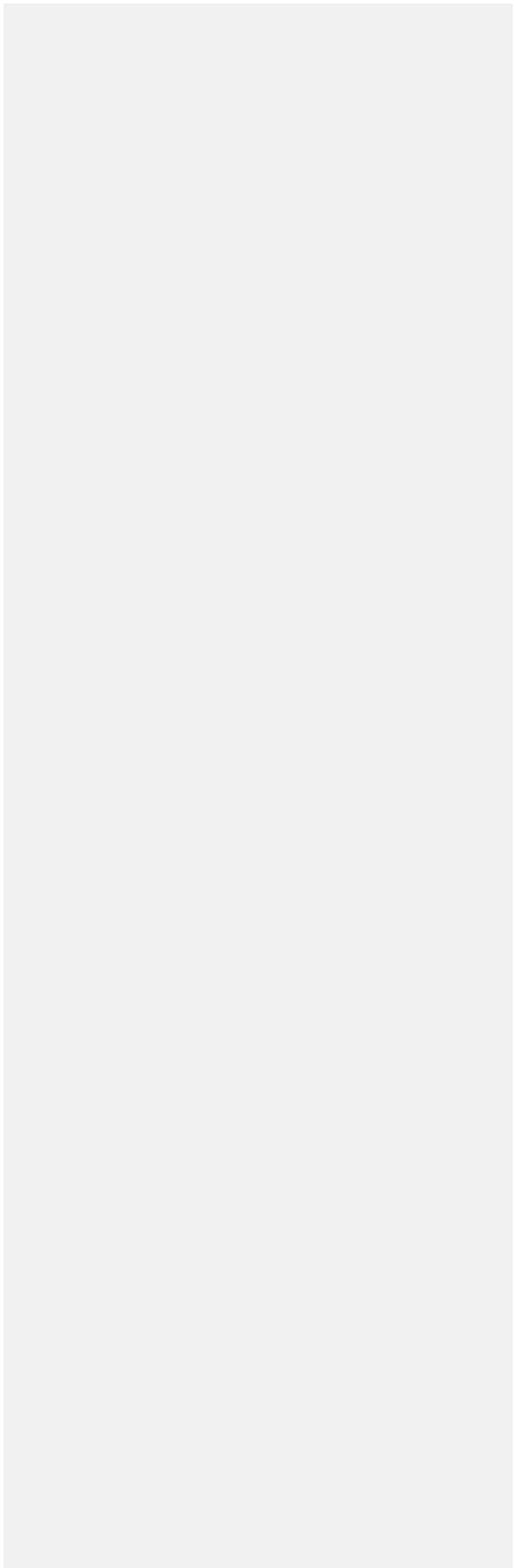
17.25.11000 Cluster development Cottage Housing (Reserved).

~~Cluster developments may be permitted in the R-3 zone as part of the subdivision or short subdivision process subject to the applicable provisions set forth in the R-1 zone (BMC 17.15.105). (Ord. 1857 § 2 (Exh. B), 2018).~~

17.25.105 Residential small lot.

~~Residential small lots may be created in an R-3 zone through a subdivision or short subdivision process subject to the applicable provisions set forth in the R-1 zone (BMC 17.15.110). (Ord. 1857 § 2 (Exh. B), 2018).~~

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Chapter 17.30

R-S SEMI-PUBLIC DISTRICT MUR-1 – Mixed Use Residential Zone

Sections:

- 17.30.010 Title.
- 17.30.020 Application.
- 17.30.030 Purpose.
- 17.30.040 Authority.
- 17.30.050 Permitted primary uses.
- 17.30.060 Permitted accessory uses.
- 17.30.070 Conditional uses.
- 17.30.080 ~~Additional General use~~ regulations.
- 17.30.090 ~~Development-Design~~ standards.
- 17.30.100 Development standards.
- 17.30.110 Cottage housing.

17.30.010 Title.

This chapter shall be called “~~R-S Semi Public District~~ MUR-1 – Mixed Use Residential Zone” (Ord. 1857 § 2 (Exh. B), 2018).

17.30.020 Application.

This chapter shall apply to all uses and developments in areas zone MUR-1 designated R-S. (Ord. 1857 § 2 (Exh. B), 2018).

17.30.030 Purpose.

~~The R-S residential office zone encompasses Burlington’s original town site and is intended to permit a mixture of residential and office uses that are compatible in design and character with adjacent residential uses. (Ord. 1857 § 2 (Exh. B), 2018)~~ MUR-1 zone is intended to implement the MUR comprehensive plan designation by accommodating a mix of attached housing and commercial uses with an emphasis on residential uses. The MUR-1 zone is intended to create an environment that accommodates small scale, indoor commercial activities such as offices, professional services, home businesses, art galleries, and other similar uses that generate limited traffic, pollution, and noise, and primarily operate during daytime business hours. Permitted residential uses include a variety of higher density housing types including duplexes, townhomes, and multiunit buildings. The development standards and design regulations for the MUR-1 zone are intended to create a streetscape and environment that has more traditional urban characteristics than the City’s residential zones, including building set closer to the street, varied roof types, and intermittent commercial spaces.

17.30.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 35.63, 35A.63, 36.70A and 36.70B RCW and other applicable laws and regulations. (Ord. 1857 § 2 (Exh. B), 2018).

17.30.050 Permitted primary uses.

~~Any use listed as a permitted use in the R-1, R-2 or R-3 zone shall be considered a permitted use in the R-S zone. The following additional uses shall also be considered permitted uses in the R-S zone~~ Buildings structures, and lots in the MUR-1 zone shall only be used for the following, unless otherwise provided for in this title:

- A. Detached dwellings;
- B. Duplex dwellings;
- C. Horizontally attached dwellings;
- D. Multiunit buildings, small and medium;
- E. Boarding houses;

Commented [BJ1]: BJ – Added to implement permitted housing types identified in the land use element – 9-24-2020

F. Commercial child daycare center;

G. Small utilities;

H. Small private schools;

I. Small meeting facilities;

J. Professional offices;

K. Personal services;

L. Specialized instruction;

M. Small nursing homes;

N. Small scale retail;

O. Small healthcare facilities;

P. Veterinary clinics.

A. Professional offices. (Ord. 1857 § 2 (Exh. B), 2018).

17.30.060 Permitted accessory uses.

The following buildings, structures, and uses are permitted accessory uses in the MUR-1 zone. Accessory uses shall only be permitted when associated with, and incidental and subordinate to, a legally established primary use.

A. Normal residential appurtenances. The following uses and structures may be authorized as an accessory use in conjunction with a dwelling, multiunit building, or residential development: garages, recreation, exercise, or community room, manager's office, storage shed, noncommercial gardens and greenhouses, swimming pools, laundry rooms and facilities, decks, patios, driveways, on-site utilities and utility connections, fences, and solar panels;

B. Keeping of not more than six household pets, four of which may be dogs, kept in the home. This limit shall not include birds, fish or suckling young of pets;

C. Family day care services;

D. Foster family care services;

E. Telecommunication mini facility, subject to the following requirements:

1. The mini facility may be located on buildings and structures; provided, that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.

2. The mini facility shall be exempt from design review if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.

3. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.

Commented [BJ2]: BJ – 11-5-2020 – revised for consistent language and connection to defined terms.

4. Mini facilities shall comply with the height limitation specified for all zones except as follows: Omnidirectional antennas may exceed the height limitation by 10 feet, or in the case of nonconforming structures the antennas may extend 10 feet above the existing structure. Panel antennas may exceed the height limitation if affixed to the side of an existing nonconforming building and blends in architecturally with the building. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

F. Parking facilities.

G. Urban agriculture.

Any use identified as a permitted accessory use in the R-1, R-2, or R-3 zone shall be considered a permitted accessory use in the R-S zone, subject to any standards identified in BMC 17.15.070. The following additional uses shall also be considered permitted accessory uses in the R-S zone:

A. Accessory buildings or uses incidental and subordinate to primary permitted commercial use, including but not limited to: garages solely for the storage and servicing of vehicles of occupants of the building; restaurants or cafeterias primarily for the convenience of the occupants of the building; printing of materials necessary in the operation of the primary business and not used for the conduct of a general printing business; sample display sales rooms; or similar accessory uses. (Ord. 1857 § 2 (Exh. B), 2018).

17.30.070 Conditional uses.

The following uses shall require a conditional use permit:

B. Large meeting facilities;

C. Large private schools;

D. Medium utilities;

E. Large multiunit buildings;

F. Small eating and drinking establishments;

G. Medium scale retail;

H. Large nursing homes;

I. Large healthcare facilities.

Any use listed as a conditional use in the R-1 or R-2 zone may be permitted as a conditional use in the R-S zone subject to the procedural requirements applicable to conditional use permits. The following additional uses may also be permitted as conditional uses in the R-S zone:

A. Multifamily housing at densities higher than those allowed in the R-3 zone. (Ord. 1857 § 2 (Exh. B), 2018).

17.30.080 Additional General use regulations.

A. Rural agricultural uses are not permitted.

B. No trailer, recreational vehicle, boat, camping trailer, fifth wheel, camper, van, car, or other similar type of mobile unit that is not a permanent structure attached to the ground, shall be used as a place of habitation or as a dwelling. Only site built structures which comply with all applicable building code requirements and manufactured or modular homes which meet applicable state or federal standards for use as a dwelling unit may be used as a place of habitation or as a dwelling.

C. Junk storage is only permitted outdoors when completely surrounded by a solid, site obscuring fence and not visible from an adjoining street or public right-of-way. Outdoor storage shall also be subject to the following additional restrictions and requirements:

Commented [BJ3]: BJ – 11-5-2020 – revised for use of consistent language and to link to defined terms.

Commented [BJ4]: BJ – 4-12-2023 – Revised to use consistent language with other code chapters.

1. Litter, trash, used appliances, used interior furnishings and discarded exterior furnishings and similar items are prohibited outdoors regardless of location.

2. Junk storage is further limited to piled used lumber, yard cleanup equipment and similar types of items; it is not intended to include the storage of any items that would be classified as a nuisance under chapter 8.12 BMC.

D. Drive-through uses are prohibited.

E. Uses generating noise levels incompatible with residential occupancy shall not be permitted and the following regulations shall apply to all uses:

1. Truck loading, deliveries, and other similar activities shall only be prohibited except between the hours of 7:00 a.m. and 7:00 p.m.

2. Uses involving music, such as dance studios or music classes, and uses that could potentially generate noise impacts, such as eating and drinking establishments, shall be conducted in a fully enclosed building and an approved acoustical wall installed to prevent excessive noise at the property line, or if in a mixed use building, to provide a noise barrier between the commercial and residential occupancy. Construction techniques shall be employed to ensure sound transmission control ratings are compatible with a mixed use environment.

F. Processing, handling, and storage of hazardous materials, including medical waste, is prohibited, except for small quantities as minimally necessary when incidental and secondary to a permitted use.

All structures, uses and developments located in the R-S zone shall be subject to the "additional regulations" identified in the R-1 zone (BMC 17.15.090) except as noted below:

A. No operation shall be permitted in the R-S district which creates smoke, dust, dirt, fly ash, noise, glare, heat, odor, gases, vibrations, electrical radiation or interference or any other evidence of nuisance which is detectable at objectionable levels at the property lines. The performance standards of chapter 17.70 BMC shall provide the criteria for measurement of such nuisances.

B. Parking shall be provided as required by chapter 17.85 BMC (Access, Parking and Loading).

C. Signs and signage shall comply with the regulations identified in chapter 17.95 BMC (Signs).

D. All parking areas and storage yards shall be fully screened from view. (Ord. 1857 § 2 (Exh. B), 2018).

17.30.090 Design standards.

A. Parking facilities and access.

1. Where alley access is available, off street parking spaces and garages shall be accessed from the alley and no curb cuts shall be permitted. This requirement shall apply to all land divisions, the construction of new homes and buildings, and requests for new curb cuts:

2. Parking areas shall not be located between the building and the street and shall be fully screened from view using a combination of fencing and landscaping.

B. Heat pumps and other mechanical equipment shall only be permitted within 10 feet of a property line adjoining another residential development or dwelling if all equipment shall be equipped with a noise-baffling screen so there is no audible sound at the property line. All such equipment shall be fully screened from view using landscaping or fencing. Rooftop mechanical equipment shall be fully screened from view.

C. The following exterior finishes and materials shall be prohibited:

1. Vinyl siding;

2. T-111 plywood;

3. Exterior insulation finishing system (EIFS).

D. New subdivisions or developments that will result in 40 or more lots or dwellings shall include a common open space area for outdoor recreation.

E. Detached dwellings. Detached dwellings shall only be permitted in the following circumstances:

1. On existing lots that have an area of 4,000 square feet or less;
2. The construction of two or more detached dwellings on an existing lot provided the resulting density is at least one unit per 4,000 square feet;
3. In a cottage development with a gross density of at least 15 units per acre;
4. As part of a development with a mix of building types that has a gross density of at least 15 units per acre.

F. Multiunit and horizontally attached dwellings.

1. Large multiunit buildings and residential buildings in any development that includes more than eight dwellings shall be designed by a licensed architect and detailed elevation drawings shall be provided with the land use permit application;
2. Large multiunit buildings and residential buildings in any development that includes more than eight dwellings shall have frontage on a public or private street. The primary entrance for each building shall face the street and direct pedestrian access shall be provided between the entrance and the street.
3. For horizontally attached dwellings, each unit shall have its own exterior entrance and a direct pedestrian connection shall be provided between the entrance and the nearest street. For developments that include more than eight units, each unit shall have frontage on a public or private street and the primary entrance to each unit shall face the street.
4. Primary building entrances shall incorporate a covered porch or landing with a minimum area of 20 square feet and a minimum depth of three feet;
5. A consolidated garbage and recycling area shall be provided and shall be screened from view in accordance with the applicable landscaping standard;
6. The maximum building length shall not exceed 180 feet.
7. Street facing facades of large multiunit buildings shall incorporate modulations at intervals of 60 feet or less as follows:
 - a. Each modulation shall have a minimum width of 15 feet and a minimum depth of 6 feet;
 - b. Balconies can be used to meet a portion of this requirement provided each balcony has an area of at least 80 square feet and a depth of at least 6 feet.
8. For the purpose of breaking up the vertical mass of buildings, the first floor of a multistory building shall be distinguished from the upper floors through the use of at least one of the following design elements:
 - a. Change in materials;
 - b. Change in color;
 - C. Molding or other horizontally distinguishing transition trim, treatment, or embellishment.
9. Each building shall include architectural design elements or materials intended to break up the mass of the building and provide greater compatibility with the scale and appearance of surrounding residential structures. At a minimum all buildings must incorporate at least two of the following design elements:

- a. Changes in the roofline at intervals of no more than 30 feet, such as variations in roof pitch, height, overhangs, projections, or extended eaves;
- c. Include at least two dormers with a minimum width of three feet;
- d. Include at least two balconies on front façade. Balconies shall have a minimum depth of 6 feet between the building wall and the balcony railing;
- e. For buildings with more than one floor, reduce the area of the upper floor so that its area is less than that of the first floor. To receive credit for this design element, the front building wall on the upper floor shall be stepped back from the first floor a minimum of two feet. The portion of upper floor stepped back from the first floor shall have a minimum width of eight feet. Uncovered, or covered unenclosed, balconies can be used to receive credit for this design element provided they satisfy the minimum dimensional requirements of this provision.

10. Transition areas. For developments that abut property zoned RD the following standards shall apply:

- a. All residential buildings shall be setback at least 20 feet from parcels zoned RD. Any portion of a building higher than 25 feet or containing more than two stories shall be setback at least 40 feet from parcels zoned RD.
- b. Balconies that face a parcel zoned RD shall be faced with a material such as frosted or opaque glass to provide visual privacy.
- c. Parking spaces and access roads shall not be located within 20 feet of a parcel zoned RD.
- d. A landscaped buffer shall be provided in accordance with the requirements of Chapter 17.81 BMC.

K. Nonresidential uses.

L. Manufactured Homes. Manufactured homes may be placed on any lot in an MUR-1 zone where detached dwellings are permitted and regulated in accordance with the same standards and requirements applicable to site built detached homes, except that the following additional regulations shall apply. These standards and requirements do not apply to legally established, nonconforming manufactured homes or manufactured homes placed within a manufactured home park.

1. The manufactured home shall be set upon a permanent foundation, as specified by the manufacturer, and the space between the bottom of the home and the ground shall be enclosed by concrete or an approved concrete product which may be either load bearing or decorative;
2. The manufactured home shall have been originally constructed with and shall now have a composition or wood shake or shingle, coated metal, or similar roof of nominal 3:12 pitch;
3. The manufactured home shall have exterior siding similar in appearance to siding materials commonly used on conventional site-built uniform building code single-family residences;
4. The placement of the manufactured home shall be consistent with all other regulatory requirements generally
5. Manufactured homes shall comply with all of the regulatory requirements and permit processing procedures identified in the chapter for site built detached homes.

17.30.09017.30.100 Development standards.

A. Lot Area and Dimension. The following requirements shall apply to all land divisions and boundary line adjustments:

1. Minimum lot area: 1,500 square feet.

2. Minimum lot width:

a. For lots with no alley access or where curb cuts are permitted: 30 feet

b. For lots with alley access or where curb cuts are prohibited by plat notes: 15 feet

3. Minimum lot depth: 60 feet.

B. Minimum setback requirements.

1. Front: 10 feet

2. Street side: 10 feet

3. Side: 5 feet.

4. Rear: 10 feet.

5. Alley: 0 feet.

6. Setback Exceptions:

a. When authorized pursuant to this chapter, no property line setback shall apply to the common walls of zero lot line structures or horizontally attached dwellings;

b. All other buildings and structures: see Chapter 17.70 BMC.

C. Minimum building separation:

1. Primary structures: 30 feet.

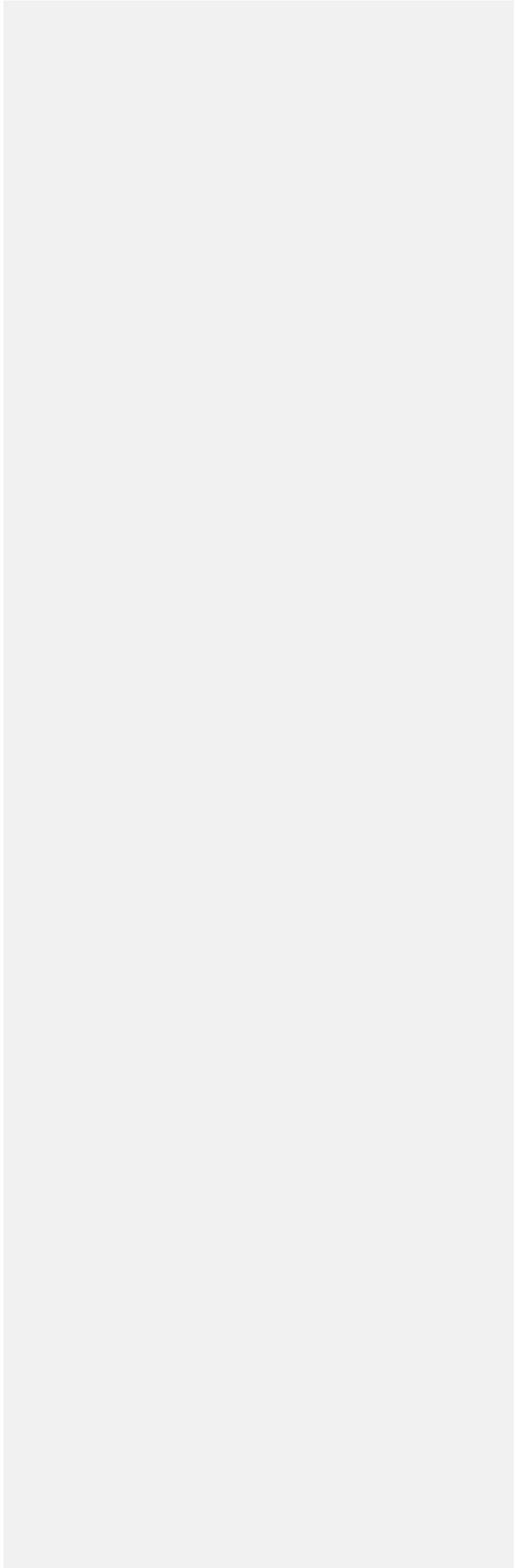
2. Accessory structures: 10 feet.

3. Exceptions: When authorized pursuant to this Chapter no separation requirement shall apply between zero lot line structures or horizontally attached dwellings that share a common wall.

D. Maximum building and impervious surface coverage: 70 percent.

E. Maximum building height: 45 feet.

Commented [BJ5]: BJ – 11-5-2020 – this addresses a problem staff has encountered administering the code. People want to build zero-lot line townhomes so the individual units can be sold. While the code allows townhomes to be built they all have to be on the same lot due to property line setback and building separation requirements. No substantive change, merely allows separate ownership of townhouse units.



Chapter 17.40

~~MUR-2 – Mixed Use Residential Zone~~ ~~MR-NB MEDIUM DENSITY RESIDENTIAL AND~~ ~~NEIGHBORHOOD BUSINESS DISTRICT~~

Sections:

- 17.40.010 Title.
- 17.40.020 Application.
- 17.40.030 Purpose.
- 17.40.040 Authority.
- 17.40.050 Primary permitted uses.
- 17.40.060 Permitted accessory uses.
- 17.40.070 Conditional uses.
- 17.40.080 ~~Additional General use~~ regulations.
- 17.40.090 ~~Development Design~~ standards.
- 17.40.100 ~~Development standards.~~

17.40.010 Title.

~~This chapter shall be called “MUR-2 – Mixed Use Residential Zone.” This chapter shall be called “MR-NB Medium-Density Residential and Neighborhood Business District.” (Ord. 1857 § 2 (Exh. B), 2018).~~

17.40.020 Application.

~~This chapter shall apply to all uses and developments in areas zone MUR-2. This chapter shall apply to all uses and developments in areas designated MR-NB. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.40.030 Purpose.

~~MUR-2 zone is intended to implement the MUR comprehensive plan designation by accommodating a mix of attached housing and commercial uses with an emphasis on residential uses. The MUR-2 zone is intended to create an environment that accommodates small scale, commercial activities such as offices, professional services, home businesses, art galleries, and other similar uses that generate limited traffic, pollution, and noise, and primarily operate during daytime business hours. This zone is also intended to accommodate small scale craft industries and trades that are compatible with residential uses such as contractor’s offices and craft industries. Permitted residential uses include a variety of higher density housing types including duplexes, townhomes, and multiunit buildings. The development standards and design regulations for the MUR-2 zone are intended to create a streetscape and environment that has more traditional urban characteristics than the City’s residential zones, including buildings set close to the street, varied roof types, and intermittent commercial spaces, and to minimize conflicts between residential and non-residential uses. This area is intended to provide a mixed-use zone for residences, business and other commercial uses that are not high-traffic generators and that provide limited customer services on the premises, in areas that may already be mixed-use in character because of a fragmented zoning pattern, or residential areas that are in transition as a result of changes in the arterial street network. Reuse of existing buildings is encouraged. This is a mixed-use, medium-density residential and neighborhood business district that allows more than one use on a lot, but requires that commercial uses be compatible with residential uses. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.40.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 35A.63, 36.70A, and 36.70B RCW and other applicable laws and regulations. (Ord. 1857 § 2 (Exh. B), 2018).

~~17.40.50~~ ~~17.40.050~~ — Primary permitted uses.

~~A. Detached dwellings;~~

~~B. A. Multifamily-Duplex dwellings;~~

C. Horizontally attached dwellings;

D. Multiunit buildings, small and medium;

E. Boarding houses;

F. Commercial child daycare center, all sizes;

G. Small utilities;

H. Private schools, all sizes;

I. Meeting facilities, all sizes;

J. Professional offices;

K. Personal services;

L. Specialized instruction;

M. Craft industries;

N. Contractor's offices;

O. Small eating and drinking establishments;

P. Small scale retail;

Q. Healthcare facilities, all sizes;

R. Veterinary clinics.

dwellings;

B. Art, music and dance studios;

C. Artisanal uses, such as photographer, artist studio dwelling;

D. Contractor's office and storage;

E. Laboratories, such as dental or soil testing;

F. Light industry;

G. Municipal parks and playgrounds;

H. Personal service uses such as barber and beauty shops;

I. Professional offices;

J. Fraternal organizations and religious facilities, existing;

K. Single family dwellings;

L. Two family dwellings;

M. Trades and subcontractors such as plumbing, electrical, HVAC;

N. Utilities;

O. Woodworking uses complying with the International Building Code exception from hazardous occupancies.

(Ord. 1857 § 2 (Exh. B), 2018).

17.40.060 Permitted accessory uses.

The following buildings, structures, and uses are permitted accessory uses in the MUR-2 zone. Accessory uses shall only be permitted when associated with, and incidental and subordinate to, a legally established primary use.

A. Normal residential appurtenances. The following uses and structures may be authorized as an accessory use in conjunction with a dwelling, multiunit building, or residential development: garages, recreation, exercise, or community rooms, manager's office, storage shed, noncommercial gardens and greenhouses, swimming pools, laundry rooms and facilities, decks, patios, driveways, on-site utilities and utility connections, fences, and solar panels;

Commented [BJ1]: BJ – Added to implement permitted housing types identified in the land use element – 9-24-2020

Commented [BJ2]: BJ – 11-5-2020 – revised for consistent language and connection to defined terms.

B. Keeping of not more than six household pets, four of which may be dogs, kept in the home. This limit shall not include birds, fish or suckling young of pets;

C. Family day care services;

D. Foster family care services;

F. Telecommunication mini facility, subject to the following requirements:

1. The mini facility may be located on buildings and structures; provided, that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.

2. The mini facility shall be exempt from design review if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.

3. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.

4. Mini facilities shall comply with the height limitation specified for all zones except as follows: Omnidirectional antennas may exceed the height limitation by 10 feet, or in the case of nonconforming structures the antennas may extend 10 feet above the existing structure. Panel antennas may exceed the height limitation if affixed to the side of an existing nonconforming building and blends in architecturally with the building. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

G. Parking facilities;

H. Outdoor storage yards associated with a non-residential use.

I. Urban agriculture. A. Outdoor storage that is screened with a solid fence and perimeter landscaping, accessory to the primary use;

B. Home occupations;

C. Family day care homes;

D. Automobile parking;

E. Foster family care homes associated with a single-family dwelling;

F. Telecommunication mini facility, subject to the following requirements, except as limited by the Telecommunications Act of 1996 as amended:

1. The mini facility may be located on buildings and structures; provided, that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.

2. The mini facility shall be exempt from review by the community development director or designee if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.

3. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.

4. Mini facilities shall comply with the height limitation specified for all zones except as follows: Omnidirectional antennas may exceed the height limitation by 10 feet, or in the case of noneonforming structures the antennas may extend 10 feet above the existing structure. Panel antennas may exceed the height limitation if affixed to the side of an existing noneonforming building and blends in architecturally with the building. Placement of an antenna on a

nonconforming structure shall not be considered to be an expansion of the nonconforming structure. (Ord. 1857 § 2 (Exh. B), 2018).

17.40.070 Conditional uses.

The following uses shall be considered conditional uses and shall require a conditional use permit:

- ~~A. Eating and drinking establishments with less than 1,000 square feet of floor area;~~
- B. ~~Commercial child day care center~~Large multiunit buildings;
- C. ~~Fraternal organizations and religious facilities. (Ord. 1857 § 2 (Exh. B), 2018)~~Medium utilities;
- D. ~~Minor industrial;~~
- E. ~~Medium scale retail;~~
- F. ~~Large nursing homes;~~
- G. ~~Laboratories and research facilities. -~~

17.40.080 Additional General use regulations.

A. Uses generating noise levels incompatible with residential occupancy shall not be permitted and the following regulations shall apply to all uses:

1. Truck loading, ~~deliveries, and other similar activities and similar noisy~~ activities shall only be prohibited except between the hours of 7:00 a.m. ~~to~~ and 7:00 p.m.
2. Uses ~~involving such as music, such as~~ and dance studios or music classes, and uses that could potentially generate noise impacts, such as eating and drinking establishments and craft industries, shall be conducted in a fully enclosed building and an approved acoustical wall installed to prevent excessive noise at the property line, or if in a mixed use building, to provide a noise barrier between the commercial and residential occupancy. Construction techniques shall be employed to ensure sSound transmission control ratings are compatible with mixed usesa mixed use environment shall be required in construction.

B. ~~No on-site hazardous substance processing, and handling, and storage of hazardous materials, including medical waste, is prohibited or hazardous waste treatment and storage facilities shall be permitted, except for small quantities as minimally necessary when, unless clearly incidental and secondary to a permitted use, subject to the requirements of the International Fire Code.~~

C. ~~Parking areas shall be fully screened from view and shall be landscaped in accordance with the requirements identified in chapter 17.80 BMC.C. Outdoor storage shall only be permitted in an improved storage yard and shall be subject to the following standards:~~

1. ~~Outdoor storage yards shall be secondary and incidental to a permitted use;~~
2. ~~Must be paved with asphalt, concrete, or an approved permeable paving material;~~
3. ~~In addition to any other standard prescribed in the landscaping section, outdoor storage yards shall be screened from view using a combination of fencing and landscaping;~~
4. ~~Storage yards shall not be located between a building and the street, except on corner lots where storage yards may be located between a building and one street frontage if no feasible alternative exists;~~
4. ~~Litter, trash, used appliances, used interior furnishings and discarded exterior furnishings and similar items are prohibited outdoors regardless of location.~~
5. ~~Outdoor storage of junked, wrecked, or inoperable vehicles shall be prohibited.~~

6. Outdoor storage of any items that would be classified as a nuisance under Chapter 8.12 BMC is prohibited.

D. Drive-in-through uses are prohibited.

E. Parking area illumination shall be directed away from residential uses. Rural agricultural uses are not permitted.

F. No trailer, recreational vehicle, boat, camping trailer, fifth wheel, camper, van, car, or other similar type of mobile unit that is not a permanent structure attached to the ground, shall be used as a place of habitation or as a dwelling. Only site built structures which comply with all applicable building code requirements and manufactured or modular homes which meet applicable state or federal standards for use as a dwelling unit may be used as a place of habitation or as a dwelling.

17.40.090 Design standards.

A. Parking facilities and access.

1. Where alley access is available, off street parking spaces and garages shall be accessed from the alley and no curb cuts shall be permitted. This requirement shall apply to all land divisions, the construction of new homes and buildings, and requests for new curb cuts;
2. Parking areas shall not be located between the building and the street and shall be fully screened from view using a combination of fencing and landscaping

B. Heat pumps and other mechanical equipment shall only be permitted within 10 feet of a property line adjoining another residential development or dwelling if all equipment shall be equipped with a noise-baffling screen so there is no audible sound at the property line. All such equipment shall be fully screened from view using landscaping or fencing. Rooftop mechanical equipment shall be fully screened from view.

C. The following exterior finishes and materials shall be prohibited:

1. Vinyl siding;
2. T-111 plywood;
3. Exterior insulation finishing system (EIFS).

D. New subdivisions or developments that will result in 40 or more lots or dwellings shall include a common open space area for outdoor recreation.

E. Detached dwellings. Detached dwellings shall only be permitted in the following circumstances:

1. On existing lots that have an area of 4,000 square feet or less;
2. The construction of two or more detached dwellings on an existing lot provided the resulting density is at least one unit per 4,000 square feet;
3. In a cottage development with a gross density of 15 units per acre or more;
4. As part of a development with a mix of building types and a gross density of 15 units per acre or more.

F. Multiunit and horizontally attached dwellings.

1. Large multiunit buildings and buildings in any development that includes more than eight dwellings shall be designed by a licensed architect and detailed elevation drawings shall be provided with the land use permit application;

2. Multiunit buildings shall have frontage on a public or private street. The primary entrance for each building shall face the street and direct pedestrian access shall be provided between the entrance and the street.

3. For horizontally attached dwellings, each unit shall have its own exterior entrance and a direct pedestrian connection shall be provided between the entrance and the nearest street. For developments that include more than eight units, each unit shall have frontage on a public or private street and the primary entrance to each unit shall face the street.

4. Primary building entrances shall incorporate a covered porch or landing with a minimum area of 20 square feet and a minimum depth of three feet;

5. A consolidated garbage and recycling area shall be provided and shall be screened from view in accordance with the applicable landscaping standard;

6. The maximum building length shall not exceed 180 feet.

7. Street facing facades of large multiunit buildings shall incorporate modulations at intervals of 60 feet or less as follows:

a. Each modulation shall have a minimum width of 15 feet and a minimum depth of 6 feet;

b. Balconies can be used to meet a portion of this requirement provided each balcony has an area of at least 80 square feet and a depth of at least 6 feet.

8. For the purpose of breaking up the vertical mass of buildings, the first floor of a multistory building shall be distinguished from the upper floors through the use of at least one of the following design elements:

a. Change in materials;

b. Change in color;

c. Molding or other horizontally distinguishing transition trim, treatment, or embellishment.

9. Each building shall include architectural design elements or materials intended to break up the mass of the building and provide greater compatibility with the scale and appearance of surrounding residential structures. At a minimum all buildings must incorporate at least two of the following design elements:

a. Changes in the roofline at intervals of no more than 30 feet, such as variations in roof pitch, overhangs, projections, or extended eaves;

c. Include at least two dormers with a minimum width of three feet;

d. Include at least two balconies on front façade. Balconies shall have a minimum depth of 6 feet between the building wall and the balcony railing;

e. For buildings with more than one floor, reduce the area of the upper floor so that its area is less than that of the first floor. To receive credit for this design element, the front building wall on the upper floor shall be stepped back from the first floor a minimum of two feet. The portion of upper floor stepped back from the first floor shall have a minimum width of eight feet. Uncovered, or covered unenclosed, balconies can be used to receive credit for this design element provided they satisfy the minimum dimensional requirements of this provision.

10. Transition areas. For developments that abut property zoned RD the following standards shall apply:

a. All residential buildings shall be setback at least 20 feet from parcels zoned RD. Any portion of a building higher than 25 feet or containing more than two stories shall be setback at least 40 feet from parcels zoned RD.

b. Balconies that face a parcel zoned RD shall be faced with a material such as frosted or opaque glass to provide visual privacy.

c. Parking spaces and access roads shall not be located within 20 feet of a parcel zoned RD.

d. A landscaped buffer shall be provided in accordance with the requirements of Chapter 17.81 BMC.

K. Nonresidential uses.

L. Manufactured Homes. Manufactured homes may be placed on any lot in an RA-2 zone where detached dwellings are permitted and regulated in accordance with the same standards and requirements applicable to site built detached homes, except that the following additional regulations shall apply. These standards and requirements do not apply to legally established, nonconforming manufactured homes or manufactured homes placed within a manufactured home park.

1. The manufactured home shall be set upon a permanent foundation, as specified by the manufacturer, and the space between the bottom of the home and the ground shall be enclosed by concrete or an approved concrete product which may be either load bearing or decorative;

2. The manufactured home shall have been originally constructed with and shall now have a composition or wood shake or shingle, coated metal, or similar roof of nominal 3:12 pitch;

3. The manufactured home shall have exterior siding similar in appearance to siding materials commonly used on conventional site-built uniform building code single-family residences;

4. The placement of the manufactured home shall be consistent with all other regulatory requirements generally

5. Manufactured homes shall comply with all of the regulatory requirements and permit processing procedures identified in the chapter for site built detached homes.

F. Assembly uses shall require approval from the planning, police and fire departments for all special events. (Ord. 1857 § 2 (Exh. B), 2018).

17.40.090100 Development standards.

A. Lot Area and Dimension.

1. Minimum lot area: 1,500 square feet~~none~~.

2. Minimum lot width:

a. For lots with no alley access or where curb cuts are permitted: 30 feet

b. For lots with alley access or where curb cuts are prohibited by plat notes: 15 feet~~none~~.

3. Minimum lot depth: ~~none~~60 feet.

B. Maximum Density. New residential development, and the addition of dwelling units to existing residential structures, shall be subject to the following standards:

1. Dwelling Units per Building. A multifamily building shall not contain more than eight dwelling units;

~~2. Maximum Density. The maximum permissible density for multifamily development shall be calculated as follows: one unit per lot plus one additional unit for every 3,000 square feet of lot area; provided, that additional density may be permitted through the agricultural heritage credit program.~~
One residential building per lot.

C. Minimum Setback Requirements.

1. Front: ~~17-10~~ 10 feet.

2. ~~Street s~~Side: ~~5-10~~ 10 feet.

3. ~~Street~~Side: ~~20-10~~ 10 feet.

4. Rear: ~~10-5~~ 5 feet.

5. Alley: 0 feet.

6. Setback Exceptions:

a. When authorized pursuant to this chapter, no property line setback shall apply to the common walls of zero lot line structures or horizontally attached dwellings;

b. All other buildings and structures: see Chapter 17.70 BMC.

D. Minimum building separation:

1. Primary structures: 30 feet.

2. Accessory structures: 10 feet.

3. Exceptions: When authorized pursuant to this Chapter no separation requirement shall apply between zero lot line structures or horizontally attached dwellings that share a common wall.

~~5. Setback Exceptions. Buildings or structures which do not conform to the setback standards identified above may be expanded or modified; provided, that any wall or facade which extends into a required setback may be further extended along the established building line but may not extend further into the required setback;~~

~~E~~D. Maximum building and impervious surface coverage: none.

~~F~~E. Maximum building height: ~~435~~ 35 feet. (~~Ord. 1857 § 2 (Exh. B), 2018~~).

Commented [BJ3]: BJ – 11-5-2020 – this addresses a problem staff has encountered administering the code. People want to build zero-lot line townhomes so the individual units can be sold. While the code allows townhomes to be built they all have to be on the same lot due to property line setback and building separation requirements. No substantive change, merely allows separate ownership of townhouse units.

Chapter 17.45

~~B-1 BUSINESS DISTRICT~~MUC-1 – Mixed Use Commercial Zone

Sections:

17.45.010	Title.
17.45.020	Application.
17.45.030	Purpose.
17.45.040	Authority.
17.45.050	Permitted primary uses.
17.45.060	Permitted accessory uses.
17.45.070	Conditional uses.
17.45.080	Additional regulations.
17.45.090	Development standards.

17.45.010 Title.

This chapter shall be called “~~B-1 Business District~~MUC-1 Mixed Use Commercial Zone” (Ord. 1857 § 2 (Exh. B), 2018).

17.45.020 Application.

This chapter shall apply to all areas zoned ~~B-1~~MUC-1. (Ord. 1857 § 2 (Exh. B), 2018).

17.45.030 Purpose.

~~MUC-1 zone is intended to implement the MUC comprehensive plan designation by accommodating a dense mix of small scale, pedestrian oriented commercial activities and residential uses such as stores, eating and drinking establishments, offices, art galleries, and smaller multiunit residential buildings. Uses permitted in this zone typically rely on a high degree of visibility and easy pedestrian access. The regulations in this chapter are intended to create and maintain a traditional small town streetscape with urban characteristics, including buildings located at the street-line, smaller scale buildings, and entrances and windows that face the street. Parking is provided by on-street spaces, off-street public parking lots, or in small lots located behind buildings and accessed from alleyways. The B-1 zone should be applied to the historic city center. This area has traditionally served as the city's center for financial, commercial, government, and professional services. This area also provides the greatest concentration of cultural amenities and pedestrian oriented commercial enterprises.~~

~~Uses that detract from, or do not contribute to, a traditional small town streetscape, e purpose of the B-1 zone, and the following regulations, is to preserve and enhance the unique characteristics of the historic city center by encouraging the preservation, expansion, and establishment of smaller scale, pedestrian oriented businesses and uses, and by discouraging or prohibiting incompatible uses such as gas stations, outdoor storage yards, and drive-through uses shall be prohibited. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.45.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 35.63, 35A.63, 36.70A and 36.70B RCW and other applicable laws. (Ord. 1857 § 2 (Exh. B), 2018).

17.45.050 Permitted primary uses.

Hereafter all buildings, structures, or parcels of land shall only be used for the following, unless otherwise provided for in this title:

A. ~~Administrative offices, all types, provided they are located in a multistory building the ground floor of which must contain another permitted use listed in this section;~~

B. ~~Multifamily Multiunit dwellings buildings, all sizes, and dwellings located in mixed use buildings, provided they are located in a multistory building, the ground floor of which must contain another permitted use as listed in this section;~~

C. ~~Art, music and photography studios;~~

Commented [BJ1]: BJ_3-16-2021_Revised purpose statement for consistency with comp plan language and other updated purposes statements. Also removed confusing reference to downtown zoning.

Commented [BJ2]: BJ_3-9-2021_Moved to development standards section

Commented [BJ3]: BJ_3-16-2021_Special limitations on development unique to downtown will be moved to the special standards section where regulations for each of the City's special planning areas will be located.

Commented [BJ4]: BJ_3-9-2021_Moved to development standards section.

Commented [BJ5]: BJ_3-16-2021_Covered by retail and craft manufacturing.

Commented [BJ6]: BJ_3-9-2021_Sale of art and production not involving high impact processes (wood working, metal working, glass blowing, etc.) is allowed under definition of retail. Other types of art production are allowed conditionally with within the definition of “craft industries”. Conditions needed to ensure noise mitigation, fire safety, and adequate provisions for loading, unloading, and storage of bulky materials. Performing arts (music, dance, etc.) allowed under definition of “theatre” or as a form of “commercial entertainment”.

~~D. Automotive parts and accessories;~~

~~E. Customer service office, excluding drive-in facilities;~~

~~CF. Retail, small and medium scale: General personal and household retail sales and service;~~

~~DG. Hotels;~~

~~H. Major durables, sales, service and rentals;~~

~~EI. HH Health care facilities, all sizes, provided such uses shall be prohibited along Fairhaven Avenue;~~

~~I. Multipurpose convenience store;~~

~~FK. Eating and drinking establishments, all sizes;~~

~~GL. Schools, including art, business, barber, beauty, dancing, martial arts and music; Specialized instruction;~~

~~M. Specialty food store;~~

~~HN. Theaters, except drive-in. (Ord. 1857 § 2 (Exh. B), 2018);~~

~~I. Commercial child day care center, all sizes;~~

~~J. Meeting facilities, all sizes;~~

~~K. Horizontally attached dwellings;~~

~~L. Private schools, all sizes;~~

~~M. Utilities, small;~~

~~N. Personal services;~~

~~O. Nursing homes, all sizes;~~

~~P. Veterinary clinics;~~

17.45.060 Permitted accessory uses.

The following buildings, structures, and uses are permitted accessory uses in the MUC-1 zone. Accessory uses shall only be permitted when associated with, and incidental and subordinate to, a legally established primary use.

A. Normal commercial and residential appurtenances. The following uses and structures may be authorized as an accessory use in conjunction with a permitted use: recreation, exercise, or community rooms, manager's office, storage shed or buildings, noncommercial gardens and greenhouses, swimming pools, laundry rooms and facilities, decks, patios, driveways, on-site utilities and utility connections, fences, solar panels, and signs; Accessory buildings or multi-building developments with uses complementary and related to a dominant or primary use; provided control of building design, location and site development is retained by the dominant use. In such coordinated developments the site area requirement shall apply to the group of buildings and the yard requirements to the site perimeter; provided, that construction of warehouse space accessory to another use shall be required to provide landscaping, comply with design review standards and shall not be permitted to be an all-metal building;

B. Automobile parking facilities and vehicle charging stations;

~~C. Outdoor seating associated with an eating and drinking establishment;~~

~~D. Caretaker apartment;~~

Commented [BJ7]: BJ_3-9-2021_Deleted – this is already included within the definition of “retail” so the term is redundant and unnecessary.

Commented [BJ8]: BJ_3-9-2021_All categories of offices are permitted. Regulations pertaining to where in a building a particular type of office may be located are included in the development standards section.

Commented [BJ9]: BJ_3-9-2021_Included in the definition of “retail” – not necessary to repeat it.

Commented [BJ10]: BJ_3-9-2021_location specific restrictions included in the development standards section and includes all uses that are not pedestrian oriented, high turn-over, activity generators.

Commented [BJ11]: BJ_3-9-2021_Deleted – this is already included within the definition of “retail” so the term is redundant and unnecessary.

Commented [BJ12]: BJ_3-9-2021_No change other than term. Updated for consistency.

Commented [BJ13]: BJ_3-9-2021_Deleted – this is already included within the definition of “retail” so the term is redundant and unnecessary.

Commented [BJ14]: BJ_3-9-2021_Seating is generally an integral part of an eating and drinking establishment. Why is it necessary to call it out here?

Commented [BJ15]: BJ_3-9-2021_Dwellings in mixed use buildings are a permitted use, making this term unnecessary.

CE. Macro telecommunication facilities, subject to the following standards:

1. Macro facilities may be located on buildings and structures; provided, that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.
2. The macro facility shall be exempt from review by the director if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.
3. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.
4. Macro facilities shall comply with the height limitation specified for all zones except as follows: Omnidirectional antennas may exceed the height limitation by 15 feet, or in the case of nonconforming structures the antennas may extend 15 feet above the existing structure. Panel antennas may exceed the height limitation if affixed to the side of an existing building and architecturally blends in with the building. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure. (Ord. 1857 § 2 (Exh. B), 2018).

D. Caretaker dwellings and employee or student housing:

17.45.070 Conditional uses.

The following uses shall be considered conditional uses and shall require a conditional use permit:

A. ~~Administrative offices located on the ground floor;~~

AB. ~~Multifamily dwellings without a permitted ground floor use~~Duplexes, subject to the following:

1. The lot is not large enough to accommodate a more intensive residential use or the duplex is part of a larger development with a gross site density of at least 25 dwelling units per acre; and
- ~~2. The lot does not have frontage on Fairhaven Avenue. ;~~

BC. ~~Areades~~Indoor commercial entertainment, minor;

D. ~~Utility substations. (Ord. 1857 § 2 (Exh. B), 2018);~~

C. Utilities, medium;

D. ~~Craft industries, subject to the following:~~

1. A display area for selling products and crafts manufactured onsite shall be included and must be visible and accessible from adjacent streets;
- ~~2. Outside storage shall not be permitted;~~
- ~~3. Garage doors and loading areas shall not be visible from adjoining streets.~~

E. Retail, large scale;

F. Laboratories and research facilities;

G. Indoor commercial entertainment, small scale;

H. ~~Buildings with a footprint greater than 6,000 square feet, subject to the following:~~

1. Street facing facades shall incorporate modulations at intervals of 60 feet or less. Each modulation shall have a minimum width of 15 feet and a minimum depth of 2 feet;

Commented [BJ16]: BJ_3-16-2021_These regulations adopted to ensure buildings are consistent visually with other buildings in the MUC-1 zone. 6,000 sq ft. appears to be near the upper limit of building sizes in this zone. Regulations are intended to ensure larger buildings appear to be made up of smaller components.

2. For the purpose of breaking up the vertical mass of buildings, the first floor of a multistory building shall be distinguished from the upper floors through the use of at least one of the following design elements:

a. Change in materials;

b. Change in color;

c. Awning, molding, or other horizontally distinguishing transition trim, treatment, or embellishment.

3. A minimum of 50 percent of any ground floor façade facing a street shall be comprised of transparent windows or entrances. Reflective glass or film or opaque window treatments shall not be used to satisfy this requirement.

17.45.080 Additional regulations.

A. Off-Street Parking and Loading Area Requirements. See chapter 17.85 BMC Off-street parking and loading areas shall not be located between buildings and streets.

B. All uses shall be conducted entirely within a building or structure except:

1. Automobile parking lots and vehicle charging stations;
2. Display or sales of goods that do not extend eight feet past the front of the building, do not block entrances or interfere with pedestrian travel, do not interfere with the parking areas and do not encroach upon public property;
3. Outdoor seating associated with an eating and drinking establishment, theater, or other entertainment;
4. Temporary uses consistent with approval criteria in Chapter 14A BMC as permitted by the fire marshal, building official, community development director or designee or city engineer pursuant to the applicable ordinances;
5. Unloading and loading areas;
6. Utility substations;
7. Refuse and recycling containers, provided they are fully screened from view in accordance with any applicable standards set forth in this title;
8. Play areas for child day care centers and schools.

C. Any on-premises repair work shall be incidental only, and limited to repairing the types of merchandise sold on the premises. The floor area devoted to such repair work shall not exceed 30 percent of the total floor area occupied by the primary use, except that the limitations of this subsection shall not apply to electronic devices, shoe, radio, television, or other small appliance repair services.

D. Storage shall be limited to accessory storage of commodities sold at retail on the premises or materials used in the limited fabrication of commodities sold at retail on the premises. No outside storage is permitted.

E. Operations conducted on the premises shall not be objectionable beyond the property boundary lines by reason of noise, odor, fumes, gases, smoke, vibration, hazard, or other causes.

F. No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use as regulated by International Fire Code. (Ord. 1857 § 2 (Exh. B), 2018).

G. Buildings with frontage on an arterial street may not include dwellings unless at least 50 percent of the ground floor street frontage is devoted to a permitted nonresidential use listed in section 17.45.050.

17.45.090 Development standards.

A. Lot Area and Dimension.

1. Minimum lot size: none.
2. Minimum lot width: none.
3. Minimum lot depth: none.

~~B. Maximum Density building footprint: 6,000 square feet. The maximum permissible density for multifamily development shall be calculated as follows: one unit per lot plus one additional unit for every 3,000 square feet of lot area; provided, that additional density may be permitted through the agricultural heritage credit program. Larger buildings may be authorized through a conditional use permit subject to BMC 17.45.070.H.~~

C. Maximum ~~building and~~ impervious surface coverage.

- ~~1. Downtown: none~~
- ~~2. All other locations: 80 percent; none.~~

D. Minimum Setback ~~s~~ Requirements.

1. Front: none;
2. Side: none;
3. Street: none;
4. Rear: none.

E. Maximum ~~front front and street s~~ setbacks: along Fairhaven Avenue: zero feet; provided, that exceptions to this requirement may be authorized when:

1. Along Fairhaven Avenue: 0 feet
2. All other locations: 10 feet
3. Exceptions: Exceptions may be granted in the following situations, provided that in all cases new buildings and additions shall be constructed as close as possible to adjoining streets.
 - ~~a. To accommodate a wider sidewalk wider sidewalk or additional landscaping is approved at the building entrance; or~~
 - b. To comply with the façade modulation requirements of this chapter; or
 - c. To accommodate a recessed entry, provided the entry is recessed no more than four feet from the adjoining street; or
 - d. The presences of utility easement makes compliance with the maximum setback impossible; or
 - e. The expansion or modification of an existing building where compliance with the maximum setback is not feasible due to the location of the existing building and the size of the proposed expansion. In such cases the expansion shall be constructed forward of the existing building line and closer to the street, or
2. A greater setback is necessary to maintain the continuity of the street front because of the setback line of the buildings on either side.

Commented [BJ17]: BJ_3-16-2021_limited to wider sidewalk since the goal is not to promote expansive landscaping in front of buildings. Not consistent with the current appearance in the MUC-1 zone where most buildings are built at the property line.

F. Maximum setback requirement in all other locations: 10 feet from the property line on the front and street side. The maximum setback shall apply to each lot line adjacent to a street.

G. Maximum building height: 45 feet.

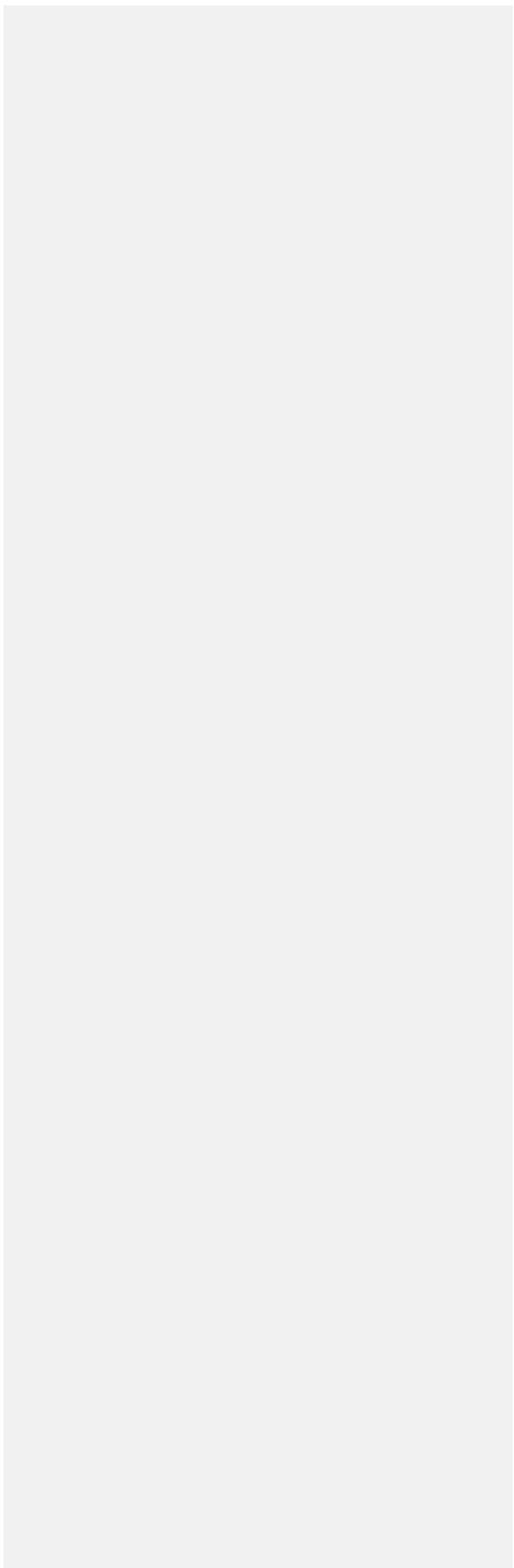
H. Fences. See ~~BMC Chapter 17.70 BMC-070~~.

I. Parking. ~~Parking shall not be located between a building and a street.~~ See Chapter 17.85 BMC.

J. Landscaping. See ~~C~~chapter 17.810 BMC.

K. Signs. See ~~C~~chapter 17.95 BMC. (Ord. 1857 § 2 (Exh. B), 2018).

L. Lighting. See Chapter 17.70 BMC



Chapter 17.50

~~C-1 GENERAL COMMERCIAL DISTRICT~~ MUC-2 MIXED USE COMMERCIAL ZONE

Sections:

- 17.50.010 Title.
- 17.50.020 Application.
- 17.50.030 Purpose.
- 17.50.040 Authority.
- 17.50.050 Permitted primary uses.
- 17.50.060 Permitted accessory uses.
- 17.50.070 Conditional uses.
- 17.50.080 Additional regulations.
- 17.50.090 Development standards.

17.50.010 Title.

This chapter shall be called "~~C-1 General Commercial District~~MUC-2 Mixed Use Commercial Zone." (Ord. 1857 § 2 (Exh. B), 2018).

17.50.020 Application.

This chapter shall apply to all uses and developments in areas ~~designated zoned C-1~~MUC-2. (Ord. 1857 § 2 (Exh. B), 2018).

17.50.030 Purpose.

~~MUC-2 zone is intended to implement the MUC comprehensive plan designation by accommodating a dense mix of large scale commercial activities and residential uses such as stores, eating and drinking establishments, and offices, and large multiunit residential buildings. Uses permitted in this zone typically rely on a high degree of visibility, easy pedestrian access, and a dense concentration of shoppers and residents. The regulations in this chapter are intended to create and maintain a modern streetscape with urban characteristics, including buildings located near the street-line, entrances and windows that face the street, and amenities that buffer pedestrians from vehicle traffic such as extensive landscaping, street trees, and wide sidewalks. Parking is typically provided on-site but is not located between buildings and the street. Uses that could discourage pedestrian traffic and recreational shopping, such as car lots, drive-through businesses, or gas stations are restricted or prohibited. The intent and objective of this classification and its application is to provide for the location of a grouping of uses which are considered compatible uses having common or similar performance standards in that they represent types of enterprises involving the rendering of services, both professional or to the person, or on-premises retail activities. This zone represents the prime commercial designation for small to moderate scale commercial activities and should be developed in a manner which is consistent with and attracts pedestrian oriented activities. This zone encourages leisure shopping and provides amenities conducive to attracting shoppers.~~

Commented [BJ1]: BJ_3-16-2021_ revised to match comp plan language and for consistency with other updated purpose statements.

~~There are several blocks zoned C-1 general commercial in old downtown Burlington located along Fairhaven, Victoria and Washington between Burlington Boulevard and Anacortes Avenue. The goal of the commercial zoning in this area is to attract new businesses and uses, and to upgrade existing businesses and uses that enhance the district as a whole, without having an adverse impact on parking or changing the character of the area. (Ord. 1857 § 2 (Exh. B), 2018).~~

Commented [BJ2]: BJ – See the deleted text under 17.50.050 below. Previously even if the property was zoned C-1 it was regulated under the B-1 regulations creating a lot of confusion. This issue has been fixed by amending the zoning map so the areas in downtown are zoned MUC-1 (formerly B-1).

17.50.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 35A.63, 36.70A, and 36.70B RCW and other applicable laws and regulations. (Ord. 1857 § 2 (Exh. B), 2018).

17.50.050 Permitted primary uses.

~~Property located in downtown Burlington as mapped in the comprehensive plan that is zoned C-1 general commercial shall comply with the B-1 business district zoning regulations, unless a conditional use permit is authorized by the city council. See also BMC 17.05.100.~~

Commented [BJ3]: BJ – see note above

~~Hereafter all buildings, structures, or parcels of land zoned general commercial but located outside downtown Burlington shall only be used for the following, unless otherwise provided for in this title:~~

~~A. Multiunit buildings, all sizes, and dwellings located in a mixed use buildings Multifamily dwellings, provided they are located in a mixed use development with commercial on the street frontage and apartments in a separate structure or on the upper floor(s)~~

Commented [BJ4]: BJ – changed terms for consistency

~~B. ;~~

Commented [BJ5]: BJ – this information moved to additional standards section

~~B. Retail, all sizes;~~

~~C. Art, music and photography studios;~~

~~C. Horizontally attached dwellings;~~

~~Automotive parts and accessories sales;~~

~~D. Banking and related financial institutions, excluding drive-in facilities, and located in a building containing another permitted useOffices, all types;~~

~~E. Bowling alleys, bingo halls, skating rinks and other commercial recreationIndoor commercial entertainment, all types;~~

~~F. BusPrivate passenger transportation terminals;~~

~~G. Civic, social, and fraternal clubsMeeting facilities, all sizes;~~

~~H. Commercial child day care centers, all sizes;~~

~~I. Private schools, all sizes;Existing automobile service stations;~~

~~J. Funeral homes;~~

~~JK. Health care facilities, all sizes;~~

~~KL. Hospitals and health care, to include small animal, but does not allow outside runs or kennelsVeterinary clinics;~~

Commented [BJ6]: BJ_3-16-2021_Hospitals moved to conditional uses. They are typically very large institutional uses that can impose a variety of impacts and can be inconsistent with the needs of other permitted uses in the MUC-2 zone. Vet clinics are very different and are more of a traditional customer service use. Note: hospitals and healthcare facilities (dental offices, physical therapy clinics, doctor's offices, etc.) are not the same as a hospital.

~~LM. Hotels;~~

~~N. Meeting rooms and/or reception facilities;~~

~~MO. Nursing homes, all sizes;~~

~~P. Offices;~~

~~Q. Personal and household retail sales and service;~~

~~R. Printing and publishing;~~

~~S. Religious institutions;~~

~~NT. – Utilities, small; Existing single family and duplex dwellings;~~

~~OU. Eating and drinking establishments, all sizes, provided drive-through uses may only be permitted through a conditional use permit process as specified in BMC 17.50.070(D);~~

~~PV. Schools, including art, business, barber, beauty, dancing, martial arts and musicSpecialized instruction;~~

~~QW. Theaters, except drive-in;~~

~~R. Marijuana retailers (subject to BMC 17.50.080.I).~~

Commented [BJ7]: BJ_4-22-2021_added to implement PC recommendation on marijuana retailers.

~~X. Trailer parks within 1,000 feet of the Skagit River Levee, subject to the following requirements:~~

- ~~1. A flood evacuation plan shall be prepared by the applicant, approved by the city and posted on the site. The plan shall include the following elements at a minimum:
 - ~~a. A requirement that wheels shall not be removed from units;~~
 - ~~b. A requirement that the hitch shall not be removed from units;~~
 - ~~c. A requirement that only quickly removable, knockdown skirting shall be used;~~
 - ~~d. A requirement that a plan is in place to move the units out;~~~~
- ~~2. The site shall have a row of screening trees or hedge around the perimeter;~~
- ~~3. The site shall be designed and maintained as a permanent long-term viable use, rather than an interim use and shall meet city standards for utilities and infrastructure;~~
- ~~4. The site shall be located in an area where it is unlikely to create land use conflicts with either industrial or residential properties;~~
- ~~5. The site shall be developed to minimize drainage impacts, with gravel and lawn and minimal asphalt;~~
- ~~6. The site shall take advantage of FEMA recommendations for location and shall be planned for ease of evacuation in the event of flood danger;~~
- ~~7. Park rules shall be approved by the city and posted on the site;~~
- ~~8. Health department and other required permits shall be obtained for the use;~~
- ~~9. A children's play area approved by the city shall be provided on the site;~~

Commented [BJ8]: BJ_3-16-2021_this entire code section appears to have been added to authorize a single project. There are probably no other remaining sites that meet the approval criteria and the use is inconsistent other city regulations.

~~Y. Other uses may be permitted by the community development director or designee if the use is determined to be consistent with the intent of the zone and substantially the same with respect to function and impacts as another use permitted in the zone; provided, that if the use is listed as permitted or conditional in another zone it shall not be permitted. (Ord. 1857 § 2 (Exh. B), 2018).~~

Commented [BJ9]: BJ_3-16-2021_this simply repeats what is already stated in the general provisions section.

17.50.060 Permitted accessory uses.

- A. Automobile parking facilities and charging stations;
- B. Caretaker ~~apartment~~dwellings and employee or student housing;
- C. Family day care home;
- D. Foster family home;
- E. Telecommunication macro facilities, subject to the following requirements:

1. Macro facilities may be located on buildings and structures; provided, that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.
2. The macro facility shall be exempt from review by the community development director or designee if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.
3. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.
4. Macro facilities shall comply with the height limitation specified for all zones except as follows:
~~Omnidirectional~~Omnidirectional antennas may exceed the height limitation by 15 feet, or in the case of nonconforming structures the antennas may extend 15 feet above the existing structure. Panel antennas may exceed the height limitation if affixed to the side of an existing building and architecturally blends in with the building. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure. (Ord. 1857 § 2 (Exh. B), 2018).

17.50.070 Conditional uses.

The following uses shall be considered conditional uses and shall require a conditional use permit:

~~A. Multifamily dwellings, either single purpose or as part of a mixed use development where the street frontage is primarily residential; provided, that an additional criterion for approval is that the site is better suited for housing-~~

~~than commercial development. Multifamily dwellings authorized under this provision shall comply with the plan review criteria in BMC 17.25.050(A) and 17.25.090;~~

~~AB. Areades~~Craft industries, subject to the following:

1. A display area for selling products and crafts manufactured onsite shall be included and must be visible and accessible from adjacent streets;

2. Outside storage is prohibited;

3. Garage doors and loading areas shall not be visible from adjoining streets.

~~BC. Dance halls~~Contractor offices, subject to the following:

1. Outside storage is prohibited;

2. Contractor offices shall not be permitted on lots fronting an arterial street;

3. Garage doors and loading areas shall not be visible from adjoining streets.

~~CD. Drive-through~~in facilities, subject to the following; ~~including banks and restaurants, when located on a tenant pad on an existing development site or at a signalized intersection;~~

1. Drive-through facilities shall only be permitted at the following locations:

a. Corner lots at signalized intersections; or

b. Corner lots at non-signalized intersections within a binding site plan or plat where the lot was designated and approved for drive-through uses during the land division approval process; or

c. Through lots or lots with alley access.

2. Drive-through facilities shall only permitted when the vehicle entrances and exits fully comply with the intersection and driveway spacing requirements identified in Chapter 12.28 BMC.

3. Buildings shall be located as close to adjoining streets as possible and shall comply with the maximum setback requirements of this chapter except as minimally necessary to accommodate a single queuing lane.

4. In addition to any other applicable landscaping and screening requirements, queuing lanes shall be screened from view using a landscaped earthen berm or a low masonry wall. The screening shall have a minimum height of three feet, as measured above the grade of the adjacent queuing lane and shall be consistent with the standards for Type II screening identified in Chapter 17.81 BMC.

5. A raised pedestrian crossing with a minimum walking surface width of 5 feet shall be provided wherever a pedestrian path crosses a queuing lane.

6. For drive-through facilities with inside seating or service areas the primary building entrance shall face the street and a direct pedestrian connection shall be provided between the entrance and the street. For drive-through uses with no inside seating or service areas, a walkup window or service area shall be provided to allow pedestrians to place and pickup orders without entering a vehicle queuing lane.

7. The design shall incorporate enhanced pedestrian amenities and measures to mitigate the impacts of additional vehicle traffic on pedestrian access.

~~DE. Government facilities, other than those listed as a permitted use~~Laboratories and research facilities;

Commented [BJ10]: BJ_3-16-2021_ to ensure this is still customer service oriented rather than an industrial use.

Commented [BJ11]: BJ_3-16-2021_ to prevent interference with primary permitted uses which have lots of customer traffic. This is more of light industry use and may be appropriate in peripheral locations.

EF. Household goods storage, provided the following requirements are met~~Personal storage, subject to the following:~~

1. ~~No more than two main entrances and/or exits to the building and access to the individual storage area~~Each building shall have no more than two primary entrances and access to individual storage units ~~shall be from the inside of the building;~~
2. Landscaping and architectural improvements ~~required shall be provided to ensure compatibility with present and potential C-1 uses in the vicinity~~visual compatibility with those uses and development types typically found in mixed commercial and residential environments;
3. The site ~~does not front~~shall not have frontage on Burlington Boulevard;
4. The design shall incorporate enhanced pedestrian amenities;
5. Garage doors and loading areas shall not be visible from adjoining streets.

FG. Utilities, medium-v substations. (Ord. 1857 § 2 (Exh. B), 2018).

G. Hospitals:

H. Fueling stations and car washes, subject to the following:

1. Fueling stations and car washes shall only be permitted at the following locations:

- a. At a signalized intersection; or
- b. Within a binding site plan or plat where the lot was designated and approved for drive-through uses during the land division approval process; or
- c. Through lots or lots with alley access; or
- d. Other locations with two or more points of vehicle access.

2. Fueling stations and car washes shall only permitted when the vehicle entrances and exits fully comply with the intersection and driveway spacing requirements identified in Chapter 12.28 BMC.

3. Fueling stations and car washes must be located along an arterial providing direct access to an I-5 freeway interchange and be located within 1,500 feet of the centerline of I-5 as measured along the arterial centerline;

4. Buildings, excluding fueling islands and associated canopies, shall comply with the maximum setback standards identified in this Chapter. Drive through car wash buildings and structures shall be located as close to adjoining streets as possible and shall comply with the maximum setback requirements of this chapter except as minimally necessary to accommodate a single queuing lane;

3. In addition to any other applicable landscaping and screening requirements, vehicle circulation and parking areas shall be screened from view using a landscaped earthen berm or a low masonry wall. The screening shall have a minimum height of three feet, as measured above the grade of the adjacent parking or circulation area and shall be consistent with the standards for Type II screening identified in Chapter 17.81 BMC;

4. The design shall incorporate enhanced pedestrian amenities and measures to mitigate the impacts of additional vehicle traffic on pedestrian access.

I. Pet boarding, daycare, subject to the following:

1. Kennels shall be entirely indoors;

Commented [BJ12]: BJ_3-16-2021_Per Planning Commission direction in response to public comments gas stations were added to the list of conditional uses. These design criteria are similar to those that apply to drive-through uses. Also, regulations would have the effect of only allowing gas stations between Burlington Boulevard and I-5 and along on of the intersecting arterial streets that serve an interchange.

2. Outside exercise areas shall be surrounded on all sides not adjacent to a building or structure by a solid masonry wall six feet in height;

3. Outside exercise areas shall be used for short term supervised play and exercise only. Animals shall not have access to individual outdoor runs or be left unsupervised, or for extended periods of time, in outdoor areas.

17.50.080 Additional regulations.

A. All uses shall be conducted entirely within a building or structure except:

1. Automobile parking lots, facilities and vehicle charging stations accessory to a permitted use;

2. Existing automobile sales and leasing areas;

23. When accessory to a permitted use, display or sales of goods that do not extend eight feet past the front of the building, do not block entrances or interfere with pedestrian travel, do not interfere with the parking areas and do not encroach upon public property;

34. Outdoor seating accessory to a permitted use;

45. Play areas accessory to a child day care center or school;

56. Refuse and recycling containers associated with a permitted use, provided they are screened from view in accordance with the requirements of chapter 17.80 BMC;

67. Temporary uses as permitted by the fire marshal, building official, community development director or designee or city engineer pursuant to the applicable ordinances consistent with standards identified in Title 14A BMC;

78. Unloading and loading areas accessory to a permitted use;

89. Utility substation;

9. Play and exercise areas associated with pet boarding facilities.

B. Any repairing done on the premises shall be incidental only, and limited to custom repairing of the types of merchandise sold on the premises at retail. The floor area devoted to such repairing shall not exceed 30 percent of the total floor area occupied by the particular enterprise, except that the limitations of this subsection shall not apply to electronic equipment, shoe, radio, television, or other small appliance repair services.

C. Storage shall be limited to accessory storage of commodities sold at retail on the premises or materials used in the limited fabrication of commodities sold at retail on the premises.

D. Operations conducted on the premises shall not be objectionable beyond the property boundary lines by reason of noise, odor, fumes, gases, smoke, vibration, hazard, or other causes.

E. No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use, subject to the requirements of the International Fire Code.

F. Off-street parking and loading areas shall not be located between buildings and adjoining streets.

G. Commercial land abutting directly a residential zone shall provide for a transition to the residential use as required in chapter 17.70 BMC, Supplemental Development Standards, and the following:

1. A six-foot screening fence and a 20-foot landscaped buffer designed for sight and noise baffling or a six-foot solid block wall and a 10-foot landscaped buffer designed for sight and noise baffling; and

2. Uses generating noise after 9:00 p.m. shall not be permitted, including assembly occupancies, restaurants with cocktail lounges or dance floors, all night businesses and other similar types of uses;

3. Measures shall be taken to prevent light and glare from being directed to residential uses. (Ord. 1857 § 2 (Exh. B), 2018).

H. Except in the Northern Gateway area buildings with frontage on an arterial street may not include dwellings unless at least 50 percent of the ground floor street frontage is devoted to a permitted nonresidential use listed in BMC 17.50.050.

I. Marijuana Retailers. The following requirements shall apply to marijuana retailers. The provisions of this code section are intended to be consistent, and ensure compliance, with the regulations identified in Chapter 314-55 WAC.

1. In accordance with the provisions of WAC 314-55-050(11)(a) marijuana retailers shall be located at least 100 feet from the following:

- a. Recreation centers;
- b. Child care centers;
- c. Public parks;
- d. Transit centers;
- e. Libraries;
- f. Arcades (where admission is not restricted to persons 21 or older)

2. Marijuana retailers shall not be located within 1,000 feet of the following:

- a. Elementary or secondary schools;
- b. Playgrounds.

3. In determining compliance with the provisions of this section the definitions and measurement procedures identified in Chapter 314-55 WAC shall apply.

17.50.090 Development standards.

A. Lot Area and Dimension.

- 1. Minimum lot area: none.
- 2. Minimum lot width: none.
- 3. Minimum lot depth: none.

B. Maximum Building and Impervious Surface Coverage.

1. Building coverage: none.

2. Impervious surface coverage: 80 percent. ~~Maximum lot coverage: none required.~~

C. Minimum Setbacks.

- 1. Front: none.
- 2. Side: none.

Commented [BJ13]: BJ_3-16-2021_moved from permitted uses section. Carved out exception for northern gateway area consistent with previous planning commission direction on special planning areas and the land use element of the comp plan.

Commented [BJ14]: This section added to implement Planning Commission recommendation on marijuana retailers

3. Street: none.

4. Rear: none.

D. Maximum Setbacks.

1. Front: 10 feet.

2. Street: 10 feet.

3. Exceptions. ~~Exceptions may be granted in the following situations: Exceptions to the maximum setbacks identified above may be authorized in the following instances:~~

~~a. As minimally necessary to accommodate a wider sidewalk;~~

~~b. A portion of the building façade may be recessed as minimally necessary to accommodate a recessed pedestrian entrance or plaza. In such cases a direct pedestrian connection, within a minimum width of 10 feet shall be provided between the adjoining street and the entrance, plazas shall be surfaced with concrete or pavers, and the recessed entrance or plaza shall be publicly accessible;~~

~~b. As minimally necessary to avoid a utility easement that makes compliance with the maximum setback impossible;~~

~~c. The expansion or modification of an existing building where compliance with the maximum setback is not feasible due to the location of the existing building and the size of the proposed expansion. In such cases the expansion shall be constructed forward of the existing building line and closer to the street;~~

~~d. As minimally necessary to accommodate development on irregular shaped lots where the street frontages are angular or curvilinear. In such instances buildings shall be located as close as possible to the street frontages;~~

~~e. For corner lots, buildings shall be located at the corner or intersection;~~

~~f. For lots with more than two street frontages, the maximum setback shall be applied to the street frontages with the highest classification. For example, if a parcel has frontage on two arterial streets and a local access street, the maximum setback shall apply to the two arterial streets;~~

~~d. Drive-through uses subject to compliance with BMC 17.50.070.C;~~

~~e. Fueling stations and car washes subject to compliance with BMC 17.50.070.H. a. A greater setback for drive-through uses may be authorized through the conditional use permit for the drive-in-use; provided, that the building shall be located as close as possible to adjoining streets and shall be set back only the distance necessary to accommodate the drive-through and any associated queuing lanes.~~

~~b. The presence of a utility easement makes compliance with the maximum setback impossible; provided, that the building shall still be located as close as possible to adjoining streets.~~

~~e. The building entrance may be set back a greater amount to accommodate a wider sidewalk or additional landscaping.~~

~~d. A greater setback is necessary to accommodate an architectural design feature, such as: a unique building entrance, outside seating area, pocket park, or similar element.~~

~~e. Deviations from the maximum setback requirements may be granted for development on irregular shaped lots where the street frontages are angular or curvilinear. In such instances buildings shall be located as close as possible to the street frontages.~~

Commented [BJ15]: BJ_3-16-2021_ limited to wider sidewalk since the goal is not to promote expansive landscaping in front of buildings. Not consistent with the current appearance in the MUC-1 zone where most buildings are built at the property line.

~~f. The expansion or modification of existing buildings, when a greater setback is needed to preserve existing visual and physical access.~~

~~g. Other similar exceptions may be granted when consistent with the intent of providing a well defined street edge and pedestrian oriented streetscape.~~

Commented [BJ16]: BJ_3-16-2021_The intent of the his exception has always seemed clear but the references to visual and physical access where difficult to interpret.

Commented [BJ17]: BJ_3-16-2021_Too vague to enforce

E. Maximum building height: 45 feet, except:

1. Buildings may exceed 45 feet if one foot of setback is provided from each property line, for each foot the building exceeds 45 feet; and
2. An additional 15 feet of height may be permitted when parking is located under the building.

F. Fences. See ~~BMC chapter~~ 17.70 ~~BMC-070~~.

G. Parking. See chapter 17.85 BMC.

H. Landscaping. See chapter 17.8~~10~~ BMC.

I. Signs. See chapter 17.95 BMC. (Ord. 1857 § 2 (Exh. B), 2018).

J. Lighting. Chapter 17.70 BMC.

Chapter 17.55

~~CI-12 HEAVY COMMERCIAL DISTRICT~~COMMERCIAL AND INDUSTRIAL ZONE

Sections:

- 17.55.010 Title.
- 17.55.020 Application.
- 17.55.030 Purpose.
- 17.55.040 Authority.
- 17.55.050 Permitted primary uses.
- 17.55.060 Permitted accessory uses.
- 17.55.070 Conditional uses.
- 17.55.080 Additional regulations.
- 17.55.090 Development standards.

17.55.010 Title.

This chapter shall be called "~~CI-12 Heavy Commercial District~~Commercial and Industrial Zone." (Ord. 1857 § 2 (Exh. B), 2018).

17.55.020 Application.

This chapter shall apply to all uses and developments in areas ~~designated-zoned CI-12~~. (Ord. 1857 § 2 (Exh. B), 2018).

17.55.030 Purpose.

~~The CI-1 zone is intended to implement the CI comprehensive plan designation by accommodating a mix of light industrial and outdoor sales uses including automobile and recreational vehicles sales, heavy equipment sales, lumber yards, contractor offices, nurseries, light industry, storage buildings, and other similar uses. The uses permitted in this zone are typically auto-oriented, rely on good freeway access and visibility, have associated outdoor storage or sales lots, or involve low impact industrial or manufacturing processes, such as food preparation and processing and the assembly of products from pre-manufactured components or materials. Uses that involve outdoor manufacturing, loud or consistent noises, or that result in noxious odors or emissions are not permitted. In addition, uses, such as hotels, nursing homes, and apartments, that could interfere with, or be negatively impacted by, the intended purposes of the CI-1 zone are prohibited or restricted. The regulations in this chapter are intended to create an attractive and welcoming environment and are focused on minimizing clutter and contributing to a sense of unity and order. intent and objective of this classification and its application is to provide for the location of and grouping of enterprises which may involve some on-premises retail service but with outside activities and display or fabrication, assembling, and service features. This zone is intended to accommodate uses which are oriented to automobiles either as the mode or target of producing the commercial service. The uses enumerated in this classification are considered as having common or similar performance standards in that they are heavier in type than those uses permitted in the more restrictive commercial classifications. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.55.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 35.63, 35A.63, 36.70A, and 36.70B RCW and other applicable laws and regulations. (Ord. 1857 § 2 (Exh. B), 2018).

17.55.050 Permitted primary uses.

~~Land that is zoned C-2, but located in the retail core as mapped in the comprehensive plan, shall comply with the C-1 zoning regulations for the retail core; provided, that expansion of an existing use on C-2 zoned property shall be permitted consistent with this chapter. See also BMC 17.05.100.~~

~~Hereafter all buildings, structures, or parcels of land shall only be used for the following, unless otherwise provided for in this title:~~

- A. ~~areades~~Indoor commercial entertainment, all types;

B. Art, music and photography studios; Craft industries;

~~C. Auction houses, excluding animals;~~

C. Personal services;

~~DD. Automotive parts and accessories sales; Retail, all types;~~

E. Banking and related financial institutions; Offices, all types;

F. ~~Bowling alleys, bingo halls, skating rinks and other commercial recreation;~~ Drive through facilities;

G. Building e Contractor services; offices;

H. ~~Bus-Private passenger transportation terminals;~~ services;

I. Car wash;

J. Civic, social and fraternal associations; Meeting facilities, all sizes;

K. ~~Dance halls;~~ Passenger and recreational vehicles sales;

L. Commercial child day care centers, all sizes;

M. Eating and drinking establishments, all sizes;

N. ~~Heavy vehicle and equipment sales; Equipment rental and leasing, does not include heavy construction equipment;~~

~~O. Food locker services; Pet boarding, daycare, subject to the following;~~

~~P. Funeral homes;~~

1. ~~Kennels shall be entirely indoors;~~

2. ~~Outside exercise areas shall be surrounded on all sides not adjacent to a building or structure by a solid masonry wall six feet in height and screening shall be provided between the wall and adjoining property lines or streets consistent with the requirements for a Type III separation buffer identified in BMC 17.81.110;~~

3. ~~Outside exercise areas shall be used for short term supervised play and exercise only. Animals shall not have access to individual outdoor runs or be left unsupervised, or for extended periods of time, in outdoor areas.~~

Q. Gas-Fueling stations;

~~R. Health and physical fitness clubs;~~

R. Veterinary clinics;

S. Hospitals, ~~to include small animal, but does not allow outside runs or kennels;~~

~~TT. Hotels; Laboratories and research facilities;~~

Commented [BJ1]: BJ – 5-12-2021 – Not consistent with intended purpose of zone. This use does not rely on freeway access or visibility and may produce loud or consistent noises – moved to CI-2 zone as a permitted use. Note: animal auctions (livestock) to be included in “agricultural uses” definition which will only be allowed in unincorporated areas.

Commented [BJ2]: BJ – 5-12-2021 – Included in definition of general retail. Separate listing not required. No change in use allowance.

Commented [BJ3]: BJ – 5-12-2021 – Grouped under indoor commercial entertainment – no change in use allowance

Commented [BJ4]: BJ – 5-12-2021 – Grouped under indoor commercial entertainment – no change in use allowance

Commented [BJ5]: BJ – 5-12-2021 – Modified to use consistent terminology – also changed to remove heavy equipment prohibition does not seem inconsistent with purpose of zone or other permitted uses. No reason this should be confined to M-1 zone.

Commented [BJ6]: BJ – 5-12-2021 – perhaps home freezers were not common when the code was last updated? This probably isn’t needed anymore and would fit within the definition of light industry or personal storage.

Commented [BJ7]: BJ – 5-12-2021 – grouped under meeting facilities – no change in use allowance

Commented [BJ8]: BJ – 6-11-2021 – these conditions intended to mitigate noise impacts and insure use is not located next to areas with residences or general commercial uses.

Commented [BJ9]: BJ – 5-12-2021 – grouped under indoor commercial entertainment – no change in use allowance

Commented [BJ10]: BJ – 5-12-2021 – veterinary clinic now listed as its own use – no change in use allowance

Commented [BJ11]: BJ – 5-12-2021 – residential and transient accommodation uses moved to conditional category for this zone. To support general retail it is important to concentrate these use in commercial core/downtown also necessary to protect occupant safety.

U. ~~Lumber yards;~~

V. ~~Manufactured/mobile home sales saleslots;~~

~~X. Massage parlors;~~

Y. Health care facilities, all sizes;

Z. ~~Meeting rooms and/or reception facilities~~Specialized instruction;

AA. ~~Mini-storage warehouses~~Personal storage;

BB. ~~Offices~~Nurseries and garden supply;

CC. ~~Personal and household retail sales and service~~;

DD. ~~Printing and publishing~~Industrial, minor;

~~EE. Sales and rental of motorized vehicles~~;

FF. ~~Schools, including art, business, barber, beauty, dancing, driving, martial arts and music~~ Private schools, all sizes;

GG. Theaters, including drive ins;

HH. Vehicle repair, major all types;

II. ~~Vehicle repair~~Utilities, minor small and medium; (Ord. 1857 § 2 (Exh. B), 2018).

~~JJ. Commercial laundries~~;

17.55.060 Permitted accessory uses.

A. Automobile parking facilities and charging stations;

B. Outdoor storage yards and sales lots;

C. Caretaker ~~apartments~~dwellings and employee or student housing;

D. ~~Storage w~~Warehousing and distribution;

E. Accessory buildings and structures associated with a permitted primary use;

F. Telecommunication macro facilities, subject to the following requirements:

1. Macro facilities may be located on buildings and structures; provided, that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.
2. The macro facility shall be exempt from review by the community development director or designee if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.
3. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.
4. Macro facilities shall comply with the height limitation specified for all zones except as follows: Omnidirectional antennas may exceed the height limitation by 15 feet, or in the case of nonconforming structures the antennas may extend 15 feet above the existing structure. Panel antennas may exceed the height

Commented [BJ12]: BJ – 5-12-2021 – changed name for consistency – no change in use allowance

Commented [BJ13]: BJ – 6-11-2021 – Definition added to definitions section – previously undefined – new definition notes that light industrial uses are primarily differentiated from heavy industrial uses by focusing on assembling products from premanufactured materials or components. Light industrial uses also include most commercial food processing

Commented [BJ14]: BJ – 5-12-2021 – name changed for consistency – no change in use allowance – consolidated with RV sales

Commented [BJ15]: BJ – 5-12-2021 – for consistency split term into specialize instruction and private schools – public schools are permitted in PFT zones

limitation if affixed to the side of an existing building and architecturally blends in with the building. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure. (Ord. 1857 § 2 (Exh. B), 2018).

G. Heavy vehicle and equipment repair, when associated with a related sales use;

H. Heliports, when associated with a hospital or healthcare facility.

17.55.070 Conditional uses.

The following uses may be permitted when a conditional use permit has been issued pursuant to the provisions of Title 14A BMC:

A. Multiunit buildings and nursing homes, all sizes, subject to the following:

1. Enhanced pedestrian amenities shall be provided.
2. The site shall not have frontage on I-5 or an arterial street.
3. The applicant shall demonstrate why the parcel is not suitable for outdoor sales or minor industrial uses, taking into consideration factors such as the size, configuration, and location of the site, market conditions, visibility, critical area constraints, and other uses in the vicinity of the proposal.
4. The development shall include measures to protect residents and occupants from light, glare, and noise impacts commonly associated with outdoor sales and minor industrial uses. At a minimum screening shall be provided consistent with the requirements for a Type III separation buffer identified in BMC 17.81.110.
5. Large multiunit buildings, large nursing homes, and any residential development including more than eight dwelling units shall be subject to the following activity area requirements:
 - a. A children's play area(s) shall be provided with a minimum area of 225 square feet plus 20 additional square feet for each unit or nursing home room. Nursing homes may provide a picnic area, community room, or community garden in place of play area.
 - b. Common open space shall be provided for passive or active outdoor recreation at a rate of 50 square feet for each unit or nursing home room.
 - c. Individual patios, decks, or balconies shall be provided for at least 25 percent of the units or nursing home rooms.
6. Pedestrian access shall be provided throughout the site and shall provide a complete and logical circulation system that connects each dwelling unit or nursing home room to adjoining streets and developments, parking areas, common areas, and trash and recycling areas. Pedestrian paths shall be equipped with pedestrian scale lighting.
7. Trash and recycling areas shall be located in a central location and fully screened from view. Trash and recycling areas shall not be visible from adjoining public streets or neighboring properties.
8. Exterior lighting shall be provided for parking areas, access streets, and pedestrian paths in accordance with the requirements of Chapter 17.70 BMC.
- a.9. Parking areas shall be located behind, between, or alongside buildings. Parking shall not be located between a street and a building and shall be fully screened from view. either single purpose or as part of a mixed use development where the street frontage is primarily residential; provided, that an additional criterion for approval is that the site is better suited for housing than commercial development and the project complies with the plan review criteria in BMC 17.25.050(A) and 17.25.090.

Commented [BJ16]: BJ – 6-11-2021 – previously there were few if any criteria for this use. In keeping with the comprehensive plan policies the criteria are intended to reserve the I-5 frontage for sales uses, ensure adequate on-site amenities for residential uses (since parks and public facilities are primarily located east of I-5), and to minimize conflicts with the intended light industrial outdoor sales uses.

Commented [BJ17]: BJ – 6-11-2021 – these standards were largely copied from the existing R-3 zone standards

B. ~~Governmental facilities, other than those listed as a permitted use~~Hotels, subject to the following:

1. ~~Enhanced pedestrian amenities shall be provided;~~
2. ~~The site shall not have frontage on I-5 or an arterial street;~~
3. ~~The applicant shall demonstrate why the parcel is not suitable for outdoor sales or minor industrial uses, taking into consideration factors such as the size, configuration, and location of the site, market conditions, visibility, critical area constraints, and other uses in the vicinity of the proposal;~~
4. ~~The development shall include measures to protect occupants from the light, glare, and noise impacts commonly associated with outdoor sales and minor industrial uses. At a minimum screening shall be provided consistent with the requirements for a Type III separation buffer identified in BMC 17.81.110;~~
- a.5. ~~Parking areas shall be located behind, between, or alongside buildings. Parking shall not be located between a street and a building and shall be fully screened from view.;~~

Commented [BJ18]: BJ – 6-11-2021 – see not above regarding MFR uses.

C. ~~Outdoor commercial entertainment;~~

~~Heliports;~~

~~D. Miscellaneous light manufacturing including toys, jewelry, ceramic, musical instruments and similar products, apparel and other finished products made from fabrics, leather, and similar materials, manufacturing of professional, scientific, and controlling instruments such as photo and optical goods, watch and clock manufacturing, and similar products, with retail sales of products manufactured on the premises; Pet boarding, overnight, subject to the following;~~

1. ~~Outdoor runs and exercise areas shall not be located between the primary structure and an adjoining street or public right-of-way;~~
2. ~~Areas containing outdoor runs or exercise areas shall be surrounded on all sides not adjacent to a building or structure by a masonry wall six feet in height and screening shall be provided between the wall and adjoining property lines or streets consistent with the requirements for a Type III separation buffer identified in BMC 17.81.110;~~
3. ~~Outdoor runs may be provided but individual indoor sleeping areas shall be provided for all pets;~~
4. ~~Overnight boarding facilities shall include additional measures to mitigate and reduce the sound of barking including, but not limited to, acoustic insulation, additional landscaping, masonry walls, and operational procedures;~~
5. ~~Overnight boarding facilities shall only be permitted on sites where all of the adjacent parcels are zoned CI-1 or CI-2. If the site is adjacent to an unincorporated area, all of the adjacent unincorporated parcels shall have a Skagit County natural resource lands designation;~~

Commented [BJ19]: BJ – 6-11-2021 – This use was previously only allowed by CUP in the R-1 (single family zone) which does not make any sense. Moved to CI-1 and CI-2 zones and developed standards to minimize noise impacts on surrounding developments.

- i.6. ~~The site shall not have frontage on I-5 or an arterial street.~~

~~E. Nursing homes;~~

~~EF. Semi-tractor and trailer sales~~Heavy vehicle and equipment repair;

~~G. Utility substations;~~

~~FH. Towing service, subject to the following:~~

1. ~~All outdoor storage yards or outdoor areas where vehicles are impounded shall be consistent with the requirements of BMC 17.55.080.B.;~~

Commented [BJ20]: BJ – 5-12-2021 – Truck sales now listed as permitted use under heading “heavy vehicle and equipment sales” – repair facilities have more of an industrial character and should be subject to conditional approval criteria. Repair also allowed as an accessory use to sales uses.

Commented [BJ21]: BJ – 5-12-2021 – Now listed under utilities small and medium.

2. The towing service shall maintain a registration as required by Chapter 46.55 RCW. Only towing services with a current Washington State registration shall be considered a legally authorized use.
3. The term "towing service" does not include wrecking yards or hulk haulers which are prohibited uses in the CI-1 zone. (Ord. 1857 § 2 (Exh. B), 2018).

Commented [BJ22]: BJ – 6-11-2021 – references stand licensing and inspection requirements for towing services. We want independent authority to shut down a service that is out of compliance with state law.

G. Shooting range, indoors, subject to the following:

1. Indoor shooting ranges shall include additional measures to mitigate and reduce the sound of gunfire including, but not limited to, acoustic insulation, additional landscaping, masonry walls, and operational procedures, and hours of operation;
2. Indoor shooting ranges shall only be permitted on sites where all of the adjacent parcels are zoned CI-1 or CI-2. If the site is adjacent to an unincorporated area, all of the adjacent unincorporated parcels shall have a Skagit County natural resource lands designation;

Commented [BJ23]: BJ – 6-11-2021 – Currently there is an indoor shooting range located in the CI-1 zone. Need to clarify standards and requirements in the event another is proposed and also clarify that outdoor ranges are not allowed (rural use)

17.55.080 Additional regulations.

A. No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use, subject to the requirements of the International Fire Code.

~~B. Service Yards~~Outdoor storage yards and service areas. All service yards shall be ~~enclosed~~surrounded on all sides not adjacent to a building by a solid, site obscuring fence or wall six-feet in height~~foot and landscaped consistent with the requirements for Type I screening identified in BMC 17.81.110-fence and screened with solid planting where visible from the public right-of-way or an adjacent residential zone with the exception of access gates.~~Outdoor storage yards and service areas shall be located behind, between, or alongside buildings and shall not be located between a buildings and a street.

C. Development abutting a less intensive zone shall provide for a transition area and screening as required by chapters 17.70 and 17.81 BMC, and shall be subject to the following:

1. Uses generating noise after 9:00 p.m. shall not be permitted, including taverns, assembly occupancies, restaurants with cocktail lounges or dance floors, all night businesses, shooting ranges, overnight pet boarding, and other similar types of uses; and
2. Measures shall be taken to prevent light and glare from being directed to residential uses. (Ord. 1857 § 2 (Exh. B), 2018).

D. Parking areas and outdoor sales lots shall be located behind, between, or alongside buildings and shall not be located between a building and a street.

17.55.090 Development standards.

A. Lot Area and Dimension.

1. Minimum lot area: none.
2. Minimum lot width: none.
3. Minimum lot depth: none.

B. Maximum Building and Impervious Surface Coverage.

1. Building coverage: none.
2. Impervious surface coverage: 80 percent.

C. Minimum Setbacks.

1. Front: none.
2. Side: none.
3. Street: none.
4. Rear: none.

D. Maximum Setbacks.

1. Front: 10 feet.
2. Street: 10 feet.

3. Exceptions. Exceptions may be granted in the following situations:

a. As minimally necessary to accommodate a wider sidewalk;

b. A portion of the building façade may be recessed as minimally necessary to accommodate a recessed pedestrian entrance or plaza. In such cases a direct pedestrian connection, within a minimum width of 10 feet shall be provided between the adjoining street and the entrance, plazas shall be surfaced with concrete or pavers, and the recessed entrance or plaza shall be publicly accessible;

b. As minimally necessary to avoid a utility easement that makes compliance with the maximum setback impossible;

c. The expansion or modification of an existing building where compliance with the maximum setback is not feasible due to the location of the existing building and the size of the proposed expansion. In such cases the expansion shall be constructed forward of the existing building line and closer to the street;

d. As minimally necessary to accommodate development on irregular shaped lots where the street frontages are angular or curvilinear. In such instances buildings shall be located as close as possible to the street frontages;

e. For corner lots, buildings shall be located at the corner or intersection;

f. For lots with more than two street frontages, the maximum setback shall be applied to the street frontages with the highest classification. For example, if a parcel has frontage on two arterial streets and a local access street, the maximum setback shall apply to the two arterial streets;

d. Drive-through uses, provided the building shall not be setback more than necessary to accommodate the drive through and queuing lanes;

e. Fueling stations and car washes, provided this exception applies only to fueling islands, and buildings washing equipment. Associated retail buildings shall comply the requirements of this section. D-
Maximum Setback.

1. Front: 10 feet.

2. Street: 10 feet.

3. Exceptions. Exceptions to the maximum setbacks identified above may be authorized in the following instances:

a. A greater setback for drive through uses may be authorized through the conditional use permit for the drive in use; provided, that the building shall be located as close as possible to adjoining streets and shall be set back only the distance necessary to accommodate the drive through and any associated queuing lanes.

Commented [BJ24]: BJ_3-16-2021_limited to wider sidewalk since the goal is not to promote expansive landscaping in front of buildings. Not consistent with the current appearance in the MUC-1 zone where most buildings are built at the property line.

~~b. The presence of a utility easement makes compliance with the maximum setback impossible; provided, that the building shall still be located as close as possible to adjoining streets.~~

~~c. The building entrance may be set back a greater amount to accommodate a wider sidewalk or additional landscaping.~~

~~d. A greater setback is necessary to accommodate an architectural design feature, such as: a unique building entrance, outside seating area, pocket park, or similar element.~~

~~e. Deviations from the maximum setback requirements may be granted for development on irregular shaped lots where the street frontages are angular or curvilinear. In such instances buildings shall be located as close as possible to the street frontages.~~

~~f. The expansion or modification of existing buildings, when a greater setback is needed to preserve existing visual and physical access.~~

~~g. Other similar exceptions may be granted when consistent with the intent of providing a well defined street edge and pedestrian oriented streetscape.~~

E. Maximum building height: 45 feet, except:

1. Buildings may exceed 45 feet if one foot of setback is provided from each property line for each foot the building exceeds 45 feet; and
2. An additional 15 feet of height may be permitted when parking is located under the building.

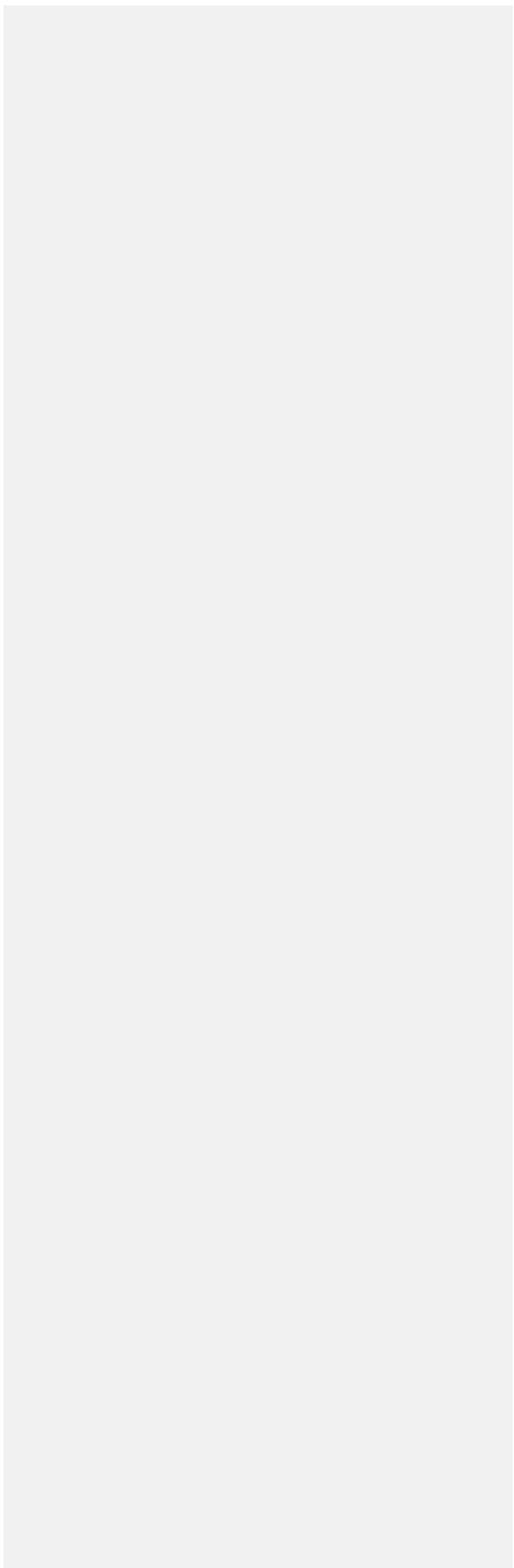
F. Fences. See BMC 17.70.070.

G. Parking. See chapter 17.85 BMC.

H. Landscaping. See chapter 17.80 BMC.

I. Signs. See chapter 17.95 BMC. (Ord. 1857 § 2 (Exh. B), 2018).

J. Lighting. See chapter 17.70 BMC:



Chapter 17.60

M-1 INDUSTRIAL DISTRICT CI-2 COMMERCIAL AND INDUSTRIAL ZONE

Sections:

17.60.010	Title.
17.60.020	Application.
17.60.030	Purpose.
17.60.040	Authority.
17.60.050	Permitted primary uses.
17.60.060	Permitted accessory uses.
17.60.070	Conditional uses.
17.60.080	Additional regulations.
17.60.090	Development standards.

17.60.010 Title.

This chapter shall be called "M-1 CI-2 Industrial District Commercial and Industrial Zone" (Ord. 1857 § 2 (Exh. B), 2018).

17.60.020 Application.

This chapter shall apply to all uses and developments in areas designated M-1 zoned CI-2. (Ord. 1857 § 2 (Exh. B), 2018).

17.60.030 Purpose.

The CI-1 zone is intended to implement the CI comprehensive plan designation by accommodating an M-1 district shall provide a use district for uses such as manufacturing, warehousing, and distribution operation which that require little or no retail contact with the general public, large tracts of land, and access to rail. The uses permitted in this zone may involve outdoor manufacturing, intensive nighttime operations, loud and consistent noise emissions, or light, glare, and odor impacts. The uses permitted in this zone may also generate heavy truck traffic or involve loading and unloading operations that are incompatible with general pedestrian or vehicle traffic. The CI-2 zoning designation is primarily associated with the North and South Burlington Industrial Areas but has also been applied to other areas of existing industrial development. The industrial zone is intended to provide for general manufacturing and processing and grouping of industrial enterprises which possess common or similar characteristics and The regulations in this chapter are intended to accommodate the needs of uses -performance standards involving manufacturing processes, assembling, fabrication, and processing, bulk handling of products, large amounts of storage and warehousing, outdoor storage, processing and other related uses and outdoor activities and to minimize the impacts of such uses through the application of appropriate design and performance standards.

While non-industrial other uses may, in limited circumstances, be permitted sited within in this zone, the overall purpose of the CI-2 is to maintain a large block of industrial land, minimize conflicts between incompatible uses, and to discourage, restrict, or prohibit non-industrial uses that could conflict or interfere with the intended purposes of the zone. permits for such uses should not be issued if such uses will discourage use of adjacent sites for industry, interrupt the continuity of industrial sites, or produce traffic in conflict with the industrial uses. (Ord. 1857 § 2 (Exh. B), 2018).

17.60.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 35.63, 35A.63, 36.70A, and 36.70B RCW and other applicable laws. (Ord. 1857 § 2 (Exh. B), 2018).

17.60.050 Permitted primary uses.

Hereafter all buildings, structures, or parcels of land shall only be used for the following, unless otherwise provided for in this title:

A. Adult entertainment use motion picture theater; provided, that it shall be located a minimum of 1,000 feet from any residential zone, 1,000 feet from any school, public or private, 1,000 feet from any church, and 1,000 feet from any park, measured along the right-of-way;

Commented [BJ1]: BJ – 6-11-2021 – This term includes all categories of related uses since they are all treated the same under the zoning code and permitted only in the CI-2 zone.

B. ~~Automobile~~ Vehicle parking and storage;

C. ~~Fueling stations~~ Basic wood processing including sawmills, planing mills, veneering and laminating of wood;

D. ~~Building movers~~ Warehousing and distribution;

E. ~~Cold storage plants~~ Car wash;

F. ~~Commercial laundries~~ Pet boarding, daycare and overnight, subject to the following:

1. ~~Outdoor runs and exercise areas shall not be located between the primary structure and an adjoining street or public right-of-way.~~
2. ~~Areas containing outdoor runs or exercise areas shall be surrounded on all sides not adjacent to a building or structure by a masonry wall six feet in height and screening shall be provided consistent with the requirements for a Type III separation buffer identified in BMC 17.81.110.~~
3. ~~Outdoor runs may be provided but individual indoor sleeping areas shall be provided for all pets;~~
4. ~~Overnight boarding facilities shall include additional measures to mitigate and reduce the sound of barking including, but not limited to, acoustic insulation, additional landscaping, masonry walls, and operational procedures;~~
5. ~~Overnight boarding facilities shall only be permitted on sites where all of the adjacent parcels are zoned CI-1 or CI-2. If the site is adjacent to an unincorporated area, all of the adjacent unincorporated parcels shall have a Skagit County natural resource lands designation;~~

G. Contractor ~~office~~ trade services including storage yards;

H. ~~Enameling, galvanizing and electroplating~~ Nurseries and garden supply;

I. ~~Equipment repair and storage~~ Bulk material sales and storage;

J. Heavy ~~vehicle and equipment~~ and ~~truck~~ repair;

K. ~~Household movers and storage~~ Personal storage;

L. ~~Janitorial services~~ Vehicle repair, all types;

M. ~~Specialized instruction, limited to job~~ Job training and vocational education; where the course of instruction is related to another use listed as permitted use in this chapter, including, but not limited to, training and education for construction trades, mechanics, industrial workers, heavy equipment and vehicle operation and repair, and machinists;

N. Lumber yards;

O. ~~Industrial, major and minor including:~~

~~Manufacturing, assembling and packaging of articles, products, or merchandise from previously prepared natural or synthetic materials, including but not limited to bristles, canvas, cellophane, and similar synthetics, chalk, clays (pulverized only, with gas or electric kilns), cloth, cork, feather, felt, fiber, fur, glass (including glass finishing), graphite, hair, horn, leather, paper, paraffin, plastic and resins, precious or semi-precious metals or stones, putty, pumice, rubber, shell, textiles, tobacco, wire, wood, wool, and yarn;~~

~~P. Manufacturing establishments engaged in electronic, automotive, aerospace, airframe, or related manufacturing and assembly activities, including precision machine shops producing parts, accessories, assemblies, systems, engine, major components, and whole electronic or electrical devices, automobiles, aircraft, aerospace, or underwater vehicles, but specifically excluding explosive fuels and propellants;~~

Commented [BJ2]: BJ – 5-17-2021 – Included in definition of “contractor offices/services”

Commented [BJ3]: BJ – 6-11-2021 – see comments in CI-1 zone

Commented [BJ4]: BJ – Included under the “industrial” category – no change in use allowance.

Commented [BJ5]: BJ – 6-11-2021 – not previously identified. Seems similar to lumber yards and other permitted uses and worth including.

Commented [BJ6]: BJ – 6-11-2021 – Provided additional clarification – no change to use allowance.

Commented [BJ7]: BJ – 6-11-2021 – grouped all industrial uses under this heading – some were previously listed individually under other sections

~~Q. Manufacturing, processing, assembling and packaging of precision components and products, including precision machine shops for products such as radio and television equipment, business machine equipment, home appliances, scientific, optical, medical, dental, and drafting instruments, photographic and optical goods, phonograph records and prerecorded audio-visual tape, measurement and control devices, sound equipment and supplies, personal accessories, and products of similar character;~~

~~R. Manufacturing, processing, treating, assembling and packaging of articles, products or merchandise from previously prepared ferrous, nonferrous or alloyed metals;~~

~~S. Manufacturing, processing, blending and packaging of products such as the following:~~

~~1. Soaps, detergents and other basic cleaning and cleansing materials;~~

~~2. Mineral products such as abrasives, asbestos, chalk, pumice, etc.;~~

~~3. Clay and cement products such as brick, tile, pipe, etc.;~~

~~T. Manufacturing, processing, blending and packaging of the following:~~

~~1. Drugs, pharmaceuticals, toiletries, and cosmetics;~~

~~2. Food and kindred products, such as confectionery products, chocolate, cereal breakfast food, bakery products, paste products, fruits and vegetables, beverages, prepared food specialties (such as coffee, dehydrated and instant food, extracts, spices and dressings) and similar products;~~

~~3. Dairy products and byproducts such as milk, cream, cheese and butter, including the processing and bottling of fluid milk, and cream and wholesale distribution;~~

~~U. Manufacturing, assembling, packaging and development of computer equipment and software, and related products;~~

~~V. Recreational marijuana processors, producers and producers and retail stores. All such uses shall meet subject to the following development standards:~~

1. The definitions set forth in BMC 17.01.050 shall apply.

2. Recreational marijuana processors, producers and producers and retail stores shall only be permitted when licensed by the state of Washington.

3. Location.

a. No more than one medical or recreational marijuana use or garden shall be located on a single parcel or in a single structure.

b. Shall be located fully within a permanent structure designed to comply with the city building code and constructed under a building permit from the city regardless of the size or configuration of the structure.

c. Shall not be located in a mobile structure.

d. Shall not be located within 1,000 feet of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or arcade, single-family residential zone or another medical or recreational marijuana use. The measurement shall be taken in a straight line from property boundary to property boundary.

e. No production, processing or delivery of marijuana may be visible to the public nor may it be visible through windows.

f. All requirements of state laws must be met.

g. All fertilizers, chemicals, gases and hazardous materials shall be handled in compliance with all applicable local, state and federal regulations. No fertilizers, chemicals, gases or hazardous materials shall be allowed to enter a sanitary sewer or storm sewer system nor be released into the atmosphere outside of the structure where the garden is located.

h. No odors shall be allowed to migrate beyond the interior portion of the structure where the garden or processing facility is located;

W. ~~Motor freight terminals and transportation~~ Manufactured home sales;

X. ~~Office with more than 50,000 square feet of floor space~~ Utilities, small and medium;

Y. ~~Outside-Outdoor~~ storage yards;

Z. Printing, publishing, and allied industries including such processes as lithography, etching, and engraving, binding, blueprinting, photocopying, and film processing;

AA. ~~Dwelling units, existing~~ Craft industries;

~~BB. Topless club; provided, that it shall be located a minimum of 1,000 feet from any residential zone, 1,000 feet from any school, public or private, 1,000 feet from any church, and 1,000 feet from any park, measured along the right-of-way;~~

~~BBC. Warehousing and distribution facilities, to include wholesale trade not open to general public. (Ord. 1857 § 2 (Exh. B), 2018).~~ Auction houses and wholesalers;

~~CC. Laboratories and research facilities;~~

~~DD. Private passenger transportation services;~~

~~EE. Towing service, subject to the following:~~

- ~~1. All outdoor storage yards or outdoor areas where vehicles are impounded shall have screening consistent with the requirements for a Type III separation buffer identified in BMC 17.81.110~~
- ~~2. The towing service shall maintain a registration as required by Chapter 46.55 RCW. Only towing services with a current Washington State registration shall be considered a legally authorized use;~~
- ~~3. The term "towing service" does not include wrecking yards or hulk haulers which are classified as conditional uses in the CI-2 zone.~~

~~FF. Personal storage;~~

~~GG. Commercial laundries.~~

17.60.060 Permitted accessory uses.

A. Caretaker ~~apartments, dwellings and employee or student housing;~~

B. Offices, ~~all types related to an on-site permitted use or larger than 50,000 square feet of floor area;~~

C. On-site day commercial child day center serving the employees of a permitted use;

D. On-site recreational facilities serving the employees of a permitted use;

E. ~~Research, development and testing~~ Outdoor storage yards and sales lots;

F. Eating and drinking establishment;

G. Retail and wholesale trade of products produced, manufactured, or assembled on site;

Commented [BJ8]: BJ – 6-11-2021 – added employee and student housing to address an emerging need by industrial employers and vocational schools to provide housing for employees and students. Not considered in old code language but supports industrial uses and economic development

H. Telecommunication macro facilities may be permitted, subject to the following requirements, except as limited by the Telecommunications Act of 1996 as amended:

1. Macro facilities may be located on buildings and structures; provided, that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.
2. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.
3. Macro facilities shall comply with the height limitation specified for all zones except as follows: Omnidirectional antennas may exceed the height limitation by 15 feet, or in the case of nonconforming structures the antennas may extend 15 feet above the existing structure. Panel antennas may exceed the height limitation if affixed to the side of an existing building and architecturally blends in with the building. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

I. Existing monopole I and lattice towers may be extended in height to maximum of 160 feet in height without complying with setback requirements. (Ord. 1857 § 2 (Exh. B), 2018).

17.60.070 Conditional uses.

The following uses shall be considered conditional uses and shall require a conditional use permit:

- A. ~~Auction houses, excluding animals~~ Meeting facilities, all sizes;
- B. ~~Automobile w/Wrecking yards~~ and hulk haulers;
- C. ~~Banks and financial institution~~ Indoor commercial entertainment, all types;
- D. ~~Car wash~~ Outdoor commercial entertainment;
- E. ~~Family day care home~~ Shooting range, indoors;
- F. ~~Commercial child day care centers~~ Utilities, large;
- G. ~~Eating and drinking establishments other than those serving a permitted use on the same site~~ Truck stop;
- H. ~~Equipment rental and leasing and sales~~ Industrial, high impact;
- I. ~~Health and physical fitness clubs~~;
- J. ~~Mini storage warehouses~~;
- K. ~~Offices with less than 50,000 feet of floor space and not accessory to a permitted use, including corporate headquarters~~;
- L. ~~Personal and household retail sales and service~~;
- M. ~~Reupholstery and furniture repair~~;
- N. ~~Secretarial services~~;
- O. ~~Small appliance repair~~;
- P. ~~Towing service~~;
- Q. ~~Vehicle repair, major and minor~~;
- R. ~~Animal auction houses~~;

Commented [BJ9]: BJ – 6-11-2021 – clarified where hulk haulers are permitted. Also added definitions to definitions section that are consistent with the definitions use by the State of Washington.

Commented [BJ10]: BJ – 6-11-2021 – not previously listed anywhere in the code. This seems like an obvious industrial use and should be listed here. If we don't list it, under the structure of our code this would be allowed conditionally anywhere.

Commented [BJ11]: BJ – 6-11-2021 – moved to permitted uses section. This seems like the type of thing that should be allowed outright in an industrial zone?

Commented [BJ12]: BJ – 6-11-2021 – potential use conflict – not consistent with comp plan policies intended to reserve industrial land for industrial purposes.

Commented [BJ13]: BJ – 6-11-2021 – organization – no change in use allowance.

Commented [BJ14]: BJ – 6-11-2021 – potential use conflict – not consistent with comp plan policies intended to reserve industrial land for industrial purposes.

Commented [BJ15]: BJ – 6-11-2021 – potential use conflict – not consistent with comp plan policies intended to reserve industrial land for industrial purposes.

Commented [BJ16]: BJ – 6-11-2021 – grouped under light industrial – no change to use allowance

Commented [BJ17]: BJ – 6-11-2021 – potential use conflict – not consistent with comp plan policies intended to reserve industrial land for industrial purposes.

Commented [BJ18]: BJ – 6-11-2021 – grouped under light industrial – no change to use allowance

Commented [BJ19]: BJ – 6-11-2021 – relocated – no use change

Commented [BJ20]: BJ – 6-11-2021 – relocated

Commented [BJ21]: BJ – 6-11-2021 – This is a rural use and not appropriate within an urban area – will list in supplemental standards section among other uses that are prohibited in all zones.

S.

I. Animal and food processing including the following:

1. Tanning and dressing of hides,
2. Curing, canning, freezing, canning and processing of meat and seafood,
3. Pickling and brine curing;

T. Bulk storage or processing of oil, gas, petroleum, butane, liquid petroleum, gas and similar products, unless clearly incidental and secondary to support a principally permitted use;

U. Concrete mixing and batching plants, including ready-mix concrete facilities;

~~V. Drive in theaters;~~

~~W. Government facilities, other than those listed as a permitted use;~~

~~X. Hotels;~~

~~Y. Radio and television transmitting towers;~~

Z. Rock crushing plants;

AA. Sales and rental of motorized vehicles;

BB. Transmission towers, ~~on Burlington Hill where co-location exists~~ subject to the following ~~additional criteria~~, except as limited by the Telecommunications Act of 1996 as amended:

1. Antennas may not extend more than 15 feet above their supporting structure, monopole, lattice tower, building or other structure;
2. Site location and development shall preserve the preexisting character of the surrounding buildings and land uses and the zone district to the extent consistent with the function of the communications equipment. Wireless communication towers shall be integrated through location and design to blend in with the existing characteristics of the site to the extent practicable. Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area;
3. Accessory equipment facilities used to house wireless communications equipment should be located within buildings or placed underground when possible. When they cannot be located in buildings, equipment shelters or cabinets shall be screened and landscaped in conformance with chapter 17.80 BMC;
4. No equipment shall be operated so as to produce noise in levels above 45 dB as measured from the nearest property line on which the attached wireless communication facility is located;
5. New transmission towers and additional height on existing towers shall comply with performance standards for industrial uses adjacent to ~~less intensive or residential zones consistent with chapters 17.70 and 17.81 BMC;~~ ~~(BMC 17.70.115, 17.70.120 and 17.70.125);~~

~~6. New transmission towers shall only be permitted within the Burlington Hill special management area;~~

~~7. New transmission towers shall only be permitted where co-location exists.~~

Commented [BJ22]: BJ – 6-11-2021 – potential use conflict – not consistent with comp plan policies intended to reserve industrial land for industrial purposes.

Commented [BJ23]: BJ – 6-11-2021 – not needed here – all gov uses are in PFC zone assigned as part of CIP update process.

Commented [BJ24]: BJ – 6-11-2021 – potential use conflict – not consistent with comp plan policies intended to reserve industrial land for industrial purposes.

Commented [BJ25]: BJ – 6-11-2021 – no change – moved below for organization.

Commented [BJ26]: BJ – 6-11-2021 – this is a defined term.

~~CC. Utility substations, unless clearly incidental and part of a permitted use;~~

~~DD. Warehouse sales, open to the public, must have a minimum of 50,000 square feet of floor space. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.60.080 Additional regulations.

A. No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use, subject to the requirements of the International Fire Code.

~~B. Industrial Land Development abutting a less intensive directly a residential zone shall provide for a transition area and screening as required by chapters 17.70 and 17.81 BMC and shall be subject to the following the following; to the residential use required in chapter 17.70 BMC, Supplemental Development Standards, and the following:~~

~~1. A six-foot screening fence and a 20-foot landscaped buffer designed for sight and noise baffling or a six-foot solid block wall and a 10-foot landscaped buffer designed for sight and noise baffling;~~

~~2. Uses generating noise after 9:00 p.m. shall not be permitted, including assembly occupancies, restaurants with cocktail lounges or dance floors, all night businesses, shooting ranges, overnight pet boarding, and other similar types of uses. This shall not include shift work for an the industrial or manufacturing use;~~

~~3. Measures shall be taken to prevent light and glare from being directed to residential uses; and~~

~~4. A 20-foot setback shall be required for sites that abut or adjoin a residential zone. This setback requirement shall also apply to sites which are separated from a residential zone by a street 50 feet or less in width and when the abutting property is located outside the city of Burlington. (Ord. 1857 § 2 (Exh. B), 2018). C. Outdoor storage yards and service areas. All service yards shall be surrounded on all sides not adjacent to, and directly abutting, a building by a solid site obscuring fence or wall six-feet in height and landscaped consistent with the requirements for Type I screening identified in BMC 17.81.110 fence and screened with solid planting where visible from the public right of way or an adjacent residential zone with the exception of access gates.~~

17.60.090 Development standards.

A. Lot Area and Dimension.

1. Minimum lot area: none.
2. Minimum lot width: none.
3. Minimum lot depth: none.

B. Maximum Building and Impervious Surface Coverage.

1. Building coverage: none.
2. Impervious surface coverage: 80 percent.

C. Minimum Setbacks.

1. Front: none.
2. Side: none.
3. Street: none.
4. Rear: none.

D. Maximum building height: 45 feet except:

1. Buildings may exceed 45 feet if one foot of setback is provided from each property line for each foot the building exceeds 45 feet; and

Commented [BJ27]: BJ – 6-11-2021 – Not needed – utilities are now grouped in small, medium, and large. Large utilities are only allowed in the PFT zone. Substations are a medium utility which is listed as a permitted use in CI-2 zone. No change in use allowance.

2. An additional 15 feet of height may be permitted when parking is located under the building.

E. Fences. See ~~BMC 17.70.070~~ [Chapter 17.70 BMC](#).

F. Parking. See chapter 17.85 BMC.

G. Landscaping. See ~~C~~chapter 17.810 BMC.

H. Signs. See ~~C~~chapter 17.95 BMC.

I. Performance Standards. See ~~C~~chapter 17.70 BMC. (~~Ord. 1857 § 2 (Exh. B), 2018~~).

Chapter 17.65

BP BUSINESS PARK DISTRICT

Sections:

17.65.010 — Title.

17.65.020 — Application.

17.65.030 — Purpose.

17.65.040 — Authority.

17.65.050 — Permitted primary uses.

17.65.060 — Permitted accessory uses.

17.65.070 — Conditional uses.

17.65.080 — Additional regulations.

17.65.105 — Development standards.

17.65.010 — Title.

This chapter shall be called “BP Business Park District.” (Ord. 1857 § 2 (Exh. B), 2018).

17.65.020 — Application.

This chapter shall apply to all areas zoned BP. (Ord. 1857 § 2 (Exh. B), 2018).

17.65.030 — Purpose.

The purpose of this chapter is to respond to modern trends in business park (BP) development by providing a suitable area for industrial, professional office, service and commercial uses within a planned, well-managed site with high quality development standards. (Ord. 1857 § 2 (Exh. B), 2018).

17.65.040 — Authority.

This chapter is adopted pursuant to the provisions of chapters 35.63, 35A.63, 36.70A, and 36.70B RCW and other applicable laws and regulations. (Ord. 1857 § 2 (Exh. B), 2018).

17.65.050 — Permitted primary uses.

Any use listed as a permitted or conditional use in the B-1, R-3, C-1, C-2, and M-1 zones shall be considered a permitted use in the BP zone except as limited or restricted by provisions in this chapter that outdoor activities such as storage, fabrication, or sales shall be prohibited. (Ord. 1857 § 2 (Exh. B), 2018).

17.65.060 — Permitted accessory uses.

A. Caretaker apartments;

B. Offices related to an on-site permitted use or larger than 50,000 square feet of floor area;

C. On-site commercial child day care center serving the employees of a permitted use;

D. On-site recreational facilities serving the employees of a permitted use;

E. Research, development and testing;

F. Eating and drinking establishment;

G. Retail and wholesale trade of products produced, manufactured, or assembled on-site;

H. Telecommunication macro facilities may be permitted, subject to the following requirements, except as limited by the Telecommunications Act of 1996 as amended:

1. Macro facilities may be located on buildings and structures; provided, that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.

2. The macro facility shall be exempt from review by the community development director or designee if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.

3. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.

4. Macro facilities shall comply with the height limitation specified for all zones except as follows: Omnidirectional antennas may exceed the height limitation by 15 feet or in the case of nonconforming structures the antennas may extend 15 feet above the existing structure. Panel antennas may exceed the height limitation if affixed to the side of an existing building and architecturally blends in with the building. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure;

I. Existing monopole I and lattice towers may be extended in height to maximum of 160 feet in height without complying with setback requirements. (Ord. 1857 § 2 (Exh. B), 2018).

17.65.070 — Conditional uses.

Reserved. (Ord. 1857 § 2 (Exh. B), 2018).

17.65.080 — Additional regulations.

A. All activities shall be conducted entirely within a building except as follows:

1. Gas pumps;

Commented [BJ28]: BJ – No need to retain this zone. As drafted it was basically the same as the CI-2 (M-1) zone. No need for redundant zoning designations.

- 2. Refuse containers, provided they are screened from adjoining properties and streets in accordance with any applicable municipal code requirements;
- 3. Horticulture activities;
- 4. Play areas for commercial child day care centers and schools.
- B. All odors, noise, vibrations, heat, glare, or other emissions are controlled within the confines of a building unless specifically permitted elsewhere by this title.
- C. No outdoor testing of products.
- D. No highly combustible, explosive or hazardous materials are permitted, unless clearly incidental and secondary to the permitted use.
- E. Rooftop equipment shall be set back a minimum of 20 feet from the edge of the roof and be painted the same color as the building on which the equipment is located; or, screen the equipment from adjoining uses or from street right of way if setback is less than 20 feet.
- F. Loading and unloading docks that have frontage on a street shall be required to provide an additional 10-foot width of landscaping or in lieu of additional 10-foot width, landscaping may be provided as approved by the landscaping committee.
- G. Outdoor storage may be restricted to the rear of the property and shall as a minimum be guided by the screening and landscaping requirements of the M-1 zone.
- H. No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use. On-site hazardous waste treatment and storage facilities shall be subject to the approval of the fire department. (Ord. 1857 § 2 (Exh. B), 2018).

17.65.105 — Development standards.

- A. Lot Area and Dimension:
 - 1. Minimum lot area: none.
 - 2. Minimum lot width: none.
 - 3. Minimum lot depth: none.
- B. Maximum Building and Impervious Coverage:
 - 1. Building coverage: none.
 - 2. Impervious surface coverage: 80 percent.
- C. Minimum Setbacks:
 - 1. Front: none.
 - 2. Side: none.
 - 3. Street: none.
 - 4. Rear: none.
- D. Maximum building height: 45 feet except:
 - 1. Buildings may exceed 45 feet if one foot of setback is provided from each property line for each foot the building exceeds 45 feet; and
 - 2. An additional 15 feet of height may be permitted when parking is located under the building.
- E. Fences. See BMC 17.70.070.
- F. Parking. See chapter 17.85 BMC.
- G. Landscaping. See chapter 17.80 BMC.
- H. Signs. See chapter 17.95 BMC.
- I. Performance Standards. See chapter 17.70 BMC. (Ord. 1857 § 2 (Exh. B), 2018).

Chapter 17.66

PC-1 Parks and Conservation Zone

Sections:

- 17.66.010 Title.
- 17.66.020 Application.
- 17.66.030 Purpose.
- 17.66.040 Authority.
- 17.66.050 Permitted primary uses.
- 17.66.060 Conditional uses.
- 17.66.070 Permitted accessory uses.
- 17.66.080 Development standards.

17.66.010 Title.

This chapter shall be called “PC-1 Parks and Conservation Zone”.

17.66.020 Application.

This chapter shall apply to all uses and developments in areas zoned PC-1. (Ord. 1857 § 2 (Exh. B), 2018).

17.66.030 Purpose.

The PC-1 zone is intended to implement the PC comprehensive plan designation by identifying and protecting environmentally sensitive lands, lands needed for conservation, restoration, or natural resource functions, and recognizing parcels subject to public or private development restrictions. The uses and developments permitted in this zone are related to, or compatible with, environmental restoration, passive recreation, natural storm-water management, or flood control. In addition, above or below ground utilities, agricultural uses, and transportation improvements may be acceptable in limited circumstances. The regulations of this chapter are intended to provide opportunities for the public to interact with nature, protect important habitat blocks and corridors, allow for the maintenance and restoration of natural hydrologic functions, limit exposure to natural hazards, and to facilitate the construction of flood protection measures and environmental restoration projects.

The PC-1 zoning designation should be applied to areas that are largely undeveloped and extensively constrained by natural hazards or critical areas. This zoning designation is generally applied to publicly owned land, but may also be applied to privately owned land when the land is restricted by conservation or open space easement, notes or restrictions on a recorded plat, or where the widespread presence of severe natural hazards or critical areas makes development extremely hazardous or infeasible.

17.66.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 35A.63, 36.70A, and 36.70B RCW and other applicable laws. (Ord. 1857 § 2 (Exh. B), 2018).

17.66.050 Permitted primary uses.

Buildings, structures, and parcels of land shall only be used for the following uses, unless otherwise provided for in this title. In order to be considered a permitted use projects initiated by a government agency shall be listed below and must also be clearly identified in, and consistent with, the City’s adopted capital improvement plan or the capital facilities element of the comprehensive plan.

- A. Agriculture, urban;
- B. Passive recreation;
- C. Flood control improvements;
- D. Storm-water and sewer outfalls;

Commented [BJ1]: 7-20-2021 – Revised purpose statement to for consistency with revised comp plan and to reflect the fact that we now have two park zones.

Commented [BJ2]: 10-7-2021 – Added this to ensure consistency between adopted plans and agency actions as required by the GMA. This provides a strong incentive for other agencies to participate in CIP adoption process and submit their plans for review and incorporation. “capital improvement” and “government agency” have been added to the list of definitions.

Commented [BJ3]: 7-20-2021 – Deleted references to the specific types of ag uses allowed and replace with a new definition “urban agriculture” which will apply throughout the City. “Rural agricultural uses” (those that would be incompatible with urban development will be prohibited) – no change use allowance

Commented [BJ4]: BJ – 7-20-2021 – created new definition to encompass multiple low impact recreational uses

Commented [BJ5]: BJ – 7-20-2021 – Added this use. Many areas designated PC-1 have flood control measures such as dikes, levees, and pump stations.

Commented [BJ6]: BJ – 7-20-2021 – again, recognizes existing uses – playfields moved to PC-2 zone

E. Commercial wetland mitigation banks;

F. Underground and overhead utilities;

G. Natural storm-water management;

17.66.060 Conditional uses.

The following uses may be permitted when a conditional use permit has been issued pursuant to the provisions of this code:

17.66.070 Accessory uses.

The following uses and developments may be authorized as accessory uses. Accessory uses shall only be permitted when incidental and subordinate to a legally established primary use.

A. Restrooms;

B. Storage buildings;

C. Automobile parking facilities and charging stations;

D. Interpretive or directional signs;

F. Picnic tables, benches, and other similar improvements.

17.66.080 Additional Regulations.

A. Outdoor storage shall be prohibited;

B. Parking areas shall be limited to the absolute minimum necessary to support an allowed use;

C. Land divisions shall be prohibited except when necessary to accommodate a permitted or conditional use identified in this chapter. When authorized, land divisions shall be subject to title restrictions or restrictive plat notes that limit the allowed uses to those authorized by this chapter. Under no circumstances shall a land division be authorized to facilitate, or allow, new residential, commercial, or industrial development.

D. No buildings shall be permitted in conjunction with an urban agricultural use;

E. If surfaced, walking paths should be constructed of gravel or wood chips. Paved paths shall not be permitted in the PC-1 zone except as part of a regional or citywide trail network;

F. Utilities, other than those minimally necessary to support a use authorized by this chapter, shall be subject to the following:

1. There is no reasonable or practicable alternative that avoids land zoned PC-1;
2. All reasonable methods have been taken to avoid disturbing critical areas and critical area buffers, such as underground boring;

Commented [BJ7]: BJ – 7-20-2021 – environmental restoration does not necessarily include this, but this is consistent with purpose of the zone – active recreation uses moved to PC-2 zone

Commented [BJ8]: BJ – 7-20-2021 – allows for full restoration of the site – existing ag uses not needed here since existing uses are addressed by the non-conforming uses code.

Commented [BJ9]: BJ – 7-20-2021 – new definition – replaced the term “existing single family homes” existing uses are addressed by the non-conforming uses code.

3. The location and construction of the project is designed to minimize critical area impacts and maintain the physical and aesthetic characteristics of the property and will not interfere with any existing or planned public park improvements:

4. The project fully complies with the critical area standards in Title 14 BMC.

17.66.090 Development standards.

A. Lot Area and Dimension: No requirements

B. Minimum Setback Requirements: No requirements

C. Maximum building height: 20 feet.

D. Maximum impervious surface coverage: 10 percent

Chapter 17.70

PC-2 Parks and Conservation Zone

Sections:

- 17.70.010 Title.
- 17.70.020 Application.
- 17.70.030 Purpose.
- 17.70.040 Authority.
- 17.70.050 Permitted primary uses.
- 17.70.060 Conditional uses.
- 17.70.070 Permitted accessory uses.
- 17.70.080 Additional regulations.
- 17.70.090 Development regulations.

17.70.010 Title.

This chapter shall be called “PC-2 Parks and Conservation Zone”.

17.70.020 Application.

This chapter shall apply to all uses and developments in areas zoned PC-2. (Ord. 1857 § 2 (Exh. B), 2018).

17.70.030 Purpose.

The PC-2 zone is intended to implement the PC comprehensive plan designation by identifying and designating lands needed for publicly owned parks and recreation facilities. The uses and developments permitted in this zone are related to, or compatible with, active recreation, such as athletic fields, sports facilities, and community centers. In addition, above or below ground utilities, flood control improvements, and transportation facilities may be acceptable in limited circumstances.

Commented [BJ10]: 7-20-2021 – Revised purpose statement to for consistency with revised comp plan and to reflect the fact that we now have two park zones.

The PC-2 zoning designation should be applied to existing and planned publicly owned parks, including areas that are already developed for active recreational purposes.

17.70.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 35A.63, 36.70A, and 36.70B RCW and other applicable laws. (Ord. 1857 § 2 (Exh. B), 2018).

17.70.050 Permitted primary uses.

Buildings, structures, and parcels of land shall only be used for the following, unless otherwise provided for in this title. In order to be considered a permitted use projects initiated by a government agency shall be listed below and must also be clearly identified in, and consistent with, the City’s adopted capital improvement plan or the capital facilities element of the comprehensive plan.

Commented [BJ11]: 7-20-2021 – Deleted references to the specific types of ag uses allowed and replace with a new definition “urban agriculture” which will apply throughout the City. “Rural agricultural uses” (those that would be incompatible with urban development will be prohibited) – no change use allowance

A. Agriculture, urban;

B. Recreation, active and passive;

C. Flood control improvements;

Commented [BJ12]: BJ – 7-20-2021 – Added this use. Many areas designated PC-1 have flood control measures such as dikes, levees, and pump stations.

D. Storm-water and sewer outfalls;

E. Underground and overhead utilities;

Commented [BJ13]: BJ – 7-20-2021 – allows for full restoration of the site – existing ag uses not needed here since existing uses are addressed by the non-conforming uses code.

F. Natural storm-water management;

G. Meeting facilities, public;

Commented [BJ14]: BJ – 7-20-2021 – new definition – replaced the term “existing single family homes” existing uses are addressed by the non-conforming uses code.

H. Boat launches and mooring facilities, public;

I. RV parks and campgrounds, public;

J. Public services, administrative and customer service;

K. Cemeteries.

L. Any other public park improvement identified in the adopted Parks Recreation and Open Space Plan (PROs) Plan, Capital Improvement Plan (CIP), or the Parks and Recreation Element of the comprehensive plan.

17.70.060 Conditional uses.

A. Emergency housing;

17.70.070 Accessory uses.

The following uses and developments may be authorized as accessory uses. Accessory uses shall only be permitted when incidental and subordinate to a legally established primary use.

A. Restrooms;

B. Storage buildings and yards;

C. Automobile parking and charging stations;

D. Interpretive or directional signs;

E. Caretaker dwellings;

F. Picnic tables, benches, and shelters;

G. RV pump out stations;

17.70.080 Additional Regulations.

A. Outdoor storage yards shall be fully screened from view;

B. Parking areas shall be limited to the absolute minimum necessary to support an allowed use;

C. Land divisions shall be prohibited except when necessary to accommodate a permitted or conditional use identified in this chapter. When authorized, land divisions shall be subject to title restrictions or restrictive plat notes that limit the allowed uses to those authorized by this chapter. Under no circumstances shall a land division be authorized to facilitate, or allow, new residential, commercial, or industrial development.

D. In addition to complying with all the regulations identified in this chapter, only those public improvements identified in the adopted Parks Recreation and Open Space Plan (PROs) Plan, Capital Improvement Plan (CIP), or the Parks and Recreation Element of the comprehensive plan shall be permitted;

E. Trailer parks and campgrounds may only be permitted if operated by a government agency and shall only be used to accommodate short term, recreational stays by travelers or event attendees.

F. Utilities, other than those minimally necessary to support a use authorized by this chapter, shall be subject to the following:

1. There is no reasonable or practicable alternative that avoids land zoned PC-1 or PC-2;
2. All reasonable methods have been taken to avoid disturbing critical areas and critical area buffers, such as underground boring;
3. The location and construction of the project is designed to minimize critical area impacts and maintain the physical and aesthetic characteristics of the property and will not interfere with any existing or planned public park improvements;
4. The project fully complies with the critical area standards in Title 14 BMC.

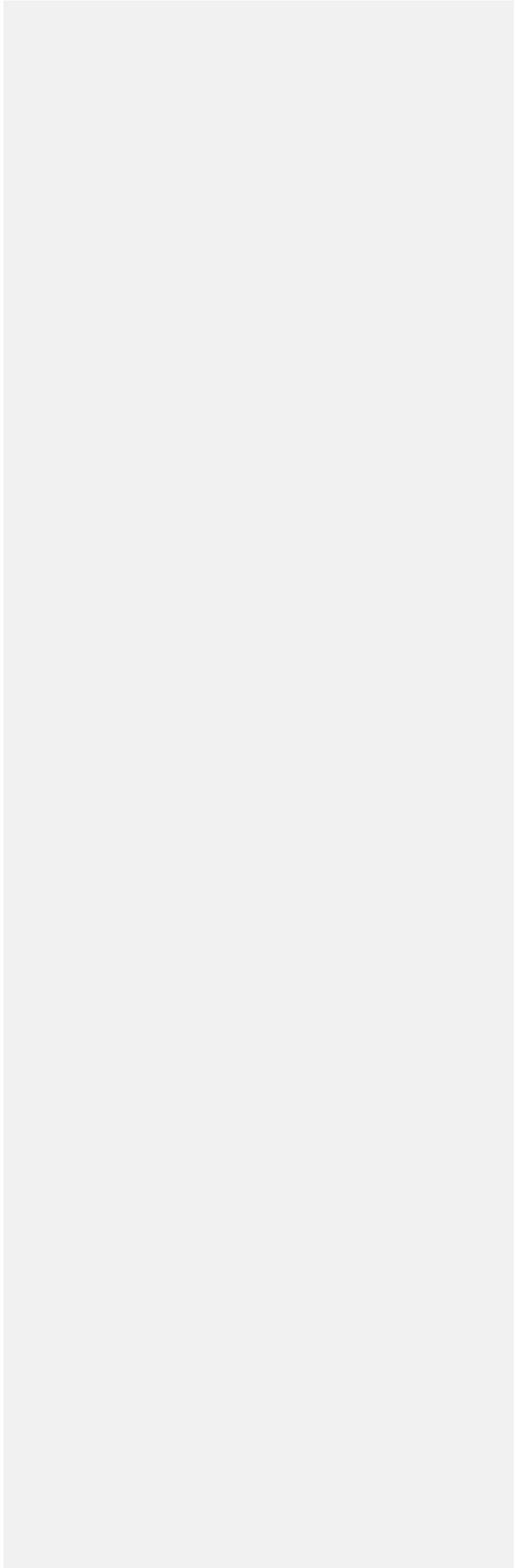
17.70.090 Development standards.

A. Lot Area and Dimension: No requirements

B. Minimum Setback Requirements: No requirements

C. Maximum building height: 35 feet.

D. Maximum impervious surface coverage: none



Chapter 17.67

PC-2 Parks and Conservation Zone

Sections:

- 17.67.010 Title.
- 17.67.020 Application.
- 17.67.030 Purpose.
- 17.67.040 Authority.
- 17.67.050 Permitted primary uses.
- 17.67.060 Conditional uses.
- 17.67.070 Permitted accessory uses.
- 17.67.080 Additional regulations.
- 17.67.090 Development regulations.

17.67.010 Title.

This chapter shall be called “PC-2 Parks and Conservation Zone”.

17.67.020 Application.

This chapter shall apply to all uses and developments in areas zoned PC-2. (Ord. 1857 § 2 (Exh. B), 2018).

17.67.030 Purpose.

The PC-2 zone is intended to implement the PC comprehensive plan designation by identifying and designating lands needed for publicly owned parks and recreation facilities. The uses and developments permitted in this zone are related to, or compatible with, active recreation, such as athletic fields, sports facilities, and community centers. In addition, above or below ground utilities, flood control improvements, and transportation facilities may be acceptable in limited circumstances.

The PC-2 zoning designation should be applied to existing and planned publicly owned parks, including areas that are already developed for active recreational purposes.

17.67.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 35A.63, 36.70A, and 36.70B RCW and other applicable laws. (Ord. 1857 § 2 (Exh. B), 2018).

17.67.050 Permitted primary uses.

Buildings, structures, and parcels of land shall only be used for the following, unless otherwise provided for in this title. In order to be considered a permitted use projects initiated by a government agency shall be listed below and must also be clearly identified in, and consistent with, the City’s adopted capital improvement plan or the capital facilities element of the comprehensive plan.

A. Agriculture, urban;

B. Recreation, active and passive;

C. Flood control improvements;

D. Storm-water and sewer outfalls;

E. Underground and overhead utilities;

F. Natural storm-water management;

G. Meeting facilities, public;

Commented [BJ1]: 7-20-2021 – Revised purpose statement to for consistency with revised comp plan and to reflect the fact that we now have two park zones.

Commented [BJ2]: 7-20-2021 – Deleted references to the specific types of ag uses allowed and replace with a new definition “urban agriculture” which will apply throughout the City. “Rural agricultural uses” (those that would be incompatible with urban development will be prohibited) – no change use allowance

Commented [BJ3]: BJ – 7-20-2021 – Added this use. Many areas designated PC-1 have flood control measures such as dikes, levees, and pump stations.

Commented [BJ4]: BJ – 7-20-2021 – allows for full restoration of the site – existing ag uses not needed here since existing uses are addressed by the non-conforming uses code.

Commented [BJ5]: BJ – 7-20-2021 – new definition – replaced the term “existing single family homes” existing uses are addressed by the non-conforming uses code.

H. Boat launches and mooring facilities, public;

I. RV parks and campgrounds, public;

J. Public services, administrative and customer service;

K. Cemeteries.

L. Any other public park improvement identified in the adopted Parks Recreation and Open Space Plan (PROs) Plan, Capital Improvement Plan (CIP), or the Parks and Recreation Element of the comprehensive plan.

17.67.060 Conditional uses.

A. Emergency housing;

17.67.070 Accessory uses.

The following uses and developments may be authorized as accessory uses. Accessory uses shall only be permitted when incidental and subordinate to a legally established primary use.

A. Restrooms;

B. Storage buildings and yards;

C. Automobile parking and charging stations;

D. Interpretive or directional signs;

E. Caretaker dwellings;

F. Picnic tables, benches, and shelters;

G. RV pump out stations;

17.67.080 Additional Regulations.

A. Outdoor storage yards shall be fully screened from view;

B. Parking areas shall be limited to the absolute minimum necessary to support an allowed use;

C. Land divisions shall be prohibited except when necessary to accommodate a permitted or conditional use identified in this chapter. When authorized, land divisions shall be subject to title restrictions or restrictive plat notes that limit the allowed uses to those authorized by this chapter. Under no circumstances shall a land division be authorized to facilitate, or allow, new residential, commercial, or industrial development.

D. In addition to complying with all the regulations identified in this chapter, only those public improvements identified in the adopted Parks Recreation and Open Space Plan (PROs) Plan, Capital Improvement Plan (CIP), or the Parks and Recreation Element of the comprehensive plan shall be permitted;

E. Trailer parks and campgrounds may only be permitted if operated by a government agency and shall only be used to accommodate short term, recreational stays by travelers or event attendees.

F. Utilities, other than those minimally necessary to support a use authorized by this chapter, shall be subject to the following:

1. There is no reasonable or practicable alternative that avoids land zoned PC-1 or PC-2;
2. All reasonable methods have been taken to avoid disturbing critical areas and critical area buffers, such as underground boring;
3. The location and construction of the project is designed to minimize critical area impacts and maintain the physical and aesthetic characteristics of the property and will not interfere with any existing or planned public park improvements;
4. The project fully complies with the critical area standards in Title 14 BMC.

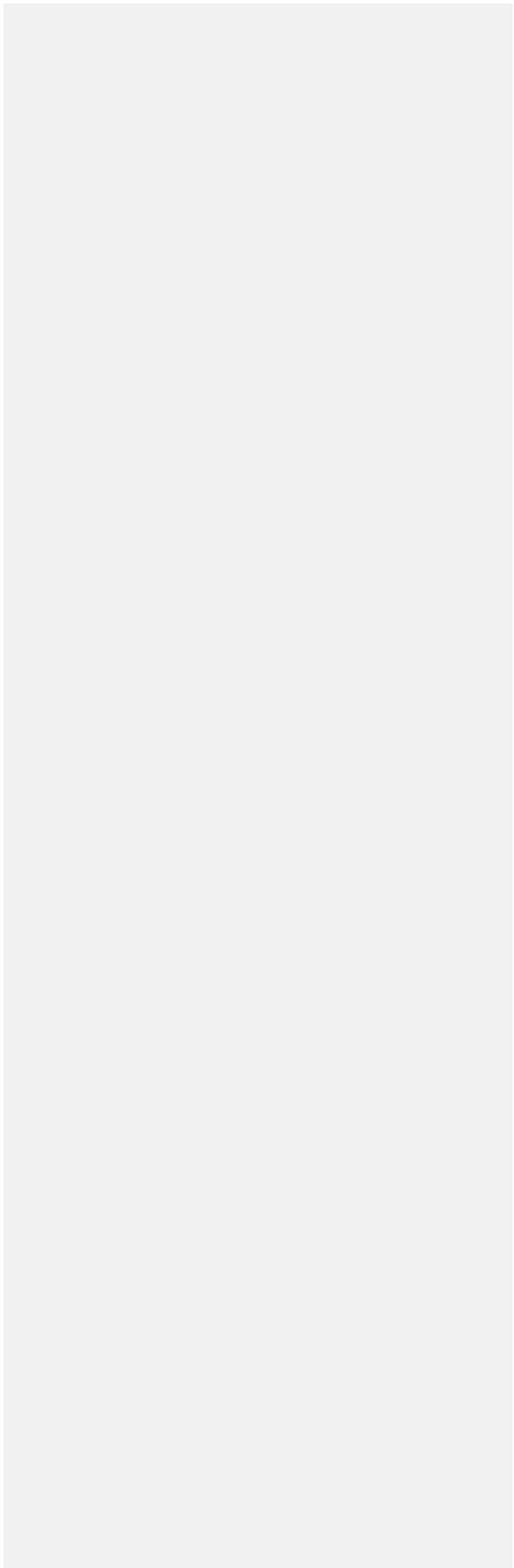
17.67.090 Development standards.

A. Lot Area and Dimension: No requirements

B. Minimum Setback Requirements: No requirements

C. Maximum building height: 45 feet.

D. Maximum impervious surface coverage: 80 percent.



Chapter 17.68

PFT-1 Public Facilities and Transportation Zone

Sections:

- 17.68.010 Title.
- 17.68.020 Application.
- 17.68.030 Purpose.
- 17.68.040 Authority.
- 17.68.050 Permitted primary uses.
- 17.68.060 Conditional uses.
- 17.68.070 Permitted accessory uses.
- 17.68.080 Development standards.

17.68.010 Title.

This chapter shall be called “PFT-1 Public Facilities and Transportation Zone”.

17.68.020 Application.

This chapter shall apply to all uses and developments in areas zoned PFT-1. (Ord. 1857 § 2 (Exh. B), 2018).

17.75.030 Purpose.

The PFT-1 zone is intended to implement the PFT comprehensive plan designation by identifying and designating lands needed for public services and facilities. The uses and developments permitted in this zone are compatible with, or necessary to support, residential and commercial development and typically have a commercial or institutional character. Examples of uses allowed in the PFT-1 include schools, fire stations, public offices, small scale utilities and public streets. The regulations of this chapter are intended to ensure public facilities are compatible with surrounding development patterns and encourage long-range planning and coordination between public agencies, utility providers, and various levels of government.

Commented [BJ1]: 7-20-2021 – Revised purpose statement to for consistency with revised comp plan and to reflect the fact that we now have two park zones.

The PFT-1 zoning designation should be applied to all lands occupied by one of the permitted uses listed below on or before effective date of this chapter. New lands may be designated PFT-1 consistent with the applicable policies identified in the Public Services and Facilities Element of the Burlington Comprehensive Plan.

17.68.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 35A.63, 36.70A, and 36.70B RCW and other applicable laws. (Ord. 1857 § 2 (Exh. B), 2018).

17.68.050 Permitted primary uses.

Buildings, structures, and parcels of land shall only be used for the following, unless otherwise provided for in this title. In order to be considered a permitted use projects shall be listed below and must also be clearly identified in, and consistent with, the City’s adopted Capital Improvement Plan (CIP) or the Public Facilities and Services Element of the Comprehensive Plan. Private utilities shall be subject to the requirements of Chapter 17.90 BMC and shall not be regulated under this chapter.

A. Public housing;

B. Nursing homes;

D. Emergency housing;

E. Healthcare facilities;

F. Child daycare;

Commented [BJ2]: BJ – 7-20-2021 – Added this use. Many areas designated PC-1 have flood control measures such as dikes, levees, and pump stations.

K. Automobile parking and vehicle charging stations;

M. Public restrooms;

N. Emergency services;

O. Transit stops and services;

P. Public facilities, administrative and customer service;

Q. Public meeting facilities;

R. Public streets, pedestrian paths, and multiuse trails;

S. Utilities, small and medium.

T. Emergency Housing

17.68.060 Conditional uses.

A. Hospitals;

B. Public schools;

C. Public colleges and universities;

D. Public facilities, industrial;

E. Utilities, large, limited to overhead or underground infrastructure such as electrical wires or sewer and water lines.

17.68.070 Accessory uses.

The following uses and developments may be authorized as accessory uses. Accessory uses shall only be permitted when incidental and subordinate to a legally established primary use.

A. Storage buildings and yards;

B. Caretaker dwellings and employee or student housing;

C. Fueling stations;

D. Picnic tables and shelters;

E. Drive through uses;

F. Automobile parking facilities and charging stations;

G. Telecommunication macro facilities, subject to the following requirements:

1. Macro facilities may be located on buildings and structures; provided, that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.

2. The macro facility shall be exempt from review by the community development director or designee if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.

3. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.

4. Macro facilities shall comply with the height limitation specified for all zones except as follows: Omnidirectional antennas may exceed the height limitation by 15 feet, or in the case of nonconforming structures the antennas may extend 15 feet above the existing structure. Panel antennas may exceed the height limitation if affixed to the side of an existing building and architecturally blends in with the building. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

17.68.080 Additional regulations.

A. Off-street parking and loading areas shall not be located between buildings and adjoining streets.

B. Public facilities directly abutting a less intensive or residential zone shall provide for a transition area and screening consistent with the requirements of chapters 17.70 and 17.81 BMC.

17.68.090 Development standards.

A. Lot Area and Dimension.

1. Minimum lot area: none.

2. Minimum lot width: none.

3. Minimum lot depth: none.

B. Maximum Building and Impervious Surface Coverage.

1. Building coverage: none.

2. Impervious surface coverage: 80 percent.

C. Minimum Setbacks.

1. Front: none.

2. Side: none.

3. Street: none.

4. Rear: none.

D. Maximum Setbacks.

1. Front: 10 feet.

2. Street: 10 feet.

3. Exceptions. Exceptions may be granted in the following situations:

a. To accommodate a wider sidewalk;

b. To accommodate a recessed pedestrian entrance, plaza, or additional landscaping;

c. As minimally necessary to avoid a utility easement that makes compliance with the maximum setback impossible;

Commented [BJ3]: BJ_3-16-2021_limited to wider sidewalk since the goal is not to promote expansive landscaping in front of buildings. Not consistent with the current appearance in the MUC-1 zone where most buildings are built at the property line.

c. The expansion or modification of an existing building where compliance with the maximum setback is not feasible due to the location of the existing building and the size of the proposed expansion. In such cases the expansion shall be constructed forward of the existing building line and closer to the street; _

d. As minimally necessary to accommodate development on irregularly shaped lots where the street frontages are angular or curvilinear. In such instances buildings shall be located as close as possible to the street frontages;

e. For corner lots, buildings shall be located at the corner or intersection;

f. For lots with more than two street frontages, the maximum setback shall be applied to the street frontages with the highest classification. For example, if a parcel has frontage on two arterial streets and a local access street, the maximum setback shall apply to the two arterial streets; _

d. Drive-through uses accessory to an authorized public use; _

e. As minimally necessary to accommodate pick-up and drop-off lanes; _

f. To provide access to emergency services equipment bays. _

E. Maximum building height: 45 feet, except:

1. Buildings may exceed 45 feet if one foot of setback is provided from each property line, for each foot the building exceeds 45 feet; and

2. An additional 15 feet of height may be permitted when parking is located under the building.

F. Fences. See Chapter 17.70 BMC.

G. Parking. See Chapter 17.85 BMC.

H. Landscaping. See Chapter 17.81 BMC.

I. Signs. See Chapter 17.95 BMC.

J. Lighting. See Chapter 17.70 BMC.

Commented [BJ4]: BJ_3-16-2021_Too vague to enforce

Chapter 17.69

PFT-2 Public Facilities and Transportation Zone

Sections:

- 17.69.010 Title.
- 17.69.020 Application.
- 17.69.030 Purpose.
- 17.69.040 Authority.
- 17.69.050 Permitted primary uses.
- 17.69.060 Conditional uses.
- 17.69.070 Permitted accessory uses.
- 17.69.080 Development standards.

17.69.010 Title.

This chapter shall be called “PFT-2 Public Facilities and Transportation Zone”.

17.69.020 Application.

This chapter shall apply to all uses and developments in areas zoned PFT-2.

17.80.030 Purpose.

The PFT-2 zone is intended to implement the PFT comprehensive plan designation by identifying and designating lands needed for public services and facilities. The uses and developments permitted in this zone are compatible with, or necessary to support, public facilities and services with an industrial character that could negatively impact residential or commercial uses. Examples of uses allowed in the PFT-2 include maintenance and storage yard, equipment repair, major utility installations such as sewage treatment plans, and high capacity regional transportation facilities such as freeways, transit centers, and railways. The regulations of this chapter are intended to ensure public facilities are compatible with surrounding development patterns and encourage long-range planning and coordination between public agencies, utility providers, and various levels of government.

The PFT-2 zoning designation should be applied to all lands occupied by one of the permitted uses listed below on or before effective date of this chapter. New lands may be designated PFT-2 consistent with the applicable policies identified in the Public Services and Facilities Element of the Burlington Comprehensive Plan.

17.69.040 Authority.

Commented [BJ1]: 7-20-2021 – Revised purpose statement to for consistency with revised comp plan and to reflect the fact that we now have two park zones.

This chapter is adopted pursuant to the provisions of chapters 35A.63, 36.70A, and 36.70B RCW and other applicable laws. (Ord. 1857 § 2 (Exh. B), 2018).

17.69.050 Permitted primary uses.

Buildings, structures, and parcels of land shall only be used for the following, unless otherwise provided for in this title. In order to be considered permitted, a use must be both listed below and clearly identified in, and consistent with, the City's Capital Improvement Plan (CIP) and the Public Facilities and Services element of the comprehensive plan. Private utilities shall be subject to the requirements of Chapter 17.90 BMC and shall not be regulated under this chapter.

A. Emergency housing;

B. Automobile parking and vehicle charging stations;

C. Public restrooms;

D. Emergency services;

E. Transit stops and services;

F. Transit centers;

G. Public facilities, administrative and customer service;

H. Public facilities, minor and major industrial;

I. Public streets, pedestrian paths, and multiuse trails;

J. State highways;

K. Intercity passenger rail facilities;

L. Transmission towers;

M. Utilities, all types;

N. Outdoor storage yards;

O. Vehicle repair, minor and major;

P. Heavy vehicle and equipment repair;

17.69.060 Conditional uses.

A. Public facilities, high impact industrial;

B. Heliports, when accessory to a healthcare facility, hospital, or emergency services facility;

C. Shooting range, indoors;

17.69.070 Accessory uses.

The following uses and developments may be authorized as accessory uses. Accessory uses shall only be permitted when incidental and subordinate to a legally established primary use.

A. Storage buildings and yards;

B. Caretaker dwellings and employee or student housing:

C. Fueling stations:

D. Automobile parking facilities and charging stations:

E. Telecommunication macro facilities, subject to the following requirements:

1. Macro facilities may be located on buildings and structures; provided, that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.
2. The macro facility shall be exempt from review by the community development director or designee if the antenna and related components are the same color as the existing building, pole or support structure on which it is proposed to be located.
3. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground.
4. Macro facilities shall comply with the height limitation specified for all zones except as follows: Omnidirectional antennas may exceed the height limitation by 15 feet, or in the case of nonconforming structures the antennas may extend 15 feet above the existing structure. Panel antennas may exceed the height limitation if affixed to the side of an existing building and architecturally blends in with the building. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

17.69.080 Additional regulations.

A. Public uses with an industrial character directly abutting a less intensive or residential zone shall provide for a transition area and screening consistent with the requirements of chapters 17.70 and 17.81 BMC.

B. Outdoor storage yards and service areas. All service yards shall be surrounded on all sides not adjacent to, and directly abutting, a building by a solid site obscuring fence or wall six-feet in height and landscaped in accordance with the requirements of Chapter 17.81 BMC. Outdoor storage yards and service areas shall be located behind, between, or alongside buildings and shall not be located between a buildings and a street.

17.69.090 Development standards.

A. Lot Area and Dimension.

1. Minimum lot area: none.
2. Minimum lot width: none.
3. Minimum lot depth: none.

B. Maximum Building and Impervious Surface Coverage.

1. Building coverage: none.
2. Impervious surface coverage: 80 percent.

C. Minimum Setbacks.

1. Front: none.
2. Side: none.
3. Street: none.

4. Rear: none.

D. Maximum building height: 45 feet except:

1. Buildings may exceed 45 feet if one foot of setback is provided from each property line for each foot the building exceeds 45 feet; and

2. An additional 15 feet of height may be permitted when parking is located under the building.

E. Fences. See Chapter 17.70 BMC.

F. Parking. See Chapter 17.85 BMC.

G. Landscaping. See Chapter 17.81 BMC.

H. Signs. See Chapter 17.95 BMC.

I. General Development Standards. See Chapter 17.70 BMC.

Chapter 17.700

SUPPLEMENTAL General Development Standards DEVELOPMENT STANDARDS

Sections:

- 17.70.010 Title.
- 17.70.020 Application.
- 17.70.030 Purpose.
- 17.70.040 Authority.
- 17.70.045 Prohibited uses.
- 17.70.050 ~~Special height restrictions~~ Performance standards.
- 17.70.060 ~~Obstructions, generally prohibited~~ Site distances and right-of-way obstructions.
- 17.70.070 Fences.
- 17.70.080 Standard setback exceptions.
- 17.70.090 Home occupations.
- 17.70.100 ~~Responsibility for animals~~ Animals.
- 17.70.105 ~~Outdoor vending machines~~ lighting.
- 17.70.110 ~~Performance standards~~ Vehicles.
- 17.70.115 ~~Height requirements for transitional zones~~ areas.
- 17.70.120 Setback requirements for transition zones.
- 17.70.125 Telecommunication facilities.
- ~~17.70.130 Mechanical equipment~~
- 17.70.135 Low impact development.
- 17.70.140 Temporary uses.

17.70.010 Title.

This chapter shall be called "Supplemental General Development Standards." (Ord. 1857 § 2 (Exh. B), 2018).

17.70.020 Application.

~~The standards of~~ This section shall apply to the use of and development land ~~all new uses, structures, the construction of new buildings, and development,~~ and to the expansion or modification of existing uses, structures and developments. (Ord. 1857 § 2 (Exh. B), 2018).

17.70.030 Purpose.

The purpose of supplemental development standards is to achieve compatible land uses within zoning districts and surrounding areas by providing uniform regulations throughout each district, encouraging neighborhood stability and consistency, and promoting commercial viability and compatibility. (Ord. 1857 § 2 (Exh. B), 2018).

17.70.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 35.63, 35A.63, 36.70A, and 36.70B RCW and other applicable laws and regulations. (Ord. 1857 § 2 (Exh. B), 2018).

17.70.045 Prohibited uses.

The following uses and developments shall be prohibited in all zones and throughout the City of Burlington. This list is not exhaustive and is only intended to highlight specific uses which are explicitly prohibited in all other zones. Other uses may also be prohibited pursuant to BMC 17.05.090.E and other applicable code provisions.

A. Agriculture, rural;

B. Shooting range, outdoors;

C. Billboards and offsite advertising;

D. Electric fences;

E. —

Commented [BJ1]: 10-8-2021 – BJ – special height restrictions moved under the heading "transition areas" and grouped with other similar regulations. Performance standards relocated to appear near the top of the list because these standards overlay all other regulations.

Commented [BJ2]: BJ – 10-8-2021 – retitled to be more descriptive

Commented [BJ3]: BJ – 10-8-2021 – simplified to be more descriptive

Commented [BJ4]: BJ – 10-8-2021 – not necessary to have pages of regulations directed at vending machines – moved under prohibited uses section and included a limited number of allowances – outdoor lighting standards added. We previously had nothing and this has become an issue. Planning commission requested dark sky, glare reduction, and energy conservation factors be addressed

Commented [BJ5]:

Commented [BJ6]: BJ – 10-11-2021 – Changed name to avoid confusion with "zones" and to recognize that the regulations encompass more than height requirements.

Commented [BJ7]: BJ – 10-11-2021 – these regulations are zone specific and have been moved to the appropriate residential and commercial zones.

Commented [BJ8]: BJ – 1-11-2022 – Added new section addressing uses that are prohibited in all zones to provide clarity.

E. Commercial composting:

F. Bulk storage, manufacturing, processing, handling, or disposal of hazardous substances such as, chemicals, petroleum products, medical waste, radioactive material, and explosives. This prohibition shall not apply to minor quantities incidental to a permitted use or activity.

17.770.050 ~~Special height restrictions~~ Performance standards.

The purpose of this section is to establish the following performance standards which are intended to reduce the visual, physical, and environmental impacts of new development on existing uses and developments.

A. Light and Glare. Building materials with high light-reflective qualities shall not be used in the construction of buildings in such manner that reflected sunlight will throw intense glare to surrounding areas. Artificial lighting shall be hooded or shaded so that direct light of high-intensity lamps will not result in glare when viewed from residential areas surrounding a commercial or industrial district.

B. Electrical Interference. Provisions must be made for necessary shielding or other preventive measures against interference occasioned by mechanical, electrical and nuclear equipment uses or processes with electrical apparatus in nearby buildings or land uses.

C. Odorous Gases and Matter. The emission of odorous gases or matter in such quantities as to be readily detectable, without special instruments, at any point beyond the property line of the use creating the odor, is prohibited.

D. Smoke and Particulate Matter Emissions. No emissions shall exceed the allowances set forth by the Environmental Protection Agency, the Washington State Department of Ecology and/or the Northwest Sound Air Pollution Control Agency, unless local regulations are more restrictive, in which case the local regulation shall apply.

E. Dust, Dirt, Fly Ash, or Air-Borne Solids. No observable dust, dirt, fly ash or other air-borne solids shall be emitted except as related to construction activity.

F. Waste Storage. Storage of animal or vegetable wastes which attract insects or rodents or otherwise create a health hazard shall be prohibited. No waste products shall be exposed to view, from eye level, beyond the property line of the use storing the waste.

G. Toxic Gases and Matter. No emissions of toxic gases or matter shall be permitted.

H. Vibration. Vibration which is easily discernible, without special instruments at any point beyond the property line, is prohibited. This shall not apply to vibration caused by highway vehicles, trains, aircraft or construction activities.

I. Hazardous Substance and Waste. No hazardous substances or wastes shall be released into the environment so as to cause dangerous or offensive emission or contamination of any public or private water supply, sewage treatment processes, watercourse or water body, the air, or the ground, except in accordance with standards approved by provisions of federal, state and local laws and regulations, and the International Fire Code. (Ord. 1857 § 2 (Exh. B), 2018).

A. There shall not be anything constructed or reconstructed, and no obstruction permitted to grow, other than a post, column or tree not exceeding one foot square or one foot in diameter, between a height three feet and 10 feet above the established grade within the triangular areas described below, without the express approval of the city engineer:

1. The triangular area formed by a line 20 feet along the right-of-way lines of two intersecting streets, measured from the point of intersection of the right-of-way lines, and the line connecting the two ends of the two 20-foot lines;

2. The triangular area formed by a line 15 feet along the street right-of-way line measured from the point of intersection of the alley right-of-way line and a line 15 feet along the alley right-of-way line measured from the point of intersection of the street and alley right-of-way lines and the line connecting the unconnected ends of the two lines.

Commented [BJ9]: BJ – 1-11-2021 – Performance standards relocated but not changed

~~B. In general, no fence, hedge, structure or other obstruction shall act as a sight hazard to traffic, and the city engineer may order the removal of such hazard whether or not such object otherwise complies with the provisions of this title. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.770.060 Obstructions, generally prohibited Site distances and obstructions.

~~A. In no case shall any Obstructions such –fence and/or, hedges, signs, buildings, walls, landscaping, trees, and overgrown vegetation shall be prohibited in the following locations:~~

~~a. W-be constructed or grown, within a distance of three feet of a, around any fire hydrant or in any location that; as well as no fence or hedge shall deter or hinders the fire department from gaining access to any fire department connection, fire protection control valve, fire hydrant, or fire department appliance or device;~~

~~A.~~

~~b. In any location that B. In no case shall any fence and/or hedge obstruct obscures the visibility of any fire hydrant from a distance of 150 feet, in any direction, of vehicular approach to the hydrant;~~

~~B.~~

~~C. In any location C. In no case shall any fence and/or hedge be constructed or grown in a manner which that interferes with access to storm or sanitary sewer manholes and other appurtenances which require access for maintenance purposes. (Ord. 1857 § 2 (Exh. B), 2018).~~

~~D. In any location which, in the opinion of the City Engineer, constitutes a traffic safety hazard for pedestrians, drivers, or other road users. The City Engineer may order the removal of any such hazard whether or not the object otherwise complies with the provisions of this title.~~

~~E. No object, or portion of an object, shall be permitted in the areas described below, without the express approval of the City Engineer:~~

~~1. The triangular area formed by a line 20 feet along the right-of-way lines of two intersecting streets, measured from the point of intersection of the right-of-way lines, and the line connecting the two ends of the two 20-foot lines;~~

~~2. The triangular area formed by a line 15 feet along the street right-of-way line measured from the point of intersection of the alley right-of-way line and a line 15 feet along the alley right-of-way line measured from the point of intersection of the street and alley right-of-way lines and the line connecting the unconnected ends of the two lines.~~

~~3. Exceptions:~~

~~a. Objects with a height of three feet or less;~~

~~b. Posts, poles, and trees with a diameter or one foot or less;~~

~~c. Overhanging or cantilevered objects that are ten feet or more above the street grade.~~

Commented [BJ10]: BJ – 1-11-2022 – This section reformatted but the requirements have not been changed.

17.770.070 Fences and Retaining Walls.

The following standards shall apply to the construction, placement, and maintenance of fences, walls, and retaining walls.

Commented [BJ11]: BJ – 1-11-2022 – This section has been expanded to address walls, provide more clarity on what type of fences are allowed in each zone, and to establish criteria for measuring the height of fences, walls, and retaining walls.

A. General Standards.

1. Fences, walls, and retaining walls shall not obstruct a required site line or otherwise violate the site distance and obstruction requirements of this Chapter (BMC 17.90.060);
2. Electric fences shall be prohibited citywide and in all zones.
3. Measurement of height.
 - a. Except for fences or walls located on top of a retaining wall, height shall be calculated by measuring from the lowest adjacent grade to the top of the fence, wall, or retaining wall;
 - b. For fences and walls located on top, and within six feet, of a retaining wall or earth berm, the total combined height of the retaining wall and fence or wall shall be subject to the applicable height restrictions in this section (BMC 17.90.070). In such cases the total height shall be calculated by measuring from the lowest adjacent predevelopment grade to the top of the fence or wall.

Commented [BJ12]: BJ – 1-11-2022 – At the direction of the Planning Commission electric fences have been explicitly prohibited. New definition for “electric fence” will be added to the definitions section to clarify that this does not include low voltage agricultural fences.

Commented [BJ13]: BJ – 1-11-2022 – Added new provision addressing common problem where a fence and a retaining wall or earth berm are combined as a way to evade the normal height limits.

B. Residential zones. The following standards shall apply in the RD, RA, and MUR zones.

1. Height.

- a. Front setback area: 3.5 feet;
- b. Street side setback area: 3.5 feet;
- c. All other locations: 6 feet.

2. Material. Acceptable materials include wood, stone, decorative metal, and masonry blocks. Chain link or cyclone fencing is prohibited in front and street side setback areas. In all other locations chain link or cyclone fencing may only be used if it is treated with a dark, natural colored coating (such as green or black) and matching privacy slats are used. Barbed wire, razor wire, and other similar security treatments are prohibited.

3. Setbacks. The minimum setback from a sidewalk or public right-of-way shall be 12 inches.

Commented [BJ14]: BJ – 1-11-2022 – Add Planning Commission’s direction the maximum height for fences between a house and a street has been reduced to 3.5 feet. Previous draft of this code would have allowed fences up to six feet for corner lots. Planning Commission expressed a preference for this provision to avoid street canyon effects.

B. Mixed use commercial zones. The following standards shall apply in the MUC, PC, and PFT-1 zones.

1. Height.

- a. Between a principal structure and a street: 42 inches;
- b. All other locations: 6 feet.

2. Material. Acceptable materials include wood, stone, decorative metal, and masonry block. Chain link or cyclone fencing may only be used if it is screened with landscaping, treated with a dark, natural colored coating (such as green or black) and matching privacy slats are used. Barbed wire, razor wire, and other similar security treatments are prohibited.

3. Setbacks. Fences and walls shall not be located within a street frontage landscaping strip required by Chapter 17.81 BMC. Retaining walls may be located within a street frontage landscaping strip.

C. Industrial zones. The following standards shall apply in the CI and PFT-2 zones.

1. Height: 6 feet. Fences and walls with a maximum height greater than 6 feet, but less than 8 feet, may be authorized with a building permit provided:

- a. Landscaping, comprised of evergreen trees and shrubs planted at intervals of 15 feet or less, is provided between the fence and adjoining property lines and public rights-of-way;
- b. Barbed wire or razor wire shall not permitted on any fence or wall with a height greater than 6 feet.

2. Material: Acceptable materials include wood, stone, decorative metal, masonry block, and chain link. Barbed wire and razor wire may be added to the top of a fence or wall provided it is not visible from a street or a public right-of-way. Barbed wire and razor wire is only permitted on top of fences or walls, must be a least six feet above the ground, and may not extend more than one foot above the top of the fence.

3. Setbacks. Fences and walls shall not be located within a street frontage landscaping strip required by Chapter 17.81 BMC. Retaining walls may be located within a street frontage landscaping strip.

~~A. Fences in residential areas providing a maximum six-foot sight obstruction from adjacent properties can be built on the side and rear property lines and across the front of the property in line with the front of a building but not closer than 20 feet to the street right-of-way. Corner lots must observe the 20-foot setback on both streets. From the 20-foot line to the street right-of-way, solid fences a maximum of three feet high, measured from the ground on which the fence stands, are permitted and open rail fences a maximum of four feet, six inches high, measured from the ground on which the fence stands, are permitted in which the rails and posts constitute not more than one-third of the fence area. Taller fences may be permitted in the 20-foot setback area by way of an administrative permit issued by the community development director or designee based on a field inspection and staff report with site plan and photographs provided by the applicant demonstrating consideration of adjacent structures, driveways, location of transit stops, need for privacy, visual impacts of fence structure on block front, or other circumstances not anticipated by this code. Fences up to six feet tall are permitted in commercial and industrial areas subject to corner vision requirements and permit conditions established through the plan review process.~~

~~B. Electric fences shall only be permitted in the OSP district and only when associated with an agricultural use. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.770.080 Standard setback exceptions.

The following may project into a required setback:

- A. Fireplace structures, bay windows, garden windows, enclosed stair landings, closets, framed fireplace shafts or similar projections not wider ~~than~~ eight feet measured in the general direction of the wall of which it is a part: 18 inches into a required setback area;
- B. Uncovered porches and platforms less than 30 inches in height: 18 inches into side yards and six feet into the front yard and rear yard;
- C. Planting boxes or masonry planters not exceeding 42 inches in height may be placed in a required setback area;
- D. Eaves may protrude into a required setback provided they do not exceed 24 inches into a required setback area.
- E. Ramps and other structures necessary to provide handicap access. (Ord. 1857 § 2 (Exh. B), 2018).

17.770.090 Home occupations.

A. General Requirements. ~~AHH home occupations, including permitted and conditional home occupations,~~ shall ~~only be permitted when~~ be consistent with ~~all of~~ the following:

1. Only members of the immediate family residing on the premises may be employed;
2. No inventory is kept (other than incidental supplies necessary for and consumed in the conduct of such home occupation) or commodities sold other than those produced on the premises. Samples may be kept but not sold on the premises. Items commonly collected or traded, and occasionally sold by hobbyists such as coins, stamps, antiques, etc., may be considered to be exempt from this provision, as long as all other requirements of home occupations are met;

3. No mechanical equipment (such as fire suppression hoods or dust collectors) is used except such as is customarily used for domestic, household or personal purposes (or as deemed similar in terms of power and type);
4. Not more than one-fourth of the floor area of any building is devoted to such occupation, except accessory buildings which are used for no other purpose;
5. Such occupation shall not require internal or external alteration or involve construction features not customarily found in a dwelling;
6. Shall not involve the use of commercial vehicles for the distribution of materials from the premises;
7. The conduct of any home occupation, including but not limited to the storage of goods and equipment, shall not reduce or render unusable areas provided for the required off-street parking. Additional parking is not allowed in order to conduct a home occupation;
8. Only one sign is permitted, two square feet in area, indirect illumination only, and attached to a building or inside the home;
9. No display pertaining to the occupation, other than the one permitted sign, is visible from the street or adjacent residences;
10. No more animals are maintained on the premises than what may otherwise be permitted in the zone;
11. The home occupation is to be conducted in such a manner that the residence shall not differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emissions of sound, noises, vibrations or odors.

Commented [BJ15]: BJ – 1-11-2021 – Clarified that the term “mechanical equipment” was intended, in this context, to refer to means ventilation equipment.

B. Exemptions. Garage sales, yard sales, bake sales, temporary home boutiques or bazaars for handcrafted items, parties for the display of domestic products, and other like uses do not need to comply with the requirements of this section as long as the use is not conducted on more than four days in any given two-year period or in violation of any other provisions of the Burlington Municipal Code. To qualify for this exemption, garage and yard sales must involve only the sale of household goods, none of which were purchased for the purpose of resale.

C. Prohibited home occupations.

1. ~~A conditional use permit is required and must be granted by the city council for the following home occupation uses, even if the use meets all 11 of the requirements of subsection (A) of this section but in no case shall any home occupation meet less than nine of the 11 requirements:~~ Industrial uses that would otherwise only be permitted in the CI-1 or CI-2 zones;
2. Uses meeting the definition of minor, major, or high impact industrial;
3. Pet boarding, training, or grooming;

Commented [BJ16]:

Commented [BJ17]: BJ – 4-13-2023 – Revised to reflect Council concerns and Planning Commission action on remand. Simplified list and clarified that uses otherwise classified as industrial are not permitted as home occupations.

Commented [BJ18]: BJ – 1-11-2022 – Deleted the previous provisions that allowed certain high impact home occupations with a CUP. In practice these are problematic to regulate and stem from, or turn into, code violations.

- 1. Automobile repair and rebuild;
- 2. Craft classes;
- 3. Home occupations that can only meet nine or 10 of the 11 requirements as outlined in subsection (A) of this section;
- 4. Music and dancing studios.

D. Additional Requirements. In addition to the requirements identified above, any home occupation identified as a conditional use shall be subject to the following:

- 1. In considering applications for home occupation conditional use permits, the hearing examiner shall consider the nature and conditions of all adjacent uses and structures, and no such special home occupation permit shall be authorized unless the city council finds that the authorizing of such special home occupation permit will not be materially detrimental to the public welfare or injurious to the property in the zone or vicinity in which the property is located, and that the authorization of such permit will be consistent with the spirit and purpose of this title.
- 2. The hearing examiner may impose such requirements and conditions with respect to location, installation, construction, maintenance and operation and extent of open spaces in addition to those expressly set forth in this title, as may be deemed necessary for the protection of other properties in the zone or vicinity and the public interest. (Ord. 1857 § 2 (Exh. B), 2018).

17.770.100 Responsibility for animals.

A. Household Pets. The keeping of household pets shall be consistent the requirements of Title 6 BMC.

B. Livestock. Rural agricultural uses are prohibited. Urban agriculture is permitted subject to the following:

- 1. Hens. Poultry may be kept in the rear yard of detached dwelling subject to the following:
 - a. All feed shall be kept in a manner that prevents rodents and other animals from accessing it;
 - b. Manure shall be collected and disposed of regularly and objectionable odors shall not be readily detectable beyond the property boundaries;
 - c. Hens may only be kept in the rear yard of a detached dwelling. The yard shall be fully enclosed by a solid site obscuring fence sufficient to prevent hens from escaping;
 - d. Coops and other similar enclosures shall be located at least five feet from adjoining property lines.

C. Kennels. Kennels and pet boarding shall only be permitted when specifically authorized by Burlington Municipal Code and shall be consistent with any applicable standards or requirements identified in Title 6 BMC.

Commented [BJ19]: BJ – 1-11-2022 – We previously had no way of regulating roosters or excessive poultry. Common source of complaints – added at the recommendation of police department and code enforcement staff.

Commented [BJ20]: BJ – 4-13-2023 – revised to address Council concerns and Planning Commission action on remand.

Commented [BJ21]: BJ – 10-8-2021 – city currently lacks outdoor lighting regulations. This has become a problem and Planning Commission has requested that standards be adopted to limit glare and intensity and to address dark sky and energy conservation issues.

i. Owners, including both property owners and residents, of animals, including household pets and farm animals, shall be responsible for damage to other properties, including damage to trees and other landscaping, fences and structures. (Ord. 1857 § 2 (Exh. B), 2018).

17.770.105 Outdoor ~~vending machines~~ lighting.

A. General.

- 1. The requirements and standards of this section (BMC 17.90.105) shall apply to the installation, modification, maintenance, and operation of all outdoor lighting except:
 - a. Public safety lights, including any lighting required for aviation safety, emergency equipment, law enforcement, or essential public facilities;
 - b. Temporary construction lighting associated with an active on ongoing construction project;
 - c. Special event lighting when authorized by temporary use permit or special event permit;
 - d. Temporary low intensity holiday lights;

e. Street lights installed illuminating a public street right-of-way consistent with the requirements of Title 12 BMC;

f. Outdoor performance, event, or sports field lighting associated with a publicly owned or operated facility, provided such lighting shall be turned off within 30 minutes of the end of the event and the illumination level is consistent with any applicable standards published by the Illuminating Engineering Society of North America

2. Lighting plan required. A lighting plan shall be provided for all lands use permits and development proposals including, but not limited to, subdivisions, short plats, site plan reviews, and conditional use permits. The Community Director may waive the lighting plan requirement for the construction of a single detached home or duplex building on an existing lot. In all cases the City shall have the authority to request a lighting plan or lighting fixture information if necessary to demonstrate compliance with this section (BMC 17.90.105). Lighting plans shall include the following information:

a. The location, type, and height of all proposed outdoor lighting fixtures;

b. Illumination intensities and levels;

c. Provisions for minimizing glare and spillover onto nearby properties;

d. Manufacture's specifications and design details;

e. Any other information necessary to demonstrate compliance with this section.

3. Exterior lighting shall comply with all applicable Washington State Energy Code requirements. When a lighting plan is required, documentation shall be submitted demonstrating compliance with all applicable energy code requirements.
4. Lighting shall be provided at consistent levels with gradual transitions between maximum and minimum levels of lighting and between lit and unlit areas. Highly contrasting pools of light and dark areas shall be avoided.
5. Pedestrian scale lighting shall be provided when required. Pedestrian scale lighting may be provided using building mounted light fixtures, bollards, or other free-standing light fixtures. Pedestrian scale light fixtures shall have a maximum height of 14 feet and shall be designed to provide an average minimum illumination level of at least two foot candles.
6. All exterior light fixtures shall be full cutoff designs, dark sky rated, and permanently directed downwards so the light source is not directly visible beyond the property boundaries or from a public right-of-way. Adjustable pivot mounts that allow fixtures to be repositioned to point outwards or upwards shall not be used. All light fixtures shall be permanently fixed in position. Low intensity lights used exclusively for landscape or architectural accent illumination may be directed upwards provided such lighting has a maximum intensity of 900 lumens, is projected towards a building, fence, wall, or other similar obstruction such that the light source is blocked from projecting into the sky and is not directly visible beyond the property boundaries or from a public right-of-way.
7. Publicly accessible spaces and common areas, such as parking areas, pedestrian paths, and service areas, associated with commercial, multiunit residential, institutional uses shall be subject to the following average minimum illumination levels:
 - a. Areas with little or no pedestrian traffic, such as emergency exit paths, outdoor storage areas, and maintenance areas: 0.5 foot candles;
 - b. Areas with moderate pedestrian traffic such as common areas, internal circulation paths, parking areas, and garbage and recycling areas: 1 foot candles;
 - c. Primary building entrances, crosswalks, and high volume pedestrian routes including sidewalks along street frontages: 4 foot candles;
 - d. Maximum uniformity ratio: 15:1.

8. Prohibited lights. Lights that blink, flash, revolve, or change intensity or that constitutes a public safety hazard shall be prohibited citywide and in all zones.

B. Lighting Requirements for Residential zones. The following standards shall apply in the RD, RA, and MUR zones.

1. Maximum fixture height: 14 feet.
2. Maximum exterior lighting level: 5 foot candles
3. Light spillover limit and property boundaries:
 - a. When adjoining properties are zoned RD, RA, MUR, or PC-1: 0.1 foot candles;
 - b. When adjoining properties are zoned MUC, CI, PFT, or PC-2: 0.8 foot candles;
 - c. At the boundary of a wetland or fish and wildlife habitat buffer: 0.1 foot candles.

C. Lighting Requirements for Mixed-Use Commercial Zones. The following standards shall apply in the MUC, PC, and PFT-1 zones.

1. Maximum fixture height: 25 feet, except that fixtures within 40 feet of a residential zone shall be limited to a maximum height of 14 feet.
2. Maximum exterior light level: 5 foot candles
3. Light spillover limit at property boundaries:
 - a. When adjoining properties are zoned RD, RA, MUR, or PC-1: 0.1 foot candles;
 - b. When adjoining properties are zoned MUC, CI, PFT, or PC-2: 0.8 foot candles;
 - c. At the boundary of a wetland or fish and wildlife habitat buffer: 0.1 foot candles.

D. Lighting Requirements Industrial zones. The following standards shall apply in the CI and PFT-2 zones.

1. Maximum fixture height: 30 feet, except that fixtures within 40 feet of a residential zone shall be limited to a maximum height of 14 feet.
2. Maximum exterior light level: 5 foot candles, except that areas designated on the lighting plan for outdoor manufacturing or sales lots may have a maximum illumination level of 10 foot candles.
3. Light spillover limit at property boundaries:
 - a. When adjoining properties are zoned RD, RA, MUR, or PC-1: 0.1 foot candles;
 - b. When adjoining properties are zoned MUC, CI, PFT, or PC-2: 0.8 foot candles;
 - c. At the boundary of a wetland or fish and wildlife habitat buffer: 0.1 foot candles.

A. Notwithstanding any other provisions of this chapter, outdoor vending machines may be operated only in the C-1 and C-2 zoning districts, provided the use, maintenance, and placement of vending machines shall be consistent with the requirements of this chapter. Outdoor vending machines located in public parks or any other public property shall not be subject to this section.

B. No outdoor vending machine may be installed, maintained, repaired or operated in the city without first being issued a valid land use permit. A land use permit shall be issued by the community development director or designee only if the following standards and conditions are met:

Commented [BJ22]: BJ – 10-8-2021 – we really don't need two pages of regulations for vending machines. Added to prohibited uses section under term "outdoor vending machines"

1. The outdoor vending machine may not be located such that the outdoor vending machine, or a user of the outdoor vending machine, is within:
 - a. A public right of way;
 - b. A required landscape area;
 - c. A driveway;
 - d. An area used by vehicles for circulation; or
 - e. Five feet of any business entrance or exit.
2. All outdoor vending machines must be ancillary to an approved primary use and may not be located on an unimproved lot. Automated banking teller machines not on the same property as the financial institution may be located in a parking lot of a multiple tenant development if a conditional use permit is issued pursuant to BMC Title 14A.
3. When an outdoor vending machine is situated within the primary ingress to and egress from the lot, a minimum walkway width of six feet shall be required in front of the outdoor vending machine. The building official shall determine whether the ingress to and egress from the lot is primary to the lot. In all other situations, a minimum walkway width of four feet is required in front of the outdoor vending machine.
4. All outdoor vending machines shall only be located on a building elevation that contains a primary entrance.
5. All outdoor vending machines must be positioned against a building wall and not located in front of windows.
6. An outdoor vending machine shall not block the exit door.
7. Outdoor vending machine sign panels shall be limited to the products sold within the outdoor vending machine. No additional signs or advertising can be attached to or placed on the top or side of any outdoor vending machine.
8. Exterior conduit, piping or wiring must not be visible when standing directly in front of the outdoor vending machine.
9. No visible security cages are permitted on the outside of an outdoor vending machine.
10. Outdoor vending machines shall not exceed 80 inches in height and 36 inches in depth and 42 inches in width.
11. All outdoor vending machines shall be maintained in a clean and attractive condition.
12. Any graffiti on an outdoor vending machine shall be removed within 24 hours.
13. The vending machine shall not appear to flash, undulate, or pulse, or portray explosions, fireworks, flashes of light, or blinking or chasing lights. Displays shall not appear to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist, or otherwise portray graphics or animation as it moves onto, is displayed on, or leaves the machine as visible from any residence or vehicle traveling the right of way.
14. Number of Outdoor Vending Machines:
 - a. No more than five outdoor vending machines shall be permitted per development site or integrated development site.
 - b. The number of outdoor vending machines permissible on a development site shall be as follows:

Square Footage of Development Site	Number of Outdoor Vending Machines
15,000 or less	1
15,001 – 30,000	2
30,001 – 45,000	3
45,001 – 60,000	4
60,001 or greater	5

- c. For integrated development sites, regardless of the number of lots or individual tenants, that are developed with common parking, on-site circulation, architecture or design features, with multiple underlying lots, at least one outdoor vending machine, but not to exceed three outdoor vending machines, may be allowed per lot. Multiple outdoor vending machines shall be subject to the following ratio:

Square Footage of a Lot within an Integrated Development	Number of Outdoor Vending Machines
15,000 or less	1
15,001 – 30,000	2

Square Footage of a Lot within an Integrated Development	Number of Outdoor Vending Machines
30,001 or greater	3

15. Upon removal of an outdoor vending machine, the building and site area where the outdoor vending machine was located shall be repaired to its original condition. (Ord. 1857 § 2 (Exh. B), 2018).

17.770.110 Performance standards Vehicles

The purpose of this section is to establish the following performance standards which are intended to reduce the visual, physical, and environmental impacts of new development on existing uses and developments. The following standards shall apply to all vehicles including trailers, recreational vehicles, boats, camping trailers, fifth wheels, campers, vans, trucks, and cars. -

A. Light and Glare. Building materials with high light reflective qualities shall not be used in the construction of buildings in such manner that reflected sunlight will throw intense glare to surrounding areas. Artificial lighting shall be hooded or shaded so that direct light of high intensity lamps will not result in glare when viewed from residential areas surrounding a commercial or industrial district. Vehicles shall only be parked or stored on an improved surface. Under no circumstances shall vehicles be parked, stored, or displayed in a landscaping area required by Chapter 17.81 BMC.

B. B. Electrical Interference. Provisions must be made for necessary shielding or other preventive measures against interference occasioned by mechanical, electrical and nuclear equipment uses or processes with electrical apparatus in nearby buildings or land uses. Junk storage and the storage of wrecked vehicles shall only be permitted in the following locations and only when consistent with all other applicable code requirements:-

1. In a fully enclosed building or structure;
2. In an area that is fully screened from view on all sides by buildings or fencing with a minimum height of six feet;
3. In conjunction with a lawfully established repair facility, wrecking yard, or towing service.

C. Vehicles may only be parked or stored within a right-of-way when in full compliance with all applicable parking and traffic laws, regulations, and Burlington Municipal Code provisions.

C. Odorous Gases and Matter. The emission of odorous gases or matter in such quantities as to be readily detectable, without special instruments, at any point beyond the property line of the use creating the odor, is prohibited.

D. Smoke and Particulate Matter Emissions. No emissions shall exceed the allowances set forth by the Environmental Protection Agency, the Washington State Department of Ecology and/or the Northwest Sound Air Pollution Control Agency, unless local regulations are more restrictive, in which case the local regulation shall apply.

E. Dust, Dirt, Fly Ash, or Air Borne Solids. No observable dust, dirt, fly ash or other air borne solids shall be emitted except as related to construction activity.

F. Waste Storage. Storage of animal or vegetable wastes which attract insects or rodents or otherwise create a health hazard shall be prohibited. No waste products shall be exposed to view, from eye level, beyond the property line of the use storing the waste.

G. Toxic Gases and Matter. No emissions of toxic gases or matter shall be permitted.

H. Vibration. Vibration which is easily discernible, without special instruments at any point beyond the property line, is prohibited. This shall not apply to vibration caused by highway vehicles, trains, aircraft or construction activities.

I. Hazardous Substance and Waste. No hazardous substances or wastes shall be released into the environment so as to cause dangerous or offensive emission or contamination of any public or private water supply, sewage treatment processes, watercourse or water body, the air, or the ground, except in accordance with standards approved by-

Commented [BJ23]: BJ – 10-8-2021 – Abandoned, improperly parked, junked, wrecked, and inoperable vehicles have increasingly become a problem. Added section addressing parking and storage of vehicles. Note: this section is intended to address parking on private parking and does not replace the City’s traffic code for public rights of way.

Commented [BJ24]: BJ – 10-8-2021 – performance standards section relocated but not changed – moved to beginning of chapter since this section is generally applicable to all uses, developments, and zones.

Commented [BJ25]: BJ – 4-13-2023 – Revised to address Council concern and Planning Commission action on remand.

Commented [BJ26]: BJ – 4-13-2023 – Revised to address Council concern and Planning Commission action on remand

provisions of federal, state and local laws and regulations, and the International Fire Code. (Ord. 1857 § 2 (Exh. B), 2018).

17.70.115 Height requirements for transitional zones.

All commercial, industrial, and multifamily development within 45 feet of a single-family zone shall be limited to a maximum height of 35 feet. (Ord. 1857 § 2 (Exh. B), 2018).

17.70.120 Setback requirements for transition zones.

The following setback requirements shall apply to all commercial, industrial, and multifamily development on properties adjacent to single-family zones.

A. Multifamily Commercial, Mixed Use, and Attached Residential. The minimum side and rear setbacks for multifamily development adjacent to single-family zones shall be derived using a ratio of two feet of building setback for every one foot of building height. The following standards shall apply to sites zoned RA-2, MUC-1, MUC-2, or PFT-1 that abut areas zoned RD or RA-1.

1. Development setback: Except for landscaping and screening, all above ground improvements such as parking areas, drive isles, trash enclosures, or light fixtures shall be setback at least ten feet from any parcel zoned RD or RA-1;
2. Building setback: Except for covered trash enclosures all buildings shall be setback at least 20 feet from any parcel zoned RD or RA-1;
3. Building height: Buildings or portions of buildings located within 40 feet of a parcel zoned RD or RA-1 shall be limited to a maximum height of 35 feet;
- a.4. Balconies within 100 feet of, and facing, a parcel zoned RD or RA-1 shall have railings faced with an opaque site obscuring materials such as frosted glass, decorative metal, or siding material.

B. Commercial Industrial. The following standards shall apply to sites zoned CI-1, CI-2, or PFT-2 that abut areas zoned RD, MUR, or MUC. The minimum side and rear setbacks for commercial development adjacent to single-family zones shall be derived using a ratio of two feet of building setback for every one foot of building height.

1. Development setback: Except for landscaping and screening, all above ground improvements such as parking areas, drive isles, trash enclosures, or light fixtures shall be setback at least 10 feet from any parcel zoned RD, MUR, or MUC;
2. Activity setback: All outdoor manufacturing, assembly, and activity areas shall be setback at least 60 feet from any parcel zoned RD, MUR, or MUC;
3. Building setback: All buildings shall be setback at least 40 feet from parcels zoned RD or RA;
- a.4. Maximum building height: For sites that abut parcels zoned RD or RA the maximum building height shall be derived using a ratio of one foot of building height for every two feet of setback. For example, if a proposed building is setback 60 feet from a parcel zoned RD-1, the maximum permitted building height at the setback line would be 30 feet.

A. C. Industrial. The minimum side and rear setbacks for structures adjacent to single-family lots shall be derived using a ratio of two feet of building setback for every one foot of building height. (Ord. 1857 § 2 (Exh. B), 2018). Unincorporated Resource Lands. Except for the development of a single detached dwelling on an existing lot, all new development adjacent to unincorporated resource lands shall be subject to the following standards:

1. Development setback: Except for landscaping and screening, all above ground improvements such as parking areas, drive isles, trash enclosures, or light fixtures shall be setback at least 25 feet from any unincorporated resource lands;

Commented [BJ27]: BJ – 1-11-2022 – Planning Commission requested that new standards be developed to regulated situations where more intensive uses abut less intensive uses. These standards address common complaints and impacts and establish a gradual transition in building mass and height.

Commented [BJ28]: BJ – 1-11-2022 – This section is intended to prevent conflicts between agricultural uses and urban development. Also reduces the incentive to expand urban areas into agricultural lands. Provide notice to perspective buyers, in the form of plat notes, regarding potential agricultural impacts.

2. Activity setback: All outdoor manufacturing, assembly, storage, and activity areas shall be setback at least 25 feet from any unincorporated resources lands;

3. Building setback: All residential buildings and dwellings shall be located at least 50 feet from unincorporated resources lands;

+4. Land divisions: Plats adjoining unincorporated resources lands shall identify the setback required by this section on the face of the plat.

17.770.125 Telecommunication facilities.

A. Application and Conditional Use Criteria – FCC Preemption. In any proceeding regarding the issuance of a conditional use permit under the terms of this chapter, federal law prohibits consideration of environmental effects of radio frequency emissions to the extent that the proposed facilities comply with the Federal Communications Commission regulations concerning such emission.

B. The following are exempt from the requirements of a conditional use permit, and shall be considered a permitted use in all zones where wireless and attached wireless communications facilities are permitted: minor modifications of existing wireless communications facilities and attached wireless communications facilities, whether emergency or routine, so long as there is little or no change in the visual appearance. Minor modifications are those modifications, including the addition of antennas, to conforming wireless and attached wireless communications facilities that meet the performance standards set forth in this title.

C. A wireless communications facility or attached wireless communications facility shall be removed by the facility owner within six months of the date it ceases to be operational or if the facility falls into disrepair. (Ord. 1857 § 2 (Exh. B), 2018).

17.770.130 Mechanical equipment.

A. Mechanical equipment shall be equipped with a noise-baffling screen as necessary, so that there shall be no audible sound at the property line.

B. ~~Roof mounted or ground mounted-Exterior mechanical equipment~~ shall be located and designed to blend in with the architecture of the building. (Ord. 1857 § 2 (Exh. B), 2018).

C. Roof-mounted mechanical equipment, with the exception of solar panels and wind generating equipment, shall be fully screened from view using architectural devices such as parapet walls, false roofs, roof wells, or clerestories.

C. Ground mounted equipment shall be fully screened from view using a site obscuring fence or landscaping.

17.770.135 Low impact development.

The following standards and requirements shall apply to any building, development, or construction activities that result in an increase in impervious surface coverage, building coverage, or modifications to existing storm water management features or facilities. These standards and requirements shall also apply to all activities involving the modification of existing impervious surfaces or the removal of significant quantities of vegetation.

A. All development, building, construction, and grading permit applications shall be provided to the city engineer for review. No permit shall be issued or approved unless the city engineer finds the proposal complies with the surface water management regulations in BMC Title 14.

B. All development activities shall be designed and constructed in accordance with the Washington State Department of Ecology's Stormwater Manual for Western Washington.

C. Low impact development shall be the preferred and commonly used approach for all development and construction activities. Low impact development (LID) techniques shall be incorporated into all development proposals unless demonstrated to be infeasible through an engineering analysis.

D. The Department of Ecology's Stormwater Manual for Western Washington and the Puget Sound Partnership's Low Impact Development Technical Guidance Manual for Puget Sound shall be consulted to assess the feasibility of

Commented [BJ29]: BJ – 1-11-2022 – As taller buildings are constructed the presences of roof-top mechanical equipment is increasingly becoming an issue. This is a common code provision used by other jurisdictions to address the issue.

LID techniques, to select appropriate LID measures, and to aid in the design and construction of LID features. All storm water systems.

E. Clearing or the installation of impervious surfaces or paving shall be limited to the minimum amount necessary to support a permitted use or development.

Commented [BJ30]: BJ – 4-13-2023 – Added to ensure full compliance with LID mandates and to ensure impervious surfaces are limited to what is necessary for permitted developments – intended to prevent pre-emptive or speculative installation of coverage not needed for a permitted development.

**Chapter 17.81
Landscaping**

17.81.010	Title
17.81.020	Application
17.81.030	Purpose
17.81.040	Authority
17.81.050	Plans and Review Process
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17.81.070	Street Frontage Landscaping
17.81.080	Perimeter Landscaping
17.81.090	Parking Lot Landscaping
17.81.100	Streetscape Landscaping
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17.81.120	Landscaping Maintenance and Tree Retention

Note: this chapter is all new text - replaces 17.80.

17.81.010 Title

This Chapter shall be called "Landscaping"

17.81.020 Application

This Chapter shall apply to all development, including but not limited to land use and building permits, the maintenance, removal or alteration of any landscaping required under this Chapter, and the removal or alteration of significant trees.

17.81.030 Purpose

The purpose of this Chapter is to:

- A. Improve the character and appearance of the City;
- B. Manage storm-water, reduce erosion, provide areas for bio-filtration, and maintain or restore natural hydrologic processes;
- C. Protect public health by providing shade and wind protection, reducing urban heat island effects, improving air quality;
- D. Reduce localized flooding and slow the movement of floodwaters;
- E. Protect the quality of groundwater, provide opportunities for groundwater recharge, and conserve water resources;

- F. Provide buffers between incompatible uses and minimize aesthetic, noise, light, glare, and privacy impacts;
- G. Promote economic development by creating an aesthetically pleasing, safe, and comfortable environment for residents, visitors, and businesses;
- H. Provide wildlife habitat and promote biodiversity;
- I. Implement the City's comprehensive plan

17.81.040 Authority

This Chapter is adopted pursuant to the provisions of chapters 35A.63 and 36.70A RCW and other applicable laws and regulations.

17.81.050 Plans and Review Process

- A. Plans Required. Landscaping plans shall be required for all new development except:
 - 1. The construction or modification of a detached dwelling or duplex on an existing lot;
 - 2. The construction or modification of normal residential appurtenances and accessory uses associated with an individual detached, duplex, or horizontally attached dwelling unit;
 - 3. Normal residential landscaping and gardening associated with an individual detached, duplex, or horizontally attached dwelling unit;
 - 4. The construction or modification of buildings and other improvements on a site where the existing landscaping fully complies with this chapter and where the landscaping will not be modified;
 - 5. Simple small scale projects where little or no landscaping is required and where compliance with the requirements of this Chapter can be readily assured through simple conditions of approval.
- B. Landscape Architect Required. All landscaping plans shall be prepared by a Landscape Architect licensed in the State of Washington. This requirement may be waived for simple small scale projects where little or no landscaping is required.
- C. Plan Requirements. Landscaping plans shall be drawn to scale and include the information specified below.

1. The location of property boundaries, easements, and streets located on, or adjoining the development site;
 2. The location and dimensions of all existing and proposed structures and site improvements such as buildings, parking areas, utilities, storm-water improvements, trash enclosures, and low impact development features;
 3. The location and dimensions of all existing and proposed landscaping areas, buffers strips, fences, walls, and retaining walls;
 4. The location, species, and approximate size of all proposed landscape plantings and trees;
 5. Identify and describe all non-plant landscaping materials such as gravel, stones, bark, mulch, fountains, and ponds;
 6. Tables demonstrating compliance with the minimum area and planting ratios specified in this Chapter;
 7. Irrigation plans or draught tolerating planting documentation;
 8. The location of any existing significant trees and information on their protection and retention;
 9. Planting information describing the mature size of plants and trees, the size of plants or trees at installation, and information on the coverage or spread of groundcover plantings;
 10. Instructions regarding planting methods, watering, or soil amendments necessary to ensure the landscaping is adequately established and survives;
 11. Plans for the removal of any noxious weeds or invasive species;
 12. Any other information deemed necessary by the Community Development Director for purposes of demonstrating compliance with this Chapter or any other provision of the Burlington Municipal Code.
- D. Review Process. Landscaping plans shall generally be reviewed in conjunction with the associated land use permit. Where no land use permit is required the landscaping plan shall be reviewed in conjunction with the underlying building or development permit. If no permit is required the landscaping plan shall be processed as a Type I permit review in accordance with the requirements of Title 14A BMC.

17.81.060 General Requirements

A. Landscaping Materials.

1. Plants and trees shall be adapted to the local climate and soil conditions;
2. At least 50 percent of all plants and trees shall be native to the Puget Lowland region of the Pacific Northwest and at least 25 percent of all required trees shall be coniferous evergreens;
3. No artificial lawn or plants shall be permitted in landscaped areas or used to satisfy the requirements of this Chapter;
4. Bark, mulch, gravel, river-rock, and other non-vegetative material may only be used in conjunction with landscaping to assist with the health and growth of plants and trees. Non-vegetative material shall not be used as a substitute for vegetative ground cover or otherwise used to satisfy the requirements of this Chapter. Under no circumstances shall non-vegetative material appear to dominate over plant material;
5. Species identified as noxious weeds or invasive species by the Washington State Noxious Weed Control Board or other applicable authority are prohibited and shall not be planted anywhere in the City of Burlington. When landscaping is required all existing noxious weeds or invasive species shall be removed from the site and properly disposed of;
6. Species should include a variety of seasonal colors, forms, and textures that contrast or complement each other and a mixture of evergreen and deciduous trees, shrubs, groundcover, and low-maintenance perennials. Preference should be given to species that can be maintained in their natural form without significant pruning or care;
7. Species shall be selected, planted, and maintained to avoid conflicts with, or damage to, streets, sidewalks, paths, above or below ground utilities, and other similar improvements. When trees are planted within ten feet of a sidewalk, pedestrian path, or street root barriers shall be provided. Tree wells shall have sufficient depth and dimensions to promote healthy root development and avoid damage to adjacent improvements. At a minimum, trees shall be planted in a hole that measures at least three times the diameter of the tree's root-ball.

- B. Minimum Landscape Material Specifications. The following specifications shall apply to the plants, trees, fences, walls, and other landscaping materials required by this section.

1. Deciduous trees shall have a clear truck at least five feet above the ground and a minimum caliper of at least two inches at the time of planting;
2. Evergreen trees shall have a minimum height of six feet at the time of planting;
3. Vine maples and other multi-stemmed trees shall have a minimum height of seven feet at the time of planting;
4. Small shrubs shall be have a minimum height of 12 inches with a one gallon pot or ball-and-burlap at the time of planting. Small shrubs have a mature height of 3 feet or less.
5. Medium shrubs shall be have a minimum height of two feet with a three gallon pot or ball-and-burlap at the time of planting. Medium shrubs have a mature height of more than three feet but less than six feet.
6. Large Shrubs shall have a minimum height of more than two feet with a five gallon pot or ball-and-burlap at the time of planting. Large shrubs have a mature height of six feet or more.
7. Groundcover shall be provided using grass sod, or spreading groundcover in four inch pots planted at intervals of nine inches or less, or one gallon pots planted at intervals of 18 inches or less. In all cases groundcover plantings shall be sufficient to achieve a uniform spread and 80 percent cover of the planting area within two years of installation.
8. Solid site obscuring fences shall be constructed of wood and painted or stained a dark natural color. Chain-link (cyclone) fencing may also be used provided it is treated with a dark, natural colored coating (such as black or green) and matching privacy slats are used. Other materials may be authorized provided they are consistent with the objective of creating a solid site obscuring fence that is visually inconspicuous, blends in with surrounding vegetation, and complements the architecture of surrounding buildings and developments.

C. Minimum Area Requirements. The following requirements specify the minimum percentage of the gross site area which must be landscaped.

Table 17.80.060.C-1	
Zoning Classification	Required Percentage of Gross Site Area
Residential (RD and RA)	15
Mixed Use Residential (MUR-1 and MUR-2)	15
Mixed Use Commercial (MUC-1 and MUC-2)	15
Public Facilities and Transportation (PFT-1)	15
Public Facilities and Transportation (PFT-2)	10

1. Downtown. For sites located in the Downtown Priority Development Area with frontage on Fairhaven Avenue the minimum gross site area requirement may be reduced to five percent as minimally necessary to accommodate buildings, walkways, parking, or service areas provided all remaining portions of the site are fully landscaped.
 2. Utilities and Transportation. The minimum gross site area requirements identified above shall not apply to street rights-of-way or other similar linear transportation improvements located in the PFT zone. Utility lines, substations, and pump stations shall also be exempt from the gross site area requirements provided all other applicable requirements of this Chapter, such as screening, buffers, and perimeter landscaping are met.
- D. Irrigation. All new landscaping shall either utilize a draught tolerant landscaping plan, an automatic irrigation system, or an approved alternative irrigation system as follows:
1. Automatic Irrigation Systems. Except as explicitly authorized by this section an automatic irrigation system shall be provided. The irrigation system shall provide sufficient coverage to irrigate all of the required landscaping areas. Irrigation system plans and specifications shall be included in the landscaping plans required by this Chapter.
 2. Draught Tolerant Landscaping Plans. A draught tolerant landscaping plan may be used as an alternative to an automatic irrigation system. When a draught tolerant landscaping plan is proposed the landscape architect shall provide a written statement documenting that the landscaping can be expected to survive in the absence of regular watering. The landscape architect shall also document that suitable draught tolerant species have been prescribed and identify any planting methods, soil amendments, or temporary irrigation measures necessary to ensure the landscaping is fully established and self-sustaining. Draught tolerant landscaping plans must be prepared by a licensed landscape architect.
 3. Alternative Irrigation Methods. For simple small scale projects with minimal landscaping requirements, the Community Development Director may authorize the use of hand watering to meet the irrigation requirements of this Chapter. In such cases hose bibs shall be provided within 50 feet of all required landscaping areas.

E. Storm-Water Management.

1. Storm-water facilities and low impact development (LID) features landscaped in accordance with the requirements of this Chapter may be used to meet any applicable landscaping requirements.
2. To the greatest extent possible the planting areas required by the Chapter shall be used as storm-water infiltration areas or LID features.
3. Low impact development features and planting areas used to manage storm-water shall be designed and constructed consistent with the Washington State Department of Ecology's "Stormwater Manual for Western Washington" and the Puget Sound Partnership's "Low Impact Development Technical Guidance Manual for the Puget Sound".
4. When trees or plants will be located within, or adjacent to, an infiltration area or LID feature the landscape architect shall submit evidence that they have coordinated with the engineer responsible for the on-site storm-water management system. Based on information provided by the storm-water engineer the landscape architect shall:
 - a. Specify tree and plant species suitable for the hydrologic and soil conditions anticipated in the planning area; and
 - b. Specify tree and plant species that will not detrimentally affect the ability of the planting area to manage storm-water.
5. Landscaping plans shall identify areas of the site with suitable soils for storm-water infiltration and LID features.
6. Above ground storm-water improvements, such as swales, ponds, or ditches, shall be sloped, graded, or otherwise designed to avoid the need for protective fencing and to give the appearance of a natural landscape feature. Above ground storm-water improvements shall be landscaped with appropriate plant and tree species.
7. All storm-water management measures and LID features shall be consistent with the requirements of Title 14 BMC.

17.81.070 Street Frontage Landscaping

The following requirements shall apply to all portions of a site abutting a public or private street.

A. Minimum Width. A landscaping strip with a minimum width of ten feet shall be provided along all public and private streets.

B. Planting Requirements.

1. Street trees shall be provided at intervals of 30 feet on center except as minimally necessary to accommodate obstructions such as traffic control signs, bus stops, utilities, required site lines, and driveways. In such cases additional trees shall be provided in groups in order to achieve an overall ratio of one tree for every 30 feet of street frontage. When a dominant pattern of street trees is present along nearby street frontages the same species shall be used. Where no dominant pattern is present trees shall be selected using the City's Street Tree Selection Guide. When street trees are provided in a planting or buffer strip in the public right-of-way, trees may be selected for the frontage strip that complement or contrast with the street trees and may be grouped together provided at least one tree is provided for every 30 feet of street frontage.

Commented [BJ1]: BJ – 4-13-2023 – added to address situations where street trees are already present, or will be installed, in a public planting strip.

2. A mixture of small, medium, and large shrubs shall be provided at a rate of one shrub for every four feet of street frontage.

3. Groundcover shall be provided in all areas not occupied by trees or shrubs consistent with the requirements of this Chapter (BMC 17.80.060.B.7).

C. Exceptions.

1. Sidewalks and pedestrian paths may cross a street frontage landscaping strip;

2. Driveways may cross a street frontage landscaping strip;

3. Signs that fully comply with City's sign code (Chapter 17.95 BMC) may be located within a street frontage landscaping strip;

4. Building awnings, balconies, bay windows and other similar architectural features located at the top of, or above, the first story of a building may extend over a street frontage landscaping strip;

5. Downtown. A street frontage landscaping strip shall not be required in areas of the Downtown Growth Area where buildings are required to be located at the edge of the right-of-way, or where a maximum setback applies that is less ten feet. In such cases street trees shall be provided in trees wells or curb bulb-outs approved by the City's Public Works Department and any remaining area between the building line and the sidewalk shall be fully landscaped.

- D. Planting Strips. When a planting or buffer strip is provided in the public right-of-way streets trees shall be provided. Street tree spacing and species selection shall be consistent with the requirements of BMC 17.81.070.B.

Commented [BJ2]: BJ - 4-13-2023 – added to ensure street trees are installed in planting strips in conjunction with new development to ensure consist street frontages.

17.81.080 Perimeter Landscaping

- A. Minimum Width: 5 feet.
- B. Planting Requirements.
 - 1. Trees shall be planted at a ratio of one tree for every 30 feet of perimeter landscaping area. A mixture of evergreen and deciduous trees shall be used and no more than 60 percent of the required trees may be deciduous;
 - 2. Medium sized shrubs shall be planted in triangulated rows at intervals of 24 inches or less.
 - 3. Groundcover shall be provided in all areas not occupied by trees or shrubs consistent with the requirements of this Chapter (BMC 17.81.060.B.7).
- C. Exceptions.
 - 1. Areas occupied by buildings where no building setback or screening is required;
 - 2. Sidewalks and pedestrian paths may cross a perimeter landscaping strip;
 - 3. Driveways may cross a street frontage landscaping strip;

17.81.090 Parking Lot Landscaping

The purpose of this section is to mitigate the negative impacts associated with parking areas by providing shade, interrupting and infiltrating precipitation, providing trees to interrupt wind gusts, and blocking glare from headlights.

- A. Applicability. This section applies to off-street parking area that containing 20 or more parking spaces.
- B. Minimum Area. At least 15 square feet of landscaping shall be provided for each interior parking space. An interior parking space is a parking space not abutting a building or the perimeter of a site.
- C. Configuration of Parking Lot Landscaping. Parking lot landscaping shall be located at the ends of parking columns, between parking stalls, or between rows of parking. Planting islands shall have a minimum area of 65 square feet.

D. Planting Requirements.

1. Trees. One tree shall be provided for every six parking spaces.
2. Shrubs. Small or medium shrubs shall be provided. If small shrubs are used, they shall be planted at intervals of 18 inches on center or less. If large shrubs are used they shall be planted at intervals of 24 inches on center or less.
3. Groundcover. Groundcover shall be provided in all areas not occupied by trees or shrubs consistent with the requirements of this Chapter (BMC 17.80.060.B.7).
4. Landscape Protection. Curbs or wheel stops shall be used to prevent vehicles from damaging parking lot landscaping.

17.81.110 Buffers and Screening

Certain uses, such as residential developments, can be negatively impacted when located adjacent to incompatible uses, such as industrial sites due to negative environmental impacts such as noise, glare, and dust. Landscaped buffers and screening can be used to mitigate these impacts, soften the visual transition between developments located in different zoning classifications, and to prevent conflicts between incompatible uses. Landscape screening can also be used to establish visual boundaries or screen certain site improvements such as mechanical equipment, trash enclosures, storage yards, or service areas. The purpose of this section is to identify and prescribe an appropriate range of buffer and screening methods.

A. The purpose of this section is to accomplish the following:

1. Establish a buffer between incompatible developments located on adjacent sites with different zoning classifications;
2. Screen or conceal service areas, trash enclosures, mechanical equipment, storage yards, and other similar site improvements;
3. Establish a visual transition between streets and adjoining parking areas or drive aisles;
4. Minimize the environmental impacts associated with freeway and railroad corridors, including light, noise, and air quality impacts;
5. Prevent conflicts between urban development and rural resource activities such as agricultural uses;

6. Provide any screening or buffers required as mitigation through a conditional use permit process.

B. Standard Buffer and Screening Types. This section identifies the standard buffer or screening methods referenced in the Burlington Municipal Code. When a given buffer type or screening method is required by the Burlington Municipal Code it shall be consistent with the specifications identified in this section. These requirements shall be regarded as minimum standards. Additional screening or buffer requirements may apply to specific uses, developments, or site improvements.

1. Type I – General Screening. General screening is intended to obscure trash enclosures, mechanical equipment, outdoor storage and other similar features.
 - a. Minimum width. The minimum buffer width shall be five feet.
 - b. Physical screening. A solid site obscuring fence or wall with a minimum height of six feet shall be provided.
 - c. Shrubs. A combination of small and medium shrubs shall be provided. A minimum of one medium shrub and one small shrub shall be provided for every four feet of buffer.
 - d. Ground cover shall be provided for all areas not occupied by shrubs.
 - e. Exceptions. The landscaped buffer required by this section is not required in areas where a gate, driveway, or path is present.
2. Type II – Low Wall or Earth Berm. This buffer type is used for screening parking lots, drive-through lanes, drive aisles and other similar features located adjacent to streets. Type II buffers must include both physical screening and landscaping. Physical screening shall be provided using either a low wall, raised planter, or an earth berm as described below.
 - a. Minimum width. The minimum buffer width shall be ten feet.
 - b. Low wall. If a low wall is used to provide physical screening it shall be constructed of masonry or concrete, and shall have a minimum height of three feet. If the wall is adjacent to a street it shall be setback at least five feet from the right-of-way.
 - c. Raised planter. If a raised planter is used to provide physical screening it shall be constructed of masonry or concrete, shall have a minimum height of three feet, and a minimum width of four feet. If the raised

planter is adjacent to a street it shall be setback at least five feet from the right-of-way. The planter shall be completely landscaped.

- d. Earth berm. Earth berms shall have a minimum height of two feet, a maximum slope of 33 percent (one foot of vertical height for every three feet of horizontal distance) The crest of the berm shall be planted with a row of small shrubs planted at intervals of two feet or less on center to form a dense opaque buffer. The shrubs required by this provision shall be evergreen species and may be used to meet the landscaping requirement below (BMC 17.81.110.B.2.e).
 - e. Landscaping. Type II buffers shall be planted with a mixture of small and medium sized shrubs at a ratio of one shrub for every four feet of buffer area. Ground cover shall be provided for all areas not occupied by shrubs. At least 75 percent of the required shrubs shall be evergreen varieties.
3. Type III – Separation Buffer – This buffer type is intended to separate more intensive uses from less intensive uses in situations where the anticipated impacts are largely aesthetic. A type III buffer combines a solid site obscuring fence or wall with evergreen trees and shrubs to create a year-round visual screen.
- a. Minimum width. The minimum buffer width shall be ten feet.
 - b. Physical screening. A solid site obscuring fence or wall at least six feet in height shall be provided.
 - c. Landscaping. In addition to any normally required perimeter landscaping evergreen trees shall be provided at intervals of 15 feet or less. The trees required by this provision may be used to meet normally applicable tree planting requirements for perimeter landscaping.
4. Type IV – High Intensity Buffer – This buffer type is intended to separate high intensity uses with potentially significant light, noise, glare, and dust impacts from less intensive uses. For example, a high intensity buffer would be appropriate for separating an industrial site from a residentially zoned parcel. High intensity buffers must employ a solid site obscuring fence or wall and a dense opaque band of evergreen vegetation. In order to provide adequate acoustic separation, type IV buffers that provide physical screening with a fence, as opposed to a masonry wall, must provide an additional ten feet of landscaped area.

- a. Minimum width. If a masonry wall is used the required buffer width shall be 15 feet. If a fence is used the required buffer width shall be 25 feet.
- b. Physical screening. Type IV buffers must include a solid site obscuring fence or wall with a minimum height of six feet.
- c. Landscaping. In addition to any normally required perimeter landscaping triangulated rows of evergreen trees shall be provided at intervals of 15 feet. A minimum of one large shrub for every four feet of buffer area must be provided, 75 percent of which must be evergreen varieties. The trees required by this provision may be used to meet normally applicable tree planting requirements for perimeter landscaping.

C. Incompatible Uses.

Zone Where Development is Proposed	Adjacent Zoning Designation or Area and Required Buffer Type ¹					
	RD & RA-1	RA-2 & MUR	MUC & PFT-1	CI & PFT-2	Resource Zones	Freeway or Railroad ROW
RD & RA-1	N/A	None	None	None	Type IV	Type IV
RA-2 & MUR	Type III	N/A	None	None	Type IV	Type IV
MUC & PFT-1	Type III	Type III	None	None	Type IV	Type III
CI & PFT-2	Type IV	Type IV	Type III	None	Type IV	None
Resource Zones	N/A	N/A	N/A	N/A	N/A	N/A
Freeway or Railroad ROW	Type IV ²	Type IV ²	Type IV ²	Type IV ²	N/A	N/A

(1) An adjacent property is one that directly abuts the property on which development is occurring. Properties separated by a street or railroad right-of-way shall not be considered adjacent and no buffer shall be required.

(2) Applies only to freeway projects involving ROW acquisition, widening, or major construction.

17.81.120 Landscaping Maintenance and Tree Retention

The following requirements shall apply to all uses and developments except for landscaping or yards associated with individual residences or dwellings.

A. General Requirements.

- 1. Dead and dying vegetation shall be promptly removed and replaced. Trees and plants shall be replaced with the same species unless an alternative

Commented [BJ3]: BJ – 4-13-2023 – Added so this section does not apply to individual dwellings or residential landscaping.

replacement with similar characteristics is approved by the Community Development Director.

2. Vegetation shall be kept trimmed as necessary to avoid obstructing sidewalks, paths, streets, parking areas, or driveways.
3. Noxious weeds and invasive species shall be removed and properly disposed of.
4. Exposed soils shall be avoided. When erosion is observed corrective actions shall be taken immediately. Corrective actions may include providing additional groundcover or shrubs, mulch or other similar material. In cases of significant erosion it may be appropriate to regrade the area to reduce the steepness of the slope.
5. Landscaping areas required by this chapter shall not be used for parking, storage, or display. Under no circumstances shall vehicles be parked in landscaping areas or buffers.

B. Pruning and Tree Protection. Excessive pruning and tree topping is prohibited except as authorized by this Chapter. The following requirements shall apply to any trees planted to satisfy the requirements of this Chapter and to existing significant trees.

1. Trees should be pruned in a manner that allows them to attain their full natural height and shall not be topped except as minimally necessary to prevent damage to buildings or utilities;
2. All pruning work should comply with ANSI A300 (Part 1 – 2017), “Tree, Shrub and Other Woody Plant Management – Standard Practices, to maintain long term health” unless alternative methods are specified by an arborist;
3. When trees and shrubs are required for screening or buffering, or for the purpose of creating a visually opaque hedge, pruning shall maintain the visual opaqueness of the screen, buffer, or hedge.

C. Significant Trees.

1. This section shall apply to all significant trees except as follows:
 - a. Trees located within a public street right-of-way when the work is performed by, or at the direction of, the City consistent with Chapter 12.20 BMC;

- b. Removal, pruning or modification as minimally necessary to prevent damage to overhead or below ground utilities when the work is performed by, or at the direction of, a public or private utility;
 - c. Trees located within the boundaries of an existing landscaped yard associated with an individual dwelling, except for redevelopment projects;
 - d. The construction of a single detached dwelling, duplex, or small multiunit building and residential land divisions involving the creation of four lots or less.
2. Definition. A significant tree is any tree that is at least six inches in diameter at breast height (D.B.H). A tree growing with multiple stems shall be considered a significant tree if any one of the stems, when measured at a point six inches from the joint with the main trunk, is at least four inches in diameter. The following species shall not be considered significant trees regardless of size:
- a. Black locust (*Robinia pseudoacacia*);
 - b. Cottonwood (*Populus freemontii*);
 - c. Native alder (Native *Alnus* only);
 - d. Native willow (Native *Salix* only);
 - e. Lombardy Poplar (*Populus nigra*).
3. Retention. Significant trees shall be incorporated into the project design and site layout whenever possible and may only be removed under the following circumstances:
- a. When absolutely necessary to accommodate a proposed development and where no feasible option exists for incorporating the tree into the overall site layout;
 - b. Hazard trees and nuisance trees. Hazard and nuisance trees may be removed with City authorization. In such cases an arborist's report may be required to document the nature and extent of the hazard or nuisance and to demonstrate that no feasible alternative to removal exists;

4. Significant trees shall be protected during construction or development unless removal is authorized pursuant to this Chapter. Temporary construction fencing shall be placed around the tree and no equipment, chemicals, soil deposits or construction materials may be placed within the barrier. When a landscaping plan is required all significant trees shall be identified and a protection plan shall be included. For all projects the department may specify any measures necessary to ensure the protection of significant trees and may require that an arborist prepare the tree protection plan.
5. Approval required. Significant trees shall not be removed without prior authorization from the department. An arborist's report, site plan, or other documentation may be required in order to demonstrate compliance with the requirements of this section (BMC 17.81.120). In emergency situations where an immediate threat to human life or property exists hazard trees may be removed without City authorization provided the department is notified the next business day. In the event of a natural disaster, such as a flood or windstorm, the department shall be authorized to temporarily suspend all approval and notification requirements.
6. Replacement. When significant trees are removed replacement trees shall be provided in accordance with the following provisions:
 - a. Significant trees shall be replaced at the following rates:

Diameter (DBH) Tree Removed	Number of Required Replacement Trees
6" - 18"	2
> 18"	4

- b. All deciduous replacement trees shall be a minimum of 2.5 inches in diameter and coniferous evergreens shall be at least eight feet in height.
- c. Replacement trees shall be planted on the same site where the tree removal occurred, provided that in unique circumstances where onsite replacement is not feasible offsite replacement may be authorized. When offsite replacement is authorized replacement trees shall be planted in a publicly owned park, open space area or conservation easement within the City of Burlington.
- d. A planting plan, prepared by an arborist or landscape architect, shall be provided specifying any requirements necessary to ensure the replacement trees become fully established and self-sustaining, such as planting instructions, staking, temporary watering, or mulching.

- e. Replacement is not required for diseased or hazardous trees except in cases where the damage or disease is due to intentional actions.
7. Except when explicitly authorized by this Chapter the excessive pruning, topping, or deliberate damage of significant trees shall be prohibited, including any action that results a loss of more than 20 percent of the tree's root system, the removal of more than 50 percent of the live crown of the tree, or any other action that significantly alters the tree's growth potential. Such actions constitute "removal" and will be considered a violation of this Chapter.
 8. Violations. In addition to any other applicable fines, penalties, or enforcement provisions, a replanting plan and replacement trees shall be provided for the unauthorized removal of a significant tree.

Chapter 17.85

ACCESS ~~AND~~, PARKING ~~AND~~ LOADING

Sections:

17.85.010	Title.
17.85.020	Application.
17.85.030	Purpose.
17.85.040	Authority.
17.85.050	General and exceptions.
17.85.060	Parking quantities. Required off-street parking—Quantity.
17.85.070	Shared parking.
17.85.080	Cooperative parking.
17.85.090	Drive-in businesses. (Reserved)
17.85.100	Off-street parking area development and maintenance. (Reserved)
17.85.105	Development of required off-street parking spaces for single-family dwelling units. Construction standards.
17.85.110	Off-street parking lots— Location and screening standards. .
17.85.115	Off-street parking plan d Design standards.
17.85.120	Pedestrian circulation and access.
17.85.125	Existing off-street parking reduction. (Reserved).
17.85.130	Fractional spaces. (Reserved).
17.85.135	Off-street loading space. (Reserved).
17.85.140	Design standards for p Private streets and roads.

17.85.010 Title.

This chapter shall be called “Access ~~and~~, Parking ~~and~~ Loading.” (Ord. 1857 § 2 (Exh. B), 2018).

17.85.020 Application.

The standards of this section shall apply to all new uses, structures, and developments, and to the expansion or modification of existing uses, structures and developments. (Ord. 1857 § 2 (Exh. B), 2018).

17.85.030 Purpose.

The purpose of this chapter is to ~~establish standards for access and parking as follows:~~

~~A. Provide for adequate, safe, and convenient access for drivers, pedestrians, cyclists, and transit users;~~

~~B. Ensure off-street parking and loading areas—accessibility by people of all ages and physical abilities;~~

~~C. Promote development patterns that are accessible and convenient while minimizing traffic, parking, storm-water, and other impacts;~~

~~D. Ensure that each new development contributes to, and functions as part of, an interconnected and coherent overall transportation system;~~

~~E. Promote flexible development patterns that can accommodate future changes and transportation needs.~~

~~for the different zones as described in this title by specifying requirements for off-street parking and loading, and describing design standards and other required improvements. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.85.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 35A.63, 36.70A, 36.70B RCW and other applicable laws. (Ord. 1857 § 2 (Exh. B), 2018).

17.85.050 General ~~and~~ exceptions.

~~A. Off-street Access and parking and loading lots shall be provided in accordance with the following provisions of this chapter for every building hereafter erected, altered, enlarged, or relocated.~~

Commented [BJ1]: BJ_7-19-2022_Added additional information regarding this chapter. Over the year the chapter evolved to include access requirements other than parking specifications. This better reflects the current purpose of this chapter.

1. ~~Any~~ All new or modified developments, buildings, uses, or structures shall provide the required parking to be consistent with the standards specified herein provisions of this chapter.

2. ~~Any~~ All new or modified parking areas, driveways, drive aisles, pedestrian access paths, private streets, and similar improvements lot hereafter physically altered shall comply be consistent with all of the provisions of this chapter, except that such lot which provides five percent of its area in landscaping shall be deemed to comply with chapter 17.80 BMC.

B. Parking Quantity-Exceptions, in General:

1. ~~Parking Exceptions for Landmark Structures. For uses in a landmark structure the number of required parking spaces. The director may be reduced or waived based on the following criteria the minimum accessory off-street parking requirements for a use permitted in a landmark structure, considering the following elements:~~

- a. A survey may be required of on- and off-street parking availability.
- b. A determination that there is no feasible way to meet parking requirements on the lot.
- c. Consideration of the types and scale of uses proposed or practical in the landmark structure and the controls imposed by the landmark designation.

2. ~~Expansion of Existing Nonresidential Uses in Commercial and Business Zones Existing Development. Except in the RD and RA zones, a~~ Additional parking spaces for nonresidential uses shall not be required for the expansion of existing structures uses, or when changing uses, unless the expansion or change would have the effect of increasing the number of required parking spaces by more than ten percent or five spaces, whichever is greater.

~~if the minimum parking requirement would not be increased by more than 10 percent. If the minimum parking requirement would be increased by more than 10 percent, the parking spaces required for the entire expansion shall be provided. This provision may be used only once for any individual structure.~~

3. ~~Whenever any existing, nonresidential use in a building is changed to another use in the same building, the requirements of this section shall apply in full to the new use if and only if the change in parking requirements between the old and new uses is greater than five spaces. Credit for on-street parking spaces that are located along the building's street frontage shall be given.~~

4. ~~Whenever there is a change from a residential use to a nonresidential use in an existing building, the requirements of this section shall apply in full to the new use; except that the planning commission may determine that a portion of the residential structure cannot be effectively utilized by the proposed commercial use and such area then may be excluded from the gross floor area used to compute the parking requirement.~~

35. ~~On-Street Parking. Existing o~~ On-street parking spaces abutting a development site may be used to meet the requirements of this chapter; at a rate of one space for every 20 linear feet of abutting street frontage, except as follows:

- a. Spaces that are not available, or will not be available, due to roadway design, right-of-way constraints, or future plans shall not be included; and
- b. Applicants may be required to provide a parking survey prepared by a qualified professional demonstrating that adequate on-street parking is reasonably available. _

C. Parking Quantity-Exceptions, in the Downtown Special Planning Priority Development Area.

1. ~~N~~ No parking shall be required for new uses in existing structures, or when existing structures are remodeled.

2. ~~For new structures or when an existing structure is expanded, n~~ No parking shall be required for the first 2,500 square feet of nonresidential floor space or for the first four dwellings. _ or the nonresidential portion of a live-work unit.

Commented [BJ2]: BJ_7-19-2022_ No substantive change – revised to use plain language and to use defined terms.

Commented [BJ3]: BJ_9-15-2022_ Revised to reference all aspects of access and parking

Commented [BJ4]: BJ_9-15-2022_ Revised for clarity

Commented [BJ5]: BJ_9-15-2022_ Revised so this covers both residential and non-residential uses (previously it only included non-residential uses. Specifically excluded the RD and RA zones since small changes to occupancy could have significant impacts on neighborhood. This is not the case in commercial, industrial, and mixed use zones where small changes to parking demand are difficult to regulate and do not result in major impacts.

Commented [BJ6]: BJ_9-15-2022_ Revised to lump both non-residential and residential together. Slightly expands residential discount downtown to be consistent with our definition of “small attached residential” (four units or less). This is intended to encourage adaptive reuse downtown where onsite parking is difficult to construct and onsite parking is common. As previously written 2,500 sq. ft. of commercial would be exempt but not 2,500 sq. ft. of residential. Impacts are impacts and granting one exemption without the other makes no sense.

3. No parking shall be required for ~~any floor area used for public facilities~~ ~~human services~~ or ~~commercial child daycare center~~ ~~seare~~.

4. ~~No parking shall be required for the addition of one residential unit to an existing building. If two units are added, one space will be required; three units will require two spaces, etc.~~

5. ~~When an existing nonresidential structure is partially or completely converted to residential use, no parking shall be required for the first dwelling unit; provided, the lot area is not increased and any existing parking is screened and landscaped to the greatest extent practical.~~

D. Tandem Parking ~~and Multifamily~~. Off-street parking for ~~multifamily dwellings structures~~ may be provided as tandem parking.

E. Parking and loading areas shall have ~~reasonable legal~~ access to a public street or alley. ~~When alley access is available parking areas shall be accessed from the alley.~~

F. ~~Removal of required parking and/or loading spaces from practical use by obstruction, erection of buildings, or other actions as to reduce the parking and/or loading capacity or usefulness thereof below the minimum requirements established in this chapter is prohibited.~~

FG. "Parking area" includes ~~the parking spaces, together with drive aisles, and internal access streets~~ ~~ways and the access to public street.~~ (Ord. 1857 § 2 (Exh. B), 2018).

G. Calculations. When calculating the number of required parking spaces fractions shall be rounded down to the ~~nearest whole number.~~

17.85.060 ~~Required off-street parking~~ ~~Quantity~~ **Parking Quantities.**

A. ~~The number of required off-street parking spaces shall be determined for each principal use of the land, building, or structure using Table 17.85.060.A-1 and by applying any applicable deductions or exemptions. For ancillary uses to the principal use, required parking shall be calculated the same as for the principal use, or as otherwise provided for in this chapter. For uses not specifically identified in this chapter, parking shall be provided as specified for the use which, in the opinion of the Director, is most similar to the use under consideration. When, in the opinion of the Director, no comparable use is listed, the number of required parking spaces shall be determined by applying the provisions of BMC 17.85.060.C (Alterations and Unlisted Uses).~~

B. The total number of parking spaces provided for any use or development shall not exceed 120 percent of the minimum requirements identified in this section, except:

1. This limitation shall only apply to uses and developments that require 20 or more parking spaces; and
2. This limitation shall not apply to uses and developments where an alternative maximum number is prescribed by Burlington Municipal Code; and
3. Additional spaces may be provided in excess of 120 percent of the minimum requirement; provided, that any such spaces are located under a building with usable floor space; and
4. This limitation may be waived for publicly owned parking lots; and
5. This limitation may be waived if a traffic and parking study is submitted showing the need for additional parking. Such studies shall be prepared by a licensed engineer, shall be consistent with, and integrated into, any other traffic study prepared for the project, and shall be reviewed by the city engineer.

C. **Alterations and Unlisted Uses.** The following criteria shall be used to determine parking requirements for unlisted uses that not substantially similar to a listed use and to evaluate requests to deviate from a minimum parking quantity. In such cases the director may require a parking study addressing the criteria below. When required, parking studies shall be prepared by a licensed engineer and shall be consistent with, and integrated into, any other

Commented [BJ7]: BJ_7-19-2022_ Revised to clarify that this applies when a building is enlarged to accommodate a residential use and that the provision applies to the portion of the building that has been added. Necessary to avoid conflicts with subsection 1 and 2 above which apply to existing buildings.

Commented [BJ8]: BJ_7-19-2022_ Redundent and conflicts with subsections 1 and 2 above that address modifications and use changes.

Commented [BJ9]: BJ_7-19-2022_ No substantive change – revised to use term “dwellings” in place of “multifamily”. This provision applies to all type of residential structures containing dwellings, both attached and detached.

Commented [BJ10]: BJ_7-19-2022_ No substantive change – revised to clarify that the parking quantities apply to paring generally, not just off-street parking.

Commented [BJ11]: BJ_9-15_2022_ Revised to create a process for handling unlisted uses and reviewing adjustment requests. Consistent with adopted comp plan policies

traffic study prepared for the project and shall be reviewed by the City Engineer for constancy with established transportation engineering practices.

1. Trip generation and turnover;

2. Proximity to frequent transit service or a transit center;

3. The availability of alternative transportation services such as school buses or shuttle vans;

4. The provision of onsite housing for students or employees;

5. Commute trip reduction measures implemented by the agency, business, or facility operator;

6. The extent to which the development will provide enhanced pedestrian amenities and bicycle facilities;

7. The intensity of development and mix of uses within 1,320 feet of the development site;

8. The condition and availability of sidewalks and other pedestrian amenities within 1,320 feet of the development site.

D. Standard Reductions. The following parking spaces may be included in parking calculations at a rate of 1.25:

1. Spaces located under a building;

2. Spaces located within 1,320 feet of transit center or bus stop;

3. Spaces for affordable housing developments.

Commented [BJ12]: BJ_7-19-2022_The previous parking requirement table attempted to identify parking requirements with great specificity for every conceivable use. While workable for common uses, this strategy does not work well for large institutional uses or government uses that may have unique characteristics or site dependent requirements. Also, no previous method existed for deviating from established parking requirements. The listed criteria are consistent with research on factors determining parking demand.

USE	PARKING REQUIREMENT GENERAL
ANIMALS	
Dog day care with no outside runs or kennels	1 space for each 500 square feet
Kennels, boarding, outside runs	1 space for each 2,000 square feet
Veterinary clinic, animal services, animal hospital with no outside runs or kennels	1 space for each 350 square feet
ASSEMBLY	
Commercial recreation indoors (bowling, swimming, skating, bingo, dancing)	1 space for each 100 square feet of activity area
Commercial recreation outdoors (miniature golf, batting-ball courts)	1 space for each 350 square feet, or 1 per cage, hole, court
Community center, city	1 space for each 550 square feet
Facilities for lectures, meetings, dances, receptions	1 space for each 8 fixed seats or 1 space for each 100 square feet of spectator assembly area not containing fixed seats
Library	1 space for each 80 square feet of floor area of all auditoriums and public meeting rooms; plus 1 space for each 500 square feet of other gross floor area open to the public
Motion picture theatre, adult motion picture theatre	1 space for each 8 fixed seats or 1 space for each 100 square feet of spectator assembly area not containing fixed seats
Museum	1 space for each 100 square feet of floor area of all auditoriums and public assembly rooms; plus 1 space for each 500 square feet of other gross floor area open to the public
Performing arts theater	1 space for each 8 fixed seats or 1 space for each 100 square feet of spectator assembly area not containing fixed seats
Private club, health, fitness, civic, social and other organization	1 space for each 100 square feet of floor area of all auditoriums and public assembly rooms; plus 1 space for each 500 square feet of other gross floor area open to the public
Religious facility	1 space for each 80 square feet of all auditoriums
Sports facility or stadium	1 space for each 8 fixed seats or 1 space for each 100 square feet of spectator assembly area not containing fixed seats
Topless club	1 space per 200 square feet
HEALTH AND FAMILY SERVICES	
Counseling service	1 space for each 350 square feet
Day care, adult	1 space for each 10 clients or 1 space for each staff member, whichever is greater; plus 1 loading and unloading space for each 20 clients
Commercial child day care centers and mini-commercial child day care centers	1 space for each 10 children or 1 space for each staff member, whichever is greater; plus 1 loading and unloading space for each 20 children
Family day care home	1 loading and unloading space
Health care facility	1 space for each 350 square feet
Hospital	2 per bed
Medical facilities, clinic, laboratory, urgent care, triage	1 space for each 350 square feet
Medical services, doctor, chiropractor, optometrist office, health care	1 space for each 350 square feet
Nursing home, convalescent center, assisted living	1 space for each 2 staff members on site at peak staffing time; plus 1 space for each 6 beds or units
Physical therapy, massage services	1 space for each 350 square feet
INDUSTRY, MANUFACTURING, PROCESSING, WHOLESALING	
Auction house except animals	1 space for each 2,000 square feet
Bulk storage of petroleum products unless incidental to primary use	1 space for each 2,000 square feet
Cold storage plant	1 space for each 2,000 square feet
Commercial laundry	1 space for each 2,000 square feet
Concrete mixing or batch plant	1 space for each 2,000 square feet
Construction services, contractor's office and storage	1 space for each 2,000 square feet
Equipment rental and leasing	1 space for each 2,000 square feet
Enameling, galvanizing and electroplating	1 space for each 2,000 square feet
Government facilities other than office	1 space for each 2,000 square feet

Commented [BJ13]: BJ_7-19-2022_Table replaced with revised table. Uses consolidated to match uses identified in the zoning code. No attempt was made to revise parking requirements. That work should be done in the future after conducting an appropriate study of parking utilization rates. – 9-15-2022 – note, some requirements have changed as a result of eliminating fractional requirements or combining previously separate uses, but more significant changes have been delayed until we have good information.
NOTE: see attached parking requirements table

Heavy equipment and trucks, repair, sales and leasing	1 space for each 2,000 square feet
Laboratories such as water quality, soil testing, research and development	1 space for each 1,500 square feet
Manufactured/mobile home sales lot	1 space for each 2,000 square feet
Manufacturing and related activities such as processing, assembling, research and development	1 space for each 1,500 square feet
Materials yards – lumber, stone, concrete products	1 space for each 2,000 square feet
Mini storage and/or household goods warehouse	1 space for each 30 storage units
Motor freight terminals	1 space for each 2,000 square feet
Printing and publishing	1 space for each 2,000 square feet
Retail and wholesale of products manufactured, processed, or assembled on site	1 space for each 1,500 square feet
Salvage yard	1 space for each 2,000 square feet
Storage warehousing	1 space for each 2,000 square feet
Warehouse and distribution facilities	1 space for each 2,000 square feet
Wholesale showroom	1 space for each 1,500 square feet
Wood processing	1 space for each 2,000 square feet
LODGING	
Bed and breakfast inn	1 space for each dwelling plus 1 space for each 2 guest rooms or suites
Hotels or motels	1 space for each sleeping room or suite
RESIDENTIAL	
Accessory dwelling unit	1 space
Adult family home	1 space for each dwelling unit
Multifamily dwellings	General: 1-1/2 per 1 and 2 bedroom; 2 per 3 or more bedroom and guest parking at a rate of 1 space for every 3 units Downtown special planning area: 1 per unit
Apartment for adults age 55 and up	1 space for each dwelling unit and guest parking at 1 space for 3 units
Artist's studio dwelling	1 space for each dwelling unit
Boarding and group housing	1 space for each dwelling unit
Caretaker's quarters	None
Residential small lot development	1 space for each dwelling unit
Duplex (two-family dwelling)	1 per 1 and 2 bedroom; 2 per 3 or more bedroom 1 per unit downtown
Live-work unit up to 2,500 square feet	1 space for each unit
Live-work unit greater than 2,500 square feet	1 space for each unit; plus the number of spaces required for the commercial or manufacturing activity conducted in the unit, based on the most similar nonresidential use Downtown special planning area: See BMC 17.85.050(C)
Mobile home park or trailer park	2 per unit plus guest parking at 1 space for 3 units
Single family dwelling including manufactured home	1 per 2 bedroom, 2 per 3 or more bedroom 1 downtown special planning area
Townhouse	1 per 1 and 2 bedroom; 2 per 3 or more bedroom 1 downtown special planning area
RETAIL AND SERVICE	
Banking and related financial institutions	1 space for each 350 square feet
Business support services	1 space for each 2,000 square feet
Car wash	1 space for each 2,000 square feet
Communication utilities	1 space for each 2,000 square feet
Custom and craft work	1 space for each 1,000 square feet
Dog day care	1 space for each 500 square feet
Drive-in business – high volume such as food, coffee, bank	1 space for each 200 square feet
Eating and drinking establishments – all types	1 space for each 200 square feet

Funeral home and mortuary services	1 space for each 350 square feet
Gas station	1 space for each 2,000 square feet
Ground-floor businesses in downtown special planning area	None, maximum of 10 spaces
Major durables sales, service, and rental such as furniture, appliance	1 space for each 2,000 square feet
Multipurpose convenience store such as grocery, hardware, drugs, variety	1 space for each 350 square feet
Municipal buildings, city hall, police and fire stations	1 space for each 350 square feet
Office, administrative	1 space for each 1,000 square feet
Office, customer service	1 space for each 350 square feet
Personal and household retail sales and service, general	1 space for each 350 square feet
Personal services such as barber, beauty shop, tan, tattoo	1 space for each 500 square feet
Sales, service and rental of office equipment	1 space for each 350 square feet
Shopping center or mall	1 space for each 350 square feet
Small appliance repair	1 space for each 500 square feet
Specialty food store—bakery, deli, cheese, wine, some seating	1 space for each 500 square feet
Studios—art, music, photography	1 space for each 1,000 square feet
Trades and subcontractors—plumbing, electrical, HVAC	1 space for each 1,000 square feet
Woodworking	1 space for each 1,000 square feet
SCHOOLS/EDUCATION/TRAINING	
School, private elementary and secondary	1 space for each 80 square feet of floor area of all auditoriums and public assembly rooms, or if no auditorium or assembly rooms, 1 space for each staff member
School, public elementary and secondary	1 space for each 80 square feet of floor area of all auditoriums or public assembly rooms, or 1 space for every 8 fixed seats in auditoriums or public assembly rooms containing fixed seats, for new public schools on a new or existing public school site
Vocational or fine arts school	1 space for each 2 faculty and full-time employees; plus 1 space for each 5 students (based on the maximum number of students in attendance at any one time)
TRANSPORTATION AND UTILITIES	
Dispatch facility—taxi, ambulance, limousine	1 space for each 1,000 square feet
Telecommunication tower	1 space
Terminal—bus, rail, transit	1 space for each 200 square feet
Transit vehicle base	1 space for each 2,000 square feet
Utility substation or service facility	1 space for each 2,000 square feet
VEHICLE RELATED	
Automotive or boat parts or accessories sales	1 space for each 350 square feet
Automobile wrecking yard	1 space for each 2,000 square feet
Sales, service and rental of motorized vehicles including automobiles, motorcycles, trucks other than semis, boats	1 space for each 2,000 square feet
Semi-tractor and trailer sales	1 space for each 2,000 square feet
Towing service	1 space for each 1,000 square feet
Vehicle repair, major and minor	1 space for each 2,000 square feet; minimum of 3 spaces
^{a,a} In addition, for all multifamily uses whose average gross floor area per dwelling unit, excluding decks and all portions of a structure shared by multiple dwelling units, exceeds 500 square feet shall be required up to a maximum additional 0.15 spaces per dwelling unit; and When at least 50 percent of the dwelling units in a multifamily use have three bedrooms, an additional 0.25 spaces per bedroom for each unit with three bedrooms shall be required; and Any multifamily use that contains a dwelling unit with four or more bedrooms shall be required to provide an additional 0.25 spaces per bedroom for each unit with four or more bedrooms.	

(Ord. 1857 § 2 (Exh. B), 2018).

17.85.070 Shared parking.

A. Shared Parking – General Provisions.

1. Shared parking shall be allowed between two or more uses to satisfy all or a portion of the minimum off-street parking requirement of those uses as provided in subsections (B) and (C) of this section.
2. Shared parking shall be allowed between different categories of uses or between uses with different hours of operation, but not both.
3. A use for which an application is being made for shared parking shall be located within ~~800-1,320~~ feet of the parking.
4. No reduction to the parking requirement shall be made if the proposed uses have already received a reduction through the provisions for cooperative parking.
5. ~~The reduction to p~~Parking reductions permitted through shared use of parking shall be determined as a percentage of the minimum parking requirement as modified by ~~any other~~the reductions permitted in BMC 17.85.050 ~~and 060~~.
6. An agreement providing for the shared use of parking, executed by the parties involved, shall be filed with the director. Shared parking privileges shall continue in effect only as long as the agreement, binding on all parties, remains in force. If the agreement is no longer in force, then parking shall be provided as otherwise required by this chapter.

B. Shared Parking for Different Categories of Use.

1. A business establishment may share parking according to only one of the following subsections: (B)(2), (3), or (4) of this section.
2. If an office use and a retail sales and service use share parking, the parking requirement for the retail sales and service use may be reduced by 20 percent; provided, that the reduction shall not exceed the minimum parking requirement for the office use.
3. If a residential use shares parking with a retail sales and service use other than lodging uses, eating and drinking establishments or entertainment uses, the parking requirement for the residential use may be reduced by 30 percent; provided, that the reduction does not exceed the minimum parking requirement for the retail sales and service use.
4. If an office and a residential use share off-street parking, the parking requirement for the residential use may be reduced by 50 percent; provided, that the reduction shall not exceed the minimum parking requirement for the office use.

C. Shared Parking for Uses with Different Hours of Operation.

1. For the purposes of this section, the following uses shall be considered daytime uses:
 - a. Customer service and administrative offices;
 - b. Retail sales and services, except eating and drinking establishments, lodging uses, and entertainment uses;
 - c. Wholesale, storage and distribution uses;
 - d. Manufacturing uses; and
 - e. Other similar primarily daytime uses, when authorized by the community development director or designee.
2. For the purposes of this section, the following uses shall be considered nighttime or Sunday uses:
 - a. Auditoriums accessory to public or private schools;

- b. Religious facilities;
- c. Entertainment uses, such as theaters, bowling alleys, and dance halls;
- d. Eating and drinking establishments;
- e. Lodging uses; and
- f. Other similar primarily nighttime or Sunday uses, when authorized by the community development director or designee.

3. Up to 90 percent of the parking required for a daytime use may be supplied by the off-street parking provided by a nighttime or Sunday use and vice-versa, when authorized by the director, except that this may be increased to 100 percent when the nighttime or Sunday use is a religious facility.

4. The applicant shall show that there is no substantial conflict in the principal operating hours of the uses for which the sharing of parking is proposed. (Ord. 1857 § 2 (Exh. B), 2018).

17.85.080 Cooperative parking.

A. Cooperative parking shall be permitted between two or more business establishments which are commercial uses according to the provisions of this section.

B. Up to a 20 percent reduction in the total number of required parking spaces for four or more separate business establishments, 15 percent reduction for three business establishments, and a 10 percent reduction for two commercial uses may be authorized by the director under the following conditions:

- 1. No reductions to the parking requirement shall be made if the proposed business establishments have already received a reduction through the provisions for shared parking.
- 2. The business establishments for which the application is being made for cooperative parking shall be located within ~~800~~1,320 feet of the parking.
- 3. The reductions to parking permitted through cooperative parking shall be determined as a percentage of the minimum parking requirement as modified by ~~any~~the reductions permitted ~~through by~~ BMC 17.85.050, ~~060(B)~~ ~~and (C)~~ and this section.
- 4. An agreement providing for the cooperative use of parking shall be filed with the director when the facility or area is established as cooperative parking. Cooperative parking privileges shall continue in effect only as long as the agreement to use the cooperative parking remains in force. If the agreement is no longer in force, then parking shall be provided as otherwise required by this chapter. New business establishments seeking to meet parking requirements by becoming part of an existing cooperative arrangement shall provide the director with an amendment to the agreement stating their inclusion in the cooperative parking facility or area. (Ord. 1857 § 2 (Exh. B), 2018).

17.85.090 (Reserved)

17.85.100 (Reserved)

~~17.85.090 Drive-in businesses.~~

~~All banks, savings and loan associations, food dispensing establishments, and other businesses which maintain drive-in facilities which are intended to serve customers who remain in their motor vehicles during business transactions, or are designed in such a manner that customers must leave their automobiles temporarily in a driving lane located adjacent to the facility, shall provide stacking space for the stacking of motor vehicles as follows:~~

~~A. Stacking Space. The drive-in facility shall be so located that sufficient stacking space is provided for the handling of motor vehicles using such facility during peak business hours of such facility.~~

~~B. Driveway Location. The location of entrances and exits shall be determined by the public works director.~~

~~C. Shopping Centers. When located in a shopping center, drive-in facilities shall provide sufficient stacking space to handle peak business demands and shall not in any way obstruct the normal circulation pattern of the shopping center. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.85.1050 Off-street parking area development and maintenance Construction standards.

A. All parking areas, ~~including interior driveway driveways, drive aisles, private streets, and outdoor storage and sales lots and access to a public street,~~ shall be paved with permeable pavement, asphalt concrete, or cement concrete pavement. All asphalt pavement sections shall have a minimum pavement section consisting of two inches of Class "B" asphalt concrete, two inches of five-eighths-inch minus crushed rock, and six inches of Class "A" bank run gravel or approved equal. All permeable paving, concrete pavement sections, or any alternative asphalt pavement sections shall be designed to support the post development traffic loads anticipated due to the intended use.

B. Parking and circulation areas, access roads, and drive aisles shall be designed and constructed with LID features such as permeable pavement, rain gardens, or bio-retention areas unless demonstrated to be infeasible through an engineering analysis.

C. In determining the feasibility of LID features, an engineering analysis shall be submitted and reviewed by the city engineer. This analysis should consider site characteristics such as soil and ground water conditions, and anticipated traffic volumes. The analysis should be consistent with the Department of Ecology's "Stormwater Manual for Western Washington" and the design and site evaluation guidance in the Puget Sound Partnership's "Low Impact Development Technical Guidance Manual for Puget Sound." The engineering analysis requirement identified above may be waived by the city engineer for simple small-scale projects when the feasibility of permeable pavement can be easily determined without the need for additional information or analysis; provided, that an engineering analysis shall be submitted for all projects involving 20 or more parking spaces.

D. All parking and circulation areas, access roads, and drive aisles shall be designed and constructed in accordance with any applicable requirements in BMC Title 14 BMC.

E. Parking areas shall be used for automobile parking only, with no sales, unless permitted elsewhere by this title, dead storage, repair work, or dismantling of any kind.

F. Outdoor sales areas and storage yards shall be paved and landscaped in accordance with this title.

~~G. If lighting is provided, it shall be arranged to reflect away from the residential area, also from any public street or highway. See Chapter 17.70 BMC.~~

~~H. Drainage facilities for storm water shall be provided for and be approved by the public works department. Stormwater shall be managed in accordance with Chapter 14.05 BMC and LID measures shall be provided consistent with the requirements of this Chapter and Chapter 17.70 BMC.~~

~~I. Ingress and egress shall be approved as to location and design by the public works department. Access to public streets shall be approved by the Public Works Department consistent with the requirements of Title 12 BMC.~~

J. Driveways and parking stalls shall be clearly marked.

Commented [BJ14]: BJ_7-19-2022_Drive-through standards were previously added to other sections to the code and conflict with this section.

Commented [BJ15]: BJ_7-19_2022_Revised to use defined terms consistent with other language in this chapter. Also clarified that paving requirements apply to outdoor storage and sales yards

K. Landscaping. See ~~Chapter 17.810~~ BMC. (Ord. 1857 § 2 (Exh. B), 2018).

~~L. Driveways and parking spaces for detached, duplex, and horizontally attached dwellings shall be paved with permeable pavement, asphalt, or concrete and may utilize a two track design to minimize impervious surface coverage.~~

~~M. The installation of paving and impervious surfaces shall be limited to the minimum amount necessary to support a permitted use or development.~~

~~**17.85.105 — Development of required off-street parking spaces for single-family dwelling units.**~~

~~For parking areas serving single-family dwellings, this section shall apply in lieu of BMC 17.85.100.~~

~~A. Required off-street parking spaces for one-family dwellings on separate lots smaller than 15,000 square feet in area shall be paved with permeable pavement, asphalt concrete, or cement concrete. Each required off-street parking space shall be connected to an improved public or private street by a driveway which shall be paved with permeable pavement, asphalt concrete, or cement concrete.~~

~~B. Required off-street parking spaces for one-family dwellings on separate lots of 15,000 or more square feet in area shall have an all-weather surface. Each required off-street parking space shall be connected to an improved public or private street by a driveway which shall have an all-weather surface. The construction of the all-weather surface shall be determined by the public works director.~~

~~C. A note shall be included on the face of subdivisions and short subdivisions identifying any applicable impervious surface limits.~~

~~D. Driveways for single-family dwellings may utilize a two-track design to minimize impervious surface coverage. (Ord. 1857 § 2 (Exh. B), 2018).~~

~~**17.85.110 Off-street parking lots — Location and screening standards.**~~

~~A. Required off-street parking shall be located on the same parcel as the uses served unless off-site parking is authorized in compliance with this chapter. Parking shall be located on each site in compliance with the parking layer requirements illustrated below:~~

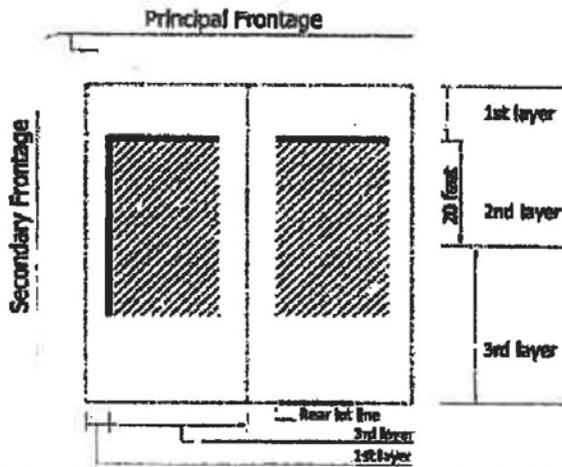
- ~~1. First Layer. The area between the frontage line and the facade line.~~
- ~~2. Second Layer. The area between the facade line and 20 feet from the facade. Note that the second layer is not required on the secondary frontage.~~
- ~~3. Third Layer. That portion of the lot that is neither the first layer nor the second layer. Generally this portion of the lot extends to an alley or an interior lot line.~~

Commented [BJ16]: BJ_7-19-2022_ Previously this was only applicable to detached dwellings. Change makes it applicable to all types of dwellings that may have individual curb cuts and driveways.

Commented [BJ17]:

Commented [BJ18]: BJ – 4-13-2023 – Added to prevent unnecessary expansion of impervious surfaces and ensure compliance with LID goals and comp plan objectives related to maintaining natural hydrologic processes.

Commented [BJ19]: BJ_7-19-2022_ Not needed and conflicts with some of the standards identified above.



B. Surface Parking Location and Screening. The following requirements shall apply in addition to any other parking, landscaping, setback, or site design requirements:

1. Parking area and service yards must be screened from adjoining residences.
2. Where alley access is available, parking shall be located off the alley and no curb cuts shall be permitted for residential uses.
3. Parking located in the setback in front of the building shall be screened and landscaped with a streetscreen as defined in BMC 17.80.105.
4. Parking area illumination shall be directed away from residential uses.
5. Downtown special planning area including surface parking shall be located in the third layer and masked by a streetscreen or building, except that driveways and aprons may be located in the first or second layer.
6. Burlington Boulevard Corridor. Surface parking may be located in the first, second or third layer and masked by a streetscreen if the street frontage is not fully occupied by buildings.

~~C. Single Family Dwellings. Required parking shall be located on the same lot as the building it serves.~~

~~D. Off-Site Parking. Required parking 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 not located more than 800 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. Offsite parking areas may be used to meet the requirements of this Chapter provided the offsite parking area is located within 1,320 feet of the development site and is either in common ownership or encumbered by an easement or other formal agreement. Offsite parking areas shall be connected to the development site with a~~

~~E. Whenever required parking facilities are located off site, Continuous pedestrian path in the form of a concrete sidewalk. Marked crosswalks shall be provided at all intersections. pedestrian facilities shall be provided connecting the satellite parking facility to the development being served, which are safe, durable and adequate to accommodate pedestrian use. (Ord. 1857 § 2 (Exh. B), 2018)~~

Commented [BJ20]: BJ_7-19-2022_ Not consistent with cluster and small lot development standards that promote parking in small consolidated lots.

Commented [BJ21]: BJ_7-19-2022_ Revised to be consistent with commonly accepted maximum walking distance.

Commented [BJ22]: BJ_9-15-2022_ Revised phrasing for clarity – also changed distance to 1,320 feet (1/4 mile) for consistency with commonly accepted max walking distance.

Commented [BJ23]: BJ_7-19-2022_ Provided additional clarity on what is required

17.85.115 ~~Off-street parking plan d~~Design standards.

A. Dimensions and Site Layout.

1. Parking stalls and drive aisles shall be consistent with the dimensions specified in Figure "A" below.
2. Except when adjacent to a building frontage or the perimeter of a site, parking rows and columns shall have a maximum length of 200 feet.
3. Drive aisles may be used to provide direct access to individual parking rows and should be connected to a public or private street.

B. Up to 30 percent of the parking spaces required by this chapter may be compact spaces, except in the downtown special planning area where all of the required parking spaces may be compact.

C. Off-street parking lots shall comply with the barrier-free parking space requirements of the International Building Code.

D. The minimum parking space and aisle dimensions for the most common parking angles are shown on chart below. For parking angles other than those shown on the chart, the minimum parking space and aisle dimensions shall be determined by the community development director and shall be proportional to the dimensions shown below.

Figure A
Minimum Parking Stall and Aisle Dimensions

Parking Angle	Stall Width	Curb Length	Stall Depth	Aisle Width		Unit Depth	
				1-Way	2-Way	1-Way	2-Way
0°	8.0	20.0	8.0	10.0 12.0	20.0 24.0	±± 29.0NA	±± 37.0NA
30°	8.0* Min. 8.5	16.0* 17.0	15.0* 16.5	10.0 10.0	20.0 20.0	** 43.0	** 53.0
45°	8.0* Min. 8.5	11.5* 12.0	17.0* 19.0	12.0 12.0	20.0 20.0	** 50.0	** 58.0
60°	8.0* Min. 8.5	9.5* 10.0	18.0* 20.0	18.0 18.0	20.0 20.0	** 58.0	** 60.0
90°	8.0* Min. 8.5	8.0* 8.5	15.0* 17.0	23.0 23.0	23.0 23.0	** 63.0	** 63.0

* For use with compact stalls only.

** Variable with compact and standard combinations.

E. Any parking spaces abutting a landscaped area on the driver or passenger side of the vehicle shall provide an additional 18 inches above the minimum space width requirement to provide a place to step other than in the landscaped area. The additional width shall be separated from the adjacent parking space by a parking space division stripe. The parking space depth may be reduced when vehicles overhang a walkway under the following conditions:

1. ~~Wheel stops~~ Wheel stops or curbs are installed.
2. The remaining walkway provides a minimum of 60 inches of unimpeded passageway for pedestrians.
3. The amount of space depth reduction is limited to a maximum of one and one-half feet for standard parking spaces and one and one-half feet for compact spaces including the ~~wheel stop~~ wheel stop or curb.

F. Driveways may cross required setbacks or landscaped areas in order to provide access between the off-street parking facilities and the street, provided no more than 10 percent of the required landscaping or setback area is displaced by the driveway. Driveways may be used for parking when serving single detached dwellings but shall not be considered for purposes of calculating required parking.

G. ~~Lighting shall be provided for safety of traffic and pedestrian circulation on the site. Parking areas shall be illuminated in accordance with the City's Outdoor Lighting Standards (Chapter 17.70 BMC), as required by the International Building Code. It shall be designed to minimize direct illumination of abutting properties and adjacent streets. The city council shall have the authority to waive the requirement to provide lighting. Pedestrian scale lighting shall be provided along all pedestrian paths and at all crosswalks. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.85.120 Pedestrian circulation and access.

A. General. All uses shall provide pedestrian access to the site. Pedestrian access shall be provided at all pedestrian arrival points for the development including the property edges, adjacent lots, abutting street intersections and mid-block crosswalks, ~~existing~~ transit stops, and at least every 100 feet of consecutive street frontage. Pedestrian access shall be located as follows:

1. Adjacent Streets and Property Edges. Access at property edges and to adjacent lots shall be coordinated with existing development to provide logical circulation patterns between developments.

a. Pedestrian connections shall be provided along adjacent street frontages at intervals of 100 feet or less;

Commented [BJ24]: BJ – 9-15-2022 – this entire section has been revised with the goal of making it easier to enforce access requirements and creating a network of paths within large parking lots that connect all buildings, streets, and adjoining lots. Previous requirements attempted this but lack of clarity made it difficult to implement. The proposed changes are an improvement but more work should be done on this in the future.

b. Connections shall be provided to existing or planned transit stops;

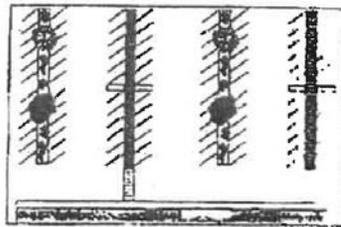
c. Pedestrian paths shall be connected to existing pedestrian paths on adjacent sites whenever feasible;

d. For development sites that abut properties that are vacant or likely to redevelop, pedestrian paths should be extended to the property or site boundaries to support future development.

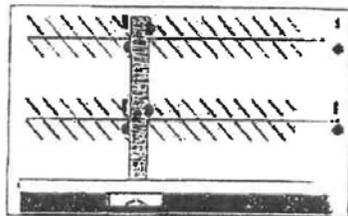
B2. Residential Developments. Pedestrian access shall be provided links between cul-de-sacs or buildings to allow pedestrian access from within the development and from adjacent developments to activity centers, parks, common tracts, open space areas, schools or other public facilities, transit stops and public streets. When dead-end streets or cul-de-sacs are used pedestrian access paths shall be provided to allow direct links between streets and cul-de-sacs. For multi-unit residential developments pedestrian access paths shall be provided to link buildings together.

C3. Pedestrian Parking Areas. Pedestrian circulation shall be provided within all parking areas and between parking areas and adjacent uses. The following standards are intended to create a grid of interconnecting paths, minimize the distance parking lot users must travel from a vehicle to a pedestrian path. The intent of these requirements is to create a grid of interconnected pedestrian paths located at convenient intervals. Pedestrian paths shall be provided within parking areas as follows: walkways shall be located as follows:

1a. Parallel to parking rows. If walkways run parallel to the parking row at least one walkway shall be provided for every two rows. Rows without walkways shall be landscaped or contain barriers or other means to encourage pedestrians to use the walkways. Pedestrian paths shall be provided parallel to parking rows at intervals of every four parking rows, provided the distance between pedestrian paths shall not exceed 200 feet.



2b. Perpendicular to parking rows. If walkways run perpendicular to the parking rows, access to the walkway shall be no further than five parking spaces. Landscaping, barriers or other means shall be provided between the parking rows to encourage pedestrians to use the walkways. Pedestrian paths shall be provided perpendicular to parking rows at intervals of 200 feet or less.



DB. Building Access. Pedestrian walkways paths shall form an on-site a circulation system that minimizes the conflicts between pedestrians and vehicle traffic and provides direct and convenient access to all buildings at all points of pedestrian access to on-site parking and building entrances. Pedestrian walkways shall be provided when the pedestrian access or any parking space is more than 75 feet from the building entrance or principal on-site destination and access shall be provided as follows as follows:

1. All developments ~~which~~ contain more than one building shall provide ~~walkways pedestrian paths~~ between the principal entrances of ~~the each~~ buildings.
2. ~~Commercial and mixed-use buildings shall provide pedestrian paths along all building frontages that contain an entrance or abut a parking area. Building frontages containing only service entrances, such as loading docks, that are not accessible to the general public shall be exempt from this requirement. All nonresidential buildings set back more than 100 feet from the public right-of-way shall provide for direct access from the building to the buildings on adjacent lots.~~
3. ~~For residential and industrial buildings, pedestrian paths shall connect the primary building entrances to adjacent streets and pedestrian access paths.~~
3. Emergency exits shall be connected to the pedestrian access system.

EC. Pedestrian access and walkways shall meet the following minimum ~~d~~Design Sstandards:

1. ~~Access and walkways~~Pedestrian paths shall be ~~well lit and~~ physically separated from driveways and parking spaces by landscaping, berms, barriers, grade separation or other means to protect pedestrians from vehicular traffic. ~~Unless an alternative method providing an equivalent level of pedestrian safety and physical separation is approved, this requirement shall be met by providing curbing and raised sidewalk.~~
2. ~~Access and walkways~~Pedestrian paths shall be a minimum of 60 inches of unobstructed width and shall be constructed using permeable pavement unless demonstrated to be infeasible through an engineering analysis, in which case ~~concrete or an~~ alternative hard surface approved by the city engineer shall be used. Pedestrian access paths shall have a minimum unobstructed width of five feet except as follows:
 - a. Pedestrian paths that directly abut parking spaces shall have a minimum unobstructed width of seven feet;
 - b. Pedestrian paths along the frontage of a building with a floor area greater than 10,000 square feet but less than 20,000 square feet shall have a minimum width of 10 feet;
 - c. Pedestrian paths along the frontage of a building with a floor area of 20,000 square feet or more shall have a minimum width of 20 feet.
3. ~~Access shall be usable by the mobility impaired and shall be designed and constructed to be easily located by the sight-impaired pedestrian by either grade change, texture or other equivalent means~~Pedestrian access paths shall comply with all applicable ADA and accessibility requirements.
4. A crosswalk shall be required when a ~~walkway pedestrian path~~ crosses a driveway, ~~street,~~ or a paved area accessible to vehicles. ~~Except where driveways or streets access a major arterial the maximum crosswalk length, or distance between curbs, shall be 20 feet. Crosswalks should generally be configured to provide a direct crossing perpendicular to the direction of vehicle travel and shall be designated using paint unless an alternative method is specified by Burlington Municipal Code or approved by the City Engineer.~~
5. If any parking space is more than 150 feet from the building entrance or principal on-site destination, a stop sign, ~~stop and stop~~ line or other pavement marking ~~and a speed bump~~ shall be required at the end of every row of parking.
6. If any parking space is more than 200 feet from the building entrance or principal on-site destination:
 - a. At least one sheltered rest area shall be provided; and
 - b. Raised crosswalks or speed bumps shall be located at all points where a walkway crosses the lane of vehicle travel.

Commented [BJ25]: BJ_9-15-2022 – Added new graduated requirements to ensure large commercial buildings provide sidewalks in front of building entrances that are wide enough to support pedestrian volumes (as an example of where this is a problem, try walking along the front of Home Depot – narrow unusable paths force pedestrians into street or parking area)

Commented [BJ26]: BJ_7-19-2022_ Added to avoid dangerous situations where the crosswalks crosses a large expanse of poorly defined circulation space creating conflicts with pedestrians and vehicles.

7. Where the building entrance is more than 250 feet from the public right-of-way, a sheltered rest area may be required at the public street.

8. Sidewalks and walkways should be sloped to drain towards adjoining landscaping, planting areas, or infiltration features. (Ord. 1857 § 2 (Exh. B), 2018).

9. Pedestrian access paths should avoid indirect or circuitous routes and should generally be laid out parallel and perpendicular to the building entrances. When site grades dictate an indirect routing to accommodate an ADA ramp an additional, direct route shall be provided using stairs or steps if needed.

10. Required pedestrian paths along building frontages may be covered by awnings but shall not be located under a building or between the building and a vertical support element such as a pier, pillar, or post.

11. Lighting shall be provided consistent with the requirements of BMC 17.90.105.

17.85.125 (Reserved) Existing off-street parking reduction.

~~Off-street parking facilities shall not be eliminated or reduced to an amount less than that required for new uses. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.85.130 (Reserved) Fractional spaces.

~~When units or measurements determining the number of required parking spaces result in requirements of a fractional space, any fraction up to one-half shall be disregarded, and fractions of one-half or over shall require one parking space. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.85.135 (Reserved) Off-street loading space.

~~Buildings devoted to retail trade, retail and wholesale food markets, warehouses, supply houses, wholesale and manufacturing trade, hotels, hospitals, laundry, dry cleaning establishments or other buildings where large amounts of goods are received or shipped shall provide loading and unloading space on the same premises as the building as follows:~~

~~A. Building of 6,000 square feet or more of floor area: one off-street loading and unloading space plus one additional off-street loading space for each 20,000 square feet of floor area;~~

~~B. Each loading space shall be not less than 10 feet in width, 25 feet in length and 14 feet in height;~~

~~C. Loading space, exclusive of driveways and/or corridors leading thereto, shall not be considered as providing off-street parking space. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.85.140 Design standards for private streets and roads.

Private streets and roads created to serve new development, including subdivisions, short subdivisions, binding site plans, and commercial and industrial development, shall be subject to the following standards and requirements:

A. ~~For private streets that provide access to more than one lot, a~~ A road maintenance agreement and access easement approved by the ~~Ceity~~ Engineer shall be recorded with Skagit County auditor's office;

B. Street ~~segments serving s and roads serving up to~~ four dwellings ~~or less~~ units shall be at least 20 feet in width;

C. Streets and roads serving ~~non-residential development or serving~~ more than four dwelling units or carrying a traffic volume of up to 250 average trips per day, whichever is less, shall be at least ~~28-38~~ feet in width and ~~shall include two driving lanes, one parking lane and a sidewalk along both sides of the street. shall be provided on at least one side in addition to the 28 feet of roadway width.~~

D. Streets and roads carrying a traffic volume of 250 average trips per day or more shall comply with the design standards and specifications applicable to public streets and roads in chapter 12.28 BMC;

E. Low impact development features such as bio-retention areas, rain gardens, and permeable paving shall be incorporated into the design and construction of all private streets and roads unless demonstrated to be infeasible through an engineering analysis. In determining the feasibility of such low impact development features, an engineering analysis shall be submitted and reviewed by the city engineer. This analysis should consider site characteristics such as soil and ground water conditions, and anticipated traffic volumes. The analysis should be consistent with the Washington State Department of Ecology's "Stormwater Manual for Western Washington" and

Commented [BJ27]: BJ_7-19-2022_ADA requirements have addressed the needs of those with mobility challenges but have also, in some cases, made access less convenient for other users. We've been requiring this as a code interpretation but for several years but it would be better to clearly state the requirement.

Commented [BJ28]: BJ_7-19-2022_we've received a number of comment from developers wishing to deviate from the standard private street design requirements. Staff has no objection to using alternative standards for low volume residential streets; however, additional standards should be applied to ensure mitigate aesthetic impacts and provide for adequate pedestrian safety.

the design and site evaluation guidance in the Puget Sound Partnership's "Low Impact Development Technical Guidance Manual for Puget Sound."

F. All private streets and roads shall be connected to streets on adjacent sites whenever possible. For development sites that abut properties that are vacant or likely to redevelop streets should be extended to the property or site boundaries to facilitate future development.

G. Construction. Private streets shall be paved and shall be designed and constructed in accordance with any designed and constructed consistent with any applicable construction or storm-water requirements identified in BMC-Title 14 BMC.

H. Lighting. Pedestrian scale street lighting shall be provided and all lighting shall be consistent with the City's outdoor lighting standards (Chapter 17.70 BMC).

I. Fire Flow and Access. All streets shall comply with the applicable fire flow and access requirements identified in Chapter 15.08 BMC. (Ord. 1857 § 2 (Exh. B), 2018).

J. Alternative Street Design Standards. As an alternative to the private road standards listed above, the City may authorize the use of the following alternative design standards for private streets.

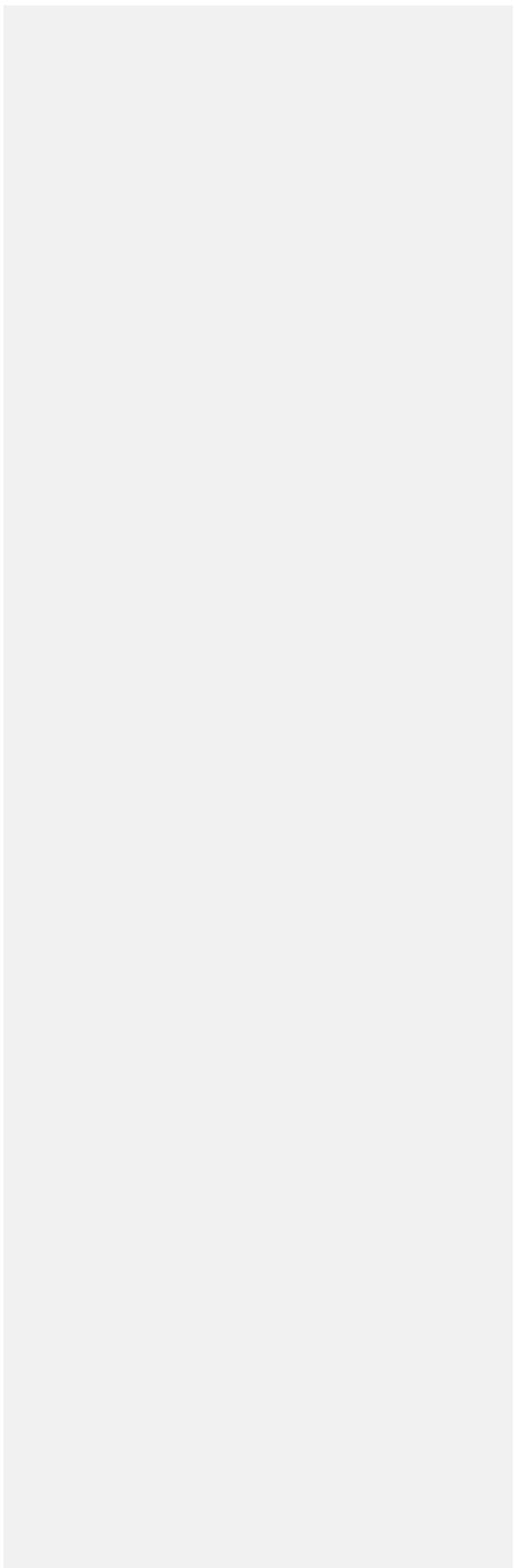


Table 17.85.060.A-1

Note: all new text - this table replaces the existing table in 17.85.060

Parking Requirements

Table 17.85.060 - Minimum Parking Quantities	
Use	Requirement
Boarding House	1 space per dwelling plus one space for each sleeping room
Commercial Entertainment and Indoor Active Recreation	1 space for every 350 square feet of activity area
Commercial Child Daycare	1 space for every 10 children plus one loading/unloading space for every 20 children
Craft Industries and Contractor Offices	1 space for every 1,000 square feet
Dwellings - detached, duplex, horizontally attached, and small and medium multiunit buildings	Containing up to two bedrooms: 1 space per dwelling Containing three or more bedrooms: 2 spaces per dwelling
Dwellings - large multiunit buildings	Studio units: 1 space per dwelling Containing between one and two bedrooms: 1.5 spaces per dwelling Containing three or more bedrooms: 2 spaces per dwelling Guest parking: 1 spaces for every 3 dwelling units containing one or more bedrooms
Eating and Drinking Establishments	Small: 1 space for every 500 square feet Large: 1 space for every 200 square feet
Fueling Stations and Car Washes	1 space for every 2,000 square feet
Government Facilities	*see BMC 17.85.060.C*
Healthcare Facilities and Veterinarians	1 space for every 350 square feet
Hospitals	*see BMC 17.85.060.C*
Hotels and Transient Accommodations	1 space for each sleeping room or suite
Industrial, Vehicle Repair, and Wrecking Yards	1 space for every 2,000 square feet
Kennel (Ped Boarding, Overnight)	1 space for every 2,000 square feet
Lumberyards, Nurseries, and Garden Supply	1 space for every 2,000 square feet
Meeting Facilities and Theaters	1 space for every 8 fixed seats or 1 space for every 100 square feet of auditorium or spectator area without fixed seats
Nursing Homes	1 space for every 6 beds plus 2 space for every two employees expected to be onsite during peak staffing periods
Offices	Administrative: 1 space for every 1,000 square feet Customer Service: 1 space for every 350 square feet
Personal Services and Pet Boarding, Daycare	1 space for every 500 square feet
Personal Storage	1 space for every 30 units
Private Passenger Transportation Services	1 space for every 200 square feet
Private Schools	*see BMC 17.85.060.C*
Retail	General Consumer Goods: 1 space for every 350 square feet Major Durables, Furniture, and Appliances: 1 space for every 2,000 square feet
Sales and Rental of Motorized Vehicles	1 space for every 2,000 square feet
Specialized Instruction	1 space for each faculty member and full time employee plus 1 space for every 5 students in attendance during peak periods
Bicycle Parking	
Multiunit Residential Buildings, Medium	1 space for every 4 dwellings
Multiunit Residential Buildings, Large	1 outdoor space for every 20 dwellings plus 1 indoor space for every 4 dwellings
Retail	2 spaces plus 1 additional space for every 12,000 square feet

Eating and Drinking Establishments	Small: 2 spaces Large: 4 spaces
Offices	2 spaces per building plus 1 additional space for every 5,000 square feet
Personal Services	2 spaces
Government Facilities	*see BMC 17.85.060.C*
Private Schools	*see BMC 17.85.060.C*
Commercial Child Daycare	2 spaces plus 1 additional space for every four vehicle parking spaces provided

Note: All new text - this section to be added to 17.85 - address concerns raised by Landed Gentry for private streets - based on standards provided in Gentry letter.

17.85.150. Alternative Street Design Standards.

As an alternative to the design requirements listed in BMC 17.85.150, the City may authorize the use of the following alternative design standards for private streets. The alternative design standards in this section may only be used for streets serving residential developments comprised primarily of detached, horizontally attached, small lot, or cottage housing.

- A. Entrances. Entrances to a private street system shall clearly delineated using signage and other visual and tactile indicators, such as pavement markings, bollards, planters, boulders, or restricted turning radiuses.
- B. Paving and curbs. The design shall incorporate a variety of paving materials to create a varied surface that visually distinguishes the location of intersections, parking lanes, crosswalks, and pedestrian paths.
- C. Traffic calming. Traffic calming measures, such as raised intersections, chicanes, on-street parking areas, or extra street frontage landscaping shall be incorporated into the design. The overall design should create a street environment that encourages traffic to move at, or near, the speed of pedestrians.
- D. Roadway width. The standard roadway width for two way traffic shall be 20 feet. Narrower street widths may be approved consistent with applicable fire code requirements and for one way street segments.
- E. Pedestrian circulation. A pedestrian access path shall be provided along at least one side of the street. The pedestrian access path shall be at least five feet in width, physically separated form vehicle circulation areas with curbing, landscaping, or bollards, and shall be paved with conventional or porous concrete. A separate pedestrian path shall not be required for street segments less than 150 feet in length consistent with the following:
 - a. The street segment serves only the dwelling units adjoining it and does not function as part of the street system, or the street segment is terminates in a dead end; and
 - b. The roadway surface contains an area delineated for pedestrian travel using a contrasting paving material, such as concrete or stamped asphalt.
- F. On-Street Parking. At least one on-street parking space shall be provided for every four dwelling units in the development. On-street parking spaces may be grouped together and configured as parallel, angled or parking pocket designs. On-street parking areas shall be differentiated from adjacent travel lanes using painting, pavement parkers, or contrasting paving materials. On-street spaces shall be located within 400 of the dwellings they are associated with.

- G. Storm-water. Private streets shall be designed and constructed consistent with the requirements of Title 14 BMC and shall incorporate LID features consistent with the provisions of BMC 17.85.140.E.

- H. Street maintenance agreement. A street maintenance agreement must be approved by the City Engineer and recorded with the Skagit County Auditor.

Chapter 17.90
PUBLIC UTILITIES

Sections:

- 17.90.010 Title.
- 17.90.020 Application.
- 17.90.030 Purpose.
- 17.90.040 Authority.
- 17.90.050 Permitted when.
- 17.90.060 Visual compatibility.
- 17.90.070 Protective fencing.
- 17.90.080 Setbacks.
- 17.90.090 Permit requirements.
- 17.90.100 Residential locations.

17.90.010 Title.

This chapter shall be called "Public Utilities." (Ord. 1857 § 2 (Exh. B), 2018).

17.90.020 Application.

The provisions of this chapter shall apply to all public utility and telecommunication carriers which occupy, use, construct, or maintain utility or telecommunication facilities within the city. (Ord. 1857 § 2 (Exh. B), 2018).

17.90.030 Purpose.

Reserved. (Ord. 1857 § 2 (Exh. B), 2018).

17.90.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 35.63, 35A.63, 36.70A, and 36.70B RCW and other applicable laws. (Ord. 1857 § 2 (Exh. B), 2018).

17.90.050 Permitted when.

Public utility buildings, telephone exchanges, sewage pumping stations, electrical distribution substations, and similar developments necessary for the operation of a public utility shall be permitted subject to the requirements set forth in this chapter and any other applicable requirements. (Ord. 1857 § 2 (Exh. B), 2018).

17.90.060 Visual compatibility.

A. If the installation is housed in a building, the building must conform architecturally with the surrounding buildings or with the type of building that will develop due to the zoning district.

B. An unhoued installation on the ground or a housed installation that does not conform to the architectural requirements of subsection (A) of this section must be sight-screened with evergreen trees, shrubs and landscaping planted in sufficient depth to form an effective sight barrier within five years. (Ord. 1857 § 2 (Exh. B), 2018).

17.90.070 Protective fencing.

An unhoued installation of a dangerous nature such as an electrical distribution substation shall be enclosed with an ~~eight-foot-high-wire-fence~~ 6 feet in height. (Ord. 1857 § 2 (Exh. B), 2018).

Commented [BJ1]: BJ_9-15-2022_revised for consistency with current fence height limits in zoning and building code.

17.90.080 Setbacks.

All buildings, installations and fences shall observe the setback requirements for buildings in the district in which they are located, ~~except that in the R-1 district the side setback requirements shall be increased to 20 feet. Exceptions to these setback requirements may be permitted by variance.~~ (Ord. 1857 § 2 (Exh. B), 2018).

Commented [BJ2]: BJ_9-15-2022_deleted the last provision since it is not consistent with the revised zoning designations or regulations previously adopted by the PC or Council.

17.90.090 Permit requirements.

All applications to develop or construct utilities shall include a complete plot plan and elevations showing the entire development, and photographs showing the location and character of all adjoining land improvements in addition to

all other applicable permit application requirements. Permits for utilities and utility development shall be subject to review and approval by the city engineer. (Ord. 1857 § 2 (Exh. B), 2018).

17.90.100 Residential locations Consistency with Comprehensive Plan.

A. In order to be considered a permitted use publicly owned utilities must be identified in the Public Facilities and Services Element of the Comprehensive Plan, listed in the City's Capital Improvement Plan (CIP), or identified in a functional or capital plan adopted by reference under the City's Comprehensive Plan.

B. All publicly owned utilities shall be fully consistent with City's Comprehensive Plan and the requirements of this section.

~~In residential zones utility developments shall require a conditional use permit. (Ord. 1857 § 2 (Exh. B), 2018).~~

Commented [BJ3]: BJ_9-15-2022 – Washington State law requires that (a) cities provide sufficient land for public facilities, and (b) that capital plans and projects be consistent with the City's adopted comprehensive plan and zoning regulations even if they are provided by an outside public agency (school district, dike district, PUD, etc.). This provision give us the necessary leverage to compel outside agencies to engage in coordinated capital planning. If they don't we won't rezone land PFT and won't grant permits.

Chapter 17.95

SIGNS

Sections:

- 17.95.010 Title.
- 17.95.020 Application.
- 17.95.030 Purpose.
- 17.95.040 Authority.
- 17.95.050 General provisions.
- 17.95.060 Permit requirements.
- 17.95.070 Exceptions.
- 17.95.080 Review of signs/design standards.
- 17.95.090 Residential district sSign regulations, Residential zones.
- 17.95.100 Commercial, business, and industrial district sSign regulations, mixed use commercial and commercial-industrial zones.
- 17.95.105 Neighborhood business district sSign regulations, mixed use residential zones.
- 17.95.110 Areas zoned B-1 and C-1 and located in downtown on Fairhaven Avenue and Victoria Avenue sSign regulations, Downtown Growth Area.
- 17.95.112 Sign regulations, public facilities and transportation zones.
- 17.95.115 On-site traffic control and directories.
- 17.95.120 Electronic changing message sign requirements.
- 17.95.125 Permitted temporary or portable signs.
- 17.95.130 Off-premises signs.
- 17.95.135 Prohibited signs.
- 17.95.140 Variances.

17.95.010 Title.

This chapter shall be called “Signs.” (Ord. 1857 § 2 (Exh. B), 2018).

17.95.020 Application.

The provisions of this chapter shall apply to the construction, erection, installation, maintenance, alteration, expansion, or development of all signs, signage, and sign structures within the city of Burlington. (Ord. 1857 § 2 (Exh. B), 2018).

17.95.030 Purpose.

The purpose of this chapter is to establish standards for the regulation of signs, to assist businesses in contributing to the economic well-being of the community by increasing the overall effectiveness of visual communications, to provide a harmonious relationship of urban graphics and their settings, and to avoid the visual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities and the community’s appearance. (Ord. 1857 § 2 (Exh. B), 2018).

17.95.040 Authority.

This chapter is adopted pursuant to the provisions of chapters 35A.63, 36.70A, and 36.70B RCW and other applicable laws. (Ord. 1857 § 2 (Exh. B), 2018).

17.95.050 General provisions.

A. Conflicting Standards. All signs shall be subject to the provisions of this chapter, except where more specific standards for signs are specified for a special planning area, zone, or district. In such case the more specific standards shall apply.

B. Signs Subject to State Approval. All signs visible to the traveling public from state highways are subject to the regulations and permit requirements of the State Department of Transportation. Where the regulations of the state and city differ, the more restrictive regulations shall govern.

Commented [BJ1]: BJ_9-15-2022 – Revised for terminology consistent with the rest of the plan.

C. Building Code Compliance. All signs for which a building permit is required shall comply with the applicable provisions of the building code adopted by the city and codified in ~~BMC Title 15~~ Title 15 BMC.

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D. Address Display. The signing program for a multifamily, commercial or industrial development shall include the display of street numbers for the development on the sign, support structure, or building where it can be seen from adjacent roads, as specified in ~~BMC 15.10.080~~ Title 15 BMC.

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E. Sign Clearances. A minimum of eight feet above sidewalks and 15 feet above driveways shall be provided under freestanding or projecting signs.

F. Setbacks. Signs shall be situated in a manner so as not to adversely affect safety, corner vision, public rights-of-way, improvements or future improvements, easements, or other similar conditions.

G. Illuminated Signs.

1. Internally illuminated signs, or lights used to indirectly illuminate signs, shall be placed, shielded or deflected so as not to shine into residential dwelling units or structures or impair the vision of the driver of any vehicle.

2. No colored lights shall be used at any location or in any manner which may be confused with or construed to be traffic signals or control devices, or lights on an emergency vehicle.

3. No person shall construct, establish, create or maintain any stationary exterior lighting or illumination system or any interior system which is intended to be viewed from a public right-of-way used for vehicular traffic which system contains or utilizes:

- a. Any exposed incandescent lamp with a wattage in excess of 25 watts unless a dimmer or sun screen is attached;
- b. Any exposed incandescent lamp with an internal or external metallic reflector;
- c. Any continuous or sequential flashing operation.

4. All lighted signs shall have low or soft illumination or be shielded.

H. Moving Signs. No sign, sign structure, or portion thereof shall be designed to rotate, flutter, or appear to move, except as specifically provided in this code.

I. Maintenance. All signs, together with all of their supports, braces, guys, and anchors, shall be kept in good repair and be maintained in a safe condition. All signs and the sites upon which they are located shall be maintained in a neat, clean, and attractive condition. Signs shall be kept free from rust, corrosion, peeling paint, or other surface deterioration. The display surfaces of all signs shall be kept neatly painted or posted.

J. Nonconforming Signs. Legally established signs and sign structures which do not comply with the regulations and requirements in this chapter shall be subject to the provisions of ~~Chapter 17.100 BMC as a nonconforming use, except that alteration to a nonconforming sign which reduces or does not increase its noncompliance with the provisions of this chapter, including changes in display surface, sign area, height and setback, may be allowed subject to review under the provisions of BMC 17.95.080. (Ord. 1857 § 2 (Exh. B), 2018).~~

Commented [BJ2]: 9-15-2022 – cross reference no longer applicable. Simply cited the non-conforming standards section.

17.95.060 Permit requirements.

A. A permit shall be required to erect, re-erect, construct, reface, alter, expand, or relocate any sign or sign structure unless the type of sign is specifically ~~listed in the excepted exceptions section of the chapter~~ (pursuant to BMC 17.95.070).

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B. Applications for sign permits shall be submitted to the director upon forms provided by the city. Sign permit applications shall include:

1. ~~Two s~~Site (plot) plan drawn to scales showing the location of the affected site, lot, premises, building or buildings, and sign or signs, showing both existing signs and awnings and the proposed sign;
2. ~~Two copies of a s~~Scale drawing of the proposed sign or sign revision, including size, height, copy, structural and footing details, material specifications, methods of attachment, illumination, landscaping, front and end views of awning, sample of canvas, soil, seismic and wind calculations, photograph of site and building marked to show where sign or awning is proposed, and any other information required to ensure compliance with appropriate laws;
3. Written consent of the owner of the building, structure, or property where the sign is to be erected, if not the applicant;
4. A permit fee per current fee resolution;
5. A list identifying the size and type of each existing sign located on the building, lot, site, premises, or business establishment. (Ord. 1857 § 2 (Exh. B), 2018).

6. Any other information requested by the Director for purposes of demonstrating compliance with the Chapter or any other applicable regulatory requirements.

Commented [BJ3]: 9-15-2022 – revised for consistency with the way our completeness standards are listed in other code sections. Provides flexibility to get the information we need.

17.95.070 Exceptions.

The following shall not require a permit. These exceptions shall not be construed as an exemption from the other requirements of this chapter or other applicable laws and regulations.

A. Address signs are allowed without permit when the following conditions are met:

1. One sign allowed per street frontage displaying the street number and/or name of the occupant of the premises;
2. Such signs may be attached to the building or may be on a post no more than four feet high, and set back at least three feet from the public right-of-way;
3. Such signs may include identification of an on-premises professional office;
4. Such signs may not exceed two square feet in area;
5. Such signs shall be limited to a maximum letter height of eight inches.

B. Temporary signs as defined in subsection (B)(7) of this section are allowed without permit when the following conditions are met:

1. Only one sign is allowed for each street frontage of the property upon which the sign is located. Small directional signs may be placed at the end of the block where an occurrence requiring a sign is located with the property owner's permission.
2. Signs shall not exceed nine square feet in area and six feet in height; flags must not exceed 15 square feet in area.
3. Signs shall not be illuminated.
4. Signs must be set back a minimum distance of five feet from the frontage road and 10 feet from adjoining properties unless exceptions are made by the community development director or designee. Sign may not be placed on public street right-of-way or private property without an owner's permission. Directional signs may not be placed in any improved roadway. Portable signs must be placed in a way that does not unduly obstruct foot or vehicular traffic.
5. Temporary signs shall not be placed upon public utility poles.

6. Signs shall be placed or erected at the time of the occurrence requiring the use of the sign and removed within 48 hours of the end of the occurrence requiring use of the sign.

7. Temporary signs include signs intended to be or allowed to be displayed for a limited period of time. Excepted temporary signs do not include ongoing commercial signage or readerboards. Temporary signs typically include the following:

- a. Construction signs;
- b. Real estate signs;
- c. Directional signs;
- d. Flags;
- e. Garage sale signs;
- f. Public notification signs; and

g. Signs, banners, streamers and other similar apparatus used in conjunction with a community event. A "community event" is an event of a public nature sponsored by the city or a community club, chamber of commerce, or other community organization.

Temporary signs that do not meet the description and conditions set forth above may be allowed pursuant to a permit pursuant to the conditions and terms of BMC 17.95.125.

C. Political Signs. Political signs on private property where allowed by the property owner or upon properties that lawfully constitute a public forum. Such signs shall be removed within one week after the election for which the sign is posted. Signs shall not exceed 16 square feet in size as viewed from one direction unless placed on an approved off-site location with greater allowed size limitations. Such signs shall observe the corner vision requirements of this title, and shall not be situated in a manner which creates a hazard.

D. Incidental signs located on the premises may be displayed on any window or door. Incidental signs are permanent signs that include emblems, decals, nameplates and other similar signs indicating residence, affiliation or membership in organizations, acceptance of credit cards, brand names of items sold, and other such information which pertains to the use of the premises.

E. Temporary Window Signs. Posters and other signs of a temporary nature which advertise or inform the public of current prices or events may be displayed on the inside of any window or door of a business located in a commercial, business, or industrial district, covering a maximum of 20 percent of the window or door area.

F. Within a Building. Any sign which is located within a building and which is clearly intended to be visible primarily to people located within the building. (Ord. 1857 § 2 (Exh. B), 2018).

17.95.080 Review of signs/design standards.

The size, design, color, lighting, location and supporting structures of nonexempt signs shall comply with the following provisions, in addition to other applicable provisions of this chapter:

A. Legibility. All forms of sign copy shall be of a size, color, style, spacing, and shape to produce a legible, concise, and uncluttered message as viewed from adjacent public roads or from an internal circulation road or walkway towards which it is oriented.

B. Design. Signs shall be designed using shapes, graphics, colors, materials, and lighting which are coordinated, integrated into, and a natural extension of the design of the building, development or business identified. On-building signs shall be incorporated into the design of the building and shall not be placed in locations which interrupt, detract from or change the architectural lines of the building.

C. Coordination. In multi-tenant developments, every effort shall be made to coordinate the size, placement, and colors of signs to promote a pleasing image and avoid a confusing, cluttered appearance, while retaining individual business identity through the use of letter style, logos or symbols. An overall sign program addressing the requirements of this section shall be required for multi-tenant developments, and it shall be the responsibility of the owner/manager of the development to inform all tenants of the requirements of the approved sign program.

D. Sign Structure. When visible, the supporting structure of the sign shall be incorporated into the overall sign design, and shall be in scale with the sign. The sign structure, and any street numbers included on the sign structure, shall not be counted for purposes of determining sign area. (Ord. 1857 § 2 (Exh. B), 2018).

17.95.090 Residential district sSign regulations, residential zones.

Only those sign types listed below or identified as exceptions in BMC 17.95.070 shall be permitted in the RD or RA-R-1, R-2, and R-3 zones.

A. Residential Nameplate Signs.

1. Permitted sign types: building-mounted only.
2. Maximum sign area: two square feet.
3. Maximum number: one for each dwelling unit.
4. Location and setback requirements: may be mounted on a dwelling unit or accessory structure.
5. Permitted illumination: external illumination only.

B. ~~Home Occupation~~ Home Occupation and Non-Residential Uses Signs. The following standards shall apply to signs identifying home occupations or permitted non-residential uses.

1. Permitted sign types: interior, building-mounted, or freestanding.
2. Maximum sign area: six square feet (24 inches by 36 inches).
3. Maximum number: one sign.
4. Location and Setback Requirements. Home occupation signs must be located on the same lot as the dwelling unit housing the home occupation and:
 - a. Interior signs shall be located within the building housing the home occupation; and
 - b. Building-mounted signs shall be affixed to the building housing the home occupation; and
 - c. Freestanding signs shall be located within 10 feet of the building housing the home occupation. Freestanding signs shall be subject to a maximum height of four feet, six inches.
5. Permitted illumination: external illumination only.

Commented [BJ4]: 9-15-2022 – BJ _ revised for consistency with expanded list of permitted non-residential uses in residential zones previously adopted by PC and Council.

C. Signs Identifying ~~Multifamily Residential Developments or Subdivisions.~~

1. Permitted sign types: freestanding signs only.
2. Maximum sign height: five feet.
3. Maximum sign area: 30 square feet.
4. Maximum Number. One sign shall be allowed for each development or complex, even when more than one tax lot or ownership is included in the development, except as follows:

Commented [BJ5]: BJ – 9-15-2022 – terms

- a. When an additional sign is needed to provide identification of the development at major public access points located on two different roads; or
- b. When two single-faced signs oriented in two different directions are proposed in lieu of a two-sided identification sign.
- c. In business park developments, additional signage may be permitted to identify the residential portions of the development, as well as the commercial or industrial portions.

5. Location and Setback Requirements. Signs shall be situated in a manner so as not to adversely affect safety, corner vision, public rights-of-way improvements or future improvements, easements, or other similar conditions.

6. Permitted Illumination. ~~Internal or external illumination may be permitted only. Externally illuminated signs shall be subject to BMC 17.95.050(G).~~

D. Noncommercial Public Service Signs.

1. Permitted sign types: freestanding, building-mounted, and ~~readerboard~~ reader board.

2. Maximum sign height: see BMC 17.95.100(B).

3. Maximum Sign Area.

- a. Freestanding signs: 24 square feet per side.
- b. Building-mounted signs: see BMC 17.95.100(E).

4. Maximum Number.

- a. Freestanding signs: one freestanding sign on each premises.
- b. Building-Mounted Signs. Building-mounted signs shall be subject to the maximum area limits specified in BMC 17.95.100(E).

5. Permitted Illumination. ~~Internal or e~~External illumination may be permitted only.

~~Externally illuminated signs shall be subject to BMC 17.95.050(G), except that internally illuminated signs in residential zones shall be turned off between 10:00 p.m. and 6:00 a.m.~~

6. Special Standards. Reader board signs that are not electronic are allowed; provided, that the area of the reader board shall be included within the total allowable square footage for signage. (Ord. 1857 § 2 (Exh. B), 2018).

17.95.100 Commercial, business, and industrial district sSign regulations, mixed use commercial and commercial-industrial zones.

A. General. The following regulations and standards shall apply to all on-premises signs located in the ~~B-1, BP, C-1, C-2, and M-1~~MUC and CI zones; provided, that this section shall not apply to signs located within the ~~downtown special planning area~~Downtown Priority Development Area which shall be subject to the standards in BMC 17.95.110. Only those signs listed below shall be permitted.

B. Freestanding Signs, Individual on Premises. Individual businesses or uses that are not located in a multiple-tenant development may be identified by a single freestanding on-premises sign. The following regulations shall apply to all freestanding signs ~~located in the B-1, BP, C-1, C-2, and M-1 zones,~~ except for freestanding signs located within a multiple-tenant development which shall be subject to the requirements identified in subsections (C) and (D) of this section:

- 1. Maximum sign height: 25 feet, except that:

Commented [BJ6]: BJ – 9-15-2022 – revised to reflect revised zone names.

a. Freestanding on-premises signs located within 500 feet of an I-5 interchange which are associated with a use catering to freeway travelers such as a gas station, eating and drinking establishment, or hotel may have a maximum height of 50 feet; and

b. Freestanding on-premises signs located on lots with freeway frontage may be 45 feet in height.

2. Maximum sign area: 50 square feet as viewed from one direction, except that:

a. An additional 30 square feet may be permitted if the site is larger than one-half acre; and

b. An additional 30 square feet may be permitted if identification of more than one use within a development is included on the sign; and

c. An additional 30 square feet may be permitted if the sign uses natural materials (carved or sand-blasted wood, or marble or stone) and indirect illumination; and

d. An additional 30 square feet may be permitted for freestanding on-premises signs located within 500 feet of an I-5 interchange or on lots with freeway frontage when associated with a use catering to freeway travelers; and

e. Sign area may be increased by a maximum of 20 square feet for time and temperature only if a time and/or temperature display is incorporated in the design of the sign, as further regulated in BMC 17.95.120; and

f. For developments over 30 acres in size, an additional 30 square feet of sign area is allowed for each tenant larger than 10,000 square feet in size up to a maximum of 350 square feet.

3. Maximum number: one sign for each tenant or use.

4. Location and Setback Requirements.

a. All freestanding on-premises signs shall be located on the same site or premises as the tenant or use with which they are associated; and

b. All freestanding on-premises signs shall be located within a landscaped planter with protective curbs located at least three feet from all support elements; and

c. All freestanding on-premises signs ~~with a sign area greater than 50 square feet, or a sign height exceeding 25 feet,~~ shall be subject to a minimum property line setback of 10 feet. This setback shall be measured from the outer edge of the sign closest to the property line.

5. Permitted Illumination. Internal or external illumination may be permitted. Externally illuminated signs shall be subject to BMC 17.95.050(G).

C. Development Complex Signs, Primary. The following standards and regulations shall apply to all multiple-tenant developments and to freestanding signs located in a multiple-tenant development:

1. Maximum sign height: see subsection (B)(1) of this section.

2. Maximum sign area: see subsection (B)(2) of this section.

3. Maximum Number. One development complex sign shall be allowed for each multiple-tenant development, even when more than one tax lot or ownership is included in the development, except that:

a. Two additional signs may be used to identify a multiple-tenant development if the development has access points located at different major arterials; provided, that the additional signs shall be located at an arterial point; and further provided, that only one such sign shall be located at each access point; and

Commented [BJ7]: BJ – 9-15-2022 – confusing. It doesn't matter how big the sign is, to avoid blocking the vision of drivers and obscuring pedestrians it should be site back behind the required landscaping strip (10 feet).

b. Two single-faced signs oriented in opposite directions may be used in lieu of a single double-faced identification sign.

4. Location and Setback Requirements. Development complex signs shall be located within the multiple-tenant development with which they are associated and may only be used to advertise the development and the tenants and uses located within the development. Development complex signs shall be subject to a minimum property line setback of 10 feet.

5. Permitted Illumination. Internal or external illumination may be permitted. Externally illuminated signs shall be subject to BMC 17.95.050(G).

D. Development Complex Signs, Supplemental. A monument sign may be used to identify individual tenants within a multiple-tenant development which are not otherwise identified by a primary development complex sign subject to the following:

1. Permitted sign types: freestanding only.

2. Maximum sign height: six feet.

3. Maximum sign area: 36 square feet.

4. Maximum Number. Only one monument sign shall be allowed for each tenant or business.

5. Location and Setback Requirements.

a. Each sign shall be located in front of the tenant or business it identifies; and

b. Each sign shall be located within a landscaped area surrounded by curbing located at least three feet from the base of the sign unless the sign is located next to a sidewalk.

c. Each sign shall be located at least 50 feet from any primary development complex sign and 100 feet from any supplemental development complex sign.

d. Signs shall not be located within a radius of 20 feet of the corner of any two streets or the corner of a driveway and street.

6. Material and Design Requirements. Colors and materials shall be the same, or substantially the same, as those used on the building housing the tenant or business identified by the sign.

7. Permitted Illumination. Internal or external illumination may be used subject to the general illumination standards in BMC 17.95.050(G).

E. Building-Mounted Signs. Building-mounted signs identifying the use of space within the building on which the sign is mounted may be permitted subject to the following conditions:

1. Maximum Sign Area. The total combined area of all building-mounted signs on a building frontage shall be limited to two square feet for each linear foot of building frontage, except that if a tenant is not identified by any other sign 60 square feet may be permitted regardless of frontage length.

2. Permitted Illumination. Signs may be internally or externally illuminated subject to BMC 17.95.050(G).

F. Movie Theaters. The following additional provisions shall apply to on-premises signs advertising movie theaters:

1. Movie theaters with freeway frontage or located within 500 feet of a freeway interchange may have up to two freestanding signs provided one freestanding sign is located along an arterial and one sign is located along the freeway frontage. Signs permitted by this provision shall be limited to 100 square feet per sign face.

2. Readerboards may be incorporated into freestanding signs or building-mounted signs; provided, that no moving messages shall be permitted; and further provided, that the total area of any such sign does not exceed the maximum permitted sign area.

G. Permitted Temporary and Portable Signs. The following regulations shall apply to temporary and portable signs permitted pursuant to BMC 17.95.125:

1. No more than a combination of one portable sign and two banners shall be permitted for any business.
2. In addition to permanent signage, a business may also display one movable sign during business hours up to a maximum size of six square feet per sign face.
3. Signs shall be secured, anchored, weighted or staked to handle wind loads of 50 miles per hour.
4. In the retail core, signs shall be located behind the sidewalk on private property.
5. In downtown, signs shall be located within the area for outdoor display of goods, as provided in BMC 17.45.080(B)(2) of this section, or other approved location.
6. Well-maintained banners may be used for promotions if securely anchored.
7. Up to two well-maintained blade banners per street front may be used on private property and not extend over public right-of-way, if securely anchored.

H. Walking Advertisers. Persons carrying or wearing portable advertising signs or costumes designed to advertise a business, event, sale or season/holiday with a permit describing location, supervision and public safety. (Ord. 1857 § 2 (Exh. B), 2018).

17.95.105 ~~Neighborhood business district~~ **Sign regulations, mixed use residential zones.**

A. General. The following regulations and standards shall apply to all on-premises signs located in the ~~MR-NB and R-SMUR~~ zones. Only those signs listed below shall be permitted.

B. Permitted sign types: building-mounted or freestanding.

C. Maximum sign height: Freestanding signs shall be limited to a maximum height of five feet.

D. Maximum sign area: 20 square feet.

E. Maximum number: one sign for each building or premises.

F. Location and Setback Requirements. Freestanding signs shall be located in front of, and within 15 feet of, the building they are associated with.

G. Permitted Illumination. Internally illuminated signs are prohibited. Externally illuminated signs shall be subject to the general standards in BMC 17.95.050(G).

H. Permitted Temporary and Portable Signs. The following regulations shall apply to temporary and portable signs:

1. No more than a combination of one portable sign and two banners shall be permitted for any business.
2. In addition to permanent signage, a business may also display one movable sign during business hours up to a maximum size of six square feet per sign face.
3. Signs shall be secured, anchored, weighted or staked to handle wind loads of 50 miles per hour.
4. In the retail core, signs shall be located behind the sidewalk on private property.

Commented [BJ8]: BJ – 9-15-2022 – revised for updated zone names.

5. In ~~downtown~~the Downtown Priority Development Area, signs shall be located within the area for outdoor display of goods, as provided in BMC 17.45.080(B)(2), or other approved location.

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6. Well-maintained banners may be used for promotions if securely anchored.

7. Up to two well-maintained blade banners per street front may be used on private property and not extend over public right-of-way, if securely anchored.

I. Walking Advertisers. Persons carrying or wearing portable advertising signs or costumes designed to advertise a business, event, sale or season/holiday with a permit describing location, supervision and public safety. (Ord. 1857 § 2 (Exh. B), 2018).

17.95.110 ~~Areas zoned B-1 and C-1 and located in downtown on Fairhaven Avenue and Victoria Avenue~~ Sign regulations, Downtown Priority Development Area

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A. General. In addition to any other applicable standards or requirements identified in this chapter, signs located within the ~~downtown special planning areas~~Downtown Growth Area shall be ~~reviewed for conformance with the downtown design guidelines as adopted in the comprehensive plans~~subject to the following additional standards.

B. Permitted Sign Types. Each building or premises may have either a freestanding sign or a building-mounted sign. Building-mounted signs may be projected signs.

C. Maximum Sign Height. Maximum sign height shall be 25 feet.

D. Maximum Sign Area. Maximum sign area shall be 25 square feet.

E. Maximum Number. A single sign is permitted for each building or premises.

F. Special Standards. Building-mounted signs which project over a sidewalk or alley (within the right-of-way) shall have at least eight feet of vertical clearance from the sidewalk to the bottom of the sign, or 15 feet of clearance from an alley to the bottom of the sign. (Ord. 1857 § 2 (Exh. B), 2018).

17.95.110 Sign regulations, public facilities and transportation zones.

Commented [BJ9]: BJ – 9-15-2022 – created new list of allowable signs for PFT zones since these zones did not exist previously – used commercial zone regs as template. Note: applies only to public buildings and uses.

A. General. The following standards apply to signs located in the PFT zones.

B. Permitted Sign Types. Each building or premises may have both a freestanding sign and a building-mounted sign. Building-mounted signs may be projected signs or rooftop signs.

C. Maximum Sign Height. Maximum sign height shall be 25 feet, except for rooftop signs authorized by this section.

D. Maximum Sign Area. Maximum sign area shall be 25 square feet.

E. Maximum Number:

1. Building mounted signs: one sign for each building façade;

2. Freestanding signs: one sign for each street frontage abutting the premises;

F. Special Standards.

1. Building-mounted signs which project over a sidewalk or alley (within the right-of-way) shall have at least eight feet of vertical clearance from the sidewalk to the bottom of the sign, or 15 feet of clearance from an alley to the bottom of the sign.

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2. Rooftop signs shall only be permitted on gabled roofs and shall be located as close to the eave line as possible. Under no circumstances shall a rooftop sign, or any portion of a rooftop sign, extend above the peak of the roof it is attached to.

3. Prohibited signs:

a. Signs located in a street right-of-way and off premises signs except for traffic control signs, temporary construction signs, signs necessary for emergency management purposes, and signs installed under the provisions of the City's wayfinding signage program (BMC 17.95.130.D);

b. Signs owned, erected by, managed, maintained, or paid for by a private entity. Only public signs are permitted in the PFT zones.

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17.95.115 On-site traffic control and directories.

A. Traffic Control. Signs which direct the flow of traffic to, from and within the site area shall observe the corner vision requirements of the district and shall be a maximum of three square feet per side. See BMC 17.70.050 and 17.70.060.

B. Directories. An on-site sign oriented primarily towards vehicle circulation which identifies and directs traffic to a number of tenants, uses or buildings within the development, including informational signs, shall be limited in area to a maximum of two square feet per tenant, use or building specifically identified, up to a maximum of 40 square feet, and shall not exceed 12 feet in height. Directories oriented toward pedestrian circulation areas, including those attached to buildings, shall be a maximum of 24 square feet in area and eight feet in height.

C. Menu Boards. On-site menus oriented toward internal circulation drives shall not exceed a combined area of 40 square feet. (Ord. 1857 § 2 (Exh. B), 2018).

17.95.120 Electronic changing message sign requirements.

A. A time and temperature sign is permitted up to a maximum of 20 square feet in area for time and temperature only, in locations specified in BMC 17.95.100.

B. An LED gas price sign is permitted with digit heights of six, eight, 12, 15, 22 and 30 inches for gas prices only, in locations specified in BMC 17.95.100, to be included in maximum sign area.

C. Electronic message center signs and other changeable copy signs shall be incorporated into a permanent identification sign which is otherwise permitted by this chapter. Approval for electronic message center signs shall not be granted unless the following conditions are satisfied:

1. Only one electronic message center sign shall be used in a development;
2. The changeable copy sign or electronic message center shall be integrated into a non-electronic sign and the electronic portion of the sign shall not exceed:
 - a. Eighty square feet in sign area for signs 40 feet or less in height;
 - b. One hundred fifty square feet in sign area for signs over 40 and less than 50 feet in height;
 - c. Two hundred fifty square feet in sign area for signs 50 feet in height;
 - d. Sign pole width shall be a maximum of one-fourth of the sign width;

3. Electronic message centers and changeable copy signs may be used only to advertise activities conducted or goods and services available on the property on which the sign is located, or to present public service information;

4. Electronic message center signs are only permitted for a multiple-tenant development complex, ~~a group of businesses, or an individual business;~~

5. Location shall be in the Westside Special Development Area, within 100 feet of the Interstate 5 right-of-way and the sign shall be oriented to Interstate 5, separated along each side of I-5 by 1,500 feet;

Commented [BJ10]: BJ – 9-15-2022 – eliminated contradictory language. Intent was for these to be shared in a multi-tenant development.

Commented [BJ11]: BJ – 9-15-2022 – consistent with comp plan policie limiting these types of signs to the westside freeway sales area on the west side of I-5

6. The display shall comply with WAC 468-66-050 as summarized and amended here: Electronic signs may be used only as on-premises signs and/or to present public service information as follows:

- a. Advertising messages on electronic signboards may contain words, phrases, sentences, symbols, trademarks, and logos. A single message or a message segment must have a static display time of at least two seconds after moving onto the signboard, with all segments of the total message to be displayed within 10 seconds. A one-segment message may remain static on the signboard with no duration limit.
- b. Displays must appear as a picture that holds in a static position for a minimum of four seconds.
- c. Displays shall not appear to flash, undulate, or pulse, or portray explosions, fireworks, flashes of light, or blinking or chasing lights. Displays shall not appear to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist, or otherwise portray graphics or animation as it moves onto, is displayed on, or leaves the signboard.
- d. No electronic sign lamp may be illuminated to a degree of brightness that is greater than necessary for adequate visibility. In no case may the brightness exceed 8,000 nits or equivalent candelas during daylight hours, or 1,000 nits or equivalent candelas between dusk and dawn. Signs shall be programmed to automatically adjust illumination for all times of day and night.

D. No other signs or illuminating devices shall have blinking, flashing, or fluttering lights. (Ord. 1857 § 2 (Exh. B), 2018).

17.95.125 Permitted temporary or portable signs.

The following regulations shall apply to all temporary or portable signs not exempt under BMC 17.95.070:

A. Special Events Sign Permit. Temporary signs, banners, lights, streamers, inflatables, balloons, and other similar apparatus used in conjunction with a special event may be used after obtaining a special event permit subject to the following conditions:

1. Time Period and Duration. The display of apparatus specified shall not exceed a total time period of four weeks in any calendar year; provided, that temporary displays for outdoor sales of vehicles that are maintained in good repair may be used as desired except in the retail core.
2. Hazards. No sign, light, electric cord, streamer, banner, or other apparatus shall be situated or used in a manner which creates a hazard.

B. Temporary Portable Identification Signs. One portable identification sign may be used to temporarily identify a new business until permanent identification signs are installed, or to identify an existing business while permanent signs are being repaired or replaced, under the following conditions and limitations:

1. Maximum Size. No portable identification sign shall exceed 24 square feet in area.
2. Setbacks. Portable signs shall observe corner vision requirements, and shall in no case be placed in the public right-of-way.
3. Anchoring. All signs shall be physically anchored to the premises in a manner which both prevents the sign from being moved or blown from its approved location, and allows the prompt removal of the sign.
4. Illuminated Signs. No portable identification sign shall have flashing lights or arrows or any other apparatus which may be construed to be a traffic control device. All illuminated signs requiring an outside power source shall use a state-approved power outlet.
5. Hazards. No portable sign or associated apparatus shall be situated or used in a manner which creates a hazard. The city retains the right to remove a portable sign that, in the judgment of the city officials, may create a hazardous situation.

C. Walking Advertisers. Persons carrying or wearing portable advertising signs or costumes designed to advertise a business, event, sale or season/holiday with a permit describing location, supervision and public safety. (Ord. 1857 § 2 (Exh. B), 2018).

17.95.130 Off-premises signs.

Off-premises signs shall not be allowed except as herein provided:

A. Billboards (Outdoor Advertising Structures). New billboards shall not be allowed in any zoning district. ~~Billboards may be allowed to relocate from one location within the city to another. Such relocated billboards shall not be allowed in any zoning district except the general commercial, heavy commercial and industrial districts.~~

Commented [BJ12]: BJ – 9-15-2022 – not sure about the origins of this, but we clearly do not want to allow the small number of existing billboards to be relocated.

B. Political Signs. Signs which support or oppose ballot measures, persons running for political office, and other issues subject to a vote by the public may be allowed subject to the following conditions:

1. Approval of the owner of the property on which the sign is to be placed;
2. Location. Such signs shall not be posted in state, county or city rights-of-way, on telephone poles, traffic signs, or other public apparatus. Such signs shall observe the corner vision requirements of this title, and shall not be situated in a manner which creates a hazard;
3. Size. Signs shall not exceed 16 square feet in size as viewed from one direction;
4. Time Limit. Such signs shall not be posted more than four months before the affected election, and shall be removed within one week after the election for which the sign is posted.

C. Temporary Directional Signs. The intent of this provision is to allow the infrequent, and not the regular, use of signs of a temporary nature. Off-premises directional signs of a temporary nature such as those used to direct persons to open houses, garage sales, or special events of short (two days') duration may be allowed subject to the following conditions:

1. Any such sign which is visible from a state highway shall be subject to approval by the State Department of Transportation.
2. All such signs shall comply with subsections (B)(1) through (3) of this section.
3. Time Limit. All such signs shall be removed at the end of the day on which the event, open house or garage sale is conducted and shall not be used repeatedly, contrary to the stated intent.
4. The city shall have the authority to immediately remove and dispose of any such sign found to be in violation of this subsection.

D. ~~Permanent Off Premises Directional Signs~~ Wayfinding Signage Program. The intent of this provision is to ~~provide~~ establish a city managed wayfinding sign program that provides directional and locational information to the general public about places of general interest, such as tourist information services, school or public recreational facilities, shopping malls, restaurants, lodging, business directories designed to be compatible with the city's urban wayfinding program, central business or other special districts, historic sites, and regional developments; or to provide information of a general community nature, such as those found at city entrance locations identifying the city and historic dates, or listing local service clubs and organizations or to provide business identification for sites located on a dead-end street. Such signs may be allowed, subject to the following:

Commented [BJ13]: BJ – 9-15-2022 – provided additional clarity that these are city owned and managed signs – not private off-site advertising.

1. Only signs located in a public right-of-way and installed and maintained by the City of Burlington shall be permitted under this section (BMC 17.95.130.D).

2. In order to reduce visual clutter and maximize the benefits of the wayfinding program, signs identifying individual points of interest shall be consolidated whenever possible and all signs shall be consistent with the City's adopted wayfinding signage program.

~~3. Any such signs which is visible from, or located in the right-of-way of, a state highway shall be subject to approval by the community development director or designee of transportation. Washington State Department of Transportation.~~

~~2. Approval of the owner of the property on which the sign is to be placed.~~

~~43. Location. The location of wayfinding signs shall be approved by the City Engineer. Signs. Any such sign shall not be placed where it may cause a hazard, or obstruct the vision of any driver.~~

~~4. Size. Signs identifying individual points of interest shall be no larger than necessary to clearly inform or direct the public and shall be consistent. City identification/community service club type signs shall be reviewed and approved by the planning commission. Business identification directional signs on dead-end streets and business directories shall be designed to be generally compatible with the city's urban wayfinding signage program, and the design shall be reviewed and approved by the planning commission.~~

5. Illumination. May be indirectly illuminated.

6. Design. All such signs shall be designed using materials, colors, lettering and other graphics which shall be established by planning commission consistent with the City's adopted wayfinding signage program. (Ord. 1857 § 2 (Exh. B), 2018).

17.95.135 Prohibited signs.

A. Prohibited signs are subject to removal by the city at the owner's or user's expense. Prohibited signs on public property may be summarily removed by the city. Prohibited signs on private property shall be subject to code enforcement action for removal pursuant to this section.

B. The following signs or displays are prohibited in all zones within the city, whether located on public or private property, except those expressly permitted as temporary signs in BMC 17.95.125:

1. Abandoned or obsolete signs;
2. Animated or moving signs;
3. Dilapidated, nonmaintained signs;
4. Flashing signs and strobe lights, holographic displays;
5. Inflatable advertising devices;
6. Mylar balloons;
7. Obstructing signs which obstruct or interfere with free access to or egress from a required exit from a building or structure, or do not meet corner vision requirements;
8. Off-premises signs except those expressly allowed in this chapter;
9. Pennants, streamers, ribbons, spinners, whirlers, propellers, festoons, blinking lights, or similar items that attract attention through movement, reflection or illumination;
10. Portable signs include any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building. Examples of portable signs include but are not limited to wire stake signs, A-frame, sandwich board signs and portable readerboard signs. See BMC 17.95.125(B) for exceptions;
11. Persons carrying or wearing portable advertising signs or costumes designed to advertise a business. See BMC 17.95.125(C) for exceptions;
12. Signs mounted on the tops of roofs, projecting above parapet walls, are prohibited, except those explicitly authorized by this Chapter. (Ord. 1857 § 2 (Exh. B), 2018).

17.95.140 Variances.

Relief from or modifications of the size limits of signs regulated by this chapter require a zoning variance as provided in BMC 14A.05.150. (Ord. 1857

Chapter 17.100

NONCONFORMING STRUCTURES, LOTS AND USES

Commented [BJ1]: BJ – 9-15-2022 – General Note: this section has always been full of contradictory language and confusing requirements –we have attempted to rewrite it for clarity.

Sections:

- 17.100.010 Title.
- 17.100.020 Application.
- 17.100.030 Purpose.
- 17.100.040 Authority.
- 17.100.050 Continuance of nonconforming structures and uses.
- 17.100.060 Nonconforming lots.
- 17.100.070 Nonconforming uses.
- 17.100.080 Nonconforming structures and developments.
- 17.100.090 Abatement of nonconforming structures and uses.
- 17.100.100 Amortization and abatement of nonconforming signs.

17.100.010 Title.

This chapter shall be called “Nonconforming Structures, Lots and Uses.” (Ord. 1857 § 2 (Exh. B), 2018).

17.100.020 Application.

This chapter shall apply to buildings, structures, lots, developments, and uses which become nonconforming as a result of the application of this title to them, or from classification or reclassification of the property under this title, or any subsequent amendments thereto. This chapter must be read along with chapter 14.15 BMC, Critical Area Regulations, and the more restrictive requirements shall apply. (Ord. 1857 § 2 (Exh. B), 2018).

17.100.030 Purpose.

Over time the adoption and amendment of regulations has resulted in lots, uses, structures, and developments which were lawful when established but would be prohibited or restricted by the regulations currently in effect. The purpose of this chapter is to permit the continuation and maintenance of nonconforming lots, uses, structures, and developments, but generally prohibit their expansion, modification, or reconstruction except in limited circumstances. (Ord. 1857 § 2 (Exh. B), 2018).

17.100.040 Authority.

This chapter is adopted pursuant to the authority set forth in chapters 35A.63, 36.70A, 36.70B, and 36.70C RCW and other applicable laws. (Ord. 1857 § 2 (Exh. B), 2018).

17.100.050 Continuance of nonconforming structures and uses. General.

This chapter shall apply to all nonconforming structures, lots, and uses except as follows:

A. Hazardous Material Storage. Nothing in this Chapter shall be construed as allowing the expansion of any nonconforming hazardous material storage.

B. Flood Hazards. The provisions of this chapter (17.100 BMC) shall not apply to structures or developments that are nonconforming with respect to the floodplain management regulations in Title BMC. Such structures and developments shall be subject to the substantial damage and substantial improvement provisions of Title 14 BMC.

C. Permit Conditions. Nothing in this Chapter shall be construed to waive or modify conditions of approval attached to development permit.

E. Uniform Codes. Nothing in this chapter shall be construed as an exemption from compliance with Title 15 BMC or the uniform codes adopted under Title 15 BMC.

~~Any legally existing nonconforming structure or use may be continued and maintained in conformance with provisions of this chapter, provided no enlargement of area, space or volume occupied by the nonconforming use occurs. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.100.060 Nonconforming lots.

A. If any parcel of land with a minimum lot size or lot dimension which is less than that prescribed by the ~~district zone~~ in which such parcel is located was subdivided into lots according to a plat of record on or before the effective date of this title, or any subsequent amendments to this title, then the fact that the parcel of land does not meet the minimum lot size or lot dimension requirements as set forth in this title shall not prohibit the property from being utilized; provided, that all other regulations prescribed for that district by this title are complied with, except as provided for in chapter 17.70 BMC.

B. Adjacent undeveloped lots in common ownership which do not meet current requirements for area or dimension shall be considered a single combined lot of record if the combination would have the effect of remedying or minimizing the extent of the nonconformity. (Ord. 1857 § 2 (Exh. B), 2018).

17.100.070 Nonconforming uses.

~~Changes of use, tenancy, ownership or management may occur to any existing legally established and continued nonconforming use under one or more of the following circumstances: Legally established nonconforming uses may be maintained and repaired, and changes of tenancy or ownership may occur except as follows:~~

A. If a nonconforming use is discontinued for more than 180 days any subsequent use or development of the property or building shall fully comply with all applicable zoning and development regulations.

B. Nonconforming uses shall not be intensified or enlarged.

C. Nonconforming uses shall not be expanded or extended to occupy a greater area of land, and shall not be moved or relocated to occupy a different area of land unless the expansion or relocation fully complies with all applicable zoning and development regulations.

~~A. Any part of a structure occupied by an existing legally established and continued nonconforming use may be changed to a use which, in the opinion of the community development director or designee, is of the same or of a more restrictive nature. When the use of a nonconforming structure is hereafter changed to a more restrictive use, the structure shall not thereafter be used for a less restrictive use.~~

~~B. There may be a change of tenancy, ownership or management of any existing legally established and continued nonconforming use provided there is no change in the nature, character or occupancy classification of such nonconforming use except as authorized within this chapter.~~

~~C. Structures or lands which are nonconforming as to use regulations shall not be enlarged or intensified in any manner unless the enlargement within such structures or lands conforms to all regulations of the district in which it is located. A nonconforming use, within a nonconforming structure, shall not expand into any portion of the nonconforming structure.~~

~~D. This subsection also does not allow the expansion of any nonconforming hazardous material storage. (Ord. 1857-§ 2 (Exh. B), 2018).~~

17.100.080 Nonconforming structures and developments.

~~A. Maintenance and Repairs. Ordinary maintenance of a nonconforming structures, which includes minor interior and exterior repairs and incidental alterations is permitted. Minor maintenance and repair may include but is not limited to painting, roof repair and replacement, plumbing, wiring, mechanical equipment replacement, and weatherization. Incidental alterations may include construction of nonbearing walls or partitions.~~

~~B. Alterations and Expansions. No structural alterations, as defined by the International Building Code, shall be made except as required by law or ordinance; provided, that the cost of such work shall not exceed 50 percent of the assessed valuation of such structure as established by the most current Skagit County assessor's tax roll. Nonconforming structures may be enlarged or altered under the following circumstances: -~~

~~1. The alteration or expansion does increase the degree of nonconformity; or~~

~~2. The alteration or expansion is required by law; or~~

~~3. The alteration involves structural changes necessary to adapt a nonconforming structure to new technologies or equipment and the alteration does not increase the floor area of the structure;~~

~~4. When a nonconforming structure is altered or expanded, the alteration or expansion shall, to the maximum extent possible, comply with all applicable zoning and development regulations.~~

~~C. Damage and Replacement. A nonconforming structure having been damaged or partially destroyed to an extent not exceeding 50 percent of the assessed valuation of such structure as established by the most current Skagit County assessor's tax roll may be restored to its original condition, as authorized by the city's building official, and its immediately preceding or existing use at the time of partial destruction may be continued or resumed. Restoration shall begin within one year and be completed within two years of the date of partial destruction. If restoration is not started within one year, then the reuse and occupancy of the structure shall conform to all the regulations of the district zone in which the use structure is located.~~

~~D. Structures and developments which are nonconforming as to percentage of site coverage, setbacks, building height or density shall not be enlarged unless such enlargement conforms to the regulations of the district in which it is located.~~

~~E. Nonconforming residential structures are allowed to provide maintenance, alterations and additions which may exceed the requirements of this chapter; provided the total number of dwelling units does not increase and all other development standards of the district are complied with.~~

~~F. This chapter shall not prevent the following provided the total value of the improvements, over the lifetime of the nonconforming use, does not exceed 50 percent of the assessed value of the nonconforming use as established by the most current Skagit County assessor's tax roll; and the nonconforming use or structure is not expanded except as allowed by subsection (D) of this section; provided further, that any replacement of a nonconforming structure, or parts thereof, must comply with the appropriate development standards unless a variance is granted pursuant to this title;~~

~~1. Strengthening or restoring to a safe condition any nonconforming structure or part thereof which is declared to be unsafe or a hazard to the public by the order of a city official charged with protecting the public safety;~~

~~2. Lessening a hazardous situation, nuisance or other adverse environmental impact;~~

~~3. Bringing the structure or use into more conformance with this title;~~

~~4. Adapting the structure to new technologies or equipment;~~

~~5. Improvements which do not increase the intensity of the nonconforming use.~~

~~G. This subsection does not allow the expansion of a use or structure which would be inconsistent with a previously authorized conditional use permit, special property use permit, contract rezone, or binding agreement between the city and the property owner.~~

H. When a building or structure is moved to another location it must then be made to conform to the requirements of the district zone to which it is moved, unless specifically allowed elsewhere by this title.

~~I. This section also does not allow the expansion of any nonconforming hazardous material storage. (Ord. 1857 § 2 (Exh. B), 2018).~~

~~17.100.090~~ Abatement of nonconforming structures and uses.

~~Nonconforming structures and uses shall be abated if one or more of the following circumstances exist:~~

~~A. If a nonconforming use is discontinued and changed to a conforming use, any future use of the structure or land shall be in conformity to the regulations of the district in which structure or land is located.~~

~~B. Any structure or portion of a nonresidential structure, or parcel of land occupied by a nonconforming use which becomes vacant and remains unoccupied for a continuous period of 180 days shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located. Residential uses in commercial or industrial zones which are unoccupied for more than 180 days may be allowed to reoccupy if a variance is issued pursuant to this title.~~

~~C. If a nonconforming structure sustains damage or destruction which exceeds 50 percent of the current assessed valuation of the structure as established by the Skagit County assessor's office, reconstruction of such damaged structure or reuse of occupancy shall conform to all regulations of the district in which it is located and it shall be treated as a new building. This subsection shall not apply to single family dwellings. (Ord. 1857 § 2 (Exh. B), 2018).~~

17.100.100 Amortization and abatement of nonconforming signs.

Legally established non-conforming signs shall be subject to the following:

A. Off-Premises Signs. All off-premises advertising and directional signs that do not comply with the requirements of Chapter 17.95 BMC shall be given an amortization period of ~~six~~ 180 days ~~months~~ that commences upon notification of the sign owner and/or property owner. Following such notification, the nonconforming sign shall be abated within ~~six months~~ 180 days. (Ord. 1857 § 2 (Exh. B), 2018).

B. On-Premises Signs. On-premises signs that do not fully comply with the requirements Chapter 17.95 BMC shall be brought into compliance with Chapter 17.95 BMC if removed or modified, except for alternations limited to changing the display surface. On-premises signs that do not fully comply with the requirements of Chapter 17.95 BMC shall be brought into compliance with Chapter 17.95 if the use with which the sign is associated is discontinued for a period of 180 days or more.

Chapter 17.105

ESSENTIAL PUBLIC FACILITIES

Sections:

17.105.010	Title.
17.105.020	Application.
17.105.030	Purpose.
17.105.040	Authority.
17.105.050	Procedure.
17.105.060	Applications for EPF projects.
17.105.070	CUP-EPF review criteria.
17.105.080	Building permit application.
17.105.090	Special provisions for secure community transition facilities (SCTFs).
17.105.100	Processing timelines.
17.105.105	CUP city council authority – Final decision.

17.105.010 Title.

This chapter shall be called “Essential Public Facilities.” (Ord. 1857 § 2 (Exh. B), 2018).

17.105.020 Application.

A. This chapter establishes the criteria that the city shall use in making a decision upon an application for an essential public facility (EPF). The community development director or designee shall develop a list of essential public facilities at the time of a request for conditional use permit by an applicant. These facilities shall meet the definition of essential public facilities under ~~BMC 17.01.050~~ **Chapter 17.01 BMC** and the list shall be part of the record for the application.

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B. This chapter shall serve to establish the process for permitting those uses determined to be EPFs and which satisfy the criteria set forth under BMC 17.105.070. The director shall determine whether a proposed facility shall be reviewed as an EPF and subject to this review process. (Ord. 1857 § 2 (Exh. B), 2018).

17.105.030 Purpose.

A. The purpose of this chapter is to establish a siting process for essential public facilities (EPFs). This process involves the community and is intended to assist in the identification and minimization of adverse impacts.

B. Essential public facilities are defined in BMC 17.01.050. EPFs include, but are not limited to, those facilities which are difficult to site, such as airports, state educational facilities, state and regional transportation facilities, state and local correctional facilities, solid waste handling facilities and in-patient facilities (including substance abuse and mental health facilities). The Growth Management Act mandates that no local development regulation may preclude the siting of essential public facilities. Secure community transition facilities as defined in BMC 17.01.050 are also included.

C. Nothing in this chapter shall be deemed to waive the city’s rights to assert lead agency status to conduct environmental review under Washington State’s Environmental Policy Act pursuant to chapter 43.21C RCW and chapter 197-11 WAC as now and hereafter amended. (Ord. 1857 § 2 (Exh. B), 2018).

17.105.040 Authority.

This chapter is adopted pursuant to the authority set forth in chapter 36.70A RCW and other applicable laws and regulations. (Ord. 1857 § 2 (Exh. B), 2018).

17.105.050 Procedure.

Applications that seek approval for an EPF as defined by BMC 17.01.050 and listed under BMC 17.105.020 shall follow the procedures established in ~~Chapter 14A.05 BMC~~ for a Type IV EPF conditional use permit process. In addition to the decision criteria described in BMC 17.105.070, secure community transition facilities as defined in BMC 17.01.050 shall also be consistent with the decision criteria described in BMC 17.105.090. (Ord. 1857 § 2 (Exh. B), 2018).

17.105.060 Applications for EPF projects.

All proposed projects determined to be EPFs shall be reviewed and conditioned in accordance with all requirements of the Burlington Municipal Code including the conditional use permit procedure, set forth in this chapter and referred to as the CUP-EPF review procedure. All EPF applications shall contain the following information:

- A. A detailed written description of the proposed and potential public services to be provided, including a proposed site plan, the proposed service area of the facility, the source or sources of funding, and identification of any applicable public regulatory agencies or regional state or federal project agency sponsors and the federal or state authority which the agency has been granted for siting decision making; and
- B. A written statement of the need, in statistical or narrative form, for the proposed project currently and over the following 10-year period; and
- C. An inventory of known, existing or proposed facilities, by name and address, within Skagit County, or within the region, serving the same or similar needs as the proposed project; and
- D. An explanation of the need and suitability for the proposed facility in the proposed city location(s); and
- E. An assessment of the suitability of the proposed location in the city or another jurisdiction in terms of local, county, regional and/or state needs in order to minimize public costs (where appropriate) and environmental impacts, to discern the suitability of the facility's location in the city or within another jurisdiction, to determine the number of jurisdictions affected or served by the proposed EPF, and to decide what, if any, inter-jurisdictional approach is most appropriate or available; and
- F. An analysis of the environmental, social, economic, financial and infrastructure impacts of the proposed EPF, including an assessment of the proportionate financial impacts on affected jurisdictions, consideration copies of agreements which allocate the financial burdens of the proposed project on the city and other jurisdictions, and the approximate area within which the proposed project could potentially have adverse impacts, such as increased traffic, public safety risks, noise, glare, emissions, or other environmental impacts; and
- G. An analysis of the proposal's consistency with the city's comprehensive plan and development regulations, and plans and policies of other affected jurisdictions, including but not limited to Skagit County countywide planning policies; and
- H. Documentation of public involvement efforts to date, including public and agency comments received, and plans for future public participation; and
- I. All application materials required by other chapters of the Burlington Municipal Code for components of the project not covered by this chapter; such as platting requirements, critical area code compliance, traffic concurrency, comprehensive plan and zoning, etc., so that code compliance for all components of the project can be reviewed together; and
- J. Such information as requested by the community development director or designee as determined necessary to complete the preliminary analysis or to otherwise assist the community development director or designee in making recommendation(s) and the city council in making the final determination on the CUP-EPF. (Ord. 1857 § 2 (Exh. B), 2018).

17.105.070 CUP-EPF review criteria.

A. Essential public facilities shall be subject to classification and identification as follows:

- 1. Type One – Regional EPFs. These are major essential public facilities that provide public services to more than one county and where the provider has statutory authority to site and construct the facility and where a regional, intergovernmental siting process has been followed. These facilities may include, but are not limited to, regional transportation facilities, such as regional airports, state correction facilities, and state educational facilities.
- 2. Type Two – Local EPFs. These are local or interlocal facilities serving residents or property serving Skagit County. A "local EPF" means an essential public facility that is not a regional EPF.

3. To enable the city to determine the project's classification, any public or private entity proposing to site an EPF in the city shall provide the application materials set forth in BMC 17.105.060 to the community development director or designee once it is known that the EPF is likely or required to be built.

4. The community development director or designee shall review the application for an EPF upon receipt and determine whether the proposed project shall be identified as an EPP and if so whether the EPF shall be classified as a regional EPF or local EPF. A determination shall be made within 45 days following the director's written notice to the applicant of receipt of sufficient material and information set forth in BMC 17.105.060. The community development director or designee shall provide notice of determination to the applicant and publish notice of the determination in a newspaper of general circulation within Skagit County.

5. The community development director's or designee's determination shall be an administrative determination subject to appeal and procedures established in [Title 14A BMC-BMC-14A.05.060\(A\)](#).

B. Notification and involvement of community and jurisdictions for EPFs shall be as follows:

1. **Type One Facilities.** In addition to such other notice as may be required by law before the siting decision, and at least 90 days before submitting an application for a type one essential public facility, the prospective applicant shall notify the affected public and jurisdictions of the general type and nature of the proposal, identify sites under consideration for accommodating the proposed facility, and identify opportunities to comment on the proposal. Applications for specific projects shall not be considered complete in the absence of proof of a published notice and notice to the city regarding the proposed project. Published notice shall be in a newspaper of general circulation in the affected area. This notice shall include the information described above and shall be published at least 90 days prior to the submission of the application. It is expected that an environmental impact statement may be required for most type one facilities in accordance with the SEPA environmental review process. Nothing from this chapter will preclude the city from consulting with the Skagit County council of governments which may provide the project sponsor and affected jurisdictions with their comments or recommendations regarding alternative project locations during this process. The purpose of this provision is to enable potentially affected jurisdictions and the public to collectively review and comment on alternative sites for major facilities before the project sponsor has made their siting decision.

2. **Type Two Facilities.** Type two essential public facilities shall be required to provide a notice of application as required by BMC Title 14A in addition to any standard notification requirements for conditional uses.

C. Conditional Use Permit Required.

1. An EPF shall be a conditional use in all zones. In the event of a conflict with any other provision within the Burlington Municipal Code, the provisions of this chapter shall govern.

2. In addition to the conditional use permit, other development review permits might be necessary depending upon the site that is selected. For example, a plat or critical area mitigation could be necessary.

3. An EPF application and approval process shall satisfy the requirements of this chapter and the procedures established in BMC Title 14A for a conditional use permit.

4. In addition to the conditional use permit application fee, an additional cost reimbursement agreement with the applicant may be required for additional costs, including but not limited to costs for independent consultant review set forth in subsection (D) of this section, associated with review of an EPF application under the criteria established in this chapter.

D. Independent Consultant Review.

1. The community development director or designee may require independent consultant review of the proposal to assess its compliance with the decision criteria contained in this chapter.

2. If independent consultant review is required, the applicant shall deposit funds or other security in an amount and in a form acceptable to the community development director or designee to defray the cost of such review.

Unexpended funds will be returned to the applicant following the final decision on the application without interest.

E. Decision Criteria for Type One Facilities – Regional Essential Public Facilities. ~~City council~~ Conditional use permit applications for Type I EPFs may be ~~approved~~ or approved with conditions, a conditional use permit for a type one EPF in accordance with the following criteria:

1. The sponsor has provided a meaningful opportunity for public participation in the siting decision and development of mitigation measures that is appropriate in light of the project's scope, applicable requirements of the county code, and state or federal law;
2. The proposal complies with applicable requirements of BMC Title 14A and all other applicable provisions of the city code except BMC 14A.05.140;
3. The proposal shall be consistent with the comprehensive plan and types of uses of the underlying zoning of the proposed site including being consistent with the environmental impacts of the underlying zoning permitted uses;
4. The project site meets the facility's minimum physical site requirements, including projected expansion needs. Site requirements shall be determined by the minimum size of the facility, setbacks, access, support facilities, topography, geology, and on-site mitigation needs;
5. The proposal, as conditioned, adequately mitigates significant adverse impacts to life, limb, property, the environment, public health and safety, transportation systems, economic development and other identified impacts;
6. The proposal, as conditioned, adequately mitigates for any probable significant adverse impact on critical areas or resource lands, except for lineal facilities, such as highways, where no feasible alternative exists;
7. The proposal incorporates specific features to ensure it responds appropriately to the existing or planned character, appearance, quality of development, and physical characteristics of the site and surrounding property; and
8. The project sponsor has proposed mitigation measures that are consistent with the Uniform Relocation Assistance Act, chapter 8.26 RCW, chapter 486-100 WAC, as now exists or is hereafter amended when otherwise required by law.

F. Decision Criteria for Type Two Facilities – Local Essential Public Facilities. ~~City council may approve, or condition its approval, of a conditional use permit for a local EPF~~ Conditional use permits for Type II EPFs shall only be approved only when the proposal meets all of the following criteria:

1. The proposal shall be consistent with the comprehensive plan and types of uses of the underlying zoning of the proposed site including being consistent with the environmental impacts of the underlying zoning permitted uses;
2. The project applicant has demonstrated a need for the project, as supported by an analysis of the projected service population, an inventory of existing and planned comparable facilities, and the projected demand for the type of facility proposed;
3. If applicable, the project would serve a significant share of the city's population, and the proposed site will reasonably serve the project's overall service population;
4. The applicant has reasonably investigated alternative sites, as evidenced by a detailed explanation of site selection methodology;
5. The project is consistent with the applicant's own long-range plans for facilities and operations;
6. The project has fewer impacts in the particular geographic area in contrast with other available locations;

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7. The applicant has provided a meaningful opportunity for public participation in the siting decision and development of mitigation measures that is appropriate in light of the project's scope, applicable requirements of the city code, and state or federal law;
8. The proposal complies with applicable requirements of all other applicable provisions of the city code;
9. The project site meets the facility's minimum physical site requirements, including projected expansion needs. Site requirements shall be determined by the minimum size of the facility, setbacks, access, support facilities, topography, geology, and on-site mitigation needs;
10. The proposal, as conditioned, adequately mitigates significant adverse impacts to life, limb, property, the environment, public health and safety, transportation systems, economic development and other identified impacts;
11. The proposal shall not have any probable significant adverse impact on critical areas or resource lands, except for lineal facilities, such as highways, where no feasible alternative exists;
12. The proposal incorporates specific features to ensure it responds appropriately to the existing or planned character, appearance, quality of development, and physical characteristics of the site and surrounding property;
13. Major public facilities which generate substantial traffic should be sited near major transportation corridors;
14. The project sponsor has proposed mitigation measures that are consistent with the Uniform Relocation Assistance Act, chapter 8.26 RCW, chapter 486-100 WAC, as now exists or is hereafter amended when otherwise required by law;
15. The proposal will not be materially detrimental to uses or property in the immediate vicinity;
16. The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property; and
17. Parity exists with the uses permitted in the same general area in their freedom from nuisance-generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters. (Ord. 1857 § 2 (Exh. B), 2018).

17.105.080 Building permit application.

A. Any building permit for an EPF approved under this chapter shall comply with all conditions of approval in the conditional use permit. In the event a building permit for an EPF is denied, the community development director or designee shall submit in writing the reasons for denial to the project sponsor.

B. No construction permits may be applied for prior to approval of a conditional use permit for an EPF unless the applicant signs a written release acknowledging that such approval is neither guaranteed nor implied by the community development director or designee's acceptance of the construction permit applications. The applicant shall expressly hold the city harmless and accept all financial risk associated with preparing and submitting construction plans before a final decision is made under this chapter. (Ord. 1857 § 2 (Exh. B), 2018).

17.105.090 Special provisions for secure community transition facilities (SCTFs).

A. The purpose and intent of this section is to establish standards for secure community transition facilities (SCTFs) in compliance with chapter 71.09 RCW, and to maintain compatibility with other land uses and services permitted within the city. The standards in this section apply to all SCTFs in addition to the conditional use permit process set forth under BMC 14A.05.140; the standards of this section are not subject to variance.

B. SCTFs conforming ~~with~~to the standards set forth below (in addition to approval under standards set forth pursuant to BMC 17.105.070, criteria for EPFs) may be approved by conditional use permit. The following additional siting criteria apply to SCTFs:

1. SCTFs should be located near transit facilities, as appropriate.
2. No SCTF shall be permitted within one mile from any existing SCTF, work release, prerelease, or similar facilities, and shall not result in disproportionate grouping of similar facilities pursuant to RCW 71.09.250(8) and (9).
3. On-Site Facilities Required. Each SCTF shall have the capability to provide on-site dining, on-site laundry or laundry service, and on-site recreation facilities to serve the residents.
4. SCTFs shall not be permitted adjacent to, immediately across a street or parking lot from, or within the line of sight of a risk potential activity or facility in existence at the time a conditional use is applied for consideration. "Risk potential activity" or "risk potential facility" means an activity or facility that provides a higher incidence of risk to the public from persons conditionally released from the special commitment center. Risk potential activities and facilities include: public and private schools, school bus stops, licensed day care and licensed preschool facilities, public and private parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches, synagogues, temples, mosques, public libraries, public and private youth camps, and others identified by the community development director or designee following the hearings on a potential site required in RCW 71.09.315. "Within the line of sight" means that it is possible to reasonably visually distinguish and recognize individuals.
5. Siting of SCTFs shall be in accordance with the siting criteria of chapter 71.09 RCW, and regulations adopted pursuant thereto. In addition, no SCTFs shall be sited closer than 1,000 feet from any residentially zoned or utilized property.
6. SCTFs shall provide the following staffing and security measures:
 - a. The owner and operator of the SCTF shall submit and maintain a plan for staffing, security measures, procedures for immediate public notification of escapes, and escapee search procedures ("the plan"), all in a form and content satisfactory to the director. The security measures shall indicate the types of security measures/facilities proposed for the SCTF including, but not limited to, constant electronic monitoring of residents, site security measures/equipment, and site access and control consistent with chapter 71.09 RCW, unless otherwise ordered by a court. The plan, along with documentation of the director's concurrence in or rejection of the plan, shall be included in materials submitted to and reviewed by the planning commission; provided, that the security plan made part of the public record shall not be in such detail that security of the facility would be compromised.
 - b. The owner and operator of the SCTF shall enter into a contract with the city, in a form and content satisfactory to the city attorney, committing the owner and operator to comply with and maintain the plan for the life of the facility.
 - c. The applicant shall install an eight-foot-high fence, in character with the surrounding area, between the facility and all property boundaries. This fence shall be set back at least 10 feet from the property boundaries and screening landscaping as defined within BMC 17.80.105 shall be installed between the property boundary and the fence. The planning commission may waive or lessen this requirement upon finding that due to existing site features or the type or character of adjoining uses, the privacy and security of the occupants of adjoining properties can be maintained in the absence of a fence or with a lower fence, or with reduced landscaping requirements.
 - d. The facility shall have a backup power source.
7. The total number of SCTF beds in an SCTF shall be no greater than the total number of beds required to be sited in a county under RCW 71.09.250(7)(a). The number of SCTF beds in a proposed SCTF shall be reduced below the maximum number required in a county when public safety and security considerations including site characteristics, program components, average response time of emergency services to the general area, and proximity of proposed site to risk activity exists and alternative siting is available elsewhere within the county.

C. Application Materials. In addition to the regular application materials required for a land use review pursuant to BMC Title 14A and BMC 17.105.060, an application for an SCTF shall also include:

1. The siting process used for the SCTF, including alternative locations considered.
2. An analysis showing that consideration was given to potential sites such that siting of the facility will not result in a concentration of similar facilities in a particular neighborhood, community, jurisdiction, or region.
3. Proposed mitigation measures, including the use of buffering from adjoining uses.
4. A general overview of planned security for the facility.
5. A schedule and analysis of all public input solicited or to be solicited during the siting process.
6. Notice of the application to all property owners and occupants of record within one mile of the proposed site. (Ord. 1857 § 2 (Exh. B), 2018).

17.105.100 Processing timelines.

A. Notice of the ~~city council~~ final decision following the public hearings on a project permit application shall be issued within 120 days from when the permit application is determined by the director to be technically complete for processing.

B. In determining the number of days that have elapsed after an application is technically complete, the following periods shall be excluded:

1. Any period during which the city asks the applicant to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the city mails notification to the applicant of the need for additional information until the date the city determines whether the additional information satisfies the request for information, or 28 days after the applicant supplies the information to the city, whichever is earlier. If the information submitted by the applicant under this subsection is insufficient, the city shall mail notice to the applicant of the deficiencies and the provisions of this subsection shall apply as if a new request for information had been made;
2. Any period during which an environmental impact statement is being prepared;
3. The period specified for administrative appeals of project permits;
4. Any period during which processing of an application is suspended pursuant to verification of compliance with required notice requirements; and
5. Any period of time mutually agreed upon by the applicant and the city.

C. The time periods established by this section shall not apply to a project permit application:

1. That requires an amendment to the comprehensive plan or a development regulation in order to obtain approval;
2. That is substantially revised by the applicant, in which case a new 120-day time period shall start from the date at which the revised project application is determined to be complete;
3. That requires approval of a development agreement by the city council;
4. When the applicant consents to an extension; or
5. During any period necessary for reconsideration of ~~the Hearing Examiner's~~ ~~planning commission's~~ decision.

D. The city shall notify the applicant in writing if a notice of final decision on the project has not been made within the time limits specified in this section. The notice shall include a statement of reasons why the time limits have not been met and an estimated date of issuance of a notice of final decision.

E. Failure of the city to make a final decision within the timelines specified by this chapter shall not create liability for damages. (Ord. 1857 § 2 (Exh. B), 2018).

17.105.105 CUP city council authority – Final decision.

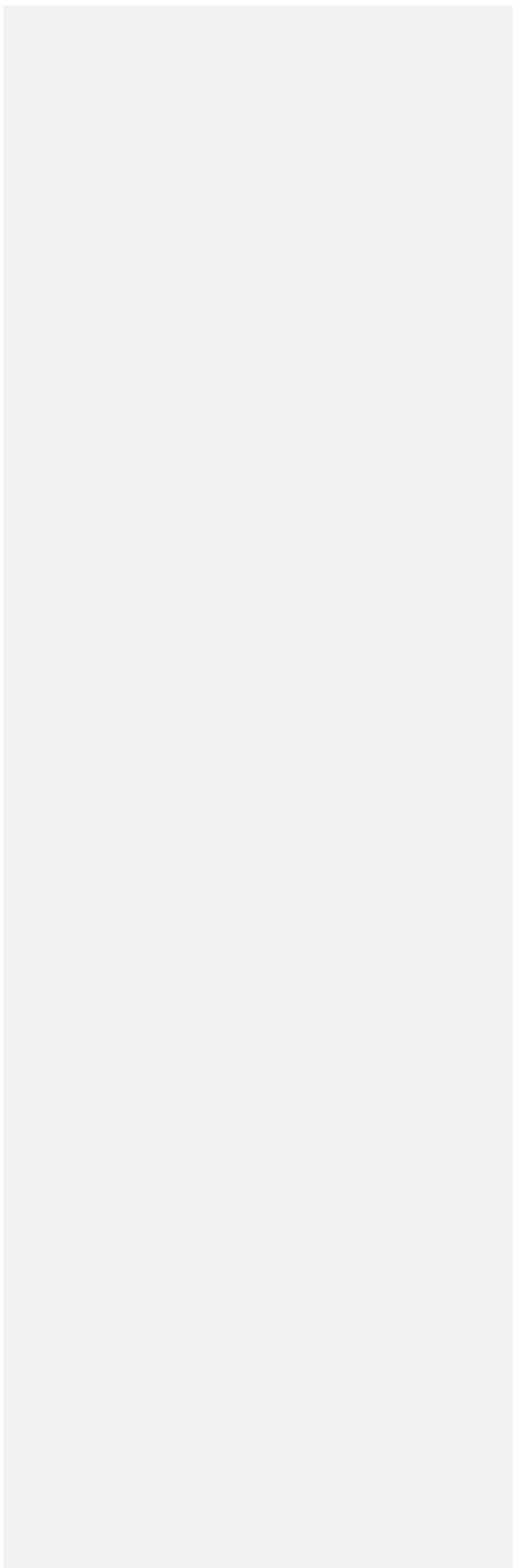
A. The designated hearing body, giving substantial weight to the recommendations of the staff report, shall review the application under the following criteria:

1. Whether the proposed action as recommended by city staff is consistent with the criteria established under BMC 17.105.070 and 17.105.090 if applicable;
2. Whether modifications to recommended conditions or restrictions, if any, are adequate to mitigate impacts in a manner which meets the standards of this code and any related development agreement; and
3. Whether project conditions cumulatively are reasonable and would not preclude development of the EPF.

B. Recognizing that RCW 36.70A.200(2) prohibits the city from precluding the siting of an essential public facility, if the permit application proposes siting of a project in a location other than the city's preferred location as recommended by city staff or otherwise designated under the city's comprehensive plan or zoning code, the applicant shall present information as to why the city's preferred location, rather than the location applied for, will preclude development of the project. The applicant shall provide any engineering, financial and other studies and information necessary to explain its position, unless it has already done so through the comprehensive projects, such as roads and highways, proposed by the Washington State Department of Transportation. The city council, with additional analysis and input from city staff if requested, shall make findings and a decision as to whether siting the project at the city's preferred location would be impossible, impracticable, or otherwise preclusive. The said findings and decision shall not be deemed, however, to preclude the authority of a regional decision-making body, under law now existing or subsequently amended, to determine, where a regional EPF shall be sited, assuming applicable laws and legal requirements are complied with. This section shall not apply to the siting of SCTFs.

C. As a condition of approval pursuant to BMC 17.105.070, the city council may:

1. Increase requirements in the standards, criteria, or policies established by this title;
2. Stipulate the exact location as a means of minimizing hazards to life or limb, property damage, impacts to the environment, erosion, underground collapse, landslides, or transportation systems;
3. Impose conditions necessary to avoid, minimize or mitigate any adverse impacts identified as a result of the project;
4. Require the posting of construction and maintenance bonds sufficient to secure to the city the estimated cost of construction, installation and maintenance of required improvements;
5. Impose any requirement that will protect the public health, safety, and welfare; and
6. Impose conditions as may be deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters. (Ord. 1857 § 2 (Exh. B), 2018)



Chapter 17.110

AGRICULTURAL HERITAGE CREDIT PROGRAM

Sections:

- 17.110.010 Purpose.
- 17.110.020 Application.
- 17.110.030 Definition of terms used in this chapter.
- 17.110.040 General requirements.
- 17.110.050 Procedure to sell or transfer development rights from sending site.

17.110.010 Purpose.

The purpose of the agricultural heritage credit program is to provide additional residential density in specific zoning districts in exchange for a fee dedicated to transfer and/or purchase of development rights through the Skagit County farmland legacy program. The program provides a voluntary, incentive-based process for permanently preserving agricultural lands that provide a public benefit. The provisions of this program are intended to supplement land use regulations, resource protection efforts and open space acquisition programs and to encourage increased residential development density inside the city where it can best be accommodated with the least impacts on the natural environment and public services by:

- A. Providing an effective and predictable incentive process for agricultural land property owners to preserve lands with a public benefit;
- B. Providing an efficient and streamlined administrative review system to ensure that transfers of development rights to receiving sites are evaluated in a timely way and balanced with other county goals and policies, and are adjusted to the specific conditions of each receiving site. (Ord. 1857 § 2 (Exh. B), 2018).

17.110.020 Application.

A. ~~The MR-NB, B-1, C-1 and R-3 zoning district areas as shown on the official zoning map of the city of Burlington are a receiving zone for Burlington~~The term "receiving zone" as used in this chapter shall mean the Burlington Urban Growth Area (UGA).

B. Agricultural heritage credits are assigned towards the purchase of development rights from land zoned agriculture natural resource in the Skagit County zoning ordinance and designated as significant open space connections on the development right acquisition area map, attached as Exhibit A to the ordinance codified in this chapter.

C. The residential use in the receiving zone shall be permitted at the rate of one additional residential dwelling unit per Burlington agricultural heritage credit.

D. The applicant may opt to acquire development rights from farmland that is included in the Skagit farmland legacy program and transfer those rights into the receiving zone at a rate comparable to the Burlington agricultural heritage credit formula. (Ord. 1857 § 2 (Exh. B), 2018).

17.110.030 Definition of terms used in this chapter.

A. "Burlington agricultural heritage credit program" means a voluntary program where density of new development may be increased as specified in this title through the purchase of heritage credits at a set price established by resolution¹ directly from the city of Burlington and the funds are used by the Skagit farmland legacy program towards the purchase of farmland development rights through an interlocal agreement/contract.

B. "Development right" means one residential unit of credit. This is calculated for unincorporated Skagit County in the agriculture natural resource land zoning district (AgNRL) at the rate of one residential unit per 40 acres of farmland, or at the rate of one residential unit per county certified lot of record for development. The farmland legacy program will accumulate Burlington heritage credits until a willing seller is identified and there is enough funding to acquire one or more development rights from agricultural resource land in the area specified on Map Exhibit A, attached to the ordinance codified in this chapter.

C. "Receiving site" means the site in the recipient zoning district that will receive the increased density by purchasing Burlington heritage credits at a set fee or transferring development rights from the sending site. Receiving sites in the city of Burlington are further described in the MR-NB, B-1, C-1 and R-3 zoning districts.

D. "Sending site" means the site that is to be preserved as agricultural resource land by selling or transferring its residential development rights to the Skagit farmland legacy program or other entity approved by the Skagit farmland legacy program. Sending sites shall be maintained permanently as agricultural lands and no structures may be built on the land. Sending sites may not be in public ownership. If the sending site consists of more than one tax lot, the lots must be contiguous. For purposes of this section, lots divided by a street are considered contiguous if the lots would share a common lot line if the street was removed. See Map Exhibit A, attached to the ordinance codified in this chapter, for land generally eligible as sending sites for the purpose of this chapter. (Ord. 1857 § 2 (Exh. B), 2018).

17.110.040 General requirements.

A. Property eligible for increased residential density is ~~described in the MR-NB, B-1, C-1 and R-3 zoning districts located in the City's Urban Growth Area.~~

B. Burlington agricultural heritage credits shall be used by the Skagit farmland legacy program for the acquisition of residential development rights on agricultural resource land in target locations to protect the agriculture natural resource land around the Burlington urban growth area as identified on Map Exhibit A, attached to the ordinance codified in this chapter.

C. The residential development rights of agricultural resource land shall be considered as interests in real property and may be transferred by sale or gift in part or in total as provided in this section. Once used, credits for residential development rights shall not be used again and the residential development rights of the subject property providing them shall be considered severed forever.

D. Residential development rights on agricultural natural resource land may be ~~transferred~~transferred to a specific parcel in Burlington or sold to an individual(s) or other entity such as the Skagit farmland legacy program.

E. On the receiving site, the purchase of Burlington agricultural heritage credits shall increase the underlying zoning density by one dwelling unit per heritage credit, as further designated in the MR-NB, B-1, C-1 and R-3 zoning districts. Owners of the parcels within the recipient zone districts gain additional density for their property when they purchase Burlington agricultural heritage credits for the receiving site. Detailed use and development standards for the receiving site are specified in each zoning district.

F. Burlington agricultural heritage credits shall be allocated to a specific receiving site.

G. Conservation easements shall be required for land contained in the sending site to indicate development limitations on the sending site. (Ord. 1857 § 2 (Exh. B), 2018).

17.110.050 Procedure to sell or transfer development rights from sending site.

Note: this process may be amended by the farmland legacy program.

A. The farmland legacy program will receive Burlington heritage credit fees collected by the city and use those fees to acquire residential development rights on agriculture natural resource land in the areas identified around the Burlington urban growth area on Map Exhibit A, attached to the ordinance codified in this chapter.

B. Property owners participating in the farmland preservation program will use the following process to sell or transfer their residential development rights:

1. An owner of real property desiring to sell or transfer development rights shall submit an application for severance of development rights (sending site certification) to the Skagit farmland legacy program or other such entity as the city council may nominate. The farmland legacy program shall determine the form of the application and the information required for a complete application. The farmland legacy program shall determine if the application may be accepted. Responsibility for preparing a completed application rests exclusively with the applicant. Application for sending site certification shall include:

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- a. A legal description of the site;
- b. A title report;
- c. A brief description of the site resources and public benefit to be preserved;
- d. A site plan showing the proposed conservation easement area, existing and proposed dwelling units, submerged lands, any area already in a conservation easement or other similar encumbrance and any other area, except setbacks, required by Skagit County to remain open.

2. The applicant shall submit a Skagit County lot certification if the lot is less than 40 acres in size and the farmland legacy program shall determine the number of residential development rights available for severance.

3. A preliminary estimate of value is defined by reviewing the site selection criteria and pricing formula and the estimate is transmitted to the conservation futures committee for approval and any additional steps required by the farmland legacy program.

4. To sever residential development rights approved by the farmland legacy program, the property owner shall execute a restrictive easement, (the "conservation easement"), granting to the farmland legacy program or a tax exempt organization or other governmental agency, as approved by the farmland legacy program. The conservation easement shall preclude subdivision of the subject property. If the sending site includes federal funds, an appraisal is ordered.

5. Once development rights have been severed from a sending area property in accordance with this code, the property owner may sell or transfer the development rights by executing and recording with the Skagit County auditor a deed of residential development rights, using a deed form prescribed by the farmland legacy program. The deed shall describe the number of development rights being sold or transferred.

6. The certificate of residential development rights and the restrictive easement shall be recorded by the escrow agent of the farmland legacy program with the Skagit County auditor. The owner shall provide a copy of the recorded documents to the farmland legacy program. When the documents have been recorded and the recorded documents have been received by the department, the severance is complete.

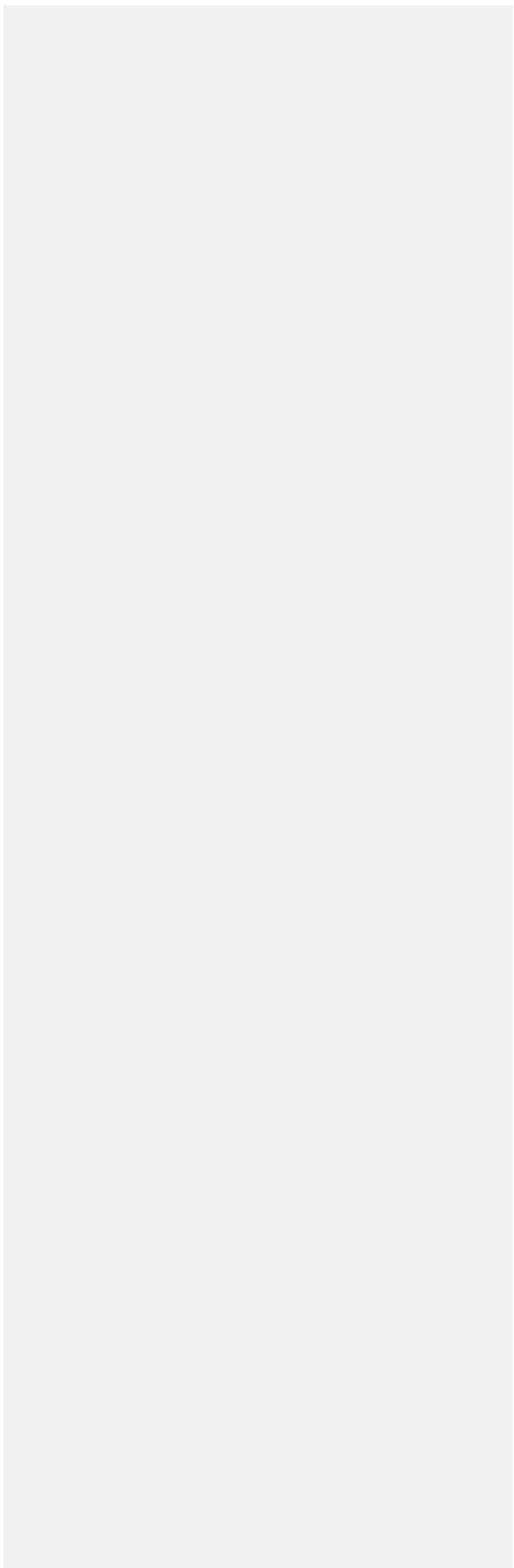
C. Procedure to Acquire and Use Burlington Agricultural Heritage Credits.

1. A request to increase residential density within a receiving area by purchasing Burlington agricultural heritage credits must be part of a land use permit application under chapter 14A.05 BMC. The site plan must indicate the number of Burlington agricultural heritage credits necessary to implement the project.

2. Prior to final approval of the site plan, the applicant must buy Burlington agricultural heritage credits at the rate of one credit per additional dwelling unit.

3. The site plan, referencing the Burlington agricultural heritage credits, shall be recorded by the owner with the Skagit County auditor. (Ord. 1857 § 2 (Exh. B), 2018).

¹ Fee is based on initial study "Demand for and Value of Density (Heritage) Credits," June 2009, and study shall be updated once every five years to ensure accurate economic basis for fee.



Chapter 17.115

PLANNING COMMISSION

Sections:

- 17.115.010 Title.
- 17.115.020 Application.
- 17.115.030 Purpose.
- 17.115.040 Authority.
- 17.115.050 Created – Membership – Appointment – Tenure – Compensation.
- 17.115.060 Organization – Meetings – Rules and records.
- 17.115.070 Quorum.
- 17.115.080 Powers and duties – Statutory authority.
- 17.115.090 Powers and duties – Designated.
- 17.115.100 Recommendation to city council.

17.115.010 Title.

This chapter shall be called “Planning Commission.” (Ord. 1857 § 2 (Exh. B), 2018).

17.115.020 Application.

The provisions of this chapter shall be applicable to all actions of the planning commission as defined herein. (Ord. 1857 § 2 (Exh. B), 2018).

17.115.030 Purpose.

The purpose of this chapter is to establish the planning commission for proposed developmental action as specified in this title. (Ord. 1857 § 2 (Exh. B), 2018).

17.115.040 Authority.

This chapter is adopted pursuant to the authority set forth in chapters 35.63 and 35A.63 RCW allowing the creation of a planning commission and other applicable laws and regulations. (Ord. 1857 § 2 (Exh. B), 2018).

17.115.050 Created – Membership – Appointment – Tenure – Compensation.

The commission shall consist of seven in number, who shall be selected as follows:

- A. The seven members shall be selected and appointed by the mayor and confirmed by the city council.
- B. The term of office of the seven commissioners first appointed shall be designated from one to six years in such manner as to provide that the fewest possible terms will expire in any one year. Thereafter the term of office for each appointed member shall be six years. The terms of the first seven members appointed shall be fixed and designated by the mayor at the time of the appointment.
- C. Vacancies occurring otherwise than through the expiration of terms shall be filled for the unexpired term.
- D. The members shall be selected without respect to political affiliations and they shall serve without compensation. (Ord. 1857 § 2 (Exh. B), 2018).

17.115.060 Organization – Meetings – Rules and records.

The commission shall elect its own chair and create and fill such other offices as it may determine it requires. Planning commission meetings shall be open to the public in accordance with the provisions of the Open Public Meetings Act and the time and date of each meeting shall be published in advance of the meeting. It shall adopt rules for transaction of business and shall keep a written record of its meetings, regulations, transactions, findings and determinations, which records shall be a public record. (Ord. 1857 § 2 (Exh. B), 2018).

17.115.070 Quorum.

A majority of the commission shall constitute a quorum for the transaction of business. Any action taken by a majority of those present at any regular or special meeting of the commission shall be taken as the action of the commission. (Ord. 1857 § 2 (Exh. B), 2018).

17.115.080 Powers and duties – Statutory authority.

The planning commission shall have the powers and perform the duties specified in chapter 35.63 RCW, including amendments enacted after the effective date of the ordinance. (Ord. 1857 § 2 (Exh. B), 2018).

17.115.090 Powers and duties – Designated.

A. The commission may act as the research and fact finding agency of the municipality. To that end it may make such surveys, analyses, researches and reports as are generally authorized or requested by the council.

B. The commission shall review proposed development projects for compliance with ordinances and plans for the physical development of the city, in such measure as is reasonably necessary or requisite in the interest of the general public and as further specified in the zoning and subdivision codes.

C. The commission shall make recommendations to the council on adopting area-wide rezoning and development code text changes and subdivision ordinances.

D. The commission shall make recommendations to the council on the adoption of a comprehensive plan and amendments to the plan.

E. The commission shall make recommendations to the council as specified in BMC 17.115.100. (Ord. 1857 § 2 (Exh. B), 2018).

17.115.100 Recommendation to city council.

A. The city council shall refer to the planning commission for its recommendation and report on the adoption or amendment of:

1. All recommendations as required by the city zoning ordinance Zoning or development regulations;

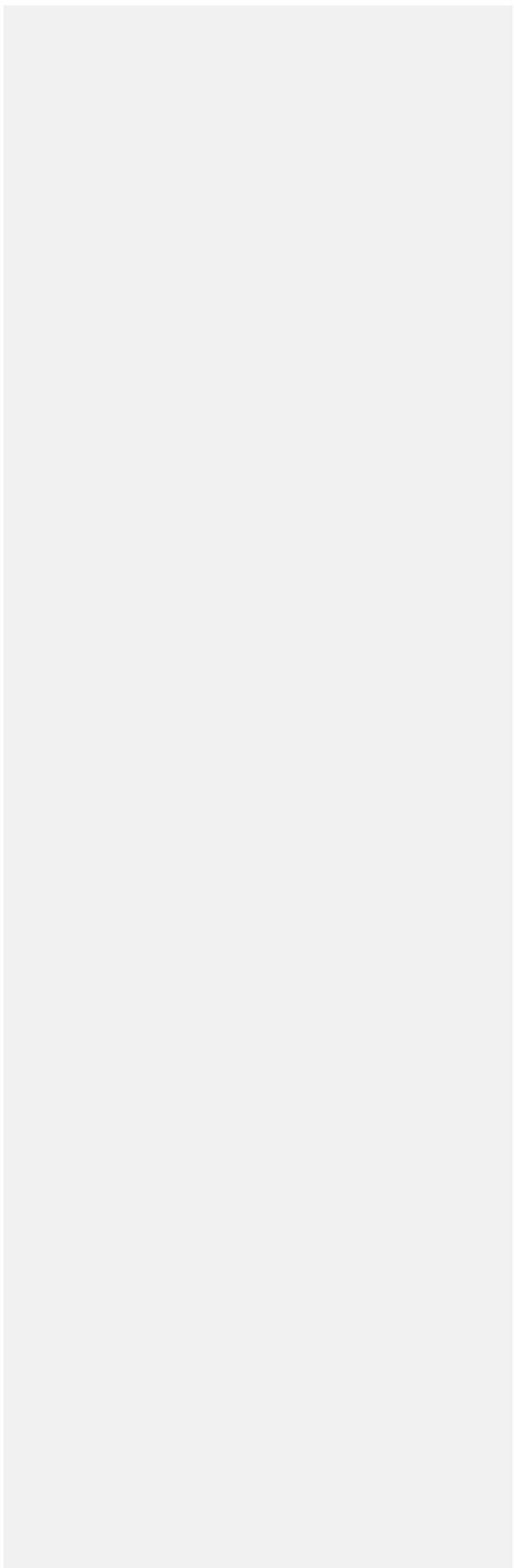
2. Adoption of the comprehensive plan and any amendments to the comprehensive plan;

3. Functional or capital plans necessary to implement the comprehensive plan, including, but not limited to, sewer and stormwater plans, the Capital Improvement Plan (CIP), and the Transportation Improvement Plan (TIP);

4. The annual review docket and the Community Development Department's annual work plan.

B. The commission shall make its written recommendation within 30 days subsequent to the date it has completed its public hearing or public meeting as required by ordinance. (Ord. 1857 § 2 (Exh. B), 2018).

Commented [BJ1]: BJ – 9-15-2022 – revised to include more detailed annual review docket process and to reflect work the PC does and will do in coming years.



Chapter 17.125

AMENDMENTS TO COMPREHENSIVE PLAN AND DEVELOPMENT REGULATIONS

Sections:

17.125.010	Title.
17.125.020	Application.
17.125.030	Purpose.
17.125.040	Authority.
17.125.050	Comprehensive plan text and map amendments.
17.125.060	Development agreements associated with a comprehensive plan amendment.
17.125.070	Area-wide rezones.
17.125.080	Site-specific zoning map amendments.
17.125.090	Development regulation text amendments.

17.125.010 Title.

This chapter shall be called “Amendments to Comprehensive Plan and Development Regulations.” (Ord. 1857 § 2 (Exh. B), 2018).

17.125.020 Application.

The provisions of this chapter shall be applicable to all zones as set forth in this title. (Ord. 1857 § 2 (Exh. B), 2018).

17.125.030 Purpose.

The purpose of this chapter is to establish procedures and criteria for amending the city’s zoning map, development regulations, comprehensive plan, and comprehensive plan map. (Ord. 1857 § 2 (Exh. B), 2018).

17.125.040 Authority.

This title is created pursuant to the authority set forth in chapters 35A.63, 36.70A, and 36.70B RCW and other applicable laws. (Ord. 1857 § 2 (Exh. B), 2018).

17.125.050 Comprehensive plan text and map amendments.

A. General. Pursuant to RCW 36.70A.130(2)(a) and the process set forth in BMC Title 14A, proposed updates to the comprehensive plan shall be processed only once a year except for the adoption of original subarea plans, amendments to the shoreline master program, the amendment of the capital facilities chapter concurrent with the adoption of the city budget, in the event of an emergency or to resolve an appeal of the comprehensive plan filed with the Growth Management Hearings Board.

B. Amendment Procedures. Comprehensive plan text and map amendments are classified as Type IV decisions and shall be processed pursuant to BMC Title 14A. (Ord. 1857 § 2 (Exh. B), 2018).

17.125.060 Development agreements associated with a comprehensive plan amendment.

A. Pursuant to RCW 36.70B.170 through 36.70B.210, the city may enter into a development agreement with a person having ownership or control of real property within its jurisdiction as part of a comprehensive plan amendment and associated rezone. A development agreement and subsequent rezone shall be consistent with applicable development regulations set forth in BMC Title 14A.

B. Development agreements associated with a comprehensive plan amendment are classified as Type IV decisions and shall be processed in compliance with the comprehensive plan amendment and the regulations of RCW 36.70B.170 through 36.70B.210.

C. Development agreements associated with a comprehensive plan amendment and subsequent rezone may be used at the city council’s discretion. Development agreements may be used to place restrictions on a proposed amendment to minimize the impacts of future development.

D. Development Agreement Contents. For the purpose of this section, development standards may include, but are not limited to, the following:

1. Project elements such as permitted uses, residential densities, and nonresidential densities and intensities or building sizes;
2. The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;
3. Mitigation measures, development conditions, and other requirements under chapter 43.21C RCW;
4. Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features;
5. Affordable housing;
6. Parks and open space preservation;
7. Phasing;
8. Review procedures and standards for implementing decisions;
9. A build-out or vesting period for applicable standards; and
10. Any other appropriate development requirement procedure.

E. The final decision authority for approval of the development agreement and development plan shall be the city council as set forth in BMC Title 14A.

F. The decision of the city council on a development agreement and plan in conjunction with a comprehensive plan amendment and subsequent zoning change is the final decision of the city and may be appealed pursuant to chapter 36.70C RCW.

G. A development agreement shall be recorded with the Skagit County auditor at the applicant's expense. During the term of the development agreement, the agreement is binding on the parties and their successors.

H. The city will process and decide upon an application for an amendment as if it were an application for a new development agreement in a manner set forth above, unless it is deemed a minor modification as set forth in subsection (I) of this section.

I. Modifications of Development Plan.

1. The director of community development may approve minor modifications to the development plan pursuant to BMC Title 14A.
2. Criteria for approving minor modifications include but are not limited to the following:
 - a. Shall conform to the terms of the development agreement;
 - b. Shall not reduce landscaping, buffering, or open space areas;
 - c. Shall not reduce setback requirements;
 - d. Shall not result in an increase in height of any structure;
 - e. Shall not result in a change in ingress or egress;
 - f. Shall not increase any adverse impacts or undesirable effects;
 - g. Shall not significantly alter the project. (Ord. 1857 § 2 (Exh. B), 2018).

17.125.070 Area-wide rezones.

A. Area-wide rezones shall be considered only in conjunction with updates to the comprehensive plan text and maps to ensure full consideration of the cumulative effects of all changes.

B. Area-wide rezones are classified as Type IV decisions and shall be processed pursuant to BMC Title 14A. (Ord. 1857 § 2 (Exh. B), 2018).

17.125.080 Site-specific zoning map amendments.

A. Site-specific zoning map amendment requests, which are consistent with the comprehensive plan map, may be submitted at any time. Site-specific zoning map amendments consistent with the comprehensive plan map shall be processed as a Type III review pursuant to BMC Title 14A. Amendments to the zoning map which are not consistent with the comprehensive plan map shall be processed as a Type IV review and may only be considered in conjunction with a corresponding amendment to the comprehensive plan.

B. All site-specific zoning map amendment requests must meet all of the following criteria:

1. The requirements of RCW 36.70A.070(6), Concurrency;
2. The requested map amendment is consistent with the comprehensive plan;
3. The map amendment bears a substantial relation to the public health, safety and welfare;
4. The map amendment is warranted in order to achieve consistency with the comprehensive plan or because of a need for additional property in the proposed zoning district classification, or because the proposed zoning classification is appropriate for reasonable development of the subject property;
5. Property is adjacent and contiguous (which shall include corner touches and property located across a public right-of-way) to property of the same zoning classification;
6. The map amendment will not be materially detrimental to uses or property in the immediate vicinity of the subject property;
7. The map amendment has merit and value for the community as a whole. (Ord. 1857 § 2 (Exh. B), 2018).

17.125.090 Development regulation text amendments.

A. The text of the city’s development regulations may be amended at any time provided the amendment is consistent with the comprehensive plan and does not interfere with its implementation. Text amendments that are consistent with the comprehensive plan shall be processed as a Type IV review pursuant to BMC Title 14A.

B. Text amendments which are not consistent with the comprehensive plan shall be processed as a Type IV review and may only be considered together with a corresponding amendment to the comprehensive plan. Text amendments which are not consistent with the comprehensive plan shall be subject to the annual processing limitation described in BMC 17.125.050. (Ord. 1857 § 2 (Exh. B), 2018).

17.125.100 Annual Review Process.

A. Purpose. The purpose of this section is to establish procedures for amending the comprehensive plan and for major development regulation amendments.

B. Applicability. The following actions shall be subject to the provisions of this section (BMC 17.125.100):

1. Amending the text of the comprehensive plan or a comprehensive plan map.
2. Major amendments to the text of the City’s development regulations. A major amendment is an amendment that substantively changes the effect of the code, requires a corresponding comprehensive plan amendment, or cannot otherwise be classified as a minor amendment.

Commented [BJ1]: BJ – 9-15-2022 – previously we had no process for soliciting and reviewing applicant initiated comp plan change requests – we are required by law to have a process – this process allows us to review applications with an eye to our capacities and priorities.

3. Zoning map amendments that require a corresponding comprehensive plan amendment including area wide rezones as described in BMC 17.125.070.

4. Adoption or amending functional plans related to, referenced by, or necessary to implement the comprehensive plan, such as sewer, stormwater, or transportation plans.

C. Exemptions. The following actions are not subject to the annual review process described in this section (BMC 17.125.100):

1. Changes necessary to address an emergency involving an immediate threat to public health, safety, or the environment;

2. Changes required by the Growth Management Hearings Board or a Court in order to address an appeal;

3. Amendments to the Capital Improvement Plan (CIP) associated with the adoption of the City's annual budget. Changes to the CIP shall be subject to BMC 17.125.110

4. Minor amendments to the text of the City's development regulations. A minor amendment is an amendment that has little or no substantive effect. Minor amendments include editing changes to correct spelling, grammar and organizational problems, and changes necessary to address contradictory requirements or conflicting code provisions. Minor changes must be fully consistent with the comprehensive plan.

5. Site specific zoning map amendments that are consistent with the comprehensive plan, do not require a corresponding amendment to a comprehensive plan map.

D. Suggesting Amendments. Amendments to the comprehensive plan or comprehensive plan map and major development regulation amendments may be suggested by any person. Suggested amendments shall be submitted on forms provided by the Director and shall include all of the information required by the form in addition to all of the items listed below. Only suggested amendments that include all of the information required by this section will be advanced for further consideration.

1. Name, address, phone number, and email address of the person suggesting the amendment;

2. Citation of the specific text, map, or illustration to be amended;

3. The suggested amendment;

4. All applicable fees.

E. Evaluation of Suggested Amendments.

1. Suggesting Amendments. Suggested amendments shall be submitted between January 1st and June 1st of each year for possible consideration the following calendar year.

2. Department Action. On an annual basis the Community Development Department shall compile a list of suggested amendments received between January 1st and June 1st. The list prepared by the Community Development Department shall then be provided to the Planning Commission by August 1st.

3. Planning Commission Consideration. Based on the list prepared by the Community Development Department the Planning Commission shall hold one or more public meetings to consider the list of suggested amendments and may select suggested changes warranting further consideration and add them to the annual work program. Items should be selected for inclusion in the annual work program based on the priorities identified in the Implementation Element of the comprehensive plan and the following additional considerations.

a. The suggested amendments addresses a broad public interest rather than a narrow private interest;

b. The suggested amendment addresses a documented problem with the comprehensive plan or development regulations, or is intended to address a significant change in conditions that has occurred since the comprehensive plan or development regulations were adopted;

c. The suggested amendment does not conflict with other comprehensive plan provisions;

d. The suggested amendment is consistent with the requirements of the Washington State Growth Management Act (GMA) and the Skagit County Countywide Planning Policies;

e. The Community Development Department and Planning Commission have sufficient resources to properly consider the suggested amendment and consideration of the suggested amendment will not conflict with or delay other higher priority work items.

4. City Council Consideration. Following the review process outlined above the Planning Commission should forward a draft work plan and a list of any suggested amendments warranting further consideration to the City Council by October 1st. The Council should then act on the Planning Commission's recommendation by December 31st.

5. Effect of City Council Action. The list of suggested amendments included in the final work plan approved by the City Council shall be known as the "annual review docket". Only amendments included on the annual review docket may be considered for action the following year. Inclusion of a suggested amendment on the annual review docket does not require that be taken on the docketed item. Based on resource constraints, feasibility, or other considerations, docketed items may be deferred to subsequent years, deferred to subsequent periodic update cycles, or dropped from further consideration.

6. The process for suggesting amendments is intended to provide an opportunity to bring potential amendments to the attention of the Planning Commission and City Council but does not create an obligation for the City to act on any suggested amendment. The Planning Commission and City Council may, at their discretion, decline to take action or defer action to a subsequent year or review cycle.

F. Adoption Process. Amendments to the comprehensive plan and major development regulations amendments shall be made no more frequently than once each calendar year. All changes being advanced for action shall be combined and considered together in a consolidated fashion so the cumulative, or combined impact

Chapter 17.125

AMENDMENTS TO COMPREHENSIVE PLAN AND DEVELOPMENT REGULATIONS

Sections:

17.125.010	Title.
17.125.020	Application.
17.125.030	Purpose.
17.125.040	Authority.
17.125.050	Comprehensive plan text and map amendments.
17.125.060	Development agreements associated with a comprehensive plan amendment.
17.125.070	Area-wide rezones.
17.125.080	Site-specific zoning map amendments.
17.125.090	Development regulation text amendments.

17.125.010 Title.

This chapter shall be called "Amendments to Comprehensive Plan and Development Regulations." (Ord. 1857 § 2 (Exh. B), 2018).

17.125.020 Application.

The provisions of this chapter shall be applicable to all zones as set forth in this title. (Ord. 1857 § 2 (Exh. B), 2018).

17.125.030 Purpose.

The purpose of this chapter is to establish procedures and criteria for amending the city's zoning map, development regulations, comprehensive plan, and comprehensive plan map. (Ord. 1857 § 2 (Exh. B), 2018).

17.125.040 Authority.

This title is created pursuant to the authority set forth in chapters 35A.63, 36.70A, and 36.70B RCW and other applicable laws. (Ord. 1857 § 2 (Exh. B), 2018).

17.125.050 Comprehensive plan text and map amendments.

A. General. Pursuant to RCW 36.70A.130(2)(a) and the process set forth in BMC Title 14A, proposed updates to the comprehensive plan shall be processed only once a year except for the adoption of original subarea plans, amendments to the shoreline master program, the amendment of the capital facilities chapter concurrent with the adoption of the city budget, in the event of an emergency or to resolve an appeal of the comprehensive plan filed with the Growth Management Hearings Board.

B. Amendment Procedures. Comprehensive plan text and map amendments are classified as Type IV decisions and shall be processed pursuant to BMC Title 14A. (Ord. 1857 § 2 (Exh. B), 2018).

17.125.060 Development agreements associated with a comprehensive plan amendment.

A. Pursuant to RCW 36.70B.170 through 36.70B.210, the city may enter into a development agreement with a person having ownership or control of real property within its jurisdiction as part of a comprehensive plan amendment and associated rezone. A development agreement and subsequent rezone shall be consistent with applicable development regulations set forth in BMC Title 14A.

B. Development agreements associated with a comprehensive plan amendment are classified as Type IV decisions and shall be processed in compliance with the comprehensive plan amendment and the regulations of RCW 36.70B.170 through 36.70B.210.

C. Development agreements associated with a comprehensive plan amendment and subsequent rezone may be used at the city council's discretion. Development agreements may be used to place restrictions on a proposed amendment to minimize the impacts of future development.

D. Development Agreement Contents. For the purpose of this section, development standards may include, but are not limited to, the following:

1. Project elements such as permitted uses, residential densities, and nonresidential densities and intensities or building sizes;
2. The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;
3. Mitigation measures, development conditions, and other requirements under chapter 43.21C RCW;
4. Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features;
5. Affordable housing;
6. Parks and open space preservation;
7. Phasing;
8. Review procedures and standards for implementing decisions;
9. A build-out or vesting period for applicable standards; and
10. Any other appropriate development requirement procedure.

E. The final decision authority for approval of the development agreement and development plan shall be the city council as set forth in BMC Title 14A.

F. The decision of the city council on a development agreement and plan in conjunction with a comprehensive plan amendment and subsequent zoning change is the final decision of the city and may be appealed pursuant to chapter 36.70C RCW.

G. A development agreement shall be recorded with the Skagit County auditor at the applicant's expense. During the term of the development agreement, the agreement is binding on the parties and their successors.

H. The city will process and decide upon an application for an amendment as if it were an application for a new development agreement in a manner set forth above, unless it is deemed a minor modification as set forth in subsection (I) of this section.

I. Modifications of Development Plan.

1. The director of community development may approve minor modifications to the development plan pursuant to BMC Title 14A.
2. Criteria for approving minor modifications include but are not limited to the following:
 - a. Shall conform to the terms of the development agreement;
 - b. Shall not reduce landscaping, buffering, or open space areas;
 - c. Shall not reduce setback requirements;
 - d. Shall not result in an increase in height of any structure;
 - e. Shall not result in a change in ingress or egress;
 - f. Shall not increase any adverse impacts or undesirable effects;
 - g. Shall not significantly alter the project. (Ord. 1857 § 2 (Exh. B), 2018).

17.125.070 Area-wide rezones.

A. Area-wide rezones shall be considered only in conjunction with updates to the comprehensive plan text and maps to ensure full consideration of the cumulative effects of all changes.

B. Area-wide rezones are classified as Type IV decisions and shall be processed pursuant to BMC Title 14A. (Ord. 1857 § 2 (Exh. B), 2018).

17.125.080 Site-specific zoning map amendments.

A. Site-specific zoning map amendment requests, which are consistent with the comprehensive plan map, may be submitted at any time. Site-specific zoning map amendments consistent with the comprehensive plan map shall be processed as a Type III review pursuant to BMC Title 14A. Amendments to the zoning map which are not consistent with the comprehensive plan map shall be processed as a Type IV review and may only be considered in conjunction with a corresponding amendment to the comprehensive plan.

B. All site-specific zoning map amendment requests must meet all of the following criteria:

1. The requirements of RCW 36.70A.070(6), Concurrency;
2. The requested map amendment is consistent with the comprehensive plan;
3. The map amendment bears a substantial relation to the public health, safety and welfare;
4. The map amendment is warranted in order to achieve consistency with the comprehensive plan or because of a need for additional property in the proposed zoning district classification, or because the proposed zoning classification is appropriate for reasonable development of the subject property;
5. Property is adjacent and contiguous (which shall include corner touches and property located across a public right-of-way) to property of the same zoning classification;
6. The map amendment will not be materially detrimental to uses or property in the immediate vicinity of the subject property;
7. The map amendment has merit and value for the community as a whole. (Ord. 1857 § 2 (Exh. B), 2018).

17.125.090 Development regulation text amendments.

A. The text of the city’s development regulations may be amended at any time provided the amendment is consistent with the comprehensive plan and does not interfere with its implementation. Text amendments that are consistent with the comprehensive plan shall be processed as a Type IV review pursuant to BMC Title 14A.

B. Text amendments which are not consistent with the comprehensive plan shall be processed as a Type IV review and may only be considered together with a corresponding amendment to the comprehensive plan. Text amendments which are not consistent with the comprehensive plan shall be subject to the annual processing limitation described in BMC 17.125.050. (Ord. 1857 § 2 (Exh. B), 2018).

17.125.100 Annual Review Process.

A. Purpose. The purpose of this section is to establish procedures for amending the comprehensive plan and for major development regulation amendments.

B. Applicability. The following actions shall be subject to the provisions of this section (BMC 17.125.100):

1. Amending the text of the comprehensive plan or a comprehensive plan map.
2. Major amendments to the text of the City’s development regulations. A major amendment is an amendment that substantively changes the effect of the code, requires a corresponding comprehensive plan amendment, or cannot otherwise be classified as a minor amendment.

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3. Zoning map amendments that require a corresponding comprehensive plan amendment including area wide rezones as described in BMC 17.125.070.

4. Adoption or amending functional plans related to, referenced by, or necessary to implement the comprehensive plan, such as sewer, stormwater, or transportation plans.

C. Exemptions. The following actions are not subject to the annual review process described in this section (BMC 17.125.100):

1. Changes necessary to address an emergency involving an immediate threat to public health, safety, or the environment;

2. Changes required by the Growth Management Hearings Board or a Court in order to address an appeal;

3. Amendments to the Capital Improvement Plan (CIP) associated with the adoption of the City's annual budget. Changes to the CIP shall be subject to BMC 17.125.110

4. Minor amendments to the text of the City's development regulations. A minor amendment is an amendment that has little or no substantive effect. Minor amendments include editing changes to correct spelling, grammar and organizational problems, and changes necessary to address contradictory requirements or conflicting code provisions. Minor changes must be fully consistent with the comprehensive plan.

5. Site specific zoning map amendments that are consistent with the comprehensive plan, do not require a corresponding amendment to a comprehensive plan map.

D. Suggesting Amendments. Amendments to the comprehensive plan or comprehensive plan map and major development regulation amendments may be suggested by any person. Suggested amendments shall be submitted on forms provided by the Director and shall include all of the information required by the form in addition to all of the items listed below. Only suggested amendments that include all of the information required by this section will be advanced for further consideration.

1. Name, address, phone number, and email address of the person suggesting the amendment;

2. Citation of the specific text, map, or illustration to be amended;

3. The suggested amendment;

4. All applicable fees.

E. Evaluation of Suggested Amendments.

1. Suggesting Amendments. Suggested amendments shall be submitted between January 1st and June 1st of each year for possible consideration the following calendar year.

2. Department Action. On an annual basis the Community Development Department shall compile a list of suggested amendments received between January 1st and June 1st. The list prepared by the Community Development Department shall then be provided to the Planning Commission by August 1st.

3. Planning Commission Consideration. Based on the list prepared by the Community Development Department the Planning Commission shall hold one or more public meetings to consider the list of suggested amendments and may select suggested changes warranting further consideration and add them to the annual work program. Items should be selected for inclusion in the annual work program based on the priorities identified in the Implementation Element of the comprehensive plan and the following additional considerations.

a. The suggested amendments addresses a broad public interest rather than a narrow private interest;

b. The suggested amendment addresses a documented problem with the comprehensive plan or development regulations, or is intended to address a significant change in conditions that has occurred since the comprehensive plan or development regulations were adopted;

c. The suggested amendment does not conflict with other comprehensive plan provisions;

d. The suggested amendment is consistent with the requirements of the Washington State Growth Management Act (GMA) and the Skagit County Countywide Planning Policies;

e. The Community Development Department and Planning Commission have sufficient resources to properly consider the suggested amendment and consideration of the suggested amendment will not conflict with or delay other higher priority work items.

4. City Council Consideration. Following the review process outlined above the Planning Commission should forward a draft work plan and a list of any suggested amendments warranting further consideration to the City Council by October 1st. The Council should then act on the Planning Commission's recommendation by December 31st.

5. Effect of City Council Action. The list of suggested amendments included in the final work plan approved by the City Council shall be known as the "annual review docket". Only amendments included on the annual review docket may be considered for action the following year. Inclusion of a suggested amendment on the annual review docket does not require that be taken on the docketed item. Based on resource constraints, feasibility, or other considerations, docketed items may be deferred to subsequent years, deferred to subsequent periodic update cycles, or dropped from further consideration.

6. The process for suggesting amendments is intended to provide an opportunity to bring potential amendments to the attention of the Planning Commission and City Council but does not create an obligation for the City to act on any suggested amendment. The Planning Commission and City Council may, at their discretion, decline to take action or defer action to a subsequent year or review cycle.

F. Adoption Process. Amendments to the comprehensive plan and major development regulations amendments shall be made no more frequently than once each calendar year. All changes being advanced for action shall be combined and considered together in a consolidated fashion so the cumulative, or combined impact