P.O. Box 320
22017 SE Wax Road
Maple Valley, WA 98038
Phone: (425) 413-8800
Fax: (425) 413-4282

THIS MEETING IS OFFERED BOTH IN PERSON AND AS A ZOOM WEBINAR

CALL IN AND JOINING INFORMATION AS FOLLOWS:

https://maplevalleywa.zoom.us/j/83657080423?pwd=0SIRh95sR3NxnUY8uCvJ2xyK5r5Eup.1

Webinar ID: 836 5708 0423
Passcode: 599564

Or Telephone:
+1 253 205 0468 US

PLANNING COMMISSION AGENDA

March 5, 2025
6:00 PM

Lake Wilderness Lodge
22500 SE 248th Street
Maple Valley, WA

1. Call to Order — Chair
2. Roll Call — Clerk
3. Public Comment (**not related to a public hearing**) — Chair

   Now is the time for public comment. Time is limited to 3 minutes per person, or 5 minutes per organization. If anyone from the audience would like to address the Commission at this time, please stand and state your name and address for the Clerk.
4. Approval of Agenda — Chair
5. Continued Business – **Middle Housing**
6. New Business – **None**
7. Public Comment (**not related to a public hearing**) — Chair

   Now is the time for public comment. Time is limited to 3 minutes per person, or 5 minutes per organization. If anyone from the audience would like to address the Commission at this time, please stand and state your name and address for the Clerk.

8. Commission/Staff Reports/Work Plan Items Chair/Staff

9. For the Good of the Order Chair/Staff

10. Announcement of Upcoming Meetings:

- **Joint City Council/PC Meeting Monday, March 17, 2025**
  6:30 PM In Person and via ZOOM
  Lake Wilderness Lodge – Maple Room
  22500 SE 248th Street
  Maple Valley, WA 98038

- **Next Regular Meeting: Wednesday, March 19, 2025**
  6:00 PM In Person and via ZOOM
  Lake Wilderness Lodge – Maple Room
  22500 SE 248th Street
  Maple Valley, WA 98038

11. Adjourn Chair

Agenda items may be added or removed at the Commission's discretion.
Americans with Disabilities Act (ADA) reasonable accommodations provided upon request.
Please call William Boogerd, Clerk to the Commission, at 425-413-8800.

Date: March 5, 2025

To: Planning Commissioners

From: Matt Torpey, Community Development Manager

Subject: March 5, 2025 Planning Commission Meeting

Enclosed you will find the Planning Commission meeting agenda and packet materials. Minutes from the February 27, 2025 meeting will be provided at a future meeting.

Continued Business

Middle Housing

Tonight's meeting will be a continuation of the discussion regarding the draft code to implement HB 1110 Middle Housing and HB 1337 regarding Accessory Dwelling Units. Staff and Berk Consultants will be in attendance to answer Planning Commission questions and to facilitate deliberation.

Included in the packet is a draft map showing areas where Middle Housing is allowed, but segregated into areas that have the greatest potential for middle housing development. This map shows areas that staff has initially identified that provide the greatest opportunities for middle housing depending on lot size, the availability of easement access to new housing, if the property is served by septic without sewer access in proximity, and subdivisions which are newer and fully built to setbacks.

New code regarding Unit Lot Subdivision has been included as section MVMC 18.95.

Staff will return to the Planning Commission with any changes to the draft code following this final review. A public hearing and consideration of a recommendation will be held on March 19, 2025. State law requires that the code amendments must be adopted by Council by June 30, 2025. Staff anticipates introducing Planning Commission's recommendation to Council at a study session on April 21, 2025. No action will be taken by the Commission this evening.

New Business

None

Attachments

- Draft Middle Housing Potential Development Map
- Draft Middle Housing Code

Announcements of Upcoming Meetings

The annual joint meeting with the City Council is scheduled on **Monday, March 17, 2025 at 6:30 PM.** This meeting will be held in person with virtual availability via ZOOM also offered.

The next scheduled regular Planning Commission meeting is on **Wednesday, March 19, 2025 at 6:00 PM.** This meeting will be held in person with virtual availability via ZOOM also offered.

You may contact Matt Torpey at 425-413-8800 or by email at matt.torpey@maplevalleywa.gov.

CITY OF MAPLE VALLEY

- Allowed With Potential For Middle Housing
- Allowed, But Not Likely Due to Septic
- Allowed, But Not Likely Due to Lot Sizes or Accessibility
- Allowed, But Encumbered by Church, Power Station, Stormwater Pond, Apartments, etc.
- Middle Housing Not Allowed
- Park or Open Space
- Waterbody

Treatment	nLots	TotalAcre
Allowed With Potential For Middle Housing	1057	385
Allowed, But Not Likely Due to Septic	708	383
Allowed, But Not Likely Due to Lot Sizes	8073	1,644
Not Allowed	176	614

Middle Housing
Potential Development

Title 18

DEVELOPMENT REGULATIONS

Chapters:

Chapter 18.10

GENERAL

Sections:

18.10.010 Purpose of Development Code.

A. In adopting this Development Code, the City recognizes that there is a continuing need to regulate the use of land to promote the public health, safety, and general welfare. The City recognizes the opportunities to retain a small town environment without unreasonably restricting private enterprise or initiative and further to encourage high quality development without unduly high public or private expenditures for development.

B. The Development Code, in order to obtain the greatest benefits from the opportunities that exist in the City, has been prepared in accordance with the following principles:

1. The code is based on the City's comprehensive plan with respect to the general pattern of future land uses and the principles of future development expressed in said plan.

2. The code recognizes the importance to the community of all legitimate uses of land. The code further recognizes the need of all such uses to be protected from other uses that are unrelated or incompatible. Thus, each district is exclusive with respect to every other zoning district in the code.

3. Development standards are based on the best-accepted contemporary practice, rather than on past practices. Contemporary practice recognizes the need for more flexible regulation than in the past, with more administrative discretion concerning land development decisions. Design review of development plans is required in Commercial and Multifamily districts to obtain well designed and properly integrated developments.

4. Uses which would adversely affect adjoining uses or the public welfare, unless regulated in a particular way and meeting established standards and criteria, may be allowed as conditional uses subject to review by the Hearing Examiner. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-13-536 § 1; Ord. O-99-109 § 1).

18.10.020 Interpretations of this code.

A. Criteria. The Community Development Director or designee may, acting on his or her own initiative or in response to an inquiry, issue interpretations of any of the provisions of this code. The interpretations shall be based on:

1. The defined or the common meaning, as applicable, of the words in the provision;

2. The general purpose of the provision as expressed in the provision; and

3. The logical or likely meaning of the provision viewed in relation to other provisions of the Development Code and applicable portions of the comprehensive plan.

B. Effect. An interpretation of this code will be enforced as if it is part of this code.

C. Formal Interpretations. A formal interpretation shall be decided using Process 2 and shall be appealable to the Hearing Examiner. Formal interpretations may be requested as part of the review for a development project. In these cases, an appeal of a formal interpretation shall be combined with an open record hearing on the development project when such consolidation would result in a more efficient permit process. In other cases, an appeal of a formal interpretation may be conducted as an interlocutory appeal before a decision on a Development Permit is made. A formal interpretation shall not be subject to an additional appeal period when later applied to a development project.

D. Informal Interpretations. Informal interpretations may be issued by letter or memo. No appeal process is provided. A person wishing to appeal an informal code interpretation must request a formal interpretation using Process 2; provided, that where an informal interpretation has been relied upon by the Department in making a decision or recommendation on a project, that informal interpretation may be challenged at any open record predecision hearing or raised as an appeal issue on the development project.

E. Availability. All formal interpretations of this code must be made in writing describing how the interpretation meets the criteria listed above and are subject to the public notice and appeal provisions of Process 2. These interpretations, filed sequentially, will be made available for public inspection and copying at the Department of Community Development during regular business hours. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-13-536 § 1; Ord. O-99-109 § 1).

18.10.030 Variances and conditional uses.

A. The City shall enforce the provisions, including any conditions or restrictions, of a variance, permit decision, or approval issued under this code as if those provisions are part of this code.

B. Under the provisions of this section, the City may void, withdraw or modify any variance, permit, decision or discretionary approval granted or issued under this code when the conditions of subsection (D) of this section are found.

C. The City, as the applicant, shall use the same process to determine if a variance, permit, decision or discretionary approval should be voided as it used to grant the variance, permit, decision or discretionary approval.

D. The City may void, withdraw or modify a variance, permit, decision, or discretionary approval only if it finds that:

1. There have been repeated violations of any aspect, including conditions or restrictions, of the variance, permit, decision or discretionary approval; and

2. The detriment caused by the violations clearly outweighs any public benefit of the variance, permit, decision, or discretionary approval.

E. If the City voids a variance, permit, decision, or discretionary approval, the City will apply and enforce the provisions of this code on the subject property, as if the variance, permit, decision, or discretionary approval had never been granted. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-13-536 § 1; Ord. O-99-109 § 1).

18.10.040 Establishment of districts.

The various districts hereby established and into which the City is divided are designated as follows:

Zoning District	Map Designation
Residential (numbers indicate maximum allowable density per acre)	R-4 through R-24
Neighborhood Business	NB
Community Business	CB
Public	PUB

Zoning District	Map Designation
Park, Recreation, Open Space	PRO
Four Corners Commercial	FCC
Regional Employment Center	REC
Regional Learning and Technology Center	RLTC

(Ord. O-24-831 § 1 (Exh. C); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-13-536 § 1; Ord. O-12-499 § 1; Ord. O-12-490 § 1; Ord. O-11-436 § 1; Ord. O-07-351 § 2; Ord. O-99-109 § 1).

18.10.050 Official Zoning Map.

A. The designation, location and boundaries of the various districts are shown on the Official Zoning Map. Said Official Zoning Map is hereby adopted and made part of this code.

B. The Official Zoning Map shall be on file in the City Clerk's office. Said map shall be identified by the signature of the City Clerk and City Attorney and bear the title, "City of Maple Valley Official Zoning Map."

C. In addition to the Official Zoning Map, there may be a display zoning map which may be used to generally indicate the various districts, but not to locate precise boundaries.

D. If changes are made in the district boundaries or other matters portrayed in the Official Zoning Map, such changes shall be entered on the Official Zoning Map after the amendment has been approved by the City Council. Each amendment shall be filed as part of the official zoning record.

E. All property not otherwise classified on the Official Zoning Map shall be treated as follows:

1. All property not otherwise classified on the Official Zoning Map is hereby placed in an interim zone. Such an interim zone shall be governed by the provisions applicable to the Residential R-4 zoning district. Upon being made aware of property in the interim zoning designation, the Community Development Department shall commence all necessary steps to zone such property.

2. Upon annexation of property, zoning of such property shall be designated consistent with the comprehensive plan of the City or other officially adopted designation. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-13-536 § 1; Ord. O-07-351 § 3; Ord. O-99-109 § 1).

18.10.060 Interpretation of district boundaries.

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such lines.

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following City limits shall be construed as following City limits.

D. Boundaries indicated as following railroad lines shall be construed as to be midway between the main tracks.

E. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries as approximately following the centerlines of streams, canals, rivers, lakes, or other bodies of water shall be construed to follow such centerlines.

F. Boundaries indicated as parallel to or extensions of features indicated in subsections (A) through (E) of this section shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

G. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (A) through (E) of this section, the Community Development Director shall interpret the district boundaries. These interpretations shall be made in writing with written notice to abutting property owners and with appropriate findings related to the district line interpretation.

H. Where a district boundary line divides a lot which was in single ownership at the time of passage of the ordinance codified in this title, the City may permit the extension of the regulation for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-13-536 § 1; Ord. O-99-109 § 1).

18.10.070 Administrative rules.
The Director may promulgate administrative rules and regulations to implement the provisions and requirements of this chapter. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-13-536 § 1; Ord. O-99-109 § 1).

18.10.080 Severability.
If a provision of this title or its applicability to any person or circumstance is held invalid the remainder of the provisions of this title or the application of the provision to other persons or circumstances shall not be affected. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-13-536 § 1; Ord. O-99-109 § 1).

18.10.090 Conflict.
A. Public Provisions. The regulations described in this code are not intended to interfere with or abrogate any other City ordinance, rule or regulation, statute or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provisions of these regulations, or any other City ordinance, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

B. Private Provisions. The regulations described in this code are not intended to abrogate any easement, covenant or any other private agreement or restriction; provided, that where the provisions of these regulations are more restrictive or impose higher standards or regulation than such easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern. The City shall not be responsible for enforcement or maintenance of any such private provisions. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-13-536 § 1; Ord. O-99-109 § 1).

18.10.100 Assurance of discontinuation.
In enforcement of this code, the City may accept an assurance of discontinuance of any act or practice deemed in violation of this code from any person engaging in, or who has engaged in, the act or practice. Any such assurance shall be in writing and filed and may be subject to the approval of the superior or district court or the Hearing Examiner. A violation of the assurance constitutes prima facie proof of a violation of this code. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-13-536 § 1; Ord. O-99-109 § 1).

18.10.110 City not liable.
A. Notwithstanding any language used in this code and enacted herein or heretofore, it is not the intent of this code to create a duty and/or cause of action running to any individual or identifiable person but rather any duty is intended to run only to the general public.

B. It is expressly the purpose of this code to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or a group of persons who will or should be especially protected or benefited by the terms of this code.

C. It is the specific intent of this code that no provision or term used in this code is intended to impose any duty whatsoever upon the City or any of its officers or employees for whom the implementation or enforcement of this code is discretionary and not mandatory.

D. Nothing contained in this code is intended to be nor shall be construed to create or form the basis for any liability on the part of the City or its officers, employees or agents for any injury or damage resulting from the failure of a plat to comply with the provisions of this code, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or

enforcement of this code, or by reason of any action or inaction on the part of the City related in any manner to the enforcement of this code by its officers, employees or agents. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-13-536 § 1; Ord. O-99-109 § 1).

18.10.120 Enforcement.

A. Violations of the terms and provisions of this title shall be enforced as a civil code violation pursuant to the applicable provisions of MVMC Title 4.

B. Any person who violates or fails to comply with any term or provision of this title shall be deemed to have committed a civil code violation. Each day of violation shall be a separate violation. Any person found to have committed a civil code violation shall be assessed a monetary penalty as set forth in Chapter 4.70 MVMC, Fines and Penalties, and may be subject to other costs, fees and remedies as set forth in the applicable chapters of MVMC Title 4. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-13-536 § 1).

Chapter 18.20

DEFINITIONS

Sections:

18.20.010 General.

For the purposes of this code, certain terms or words used herein shall be interpreted as follows:

A. The word “person” includes “firm,” “association,” “organization,” “partnership,” “trust,” “company,” or “corporation” as well as an individual.

B. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

C. The word “shall” is mandatory, the word “may” is permissive.

D. The word “used” or “occupied” includes the words “intended, designed, or arranged to be used or occupied.”

E. The word “lot” includes the words “plot” and “parcel.” (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-03-235 § 1; Ord. O-02-186 § 1; Ord. O-99-109 § 1).

18.20.020 Definitions.

A. “A” Definitions.

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

2. “Accessory dwelling unit” means a ~~second~~ dwelling unit added to or created within a single-family detached dwelling, or middle housing, for use as a completely independent unit.

3. “Accessory use or structure” means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, and smaller than, the principal use or structure.

4. “Adjacent” means directly next to, touching, as in a common property line, or directly across a street.

5. “Administrative design review" means a development permit process whereby an application is reviewed, approved, or denied by the Economic and Community Development director or the Director's designee based solely on objective design and development standards without a public predecision hearing, unless such review is otherwise required by state or federal law, or the structure is a designated landmark or historic district established under a local preservation ordinance. A city may utilize public meetings, hearings, or voluntary review boards to consider, recommend, or approve requests for variances from locally established design review standards.

~~5.~~ 6. “Adult entertainment” means:

a. Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance involves a person who is unclothed or in such costume, attire or clothing as to expose any portion of the nipple, the areola, or the lower half of the female breast or any portion of the pubic region, anus, buttocks, vulva or genitals, or wearing any device or covering exposed to view which simulates the appearance of any portion of the nipple, the areola, or the lower half of the female breast or any portion of the pubic region, anus, buttocks, vulva or genitals, or human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

b. Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to the following specified sexual activities:

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

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

iii. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; or

c. Any exhibition, performance or dance intended to sexually stimulate any patron and conducted in a premises where such exhibition, performance or dance is performed for, arranged with or engaged in with fewer than all patrons on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance. For purposes of example and not limitation, such exhibitions, performances or dances are commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.

~~6~~ 7. "Adult use facility" means an enterprise predominantly involved in the selling, renting, or presenting for commercial purposes of books, magazines, motion pictures, films, video cassettes, cable television, live entertainment, performance or activity distinguished or characterized by a predominant emphasis on the depiction, simulation or relation to "specified sexual activities" as defined by this chapter for observation by patrons therein. Examples of such establishments include, but are not limited to, adult book or video stores and establishments offering panorams, peep shows or topless or nude dancing.

~~7~~ 8. "Affordable housing" means residential housing reserved for occupancy as a primary residence by eligible households where total monthly housing expenses do not exceed 30 percent of the monthly income of the household. Unless otherwise specified, eligible households shall have an annual income of no more than 80 percent of the area median income for owner-occupied housing or 60 percent for rental housing, adjusted for household size, as determined by the Department of Housing and Urban Development (HUD) for King County. For owner-occupied housing, housing expenses include mortgage payments, mortgage insurance, property taxes, property insurance, and homeowners' association dues. Housing expenses for rental housing include rent and an allowance for utilities (excluding telephone and internet) obtained from the King County Housing Authority.

~~8~~ 9. "Agriculture" means the use of land for agriculture purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture, apiaries, and animal and poultry husbandry, and the necessary accessory uses for storing produce; provided, however, that the operation of any such accessory use shall be incidental to that of normal agriculture activities.

10. "All lots zoned for residential use" means all zoning districts in which residential dwellings are the predominant use (R4/6, R8, R12, R18/24). This excludes lands zoned primarily for commercial, industrial, and/or public uses, even if those zones allow for the development of detached single-family residences. This also excludes lands zoned primarily for mixed uses, even if those zones allow for the development of detached single-family residences, if the zones permit by-right multifamily use and a variety of commercial uses, including but not limited to retail, services, eating and drinking establishments, entertainment, recreation, and office uses.

~~9~~ 11. "Alley" or "lane" means a public or private way not more than 30 feet wide affording only secondary means of access to abutting property.

~~10~~ 12. "Allowable density" means the maximum number of lots or primary residential units allowed, determined by multiplying the gross acreage of the development or designated site by the maximum number of dwelling units allowed by the zoning district or designation.

~~11~~ 13. "Animal, large" means cattle, horses, donkeys, sheep, goats, hogs, llamas, emus and any animals comparable in size.

~~12.~~ 14. “Animal, small” means any domesticated animal not considered to be a “large animal,” including household pets, poultry, bees and other animals of similar size and type.

~~13.~~ 15. “Apartment” means a dwelling unit in a multifamily building.

~~14~~ 16. “Apartment house” (also see “Dwelling, multiple-family”) means any building, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied, as the home or residence of three or more families living independently of each other and doing their own cooking in the said building, and shall include flats and apartments.

~~15~~ 17. “Assisted living facility” means any home or institution that provides housing, assists with activities of daily living and is responsible for the safety and well-being of the residents. Assisted living shall not include independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the Department of Housing and Urban Development.

~~16~~ 18. “Automobile wrecking or motor vehicle wrecking” means the dismantling or disassembling of motor vehicles or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked motor vehicles or their parts.

~~17~~ 19. Awning. See “Canopy.”

B. “B” Definitions.

1. “Basement” means that portion of a story partly underground and having at least one-half, or more than five feet, below the adjacent finish grade.

2. “Bed and breakfast” means any single-family dwelling in use as a residence and also containing no more than three guest rooms in which travelers are lodged for no more than two consecutive weeks and for which compensation of any kind is paid. (For the purpose of this definition, a bed and breakfast is not a hotel, inn, motel, or boarding or lodging home.)

3. “Boarding or lodging home” means a building with not more than five guest rooms (with or without meals) which are provided for compensation for not more than 10 persons. Guest rooms numbering six or more shall constitute a hotel.

4. “Buffer” means a landscaped strip that may be required to be of a frequency, width, length, location, density and height of planting, as specified by regulations, conditions and/or recommendations of City staff.

5. “Building” means any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals or property of any kind.

6. “Building height” means the vertical distance from the “grade” to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hip roof; provided, that driveway entrances to underground parking shall be excluded from the elevation used to calculate “grade.”

7. “Building, principal or main” means a building devoted to the principal use of the lot on which it is situated.

8. “Business activity” means any activity carried out for the purpose of financial gain for an individual or organization, whether profit or nonprofit.

9. “Business or commerce” means the purchase, sale, or other transaction involving the handling or disposition of any article, service, substance, or commodity for the livelihood or profit; or the management of office buildings, offices, recreational or amusement enterprises; or the maintenance and use of buildings, offices, structures, and premises by professions and trades rendering services.

C. “C” Definitions.

1. “Canopy” means a roof-like projection.

2. “Car wash” means a structure with machine-operated or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles.

3. “Clinic” means a facility designed for use by medical or dental professionals for outpatient diagnosis and treatment.

4. “Commercial zone” means any nonresidential zone, including Neighborhood Business, Community Business, and Town Center.

5. “Comprehensive plan” means the plans, map, and reports that have been adopted by the City Council in accordance with applicable State law.

6. “Conditional use” means a use permitted in a zoning district only after review and approval by the City. Conditional uses are such that they may be compatible only under certain conditions in specific locations in a zoning district, or if the site is regulated in a certain manner.

7. “Conditional Use Permit” means a land use application granted by the Hearing Examiner to locate a conditional use at a specific location.

8. “Congregant residence” means a type of housing in which each individual or household has a private bedroom or living quarters but shares with other residents a common dining room, recreational room, or other facilities.

9. “Correctional facility” means a State-operated facility for the incarceration and/or rehabilitation of adult or juvenile inmates.

10. “Cottage housing" means residential units on a lot with a common open space that either: (a) Is owned in common; or (b) has units owned as condominium units with property owned in common and a minimum of 20 percent of the lot size as open space.

~~10~~ 11. “Court” means, for building code purposes, a space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls of a building.

12. "Courtyard apartments" means up to four attached dwelling units arranged on two or three sides of a yard or court.”

D. “D” Definitions.

1. “Day care center, adult” means a State-licensed facility which provides supervision and care for a group of elderly or disabled adults who cannot safely be left alone, for a period of less than 24 hours per day.

2. “Day care center, child” means a facility, licensed by the State, which regularly provides care for a group of children for a period less than 24 hours per day. The term shall include, but is not limited to, facilities commonly known as “day care facilities,” “day care centers,” and “preschools.” See “Family child care home” for child care located in a residence.

3. “Density” means the number of dwelling units or lots within a specified area calculated by dividing the number of dwelling units or lots by the gross acres (see “gross acreage”).

4. “Department” means the City of Maple Valley Community Development Department.

5. “Development” means any manmade change to improved or unimproved real property, including, but not limited to, buildings or other structures, placement of manufactured homes/mobile homes, mining, dredging, clearing, filling, grading, paving, excavation, drilling or the subdivision of property.

6. “Development Permit” means any document granting, or granting with conditions, an application for a land use designation or redesignation, zoning or rezoning, subdivision, site plan, Building Permit, variance or any other official action of the City having the effect of authorizing the development of land.

7. “Development plan” means a plan drawn to scale, indicating the proposed use, the actual dimensions and shape of the lot to be built upon, the exact sizes and locations on the lot of buildings already existing, if any, and the location on the lot of the proposed building or alteration, yards, setbacks, landscaping, off-street parking, ingress and egress, and signs.

8. “Development standards” means regulations including but not limited to setbacks, landscaping, screening, building height, site coverage, signs, building layout, parking and site design and related features of land use.

9. “Director” means the Director of the Economic and Community Development Department or designee.

10. “Discretionary Land Use Permit” means a document granted by official action of the City which authorizes the development or use of land pursuant to the final development plan approval.

11. “District” means an area designated by the Maple Valley Development Code and zoning map with specific boundaries in which lie specific zones that are described in the Development Code.

12. “Dormitory” means a residence hall providing sleeping rooms for students enrolled in a secondary boarding or post-secondary educational institution to which it is an accessory use.

13. “Dripline” means the maximum circumference of the existing tree crown as located on site.

14. “Drive-through windows/facilities” means any portion of a building or structure from which business is transacted directly with customers located in a motor vehicle during such business transactions. This definition shall not include retail fueling stations and car washes.

15. “Duplex” means a residential building with two attached dwelling units.

~~15~~ 16. “Dwelling” means a building or portion thereof designed exclusively for human habitation, including single-family, two-family and multiple-family dwellings, accessory dwelling units, modular homes, manufactured homes and mobile homes, but not including congregate residences, nursing homes, dormitories, hotels, motels, or public facilities such as fire stations.

~~16.~~ 17. “Dwelling, multiple-family” means a dwelling containing three or more dwelling units.

~~17~~ 18. “Dwelling, single-family” means a dwelling unit that may or may not be attached to any other dwelling unit.

~~18.~~ 19. “Dwelling, two-family” means a building containing two dwelling units, but not including a single-family dwelling with an approved accessory dwelling unit.

~~19~~ 20. “Dwelling unit” means a room, or rooms, within a dwelling configured as described herein and occupied or intended to be occupied by one household only as living accommodations independent from any other household on a monthly or longer basis. A dwelling unit shall be a separate area that includes:

a. A complete food preparation area containing a sink, a stove or range, a refrigerator, and a countertop;

b. A bathroom containing a toilet, sink, and a shower or bathtub; and

c. One or more sleeping rooms (or studio apartment).

For the purposes of this definition, a separate area is an area having direct access to the exterior of the building or access to the exterior via hallways, stairways, and elevators that are primarily ingress/egress routes to the exterior rather than leading to common kitchens and living areas.

E. “E” Definitions.

1. “Emergency amendment” means a revision to the comprehensive plan that arises from a situation that necessitates the immediate preservation of public health, safety, and welfare.

2. “Emergency housing” means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement.

3. “Emergency shelter” means a facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations.

4. “Examiner” means the City of Maple Valley Hearing Examiner.

F. “F” Definitions.

1. “Factory-built home” means manufactured home, mobile home or modular home.

2. “Family child care home” means a facility meeting the requirements of Chapter 388-155 WAC and providing care for 12 or fewer children in the residence of the licensed provider.

3. “Farmers market” means the temporary, seasonal or occasional sale of fresh agricultural products, arts and crafts, and food and beverages directly to the consumer at an open-air market not to exceed 104 days per year. A farmers market is generally recognized as a community activity that does not charge entry admission fees for public attendance and the operations are managed by a not-for-profit organization.

4. “Fence, sight-obscuring” means a fence designed to provide a solid sight barrier between incompatible land uses. The minimum for a sight-obscuring fence is a chain-link fence with woven slats in every row or available space of the fence.

5. “Fourplex” means a residential building with four attached dwelling units.”

5. “Frontage, building or occupancy” means the length of that portion of a building or ground floor occupancy which abuts a street, publicly used parking area, or mall appurtenant to said building or occupancy expressed in lineal feet and fractions thereof.

6. “Fueling station, commercial” means a building or lot having pumps and storage tanks where fuels, oils or accessories for motor vehicles are dispensed, sold or offered for sale on a wholesale or membership basis, principally although not exclusively for commercial vehicles.

7. “Fueling station, retail” means a building or lot having pumps and storage tanks where fuels, oils or accessories for motor vehicles are dispensed, sold or offered for sale at retail only, principally for cars, light trucks, and other passenger vehicles; repair service is incidental; and no long-term storage or parking space is offered for rent.

G. “G” Definitions.

1. “Garage or carport, private” means a building or a portion of a building principally for vehicular equipment such as automobiles, watercraft, etc., in which only motor vehicles used by the tenants of the building or buildings on the premises are stored or kept.

2. “Grade” is the median of the finished ground elevations of a building measured at one-foot intervals along the base of all exterior building walls greater than four feet wide.

3. “Gross acreage” means the total area before the area for required public improvements such as street rights-of-way, open space, parks, and stormwater facilities have been subtracted.

4. “Gross floor area” means the area included within the surrounding exterior walls of a building expressed in square feet and fractions thereof. The floor area of a building not provided with surrounding exterior walls shall be the usable area under the horizontal projections of the roof or floor above.

5. “Group home” means living quarters for handicapped persons within the meaning of 42 U.S.C. 3602(h), or children with familial status within the meaning of 42 U.S.C. 3602(k), meeting applicable federal and State standards, that function as a single housekeeping unit and provide supportive services, including but not limited to counseling, rehabilitation, and medical supervision, excluding drug and alcohol detoxification facilities.

H. “H” Definitions.

1. “Hazardous substance” means a substance as defined in RCW 70.105.010.

2. “Height.” See “Building height.”

3. “Home-based day care, adult” means a State-licensed facility, located in a dwelling unit, that regularly provides care for a period of less than 24 hours per day for no more than 12 elderly or disabled adults who cannot safely be left alone.

4. “Home occupations” must meet the requirements of MVMC 18.30.030(B)(7).

5. “Homeowners’ association” means an incorporated, nonprofit organization operating under recorded land agreements through which:

a. Each lot owner is automatically a member; and

b. Each member is subject to the requirements of conditions, covenants and restrictions as adopted by the association.

6. “Hospital” means a building or group of buildings designed and used for a full range of medical and surgical diagnosis and treatment, and where patients remain in residence for observation and recuperation.

7. “Hotel” means a site which does not qualify as a bed and breakfast or a boarding or lodging home on which there are any number of guest rooms where lodging with or without meals is provided for compensation.

8. “Household” means any number of people living together as a single non-transient housekeeping unit.

9. “Household pets” means any small animals that are kept within a dwelling unit.

I. “I” Definitions.

1. “Impervious surfaces” means that hard surface area which either prevents or retards the entry of water into the soil mantle as it entered under natural conditions preexistent to development, and/or that hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions preexistent to development. Common impervious surfaces include, but are not limited to, roof tops, concrete or asphalt paving, paved walkways, patios, driveways, parking lots or storage areas, and oiled, macadam or other surfaces which similarly impede the natural infiltration of surface water.

J. “J” Definitions.

1. “Jail” means a municipal holding facility located in conjunction with police offices.

2. “Junk yard” means a place where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including auto and motor vehicle wrecking yards, house

wrecking yards, used-lumber yards and yards for use of salvaged house wrecking and structural steel materials and equipment.

K. “K” Definitions.

1. “Kennel” means any premises on which domestic animals are kept on a temporary basis for compensation, or on which small animals exceeding the number allowed as an accessory use are kept.

L. “L” Definitions.

1. “Lot,” for the purposes of this code, is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area and to provide such setbacks and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street or easement, and may consist of:

a. A single lot of record;

b. A portion of a lot of record;

c. A combination of complete lots of record, and portions of lots of record;

d. A parcel of land described by metes and bounds;

Provided, that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this code.

2. “Lot, corner” means a lot abutting upon two or more public streets at their intersection, or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees within the lot lines.

3. “Lot coverage” means that portion of a lot covered by buildings or structures.

4. “Lot frontage” means the portion of a lot abutting a public right-of-way.

5. “Lot line” means a line of record bounding a lot that divides one lot from another lot or from a public right-of-way or private street or any other public space.

6. Lot Measurements.

a. Depth of a lot shall be considered to be the mean or average distance from the front lot line to the rear lot line.

b. Width of a lot shall be considered to be the mean or average distance between the side lines connecting front and rear lot lines; provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than 80 percent of the required lot width except in the case of lots on the turning circle of cul-de-sacs, where the 80 percent requirement shall not apply.

7. “Lot of record” means a lot which is part of a subdivision recorded in the office of the County Assessor, or a lot or parcel described by metes and bounds and/or bearings, the description of which has been so recorded.

8. “Lot, pipestem” means a lot which gains street right-of-way access by way of a driveway easement or lot extension which is less than 80 percent of the minimum lot width. When a pipestem-shaped lot abuts two or more street rights-of-way, it shall not be considered a pipestem lot. Lot width and setback requirements shall be exclusive of the access stem.

9. “Lot, through” means a lot that has both ends abutting on a street. Either end may be considered the front.

M. “M” Definitions.

1. "Major transit stop" means a stop on a high capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW, commuter rail stops, stops on rail or fixed guideway systems, and/or stops on bus rapid transit routes.

~~1~~ 2. "Manufactured home" means a factory-assembled structure intended solely for human habitation, which has sleeping, eating and plumbing facilities, that is being used for residential purposes, that was constructed in accordance with the HUD Federal Manufactured Housing Construction and Safety Standards Act in effect at the time of construction, and that is constructed in a way suitable for movement along public highways.

3. "Middle housing" means buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes including duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing.

~~2~~ 4. "Mobile home" means a factory-constructed residential unit with its own independent sanitary facilities, that is intended for year-round occupancy, and is composed of one or more major components which are mobile in that they can be supported by wheels attached to their own integral frame or structure and towed by an attachment to that frame or structure over the public highway under trailer license or by special permit.

~~3~~ 5. "Modular home" means a dwelling that is designed for human habitation and is either entirely or substantially prefabricated or assembled at a place other than a building site and meets all of the requirements of Chapter 296-150A WAC. Modular homes are also commonly referred to as factory-built housing, and for purposes of this title a modular home is considered single- and two-family housing.

~~4~~ 6. "Motel" means a group of attached or detached buildings containing individual sleeping units where a majority of such units open individually and directly to the outside, and where a garage is attached to or a parking space is conveniently located to each unit, all for the temporary use by tourists or transients, and not including bed and breakfasts or boarding or lodging homes.

N. "N" Definitions.

1. "Net acreage" means the buildable area after the area for required public improvements such as street rights-of-way, open space, parks, and stormwater facilities has been subtracted.

2. "Nonconforming development site" means a site developed, operated and maintained as a single entity accommodating commercial, business park or multifamily uses, or a combination of such uses, with common areas, accessory uses, or site improvements which were legal when established but which do not now conform to the current parking, loading, access, landscaping, screening, open space, impervious surface, or design requirements of this code.

3. "Nonconforming lot of record" means any validly recorded lot which at the time it was recorded fully complied with the applicable laws and ordinances but which does not fully comply with the lot requirements of this code.

4. "Nonconforming structure" means a building or structure which conformed to applicable dimensional standards in effect when the structure was built, including height, setback, density, and lot coverage, but which no longer complies because of changes in applicable regulations. For structures not conforming to building code requirements, see MVMC Title 15.

5. "Nonconforming use" means the use of land or a structure which conformed to applicable codes in effect on the date of creation or inception of the use, but which no longer complies because of changes in applicable regulations.

6. "Nursing home" means a medically staffed facility intended for the long-term residential care of individuals not related by blood or marriage to the operator of the facility who are incapable of independent living, because of age or medical condition. This definition shall also include care of mentally incompetent and community-based care but shall exclude hospitals and assisted living facilities. "Nursing home" shall also include "nursing facility," "skilled nursing facility" or "long-term care facility."

O. “O” Definitions.

1. “Occupancy” means the purpose for which a building is used or intended to be used. The term shall also include the building or room housing such use.

2. “Official map” means maps showing the designation, location and boundaries of the various districts that have been adopted and made part of this code.

3. “Open space” means land that is reserved for recreational purposes or for the preservation of particular vegetative or topographic features.

4. “Outside storage” means all or part of a lot that is used for the keeping of materials or products in an open, uncovered yard or in an unwalled building. Such materials shall include, but not be limited to, tractors, backhoes, heavy equipment, construction materials and other similar items.

P. “P” Definitions.

1. “Park” means a tract of land designated and used by the public for active and passive recreation as defined within the City of Maple Valley Parks, Recreation, Cultural and Human Services Plan.

2. “Parking space or parking stall” means any off-street space intended for the use of vehicular parking with ingress or egress to the space easily identifiable.

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

4. “Police station” means a protection/law enforcement center operated by a governmental agency including administrative offices, storage of equipment, temporary detention facilities, and the parking of vehicles; excluding correctional institutions.

5. “Professional office” means an office used as a place of business by licensed professionals, or persons in other generally recognized professions, which primarily use training or knowledge of a technical, scientific or other academic discipline rather than manual skills, and which does not involve outside storage or fabrication, or on-site sale or transfer of merchandise as a primary activity.

6. “Public sanitary sewer” means any sewer facility other than a side sewer, either owned or operated by, or within the jurisdiction of, the City.

7. “Public transit facilities” means transit centers, park and ride lots, and other major facilities related to public transportation; does not include bus stops, which are permitted in all zones.

Q. “Q” Definitions. Reserved.

R. “R” Definitions.

1. “Recreation instruction” means programmed instruction for indoor or outdoor sports or arts-related activities including but not limited to dance studios, martial arts schools, pottery or ceramics studios, and tennis or soccer clubs.

2. “Recreational use” means interior or exterior areas dedicated for public or private active or passive recreational use, or amenity, including sports and recreational services and activities. A recreational use may be operated as a nonprofit or for-profit entity, and may include recreation clubs restricting use to members and their guests (i.e., country, golf, tennis, and amateur sports and recreation clubs), recreational amusement uses, trails, special purpose recreation facilities such as ice arenas, equestrian centers, swimming pools, golf courses or live performance theaters, and recreational uses not elsewhere classified. Subject to code restrictions, accessory uses may be allowed in conjunction with a primary recreational use that includes: temporary housing, residential uses, eating and drinking establishments, small conference facilities, and associated retail, i.e., pro shops.

3. “Recreation space” means interior or exterior areas located and designed for common use by residents of a development. Exterior areas include lands unoccupied by buildings, roads or parking areas, such as woodlands, fields, gardens, courtyards, landscaped areas, lawns and trails, as well as swimming pools, tennis courts, and picnic areas.

4. “Recreational vehicles” means motorized vehicles that include a cabin for living accommodations and are commonly used for recreational travel and touring. Vehicles included in this category come in several forms: travel trailers, tent trailers and camping trailers, all of which must be towed by an automobile or truck; and truck campers, motor homes and camper vans, all of which have the motor within the body of the vehicle.

5. “Religious institution” means a facility operated for worship, prayer, meditation or similar activity by an organization granted tax-exempt status by the Federal Internal Revenue Service.

6. “Replacement value” means the cost to rebuild or replace a structure, minus deferred maintenance. The Director of Community Development shall provide rules and determine which valuation service to use for determining replacement value.

7. “Retail vehicle sales/rentals – motor vehicle, boat, and recreational vehicle, retail” means an establishment engaged in the retail sale of new and/or used automobiles, boats, recreational vehicles, and other motorized passenger vehicles.

8. “Retirement community – Continuing care” means a single facility that provides a range of services by one organization which includes independent living services, or boarding home or assisted living services and skilled nursing services. The number of licensed nursing home beds must be 60 percent or less of the total number of beds available in the entire continuing care retirement community.

9. “Retirement home” means a building or group of buildings designed for the occupancy of three or more families, living semi-independently from each other, and containing private sleeping units with some common kitchen, dining, and recreation facilities; provided, a retirement home may contain one or more dwelling units utilized solely by resident staff.

10. “Revegetation” means the planting of vegetation to cover any land areas which have been disturbed during construction.

11. “Right-of-way” means land which is occupied or dedicated to be occupied by a public street or railroad, together with public property reserved for utilities, transmission lines and extensions, walkways, sidewalks, bikeways, equestrian trails, and other similar uses.

S. “S” Definitions.

1. “Self-storage” means a facility designed for the temporary off-site storage of property, accessible by the user.

2. “Senior assisted housing” means dwellings exclusively designed for and occupied by families each of which have at least one person of age 62 or older, and as may be modified by the requirements of State or federal programs or regulations to include individuals who are classified as head-of-household and are disabled or handicapped regardless of age. Senior assisted housing may include support services, including but not limited to:

a. Food preparation and dining areas;

b. Group activity areas;

c. Medical supervision; and

d. Similar activities.

3. “Services, on-site” means establishments primarily engaged in providing individual or professional services within the place of business, such as beauty salons and barber shops, retail laundry and dry cleaning including coin-operated, garment alterations and repair, photo studios, shoe repair, pet grooming, photography and photo reproduction, entertainment media rental or other indoor rental services, repair of personal items or household items, and nonmotorized vehicle repair. This definition excludes automotive repair or automotive service and miscellaneous repair.

4. “Setback” means the minimum required distance between any structure and a specified line such as a lot line, public right-of-way, private road, easement or buffer line that is required to remain free of structures unless otherwise provided herein.

5. “Setback, front” means space abutting a street right-of-way, access easement or private road either from which the lot is addressed or from which the lot gains primary access and extending the full width of the lot. For pipestem lots, the front setback shall be located in the area of the lot nearest the street or private road, exclusive of the pipestem area. On a corner lot, the front setback shall be provided on the narrowest part of the lot that abuts a street, except in Commercial zones, in which cases the Director shall determine the location of the front setback.

6. “Setback, interior” means the setback from interior property lines, i.e., those property lines not abutting a public street, access easement or private road, a side setback or rear setback.

7. “Setback, rear” means space abutting a property line and opposite to the front setback or as nearly so as the lot shape permits, and extending the full width of the lot. If more than one rear setback is possible, the setback furthest from the front lot line shall be the required rear setback.

8. Setback, Side. Any setback not defined as a front or rear setback shall be treated as a side setback; provided, that on corner lots the setback abutting the street not designated as the front shall be a “side street setback” and shall require a setback of twice the distance for an interior or side setback.

9. “Sewage system, on-site” means any system of piping, treatment devices, or other facilities that convey, store, treat, or dispose of sewage on the property where it originates or on adjacent or nearby property under control of the user where the system is not connected to a public or approved private sewer system.

10. “Shopping center” means more than three commercial establishments that are planned, owned or managed as a single entity with on-site parking provided.

11. “Sign” Definitions. See MVMC 18.50.010, Signs, for definitions related to signs and signage.

12. “Single-family zones” means those zones where single-family detached residences are the predominant land use.

~~12~~ 13. “Sleeping unit” means a room or area within a building specifically designed for sleeping only, which contains no cooking or sanitary facilities.

~~13~~ 14. “Special purpose recreation facility” means an area operated and devoted to facilities and equipment for recreational purposes, including swimming pools, tennis courts, playgrounds, ice arenas, golf courses and other similar uses whether the use of such area is limited to private membership or whether open to the public upon the payment of a fee.

~~14~~ 15. “Specified sexual activities” means human genitalia in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; or erotic fondling, touching or display of human genitalia, pubic region, buttock, or female breast.

~~15~~ 16. “Stable” means a structure or facility in which horses or other livestock are kept for the purpose of boarding, training, riding lessons, breeding, rental or personal use.

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

~~16~~ 18. “Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused underfloor space is more than six feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such basement, cellar or unused underfloor space shall be considered a story.

~~17~~ 19. “Street” means a public or recorded private thoroughfare providing pedestrian and vehicular access through neighborhoods and communities and to abutting property.

~~18~~ 20. “Structure” means that which is built or constructed, an edifice or building of any kind or any piece of work composed of parts joined together in some definite manner and includes posts for fences and signs, but does not include mounds of earth or debris.

T. “T” Definitions.

1. “Townhouse” means single-family attached dwelling units that occupy space from the ground to the roof and share a common wall with one or more adjacent dwelling unit(s), having open space on at least two sides, but not necessarily having a side yard.

2. “Tract” means any parcel of land, lot, building site, or contiguous combination thereof devoted to or intended to be devoted to a principal use and any other uses customarily accessory thereto.

3. “Trade, retail” means the sale or rental of goods and merchandise for final use or consumption.

4. “Transitional housing” means a project that provides housing and supportive services to homeless persons or families for up to two years and that has as its purpose facilitating the movement of homeless persons and families into independent living.

5. “Triplex” means a residential building with three attached dwelling units.

U. “U” Definitions.

1. “Unit density” means the number of dwelling units allowed on a lot, regardless of lot size.

~~1~~ 2. “Use” means an activity for which land or premises or a building thereon is designed, arranged, intended, or for which it is occupied or maintained, let or leased.

~~2~~ 3. “Use, change of” occurs when it is found that the building code occupancy changes or when a new use would require more parking spaces according to the requirements of this code than the previous use, or when a new use generates more than 120 percent of the vehicle trips of the former use.

~~3~~ 4. “Use, permitted” means any use allowed in a zoning classification and subject to the restrictions applicable to the specific use.

~~4~~ 5. “Use, temporary” means any activity and/or structure permitted under the provisions of this code which is intended to exist or operate for a limited period of time and which does not comply with the development standards and requirements as specified for the zoning district in which it is located.

~~5~~ 6. “Utility” means a public or private agency which provides a service that is utilized or available to the general public (or a locationally specific population thereof). Such services may include, but are not limited to, stormwater detention and management, sewer, water, telecommunications, cable, electricity and natural gas.

~~6~~ 7. “Utility infrastructure, major or regional” means above- or below-grade facilities for the transmission, distribution or provision of services to a wide area, often greater than the Maple Valley City limits, including but not limited to:

a. Pump stations;

b. Electrical substations;

c. Electrical transmission lines;

d. Lift stations;

e. Water reservoirs;

f. Treatment plants.

~~7~~ 8. “Utility infrastructure, minor or local” means above- or below-grade facilities for the distribution or provision of services to a local area, including but not limited to:

a. Distribution lines;

b. Grinder pumps;

c. Storm drainage facilities;

d. Storm drainage culverts.

V. “V” Definitions.

1. “Variance” means a modification of dimensional standards of this code when authorized pursuant to MVMC 18.110.040.

2. “Vehicle repair, major” means servicing, repairing, or restoring of vehicles including but not limited to engine work, auto body work, or any other work that typically requires more than a day to accomplish, and including vehicle towing and impound lots.

3. “Vehicle repair, minor” means servicing and repairing vehicles including but not limited to oil changes, mini-lube facilities, tire changes, replacing headlights and windshield wipers, detail shops, and auto-related work that typically can be completed within one day.

4. “Veterinary clinic” means any premises to which animals are brought or where they are temporarily kept, solely for the purpose of diagnosis or treatment of any illness or injury.

W. “W” Definitions.

1. “Watercraft” means any recreational or commercial craft or device designed for use in or on a body of water.

X. “X” Definitions. Reserved.

Y. “Y” Definitions.

1. “Youth mental health services” means a counseling or therapy service provided by a nonprofit or governmental organization.

Z. “Z” Definitions. Reserved. (Ord. O-24-831 § 1 (Exh. C); Ord. O-23-774 § 1 (Exh. A); Ord. O-18-639 § 1; Ord. O-16-598 § 1(B) (Exh. B); Ord. O-13-545 § 1; Ord. O-12-499 § 2; Ord. O-12-490 § 2; Ord. O-10-415 § 1; Ord. O-07-351 § 4; Ord. O-06-333 § 1; Ord. O-05-304 § 1; Ord. O-03-235 § 1; Ord. O-02-186 § 1; Ord. O-99-109 § 1).

Chapter 18.30

PERMITTED USE TABLES

Sections:

18.30.010 Establishment of uses – Prohibited uses.

A. The use of property is defined by the activity for which the building or lot is intended, designed, arranged, occupied, or maintained. A use that will operate for less than 60 days may be considered a temporary use, and be subject to the requirements of MVMC 18.30.015 pertaining to temporary uses. All applicable requirements of this code, or other applicable State or federal requirements, shall govern a use located in the City of Maple Valley.

B. Any land use that violates a City ordinance, or the City municipal code, and/or State law, and/or federal law, is strictly prohibited; except, pursuant to Washington State Initiative 502, two Washington State Liquor and Cannabis Board licensed marijuana retail facilities shall be authorized to operate within the City limits even though inconsistent with federal law. (Ord. O-17-619 § 2; Ord. O-16-598 § 1(B) (Exh. B); Ord. O-12-504 § 1; Ord. O-03-235 § 1; Ord. O-99-109 § 1).

18.30.015 Temporary uses.

A. Purpose. The purpose of this section is to make allowances for certain types of temporary uses. Temporary uses are uses that do not require permanent construction and which are approved with a specified time limit.

B. Temporary Uses in All Zones. The Director may authorize temporary uses which do not involve the construction of a permanent structure as a Process 1 decision. Under no circumstance shall such a temporary use be authorized for a period exceeding 60 days. The Director must find that the proposed use is not in conflict with the goals and policies of the comprehensive plan and that no material detriment to surrounding properties will occur. In considering such proposals, the Director may:

1. Require modifications to the site plan, signage, lighting, limitations on hours of operation, or other measures to mitigate adverse impacts of the proposal;

2. Require that the proposed use have on-site staff whenever in operation;

3. Require the applicant post a bond or other financial guarantee for the removal of materials and restoration of the site; and

4. Modify certain development standards for the site if they will not serve a substantial purpose during the life of the temporary use.

C. Temporary Residential Structures.

1. The Director may authorize the installation of a manufactured home for use during the construction of a single-family residence, subject to the following:

a. The temporary dwelling shall be on the same parcel as the house under construction;

b. The permit shall be valid for the life of the Construction Permit, not to exceed one year;

c. The applicant shall post a bond or other financial guarantee sufficient to cover the removal of the unit;

d. The application shall be subject to the procedures for Process 1 decisions.

2. The Director may authorize manufactured homes as accessory to residential uses for the care of an elderly or disabled relative subject to the following:

a. The initial approval shall be for no more than one year;

b. The applicant shall post a bond or other financial guarantee sufficient to cover the removal of the unit;

c. The specific unit to be installed must be generally consistent with architecture and design of the surrounding residential structures;

d. Renewal may be sought on a year-by-year basis provided the previous criteria are satisfied and the unit is maintained and operated in a clean and safe manner; and

e. The initial application and any renewal shall be subject to the procedures for Process 1 decisions.

D. Temporary Nonresidential Structures and Uses.

1. The Director may authorize office and retail uses to occur in temporary structures during the period of construction of a permanent facility to house such activity subject to the following:

a. The approval of such activity shall be only during the life of the Building Permit and shall not exceed one year unless renewed;

b. The applicant shall post a bond or other financial guarantee sufficient to cover the removal of the unit;

c. Renewal may be sought on a year-by-year basis not to exceed the life of the Construction Permit;

d. The temporary structure shall comply with all applicable utility and construction standards; and

e. The initial application and any renewal shall be subject to the procedures for Process 1 decisions.

2. The Director may authorize the installation of small temporary structures for the use as contractor's offices, construction engineer's offices, real estate offices and other similar activities subject to the approval of the Building Official and City Engineer. If necessary, the Director may require that a bond be posted for the removal and may limit the duration of the approval to a reasonable period (e.g., length of construction, completion of real estate sales).

3. The Director may authorize the use of temporary storage associated with an active, permitted, municipal construction project and other similar activities. In the event the use becomes inactive for 60 days, the permit shall expire. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-12-492 § 1; Ord. O-03-235 § 1; Ord. O-99-109 § 1).

18.30.020 Interpretation of land use tables.

A. The land use tables in this chapter determine whether a specific use is allowed in a zoning district. The zoning district is located on the vertical column and the specific use is located on the horizontal row of these tables. The administrative requirements of Chapter 18.100 MVMC apply to all applications.

B. If no land use is identified or no symbol appears in the box at the intersection of the column and the row, the use is not allowed in that district, except for certain temporary uses.

C. If the letter "P" appears in the box at the intersection of the column and the row, the use is allowed in that district subject to the review procedures and general requirements of the code. Design review or compliance with the Community Design Guidelines and requirements may be required pursuant to Chapter 18.70 MVMC. The process types and process steps tables of MVMC 18.100.040(A) and (B) apply.

D. If the letter "C" appears in the box at the intersection of the column and the row, the use is permitted subject to the conditional use permit review procedures and the general requirements of the code. The process types and process steps tables of MVMC 18.100.040(A) and (B) apply.

E. If the letter "A" appears in the box at the intersection of the column and the row, the use is allowed in that district as an accessory to the primary use.

F. If a number appears in the box at the intersection of the column and the row, the use may be allowed subject to the appropriate review process indicated above, the general requirements of the code and the specific conditions set forth in the corresponding number or section immediately following the permitted use table.

G. All applicable requirements shall govern a use whether or not they are cross-referenced in a section.

H. Property located within the Downtown Overlay District (Ordinance No. O-23-781, Exh. C) is subject to the use regulations contained in the Downtown Design Standards and Guidelines (Ordinance No. O-23-781, Exh. A, Section 1.4), as that ordinance may be amended from time to time. Ordinance No. O-23-781, Exh. A, Section 1.4 overrides the permitted use table of the underlying zone. To the extent that any conflict exists between Ordinance No. O-23-781 and this code, Ordinance No. O-23-781 shall control. (Ord. O-23-781 § 4 (Exh. D); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-12-504 § 2; Ord. O-11-438 § 1; Ord. O-03-235 § 1; Ord. O-99-109 § 1).

18.30.030 Allowed uses by zoning district – Residential.

A. Table.

USE	ZONING DISTRICT										
	R-4/6~~16~~ [15]	R-8~~[16]~~ [15]	R-12~~[16]~~ [15]	R-18/24~~15~~ [14, 16]	NB	CB	PUB	PRO	FCC	REC	RLTC
Dwelling, Single-Family	P	P~~[12]~~	P~~[12]~~	P~~[12]~~ P[1]							
Factory-Built Home	P~~[1]~~ [2]	P~~[1]~~ [2]	P~~[1]~~ [2]	P~~[1]~~ [2]							
Duplex	P~~1~~ [3]	P~~[1]~~ [3]	P~~[1]~~ [3]	P~~[1]~~ [3]							
Triplexes and Fourplexes	P~~[1]~~ [3]	P~~[1]~~ [3]	P~~[1]~~ [3]	P~~[1]~~ [3]							
Townhouse	P [3] C~~[4]~~	P [3]	P [3]	P [3]					A		
Stacked Flats		P~~[1]~~ [3]	P~~[1]~~ [3]	P~~[1]~~ [3]							
Courtyard Apartments[16]		P~~[1]~~ [3]	P~~[1]~~ [3]	P~~[1]~~ [3]							
Cottage Housing[16]		P~~[1]~~ [3]	P~~[1]~~ [3]	P~~[1]~~ [3]							
Group Home	P~~[3]~~ [4]	P~~[3]~~ [4]	P~~[3]~~ [4]	P~~[3]~~ [4]		P~~[3]~~ [4]					
Bed and Breakfast	C[5]	C[5]	C[5]	C[5]							
Dwelling, Multiple-Family		C	P	P	P[6]	P~~[3]~~ [3, 11]			P~~[3]~~ [3, 11]		

USE	ZONING DISTRICT										
	R-4/6~~16~~ 15	R-8~~16~~ 15	R-12~~16~~ 15	R-18/24~~15~~ 14, 16	NB	CB	PUB	PRO	FCC	REC	RLTC
Permanent Supportive Housing	P~~15~~ 14	P~~15~~ 14	P~~15~~ 14	P~~15~~ 14	P~~15~~ 14	P~~15~~ 14			P~~15~~ 14	P~~15~~ 14	
Transitional Housing	P~~15~~ 14	P~~15~~ 14	P~~15~~ 14	P~~15~~ 14	P~~15~~ 14	P~~15~~ 14			P~~15~~ 14	P~~15~~ 14	
Retirement Home			P	P							
Senior Assisted Housing	P~~3~~ 4	P~~3~~ 4, ~~13~~ 12	P~~3~~ 4, ~~13~~ 12	P~~3~~ 4, ~~13~~ 12		P~~3~~ 4					
Nursing Home	P~~3~~ 4	P~~3~~ 4	P~~3~~ 4	P~~3~~ 4		P~~3~~ 4					
Home Occupation	A[7]	A[7]	A[7]	A[7]					A[7]		
Accessory Dwelling Unit	A[8]	A[8]	A[8]	A[8]							
Dormitories										A	A
Caretaker Dwelling Unit					A[9]	A[9]			A[9]	A[9]	
Animals	A[10]	A[10]	A[10]	A[10]	A[10]	A[10]			A[10]		

B. Specific Requirements.

1. Existing single family homes built before June 2025 in all lots zoned R 18/24 are considered permitted uses.

~~1~~ 2. Mobile, manufactured and modular homes shall be subject to the following development standards:

a. The home comprises at least one 14-foot-wide by 60-foot-long section or two parallel sections each of not less than 12 feet wide by 36 feet long;

b. The home must be placed on a permanent foundation similar to that required of other residential construction;

c. The home was originally constructed with and now has a pitched roof with a slope no less than three-inch rise to 12-inch run, and the roof must be an integral part of the home and shall be made of either composition, shakes or shingles (wood or metal);

d. The home has exterior siding similar in appearance to siding materials commonly used on conventional site-built single-family residences;

e. All requirements of this title and other applicable regulations must be met.

3. Unit Density:

a. The permitted unit density on all lots zoned for residential use is:

i. Two units per lot, unless zoning permitting higher densities or intensities applies.

ii. Four units per lot if at least one unit on the lot is affordable housing meeting the requirements of subsections (c) through (h) below, unless zoning permitting higher densities or intensities applies.

b. The standards of subsection (a) do not apply to lots after subdivision below 1,000 square feet unless the city has enacted an allowable lot size below 1,000 square feet in the zone.

c. To qualify for additional units under the affordable housing provisions of subsection (a), an applicant shall commit to renting or selling the required number of units as affordable housing and meeting the standards of subsections (d) through (h) below.

d. Dwelling units that qualify as affordable housing shall have costs, including utilities other than telephone, that do not exceed 30 percent of the monthly income of a household whose income does not exceed the following percentages of median household income adjusted for household size, for the county where the household is located, as reported by the United States Department of Housing and Urban Development:

i. Rental Housing: 60 percent

ii. Owner-occupied housing: 80 percent

e. The units shall be maintained as affordable for a term of at least 50 years, and the property shall satisfy that commitment and all required affordability and income eligibility conditions.

f. The applicant shall record a covenant or deed restriction that ensures the continuing rental or ownership of units subject to these affordability requirements consistent with the conditions in chapter 84.14 RCW for a period of no less than 50 years

g. The covenant or deed restriction shall address criteria and policies to maintain public benefit if the property is converted to a use other than that which continues to provide for permanently affordable housing.

h. The units dedicated as affordable housing shall:

i. Be provided in a range of sizes comparable to other units in the development.

ii. The number of bedrooms in affordable units shall be in the same proportion as the number of bedrooms in units within the entire development.

iii. Generally, be distributed throughout the development and have substantially the same functionality as the other units in the development.

~~2~~ 3. Mixed-use developments in the CB and FCC zones with 10 or more residential units shall reserve at least 10 percent of the total units to be affordable to those making 70 percent or less of the King County Area Median Income (AMI). Fractional units shall be rounded to the nearest whole unit using standard rounding techniques. Developments shall record a covenant on title to alert future owners that this affordability covenant was required as a condition of approval of the development.

Affordable units are subject to the following requirements:

a. The affordable housing units shall be intermingled with all other dwelling units in the development.

b. The type of ownership of the affordable housing units shall be the same as the type of ownership for the rest of the housing units in the development.

c. The affordable housing units shall consist of a range of number of bedrooms that are comparable to units in the overall development.

d. The size of the affordable housing units must be no more than 10 percent smaller than comparable dwelling units in the development, based on number of bedrooms, or no less than 350 square feet for a studio, 500 square feet for a one-bedroom unit, 700 square feet for a two-bedroom unit, or 900 square feet for a three-bedroom unit, whichever would yield the larger unit.

e. The affordable housing units shall be available for occupancy in a time frame comparable to the availability of the rest of the dwelling units in the development.

f. The exterior design of the affordable housing units must be compatible and comparable with the rest of the dwelling units in the development.

g. The interior finish and quality of construction of the affordable housing units shall at a minimum be comparable to newly constructed entry level rental or ownership housing in the City of Maple Valley.

~~3~~ 4. Group homes, senior assisted living homes and nursing homes shall be subject to the following development standards:

a. The home shall be limited to individuals who need special care due to sensory, mental, or physical disabilities and who are considered handicapped or who are otherwise within the scope of 42 U.S.C. 3602;

b. The home shall be licensed by an appropriate agency of the State;

c. The home shall conform to the development standards of this code applicable to other residential uses in the zone in which it is located; and

d. Off-street parking spaces meeting the requirements of this code shall be provided.

~~4. Townhouse units located within the R-4 and R-6 zones as applicable shall be limited to no more than 50 percent of the total units within a development and limited to buildings with no more than four attached units. A conditional use permit is not required for townhouse units on lots in a subdivision designed and designated for townhouse units.~~

5. Bed and breakfasts shall meet the following development standards:

a. The facility must serve as an accessory use to the permanent residence of the operator;

b. The only meal to be provided to guests shall be breakfast and it shall only be served to guests taking lodging in the facility;

c. Guest rooms shall be limited to three or fewer;

d. Length of stay shall be no longer than two consecutive weeks; and

e. Adequate off-street parking of one space for each guest room plus the required minimum two spaces for the residence shall be provided, and the parking shall not be in the required front yard unless it is screened from the street with at least Type I landscaping and is compatible with the surrounding neighborhood.

6. Residential uses allowed as a part of a development at second story and above only in the Neighborhood Business zoning district.

7. Home occupations shall be subject to the following restrictions:

a. The total area devoted to all home occupation(s) shall not exceed 20 percent of the floor area of the total dwelling unit;

b. There shall be no visible permanent change in the appearance of the dwelling unit, such as signs, lighting, exterior display, or permanent (longer than 60 days) unscreened outdoor storage of material or equipment, which would attract attention to the home occupation conducted therein;

c. No more than one nonresident shall be employed on site by the home occupation(s);

d. The following activities shall be prohibited:

i. Automobile, truck and heavy equipment repair;

ii. Auto body work or painting;

iii. Parking and storage of heavy equipment; and

iv. Storage of building materials for use on other properties;

e. The home occupation(s) shall not generate pedestrian traffic or vehicular traffic or parking demand unreasonable for the district or neighborhood in which it is located;

f. In addition to required parking for the dwelling unit, on-site parking shall be provided as follows:

i. One stall for a nonresident employed on site by the home occupation(s); and

ii. Minimum one additional stall for patrons when services are rendered on site; and to prevent visual and traffic impacts, the home occupation may use or store no more than one vehicle for the pickup of materials used by the home occupation or the distribution of products from the site;

g. The home occupation(s) shall not use equipment or processes which generate noise, vibration, dust, glare, fumes, odors, radio/television/electrical interference, fire hazards, or any other nuisance-like effect to any greater or more frequent extent than that which is normal to the district or neighborhood in which it is located.

8. Accessory dwelling units shall comply with the following development standards:

a. ~~Only one~~ Two accessory dwelling units shall be permitted per lot;

~~b. The accessory dwelling must be in the same building as the principal residence when the lot is less than 10,000 square feet in area;~~

~~c. The primary residence or the accessory dwelling unit shall be owner occupied;~~

~~d~~ c. The accessory dwelling unit shall not be larger than 50 percent of the living area of the primary residence, or 1,200 sf, whichever is greater;

~~e. At least one additional off-street parking space shall be provided; and~~

~~f. The accessory dwelling unit shall be converted to another permitted use or shall be removed if one of the dwelling units ceases to be owner occupied.~~

9. Caretaker units may be allowed, subject to the following restrictions:

a. Only one caretaker dwelling unit shall be permitted for each primary use or multi-tenant building;

b. At least one additional off-street parking space shall be provided; and

c. The caretaker dwelling unit may only be occupied by a watchman, custodian, manager, or property owner for the subject property.

10. Animals may be kept as an accessory to a residential use in accordance with animal control regulations and subject to the following conditions:

a. Small Animals.

i. Small animals kept indoors as household pets shall not be limited in number.

ii. Small animals kept outdoors shall be limited to five, unless the resident obtains a hobby kennel license from King County Animal Control.

iii. Structures for the keeping of small animals outdoors such as aviaries, apiaries, kennels, runs, cages, etc., shall be set back from property lines a minimum of 10 feet.

b. Large Animals.

i. Large animals are limited to one per each one-half acre of property.

ii. Enclosures or structures for the housing of large animals shall be set back from property lines a minimum of 20 feet.

iii. Large animals not kept within enclosures shall be restricted to roaming areas which are set back a minimum of 10 feet from property lines.

iv. The keeping of large animals on properties containing streams, wetlands, shorelines or other protected water sources shall be in compliance with critical area requirements.

11. The first floor of vertical mixed uses in the CB and FCC zones shall have commercial uses on the entirety of the ground floor (with the exception of residential lobbies which are limited to a width of 40 feet). Horizontal mixed uses shall incorporate a minimum of 35 percent of the site building footprint to include commercial uses when the site has frontage on SR-169, SR-516, or Witte Road. Commercial uses shall be oriented to the street frontage. Horizontal mixed uses not fronting on the above streets shall incorporate a minimum of 25 percent of the site building footprint to include commercial uses. Retail and office uses shall be oriented to the street frontage. Rental offices, private gymnasiums, conference rooms, recreation areas, and other nonpublic spaces which only serve residential tenants shall not count toward the required commercial area for horizontal mixed use.

~~12. Single-family detached development in Multifamily zones (R-8 through R-24) shall be subject to the development standards applicable to single-family detached development in the R-6 zone.~~

~~13~~ 12. Density may be calculated at the rate of 0.5 dwelling units per senior assisted housing unit. To qualify for this density calculation, and as a condition of development permit approval, the applicant must record with the King County Assessor a covenant that runs with the land stating that the building(s) will be used for senior assisted living housing. This covenant shall not be released without the express written approval of the City of Maple Valley. Prior to releasing the covenant, the City shall determine that the intended use of the property meets density requirements for the current zoning of the property.

~~14~~ 13. Senior housing and similar uses are required in the R-24 zone north of SE 240th Way.

~~15~~ 14. The number of permanent supportive housing units and transitional housing units allowed on any given property shall be no more than the number of standard dwelling units that would be allowed under the zoning of the property. Each unit of permanent supportive housing or transitional housing shall be limited to occupancy by individual occupant load per square foot regardless of occupants' relation.

~~16~~ 15. Applicants seeking required new building and land use permits for single-family development shall be required to connect to the public sewer if such connection can be made within 300 feet of the subject property. King County Board of Health Code 13.64.010, regarding corrective action for failing septic systems, as now or hereafter amended, is hereby incorporated by this reference. (Ord. O-24-831 § 1 (Exh. C); Ord. O-21-734 § 1; Ord. O-16-598 § 1(B) (Exh. B); Ord. O-12-499 § 3; Ord. O-12-490 § 3; Ord. O-11-438 § 2; Ord. O-07-351 § 5; Ord. O-03-235 § 1; Ord. O-01-169 § 1; Ord. O-00-133 § 1; Ord. O-99-109 § 1).

16. Cottage Housing and Courtyard Apartments

a. Cottage housing dwelling units shall meet the following development standards:

i. Open space. Open space shall be provided equal to a minimum 20 percent of the lot size. This may include common open space, private open space, setbacks, critical areas, and other open space.

ii. Common open space

1. Open space. Open space shall be provided equal to a minimum 20 percent of the lot size. This may include common open space, private open space, setbacks, critical areas, and other open space.

2. Common open space shall be provided equal to a minimum of 300 square feet per cottage. Each common open space shall have a minimum dimension of 15 feet on any side.

3. Orientation. Common open space shall be bordered by cottages on at least two sides. At least half of cottage units in the development shall abut a common open space and have the primary entrance facing the common open space.

4. Parking areas and vehicular areas shall not qualify as common open space.

5. Critical areas and their buffers, including steep slopes, shall not quality as common open space

iii. Entries. All cottages shall feature a roofed porch at least 60 square feet in size with a minimum dimension of five feet on any side facing the street and/or common open space.

iv. Community building.

1. A cottage housing development shall contain no more than one community building.

2. A community building shall have no more than 2,400 square feet of net floor area, excluding attached garages.

3. A community building shall have no minimum off-street parking requirement.

b. Courtyard apartments

i. Common Open Space

1. At least one outdoor common space is required

2. Common spaces shall be bordered by dwelling units on two or three sides.

3. Common open space shall be a minimum dimension of 15 feet on any side.

4. Parking areas and vehicular areas do not qualify as a common open space.

ii. Entries. Ground-related courtyard apartments shall feature a covered pedestrian entry, such as a covered porch or recessed entry, with minimum weather protection of three feet by three feet, facing the street or common open space.

18.30.040 Allowed uses by zoning district – Commercial.

A. Table.

USE	ZONING DISTRICT										
	R-4/6	R-8	R-12	R-18/24	NB[4, 7, 13]	CB[8]	PUB	PRO	FCC[8]	REC	RLTC
Adult Entertainment/Facility										P[1]	
Family Child Care Home	P	P	P	P		P					
Car Wash					C[12]	P				P	A
Child Day Care/Adult Day Care	C	C	C	C	P	P			P	P	P
Eating/Drinking Establishment					P	P		A[15]	P	P[3]	P[3]
Electric Vehicle Charging Stations					P	P	P	P	P	P	P
Fueling Station – Retail					C[11]	P[6, 16]			P[16]	P	
Fueling Station – Commercial										P	A
Funeral Home						P				P	
Hotel/Motel						P				P	
Medical/Dental Clinic					P	P			P	P	P
Veterinary Clinic					P[10]	P			P	P	P
Self-Storage						C[18]			A	P	
Office/Bank/Financial Institution					P	P			P	P	P
Graphics/Reproduction					P	P			P[9]	P	P
Personal Services					P	P			P	P	P
Health Clubs, Fitness Centers, Spas					P[5]	P		A[14]	P	P	P
Retail – General					P[7]	P		A[14]	P	P[3]	P[3]

USE	ZONING DISTRICT										
	R-4/6	R-8	R-12	R-18/24	NB[4, 7, 13]	CB[8]	PUB	PRO	FCC[8]	REC	RLTC
Retail – Vehicle Sales/Rental										P	
Theater/Bowling Alley/Arcade						P			P	P	P
Vehicle Repair – Major									P[17]	P	A
Vehicle Repair – Minor						P			P[17]	P	A

B. Specific Requirements.

1. Adult uses are subject to the following conditions:

a. No adult use shall be located nearer than 600 feet from any other adult use;

b. No adult use shall be located nearer than 600 feet from any public or private school, church, public park, day care center or residential use or zoning district;

c. Distances shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property or parcel upon which the proposed use is to be located to the nearest point of the parcel or property of the land from which the proposed use is to be separated.

2. Reserved.

3. Allowed as an accessory use, intended primarily for the use of employees of a principally permitted use. Eating and drinking establishments cannot exceed 10 percent of gross leasable floor area (GLFA) of the building in which they are located.

4. Drive-through windows/facilities are subject to the following:

a. Limited to drugstores and banks or accessory to a food and beverage use providing in-store service with at least 500 square feet and not more than 2,000 square feet of gross floor area in the Neighborhood Business zone.

b. One drive-through facility is allowed per contiguous NB zoning district that contains a minimum of 10,000 square feet of GLFA.

c. In the event that a property proposed for a drive-through facility lacks the 10,000-square-foot GLFA, the property owner shall enter into a written agreement with the adjacent property owner to utilize the adjacent property's GLFA to obtain the required square footage.

d. Drive-through facilities must be used for purposes consistent with the allowed use (e.g., drive-through ATM machines are allowed only in conjunction with a bank).

5. May occupy no more than 20 percent of the GLFA of the building in which located.

6. A 25-foot setback is required from gas pumps to property lines.

7. No individual use in the Neighborhood Business zone may exceed 10,000 square feet in gross floor area unless through incentives defined in MVMC 18.70.070. The maximum GFA with incentives shall be 15,000 square feet for a single use.

8. The maximum size for an individual use in the Community Business and Four Corner Commercial zones is 200,000 square feet. Any individual use exceeding 60,000 square feet in gross floor area is considered a large commercial use and is subject to, and must comply with, the large commercial use requirements contained within MVMC 18.40.150.

9. Graphics/reproduction uses will not produce excessive noise, dust, odors, light and glare, heavy vehicular traffic, or contaminants released to the environment.

10. Subject to the following:

a. Limited to small animals.

b. No burning of refuse or cremation of dead animals is allowed.

c. The portion of the building or structure in which animals are kept or treated shall be soundproofed to comply with noise levels defined in WAC 173-60-040.

d. All run areas shall be surrounded by an eight-foot solid wall and surfaced with concrete or other impervious material.

11. Limited to four dispensers (eight fueling points). Propane and natural gas storage tanks may be located outside and above ground. All above ground storage tanks shall be screened.

12. Subject to the following:

a. Allowed only as an accessory use to fueling station – retail.

b. Limited to tunnel car washes.

c. Hours of operation are limited to 7:00 a.m. to 10:00 p.m. on weekdays and 8:00 a.m. to 10:00 p.m. on weekends.

13. Prior to opening for business, the applicant must establish that the facility complies with Chapter 173-60 WAC, Maximum Environmental Sound Levels.

14. All nonresidential accessory uses may occupy no more than 10 percent of the amount of land area dedicated toward the primary use to which the accessory use is related. More than one accessory use is permitted, provided the cumulative size of several accessory uses is limited to 10 percent of the land area of the primary use.

15. Limited to a maximum gross floor area equal to no more than 10 percent of the area of the lot on which the building or buildings are located, up to a maximum of 20,000 square feet.

16. a. The fueling station shall be a minimum of 150 feet from any major arterial if more than eight petroleum fueling points.

b. The fueling station shall include a minimum of four electrical vehicle charging stations pursuant to City EV standards if there are more than eight petroleum fueling points.

c. The fueling station is allowed a maximum of six petroleum dispensers (12 fueling points).

d. Internal and up-lit illumination of the canopy and pumps is prohibited.

e. Lighting on the underside of the canopy shall be full cut off with a maximum of 25 foot-candles and shielded if required to prevent glare and light trespass.

f. Signage conforming to Chapter 18.50 MVMC may be located on the canopy.

g. The fueling station shall conform to the design standards contained in MVMC 18.70.040.

17. Major and minor vehicle repair is permitted on sites no larger than one acre in size. The maximum gross floor area of all uses related to vehicle repair on an individual site shall be no greater than 9,000 square feet.

18. New self-storage uses are not permitted on a parcel or parcels with frontage on Maple Valley Highway (SR-169), Kent-Kangley Rd. (SR-516), or Witte Road. (Ord. O-24-831 § 1 (Exh. C); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-12-499 § 4; Ord. O-12-492 § 2; Ord. O-12-490 § 4; Ord. O-11-438 § 3; Ord. 09-394 § 1; Ord. 09-391 § 1; Ord. O-09-378 § 1; Ord. O-08-362 § 1; Ord. O-07-351 § 6; Ord. O-03-235 § 1; Ord. O-02-186 § 2; Ord. O-01-154 § 1; Ord. O-01-150 § 1; Ord. O-00-143 § 2; Ord. O-00-134 § 1; Ord. O-00-133 § 1; Ord. O-99-109 § 1).

18.30.050 Allowed uses by zoning district – Business Park.

A. Table.

USE	ZONING DISTRICT										
	R-4/6	R-8	R-12	R-18/24	NB	CB	PUB	PRO	FCC	REC	RLTC
Construction Material Sales						P[1]				P	
Lumberyard						P[1]				P	
Heavy Equipment Sales/Storage									P	P	
Food Processing/Packaging										P	P
Hazardous Waste Disposal											
Nursery/Landscape Materials	C[2, 3]					P[1]	A[1]	A[1]	P[3]	P[3]	A
Light Manufacturing									P	P	P
Mineral Extraction/Processing											
Printing/Publishing									P	P	P
Warehouse/Distribution									P	P	
Welding/Fabrication									P	P	A
Winery/Brewery					A	A/C			P	P	P

B. Specific Requirements.

1. In conjunction with a permitted commercial, public or recreational use.

2. Nursery use in single-family zones is limited to the growing and sale of nursery stock and related materials. The storage or sale of bulk landscaping materials such as rock, dirt, and bark is prohibited in single-family.

3. Cannabis production and processing are not permitted. (Ord. O-24-831 § 1 (Exh. C); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-12-499 § 5; Ord. O-12-490 § 5; Ord. O-11-438 § 4; Ord. O-07-351 § 7; Ord. O-03-235 § 1; Ord. O-00-133 § 1; Ord. O-99-109 § 1).

18.30.060 Allowed uses by zoning district – Community services and institutions.

A. Table.

USE	ZONING DISTRICT											
	R-4/6	R-8	R-12	R-18/24	NB[2, 3]	CB[4]	PUB	PRO	FCC	REC	RLTC	LEG
Religious Institution	C	C	C	C	C[5]	C[5]	A[5]	A[5]	C[5]	C	C	
City Hall						P	P			P		
Courthouse/Jail						P	C			C		
Community College/Vocational						C	P[1]	C[1]	P	P	P	
Community/Senior Center			C	C		C	P[1]	P[1]	P	P	P	
Elementary School	C	C	C	C			P[1]	P[1]			P	
Emergency Housing						P[9]				P[9]		
Emergency Shelters						P[9]				P[9]		
Farmers Market							P					P
Fire Station	C	C	C	C	C	P	P[1]	P[1]		P	P	
Junior High/High School			C	C			P[1]	P[1]			P	
Hospital							P[1]			P	P	
Correctional Facility							C			P		
Recreational Use					P	P	P	P	P	P	P	
Library	C	C	C	C			P	P	P	P	P	
Museum							P	P	P	P	P	
Police Station						C[8]	P[8]		C[8]	C	C	
Public Park, Passive	P	P	P	P	P	P	P	P	P	P	P	
Public Park, Active	C	C	C	C	P	P	P[1]	P	P	P	P	
Performing Arts Center				C			P[1]	P		P	P	
Public Transit Facilities						C	P[1]	A[7]	P	P	P	
Utilities, Major or Regional	C	C	C	C		P	P	P	C	C	C	
Utilities, Minor or Local	P	P	P	P	P	P	P	P	P	P	P	

USE	ZONING DISTRICT											
	R-4/6	R-8	R-12	R-18/24	NB[2, 3]	CB[4]	PUB	PRO	FCC	REC	RLTC	LEG
Municipal Public Works and Road Maintenance Facilities	C	C	C	C		C	P	C	P	P	C	
Youth Mental Health Services	P	P			P	P	P	P	P	P	P	

B. Specific Requirements.

1. Requires master plan approval.

2. Drive-through windows/facilities are limited to drugstores and banks or accessory to a food and beverage use providing in-store service with at least 500 square feet and not more than 2,000 square feet of gross floor area in the Neighborhood Business zone. One drive-through facility is allowed per contiguous NB zoning district that contains a minimum of 10,000 square feet of GLFA.

3. No individual use in the Neighborhood Business zone may exceed 10,000 square feet in gross floor area unless through incentives defined in MVMC 18.70.070. The maximum GFA with incentives shall be 15,000 square feet for a single use.

4. No individual use in the Community Business zone may exceed 60,000 square feet in gross floor area. Uses in the Town Center zone are limited to 100,000 square feet and shall comply with MVMC 18.40.150.

5. Religious institutions/community/senior centers with a GFA of less than 2,000 square feet do not require a Conditional Use Permit.

6. Religious institutions may be permitted accessory to an existing or allowed PUB use, but must be contained within the structures dedicated toward the primary PUB use and may not occupy separate detached facilities.

7. All nonresidential accessory uses may occupy no more than 10 percent of the amount of land area dedicated toward the primary use to which the accessory use is related. More than one accessory use is permitted, provided the cumulative size of several accessory uses is limited to 10 percent of the land area of the primary use.

8. The number of temporary holding cells is limited to six.

9. Note that reasonable limitations on intensity of uses for emergency housing and emergency shelters may be provided to protect health and safety as per RCW 35A.21.430. Unless otherwise specified, emergency housing and emergency shelters shall be regulated as per comparable requirements for hotels and motels.

10. Density Bonus for Affordable Housing – Religious Properties.

a. A density bonus is allowed for any affordable housing development located on property controlled by a religious organization in all zones where residential development is permitted.

i. The maximum density permitted by the bonus shall be two additional dwelling units above the maximum allowed density for the underlying zone.

ii. Affordable housing development is defined in MVMC 18.20.020(A)(7). (Ord. O-24-831 § 1 (Exh. C); Ord. O-20-692 § 1; Ord. O-18-639 § 2; Ord. O-16-598 § 1(B) (Exh. B); Ord. O-13-545 § 2; Ord. O-12-499 § 6; Ord. O-12-492 § 3; Ord. O-12-490 § 6; Ord. O-11-438 § 5; Ord. O-10-415 § 2; Ord. O-09-392 § 1; Ord. O-09-391 § 2; Ord. O-07-351 § 8; Ord. O-03-235 § 1; Ord. O-00-133 § 1; Ord. O-99-109 § 1).

Chapter 18.40

DEVELOPMENT STANDARDS

Sections:

18.40.010 Purpose.

The purpose of this chapter is to establish dimensional standards, density limits, and parking, landscaping and other requirements of general application to new development. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-00-133 § 1; Ord. O-99-109 § 1).

18.40.020 Interpretations of tables.

A. MVMC 18.40.030 and 18.40.040 contain the general density and dimensional standards for the various zones and the limitations specific to a particular zoning district. MVMC 18.40.050 through 18.40.100 contain additional rules, exceptions and methodologies that apply to development in the City of Maple Valley.

B. The density and dimension tables are arranged in a matrix format on two separate tables and are delineated in two general land use categories:

1. Residential; and

2. Commercial and business park uses.

C. Development standards are listed down the left side of both matrices and the zones are listed at the top. The matrix cells contain the minimum or maximum dimensional requirements of the zone. The superscript numbers in the matrix identify specific requirements applicable either to a specific use or zone. A blank cell indicates that there are no specific requirements. If more than one standard appears in a cell, each standard will be subject to any applicable superscript footnote following the standard. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-00-133 § 1; Ord. O-99-109 § 1).

18.40.030 Densities and dimensions – Residential zones.

A. Table.

Density and Dimensional Standards	Zones					
	R-4	**R-6**	**R-8**	**R-12**	**R-18**	**R-24**
Maximum Density[5]	4 du/acre	6 du/acre	8 du/acre	12 du/acre	18 du/acre	24 du/acre
Minimum Lot Width[3]	30 feet	30 feet	30 feet	30 feet	30 feet	30 feet
Minimum Front Setback[2]	10 feet[1]	10 feet[1]	10 feet[1]	10 feet[1]	10 feet[1]	10 feet[1]
Minimum Side Setback[2, 3]	5 feet	5 feet	~~10~~ 5 feet	~~10~~ 5 feet	~~10~~ 5 feet	~~10~~ 5 feet
Minimum Rear Setback[2, 3]	10 feet	10 feet	~~20~~ 10 feet[5]	~~20~~ 10 feet[5]	~~20~~ 10 feet[5]	~~20~~ 10 feet[5]
Maximum Height[4]	~~35~~ 40 feet	~~35~~ 40 feet	~~35~~ 40 feet	~~35~~ 40 feet	~~35~~ 40 feet	60 feet
Maximum Impervious Surface Coverage	55%	70%	75%[5]	80%[5]	80%[5]	80%[5]

B. Specifications.

1. At least 20 linear feet of driveway shall be provided between any garage, carport, or other fenced parking area and the street property line. The linear distance shall be measured along the centerline of the driveway from the access point to such garage, carport or fenced area to the street property line.

2. Projections may extend into required setbacks as follows:

a. Fireplace structures, bay or garden windows, enclosed stair landings, closets, utility meters or similar architectural features may project into any setback, provided such projections are:

i. Limited to two per facade;

ii. Not wider than 10 feet; and

iii. Not more than 18 inches into an interior setback or 24 inches into a street setback.

b. Uncovered porches and decks which exceed 18 inches above the finished grade may project 18 inches into interior setbacks and five feet into the street setback.

c. Uncovered porches and decks not exceeding 18 inches above the finished grade may project to the property line.

d. Eaves may not project more than 18 inches into an interior setback or 24 inches into a street setback.

e. Residential accessory structures, trellises, sheds and play equipment totaling less than 200 square feet per site may be located in the required setback when:

i. Located in the rear or side setback of a pipestem or alley load lot or in rear setback of any lot other than pipestem or alley load lot; and

ii. No portion of the building or structure is located closer than 40 inches to the property line, except that roof eaves may be located no closer than 36 inches; and

iii. The total amount of all such structures on site is limited to 25 percent or less of the length of the property lines associated with the setbacks in which the structure is located; and

iv. The height of residential accessory structures, trellises, sheds and play equipment containing enclosed areas is no more than eight and one-half feet; and

v. The height of play equipment containing no enclosed areas is no more than 10 and one-half feet.

3. These standards may be modified under the provisions for zero-lot-line and townhouse developments. Interior side setbacks may be eliminated in zero-lot-line and townhouse developments. Rear setbacks may be reduced by up to 50 percent; provided, that any portion of a structure located in the standard (prereduction) rear setback area shall not exceed a height of 15 feet.

4. The maximum height allowed may be increased pursuant to incentives in MVMC 18.40.140(G)(2).

~~5. Single-family detached developments in R-8 through R-24 zones shall be subject to the development standards applicable to the R-6 zone (MVMC 18.30.030(B)(12)).~~

5. See MVMC 18.30.030.B.1 for additional guidance on middle housing unit density. This does not impact, nor prohibit, single family housing on a parcel zoned for residential.

C. Calculating Density. The allowed density, as shown in density and dimensional tables below, represents the maximum number of dwelling units that may occupy an acre of land, exclusive of accessory dwelling units.

1. Calculations. When calculating allowed density for any given site in the City, the gross area of the site is multiplied by the allowed density per acre that applies to the zone where the site is located. The result is the maximum number of units (other than ADUs) that may occupy that site. Results that include fractional or decimal values shall be rounded down to the nearest whole number for the purposes of calculating density. (Ord. O-17-620 § 2; Ord. O-16-598 § 1(B) (Exh. B); Ord. O-07-351 § 9; Ord. O-00-133 § 1; Ord. O-99-109 § 1).

18.40.040 Densities and dimensions – Commercial zones.

A. Table.

Density and Dimensional Standards	Zones						
	Neighborhood Business	**Community Business**	**Public**	**Park, Recreation, Open Space**	**Four Corners Commercial**	**Regional Employment Center**	**Regional Learning and Technology Center**
Maximum Density[11]	12 du/ac[1]	24 du/ac[1]	N/A	N/A	24 du/ac[1]	N/A	N/A
Minimum Street Setback[5, 7]	10 feet[2]	10 feet[2]	20 feet	20 feet	10 feet[2]	10 feet[2]	10 feet[2]
Minimum Interior Setback[5]	20 feet[3]	20 feet[3]	20 feet	20 feet	20 feet[3]	20 feet[3]	20 feet[3]
Maximum Height[6]	35 feet	45 feet	35 feet 85 feet[10]	35 feet	45 feet	45 feet[8] 85 feet[9]	45 feet[8] 85 feet[9]
Maximum Impervious Surface Coverage	80%	80%	80%	80%	80%	80%	80%

B. Specific Requirements.

1. These densities are allowed only in conjunction with a permitted principal use and not for stand-alone residential development.

2. Service station pump islands shall be placed no closer than 25 feet from the right-of-way.

3. This setback is required only from property lines abutting Residential zones. No interior setback is required from property lines in Commercial zones that abut nonresidential zones. Building code and fire code setback or building separation requirements may apply.

4. Structures, or those portions of structures, within 50 feet of property lines adjoining Residential zones shall not exceed 35 feet in height. An additional 10 feet of building height may be earned through the amenity incentive system, for a total of 55 feet for buildings greater than 100 feet from property lines adjoining Residential zones.

5. Projections may extend into required setbacks as follows:

a. Fireplace structures, bay or garden windows, enclosed stair landings, closets, utility meters and vaults or similar architectural features may project into any setback, provided such projections are:

i. Limited to two per facade;

ii. Not wider than 10 feet; and

iii. Not more than 18 inches into an interior setback or 24 inches into a street setback.

b. Uncovered porches and decks which exceed 18 inches above the finished grade may project 18 inches into interior setbacks and five feet into the street setback.

c. Uncovered porches and decks not exceeding 18 inches above the finished grade may project to the property line.

d. Eaves may not project more than 18 inches into an interior setback or 24 inches into a street setback.

6. The maximum height allowed may be increased pursuant to incentives in MVMC 18.40.140(G)(2).

7. Street setbacks may be reduced or modified in accordance with the commercial design standards in MVMC 18.70.030.

8. Structures, or those portions of structures, within 50 feet of Residential zones shall not exceed 35 feet in height.

9. Structures dedicated to manufacturing, educational/vocational, and office uses may be allowed up to 85 feet in height subject to the following restrictions:

a. On sites of 10 acres or more; and

b. The required setbacks from residentially zoned properties shall be 20 feet and increased three feet horizontally for each foot of building height exceeding 35 feet; and

c. The required landscape buffers in MVMC 18.40.130(F)(2) shall be increased 0.25 feet (three inches) for each foot of building height exceeding 35 feet.

10. Structures dedicated to senior high school educational uses located within Public zones may be allowed up to 85 feet in height. (Ord. O-24-831 § 1 (Exh. C); Ord. O-21-734 § 1; Ord. O-16-598 § 1(B) (Exh. B); Ord. O-14-564 § 2 (Exh. A); Ord. O-12-513 § 1; Ord. O-12-499 § 7; Ord. O-12-490 § 7; Ord. O-11-440 § 1; Ord. O-07-351 § 10; Ord. O-03-235 § 1; Ord. O-00-133 § 1; Ord. O-99-109 § 1).

11. Applies to single family residential development only.

18.40.050 Fences.

Fences can be installed and maintained in accordance with the following requirements:

A. In all residentially zoned areas, fences may be installed up to four feet in height around or in the required front setback area, except as modified to 42 inches by the sight triangle requirements of MVMC 18.40.090. Fences up to six feet in height may be installed on side and rear property lines (outside the required front setback area).

B. In all other zones, fences may be installed up to eight feet in height except that fences may exceed eight feet in height around athletic fields in Public zones; provided, that the following requirements are met:

1. Along street frontages, all fences shall be set back one foot for every foot of fence height. This setback shall be landscaped according to Type II landscaping requirements of this code;

2. A setback area shall not be required for fences along interior property lines if the Commercial zoned property is adjacent to or abuts nonresidentially zoned property. A landscaped setback area as set forth in subsection (B)(1) of this section is otherwise required.

C. Special regulations for all zones are as follows:

1. Fences over six feet in height in nonresidential zones shall be subject to the requirements of the applicable building codes;

2. Fence height shall be measured from the elevation of the finished grade at the base of the fence, on the exterior side of the fence;

3. No fence may be constructed if it creates a hazard to users of the public right-of-way or to nearby property;

4. All fences shall comply with the sight distance triangle requirements contained in MVMC 18.40.090;

5. Electrical fences are not permitted, except for livestock fencing.

D. Fences located on a retaining wall or berm within a required setback area are permitted subject to the following requirements:

1. In all zones:

a. The total height of the fence and the retaining wall or berm upon which the fence is located shall not exceed a height of 12 feet. This height shall be measured from the top of the fence to the ground on the low side of the retaining wall or berm; and

b. The total height of the fence itself, measured from the top of the fence to the top of the rockery, retaining wall or berm, shall not exceed six feet.

2. Any portion of the fence above a height of eight feet, measured to include both the fence and the retaining wall or berm (as described in subsection (D)(1)(a) of this section), shall be an open-work fence.

3. There shall be a minimum of four feet of horizontal separation between the building and any proposed retaining wall or berm.

4. Any retaining wall that is higher than four feet will require a minimum four-foot-high fence.

E. The Community Development Director may approve a modification to the combined height limit for fences and retaining walls if the modification is necessary because of the size, configuration, topography, or location of the subject property, to provide the property with the use rights and privileges permitted to other properties in the vicinity or zone in which the property is located, and the modification will not be materially detrimental to the public welfare or to abutting properties. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-14-564 § 3 (Exh. A); Ord. O-10-415 § 3; Ord. O-99-109 § 1).

18.40.060 Parking, storage and habitation of recreational vehicles.

Recreational vehicles (including watercraft) shall not be parked in required front or side-street setbacks. Recreational vehicles shall not be used for living purposes. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-99-109 § 1).

18.40.070 Parking and storage of vehicles.

No more than one vehicle of any kind in an inoperable condition (includes vehicles not currently licensed) shall be stored or parked outside on any residentially zoned property for more than 30 days. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-99-109 § 1).

18.40.080 Recreation or open space required.

A. Residential developments of more than four lots or units, including subdivisions, multifamily uses, and mixed residential-commercial developments, shall provide on-site recreation space for leisure, play and sport activities at the following rates:

1. Residential subdivisions and townhouses developed at a density of eight units or fewer per acre – 435 square feet per unit, except as provided in subsection (F) of this section;

2. Multifamily uses developed at a density of greater than eight units per acre, and mixed residential-commercial developments:

a. Studio and one bedroom – 100 square feet per unit;

b. Two bedroom – 285 square feet per unit;

c. Three or more bedrooms – 435 square feet per unit;

d. Except as provided in subsection (F) of this section.

B. Residential developments of more than four lots or units, including subdivisions, multifamily uses and mixed residential-commercial developments, where demonstrated that recreation space is not as beneficial or serves its intended purpose, shall provide open space in lieu of recreation areas according to the following guidelines:

1. Developments consisting of a lower density and number of units will generally demonstrate less need for recreational areas and include more open space dedication for meeting these provisions;

2. As development increases in the number of units and density, they will generally necessitate more recreational area and include more recreational area dedication for meeting these provisions;

3. Site-specific circumstances, such as proximity to existing recreational areas, adjacent land uses, and presence of environmentally sensitive areas, may be considered when demonstrating an acceptable amount of recreational or open space area;

4. Adopted City policies and goals related to recreational and open space areas may be considered when demonstrating an acceptable amount of recreational or open space area.

C. Any outdoor recreation or open space shall be developed as follows:

1. At least 80 percent of the recreation space will be flat and usable for either active and/or passive recreation uses;

2. Recreation space and open space must be located on the site of the proposed development;

3. Recreation space and open space will have no dimensions less than 20 feet (except pathways);

4. Recreation space will be reasonably central, accessible, and convenient to the residents of residential development it serves;

5. Recreation space and open space must provide access by street frontage, trail, or walkway to any existing or planned public community park, public open space or trail system, which may be located on adjoining property;

6. Where possible, pathways will be developed to provide off-street access to the recreation space or open space. The minimum width of these pathways will be no less than eight feet and will be landscaped, and, if the recreation space or open space is located on a street classified as neighborhood collector or above, it shall incorporate buffers and/or barriers necessary to reduce hazards from passing vehicles.

D. Indoor recreation areas may be credited toward the total recreation or open space requirement when the City determines that such areas are located, designed and improved in a manner that provides recreational opportunities that are functionally equivalent to recreational opportunities available outdoors. For senior citizen assisted housing, indoor recreation areas need not be functionally equivalent but may include social areas, game and craft rooms, and other multipurpose entertainment and education areas.

E. Stormwater runoff vaults may be designed and used as recreation space for activities including, but not limited to, tennis courts and sports courts.

F. Recreation Space – Fees in Lieu of Park Dedication. Fees provided in lieu of on-site recreation or open space may be accepted under exceptional circumstances as determined by special criteria set forth by the Director . Such fees-in-lieu shall be the least desirable method and shall be based on the value of the improved land at the time of application review.

1. Subdivisions, multifamily uses, and mixed residential-commercial developments of greater than four units and fewer than 25 units may pay a partial fee-in-lieu of on-site recreation or open space.

2. When determined by the Directorthat less on-site recreation or open space may be possible as per subsections (A)(1) and (A)(2) of this section, a fee-in-lieu may be accepted for the balance of the requirement.

G. On-Site Recreation – Play Areas Required.

1. All subdivisions, multifamily uses, and mixed residential-commercial developments with 25 or more units, excluding age-restricted senior citizen housing, shall provide tot/children play areas within the required recreation space on site, except when facilities are available within one-quarter mile that are developed as public parks or playgrounds and are accessible without crossing of arterial streets.

2. If any play apparatus is provided in the play area, the apparatus shall meet consumer product safety standards for equipment, soft surfacing and spacing, and shall be located in an area that is:

a. At least 400 square feet in size with no dimension less than 20 feet; and

b. Adjacent to main pedestrian paths or near building entrances.

H. On-Site Recreation – Maintenance of Recreation Space or Dedication.

1. At the sole discretion of the City and subject to approval from the City Council, recreation space as defined in MVMC 18.20.020(R), and meeting the requirements of subsections (A) and (B) of this section, may be dedicated as a public park in lieu of providing the on-site recreation space required above when the following criteria are met:

a. The dedicated land provides one or more of the following:

i. Shoreline access;

ii. Regional trail linkages;

iii. Habitat linkages;

iv. Recreation facilities; or

v. Heritage sites; and

b. The dedicated area is located within the Maple Valley City limits.

2. Unless the recreation space is dedicated to the City pursuant to subsection (H)(1) of this section, maintenance of any recreation space retained in private ownership shall be the responsibility of the owner or other separate entity capable of long-term maintenance and operation in a manner acceptable to the parks division. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-11-440 § 2; Ord. O-06-328 § 4).

18.40.090 Sight distance triangle requirements.

Except for utility poles and traffic control signs, the following sight distance provisions shall apply to all intersections and site access points in Multifamily and Commercial zones:

A. A sight distance triangle area as determined below shall contain no fence, berm, vegetation, on-site vehicle parking area, signs or other physical obstruction between 42 inches and eight feet above the existing grade:

1. Trees, overhangs, eaves cannot extend below eight feet;

2. Hedges, shrubs, retaining walls, fences are limited to 42 inches in height;

B. The sight distance triangle shall be as follows:

1. A street intersection shall be determined by measuring 15 feet along both street property lines beginning at their point of intersection. The third side of the triangle shall be a line connecting the endpoints of the first two sides of the triangle; or

2. A site access point shall be determined by measuring 15 feet along the street lines and 15 feet along the edges of the driveway beginning at the respective points of the intersection. The third side of each triangle shall be a line connecting the endpoints of the first two sides of each triangle; and

C. The Director may require modification or removal of structures or landscaping located in a required sight triangle, if:

1. Such improvements prevent adequate sight distance to drivers entering or leaving a driveway; and

2. No reasonable driveway relocation alternative for an adjoining lot is feasible. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-99-109 § 1).

18.40.100 Trash and recycling enclosures.

Developments shall provide storage space for the collection of trash and recyclables as follows:

A. The storage space for multifamily residential developments shall be located in collection points as follows:

1. The required storage areas shall be dispersed in collection points throughout the site when a residential development comprises more than one building;

2. Collection points may be located within residential buildings, in separate buildings/structures without dwelling units or outdoors;

3. Collection points shall be located in a manner so that the swing of any collection point gate does not obstruct pedestrian or vehicle traffic or access to parking or that the gate or any hauling truck does not project into any public right-of-way;

4. Trash and recycling enclosures shall meet the requirements of the Community Design Guidelines.

B. The storage space for nonresidential developments shall be located in collection points as follows:

1. Storage space may be allocated to a centralized collection point;

2. Outdoor collection points shall be located in a required setback or landscaped area, or designated service areas within Public zones;

3. Collection points shall be located in a manner so that the swing of any collection point gate does not obstruct pedestrian or vehicle traffic or access to parking or that the gate or any hauling truck does not project into any public right-of-way;

4. Dimensions of the collection points shall be sufficient width and depth to enclose containers for trash and recyclables;

5. Architectural design of any structure enclosing an outdoor collection point or any building primarily used to contain a collection point shall be consistent with the design of the primary structure(s) on the site;

6. A six-foot wall or sight-obscuring fence shall enclose any outdoor collection point. Appropriate landscaping shall also be required as determined by the Director;

7. Enclosures for collection points and buildings used primarily to contain a collection point shall have appropriate width and clearance to accommodate the hauler's equipment. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-14-564 § 4 (Exh. A); Ord. O-99-109 § 1).

18.40.110 Mechanical and other equipment screening.

A. Applicability. The requirements of this section shall be imposed for all new development, and construction or placement of new mechanical equipment, other equipment, dumpsters, or recycling bins in or on existing or new buildings. Mechanical equipment should be installed so as not to detract from the appearance of the building or development.

B. Mechanical equipment or other equipment shall be screened from view by a solid, nonreflective visual barrier equal to or exceeding the height, including mounting, of the item being screened.

1. Locate and/or screen roof-mounted and ground level mechanical equipment so as not to be visible from the street, from the ground level of adjacent properties or from adjacent residential areas at higher elevations.

2. Where equipment is exposed to views from a higher elevation, it shall be painted with a nonreflective paint to blend with the roof or background, or be screened.

3. Locate and/or screen utility meters, electrical conduit and other service and utilities apparatus so as not to be visible from the street where feasible. This is intended to include public utilities along the street, where feasible.

4. Garbage, recycling collection and utility areas visible from a public right-of-way, public parking area, walkway, or public open space shall be screened around their perimeter by a wall or fence at least six feet high. Fences should be made of masonry, ornamental metal or wood, or some combination of the three so that they blend with the architecture of the building. The use of chain link, plastic or wire fencing is prohibited. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-05-304 § 2; Ord. O-99-109 § 1).

18.40.120 Off-street parking standards.

A. Parking Requirements Generally.

1. Off-street parking facilities shall be required for all land uses in accordance with the standards and requirements of this section. Where existing buildings do not now meet these requirements, the provisions of this code in MVMC 18.80.010 through 18.80.090 relating to nonconforming uses, structures, and sites shall apply if proposals for enlarging or increasing capacity of the building or use are made.

2. Off-street parking spaces, when provided in accordance with these regulations, shall be paved with a durable, dust-free surface for vehicle parking, maneuvering and storage.

3. All off-street parking shall be located on the premises except as provided for in this section.

4. Lighting of areas provided for off-street parking shall be full cutoff and installed horizontally or shielded so it does not constitute a nuisance or hazard to adjoining property or passing traffic. Where property used for off-street parking shares a common boundary with any residentially zoned property, the illumination devices shall be directed away from the residentially zoned property.

5. Parking requirements shall be rounded to whole numbers. Fractional requirements less than one-half shall be rounded down. Fractions of one-half or more shall be rounded up.

6. For parking areas with more than 200 spaces, the total number of parking spaces, including reserved employee parking, shall not exceed five percent more than the minimum necessary under this code, except for parking spaces located within a structured parking facility or parking spaces that also serve as park and ride/transit/carpool spaces.

7. Commercial buildings over 5,000 gross square feet shall provide four permanent bicycle spaces and one space for every additional 10,000 gross square feet. For multifamily residential, one space for every two dwelling units. Bicycle parking spaces shall be located within 50 feet of primary entrances except that senior high schools in Public zones may have bicycle parking spaces located further than 50 feet of primary entrances; the final location, type and color of bicycle rack shall be determined by the Director provided, that for senior high schools in Public zones the type and color shall be approved by the Director during permit review.

8. The Director may approve alternative minimum parking requirements for specific uses on specific development sites where the applicant demonstrates, through a parking study prepared by a qualified expert, that the alternative requirement will provide sufficient parking to serve the specific use without adversely impacting other uses and streets in the vicinity. The Director may require the recording of a covenant or other instrument restricting the use of the property to the specific use for which the alternative minimum parking requirement was approved. Review of the study shall be conducted by a City selected consultant at the expense of the developer.

9. Shared Parking Facilities. Shared parking facilities may be provided subject to the approval of the Director where two or more land uses can be joined or coordinated to achieve efficiency of vehicular and pedestrian circulation, economy of space, and a superior grouping of buildings or uses. When shared parking facilities can be provided, the Director may reduce the on-site parking requirements based on any of the following criteria:

a. Peak demand occurs at distinctly different times;

b. The minimum required parking for a multi-tenant facility shall be based upon the minimum amount necessary to satisfy the highest average daily peak demand generated by the uses at a single time period. In no case shall the minimum required parking for a multi-tenant facility be less than 60 percent of the total required for all uses in the facility;

c. A covenant or other contract for shared parking between the cooperating property owners is approved by the Director. This covenant or contract must be recorded with King County Records and Elections Division as a deed restriction on both properties and cannot be modified or revoked without the consent of the Director; and

d. If any requirements for shared parking are violated, the affected property owners must provide a remedy satisfactory to the Director or provide the full amount of required off-street parking for each use, in accordance with the requirements of this chapter, unless a satisfactory alternative remedy is approved by the Director. A satisfactory remedy must be provided to the City for approval no later than a period of six months from receiving notification that the requirements for a shared parking agreement have been violated, unless an extension has been approved by the Community Development Director. A remedy could include an off-site parking agreement, revised shared parking agreement or similar agreement that addresses mitigation for parking.

B. The following minimum parking standards shall apply as follows for listed uses:

1. Dwellings.

~~a. Single-family and townhouse: two parking spaces per single-family dwelling unit.~~

~~b. Two-family: two parking spaces per dwelling unit.~~

a. Off-street parking for single family and middle housing shall be subject to the following:

i. No off-street parking shall be required within one-half mile walking distance of a major transit stop.

ii. One off-street parking space per unit shall be required on lots no greater than 6,000 square feet, before any zero lot line subdivisions or lot splits.

iii. Two off-street parking spaces per unit shall be required on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits.

iv. Additional off-street parking is contingent on administrative design review.

b. The provisions of subsection (a) do not apply to:

i. Portions of the city for which the Department of Commerce has certified a parking study in accordance with RCW 36.70A.635(7)(a), in which case off-street parking requirement shall be as provided in the certification from the Department of Commerce.

c. Multifamily: one parking space per studio or efficiency unit in all sized development. Two parking spaces for each dwelling unit for developments with 49 or fewer dwelling units. For developments of more than 50 units, 1.8 parking stalls per unit.

d. Mobile homes: two parking spaces per mobile home site.

e. Hotels/motels: one parking space for each guest room.

f. Assisted living facility: one space per two units, one space per three employees at maximum shift, and one visitor space per five residents.

g. Retirement community: one space per two bedrooms, one space per three employees at maximum shift, and one visitor space per five residents.

2. Commercial Activities.

a. Banks: five spaces per 1,000 square feet of gross floor area except when part of a shopping center.

b. Professional and business offices: four spaces per 1,000 square feet of gross floor area except when part of a shopping center.

c. Shopping centers: four and one-half spaces per 1,000 square feet of gross floor area except that restaurants, taverns, and lounges are counted as separate uses when total of such establishments exceeds 15 percent of the shopping center gross floor area.

d. Restaurants, taverns and lounges: 10 spaces per 1,000 square feet of gross floor area except when part of a shopping center. For shopping centers exceeding 100,000 square feet, restaurants, taverns and lounges shall be calculated at four parking spaces per 1,000 square feet beyond the 100,000-square-foot threshold.

e. Retail stores, supermarkets, department stores, etc.: four spaces per 1,000 square feet of gross floor area except when part of a shopping center.

f. Other retail establishments; furniture, appliance, hardware stores, etc.: two spaces per 1,000 square feet of gross floor area except when part of a shopping center.

g. Drive-in business: 10 spaces per 1,000 square feet of gross floor area except when part of a shopping center.

h. Motor vehicle repair and services: two and one-half spaces per 1,000 square feet of gross floor area except when part of a shopping center.

i. Recreation instruction/health clubs: 10 spaces per 1,000 square feet of gross floor area.

3. Business Park Activities.

a. Manufacturing, research and testing laboratories, printing, etc.: one space for each 1,000 square feet of gross floor area. For parking requirements for associated office areas, see professional and business office.

b. Warehouses and storage buildings: one-half parking space for each 1,000 square feet of gross floor area.

c. Speculative warehouse and industrial buildings with multiple use or tenant potential: one parking space per 1,000 square feet of gross floor area.

Important Note: This is a minimum requirement and valid for Construction Permit only. Final parking requirements will be based upon actual occupancy and occupancy will be denied for any use that cannot meet the minimum parking requirement.

d. Self-storage facility: a minimum of six parking spaces with additional spaces as required to accommodate accessory uses to the self-storage facility (e.g., office, vehicle rental, caretaker dwelling unit).

4. Recreation and Amusement Activities.

a. Auditoriums, theaters, places of public assembly, stadiums and outdoor sports areas: one parking stall for each four fixed seats or 10 parking stalls for each 1,000 square feet of floor area of main auditorium or of principal place of assembly not containing fixed seats, whichever is greater.

b. Bowling alleys: one parking space for each alley except when part of a shopping center.

c. Dance halls and skating rinks: five parking spaces for each 1,000 square feet of gross floor area, except when located in a shopping center.

d. Golf courses: three parking spaces per hole, plus three and one-half spaces per 1,000 gross square feet of clubhouse facilities.

e. Recreation instruction/health clubs: 10 parking spaces per each 1,000 square feet of gross floor area.

5. Educational Activities.

a. Senior High Schools (Public, Private, and Parochial). The parking requirement shall be determined by the Director based on studies of similar schools. The applicant shall prepare or pay for the preparation of the necessary information and studies. The parameters and required elements of the parking survey and analysis shall be determined on a case-by-case basis by the Director following a preapplication conference.

b. Colleges and Universities, Business and Vocational Schools. The parking requirement shall be determined by the Director based on studies of similar schools. The applicant shall prepare or pay for the preparation of the necessary information and studies. The parameters and required elements of the parking survey and analysis shall be determined on a case-by-case basis by the Director following a preapplication conference.

c. Elementary and Junior High Schools. The parking requirement shall be determined by the Director based on studies of similar schools. The applicant shall prepare or pay for the preparation of the necessary

information and studies. The parameters and required elements of the parking survey and analysis shall be determined on a case-by-case basis by the Director following a preapplication conference.

d. Libraries: four spaces per 1,000 gross square feet in office and public use areas.

e. Nursery schools and day care centers: one parking space for each employee plus one space for every five children, plus on-site loading and unloading areas.

6. Medical Activities.

a. Medical and dental offices: five spaces per 1,000 square feet of gross floor area except when part of a shopping center.

b. Convalescent, nursing, and health institutions: one parking space for each two employees plus one space for each three beds.

c. Hospitals: one parking stall for each patient bed.

7. Religious Activities.

a. Religious Facilities. The parking requirement shall be determined by the Director based on studies of similar religious facilities. The applicant shall prepare or pay for the preparation of the necessary information and studies. The parameters and required elements of the parking survey and analysis shall be determined on a case-by-case basis by the Director following a preapplication conference. An applicant may propose to meet peak parking needs through joint parking arrangements or parking management plans.

8. Other Uses. For uses not specifically identified herein, the amount of parking required shall be determined by the Director, based on parking required for similar uses and, if appropriate, documentation provided by the applicant.

9. Mixed Occupancies. In the case of two or more uses in the same building, the total requirements for off-street parking facilities shall be the sum of the requirements for the different uses computed separately, except in shopping centers. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use except as permitted under the shared use provisions of this title.

C. Shared Use. The shared use of parking facilities may be authorized for those uses which have dissimilar peak hour parking demand. The following conditions must be fulfilled before a shared use facility is allowed:

1. The parking lot or facility must be located within a radius of 500 feet of the buildings or use areas it is intended to serve;

2. The lot shall be designed to freely circulate and connect all portions of the shared lot without the need to exit the lot to public right-of-way to reach any other portion of the lot;

3. Documentation of dissimilar peak hour parking demands done by a qualified transportation consultant must be provided by the applicant; and

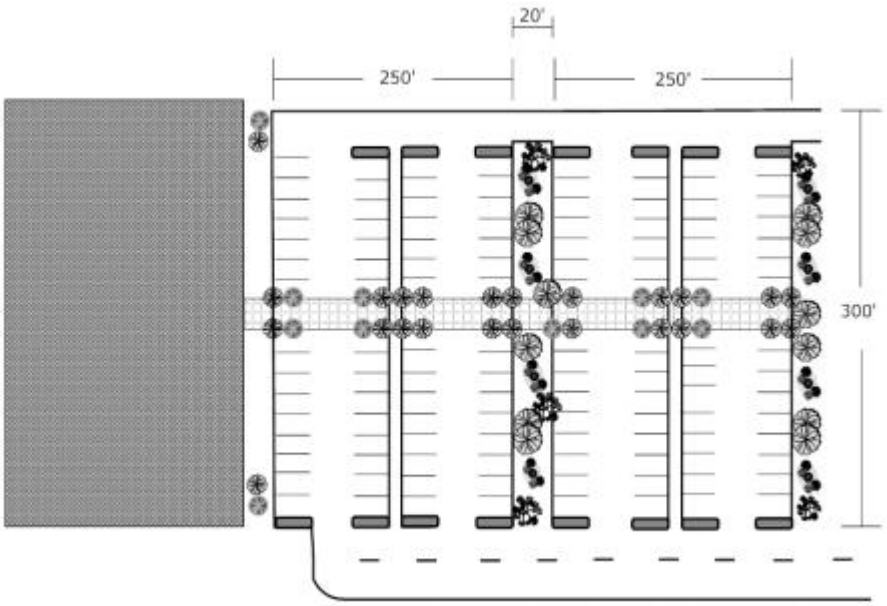
4. The subject property or properties shall be legally encumbered by a recorded reciprocal parking easement or other appropriate means which provides for continuous shared use of the parking facilities. Documentation shall require review and approval of the City Attorney.

D. Loading Space. For all buildings hereafter erected, reconstructed (see Chapter 18.80 MVMC, Nonconforming Provisions), or enlarged, adequate permanent off-street loading space shall be provided if the activity carried on is such that the building requires deliveries to it or shipments from it. Such space shall be shown on the site plan and submitted for approval with other development plans. No portion of a vehicle taking part in loading, unloading or maneuvering activities shall project into a public street, alley or interior pedestrian area. Loading space or maneuvering areas shall be in addition to required off-street parking spaces.

E. Parking Areas. Parking area design and site layout shall limit the size and dimensions of parking areas, and visual impacts associated with large parking areas shall be mitigated to the extent possible, as set forth herein.

1. The maximum size for a single parking area shall be 300 feet by 250 feet. Multiple parking areas on a single site are allowed as long as parking areas are separated pursuant to subsection (E)(3) of this section.

2. Parking Lot Diagram. (Not drawn to scale.)



3. Parking Area Separation. Parking area separation and visual buffering shall include the placement of buildings, landscape areas or pedestrian-oriented areas, or any combination thereof, with a linear distance at least equal to 80 percent of the parking area dimension abutting the separation area. Landscape areas must be at least 20 feet in width or 15 feet in width if the landscape area contains at least a three-foot-high berm as depicted in MVMC 18.70.030(B)(3)(a)(i)(B). Landscape areas may be located within an interior parking area or innovative stormwater treatment and/or flow control facility such as bioretention (as defined by the City-adopted KCSWDM). Landscape areas shall be planted with native and drought resistant vegetation.

4. Schools in Public Zones. Parking area requirements for the development of schools in Public zones shall be as approved by the Director during permit review.

F. Size and Design Standards.

1. Standard: nine feet by 19 feet.

2. Compact: eight feet by 17 feet.

3. Parallel: nine feet by 23 feet.

4. 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:

a. Wheelstops or curbs are installed; and

b. The remaining walkway provides a minimum of 60 inches of unimpeded passageway for pedestrians.

5. Compact Car Parking.

a. Compact car parking spaces shall be clearly marked or signed.

b. Compact car parking spaces shall not exceed 30 percent of the total spaces in the lot.

6. Reserved Employee Parking.

a. Parking in excess of the minimum number of spaces required by subsection (B) of this section may be reserved for employees.

b. Reserved employee parking shall be clearly identified as such and shall not be used for general public parking.

c. Minimum stall size for reserved employee parking shall be eight and one-half feet by 17 feet.

G. Parking Dimensional Table.

Off-Street Parking Bay Width Dimensional Standards					
Double Loaded Aisle	*Min. Total Width*	*Min. Paved Width*	*Single Loaded Aisle*	*Min. Total Width*	*Min. Paved Width*
Standard	60.0	58.0	Standard	42.0	40.0
Compact 1-side	56.5	53.0	Compact	40.0	38.5
Compact 2-sides	52.0	50.0			
Reductions	*Min. Total Width*	*Min. Paved Width*	*Reductions*	*Min. Total Width*	*Min. Paved Width*
One-way traffic	-2.0	-2.0	One-way traffic	-1.0	-1.0
80-degree	-0.5	-0.5	80-degree	-0.0	-0.0
70-degree	-1.0	-1.0	70-degree	-0.5	-0.5
60-degree	-1.5	-1.5	60-degree	-1.0	-1.0
45-degree	-3.0	-3.0	45-degree	-1.5	-1.5
30-degree	-5.0	-5.0	30-degree	-2.5	-2.5
Back-in only	0.0	-2.0	Back-in only	0.0	-2.0
Off-Street Bay Width for Parallel Parking					
Both sides	36.0	36.0	One side	28.0	28.0
One-way traffic	-4.0	-4.0	One-way traffic	-4.0	-4.0

H. Paving. All vehicular maneuvering areas, including but not limited to off-street parking, truck and mobile equipment loading, unloading, storage and maneuvering areas, and related accesses to and from public rights-of-way, shall be paved with asphalt or equivalent material, to be approved by the City.

I. Lighting. Lighting of a parking lot or storage area shall illuminate only the parking lot or storage area. All lighting shall be full cutoff installed horizontally and/or shielded to prevent glare or light trespass onto adjoining properties or public rights-of-way. Light standards shall not be located so as to interfere with parking stalls, maneuvering areas, or ingress and egress areas. Lighting shall be a minimum of 1.1 foot-candles and a maximum of eight foot-candles to provide a reasonable level of safety for vehicles and pedestrians, including sufficient light for vision-impaired pedestrians on walkways connecting the building entrances to the street and handicapped parking stalls. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-14-564 § 5 (Exh. A); Ord. O-12-492 § 4; Ord. O-10-411 §§ 1, 2; Ord. O-09-378 § 2; Ord. O-99-109 § 1).

18.40.130 Landscaping requirements.

A. Purpose. The purpose of this section is to:

1. Provide minimum standards for landscaping in order to maintain and protect property values, preserve significant native vegetation, particularly along major transportation corridors, and enhance the general appearance of the City.

2. Landscaping designs shall utilize native vegetation species and drought-tolerant species, and retain natural vegetation, in order to reduce the impact of development on the water resources of the City. By retaining natural vegetation it can reduce soil erosion and water pollution in the City's streams and lakes by providing wind breaks, slowing the surface movement of water, reducing the amount of stormwater runoff, and stabilizing soils with their roots and fallen leaves.

3. Respond to State-level mandates for action in such areas as water conservation, energy conservation, enhancement of water quality, and improvement of air quality.

4. Reflect City planning goals, urban design standards, and ecological awareness.

5. Provide an appropriate amount and quality of landscaping related to all land use in the City.

6. Reduce noise pollution by absorbing and deadening excessive and/or unwanted noise and by screening the source of the noise from view.

7. Establish a minimum level of regulation that reflects the purposes of this code.

8. Provide for design flexibility.

B. Applicability.

1. These provisions shall apply to all development applications in the City, with the exception of individual single-family residential and minor or local utility infrastructure; provided, that single-family residential complies with the soil amendments requirements in subsection (B)(2) of this section.

2. All portions of a disturbed site not used for buildings, future buildings, parking and storage or accessory uses shall have the soil moisture-holding capacity restored to that of the original undisturbed soil native to the site to the maximum extent practicable. The soil in any area that has been compacted or that has had some or all of the duff layer or underlying topsoil removed shall be amended to mitigate for lost moisture-holding capacity. The amendment shall take place between May 1st and October 1st. The topsoil layer shall be a minimum of eight inches thick, unless the applicant demonstrates that a different thickness will provide conditions equivalent to the soil moisture-holding capacity native to the site. The topsoil layer shall have an organic matter content of between five to 10 percent dry weight and a pH suitable for the proposed landscape plants. When feasible, subsoils below the topsoil layer should be scarified at least four inches with some incorporation of the upper material to avoid stratified layers. Compost used to achieve the required soil organic matter content must meet the definition of "composted materials" in WAC 173-350-220. The soil quality design guidelines listed above can be met by using one of the following two options:

a. Option 1: Amend existing site topsoil or subsoil at a rate of eight cubic yards of compost per 1,000 square feet disturbed soil area, spread at a two-and-one-half-inch depth, and rototilled in eight to 12 inches deep.

b. Option 2: Import topsoil mix of sufficient organic content (five to 10 percent dry weight), pH (6.0 to 8.0), and depth to meet the requirements.

C. Landscape Plan Approval.

1. Except as set forth in subsection (B) of this section, no permit shall be issued to erect, construct or undertake any development project resulting in a new structure or expanding the footprint of an existing structure without prior approval of a landscape plan by the City.

2. Required landscape plans shall be prepared by a landscape design professional (landscape architect, certified landscaper, certified nursery professional, etc.), certified or registered by the State of Washington.

D. General Landscaping Requirements – All Zones.

1. All portions of a lot not used for buildings, future buildings, parking, storage or accessory uses, and proposed landscaped areas shall be retained in a "native" or predeveloped state or restored to such state with appropriate enhanced plantings as determined by the Director; provided, that schools in Public zones shall not be subject to this requirement.

2. Slopes in areas that have been landscaped with lawn shall generally be a three-to-one ratio or less, width to height (horizontal to vertical), to assist in maintenance and to allow irrigation systems to function efficiently.

3. Type III landscaping, defined in subsection (E)(3) of this section, shall be placed outside of sight-obscuring fences abutting public rights-of-way and/or access easements.

4. With the exception of lawn areas, new landscaping materials (i.e., trees, shrubs and groundcover) shall consist of drought-tolerant species and Pacific Northwest adaptive vegetation. All developments are required to include native Pacific Northwest and drought-tolerant plant materials for all projects.

5. Deciduous trees shall have a caliper of at least two inches at the time of planting measured four and one-half feet above the root ball or root.

6. Evergreen trees shall be a minimum six feet in height measured from treetop to the ground at the time of planting.

7. Shrubs shall be a minimum of 12 to 24 inches in height (measured from top of shrub to the ground) at the time of planting.

8. Groundcover shall be planted and spaced to result in total coverage of a landscaped area within three years of planting.

9. Areas planted with grass/lawn shall:

a. Constitute no more than 40 percent of landscaped areas; provided, there shall be an exception for biofiltration swales, except for schools in Public zones; and

b. Be a minimum of five feet wide at the smallest dimension.

10. Grass and required landscaping areas shall contain at least two and one-half inches of compost or imported topsoil with five to 10 percent soil organic matter content.

11. Existing clay or sandy soils where landscaping is to be installed shall be augmented with an organic supplement.

12. Landscape areas shall be covered with at least three inches of mulch to minimize evaporation.

13. Mulch shall be used in conjunction with landscaping in all planting areas to assist vegetative growth and maintenance or to visually complement plant material, except that undisturbed native vegetation need not be mulched. Nonvegetative material shall not be an allowable substitute for plant material.

14. Landscaping and fencing shall not violate the sight distance safety requirements at street intersections and points of ingress/egress for the development.

15. All tree types shall be spaced appropriately for the compatibility of the planting area and the canopy and root characteristics of the tree.

16. Foundation landscaping is encouraged to minimize impacts of the scale, bulk and height of structures.

17. All loading areas shall be fully screened from public rights-of-way or nonindustrial/manufacturing uses with Type I landscaping.

18. Use of products made from post-consumer waste is encouraged whenever possible.

19. Walkways, decorative paving, fountains, benches, picnic tables and other features or amenities are encouraged in landscaping areas. These features are in addition to the landscaping requirement, not in lieu of such requirement.

E. Landscaping Types.

1. Type I – Solid Screen.

a. Purpose. Type I landscaping is intended to provide a solid sight barrier to totally separate incompatible land uses. This landscaping is typically found between residential and incompatible nonresidential land use zones (e.g., business park uses and Residential, etc.), and around outdoor storage yards, service yards, loading areas, mechanical or electrical equipment, utility installations, trash receptacles, etc.

b. Description. Type I landscaping shall consist of evergreen trees planted no more than 20 feet on center in a triangular pattern; shrubs and groundcover which will provide a 100 percent sight-obscuring screen within three years from the time of planting; or a combination of approximately 75 percent evergreen and 25 percent deciduous trees (with an allowable five percent variance), planted no more than 20 feet on center in a triangular pattern, with shrubs and groundcover backed by a sight-obscuring fence. Shrub and groundcover spacing shall be appropriate for the species type, and consistent with the intent of this section.

2. Type II – Visual Screen.

a. Purpose. Type II landscaping is intended to create a visual separation that may be less than sight-obscuring between incompatible land use zones. This landscaping is typically found between Commercial and business park uses; High Density Multifamily and Single-Family Residential zones; Commercial and Residential zones; and to screen business park uses from the street.

b. Description. Type II landscaping shall be evergreen or a combination of approximately 60 percent evergreen and 40 percent deciduous trees, with an allowable five percent variance, planted no more than 20 feet on center in a triangular pattern, interspersed with large shrubs and groundcover. A sight-obscuring fence may be required if it is determined by the City that such a fence is necessary to reduce site-specific adverse impacts to the adjacent land use. Shrub and groundcover spacing shall be appropriate for the species type and the intent of this section.

3. Type III – Visual Buffer.

a. Purpose. Type III landscaping is intended to provide partial visual separation of uses from streets and between compatible uses so as to soften the appearance of parking areas and building elevations.

b. Description. Type III landscaping shall be a mixture of evergreen and deciduous trees planted no more than 30 feet on center in a triangular pattern and interspersed with shrubs and groundcover. Shrub and groundcover spacing shall be appropriate for the species type and the intent of this section.

4. Type IV – Open Area Landscaping.

a. Purpose. Type IV landscaping is primarily intended to provide visual relief and shading while maintaining clear sight lines, and is typically used within parking areas.

b. Description. Type IV landscaping shall consist of trees planted with supporting shrubs and groundcover. Shrubs shall be pruned at 40 inches in height above pedestrian or vehicle grade (whichever is higher), and the lowest tree branches shall be pruned to keep an approximate eight-foot clearance from the ground. Tree, shrub, and groundcover spacing shall be appropriate for the species type and the intent of this section. Vegetated LID facilities (bioretention, rain gardens, and dispersion), consistent with the intent of this section, are allowed. See subsection (G) of this section for location of Type IV landscaping.

F. Landscaping Requirements by Zoning District.

1. Multifamily Residential, R-8 – R-24.

a. Type III landscaping of a minimum width of 10 feet shall be provided along all perimeter lot lines, except as provided in subsection (F)(1)(b) of this section.

b. Type I landscaping of a minimum width of 10 feet shall be provided along the perimeter abutting Single-Family zones (R-4 through R-6).

c. The requirements of subsection (G) of this section for parking area and perimeter parking area landscaping shall apply.

2. Community Business, CB; Four Corners Commercial, FCC; Regional Employment Center, REC; and Regional Learning and Technology Center, RLTC.

a. Type III landscaping of a minimum width of 10 feet shall be provided along all properties abutting public rights-of-way and ingress/egress easements.

b. Type I landscaping of a minimum width of 20 feet shall be provided along the perimeter of property abutting a Residential zoning district.

c. The requirements of subsection (G) of this section for parking area and perimeter parking area landscaping shall apply.

3. Neighborhood Business, NB.

a. Type III landscaping of a minimum width of 10 feet shall be provided along the perimeter of parking areas abutting public rights-of-way.

b. Type I landscaping of a minimum width of 20 feet shall be provided along the perimeter of the property abutting a Residential zoning district.

c. The requirements of subsection (G) of this section for parking area and perimeter parking area landscaping shall apply.

4. Park, Recreation, Open Space, PRO. Landscaping requirements are to be determined by the City on a project-by-project basis dependent on the proposed use and surrounding zoning districts.

G. Parking Lot Landscaping.

1. Purpose. The purpose of this section is to mitigate adverse impacts created by parking lots which include noise, glare and increased heat, increased stormwater runoff and pollution, and to improve the physical appearance of parking lots.

2. Type IV Landscaping. Type IV landscaping shall be provided within surface parking areas as follows:

a. All new Commercial; Park, Recreation, Open Space; and multifamily developments with parking for five or more vehicles, and subdivisions or PUDs with common parking areas for five or more vehicles, shall provide 25 square feet per parking stall.

b. Landscaping along driveways and at building entrances may be counted toward the Type IV landscaping requirement, even if not fully within the parking area.

c. Landscape Islands. Landscape islands shall be a minimum size of 100 square feet, with a minimum width of six feet at the narrowest point. At least one tree shall be planted in each landscape island. Islands shall be provided at the ends of all rows of parking, between loading doors or maneuvering areas and parking areas or stalls. Islands providing stormwater treatment are encouraged in low areas and between parking rows.

i. Any remaining required landscaping shall be dispersed throughout the interior parking area to create shade, reduce the visual impact of the parking lot, and meet applicable design requirements and guidelines.

ii. Deciduous trees are preferred for landscape islands within interior vehicle use areas.

iii. Lawn shall not be permitted in landscape islands less than 200 square feet in size and shall be used only as an accessory planting material to required trees, shrubs, and groundcover.

d. Curbing. Permanent curbing shall be provided in all landscape areas within or abutting parking areas. Where stormwater is intended to be routed into a bioretention facility, wheelstops or curb cuts may be used instead of a continuous permanent curb.

e. Parking Areas/Screening for Rights-of-Way.

i. Parking areas adjacent to public rights-of-way shall incorporate berms at least three feet in height within perimeter landscape areas. Alternatively, the Director may allow the addition of shrub plantings to the required perimeter landscape type, and/or the provision of architectural features of appropriate height with trees, shrubs and groundcover, in a number sufficient to act as an efficient substitute for the three-foot berm. Any such substitution must reduce the visual impact of parking areas and screen the automobiles from public view; provided, that vehicle display areas at automobile sales lots need not be fully screened.

ii. Parking adjacent to Residential zones shall reduce the visual impact of parking areas and buffer dwelling units from light, glare, and other environmental intrusions by providing Type I landscaping within required perimeter landscape areas.

f. Vehicular Overhang.

i. Vehicular overhang into any landscaping area shall not exceed two feet.

ii. No plant material greater than 12 inches in height shall be located within two feet of the curb or other protective barrier in landscape areas adjacent to parking spaces and vehicle use areas.

3. Senior High Schools in Public Zones. The parking lot landscaping requirements for the development of senior high schools in Public zones shall be as approved by the Director during permit review.

H. Performance and Maintenance Standards.

1. Performance.

a. All required landscaping shall be installed prior to final inspection or the issuance of a Certificate of Occupancy (CO), except as provided in subsection (H)(1)(d) of this section.

b. When landscaping is required pursuant to this code, an inspection shall be performed to verify that the landscaping has been installed pursuant to the standards of this code.

c. Upon completion of the landscaping work, the City shall inspect the installation upon request by the applicant.

d. A Temporary Certificate of Occupancy may be issued prior to completion of required landscaping, provided the following criteria are met:

i. An applicant or property owner files a written request with the City prior to a final inspection;

ii. The request shall explain why factors either beyond the applicant's control, or which would create a significant hardship, prevent the installation of the required landscaping prior to issuance of the CO;

iii. The property owner has demonstrated a good faith effort to complete all required landscaping;

iv. The applicant files a performance security in the form of an assignment of savings with the Department in an amount equal to 150 percent of the cost of completing the landscaping work or, for senior high schools in Public zones, the applicant provides proof of an executed contract for such work with an agreed schedule for completion;

v. The applicant files a consent to access form signed by the property owner allowing a City-hired landscaping contractor access to the property to complete the landscaping work in the event of a default by the applicant.

e. The time period extension for completion of the landscaping shall not exceed 90 days after issuance of a Temporary Certificate of Occupancy except that the Director may grant an extension to senior high schools in Public zones where the applicant submits proof of hardship.

f. Failure to complete landscape installation by an established 90-day extension date shall constitute cause for retrieval of funds by the City from the assigned savings account in order to have the landscaping completed by a City-hired landscaping contractor.

2. Maintenance.

a. Continual maintenance of planted areas shall be the responsibility of the property owner.

b. All portions of any irrigation system shall be continuously maintained in a working condition.

c. The property owner shall also maintain all other aspects of landscaped areas including the removal of trash and debris.

I. Landscape Modification Provisions. The following alternative landscape options may be allowed, subject to approval by the Director, if they accomplish equal or better levels of screening and if they provide an equal or better visual result:

1. The width of the perimeter landscape strip may be reduced up to 25 percent along any portion where:

a. Berms at least three feet in height or architectural barriers at least six feet in height are incorporated into the landscape design; and

b. The landscape materials are incorporated elsewhere on site;

2. When an existing structure precludes installation of the total amount of required site perimeter landscaping, such landscaping material shall be incorporated on another portion of the site;

3. The width of any required perimeter landscaping may be averaged along any individual property line, provided the minimum width is not less than five feet and the landscape area and materials are incorporated elsewhere on site;

4. The width of the perimeter landscaping may be reduced up to 10 percent when a development retains 10 percent of significant trees or 10 significant trees per acre on site, whichever is greater;

5. The landscaping requirement may be modified when existing conditions on or adjacent to the site, such as significant topographic differences, vegetation, structures or utilities, would render application of this chapter ineffective or result in scenic view obstruction.

J. Stormwater Pond Landscaping Standards.

1. Purpose. The purpose of this standard is to improve water quality for the protection of endangered species and reduce maintenance costs for stormwater facilities located in residential developments and make them attractive amenities within the neighborhood and the City.

2. Applicability. These provisions shall apply to all development applications within the City, with the exception of individual single-family residential.

3. Landscape Plan Approval. A landscape design professional (landscape architect, certified landscaper, certified nursery professional, etc.), certified or registered by the State of Washington, shall prepare required landscape plans in accordance to the adopted Surface Water Design Manual and Addenda.

4. Maintenance of the landscaping in the drainage facility shall be the responsibility of the developer or homeowners' association for two years following facility acceptance by the City of Maple Valley. This includes but is not limited to watering, maintenance, replacement and grooming of all plantings. (Ord. O-24-831 § 1 (Exh. C); Ord. O-23-774 § 2 (Exh. A); Ord. O-21-716 § 12; Ord. O-20-705 § 1; Ord. O-16-598 § 1(B) (Exh. B); Ord. O-14-564 § 6 (Exh. A); Ord. O-12-499 § 8; Ord. O-12-492 § 5; Ord. O-12-490 § 8; Ord. O-11-440 § 3; Ord. O-10-415 § 5; Ord. O-06-328 § 3; Ord. O-02-198 § 1; Ord. O-00-143 § 1; Ord. O-99-109 § 1).

18.40.140 Tree removal, retention and replacement.

A. Purpose. The purpose of this section is to preserve and enhance the valuable natural resources and aesthetic character and image of Maple Valley. The intent is to provide clear guidelines as to when a Clearing and Grading Permit is required for tree removal, incentives for retaining existing trees, to discourage unnecessary clearing and disturbance of land, and to maintain tree-lined corridors along the major arterials.

B. Definitions.

1. "Coverage" is defined as the ratio of the dripline area to the lot area expressed as a percentage.

2. "Dripline area" is the area under the outermost circumference of branches of the tree.

3. "Landmark tree" is defined as any significant tree other than alder or cottonwood that is at least 24 inches in diameter at four and one-half feet from grade.

4. "Large nursery stock" is defined as commercially grown material available at the time of planting that is required to be moved by hydraulic spade and is a minimum size of at least four inches in diameter measured four and one-half feet above grade.

5. "Live crown ratio" is the proportion of length of main stem supporting live branches to the height of the tree.

6. "Planted tree" is defined as any of a number of species of trees less than 12 inches in diameter when planted, but which is expected to become at least 12 inches in diameter at maturity measured at four and one-half feet from grade.

7. “Public property” is defined as City parks, public rights-of-way (e.g., which contain street trees), publicly maintained stormwater facilities, drainage easements, dedicated stormwater tracts and City-owned easements on private property.

8. “Qualified professional” is defined as an individual who through any combination of knowledge, experience, education, and training demonstrates a professional level of understanding in tree care, arboricultural sciences and urban forestry. Qualified professionals must possess the ability to evaluate the health and hazard potential of existing trees, and the ability to prescribe appropriate measures necessary for the preservation of trees during land development. Qualified professionals may include licensed landscape architects, certified consulting arborists, certified arborists, and certified foresters.

9. “Retained significant tree” is defined as a significant tree that is designated for retention and used for demonstrating compliance with canopy coverage requirements or incentives.

10. “Retained tree” is defined as an existing tree designated for retention, excluding cottonwood and alders, that is less than 12 inches in diameter measured four and one-half feet above grade, but greater than six feet tall if evergreen, or two inches in diameter if deciduous. Retained trees must have a live crown ratio of greater than or equal to 50 percent.

11. “Significant tree” is defined as an existing evergreen or deciduous tree, excluding cottonwoods and alders, that is at least 12 inches in diameter measured four and one-half feet above grade.

12. “Street tree” is defined as a tree located in the City right-of-way.

13. “Tree Protection Area (TPA)” is land area set aside with limitations running with the title of the land that prevent activities that will damage the tree or trees within that area.

14. “Windthrow” is the uprooting and overthrowing of trees by the wind.

C. Tree Removal.

1. Tree Removal – Permit Required. This subsection sets forth the circumstances under which a permit is required before removing a tree.

a. No landmark tree may be removed without first obtaining a Clearing and Grading Permit, regardless of lot size.

b. No significant tree may be removed from a lot one-half acre or more in size without first obtaining a Clearing and Grading Permit. Tree removal associated with a building permit, site development permit, subdivision or other land use approval will be reviewed with the associated project and will not require a separate Clearing and Grading Permit.

c. No planted tree or retained tree, planted or retained pursuant to a Landscaping Plan, Native Growth Protection Area, Tree Protection Area, Tree Retention Plan, or other conditions of development, may be removed without first obtaining a Clearing and Grading Permit.

d. Emergencies. A tree that poses imminent danger to persons or property may be removed without a Clearing and Grading Permit; provided, that:

i. The emergency is documented by photograph or video evidence prior to removal; and

ii. Such documentation shall be provided to the City within seven days of removal; and

iii. A post-removal permit is obtained from the City; and

iv. Replanting will be required unless replanting would be detrimental to the existing tree canopy as determined by a certified arborist.

e. Critical Areas. No tree shall be removed from a critical area or its related buffer without first complying with the provisions of Chapter 18.60 MVMC.

f. Exemptions. Trees located within the following areas are exempt from this section's permitting requirements, when the work is performed by the City, or its designees:

i. Public rights-of-way, for example street trees;

ii. Publicly maintained stormwater facilities;

iii. Drainage easements;

iv. Dedicated stormwater tracts;

v. City-owned easements on private property; and

vi. Minor utility infrastructure.

2. Tree Removal From Public Property – Not Allowed by Private Parties. No tree shall be removed from public property except by its public owner or their designee. Such public owners are required to obtain a Clearing and Grading Permit from the City prior to any tree removal. No street tree shall be removed except by the City, its designee, or as authorized by a Right-of-Way use permit.

D. Timber Management under Forest Practices Act. Applicants for Forest Practice Permits (Class IV – General Permit) for the conversion of forested sites to developed sites are also required to apply for appropriate permits through the City, and are subject to the provisions of this section. For all other Forest Practice Permits (Class II, III, or IV – Special Permit) issued by the DNR for the purpose of commercial timber operations, no Clearing and Grading Permit application is required, but no Development Permits will be issued for six years following tree removal under such DNR permit.

E. Application Requires Tree Retention Plan. All development or redevelopment proposals subject to this section that are not specifically exempt shall include a Tree Retention Plan at the time of application for any required Development Permit. Preparation and submittal of the Plan shall conform to specifications provided by the Director. Tree Retention Plans may be prepared by a qualified professional. An owner may submit for a Clearing and Grading Permit without having a qualified professional prepare a Significant Tree Retention Plan, provided the Plan clearly locates the trees and provides sufficient information for City staff to review the proposal as determined by the Director. The Tree Retention Plan shall analyze:

1. The number of trees and canopy coverage calculation of trees existing on the site;

2. The location and species type of existing significant trees or clusters of trees within and adjacent to the proposed area to be cleared and/or graded, including utility corridors;

3. The species type, size, location, and spot elevation at the base of any landmark tree within the site, unless the requirement is waived by the Director;

4. A statement that describes replacement tree quality as conforming to the American Standards of Nursery Stock (ANSI);

5. Critical areas; and

6. Areas not proposed for clearing or grading, provided such areas do not require a specific survey location of trees.

F. Canopy Coverage Calculation Requirements and Tree Retention Guidelines.

1. A canopy coverage calculation shall be prepared by the applicant for the proposal. The canopy coverage calculation may be merged with the Tree Retention Plan and/or landscaping plan for the proposal. The canopy

coverage calculation shall show retention and planting of trees at mature canopy coverage of the total site area to equal or exceed: 15 percent for commercial developments within the FCC, NB, PUB, REC, RLTC and CB Zones if there is no residential component. Zones meeting the landscape requirements contained in MVMC 18.40.130(F): 20 percent for all residential development with the R-4, R-6, R-8, R-12, R-18, R-24 and CB Zones (if there is a residential component). Other developments meeting the landscape requirements contained in MVMC 18.40.130(F), on the Legacy Site, will be excluded from canopy coverage from this section, calculated as follows:

a. Retained landmark trees shall be calculated at 1,650 square feet each, regardless of canopy coverage or dripline area, or as marked in the field and measured by the proponent;

b. Retained significant trees shall be calculated at 1,100 square feet each, regardless of canopy coverage or dripline area, or as marked in the field and measured by the proponent;

c. Retained trees shall be calculated at 900 square feet each, regardless of canopy coverage or dripline area;

d. Planted significant trees meeting the minimum planting standard (subsections (R)(2) and (3) of this section) shall be calculated at 300 square feet each;

e. Planted significant trees exceeding the minimum planting standard (subsections (R)(2) and (3) of this section) by 50 percent shall be calculated at 550 square feet each; and

f. Planted significant trees meeting the definition of large nursery stock and exceeding the minimum planting standard (subsections (R)(2) and (3) of this section) by 100 percent shall be calculated at 750 square feet each.

2. For the purposes of meeting the minimum required canopy coverage calculation, trees shall be retained pursuant to the following unranked guidelines, except where determined to be exempt or to constitute a hazard by a qualified professional pursuant to subsection (C)(1)(d) of this section:

a. All trees within critical areas or critical area buffers;

b. Retained trees within the required perimeter landscape buffer width or building setback, whichever is greater;

c. Retained trees inside the site within an area no less than 20 feet of the right-of-way line of Maple Valley Highway SR-169, Kent-Kangley Road SR-516, and Witte Road arterial corridors except for site access requirements;

d. Trees within required open space; and

e. For subdivisions during site development, all trees that are not within cut or fill areas, parking areas or streets, utility corridors, site development requirements imposed by the City, or 20 feet distant of any proposed structure, except that trees retained in single-family lots created by subdivision of property into more than four lots shall not be counted for purposes of meeting required tree canopy coverage.

3. Where demonstrated that a site cannot achieve the minimum canopy coverage through retention pursuant to subsection (F)(2) of this section, planted significant trees may be utilized in Tree Protection Areas pursuant to the following guidelines in order of preference where applicable:

a. Inside the site within a distance of 20 feet or greater of the right-of-way line of Maple Valley Highway SR-169, Kent-Kangley Road SR-516, and Witte Road arterial corridors except for site access requirements. At least 25 percent of replanted trees along these arterial corridors must consist of evergreen trees with a height of 10 to 12 feet or deciduous trees with a three-inch caliper;

b. Within required perimeter buffers or setback areas;

c. Within designated recreation and/or open space areas;

d. Within critical areas or critical area buffers; and

e. Any other locations within the development site, except that trees planted in single-family lots created by subdivision of property into more than four lots shall not be counted for purposes of meeting required tree canopy coverage.

G. Incentive for Retention of Existing Trees and Increased Canopy Coverage. For development proposals subject to tree retention requirements in any zone, and where the proposal contains greater than 20 percent canopy coverage by retained existing trees; provided, that trees retained in protected critical areas or related buffers may not apply towards the required percentages, the following incentives are available individually or in combination:

1. For any retained landmark tree, the actual dripline area of the tree may be credited toward open space or recreational space requirements irrespective of tree location; or

2. Additional building height of 10 feet is permitted up to a maximum height of 45 feet; provided, trees must be retained proximate to the proposed building location(s).

3. If any tree that is saved in conjunction with these bonus provisions is lost in the future for whatever reason, it shall be replaced with large nursery stock approved by the Director.

H. Phased Development Plans. For redevelopment and/or phased new development sites, the Director may approve a partial Tree Retention Plan that is applicable only to a phase of development or redevelopment. A Plan based on phased development does not require a full amount of required trees per acre for each phase individually, provided the Plan for the entire development or proposal meets, or will meet, requirements; provided, however, no incentives may be approved for early phases of construction that rely on trees to be retained in future phases unless the significant Tree Retention Plan is recorded such that future phases are bound by the Plan.

I. Alternative Landscape Option. At the Director’s sole discretion, the Director may approve an alternative landscape option for a high-quality landscape design containing native and ornamental species of landscape materials on sites where the proponent demonstrates to the satisfaction of the Director that planting trees at the required canopy coverage would not be feasible given the proposed use of the property, and/or would require planting at a density that would probably require removal of trees in the future due to the ultimate size of required species.

1. The proponent must show that the alternative landscape plan is of a better quality compared to a plan that would meet the requirements in the above subsections, and retains significant trees or provides planted significant trees in accordance with the following:

a. Existing trees in critical areas and critical area buffers must be retained and/or augmented with trees as appropriate;

b. Existing trees in required perimeter landscape buffers must be preserved;

c. Street trees are provided on streets adjacent to the site;

d. Perimeter buffer areas without existing significant trees include planted significant trees;

e. Significant trees are provided around any open stormwater detention or pollution control ponding or swale areas;

f. Significant tree equivalents are provided internally to parking lot areas;

g. Significant trees are planted adjacent to the structure(s);

h. Street trees are planted within the development; and

i. Street trees are planted in cul-de-sac islands as applicable.

2. Alternative landscape plans must emphasize native plant material and large-scale shrub and small tree species, such as vine maple, as well as ornamental material appropriate and complementary to the proposed use of the site.

J. Utility and Street Easements and Rights-of-Way.

1. For installation or maintenance of major overhead and major underground utilities, such as electrical transmission lines, water or sewer mains or stormwater lines, no tree retention or planting requirements shall be imposed within the easement or right-of-way area.

2. For installation or maintenance of minor overhead and underground utilities, including overhead power distribution lines, water or sewer mains, or stormwater lines, no number of trees per acre of land shall apply for the easement or right-of-way area; provided, however, for each significant tree removed due to installation or maintenance of lines, one planted significant tree is required. The Director shall give consideration to the approval of planted species so as not to create future conflicts with the overhead or underground utilities.

3. For private properties with easements for overhead utilities, no tree retention or significant tree equivalent planting requirements shall apply for the private land area affected by the utility easement.

4. For public and private road construction and maintenance within the right-of-way or grading easements, no tree retention requirement shall apply; provided, retained trees within and along the right-of-way of Maple Valley Highway SR-169, Kent-Kangley Road SR-516, and Witte Road arterial corridors shall be accommodated and provided as a requirement of the design engineering for and maintenance of the road.

K. Tree Windthrow Evaluation and Prevention.

1. Increased tree windthrow potential as a result of impacts to trees on a site shall be evaluated based on the following risk factors:

a. Root system disruption that will extend within an area one to two and one-half times the radius of the canopy;

b. Topography of the site;

c. Whether the tree is deciduous or evergreen;

d. Height of the tree relative to the neighboring trees;

e. Whether the tree is part of a grove.

L. Decision Criteria. The Director shall review the application for a Tree Retention Plan and/or Clearing and Grading Permit and approve the permit, deny the permit, or approve the permit with conditions based on the following criteria:

1. The site design implements the intent of this section; and

2. The Tree Retention Plan conforms to the specific requirements of this section; and

3. The proposal complies with and conforms to all standards and requirements of the underlying permit, if such permit is in addition to the Clearing and Grading Permit.

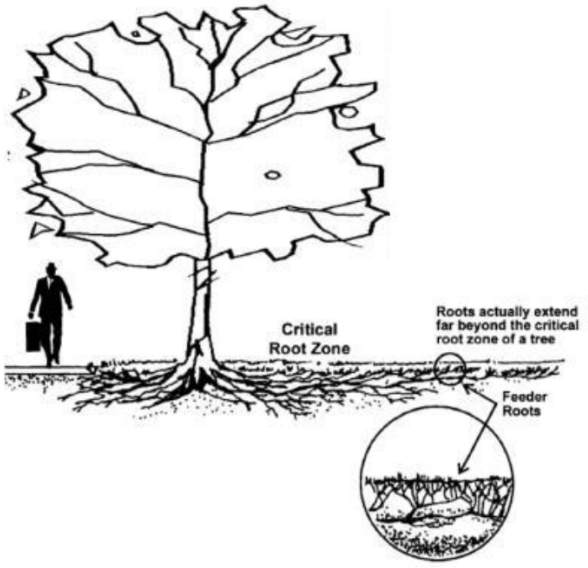
M. Tree Retention Plan Recording Required. For all nonexempt development and redevelopment sites (except for trees planted or retained within platted single-family residential lots), the Tree Retention Plan shall show Tree Protection Areas (TPAs). Upon approval of the Tree Retention Plan, the Plan shall be recorded together with the following restriction upon the land:

Trees indicated on this property within Tree Protection Areas are to be preserved for environmental, aesthetic, and other purposes. No activities are allowed within the Tree Protection Area that could damage or harm the tree, such as storage of material, disposal of drainage, or filling or grading. Tree removal, or site work or landscaping resulting in the loss of a tree, is subject to fines and tree replacement requirements by order of the City of Maple Valley.

N. Tree Retention Standards.

1. Site Design Standards.

a. To qualify as an existing retained tree, the critical root zone (CRZ) of individual trees, groves, or otherwise designated protected tree area shall include no less than the area of a circle with a radius that extends one foot out from the tree for every inch of trunk dbh, or the area of a circle with radius extending from a tree's trunk to a point no less than the end of the tree's longest branch, whichever is greater, and shall be a no disturbance area. Undisturbed areas shall not be impacted by grading, soil disturbance, impervious surfacing, storage of materials, or activity that may compact the soil surface, such as pedestrian use.



b. Any work within the one-third of the dripline area shall be planned to be done by hand and by methods least disruptive to the tree.

c. For retained trees where the grade in the vicinity of the tree will be either raised or lowered such that surface or subsurface water flow to the tree will be altered, specific provisions for additional irrigation or drainage shall be included in the tree protection notes and details.

d. Tree retention details, including protection notes and fencing or staking installation details, shall be included on the applicable site development plans, and reviewed and approved by the Director prior to approval of the Tree Retention Plan.

2. Construction Standards.

a. Tree protection details, dripline fencing, and no disturbance areas shall be part of all construction plans issued for permit.

b. All dripline areas of retained trees shall be located in the field and confirmed by a City Inspector prior to commencement of construction.

c. Work within dripline areas specifically authorized by approved construction plans shall be done separately from mechanized mass clearing and grading of the site and shall be fenced to exclude the area from mechanized clearing or grading. Methods for work within such areas shall be detailed on the clearing and grading plans, civil engineering plans, utility plans and landscape plans as may be needed to clarify the methods and responsibilties for construction within the dripline area.

d. Tree protection areas shall be fenced prior to construction with orange plastic mesh fencing or approved equivalent.

O. Maintenance Standards. Maintenance in the form of irrigation, fertilization, clearing of vines and other requirements necessary to assure survival of the retained and planted significant trees is required on the private property in perpetuity. The City may inspect and order maintenance at any time. The property owner is responsible for the replacement of any required trees or approved landscape material due to loss or disease after an initial maintenance period of three years. The developer is responsible for replacement of any dead or dying material within the initial maintenance period of three years or until released. If any landscaping needs to be replaced the release of bonds could be extended up to an additional two years. An assurance device for the initial maintenance period is required in one of the following forms:

1. A signed maintenance contract for a minimum period of three years from the time of occupancy that includes replacement of any dead or dying material observed at the end of three years; whereas, if any landscaping needs to be replaced the release of bonds could be extended up to an additional two years; or

2. A maintenance security in the form of an assigned savings deposit statement from a financial institution in the amount of 20 percent of the landscape installation contract. The security device shall state it may be released after one year only by the City after inspection of the site and replacement of materials as ordered.

3. Significant and protected trees, as defined in this chapter, shall not be topped unless recommended by a qualified professional.

4. Pruning and maintenance of protected trees shall be consistent with the ANSI A300 standards and ISA best management practices for proper pruning.

P. Contractor Requirements. The contractor shall sign a statement on the Significant Tree Retention Plan acknowledging the requirements of the plan prior to commencement of construction. Proof of signature shall be shown to the City at or before the preconstruction meeting. The acknowledgement statement shall provide that the contractor is aware of the tree preservation and retention requirements shown on the plans and in this section; that it is the responsibility of the contractor to preserve the trees if field conditions show additional measures to assure the survival of the trees may be necessary and to alert the City Inspector to those conditions; and that the contractor is jointly responsible with the developer for any restitution required due to damage to or loss of trees as a result of the construction activities.

Q. Preconstruction Meeting. Prior to the commencement of any permitted clearing and grading activity, a preconstruction meeting with the City Inspector shall be held on site with the permittee and contractor. The project site shall be marked in the field as follows:

1. Limits of clearing and grading;

2. Location of tree protection fencing;

3. Delineation of any critical areas and critical area buffers;

4. Individual trees to be retained;

5. Property lines.

R. Planting Standards.

1. Planted significant trees shall be a mix of species approved by the Director for the specific application or proposal. Planted significant trees shall be located in a landscaping area of sufficient size to support a trunk size at maturity growth of at least 12 inches in diameter following the minimum standards for planted significant trees in this section. A minimum of 60 percent of the planted significant trees shall be native evergreen coniferous species. Species allowable for planting significant trees shall be selected from the following two lists at a ratio of no less than 70 percent from List 1, and no more than 30 percent from List 2, or as approved by the Director:

List 1:

Western Red Cedar (native evergreen coniferous)

Douglas Fir (native evergreen coniferous)

Western Hemlock (native evergreen coniferous)

Alaskan Yellow Cedar

Port Orford Cedar (native evergreen coniferous)

Norway Spruce

Sitka Spruce (native evergreen coniferous)

Incense Cedar (native evergreen coniferous)

Lodgepole Pine (native evergreen coniferous)

Ponderosa Pine (native evergreen coniferous)

Western White Pine (native evergreen coniferous)

Giant Sequoia (native evergreen coniferous)

Big Leaf Maple

Red Maple, both rounded and columnar forms

Other native species as approved by the Director

List 2:

Birch “Jacquemontii”

Sweetgum

Honeylocust

Hornbeam

Marshal Seedless Ash

Summit Ash

Flowering Pear

Pin Oak

Other nonnative ornamental species as approved by the Director

2. Evergreen coniferous trees shall be six feet in height from the top of the root ball, and balled and burlapped in healthy condition at time of planting. Alternatively, trees that are four or more inches in diameter measured at four and one-half feet from planting grade may be transplanted from on site; provided, that an approved method directed by a qualified professional is used. Pruned or sheared evergreen trees intended for Christmas tree use are not acceptable if the leader has been cut.

3. Deciduous trees, evergreen broadleaved trees, or deciduous coniferous trees shall be a minimum two inches in diameter measured four feet above planting ground level, and with the lowest branch no lower than four feet from grade.

4. Staking, soil amendments, and planting details shall be specified by a qualified professional.

5. Planting areas and no disturbance areas shall be free from structures or impervious surfaces a minimum of seven feet in radius from the point the tree is planted, or as designed by a qualified professional to support a minimum size at maturity of 12 inches of trunk diameter measured four and one-half feet above planting ground level. Such designs shall contain a statement signed by the designer estimating the mature size of the tree in the planter area provided.

S. Loss and Replacement. Loss of any retained tree due to wind, disease, or other natural causes, or illegal removal shall be replaced by one or several trees per planting standard calculations set forth in subsection (F)(1) of this section. For purposes of replacement, the lost tree shall be counted as a “retained” tree. Replacement trees must equal the canopy lost, with the exception of street trees which shall be planted at a one-to-one ratio. Damage to a retained landmark tree shall be documented by a qualified professional at the expense of the owner, and the recommendations of the qualified professional regarding repair or replacement shall be followed. The existing planting area may be used if the tree is replaced in the same location. If the tree is relocated, the standards for a planted significant tree shall be followed and the Tree Retention Plan modified accordingly.

T. Enforcement. Any violation of this section shall be enforced through MVMC Title 4, Code Compliance. In addition to any applicable penalties set forth in MVMC Title 4, and in addition to any required planting or mitigation that may be required, the penalty for the removal of any tree in violation of this section shall be punishable as follows:

1. Criminal. A violation of this section shall be considered a criminal misdemeanor, punishable up to 90 days in jail and a $1,000 fine.

2. Civil. A violation of this section shall be subject to civil penalties as set forth in the currently adopted Maple Valley development fee schedule.

a. Measurement of Tree Diameter – Civil Penalty. When determining the appropriate civil penalty to apply as set forth in the currently adopted Maple Valley development fee schedule, the tree diameter should be measured at four and one-half feet above grade. If no tree above grade remains, the tree diameter shall be measured at ground level. If no stump remains, the tree diameter will be determined by the Director based on best available information such as aerials, photographs and adjacent trees.

Nothing herein shall preclude the City from seeking redress, including abatement and the cost thereof, through any lawful means, including the initiation of any suit in law or in equity, and the City shall be entitled to recover all reasonable costs and attorney’s fees incurred as a result of bringing such action. (Ord. O-24-831 § 1 (Exh. C); Ord. O-23-774 § 3 (Exh. A)).

18.40.150 Large commercial use requirements.

The intent of this section is to provide for the appropriate regulation and mitigation of impacts associated with development containing large commercial uses. Large commercial uses shall serve as an anchor to attract and facilitate a range of commercial uses. Site developments utilizing a large commercial use as an anchor shall provide a mix of building sizes and uses. The standards contained herein supplement City development standards contained in other sections of the code.

A. Commercial Uses Exceeding 60,000 Square Feet. Individual commercial uses exceeding 60,000 square feet shall be subject to the standards of this section.

B. Exceptions – Uses Not Exceeding 100,000 Square Feet. The following commercial uses, when not exceeding 100,000 square feet, are exempt from the use and floor area ratios contained in subsections (C)(1)(a) and (C)(1)(b) of this section and must comply with all other applicable development regulations. Up to 50,000 square feet of an exception floor area may be used for the calculation in subsection (E)(2)(a) of this section.

1. Recreational and sporting uses and areas of buildings dedicated toward recreational uses. These include but are not limited to such uses as: sporting venues, arenas, gymnasiums, swimming pools, dance studios, indoor sport facilities (batting cages, archery ranges, etc.), climbing walls and similar uses.

2. Entertainment uses and areas of buildings dedicated to entertainment uses. These include: concert venues, live performance and movie theaters, bowling alleys, arcades, entertainment and recreation oriented activity centers, and similar uses.

3. Educational, instructive and vocational uses providing educational or professional training such as schools, colleges, technical institutes consistent with the characterization of “professional office” as described in MVMC 18.20.020(P)(4).

4. Medical treatment facilities, clinics and hospitals that provide on-site medical care, diagnosis and treatment with only related and complementary research uses.

5. Residential uses contained within a vertical mixed-use development.

6. Temporary lodging such as hotels and motels.

7. Public facilities and uses.

8. The square footage of floor area located on the second and third stories of buildings with a footprint less than 60,000 square feet.

9. Professional office uses.

C. Use and Floor Area Ratios. Large individual commercial uses between 60,000 square feet and 100,000 square feet shall facilitate and anchor a variety of allowed uses as follows:

1. Sites with uses between 60,000 square feet and 100,000 square feet shall accommodate and include floor area dedicated to at least two additional commercial uses and a minimum of two additional buildings that:

a. Cumulatively equal at least 40 percent of the floor area proposed for and dedicated to the large individual use; and

b. Each additional use is no more than 50,000 square feet.

2. Large individual commercial uses exceeding 100,000 square feet shall comply with subsection (E) of this section.

D. Design Elements. Sites developed with large commercial uses shall demonstrate compliance with City design standards and shall provide:

1. Parking structures that constitute vertical above grade or below grade parking garages that provide for at least 30 percent of the site’s parking needs; or

2. Provide three of the following:

a. Tree retention and/or planting equal to at least 15 percent canopy coverage as provided in MVMC 18.40.140.

b. Maximum impervious surface coverage not to exceed 70 percent of the site area. The use of approved permeable pavement surfaces is encouraged and credited toward nonpermeable surfaces.

c. Leadership in Energy and Environmental Design (LEED) certification through the U.S. Green Building Council in the following manner:

i. Certified for buildings totaling at least 50 percent of the gross floor area;

ii. Certified "Silver" for buildings totaling at least 40 percent of the gross floor area;

iii. Certified "Gold" for buildings totaling at least 30 percent of the gross floor area; or

iv. Certified "Platinum" for buildings totaling at least 25 percent of the gross floor area.

d. Innovative stormwater treatment and management facilities such as rain gardens or reuse for irrigation of landscape areas for at least 50 percent of calculated stormwater volumes as approved or determined by the City.

e. A park and ride/transit facility that includes a covered waiting area, transit stop and at least 10 percent of the project's parking spaces available under agreement for transit, carpool or park and ride users. Parking areas provided under and subject to this provision shall not count toward maximum stalls allowed under MVMC 18.40.120(A)(6).

E. Commercial Uses Exceeding 100,000 Square Feet.

1. Use and floor area ratios:

a. Sites with uses between 100,000 square feet and 130,000 square feet shall accommodate and include floor area dedicated to at least three additional commercial uses in addition to the anchor;

b. Sites with uses between 130,000 square feet and 150,000 square feet shall accommodate and include floor area dedicated to at least four additional commercial uses in addition to the anchor;

c. Sites with uses between 150,000 square feet and 200,000 square feet shall accommodate and include floor area dedicated to at least five additional commercial uses in addition to the anchor.

2. Additional commercial uses shall comply with the following:

a. Cumulatively equal at least 40 percent of the floor area proposed for and dedicated to the large individual use; and

b. Each additional use is no more than 50,000 square feet and contained in at least three separate buildings subject to the provisions of subsection (B) of this section.

3. In addition to subsection (D) of this section, the following design elements shall be incorporated:

a. The site shall consist of not less than 20 acres of net developable property.

b. Large building setbacks: 150 feet from arterial roadways; 150 feet from street rights-of-way abutting residential zones.

c. Require main public entrances and/or exits on at least two sides of the building containing a large user (facing parking area and street).

d. Provide one of the following:

i. Increase the required landscaping area requirements by 25 percent.

ii. Increase the minimum planting standard for planted significant tree sizes by 50 percent. (Example: requiring nine-foot evergreen coniferous trees instead of six-foot trees or three-inch diameter for deciduous instead of two-inch.)

e. The site shall be bordered by two arterials capable of serving as access and frontage for the development site, providing sufficient opportunities for access for the purpose of minimizing impacts on neighboring residential properties.

f. The site shall be bordered on at least two sides with commercial zoning.

g. All exterior mechanical equipment, utility meters and valves, refuse storage and containers, and above ground storage tanks shall be located and screened from public roadways and private properties in a manner which is compatible with the design of the project and nearby development.

h. Sites containing large uses shall have a master sign program establishing standards for all exterior signs to ensure continuity. The sign standards shall provide clear regulations for the design, location, size, modification, prohibitions, use, maintenance and removal of signs.

i. Lighting plan incorporating cutoff and full-cutoff specifications for all external fixtures. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-11-440 § 4; Ord. O-09-378 § 3).

Chapter 18.80

NONCONFORMING PROVISIONS

Sections:

18.80.010 Purpose and intent.

The purpose of this chapter is to allow for the continuance and maintenance of legally established nonconforming uses, structures, and development subject to the standards and provisions prescribed within this chapter. The intent of this chapter is to:

A. Ensure reasonable opportunity for use of legally created lots which do not meet current minimum requirements for the district in which they are located.

B. Ensure reasonable opportunity for use, maintenance and improvement of legally constructed buildings, structures and site development features which do not comply with current minimum requirements for the district in which they are located.

C. Ensure reasonable opportunity for continuation and limited expansion of legally established uses which do not conform to use regulations for the district in which they are located.

D. Encourage the eventual replacement of nonconforming uses.

E. Encourage the eventual upgrading of nonconforming developments which do not comply with current minimum standards for the district in which they are located. Upgrading of nonconforming development standards should be done to the extent physically practicable on the site. Nonconforming development should generally be addressed in the following priority order:

1. Life and public safety;

2. Conditions adversely affecting the environment;

3. Parking lots and parking lot landscaping;

4. Perimeter buffering;

5. Any other nonconforming development standard. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-99-109 § 1).

18.80.020 Regulations applicable to nonconforming uses.

A. Continuance. Any legally established nonconforming use may be continued as well as expanded as long as any expansion of that use is contained within the parcel or parcels established for that use when that use was considered a legal conforming use. Any expansion of a nonconforming use shall meet the current building and site design standards. Uses that have been continuously in existence since prior to 1974 shall be considered legally established even though they would not be allowed under the current City code. Other uses may be required to present evidence such as a copy of the then applicable zoning regulations and proof that the use existed at the time in question to be considered legally established.

B. Changes. Nonconforming uses may be changed to other uses that are allowed by this code. Alternatively, an applicant may apply for a Conditional Use Permit using Process 3 to change a nonconforming use to another less nonconforming use if a showing can be made that the new use will have fewer detrimental effects on the surrounding neighborhood and properties than the existing use.

C. Abandonment. If a nonconforming use is abandoned or discontinued for a period of 12 consecutive months, the nonconforming status of the use is terminated. Any future use of the land or structures shall be in conformity with the provisions of this code. The presence of a structure, equipment, or material shall not constitute the continuance of a nonconforming use unless the structure, equipment, or material is actually being occupied or employed in maintaining such use.

D. Expansion. Except as provided in subsection (A) of this section, a nonconforming use may not be expanded. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-12-492 § 10; Ord. O-02-186 § 4; Ord. O-99-109 § 1).

18.80.030 Structures housing nonconforming uses.

A. Improvements and Expansion. Any structure housing or containing a legally established nonconforming use may be continued, repaired, altered as well as expanded as long as any expansion of that use is contained within the parcel or parcels established for that use when that use was considered a legal conforming use. Any expansion of a nonconforming use shall meet the current building and site design standards.

B. Restoration. A structure housing or containing a nonconforming use that is accidentally destroyed may be fully restored in its former location despite noncompliance with use or bulk regulations if a Building Permit application is submitted to the Department of Community Development within one year of the destruction. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-12-492 § 11; Ord. O-99-109 § 1).

18.80.040 Nonconforming structures.

A. Continuance. Any legally established nonconforming structure is permitted to remain in the form and location in which it existed on the effective date of the nonconformance. Structures that have been continuously in existence since prior to 1974 shall be considered legally established. Other structures may be required to present evidence such as a copy of the then applicable zoning regulations and proof that the structure existed at the time in question to be considered legally established.

B. Improvements. Nonconforming structures may be structurally altered, enlarged, repaired or improved only if the degree of nonconformance is not increased and only if all new structural alterations, enlargements, repairs or improvements meet the requirements of this code.

C. Restoration. A nonconforming structure that is accidentally destroyed may be fully restored in its former location despite noncompliance with the bulk regulations if a Building Permit application is submitted to the Department within one year of the destruction. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-12-492 § 12; Ord. O-99-109 § 1).

D. Single family homes built prior to June 2025 in any lot zoned R18/24 are not considered nonconforming structures.

18.80.050 Nonconforming sites.

A. Continuance. Any legally established nonconforming site is permitted to remain in the form and location in which it existed on the effective date of the nonconformance. Site improvements that have been continuously in existence since prior to 1974 shall be considered legally established. Other site improvements may be required to present evidence such as a copy of the then applicable zoning regulations and proof that the improvements existed at the time in question to be considered legally established.

B. Improvements.

1. Nonconforming site improvements may be altered only if the degree of nonconformance is not increased and if all new improvements meet the requirements of this code.

2. Nonconforming site improvements shall be brought into compliance with the provisions of this code (except that the Community Design Guidelines and requirements shall be controlled by the provisions of Chapter 18.70

MVMC) if an applicant proposes exterior structural alterations or expansion of floor area in any consecutive three-year period, the fair market value of which exceeds 50 percent of the replacement value of the structures on the site. Changes to the nonconforming site improvements shall be in the same percentage or proportion as the new structural alterations or additions are to replacement value of the existing structures, up to 100 percent.

C. Restoration. Nonconforming site improvements that are accidentally destroyed may be fully restored in their former location despite noncompliance with the regulations of this code if appropriate permit applications are submitted to the Department within one year of the destruction. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-99-109 § 1).

18.80.060 Abatement of illegal uses.

A. Generally. Except as specified in subsection (B) of this section, any use that was illegal when initiated must immediately be brought into conformance with this code. The City may take enforcement action under this code or any other applicable law to abate illegal uses.

B. Nonconforming Uses. If a use has ever been in complete conformance with the applicable zoning code even though the use does not comply with the current zoning regulations, the use may continue to exist subject to the provisions of this chapter and it is not subject to abatement under subsection (A) of this section. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-99-109 § 1).

18.80.070 Immediate compliance with lighting and illumination provisions required.

Regardless of any other provision of this chapter, the provisions of this code relating to lighting and illumination must be complied with at all times by all existing and future uses. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-99-109 § 1).

18.80.080 Special provisions for compliance with government regulations.

A. Oil Tanks. Any excavation, development activity or construction performed to comply with the "Underground Storage Tanks; Technical Requirements and State Program Approval; Final Rules" (40 CFR 280 and 281), as now existing or as hereafter amended, or with the provisions of Chapter 90.76 RCW, or any regulations adopted thereunder, may not be used as the basis, or part of the basis, for requiring that nonconforming site improvements on the subject property be corrected.

B. Other Government Regulations. Other than as specified in MVMC 18.80.070, the Department may, using Process 1, exempt a property or use from any of the requirements of this chapter if:

1. The actions or events which form the basis of requiring that nonconforming site improvements on the subject property be corrected are necessitated solely to comply with local, State or federal regulation;

2. The actions necessitated to comply with those other local, State or federal regulations will not significantly extend the expected useful life of the nonconforming site improvements; and

3. The public benefit of complying with the local, State or federal regulation clearly outweighs the public benefit in correcting the nonconforming site improvements. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-99-109 § 1).

18.80.090 Applicability of uniform codes.

Nothing in these provisions in any way supersedes or relieves the applicant from compliance with the requirements of the City's building codes and other construction-related codes as adopted and amended from time to time by the City. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-99-109 § 1).

Chapter 18.90

SUBDIVISION AND PLATTING

Sections:

18.90.010 General provisions.

A. Purpose. The purpose of this chapter is to regulate the division of land and to promote the public health, safety and general welfare in accordance with standards established by the State to prevent overcrowding of lands; to lessen congestion on the streets and highways; to promote effective use of land; to promote safe and convenient travel by the public on streets and highways; to provide for adequate light and air; to facilitate adequate provision of water, sewerage, parks and recreation areas, sites for schools and school grounds, sidewalks or other planning features that assure safe walking conditions for students who only walk to and from school, and other public requirements; to provide for proper ingress and egress; to provide for the expeditious review and approval of proposed subdivisions which conform to zoning standards and local plans and policies; to adequately provide for the housing and commercial needs of citizens; and to require uniform monumenting of land subdivisions and conveyancing by accurate legal description.

B. Survey. The survey of the proposed subdivision and preparation of the proposed plat shall be made by or under the direct supervision of a registered land surveyor, who shall certify on the plat that it is a true and correct representation of the lands actually surveyed.

C. Definitions. Unless the context of the subject matter clearly requires otherwise, the following words or phrases have the meanings given to them in this section:

1. “Alley” means a public right-of-way or private road or easement designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a dedicated street.

2. “As-builts” are the engineering drawings which show the exact location, size and dimension of streets and utilities that have been installed.

3. “Binding site plan” means an accurate drawing to a scale specified by code which:

a. Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces and any other matters specified by City regulations;

b. Contains inscriptions or attachments setting forth the appropriate limitations and conditions for the use of land as are established by the City; and

c. Contains provisions requiring site development to be in conformity with the site plan and ensuring the collective lots continue over time to function as one site for matters related but not limited to roads, utilities, open space and other matters governed by the land use code.

4. “Block” means a group of lots, tracts or parcels within well defined and fixed boundaries.

5. “Bond” refers to a form of security provided in an amount and form satisfactory to the City Attorney, intended to insure that required improvements are installed and provide warranty against defects in material and/or workmanship.

6. “Boundary line adjustment” refers to an administrative procedure that allows changes in boundary lines between adjoining lots, parcels or tracts, subject to certain conditions.

7. “Dedication” means the deliberate appropriation of land by any owner for any general and public use, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public use to which the property has been devoted. The intention of dedication shall be evidenced by owners filing a final plat or short plat showing the dedication thereon, and the acceptance by the public shall be evidenced by the approval of the plat for filing by the City.

8. “Engineering drawings” are diagrams that provide plans, profiles and cross-sections of utilities and roads to be installed, prepared by a licensed civil engineer.

9. “Critical areas” refer to those lands identified on the comprehensive plan and/or City zoning code, which have unique characteristics which require special regulations in order to insure proper use with intense development.

10. “Final plat” means the final drawing of the subdivision and dedication prepared for filing for record with the County Auditor and containing all elements and requirements set forth in this code. For purposes of this code, “final plat” may also refer to the land use review process required before a final plat map may be recorded.

11. “Lot” means a fractional part of the subdivision lands having fixed boundaries of sufficient area dimension to meet minimum zoning requirements for width and area. The term includes tracts or parcels.

12. “Lot, parent new” means a lot which is subdivided into unit lots through the unit lot subdivision process

13. “Lot, unit” means a lot created from a parent lot and approved through the unit lot subdivision process.

14. “Unit lot subdivision” means the division of a parent lot into two or more unit lots within a development and approved through the unit lot subdivision process.

~~12~~ 15. “Plat” means a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions and dedications.

~~13.~~ 16. “Preliminary plat” means a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and restrictive covenants to be applicable to the subdivision, and other elements of a plat or subdivision which shall furnish a basis for the approval or disapproval of the general layout of a subdivision. For purposes of this code, “preliminary plat” may also refer to the land use review process required before a preliminary plat map may be approved. See “Subdivision.”

~~14~~ 17. “Private road” refers to an established easement which created access from private property to the City street with maintenance of the road being the responsibility of the private property owners.

~~15~~ 18. “Reference monument” refers to a permanently established marker which is used to establish property corners and control for surveys.

~~16~~ 19. “Short plat” means the map or representation of a short subdivision. For purposes of this code, “short plat” may also refer to the land use review process required before a short plat may be approved. See “Short subdivision.”

~~17~~ 20. “Short subdivision” means the division, or redivision of land into nine or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership.

~~18~~ 21. “Subdivision” means the division of land into 10 or more lots, tracts, parcels, sites or divisions for the purpose of sale or lease; includes all resubdivision of land when required by this code.

~~19~~ 22. "Surety" refers to any form of security involving a cash deposit, bond, collateral, property, or other instrument of credit which is used to insure that required improvements are installed and/or provided warranty against defects in material and/or workmanship. (Ord. O-13-545 § 3; Ord. O-99-109 § 1).

18.90.020 Land division.

A. Scope.

1. Applicability. This chapter shall regulate all divisions of land for sale or lease, except as provided in subsection (A)(2) of this section.

2. Exceptions. The provisions of this chapter do not apply to:

a. Cemeteries and other burial plots while used for that purpose;

b. Divisions made by testamentary provision, or the law of descent;

c. Divisions of land into lots or tracts classified for business park or commercial use, when the City has approved a binding site plan for the use of the land in accordance with its local regulations; provided, that when a binding site plan authorizes a sale or other transfer of ownership of a lot, parcel, or tract, the binding site plan is filed for record in the County Auditor's office on each lot, parcel, or tract created pursuant to the binding site plan;

d. A division for the purpose of lease when no residential structure other than mobile homes are permitted to be placed upon the land when the City has approved a binding site plan for the use of the land in accordance with local regulations;

e. A division made for the purpose of adjusting boundary lines which does not create any additional lot, tract, parcel, site, or division, nor create any lot, tract, parcel, site or division which contains insufficient area and dimensions to meet minimum requirements for width and area for a building site;

f. A division that is made by subjecting a portion or a parcel or a tract of land to Chapter 64.32 RCW if the City has approved a binding site plan for all such land; and

g. Divisions of land into lots or tracts no smaller than five acres when done for the purpose of allowing fee simple purchase or deeding of such lots or tracts to a public agency, municipal corporation, school district, special purpose district or other unit of local government.

B. Control and Authority for Approval of Subdivision or Short Subdivision. Divisions of land into two or more lots shall comply with provision of this chapter. No person, firm, or corporation, proposing to make, or having made, a subdivision or short subdivision shall enter into any contract for sale any lot, tract, parcel, or any part thereof, until the City has approved the final plat or short plat in accordance with the rules and regulations contained in the chapter. (Ord. O-14-566 § 1; Ord. O-14-554 § 1; Ord. O-99-109 § 1).

18.90.030 Preliminary plat.

A. Application and Procedure. A preapplication conference is required. Submittal requirements for the application may be obtained from the Department. Preliminary plat applications are reviewed using Process 3. Environmental review pursuant to the State Environmental Policy Act (SEPA) and Maple Valley's SEPA policies is required.

B. Requirements for Approving Preliminary Plats. In considering preliminary plats, the City shall inquire into the public use and interest proposed to be served by the establishment of the subdivision. The City shall approve a preliminary plat only if appropriate provisions are made in the subdivision for, but not limited to, the public health, safety, and general welfare, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary and/or septic sewer systems, fire protection, parks and recreation, playgrounds, schools, sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school, and shall consider all other relevant facts. If the City finds that appropriate provision is made for the specified items and that the public interest is served by the platting of the subdivision and dedication, then it shall be approved upon the entry of written findings that the plat conforms to all applicable zoning and land use requirements and appropriately mitigates adverse environmental impacts. Dedication of land to the City, provision of public improvements to serve

the subdivision, a voluntary agreement that allows payment of fees in lieu of dedications or to mitigate a direct impact that has been identified as a consequence of a proposed subdivision, and/or the payment of impact fees imposed pursuant to State law and City ordinances may be required as a condition of approval. Dedications shall be clearly shown on the final plat.

C. Reasons for Denial of a Preliminary Plat. After considering all input at the public hearing, if the City finds that the proposed plat does not make provisions as outlined in subsection (B) of this section, or that the public use and interest will not be served, upon the entry of written findings, the preliminary plat will then be denied.

D. Effective Period of Preliminary Plat Approval. The time period for approval of the preliminary plat is as follows:

1. For 10 years from the date of preliminary plat approval, if the date of approval is on or before December 31, 2007;

2. For seven years from the date of preliminary plat approval, if the date of approval is on or after January 1, 2008, and on or before December 31, 2014;

3. For five years from the date of preliminary plat approval, if the date of approval is on or after January 1, 2015.

Any preliminary plat not submitted for final plat approval within the period of time set forth in this subsection is null and void and the applicant is required to resubmit a new preliminary plat for approval, subject to all current zoning and subdivision regulations.

E. Revision of Preliminary Plat. An approved preliminary plat may be revised in one of two ways, depending on the magnitude of the changes proposed. An application for revision of a preliminary plat is subject to the submittal requirements of MVMC 18.100.080.

1. Major Revision. A major revision is a Process 3 application. An open record hearing is required for major revisions including changes in primary access points or increase in the number of peak hour vehicle trips, expansion of site area, increase in the number of lots, substantial expansions of environmental impacts or substantive changes to conditions of preliminary approval.

2. Minor Revision. An administrative amendment to the prior approval may be applied for if the Director determines the changes are minor but still within the general scope of the original approval. Minor revisions, including phasing of an approved preliminary plat, may be reviewed as an administrative amendment using Process 1. The administrative amendment shall be approved only if all the following criteria are met:

a. The amendment maintains the design intent or purpose of the original proposal;

b. The amendment does not change primary vehicular access points or increase anticipated peak hour vehicle trips;

c. The site area is not expanded and number of lots is not increased;

d. Circumstances render it impractical, unfeasible or detrimental to the public interests to accomplish one or more conditions of preliminary plat approval;

e. The amendment results in no major adverse environmental impacts on or beyond the site;

f. Portions of an approved preliminary plat may be processed separately for recording in divisions; provided, that all divisions are approved within the prescribed time limits for the preliminary plat as set forth in subsection (D) of this section; and provided, that the division does not violate the intent of the preliminary plat. When phasing a project, all off-site and on-site mitigation requirements must be completed or bonded commensurate with any impact caused by that particular division of the development. Prior to final approval of a division of the preliminary plat, the Departments of Community Development or Public Works shall require a guarantee of financial security be submitted, consistent with MVMC 18.90.040, for construction of improvements in subsequent divisions if such improvements are

necessary for the continuity of transportation, utility, or other systems. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-12-501* § 1; Ord. O-10-418 § 1; Ord. O-10-414 § 1; Ord. O-02-202 § 1; Ord. O-99-109 § 1).

*Code reviser's note: Ordinance O-12-501's amendments to this section do not include subsection (E), but that subsection was not intended to be removed from the code.

18.90.040 Methods of completing required improvements.

A. An applicant shall submit plans for required civil engineering project improvements using a Process I, Site Development Permit, for all preliminary plats, short plats and commercial projects. The permit will be issued following the required preconstruction meeting with the City.

B. An applicant may choose to install all infrastructure and other required improvements in accordance with the provisions of the Maple Valley Municipal Code and the requirements of the approved preliminary plat and site development permit, subject to inspection and approval by the City. In the alternative, the applicant may provide a performance bond, or other acceptable surety, to guarantee that any required improvements not installed prior to the approval of the final plat will be installed in a satisfactory manner within one year of the approval date of the final plat. The City reserves the authority to decide whether and to what degree bonding or other performance securities may be accepted in lieu of actual installation of improvements.

C. If the applicant does not install all of the required improvements, a cost estimate of the amount required to install the improvements within a given time period shall be prepared. A performance bond or other surety may be accepted by the City in an amount equal to 150 percent of the estimated cost of installing the improvements. The City Attorney shall approve the form, sufficiency and manner of execution of the performance bond, or other surety, prior to the approval of the final plat. The performance bond, surety, or approved Local Improvement District (LID) shall be submitted prior to final plat approval.

D. As-Built Drawings. After completion of all required improvements and prior to final acceptance by the City of the improvements, the applicant shall submit as-built drawings showing the actual location of all required infrastructure and reflecting any changes from the previously approved construction plans in accordance with City requirements. (Ord. O-14-562 § 1; Ord. O-99-109 § 1).

18.90.050 Final plat.

A. No preapplication conference is required for a final plat application but a preapplication conference may be requested. Submittal requirements may be obtained from the Department.

B. Review of Final Plat by the City. The Director of Community Development shall route the final plat application to all affected City departments and shall coordinate and consolidate the comments and review responses as needed. DCD shall prepare a report addressing whether and how the application meets each condition of preliminary plat approval.

C. Approval by the Director of Community Development. If the final plat conforms to all terms of the preliminary plat approval, the Director of Community Development ("Director") shall give final approval and sign the final plat certifying that the plat complies with all the terms of the preliminary approval of the proposed plat, subdivision or dedication. The date of submittal of the completed final plat to the City Clerk is the official filing date from which the Director shall approve or disapprove the final plat. Final approval by the Director shall indicate acceptance of all dedications contained in the plat. The City shall notify the applicant of the decision of the Director on the final plat.

D. Recording Plat with County Auditor. Upon approval of the final plat by the Director of Community Development, the applicant shall record the approved plat with the County Auditor and file a copy with the County Assessor. A reproducible copy and two paper copies of the recorded plat shall be provided to the City by the applicant prior to issuance of Building Permits for the plat.

E. Failure to Complete Bonded Improvements. If bonding was accepted for improvements and the required improvements have not been satisfactorily installed within the required one-year period from the date of approval of the final plat, the City shall be entitled to proceed under the terms of the bond or performance security to complete the required improvements or otherwise assure completion of the subdivision.

F. Warranty Against Defects in Labor and Material. A maintenance bond, or other acceptable surety, is required from the applicant to warrant all required improvements, either installed or to be installed, against defects in labor and material for a period of 24 months after acceptance by the City. The surety shall be submitted with the final plat application, and shall be 20 percent of the estimated value of the improvements, as determined by the Public Works Director. The maintenance bond or surety is in addition to any warranty or surety provided to guarantee the installation of required improvements. The City Attorney shall approve the form, sufficiency and manner of execution of the maintenance bond, or other surety, prior to the approval of the final plat. Upon the termination of any warranty period, the Public Works Director shall authorize the release of the maintenance bond by written notice to the City Council, applicant and the surety. (Ord. O-18-639 § 3; Ord. O-04-274 § 1; Ord. O-99-109 § 1).

18.90.060 Short plats.

A. Application and Procedure. A preapplication conference is required. Submittal requirements for the application may be obtained from the Department. Short plat applications are reviewed using Process 2. Environmental review pursuant to the State Environmental Policy Act (SEPA) and Maple Valley's SEPA policies may be required.

B. Decision Criteria.

1. The Director may approve, approve with conditions, or deny a short plat only if: Appropriate provisions are made in the short subdivision for, but not limited to, the public health, safety, and general welfare, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary and/or septic sewer systems, fire protection, parks and recreation, playgrounds, schools, sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school. The Director shall consider all other relevant facts. If the Director finds that appropriate provision is made for the specified items and that the public interest is served by the short plat, then it shall be approved upon the entry of written findings that the short plat conforms to all applicable zoning and land use requirements and appropriately mitigates adverse impacts. Dedication of land to the City, provision of public improvements to serve the short subdivision, and/or impact fees imposed pursuant to State law and City ordinances may be required as a condition of approval. Dedications shall be clearly shown on the final short plat. If the Director finds that the proposed short plat does not make provisions as outlined in this section, or that the public use and interest will not be served, the preliminary short plat will then be disapproved;

2. The proposed short plat appropriately considers the physical characteristics of the site and each lot in the proposal can reasonably be developed in conformance with this code without requiring a variance or critical areas reasonable use exception;

3. All necessary utilities, streets or access roads, drainage and other improvements are planned to accommodate the potential use of the entire property; and

4. The proposal is in accord with the comprehensive plan, this land use code, and serves the public interest.

C. The Director, in rendering a decision regarding the short subdivision application, shall consider comments received from special districts, citizens and other departments, and affected agencies or jurisdictions. A written report of the decision shall be prepared with supporting facts and reasons, including any conditions imposed as part of an approval.

Dedication of land to the City, provision of public improvements to serve the short subdivision, and/or impact fees imposed pursuant to State law and City ordinances may be required as a condition of short subdivision approval. Dedication shall be clearly shown on the final plat.

D. Preliminary Approval. The preliminary approval of a proposed short subdivision is effective for three years, unless extended by the Director for a period not more than one additional year. If all specified requirements are not completed or bonded as specified below within the approval period, preliminary approval shall expire and a new application in conformity with then current regulations shall be required. If the preliminary short subdivision is approved by the City, any specified requirement shall be completed within three years, plus any authorized extension, or preliminary approval shall expire. In the event of such an expiration a new application in conformity with the then current regulations shall be required before preliminary approval is again granted.

E. Final Approval.

1. Approval Criteria. The Director shall approve a final short plat if the application conforms to all conditions and requirements of the preliminary short plat approval.

2. Completion or Bonding.

a. Final approval of a short subdivision shall require the signature of the City's Public Works Director stating that all improvements specified as part of the preliminary approval have been satisfactorily completed. Alternatively, final approval may be granted by the Director subject to applicant's filing of a performance bond or other suitable surety in a form approved by the City Attorney and in an amount equal to 150 percent of the estimated cost of the improvements as determined by the Public Works Director. The surety shall provide that the specified improvements must be completed within one year from the date of approval or that the City may, after 10 days' written notice to the applicant, execute on the bond or surety. The City may also, but shall not be obligated to, complete all or any part of the specified improvements which are not completed within one year and may execute upon the bond or other surety in order to pay the cost of such completion. The applicant shall be liable for any cost of completion in excess of the bond or surety amount.

b. The performance bond required by this section shall remain in effect until released in writing by the City. The performance bond shall not be released until the Public Works Director is satisfied that all improvements have been satisfactorily completed and until the applicant files a maintenance bond or other suitable surety, in a form approved by the City Attorney and in an amount equal to 20 percent of the actual construction cost of the improvements, as determined by the Public Works Director, guaranteeing the repair or replacement of any improvements which prove defective or fail to survive within two years after final acceptance of the improvements or landscaping by the City. The maintenance bond or surety shall be executed upon, and the applicant shall be liable for repair costs in excess of the maintenance bond or surety, in the same manner as set forth above with respect to the performance bond or surety.

F. Recording of Approved Short Subdivisions. After the date of the final approval and cessation of all appeal periods, the applicant shall record the short plat, short plat certificate, and covenants with the County Auditor. Recording fees shall be paid by the applicant. The short subdivision shall be approved when all necessary documents have been recorded. The applicant shall provide one paper and one reproducible copy of the recorded short plat to the City prior to building or other permits being issued for the property.

G. Resubdivision Restricted.

1. Land within an approved short subdivision shall not be resubdivided for a period of five years from the date of approval of the short subdivision without the submission and approval of a final subdivision pursuant to all provisions of this chapter concerning the subdivision of land into five or more lots, tracts or parcels.

2. When the original short subdivision contains less than four lots, the stipulation described in subsection (G)(1) of this section shall not apply to the creation of additional lots, not exceeding a total of four. In that case, a new application consistent with the then current short subdivision regulations shall be required. After five years, further division may be permitted when otherwise consistent with the then current regulations of the City.

3. Where there have been no dedications to the public and no sales of any lots in a short subdivision, nothing contained in this section shall prohibit an applicant from completely withdrawing the entire short subdivision and thereafter presenting a new application. (Ord. O-12-492 § 13; Ord. O-99-109 § 1).

18.90.065 Unit Lot Subdivisions

A. Unit lot subdivisions. A lot may be divided into separately owned unit lots and common areas, provided the following standards are met.

1. Process. Unit lot subdivisions shall follow the application, review, and approval procedures for a short subdivision or subdivision, depending on the number of lots.

2. Applicability. A lot to be developed with middle housing or multiple detached single-family residences, in which no dwelling units are stacked on another dwelling unit or other use, may be subdivided into individual unit lots as provided herein.

3. Development as a whole on the parent lot, rather than individual unit lots, shall comply with applicable design and development standards.

4. Subsequent platting actions and additions or modifications to structure(s) may not create or increase any nonconformity of the parent lot.

5. Access easements, joint use and maintenance agreements, and covenants, conditions and restrictions (CC&Rs) identifying the rights and responsibilities of property owners and/or the homeowners' association shall be executed for use and maintenance of common garage, parking, and vehicle access areas; bike parking; solid waste collection areas; underground utilities; common open space; shared interior walls; exterior building facades and roofs; and other similar features shall be recorded with the county auditor.

6. Portions of the parent lot not subdivided for individual unit lots shall be owned in common by the owners of the individual unit lots, or by a homeowners' association comprised of the owners of the individual unit lots.

7. Notes shall be placed on the face of the plat or short plat as recorded with the county auditor to state the following:

a. The title of the plat shall include the phrase "Unit Lot Subdivision."

b. Approval of the development on each unit lot was granted by the review of the development, as a whole, on the parent lot.

8. Effect of Preliminary Approval. Preliminary approval constitutes authorization for the applicant to develop the required facilities and improvements, upon review and approval of construction drawings by the public works department. All development shall be subject to any conditions imposed by the city on the preliminary approval.

9. Revision and Expiration. Unit lot subdivisions follow the revision and expiration procedures for a short subdivision.

18.90.070 Boundary line adjustments.

A. Applicability. When an exchange of property is made between adjoining lots, it is defined as a boundary line adjustment if it satisfies the decision criteria set forth in subsection (C) of this section.

B. Application and Procedure. No preapplication conference is required. Submittal requirements may be obtained from the Department. Boundary line adjustments are reviewed and decided by the Director using Process 1. A survey of the property is required at application.

C. Decision Criteria.

1. None of the lots affected is made substandard with respect to the requirements for lot size and dimensions, as required under the respective zoning district, as part of the zoning code. An existing lot, or parts of an existing lot, may be consolidated into the adjoining lots providing no substandard lot is created; and

2. No existing building or structure is made substandard or nonconforming in any respect; and

3. Existing easements are not jeopardized or rendered impractical to serve their intended purpose; and

4. The lots being adjusted are considered buildable lots that can accommodate a legal structure under the zoning standards in place at the time of application. (Ord. O-99-109 § 1).

18.90.080 Binding site plan.

A. Purpose. The purpose of this chapter is to create a permit for dividing commercially and Business Park zoned property, as authorized by RCW 58.17.035. On sites that are fully developed, the binding site plan merely creates or alters interior lot lines. In all cases the binding site plan ensures, through written agreements among all lot owners, that the collective lots continue to function as one site concerning but not limited to: lot access; interior circulation; open space; landscaping and drainage; facility maintenance; and coordinated parking.

B. Procedure. A binding site plan creating four or fewer lots may be reviewed by the Director using Process 2. A binding site plan creating five or more lots shall be reviewed by the Hearing Examiner using Process 3. A binding site plan reviewed in conjunction with any Process 3 or Process 4 application shall be reviewed and decided by the Hearing Examiner using Process 3 or by the City Council using Process 4, respectively.

C. Applicability.

1. Any applicant seeking the use of a binding site plan to divide his or her property for the purpose of sale, lease or transfer of ownership of commercially or Business Park zoned property is required to apply for, complete and have approved a binding site plan prior to any property division, as provided in Chapter 58.17 RCW and as required by this chapter.

2. The site which is subject to the binding site plan shall consist of one or more contiguous lots legally created.

3. The site which is subject to the binding site plan may be reviewed independently for fully developed sites or in conjunction with a valid commercial site Development Permit. Binding site plans shall not be approved for an undeveloped site unless in conjunction with approval of a commercial site development plan.

4. The binding site plan process merely creates or alters lot lines and does not authorize substantial improvements or changes to the property or the uses thereon.

D. Decision Criteria.

1. The Director or Hearing Examiner shall consider and may approve with or without conditions, deny or return the application for modifications, based on:

a. A finding that the newly created lots will continue to function and operate as one site, for fully developed sites; or

b. Conformity of the proposed site plan with the adopted rules and regulations as represented in the approved commercial site plan, if the binding site plan is being considered with a commercial site plan.

2. If the Director or Hearing Examiner denies the application or otherwise orders the site plan returned, the plan shall be returned to the applicant.

3. The binding site plan shall contain applicable inscriptions or attachments setting forth limitations and conditions to which the plan is subject, including any applicable irrevocable dedications of property and containing a provision requiring that any development of the site shall be in conformity with the approved site plan.

4. The Director or Hearing Examiner may modify lot-based or lot line requirements contained within the building, fire and other similar Uniform Codes adopted by the City.

5. The Director or Hearing Examiner may authorize sharing of open space, parking, access and other improvements among contiguous properties subject to the binding site plan. Conditions of use, maintenance and restrictions on redevelopment of shared open space, parking, access and other improvements shall be identified on the binding site plan and enforced by covenants, easements or other similar mechanisms.

6. The decision may be appealed to the Hearing Examiner for a Process 2 action.

E. Recording and Binding Effect.

1. Prior to recording, the approved binding site plan shall be surveyed and the final recording forms shall be prepared by a professional land surveyor, licensed in the State of Washington. Surveys shall include those items prescribed by RCW 58.09.060, Records of survey, contents – Record of corner, information;

2. The approved binding site plan recording forms shall include information in the format prescribed by the Director in the submittal requirements;

3. Upon approval of the binding site plan, the applicant shall cause the recording of the binding site plan and covenants with the County Auditor. Recording fees are to be paid by the applicant. The applicant shall provide the City with one paper and one reproducible copy of the recorded binding site plan;

4. Lots, parcels, or tracts created through the binding site plan procedure shall be legal lots of record. All provisions, conditions, and requirements of the binding site plan shall be legally enforceable on the purchaser or any other person acquiring a lease or other ownership interest of any lot, parcel, or tract created pursuant to the binding site plan;

5. Any sale, transfer, or lease of any lot, tract, or parcel created pursuant to the binding site plan, that does not conform to the requirements of the binding site plan or without binding site plan approval, shall be considered a violation of this chapter and Chapter 58.17 RCW and shall be restrained by injunctive action and be illegal as provided in this chapter and Chapter 58.17 RCW.

F. Amendment, Modification and Vacation. Amendment, modification and vacation of a binding site plan shall be accomplished by following the same procedure and satisfying the same laws, rules and conditions as required for a new binding site plan application, as set forth in this chapter. If a portion of a binding site plan is vacated, the property subject to the vacated portion shall constitute one lot unless an approved subdivision or short subdivision subsequently divides the property. (Ord. O-12-492 § 14; Ord. O-99-109 § 1).

Chapter 18.95

TRANSFER OF DEVELOPMENT RIGHTS

Sections:

18.95.010 Purpose and intent of the transfer of development rights program.

The intent of the TDR program is to:

A. Provide an incentive for property owners to protect and preserve open space, environmentally sensitive areas, park sites, recreational areas, historic sites, rural and resource lands.

B. Allow opportunities for increased density in specific designated parts of the City that are best suited to accommodate urban densities with the least impacts to the environment and public services.

C. Promote design and development consistent with the City's vision goals and the comprehensive plan's subarea plan for Summit Place.

D. Allow the transfer of development rights:

1. Between private and public parties, through direct sale of development rights from a qualified sending site property owner to a qualified receiving site property owner; and

2. Between the City and a sending site property owner where the City may act as a TDR bank for development rights by purchasing TDRs from qualified sending sites and holding them for sale at a later date to an applicant for use on a qualified receiving site.

3. Consistent with the subarea plan for Summit Place, Alternative 3. (Ord. O-11-466 § 1).

18.95.020 State enabling legislation.

This chapter is adopted pursuant to RCW 36.70A.090, Comprehensive plans – Innovative techniques, which states:

> A comprehensive plan should provide for innovative land use management techniques, including, but not limited to, density bonuses, cluster housing, planned unit developments, and the transfer of development rights.
>
> (Ord. O-11-466 § 1).

18.95.030 Definitions.

Following are specific definitions for certain words, terms and phrases used throughout this chapter. Where any of these definitions conflict with definitions used in other titles of the Municipal Code, the definitions herein shall prevail when used in the context of this chapter. Other terms used in this section may be defined in Chapter 18.20 MVMC.

"Development rights" means the allowable dwelling units that may be transferred from a TDR sending site to a TDR receiving site. Development rights may be transferred with or without transferring the ownership of the property, meaning that the actual property containing the TDRs may be sold or the TDRs may be sold without selling the title to the property.

"Easement, conservation" means a voluntary, legally recorded restriction, in the form of a deed, on the use of the property, in order to protect resources such as agricultural lands, historic structures, open space, recreation areas and wildlife habitat. The easement may include all or part of a parcel. In perpetuity, no new development shall take place within the areas covered by the easement. The property itself may remain in private ownership.

Extinguishment Document, Quit Claim Deed. When a development right is purchased and then used, the right to build a dwelling unit on the sending site is "extinguished." It is used up and cannot be used again in any other location. The quit claim deed and extinguishment document records the sale and use of the development right on both the sending site and the receiving site and states how the development rights are applied.

"Letter of intent, TDR certification" means a signed letter provided by the City documenting availability of development rights for sale from a sending site. For those sending sites outside the City limits, this letter will be provided by King County.

"Public open space" means property owned by the City of Maple Valley, King County or State agency that is set aside to serve the purpose of protecting and conserving critical areas, natural systems, forest or agricultural lands, historic preservation, open space or recreation.

TDR Bank – City. A TDR bank may be operated by the City for the purpose of buying, selling and holding development rights. The TDRs may be purchased by the City or donated to the City and retained in the bank for later sale.

TDR Bank – County. A TDR bank may be operated by King County in accordance with Chapter 21A.37 KCC.

"TDR base density" means the developable housing units on a property calculated pursuant to its zoning designation.

"TDR certificate" means a recorded document, issued by the City or King County, showing the number of development rights available from a sending site to be used at a TDR receiving site.

"TDR, certified" means that a sending site owner has obtained a certificate from the City or County verifying that the transfer of development rights process is completed on the property, and a conservation easement has been recorded or the property has been dedicated as public open space in perpetuity.

"TDR receiving site" means privately or publicly owned property in the City limits where existing urban services and infrastructure can accommodate additional development. TDR receiving sites are identified and designated through the City comprehensive plan. Summit Place, as described in the subarea plan for Summit Place, is a designated TDR receiving site.

"TDR sending site" means privately or publicly owned property within the City limits that has been designated as a sending site; or sites in King County from King County priority rural and/or resource land located within approximately five miles of the City limits when authorized through interlocal agreement. (Ord. O-11-466 § 1).

18.95.040 Designation of sending and receiving sites.

Sending sites and receiving sites are established based on their ability to meet the purpose and intent and designation shall be identified in the City comprehensive plan.

A. Designation – Sending Sites.

1. Inside City Limits. A privately or publicly owned sending site may be identified through the City comprehensive plan, and meets one or more of the following criteria:

a. The site includes at least 30 percent critical areas and/or required critical area buffers as defined by this chapter; or

b. The site is within the comprehensive plan park, recreation or open space (PRO) designation; or

c. The site is contiguous with existing public open space or parks; or

d. Retention of all or part of the site in permanent open space or recreation will achieve one or more of the goals and policies adopted in the comprehensive plan; or

e. The site has limited access for ingress, egress or infrastructure accessibility.

2. Outside City Limits. Pursuant to an Interlocal Agreement with King County and the City of Maple Valley, public or privately owned TDR sending sites within five miles of the City limits as described in the subarea plan for Summit Place, policy SP-5. These sites will be from King County priority rural or resource land.

3. Future Use of a Designated Sending Site. The development or use of a TDR sending site may affect the ability of the site to be certified as a TDR sending site.

4. Designation as a sending site is not intended to supplant a property owner's ability to exercise a reasonable use exception pursuant to MVMC 18.60.080(B) for development of their property.

B. Designation – Receiving Sites.

1. A privately or publicly owned receiving site may be identified through the City comprehensive plan. Summit Place, as described in the subarea plan for Summit Place, is a designated TDR receiving site. (Ord. O-11-466 § 1).

18.95.050 City TDR bank – Purpose.

The purpose of establishing the City "TDR bank" is to facilitate the purchase and sale of development rights.

A. The City may acquire development rights from any designated sending site.

B. Development rights purchased from the TDR bank may only be used for receiving sites in the City of Maple Valley. TDR development rights purchased by the City through the outright purchase of a sending site property, or through the purchase of only the development rights from a sending site property, may be retained by the City indefinitely.

C. Development rights may be sold to an applicant for a land use development project within the City for the immediate use of the TDR in conjunction with a development project, or an applicant may purchase TDRs to hold for future use without identifying a pending development project.

1. The City shall certify all development rights by recording a quit claim deed and extinguishment document on the sending site property prior to the sale of any TDR development rights.

2. Certificates identifying the number of TDRs purchased will be provided for any applicant that purchases TDRs from the TDR bank once the rights have been extinguished.

3. TDRs purchased from the TDR bank may be sold to another party through an agreement between the two parties and through an exchange of the recorded certificate, verifying the origin and number of TDRs exchanged. (Ord. O-11-466 § 1).

18.95.060 City TDR bank expenditure and purchase authorization.

The TDR bank may accept donations of development rights from qualified TDR sending sites.

A. The City may use funds from the sale of City-owned TDRs to facilitate development rights transfers. These expenditures may include, but are not limited to, establishing and maintaining Internet web pages, marketing TDR

receiving sites, procuring title reports and appraisals and reimbursing the costs incurred by City departments for administering the TDR bank fund and executing development rights purchases and sales.

B. All proceeds from the sale of TDRs by the City shall be available to facilitate development rights transfers and for acquisition of additional development rights or returned to the fund from which the original TDR purchase was made. (Ord. O-11-466 § 1).

18.95.070 Administration of City TDR bank.

A. The City Manager is authorized to administer the TDR bank, including but not limited to:

1. Managing the TDR bank fund;

2. Authorizing and monitoring expenditures;

3. Administering development rights purchases, sales and issuance of letters of intent and certifications; and

4. Providing periodic summary reports of the TDR bank activity for the City Council.

B. The Planning Department shall keep records of the dates, amounts and locations of development rights that have been:

1. Issued a letter of intent;

2. Purchased and certified; and

3. Sold and extinguished. (Ord. O-11-466 § 1).

18.95.080 Purchase and sale of TDR rights by the City.

A. Sale of TDRs by the City. The City shall evaluate the purchase offer to ensure consistency with the following criteria:

1. Development rights sold by the City shall be disposed of in a manner that serves an identifiable public purpose, effects a public benefit, or ensures that adequate monetary or in-kind consideration is received in exchange therefor. The adequacy of any such consideration may in the City's discretion be determined by an appraisal of the development rights in order to ascertain their fair market value. Development rights shall not be disposed of by the City in any manner that effects a gift of public funds or public property as defined by the Washington Constitution.

2. The TDR shall be purchased for use on a designated receiving site(s).

3. After approval by the City Council, the City will issue a certificate as proof of the purchased TDRs for the applicant to hold until such time as the TDRs are approved for use on a receiving site.

B. Purchase of TDRs through the TDR Bank. All offers to purchase development rights from the TDR bank shall be in writing, and shall include: the number of development rights to be purchased; proposed purchase price; and the required date or dates for completion of the sale. The sale shall be completed within three years of the date the City received the purchase offer, or the offer to sell the TDRs may be withdrawn at the sole discretion of the City. Payment for purchase of development rights from the TDR bank shall be in full at the time the development rights are transferred unless otherwise authorized by the City.

C. All sales of TDRs by the City from the TDR bank shall be approved by the City Council. (Ord. O-11-466 § 1).

18.95.090 Sending site certification, application and procedures.

A. Qualifying a Sending Site for the Transfer of Development Rights.

1. Eligibility. In order to sell or transfer development rights, the property owner of a designated property or otherwise eligible sending site(s) must submit:

a. A written proposal to the City requesting certification of the property as a TDR sending site;

b. Site Survey. For parcels intending to retain more than one development right associated with the parcel, a site survey shall be required showing the property and delineating any critical areas and their buffers and the potential developable site area. No critical area surveys are required for parcels intending to transfer the density of the entire parcel (except for the retention of one unit);

c. A description of the intended use of the property after the development rights are sold and how it complies with subsection (B)(3) of this section, Preservation of Open Space Resulting from TDR Conversion.

2. Calculation of TDRs.

a. The Planning Director or his/her designee shall review the application and calculate the allowable number of development rights for the sending site. The TDR base density shall be calculated as defined in MVMC 18.95.030.

3. Use of Development Rights.

a. Receiving sites may use purchased TDRs to exceed the allowable residential density. One TDR equals one residential dwelling unit pursuant to MVMC 18.95.100.

4. TDR Certificate Letter of Intent. The Planning Director or his/her designee shall prepare and issue a TDR certificate letter of intent for the sending site which documents the available development rights on said sending site. When any of these development rights are certified, the letter of intent shall be reissued to reflect the actual amount of development rights.

5. TDR Certificate Letter of Intent Revision Request. The applicant may request, in writing, that the Director revise the TDR certificate letter of intent within 90 days of the issuance of the TDR certification letter of intent when:

a. The development rights have not been sold; and

b. The applicant demonstrates that the TDR rights were improperly calculated; or

c. The applicant provides additional studies, data or other information demonstrating that an adjustment of the TDR rights would be appropriate.

B. TDR Certification.

1. Certifying TDRs.

a. Inside City Limits. The Planning Director or his/her designee shall review an application for a TDR certificate for the sending site inside the City limits at the request of a qualified sending site property owner. Following review and approval of the sending site certification application, a TDR certificate letter of intent shall be issued defining the TDR certificate content as required in subsection (B)(2) of this section, TDR Certificate Content. The sending site property owner may then market the TDR sending site development rights to potential purchasers. After the designation of the specific area(s) of the property as permanent open space or after recording of a conservation easement as required in subsection (B)(3) of this section is completed, the TDR certificate may be issued.

b. Outside City Limits. TDR certification on sending sites outside the City limits within King County shall be by King County consistent with the “Interlocal Agreement Between King County and the City of Maple Valley Adopting the Joint Plan for Summit Place.”

c. Prior to the release of building permits, the receiving site applicant shall deliver the TDR certificate(s) to the City and a quit claim deed and extinguishment document shall be recorded on the sending site(s) and receiving site after approval of the receiving site project.

2. TDR Certificate Content. A TDR certificate is a recorded document, showing the number of development rights available from a qualified sending site to be used by a TDR receiving site and shall delineate the number of development rights including:

a. The number of residential dwelling units; and

b. Proof of preservation of open space or a conservation easement resulting from TDR conversion shall be as required in subsection (B)(3) of this section.

3. Preservation of Open Space Resulting from TDR Conversion. As part of the development rights transfer and prior to the issuance of the TDR certificate, the sending site property owner is required to document that the site, or portion of the site, is no longer developable and shall be preserved as permanent open space or pursuant to a conservation easement in one of the following ways, as determined by the City case by case:

a. By Deed. The sending site property owner shall deed the ownership of the property to the City subject to a recorded conservation easement preserving the property in perpetuity as public open space. Maintenance for the benefit and protection of the natural resources, including wildlife, scenic corridors and water quality, shall be the responsibility of the City as defined in the conservation easement.

b. By Conservation Easement. The sending site property shall retain title to the property by recording a conservation easement in perpetuity over the parcel. The conservation easement shall include the preparation and implementation of a stewardship plan to ensure the property is maintained for the benefit and protection of the natural resources, including wildlife, recreation areas, scenic corridors, and water quality. All conservation easements shall allow City staff access to the property to ensure compliance with the conservation easement. The conservation easement shall include:

i. All of the critical area and associated buffer; and

ii. A portion of the developable site area equal to the percentage of TDRs sold and certified.

c. For sending sites purchased by the City, where the City wishes to sell all or some of the TDRs, the City shall record a declaration of covenant in perpetuity over the property, which shall include all of the critical area and a portion of the developable site area as required for property retained in private property and shall include the preparation of a stewardship plan as required in subsection (B)(3)(b) of this section, preservation of open space. (Ord. O-11-466 § 1).

18.95.100 Receiving TDRs – Standards, applications and procedures.

A. Standards for Transferring Development Rights to a Receiving Site. Transferred development rights can be accommodated on a receiving site based on the following design and development criteria:

1. Applicability. Receiving sites may use the purchased TDRs to exceed the allowable residential development density and for new development or modification to existing development, in accordance with this chapter; provided, that all development and design standards required by the underlying zoning district shall be met.

Residential Density

TDR Value: 1 TDR = one dwelling unit up to the following limits:	
Receiving Site Zone	**Density Limits**
MPC	Up to a maximum 200 dwelling units; applies only to Summit Place
R-4, R-6, R-8, R-12 and MU	Up to a maximum 25% increase over the allowable density

B. Application Process and Procedures for Using TDRs.

1. Application. A project application proposing to use TDRs on a designated receiving site shall include a copy of the TDR certificate letter. A recent title report for the property shall be included in the application.

2. When a property owner intends to deed property to the City, the property owner shall:

a. Warrant to the City, in a form acceptable to the City, that to the best of the property owner's knowledge, no hazardous substances have been released on the property; and

b. Prior to any such transfer, provide the City with access to and allow the City to inspect the property and all books and records relating to the property.

c. The City may, in its sole discretion, elect not to accept conveyance of the property, and require the property owner to retain the property and record a permanent conservation easement.

3. Using Certified TDRs. The total number of development rights from a sending site may be transferred to one or more designated receiving sites; provided, that the development rights shall only be transferred together as individual development rights. The individual uses of a development right may not be divided, but development rights purchased from one sending site may be distributed to more than one receiving site.

4. A decision for the project shall clearly state: (1) the number of TDRs transferred to the receiving site; and (2) the incorporation of TDRs into the approved project through the total density.

5. TDR development rights once used for a land use application are valid only for the specified parcel for which they were originally approved for use.

6. Quit Claim Deed and Extinguishment Document with TDR Certificate. A TDR certificate is required to document the use of TDRs on all sending sites and receiving sites that have sold or incorporated additional development rights on their property through the TDR process. A quit claim deed and extinguishment document with the attached TDR certificate shall be recorded on the sending site and the receiving site parcels describing:

a. How the TDR rights are used on the receiving site;

b. The number of TDRs used; and

c. The source of the TDRs. (Ord. O-11-466 § 1).

18.95.110 Appeals.

A. Any decision under this section will not be subject to appeal except as part of an appeal of the entire project. An appeal of a TDR determination may be incorporated under a project appeal under MVMC 18.100.230, Administrative appeals.

B. Decisions by the Hearing Examiner regarding the transfer of development rights may be appealed to Superior Court in accordance with MVMC 18.100.240, Judicial appeals. (Ord. O-11-466 § 1).

18.95.120 Monitoring TDR certificates.

The City shall keep records and monitor both the issuance and transfer of TDR certificates and related conservation easements, and the development they represent. (Ord. O-11-466 § 1).

18.95.130 Other authority.

Nothing in this chapter is intended to limit the City's authority under the State Environmental Policy Act or any other source. (Ord. O-11-466 § 1).

Chapter 18.100

ADMINISTRATION OF DEVELOPMENT REGULATIONS

Sections:

18.100.010 Purpose and applicability.

The purpose of this chapter is to establish a set of procedures and processes to be used for land use and development proposals subject to review under the Maple Valley Municipal Code. All project permit applications or related approvals are subject to this chapter except as specifically set forth below.

A. General Exemptions. The following permits or approvals are specifically excluded from the procedures set forth in this chapter:

1. Landmark designations.

2. Street vacations.

3. Street Use Permits.

B. Partial Exemptions. Applications for Process 1 permits and approvals, with the exception of final plat applications, shall not be subject to the requirements for public notice of application and notice of decision. See MVMC 18.90.050 for final plat procedures. Process 1 permits and approvals are subject to requirements for complete applications and 65-day timelines. A written staff report is seldom produced, although conditions of approval to ensure a project meets applicable codes may be written onto the plans or otherwise attached. These types of permits are technical, ministerial or minor approvals.

C. Process 4 Applications. Process 4 applications are not considered project permits as defined in this chapter. Process 4 applications, therefore, are not subject to a regulatory timeline requirement. The Economic and Community Development Department shall, however, produce a timeline or schedule identifying target dates for

completion of the review process and shall work with the applicant to ensure the review is completed in as timely a manner as possible.

D. Process 5 Applications. Process 5 applications are not considered project permits as defined in this chapter. Process 5 applications, therefore, are not subject to the requirements for complete applications, regulatory timelines, public notice, consolidated hearings or other requirements for project permit applications. Process 5 applications involve decisions that are legislative in nature, and made by the City Council following one or more public hearings before the Planning Commission. See MVMC 18.100.040(B) and 18.100.170 for process steps and other information regarding public notice, Planning Commission processes, environmental review and appeal opportunities for Process 5 legislative decisions.

E. Master Planned Community Approvals. A master planned community project approval is a Process 3 land use approval. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-11-443 § 1; Ord. O-10-419 § 1; Ord. O-99-109 § 1).

18.100.020 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

A. “Closed record appeals” are administrative appeals which are heard by the Hearing Examiner.

B. “Open record hearing” means a hearing, conducted by a single hearing body or officer authorized by the City to conduct such hearings, that creates the City’s record through testimony and submission of evidence and information, under procedures prescribed by the hearing body or officer. An open record hearing may be held prior to a City’s decision on a project permit, to be known as an “open record predecision hearing.”

C. “Parties of record” means:

1. The applicant;

2. The Economic and Community Development Department;

3. Any person who testified at an open record public hearing on the application; and/or

4. Any person who submitted written comments during a published comment period or at an open record public hearing.

D. “Project permit” or “project permit application” means any land use or environmental permit or license required from the City, including but not limited to building permits, subdivisions, binding site plans, multiple-use master plans, conditional use permits, variances, shoreline substantial development permits, site plan review, site development permit, design review, permits or approvals required by critical areas regulations, and site-specific rezones.

E. “Public meeting” means an informal meeting facilitated by the City. A public meeting is not an open record hearing as defined in subsection (B) of this section. The proceedings at a public meeting will not be recorded, nor will comments by the public at a public meeting be considered testimony or become part of the record for purposes of any appeal on the decision. Rather, a public meeting is an opportunity for an informal dialogue between the project applicant and members of the public. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-14-562 § 1; Ord. O-11-443 § 2; Ord. O-10-419 § 2; Ord. O-99-109 § 1).

18.100.030 Application processes and classification.

A. Application Processes. Applications for review pursuant to this chapter shall be classified by type of process as a Process 1, Process 2, Process 3, Process 4, or Process 5 action. The application framework is presented in tables in MVMC 18.100.040(A) and (B), which show the type of process used for the various kinds of applications as well as the procedures or steps to be followed in each process type.

B. Determination of Process Type. The Director shall determine the proper procedure for all development applications. If there is a question as to the appropriate type of procedure, the Director shall resolve it in favor of the

higher process type number. Process 1 is the lowest and Process 4 is the highest for project permit applications. Process 5 relates only to legislative actions.

C. Consolidated Permit Processing. Two or more land use applications relating to the same proposal will typically be processed collectively and a single consolidated report will be produced to address all land use issues. The Director shall determine whether to process land use applications separately (phased review) based on consideration of the type and complexity of the project and whether permit review can be accomplished more efficiently through phased review. Decisions regarding the order of permit processing shall be made to ensure timely and efficient permit processing, facilitate input from interested agencies and the public, and provide full consideration to the cumulative impacts of the entire proposal. Construction permits may be submitted only after the land use decisions have been made and all applicable appeal periods have passed.

D. Merger of Process 2 Application (Except SEPA) with Process 3 or 4 Application. When any Process 2 application, except for a SEPA threshold determination, is reviewed as a component of or in conjunction with a Process 3 or Process 4 proposal, the Process 2 application shall be merged with and treated the same as the Process 3 or 4 application. The decision maker for the Process 2 application that is merged with a Process 3 application shall be the Hearing Examiner. The decision maker for a Process 2 application that is merged with a Process 4 application shall be the City Council. An appeal of a Process 2 decision that is merged with a Process 3 or 4 decision shall be the same appeal process as for the Process 3 or 4 decision. SEPA threshold determinations are governed by Chapter 14.10 MVMC and do not merge into the higher processes. Appeal of a SEPA Determination of Nonsignificance (DNS) is heard in a closed record appeal hearing and consolidated with the hearing for a Process 3 or 4 decision as set forth in MVMC 18.100.040(B). (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-10-419 § 3; Ord. O-99-109 § 1).

18.100.040 Project permit application framework.

A. Process Types – Applications.

Process 1	Process 2	Process 3	Process 4	Process 5
❑Building Permit[1]	❑Short plat	❑Binding site plan for five or more lots	❑Development agreement	❑Comprehensive plan amendment
❑Tree Removal Permit[1]	❑Design review	❑Preliminary plat	❑Site-specific rezones	❑Subarea plan
❑Mechanical, Plumbing, other Construction Permits[1]	❑Reasonable use exception	❑Preliminary plat major revision		❑Development code text amendment[5]
❑Minor site plan review[1]	❑Shoreline substantial development permit	❑Conditional Use Permit		❑Area-wide rezones
❑Boundary line adjustment	❑Shoreline variance	❑Shoreline Conditional Use Permit		
❑Sign Permit	❑SEPA threshold determination[3]	❑Multiple use master plan		
❑Temporary Use Permit	❑Administrative amendment of prior land use approval	❑Master planned community (MPC) project approval		
❑Limited amendment of prior land use approval	❑Plat revocation[4]	❑MPC project approval major amendment		
❑Preliminary plat minor revision	❑Site development permit	❑Final plat alteration		
❑Final plat[2]				
❑MPC project approval administrative amendment				
❑Shoreline exemption				

Process 1	Process 2	Process 3	Process 4	Process 5
❑Zoning verification letter ❑Noise variance ❑Binding site plan for four or fewer lots ❑Variance ❑Formal code interpretation				

Notes: 1. Building Permits, Tree Removal Permits, minor site plan review, and any other construction-related approvals that are subject to SEPA review or have required street improvements also require a use approval in conjunction with other SEPA or street improvement review.
2. Final plats are subject to the requirements of RCW 58.17.140 and MVMC 18.90.050. The final plat decision is made by the Director.
3. SEPA threshold determinations are governed by Chapter 14.10 MVMC.
4. A plat revocation is a civil enforcement action that may also involve criminal penalties pursuant to RCW 58.17.300.
5. Development code text amendments that only amend procedural requirements are not submitted to the Planning Commission for review.

B. Process Steps.

Process Step	Process 1[1]	Process 2[1]	Process 3[1]	Process 4[1]	Process 5[1] Legislative Decisions
Preapplication Conference:	No	Yes No for Site Development	Yes	No	No
Notice of Application:	No	Yes[13]	Yes	Development agreement: No Site specific rezone: Yes	Yes, in conjunction with SEPA review
Public Meeting:	No	DCD may require[8]	Yes	No	No
Recommendation Made By:	N/A	N/A	DCD	Development Agreement: ECD Director Rezone, Planning Commission	Planning Commission[9]
Open Record Predecision Hearing:	No	No	Yes	Site specific rezone: Yes, by Planning Commission. Development Agreement: No	No
Public Hearing[12]:	No	No	No	Development Agreement: Yes, by City Council	Yes
Final Decision Made By:	DCD (excluding final plats[2])	DCD	Hearing Examiner	City Council	City Council
Open Record Appeal to Hearing Examiner[10]:	No, except for building permits[3]	Yes[4, 5]	No, except for associated SEPA DNS	No	No
Closed Record Appeal to Council[11]:	No	No	No	No	No
Judicial Appeal:	Yes	Yes[6]	Yes[6]	Yes	Yes[7]

Notes: 1. These process steps may be modified for projects with multiple land use approvals. See MVMC 18.100.030 and text describing each process.
2. Final plats are subject to the requirements of RCW 58.17.140 and MVMC 18.90.050. The final plat decision is made by the City Council.
3. Appeals of decisions and determinations based upon the adopted State building codes are appealed pursuant to MVMC 15.05.035.
4. SEPA appeals are governed by Chapter 14.10 MVMC.
5. Not applicable to Site Development Permits.
6. If applicable, the appeal may be to the Shorelines Hearings Board.
7. If applicable, the appeal may be to the Growth Management Hearings Board.
8. Public meetings may be required by DCD when requested by citizens interested in the proposed project or when a project is expected to generate substantial community interest or controversy.
9. See MVMC 18.100.040(A). Development code text amendments that only amend procedural requirements may not be submitted to the Planning Commission for review.
10. The authority of the Hearing Examiner is set forth in Chapter 2.65 MVMC.
11. The conduct of an appeal is set forth in MVMC 2.65.120.
12. A public hearing is distinguished from an open record predecision hearing. See MVMC 18.100.020 definition of "open record hearing."
13. Noticing is required unless previously noticed with other associated permits.

(Ord. O-24-836 § 1 (Exh. A); Ord. O-18-639 § 4; Ord. O-16-598 § 1(B) (Exh. B); Ord. O-14-562 § 1; Ord. O-12-514 § 1; Ord. O-11-443* § 3; Ord. O-11-455 § 1; Ord. O-10-419 § 4; Ord. O-09-394 § 2; Ord. O-03-223 §§ 1, 2; Ord. O-99-109 § 1).

*Code reviser's note: Ordinance O-11-443's amendments to the table in subsection (A) of this section inadvertently omitted amendments from Ordinance O-11-455. The table in subsection (A) of this section reads as intended after the amendments of Ordinances O-11-443 and O-11-455.

18.100.050 Joint public hearings – Director's decision.

The Director may combine any public hearing on a project permit application with any hearing that may be held by another local, State, regional, federal, or other agency on the proposed action, as long as:

A. The other agency consents to the joint hearing;

B. The other agency is not expressly prohibited by statute from doing so;

C. Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule;

D. The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing; and

E. The hearing is held within the City limits. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-99-109 § 1).

18.100.060 Applicant's request for joint hearing.

The applicant may request that the public hearing on a permit application be combined as long as the joint hearing can be held within the time periods set forth in this chapter. In the alternative, the applicant may agree to a particular schedule if additional time is needed in order to complete the hearings. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-99-109 § 1).

18.100.070 Preapplication conference.

A. Applicability. The purpose of the preapplication conference is to acquaint City staff with a sufficient level of detail about the proposed development to enable staff to advise the applicant regarding requirements of the Maple Valley Municipal Code. A full preapplication conference involves the Development Review Committee members: Economic and Community Development Director, Public Works Director, City Engineer, Parks Director, Building Official, Fire Marshal, Police Chief, or their designees, and other City staff as necessary. The following project permit applications require the applicant to attend a full preapplication conference: all Process 2 and 3 actions. A limited preapplication conference with only a representative from Economic and Community Development may be allowed by the Director for Process 2 applications that do not involve substantial review by other departments. Otherwise, a full preapplication conference is also required for Process 2 actions. See MVMC 18.100.140(B). The Director may waive in writing the requirement for a preapplication conference for projects that are determined to be of a size and complexity to not require the detailed analysis of a preapplication conference. Preapplication conferences for all other types of applications are not required, but may be considered by the Director upon request of the applicant.

B. Preapplication Conference Initiation. To initiate a preapplication conference, an applicant shall submit a completed preapplication request form with the information and numbers of copies as set forth by the Director. At a minimum, a preliminary site plan and any other information known to the applicant that may be useful in providing an overview of the proposed project are required. An applicant that desires to have an attorney present for the preapplication conference must provide notice to the Director of the attendance of the attorney in advance of the conference. If the City Attorney is unavailable to attend the preapplication conference, the conference must either be rescheduled to a time when the City Attorney is available to attend, or the applicant can choose to not have its attorney attend the conference. If an applicant attends the preapplication conference with an attorney without advance notice to the Director, the conference will be canceled.

C. Written Summary of Preapplication Conference. The Department shall provide the applicant a written summary of the preapplication conference within approximately two weeks of the conference. The written summary shall include the following information to the extent possible given the material provided by the applicant:

1. A summary of the proposed action;

2. A list of the requirements for a completed project permit application;

3. A general summary of the procedures to be used to process the project permit application; and

4. References to the relevant code provisions or development standards which may apply to the approval of the project permit application.

A preapplication conference is not an exhaustive review of all potential issues and will typically not address federal or State jurisdictional issues. The discussions at a preapplication conference or the summary of the conference shall not bind or prohibit the City of Maple Valley's future application or enforcement of all applicable codes and regulations.

D. Expiration of Preapplication. Project permit applications requiring a preapplication conference must be submitted to the City and accepted as counter complete pursuant to MVMC 18.100.090 within six months of a written summary of the preapplication conference. If an application is not submitted within six months, the proposal shall require another preapplication conference to take into account any new City policies and changes to the Maple Valley Municipal Code or comprehensive plan. The Director may grant in writing a single six-month extension for submittal of a project permit application. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-11-443 § 4; Ord. O-10-419 § 5; Ord. O-99-109 § 1).

18.100.080 Submittal requirements.

A. Checklist. The Department shall establish and may revise at its discretion submittal requirements for each type of application. The requirements shall be made available to the public in a form that clearly explains what material must be submitted for an application to be considered complete, including type and detail for each item. The submittal requirements shall be in the form of a counter complete checklist. The City's acceptance of documents from an applicant using a counter complete checklist is used only for purposes of documenting what was submitted by the applicant; it is not a technical review for completeness or compliance with State or local laws and regulations. See MVMC 18.100.090 for the counter complete review process. Requirements for related permits or environmental review under SEPA shall also be provided when applicable. Submittal requirements may be waived by the Director, in writing, only if the applicant can demonstrate that normally required information is not relevant to the proposed action and is not required to show that an application complies with applicable City codes and regulations.

B. Who May Apply. Application for the various types of permits and approvals covered by this code may be made by the following parties:

1. Subject to the requirements of this subsection, the property owner or any agent of the owner with proof of agency may apply for any type of Process 1, 2, 3, or 4 application. If the application is for revision to a preliminary plat, or alteration of a final plat, the application must be signed by a majority of those persons having an ownership interest in the lots, tracts, parcels, or portion thereof to be revised or altered. If a final plat is subject to restrictive covenants which were filed at the time of the approval of the plat, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement, with

notarized signatures signed by all persons subject to the covenants, providing that those persons agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the plat or portion thereof. An application for vacation of a final plat is subject to the requirements of RCW 58.17.212, as written or hereafter amended.

2. Any person may apply for an interpretation of the land use code pursuant to MVMC 18.10.020.

3. The City Council may direct staff to pursue the study of or amendment to the comprehensive plan. The Planning Commission or the Economic and Community Development Director may recommend a comprehensive plan amendment, site-specific or area-wide rezone, or amendment to the text of the land use code to the City Council. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-10-419 § 6; Ord. O-99-109 § 1).

18.100.090 Review for counter complete status.

A. All applications must include the counter complete checklist that accompanies the documents submitted pursuant to the submittal requirements for each type of application. The counter complete checklist shall be the basis for determining whether a project permit application (Process 1 – 4) will be accepted.

B. Applications shall be submitted electronically through the City's permitting portal.

C. An application is counter complete if the Director or his/her designee finds that the application purports and appears to include the information required by the counter complete checklist; provided, no effort shall be made to evaluate the substantive adequacy of the information in the application in the counter complete review process. No effort shall be made to determine ownership of land as part of the counter complete checklist process.

D. If the Director or his/her designee decides the application is counter complete, then the Director or his/her designee shall notify the applicant of required fees and the appropriate fee shall be paid by the applicant. If fees are not paid within 14 calendar days from when the applicant was notified of required fees, then the application shall be terminated.

E. If the Director or his/her designee decides the application is not counter complete, then the City shall reject the application and identify in writing what is needed to make the application counter complete.

F. The Director or his/her designee shall make a counter complete determination regarding an application. The counter complete determination shall be made within two business days from the date of receipt. If the City does not provide a counter complete determination for an application, the application shall be deemed counter complete as of the third day from receipt. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-10-419 § 7; Ord. O-99-109 § 1).

18.100.100 Determination of technical completeness.

A. Within 28 calendar days of receiving an application, the Department shall determine whether an application is technically complete. If the Department does not provide written notification that an application is incomplete, the application shall be deemed complete for processing as of the twenty-ninth day following receipt. When an application is deemed "technically complete," the City review timeline shall begin.

B. A determination of technical completeness may be made even though additional information is later required or project modifications are subsequently undertaken. The determination of technical completeness shall not preclude the City from requesting additional information or studies either at the time of the notice of completeness or at some later time. Such new information may be required to establish whether the proposal meets applicable City codes and regulations, whether additional environmental study is required, or, more generally, when there are substantial changes in the proposed action.

C. The City may determine that a "counter complete" application is not technically complete because the information submitted is not sufficient for further processing, is incomplete, or is factually incorrect. If the applicant receives a written determination from the City that an application is not technically complete, the applicant shall have up to 90 calendar days to submit the necessary information to the City. Within 14 calendar days after an

applicant has submitted the requested additional information, the City shall determine whether the application is technically complete as set forth in subsection (A) of this section.

D. If an applicant either refuses in writing to submit additional information or does not submit the required information within 90 calendar days, the application shall be terminated. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-10-419 § 8; Ord. O-99-109 § 1).

18.100.110 Procedure for corrections.

A. Following a determination of technical completeness and the commencement of project review, the City may make a determination in writing that some information is incorrect or that additional information is required.

B. If an applicant either refuses in writing to submit additional information or does not submit the required information within 180 calendar days, the Director may terminate the application. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-10-419 § 9; Ord. O-99-109 § 1).

18.100.120 Time limitations.

A. All decisions on project permit applications for Process 1, 2, and 3 applications shall be made within the required regulatory limit of calendar days of a determination of technical completeness, as limited by subsections (B) and (C) of this section.

B. Calculation of Time Periods for Issuance of Notice of Decision. In determining the number of days that have elapsed after the City has notified the applicant that the application is technically complete for processing, the following periods shall be excluded:

1. Any period during which the applicant has been requested by the City to correct plans, perform required studies, provide additional required information, or otherwise requires the applicant to act. The period shall be calculated from the date the City notifies the applicant of the need for additional information until the earlier of the date the local government determines whether the additional information satisfies the request for information or 14 calendar days after the date the information has been provided to the City;

2. Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW, if the City by ordinance has established time periods for completion of environmental impact statements, or if the City and the applicant in writing agree to a time period for completion of an environmental impact statement;

3. Any period for administrative appeals of Process 2 or 3 project permit applications, if an open record appeal hearing or a closed record appeal, or both, is allowed. The time period for consideration and decision on appeals shall not exceed 90 calendar days for an open record appeal hearing, or 60 calendar days for a closed record appeal, unless the applicant agrees to extend these time periods;

4. Any extension of time mutually agreed upon, in writing, by the applicant and the local government.

C. Time Limit Exceptions. The time limits established in this section do not apply if a project permit application:

1. Requires an amendment to the comprehensive plan or a development regulation;

2. Requires approval of the siting of an essential public facility as provided in RCW 36.70A.200; or

3. Is substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be technically complete pursuant to MVMC 18.100.100.

D. Failure to Meet Time Limit. If the City is unable to issue its decision within the time limits provided in this chapter, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of a final decision. The City is not liable for damages due to the City's failure to make a final decision within the time limits established in this chapter. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-11-443 § 5; Ord. O-10-419 § 10; Ord. O-99-109 § 1).

18.100.130 Process 1.

A. General. Process 1 applications are defined in the framework pursuant to MVMC 18.100.040(A) and (B). All Process 1 applications must meet all the applicable requirements of the Maple Valley Municipal Code in addition to the requirements specified in this section.

B. Preapplication Conference. Process 1 applications do not require a preapplication conference.

C. Public Notice. Process 1 applications do not require public notice.

D. Review of Application. The Director shall determine which City departments are responsible for reviewing or commenting on an application and shall ensure the affected departments receive a copy of the application, or appropriate parts of the application. Following a determination of technical completeness and satisfactory completion of any required correction cycles, the Director, or their designee, shall approve, deny, or approve with conditions all Process 1 applications. Conditions may be imposed directly on the plans (red-lining) or through other documentation reflected on the plans to ensure the requirements of City codes and regulations are met without going through another correction cycle before permit issuance.

E. Decision. Process 1 applications are subject to the maximum 65-day timeline described in RCW 36.70B.080. Correction cycles will extend review time in proportion to the time the City must wait for an applicant to submit additional or corrected information. The decision of the Director may be reflected on the plans or permit itself or may be documented in a written report or letter of approval.

F. Notice of Decision. No public notice of a Process 1 decision is required. The applicant will be notified by email that the permit is ready to issue or the application is approved.

G. Administrative Appeal. There is no administrative appeal of a Process 1 decision.

H. Judicial Appeal. A Process 1 decision may be appealed to King County Superior Court pursuant to MVMC 18.100.240. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-11-443 § 6; Ord. O-10-419 § 11; Ord. O-99-109 § 1).

18.100.140 Process 2.

A. General. Process 2 applications are defined in the framework pursuant to MVMC 18.100.040(A) and (B). All Process 2 applications must meet all the applicable requirements of the Maple Valley Municipal Code in addition to the requirements specified below.

B. Preapplication Conference. Process 2 applications are required to have a preapplication conference. A limited preapplication conference may be allowed for projects that do not require substantial review by other departments such as variances and design review without SEPA or street improvement requirements.

C. Notice of Application. Process 2 applications require a notice of application. See MVMC 18.100.190. All Process 2 applications have a minimum 14-day public comment period, except Shoreline Substantial Development Permits and shoreline variances, which have a minimum 30-day comment period.

D. Review of Application. The Director shall determine which City departments are responsible for reviewing or commenting on an application and shall ensure the affected departments receive a copy of the application or appropriate parts of the application. Following a determination of technical completeness, satisfactory completion of any required correction cycles, and expiration of the minimum public comment period, the Director shall approve, approve with conditions, or deny all Process 2 applications. Conditions may be imposed directly on the plans (red-lining) or through other documentation reflected on the plans, or in a written staff report or other decision document to ensure the requirements of City codes and regulations are met without going through another correction cycle.

E. Decision. Process 2 decisions are subject to the maximum 100-day timeline requirement described in RCW 36.70B.080. A decision for a Process 2 action shall be made in writing by the Director and shall include the following information:

1. A description of the proposal and a listing of permits or approvals included in the application;

2. A statement of the applicable criteria and standards in this code and other applicable law;

3. A statement of background information and facts relied upon by the Department which show the application does or does not comply with the approval criteria;

4. A summary of public comment received and how the Department or applicant responded to the public comments or concerns; and

5. The decision to deny or approve the application and, if approved, any conditions of approval necessary to ensure the proposed development will comply with applicable law.

F. Notice of Decision. Public notice of a Process 2 decision shall be provided to all parties of record and to the applicant. Notice of a short plat or binding site plan shall be provided in the same manner as notice of application as set forth in MVMC 18.100.190.

G. Administrative Appeal. A Process 2 decision, except for Shoreline Substantial Development Permits and shoreline variances, may be appealed to the Hearing Examiner within 14 calendar days of the notice of decision pursuant to MVMC 18.100.230. A decision on a Shoreline Substantial Development Permit or shoreline variance may be appealed to the State Shorelines Hearings Board pursuant to Chapter 14.05 MVMC. Shoreline appeal procedures and information are available from the Department or from the State Department of Ecology.

H. Judicial Appeal. The decision of the Hearing Examiner on a Process 2 appeal may be appealed to King County Superior Court pursuant to MVMC 18.100.240.

I. Merger of Process 2 Applications (Except SEPA) with Process 3 or 4 Applications. When any Process 2 application except for a SEPA threshold determination is reviewed concurrently with a Process 3 or Process 4 application, the procedures for notice, decision making, and appeal set forth in MVMC 18.100.150 or 18.100.160, respectively, shall apply to the Process 2 application. SEPA threshold determination decisions do not merge with the Process 3 or Process 4 decision procedures except that any appeal of a SEPA determination of nonsignificance associated with a Process 3 or 4 application shall be integrated with the open record public hearing for the Process 3 or 4 action. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-10-419 § 12; Ord. O-10-415 § 6; Ord. O-99-109 § 1).

18.100.150 Process 3.

A. General. Process 3 applications are defined in the framework set forth in MVMC 18.100.040(A) and (B). All Process 3 applications must meet all the applicable requirements of the Maple Valley Municipal Code in addition to the requirements specified below.

B. Preapplication Conference. Process 3 applications are required to have a preapplication conference.

C. Notice of Application. Process 3 applications require a notice of application. See MVMC 18.100.190. All Process 3 applications have a maximum 30-day public comment period pursuant to MVMC 18.100.020(E). In addition, a public meeting shall be scheduled and included in the notice of application for each Process 3 proposal. The public meeting shall be scheduled so as to allow at least seven calendar days beyond the date of the public meeting for comments to be submitted within the maximum 30-day comment period.

D. Review of Application. The Director shall determine which City departments are responsible for reviewing or commenting on an application and shall ensure the affected departments receive a copy of the application or appropriate parts of the application. Following a determination of technical completeness and satisfactory completion of any required correction cycles pursuant to this chapter, the Director shall prepare a written recommendation to the Hearing Examiner. The Director’s recommendation shall provide a description of the proposal, a listing of the permits or approvals included in the application, a statement of the criteria and standards applicable to the proposal, and a review of the background information and facts relied upon by the Department in its recommendation. The recommendation shall enumerate any conditions needed to ensure the application meets each of the applicable decision criteria. If a SEPA determination of nonsignificance (DNS) is issued for the proposal, the DNS will be issued in conjunction with the Director’s recommendation to the Hearing Examiner.

E. Open Record Predecision Hearing. A Process 3 action requires an open record predecision hearing before the Hearing Examiner.

1. At least 15 calendar days before the date of the hearing, public notice of the hearing shall be provided consistent with the requirements of MVMC 18.100.210.

2. The Director's recommendation shall be made available on the date the hearing notice is issued. When the Director's recommendation includes a SEPA threshold determination of nonsignificance, the hearing notice shall inform the public that a SEPA appeal may be filed and that any SEPA appeal will be consolidated with the Process 3 open record hearing, but the SEPA appeal will be heard as a closed record appeal.

3. The burden of proof shall be on the proponent to demonstrate that the proposal conforms to applicable codes and standards, except that for any SEPA DNS appeal, the burden of proof is on the appellant.

4. Consistent with the adopted Hearing Examiner rules, the Hearing Examiner shall explain the format and rules of procedure for the hearing to the public before opening the public hearing record.

5. The public hearing shall be recorded on audio or audiovisual tape.

F. Decision. Process 3 decisions are subject to the maximum 170-day review timeline requirement described in RCW 36.70B.080. A written decision for a Process 3 action shall be issued by the Hearing Examiner within 10 working days after the date the record closes, unless the applicant has consented, in writing, to an extension of this time period. The Hearing Examiner's decision shall include the following information:

1. A description of the proposal and a listing of permits or approvals included in the application;

2. A statement of the applicable criteria and standards in the municipal code and other applicable law;

3. A statement of background information and facts relied upon by the Hearing Examiner which show the application does or does not comply with the approval criteria and standards;

4. A summary of public testimony and public comment received and how the Department or the applicant responded to the public testimony and public comments; and

5. The decision to deny or approve the application and, if approved, any conditions of approval necessary to ensure the proposed development will comply with applicable law.

G. Notice of Decision. Public notice of a Process 3 decision shall be provided to all parties of record and to the applicant according to the same requirements as for notice of application set forth in MVMC 18.100.190.

H. Reconsideration. The Hearing Examiner may reconsider a Process 3 decision if a written request is filed by a party of record within 10 calendar days of the date of the initial decision. Grounds for requesting reconsideration shall be limited to the following:

1. The decision or conditions of approval are not supported by facts in the record;

2. The decision contains an error of law;

3. There is newly discovered evidence potentially material to the decision which could not reasonably have been produced prior to the open record predecision hearing; or

4. The applicant proposes changes to the proposal in response to deficiencies identified in the decision.

Any request for reconsideration shall be mailed or emailed to all parties of record on the same day as the request is mailed or delivered to the Hearing Examiner. A request for reconsideration shall stop the running of the appeal period on a Process 3 decision for five business days. During this time period, the Examiner shall decide whether reconsideration is appropriate. If the Examiner decides to reconsider the decision, the appeal period will be placed on hold until the reconsideration process is complete and a new decision is issued. If the Examiner decides to

reconsider a decision, all parties of record shall be notified. The Examiner shall, by order, set a schedule for other parties of record to respond in writing to the reconsideration request and shall issue a decision no later than 10 business days following the due date for submittal of written responses. A new appeal period shall commence from the date of the Hearing Examiner's decision on reconsideration.

I. Judicial and Administrative Appeal. Process 3 decisions, except Shoreline Conditional Use Permits and any associated shoreline permits, may be appealed to Superior Court pursuant to MVMC 18.100.240. Shoreline decisions are appealable to the State Shorelines Hearings Board. See Chapter 14.05 MVMC. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-10-419 § 13; Ord. O-99-109 § 1).

18.100.160 Process 4.

A. General. Process 4 applications for a development agreement are governed by MVMC 18.100.040(B) and State law as set forth in RCW 36.70B.170, 36.70B.180, 36.70B.190, 36.70B.200, and 36.70B.210, as written or hereafter amended.

B. City Council Decision. Following receipt of a recommendation from the Planning Commission for a site-specific rezone, the City Council shall approve, approve with conditions, or deny a Process 4 application by motion. An ordinance shall be prepared by the City Attorney to reflect the City Council decision and shall be presented for City Council approval as soon as practicable following the approved motion. The date of the Council decision for purposes of commencement of any relevant appeal periods shall be the date of Council approval of the ordinance.

C. Judicial Appeal. A Process 4 decision may be appealed to the King County Superior Court pursuant to MVMC 18.100.240. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-12-514 § 2; Ord. O-10-419 § 14; Ord. O-99-109 § 1).

18.100.170 Process 5.

A. General. Process 5 actions are defined in the framework pursuant to MVMC 18.100.040(A) and (B). All Process 5 proposals are legislative actions, but not all legislative actions are Process 5 decisions. Process 5 is specifically limited to actions affecting the City's Growth Management Act, comprehensive plan and development regulations.

B. Hearings. A Process 5 action may require one or more hearings before the Planning Commission to formulate a recommendation and may require one or more hearings before the City Council for a final decision. The City Council may hold its own hearings or may delegate all hearings to the Planning Commission.

C. Public Notice. Notice of the public hearing or public meeting shall be provided to the public by publishing in the City's official newspaper.

D. Implementation. The City Council's decision shall become effective by passage of an ordinance, pursuant to RCW 35A.12.130.

E. Legislative Enactments Not Restricted. Nothing in this section or the permit processing procedures shall limit the authority of the City Council to make changes to the City's comprehensive plan, as part of a regular revision process, or to make changes to the City's municipal code.

F. Appeal to Growth Management Hearings Board. A Process 5 decision may be appealed to the Growth Management Hearings Board pursuant to the regulations set forth in RCW 36.70A.290. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-10-419 § 15; Ord. O-99-109 § 1).

18.100.180 Public notice – Generally.

The records of the King County Assessor's office shall be used for determining the property owner of record. Addresses for mailed notices shall be obtained from the County's real property tax records. The applicant shall issue a declaration of mailing to the Director. All public notices shall be deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first. Failure to receive public notice when provided as described in this chapter shall not be grounds for invalidation of any permit decision. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-99-109 § 1).

18.100.190 Notice of application.

A. Notice of Application. The notice of application shall be mailed, published and posted for Process 2 and 3 applications within 14 calendar days of a determination of completeness.

B. Mailed Notice – Contents. Mailed notice of application shall include:

1. The project file number(s), the date of application, the date of the determination of technical completeness for the application and the date of the notice of application;

2. A description of the proposed project action, the site address or a description of the site's location, and a list of the permits or approvals included in the application and, if applicable, a list of any studies requested by the City;

3. The identification of other permits not included in the application, to the extent known by the City;

4. The identification of existing environmental documents that evaluate the proposed project and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;

5. A statement of the minimum public comment period (see MVMC 18.100.140(C), 18.100.150(C) and 18.100.160(C) for Process 2, 3, and 4 applications), and statements of the right of any person to comment on the application, receive notice of and participate in any public meetings or hearings, and request a copy of the decision once made;

6. The date, time, and place of any public meeting scheduled for the proposal;

7. A statement of a preliminary determination of consistency, if one has been made at the time of notice, and of those development regulations that will be used for project mitigation, if known;

8. A statement whether the optional DNS process allowed by WAC 197-11-355 will be used if a SEPA threshold determination is required;

9. The name and telephone number of the City planner assigned to the project;

10. The name of the applicant or applicant's representative and the name, address and telephone number of a contact person for the applicant, if any; and

11. Any other information determined appropriate by the City.

C. Mailed Notice – Distribution. Mailed notice shall be provided as follows:

1. To all owners of real property, as shown by the records of the County Assessor, located within 500 feet of any portion of the property on which the proposed project is located. If the owner of the property which is the subject of the application owns other real property adjacent to and abutting the subject property, then the 500-foot measurement shall be taken from the boundary of any such adjacently located parcels;

2. To any city or town located adjacent to or within one mile of the project site;

3. To the Washington State Department of Transportation, if the project site is located adjacent to a State highway;

4. To any agency with jurisdiction over the proposal and to any school or utility district that includes the subject site; and

5. To any other interested party, agency, tribe, or jurisdiction known to the Department.

D. Published Notice – Content. Published notice in the City's official newspaper shall include at least the following information:

1. The project location or address;

2. A description of the proposal and the types of City permits or approvals required;

3. The minimum comment period dates and the date, time and place of any public meeting that has been scheduled for the proposal;

4. Whether the optional DNS process allowed by WAC 197-11-355 will be used if a SEPA threshold determination is required;

5. The name and telephone number of the City planner assigned to the project; and

6. The location where a complete notice of application and the project file may be reviewed.

E. Posted Notice. The Director shall establish standards for the size, color, layout, design, wording, placement, and removal of signs or placards for posted notice. Posted notice shall be visible and accessible for inspection by members of the public from each street abutting the property. If the property does not abut a public street, the Director shall determine where to post the required signs or placards. Posted notice shall remain in place until a final administrative decision is made by the City on the proposal and shall be removed within seven calendar days of the final City decision.

F. Public Comment. Public comments should be submitted as early in the review process as possible and should include sufficient detail to allow for specific responses from the City or a project applicant. No decision will be made, and no recommendation from the Director will be completed, until the close of the comment period. Comments will be accepted until the time a decision on a Process 2 application is made and until the close of the public hearing record for a Process 3 or Process 4 decision. Comments from the public must be in writing and must contain the name and address of the person sending the comment. Comments may be delivered by mail, email, or by personal delivery. Comments provided for a Process 3 application must be submitted prior to the close of the open record predecision hearing. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-10-419 § 16; Ord. O-99-109 § 1).

18.100.200 Optional public notice.

A. Optional Public Notice. As optional methods of providing public notice of application or notice of a decision or recommendation, the City may require the applicant to provide, or may itself provide, the following types of notice:

1. Notify the public or private groups with known interest in a certain proposal or in the type of proposal being considered;

2. Notify the news media;

3. Place notices in appropriate regional or neighborhood newspapers or trade journals;

4. Publish notices in agency newsletters or send notices to agency mailing lists, either general lists or lists for specific proposals or subject areas; and

5. Mail to neighboring property owners outside the required mailing areas as determined by the Director.

B. The Director shall make the sole determination if optional public notice is necessary in addition to the required notice requirements of this code. The Director shall consider the scale, impact, location, and other pertinent features of the proposal that may warrant additional public notice to ensure that the public is notified of proposed land use actions.

C. The City’s decision not to require additional, optional notice as described in this section shall not be grounds for invalidation of any permit decision. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-99-109 § 1).

18.100.210 Notice of public hearing for Process 3 and 4 applications.

A. Timing and Distribution of Notice. Notice of an open record predecision public hearing on a Process 3 or Process 4 application shall be published in the legal City newspaper at least 15 calendar days before the hearing. The notice shall also be mailed to each party of record who submitted written comments on the proposal or asked to be added to the mailing list. For any preliminary plat application, the notice of the public hearing shall be mailed to the same parties who received notice of the application. See MVMC 18.100.190(C). A copy of the notice of hearing shall be added or attached to the public notice sign(s) or placard(s) at the site within two working days of publication.

B. Availability of Director's Recommendation and SEPA Decisions. The Director's recommendation on a Process 3 or Process 4 application shall be available to the public and the applicant on or before the day the notice of hearing is issued. If a determination of significance (DS) was issued earlier in the review process, the notice of hearing shall state whether an Environmental Impact Statement was prepared or whether existing environmental documents were adopted. If a determination of nonsignificance (DNS) is issued, the DNS may be issued in conjunction with the Director's recommendation.

C. Content of Notice of Hearing. Notice of a predecision public hearing shall include:

1. The name of the applicant or the applicant's representative;

2. The address or location of the affected property;

3. The date, time, and place of the hearing;

4. The nature of the proposed use or development;

5. A statement that all interested persons may appear and provide testimony;

6. The type of permits or approvals requested;

7. When and where information may be examined, and when and how written comments may be submitted;

8. The name of a City representative to contact and the telephone number where additional information may be obtained;

9. That a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at the cost of reproduction; and

10. That a copy of the staff report and Director's recommendation is available for inspection at no cost and copies will be provided at the cost of reproduction. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-99-109 § 1).

18.100.220 Site development permit review.

A. Purpose. The purpose of this section is to establish procedures for reviewing civil engineering or construction drawings for site improvements. Construction drawings are detailed engineering documents that are required for improvements to a particular site. Engineering or construction drawings are reviewed using a Process 2 Site Development Permit.

B. Applicability. Civil construction drawing review shall be required for all proposals that require construction or modification of streets, sidewalks, storm drainage, utilities, or any other surface or subsurface improvements that may be required.

C. Procedures.

1. After approval of the land use permit, civil construction drawings, if required, shall be submitted for review and approval, prior to issuance of a building permit or clearing and grading permit. Site Development Permit civil construction drawings may be submitted prior to approval of the land use permit, subject to approval by the Economic and Community Development Director.

2. The submittal requirements for Site Development Permits are available at the City of Maple Valley, as well as on the City's website.

3. Site Development Permit shall be approved only after review and approval of a land use permit application has been issued by the appropriate decision making body. Civil construction drawings shall be reviewed to determine compliance with the approved land use permit. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B)).

18.100.230 Administrative appeals.

A. Appeals of Decisions. This section allows for administrative appeals as provided in the framework described in MVMC 18.100.040(B). Administrative appeals are heard by the Hearing Examiner, the Shorelines Hearings Board, or the Growth Management Hearings Board, as applicable.

B. Consolidated Appeals. Except as provided in subsection (C) of this section, appeals of environmental determinations shall be consolidated with the project permit decision in a consolidated permit review and decision making process. When a SEPA determination of nonsignificance (DNS) is appealed in conjunction with a Process 3 or Process 4 application, the closed record appeal on the DNS shall be consolidated with the open record predecision hearing on the Process 3 decision, or with the public hearing on the Process 4 decision. Only parties of record will be entitled to participate in the closed record appeal on the DNS.

C. When a SEPA determination of significance (DS) is appealed, the SEPA appeal hearing shall be held prior to the public hearing or decision on the proposal.

D. Administrative Appeals – Standing. Only parties of record have standing to initiate an administrative appeal of a Process 2 or 3 decision on a project permit application.

E. Time to File. An administrative appeal of the decision must be filed within 14 calendar days following issuance of the notice of decision. The time to file an appeal of the environmental determination associated with a Process 2, 3 or 4 decision is governed by MVMC 14.10.170. Appeals must be delivered to and received by the Economic and Community Development Department by mail, personal delivery or by fax before 5:00 p.m. on the last business day of the appeal period.

F. Computation of Time. For the purposes of computing the time for filing an appeal, the day the hearing body's notice of decision is rendered shall not be included. The last day of the appeal period shall be included unless it is a Saturday, Sunday, or legal holiday, in which case it also is excluded and the filing must be completed on the next calendar day that is not a Saturday, Sunday or legal holiday.

G. Content of Appeal. Appeals shall be in writing, be accompanied by an appeal fee, and contain the following information:

1. Appellant's name, address and phone number;

2. Appellant's statement describing his or her standing to appeal;

3. Identity of the application which is the subject of the appeal;

4. Appellant's statement of grounds for appeal and the facts upon which the appeal is based and must include a reference or citation to any testimony or comments provided to the City in regards to the application which is the subject of the appeal; and

5. The relief sought, including the specific nature and extent of the request.

H. Effect. The timely filing of an appeal shall stay the effective date of the decision until such time as the appeal is decided or is withdrawn.

I. Notice of Administrative Appeal. The Director shall provide public notice of the appeal and of the date, time, and place for the appeal hearing as follows:

1. For Process 2 decisions, notice shall be mailed to all parties of record;

2. For an appeal of a SEPA DNS associated with a Process 3 or Process 4 application, the Director shall provide notice of the closed record appeal to parties of record and shall provide public notice of the open record predecision hearing on the application. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-10-419 § 17; Ord. O-99-109 § 1. Formerly 18.100.220).

18.100.240 Judicial appeals.

The City's decision on a Process 1 application, or a final decision after exhaustion of all administrative appeals on a Process 2, 3, or 4 application, may be appealed by a party of record with standing to file a land use petition in King County Superior Court. The provisions of the State Land Use Petition Act, Chapter 36.70C RCW, apply and should be consulted for specific rules and requirements, including filing deadlines. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-10-419 § 18; Ord. O-99-109 § 1. Formerly 18.100.230).

18.100.250 Procedures controlling.

The procedures set forth in this chapter shall be deemed additional to any other procedures set forth in City ordinances applicable to land use decisions, and in the event of any conflict, the procedures in this chapter shall be controlling. (Ord. O-24-836 § 1 (Exh. A); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-99-109 § 1. Formerly 18.100.240).

Chapter 18.110

LAND USE PERMITS AND DECISIONS

Sections:

18.110.010 Conditional Use Permits.

A. Purpose and Applicability. The purpose of this chapter is to set forth the procedure and decision criteria for review of applications for Conditional Use Permits. A Conditional Use Permit is the mechanism by which the City may gather input through an open record hearing and place special conditions on the use or development of land. The provisions of this chapter apply to all Conditional Use Permit applications except where Chapter 14.05 MVMC, Shoreline Management, applies.

B. Procedure – Conditional Use Permits. The Hearing Examiner may approve, approve with conditions, or deny Conditional Use Permits using Process 3 under the circumstances set forth in this chapter.

C. Decision Criteria – Conditional Use Permits. The Hearing Examiner may grant a Conditional Use Permit only when all the following criteria are met.

1. The proposal is consistent with the comprehensive plan;

2. The proposal complies with applicable requirements of this code;

3. The proposal is compatible with and incorporates specific features or conditions that ensure it responds appropriately to the existing as well as the intended character of the site and the surrounding properties;

4. The proposal will not be materially detrimental to uses or properties in the immediate vicinity; and

5. The proposal will be served by adequate public facilities including but not limited to streets, water, sewer, schools, and fire protection.

D. Revision of Conditional Use Permits.

1. General. An approved Conditional Use Permit may be revised in one of three ways, depending on the magnitude of the changes proposed. A new Conditional Use Permit is required for major changes, including changes in access points, expansion of site area, or substantial expansions of gross floor area. An administrative amendment to the prior approval may be applied for if the Director determines the changes are moderate but still within the general scope of the original approval. A limited amendment to the prior approval may be applied for if the Director determines the changes are minor and more technical in nature and if all conditions of the prior approval continue to be met.

2. Administrative Amendment. Moderate revisions to an approved Conditional Use Permit may be reviewed as an administrative amendment using Process 2. The administrative amendment shall be approved only if all of the following criteria are met:

a. The amendment maintains the design intent or purpose of the original proposal;

b. The amendment does not change vehicular access points or increase anticipated peak hour vehicle trips by more than 10 percent;

c. The site area is not expanded and gross floor area is not increased by more than 10 percent;

d. The amendment results in no major adverse environmental or land use impacts.

3. Limited Amendment. Minor revisions to an approved Conditional Use Permit may be reviewed as a limited amendment using Process 1. The limited amendment shall be approved only if all the following criteria are met:

a. The amendment maintains the design intent or purpose of the original proposal;

b. The amendment does not change vehicular access points or increase anticipated peak hour vehicle trips by more than five percent;

c. The site area is not expanded and gross floor area is not increased by more than five percent;

d. The amendment results in no major adverse environmental or land use impacts;

e. All conditions of the prior approval are met. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-99-109 § 1).

18.110.020 Design review.

A. Purpose and Applicability. The purpose of this chapter is to set forth the procedures and approval criteria for reviewing design review applications. Design review is the mechanism by which the City ensures the design standards of Chapter 18.70 MVMC are met. This chapter applies to each application for new construction or exterior remodels in the CB, FCC, NB, REC, RLTC, R-8 (for townhouse development of five or more units), R-12, R-18/24, and PRO zones if the community design standards and requirements apply. In the PRO zone, the commercial design standards apply.

B. Procedure for Reviewing Design Review Applications. The Department of Community Development shall have authority to consider and decide design review applications using Process 2, except when the application is consolidated with a Process 3 or Process 4 application. When design review is consolidated with a Process 3 or 4 application, the higher level decision making process shall control. If Process 2 is used, the decision of the Department is appealable to the Hearing Examiner, whose decision is the final City decision (with optional right of reconsideration). The Hearing Examiner’s decision on a design review appeal is only appealable to Superior Court.

C. Design Review Decision Criteria. The Department of Community Development may grant a design review approval, or grant the application as modified by conditions, when the following conditions are met:

1. The proposal is consistent with the comprehensive plan;

2. The proposal addresses all applicable design standards, criteria or requirements of this code in a manner that generally fulfills their purpose and intent. Minor modifications to the design standards may be allowed by the Director where the standards conflict and where a flexible interpretation will allow compliance with the intent of the conflicting requirements;

3. The proposal is compatible with and responds appropriately to the intended character of the site and surrounding property, including appearance, scale, pedestrian and vehicular access, quality of materials, and physical characteristics of the site;

4. The proposal will be served by adequate public facilities, including but not limited to streets, fire protection, water, sewer, and drainage utilities.

D. Revisions to Design Review Approvals. A design review approval may be revised by using a new application reviewed under Process 2, or for small additions and minor revisions or minor new construction a limited amendment may be applied for. The Director may approve a limited amendment for a design review application using Process 1 if the following criteria are met:

1. The amendment maintains the design intent or purpose of the original proposal;

2. The amendment does not change vehicular access points or increase anticipated peak hour vehicle trips by more than five percent;

3. The site area is not expanded and gross floor area is not increased by more than five percent;

4. The amendment results in no major adverse environmental or land use impacts;

5. All conditions of the prior approval are met.

E. Design and site development review approvals shall terminate five years from the effective date of approval. The approval of the design and site development review may be extended for up to one year at the discretion of the Community Development Director upon written notification filed with the City at any time before the five-year approval period has expired, provided substantial construction or alteration has occurred as of the date of request for extension as characterized by the adopted building codes. (Ord. O-24-831 § 1 (Exh. C); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-12-499 § 12; Ord. O-12-490 § 12; Ord. O-11-444 § 1; Ord. O-10-415 § 8; Ord. O-99-109 § 1).

18.110.025 Design deviation.

A. Purpose and Applicability. The purpose of this chapter is to set forth the procedures and approval criteria for reviewing design deviations. If a deviation from standards set forth in the design standards is proposed, this chapter applies.

B. The Director of the Department of Community Development, or his designee, shall have the authority to decide upon a design deviation using Process 2 per Chapter 18.100 MVMC. Only if a proposal also has a design review pending may a design deviation be processed. The design review and design deviation shall be processed concurrently.

C. Decision Criteria. The Director may grant approval of the application for design deviation, grant approval of the application with conditions, or deny the application. The Director may grant the application when the applicant has demonstrated that the following criteria are met:

1. There are special circumstances applicable to the project site for which the design deviation is being requested; and

2. The design deviation is consistent with the overall goals of the design standards; and

3. The design deviation allows for a better design overall; and

4. The project for which a design deviation is being considered provides additional amenities and attributes that mitigate potential impacts; and

5. The design deviation is consistent in all other respects with the development regulations other than Chapter 18.70 MVMC.

6. Process 2 Design Deviation applications shall be submitted prior to and included in the initial Notice of Application or shall require Process 2 noticing pursuant to MVMC 18.100.190. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-10-415 § 9; Ord. O-05-304 § 5).

18.110.030 Site-specific rezones.

Site-specific rezones require a comprehensive plan amendment pursuant to MVMC 18.110.050. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-03-223 § 3; Ord. O-99-109 § 1).

18.110.040 Variances.

A. Purpose and Applicability. The purpose of this section is to set forth the procedures and approval criteria for reviewing variance applications. A variance is the mechanism by which an adjustment is made to specific regulations being applied to a particular piece of property. This chapter applies to each application for a variance to any bulk regulation, dimensional standard, or general development standard of this code, except for shoreline variances (see Chapter 14.05 MVMC) and modifications or exceptions to the critical areas regulations (see Chapter 18.60 MVMC).

B. Procedure for Reviewing Variances. The Department of Community Development shall have authority to consider and decide variance applications using Process 2, except when the variance application is consolidated with a Process 3 or Process 4 application. When a variance is consolidated with a Process 3 or 4 application, the higher level decision making process shall control. If Process 2 is used, the decision of the Department is appealable to the Hearing Examiner, whose decision is the final City decision (with optional right of reconsideration). The Hearing Examiner's decision on a variance appeal is only appealable to superior court.

C. Variances — Decision Criteria. The Director of Community Development may grant a variance request, or grant the request as modified by conditions, when the request is found to be in harmony with the general purpose and intent of this code. In addition, before any variance may be granted, it must be shown that:

1. The variance will not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the vicinity and zone of the subject property;

2. The variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property in order to provide it with use rights and privileges permitted to other properties in the vicinity and zone;

3. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located;

4. The variance is generally consistent with the comprehensive plan; and

5. The variance is not required due to a self-created circumstance.

D. Limitations on Authority. The decision maker may not grant a variance to:

1. The provisions of Chapter 18.30 MVMC establishing the allowable uses in each land use zone.

2. Any procedural, administrative, or enforcement provision of the land use code.

3. Any provision of the code which by its terms is not subject to a variance or which requires a separate process such as, but not limited to, a reasonable use exception to the critical areas requirements of Chapter 18.60 MVMC or applicable Shoreline Management Act requirements.

E. Life of Variance Approval. A variance shall run with the land in perpetuity if a complete Building Permit application is filed within one year of the granting of a variance related to proposed future construction. For variance approvals that do not require a Building Permit, the variance must be recorded with the King County Assessor's Department within 60 days following the City's final action. Compliance with any conditions of a variance approval is the responsibility of the current owner of the property, whether that is the original applicant or a successor. (Ord. O-16-598 § 1(B) (Exh. B); Ord. O-99-109 § 1).

18.110.050 Amendment of the comprehensive plan.

A. Purpose and Applicability. The purpose of this section is to establish the procedure and criteria to amend the City's comprehensive plan, including both policy amendments and amendments to the future land use map. An amendment to the comprehensive plan is a mechanism by which the City may modify its land use, development, or growth policies in order to respond to changing circumstances or needs of the City. This section applies to each application or proposal affecting the comprehensive plan.

B. Who May Initiate.

1. The City Council or the Planning Commission may initiate consideration of an amendment to the comprehensive plan map or goals and policies.

2. A property owner may file an application for an amendment to the comprehensive plan future land use map affecting only his or her own property.

3. Any resident, property owner, or business owner in the City may file an application to amend the goals or policies of the comprehensive plan.

4. Any person may request that the City Council or Planning Commission initiate an amendment to the goals or policies of the comprehensive plan.

C. Time to Initiate.

1. The City Council or the Planning Commission may initiate consideration of an amendment to the comprehensive plan map or goals and policies at any time.

2. Subject to subsection (C)(3) of this section, a property owner may file an application for an amendment to the comprehensive plan future land use map between January 1st and March 31st of any year. At any other time during the year, a property owner may request that the Planning Commission or City Council initiate consideration of an amendment to the comprehensive plan future land use map.

3. A resident, property owner, or business owner in the City may file an application to amend the goals or policies of the comprehensive plan between January 1st and March 31st of any year. At any other time during the year, a resident, property owner, or business owner may request that the Planning Commission or City Council initiate consideration of an amendment to the goals or policies of the comprehensive plan.

4. A property owner may not file an application for an amendment to the comprehensive plan future land use map unless at least three years have elapsed since the adoption or reaffirmation of the future land use map designation that would be changed by the proposed amendment. This time limit does not apply if the applicant submits a proposal different from one previously considered and not approved, or proves that there exists obvious technical error justifying the need for the amendment.

5. Regardless of the time of the application or the initiator of the proposal, the comprehensive plan may be amended only once each year (RCW 36.70A.130), subject to the exemptions in RCW 36.70A.130(2)(a), as now in effect or as may be subsequently amended. The City Council will review all Planning Commission recommendations and forward a consolidated amendment package to the State of Washington Office of Community Development at least 60 days prior to adoption.

6. Whenever an emergency exists the City may adopt amendments to the comprehensive plan at any time, consistent with RCW 36.70A.130(2)(b) and subsection (G) of this section, as now in effect or as may be subsequently amended.

D. Applicable Procedure.

1. The City will process an amendment to the comprehensive plan using Process 5 (MVMC 18.100.170).

2. The Growth Management Act (RCW 36.70A.130) allows jurisdictions to amend their comprehensive plans only once per year, except for certain exemptions and “emergencies.” At least 60 days prior to adoption, the City will send its annual package of comprehensive plan amendments to the Office of Community Development (OCD), and to other agencies as directed by OCD, for review and comment.

E. Submittal Requirements.

1. The Director shall specify the submittal requirements, including type, detail and number of copies, for a comprehensive plan amendment application to be deemed complete and accepted for processing.

2. The Director may waive specific submittal requirements determined to be unnecessary for review of an application.

F. Decision Criteria. The Planning Commission may recommend and the City Council may approve or approve with modifications an amendment to the comprehensive plan if:

1. There exists obvious technical error in the pertinent comprehensive plan provision; or

2. The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval or approval with modifications; and

3. The amendment bears a substantial relation to the public health, safety or welfare; and

4. The amendment addresses changed circumstances on the site or the needs of the City as a whole; and

5. The amendment is compatible with or complementary to the provisions of the comprehensive plan or other goals or policies of the City; and

6. If applicable to an identifiable property, the amendment is compatible with the existing or intended adjacent development on properties in the vicinity; and

7. The amendment will result in development which will not adversely impact community facilities and public infrastructure including but not limited to utilities, transportation, parks or schools; and

8. If applicable to an identifiable property, the site is suitable for development in general conformance with the City's development regulations.

G. Emergency Amendments. Emergency amendments to the comprehensive plan are those required in situations where regulatory action is needed to provide for the immediate protection of public health, safety, and welfare.

1. Emergency amendments to the comprehensive plan will be initiated by the City Council and an analysis will be provided by the City's staff at the direction of Council.

2. Emergency amendments will be reviewed by the Planning Commission at a public hearing, and a subsequent recommendation on the proposed emergency amendment will be forwarded to the City Council.

3. The City Council will evaluate the proposed emergency amendments based on the criteria set out in subsection (F) of this section and the recommendation of the Planning Commission. The Council may take action on the proposed emergency amendment after a public hearing. (Ord. O-24-831 § 1 (Exh. C); Ord. O-16-598 § 1(B) (Exh. B); Ord. O-01-167 § 1. Formerly 18.110.060).

Chapter 18.120

MASTER PLANNED COMMUNITY

(Repealed by Ord. O-16-598)