City of Ellensburg

Land Development Code Update

Public Hearing Draft, November 2013

NOTE: The provisions herein are intended to replace applicable land use regulations now found in ECC Titles 12 and 13.

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Article 1: General Provisions

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15.100 User Guide

15.100.010 How to use this code.

This code has been designed and written to make it as easy to use as possible. Below is a simple step by step procedure for helping property owners determine what can be built on their property, what the applicable standards are, and how to obtain necessary permits. To assist in understanding the code, all words that are *italicized* are defined in Chapter 15.130 in alphabetical order. (NOTE: THIS WILL BE DONE WHEN CODE IS PUBLISHED)

Step 1: What zoning district am I located in?

- See zoning map (IMBED LINK)

Step 2: What type of development can I do on my property?

- See **Article 3** (IMBED LINK), which addresses permitted uses and density/dimensional standards.

Step 3: What design provisions apply?

- First, see **Article 4** (IMBED LINK), which addresses standards for larger scale community design elements such as subdivisions (if applicable) and streetscape design (for streets adjacent to and/or within property).
- Second, see **Article 5** (IMBED LINK) for individual project design provisions. For non-residential and multifamily projects, most of the chapters in this article apply (such as site orientation standards, site planning and design elements, and building design). For detached single family uses, there are special standards in Chapter 15.540. Plus, some specialized site development issues warrant their own chapter including off-street parking (Chapter 15.550), landscaping (Chapter 15.570), and outdoor lighting (Chapter 15.580). It is also important to read the applicability sections at the beginning of each chapter in Article 5.

Step 4: Are there designated "Critical Areas" on my property?

- First, see **Article 6** for provisions related to the particular type of critical area (such as wetlands or geologically hazardous areas); and
- Second, check with the community development department to determine if there are any "critical areas" on your property.

Step 5: How do I get a permit to develop?

- First, see **Article 2** for permits, legislative actions, and procedures provisions.
- Second, determine what "Type" of review process applies for the particular development by reviewing ECC 15.210.050 (IMBED LINK).
- Third, review the requirements for each permit type starting with ECC 15.210.040, then looking at Chapter 15.220 for the actual procedures for each "Type" of review process.

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- Other chapters in Article 2 address specialized standards/procedures for subdivisions, environmental review, non-conforming structures or uses, and code enforcement.

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15.110 Purpose/Authority/Interpretation

15.110.010 Title.

This title shall be known as the Land Development Code for the city of Ellensburg, Washington, hereafter referred to as the LDC or the code.

15.110.020 Purpose.

The purpose of the LDC is to provide regulations by which the citizens of the city can guide the development of their community in a logical and orderly manner, maintain a quality environment and provide for the conservation, protection and enhancement of the public health, safety and general welfare. The LDC is not intended to create or otherwise establish or designate any particular class or group who will or should be specially protected or benefited by its terms. The LDC provides for the implementation of the goals and policies of the Ellensburg comprehensive plan through the adoption, administration and enforcement of zoning maps, regulations, procedures, and programs.

The LDC shall not be construed to relieve from or lessen the responsibility of any person, owning any land or building, constructing or modifying any structure or subdivision in the city, for damages to anyone injured or damaged either in person or property by any defect therein; nor shall the city or any agent thereof be held as assuming such liability by reason of any preliminary or final approval or by issuance of any permits or certificates authorized herein.

15.110.030 Authority.

The LDC is enacted under the authority granted to the city of Ellensburg by the Constitution of the State of Washington, the Optional Municipal Code (RCW Title 35A), and other sections of the Revised Code of Washington.

15.110.040 Severability.

The provisions of the LDC are declared to be severable. If any provision of the LDC or any code or document adopted by reference herein is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining provisions of the LDC. If any provision of the LDC is adjudged invalid or unconstitutional as applied to a particular property, use, building or other structure, the application of such portion of the LDC to other properties, uses, buildings, or structures shall not be affected.

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15.110.050 Scope.

A. Hereafter, no use shall be conducted, and no building, structure and appurtenance shall be erected, relocated, remodeled, reconstructed, altered, demolished or enlarged unless in compliance with the provisions of the LDC, and then only after securing all permits and approvals required hereby. It shall be unlawful to build or use any building or structure or to use premises in the city for any purpose or use other than the uses listed as being permitted in the zone in which such building, land, or premises is located.

B. Creation of or changes to lot lines shall conform to the use provisions, dimensional and other standards, and other applicable provisions of the LDC.

C. Non-project development and land use actions, including but not limited to rezones, annexations, and the adoption of plans and programs, shall comply with applicable provisions of the LDC.

D. Any building, structure or use lawfully existing at the time of passage of this title, although not in compliance herewith, may continue as provided in Chapter 15.240.

15.110.060 Roles and responsibilities.

A. The elected officials, appointed commissions, hearing examiner, and city staff share the roles and responsibilities for carrying out the provisions of the LDC.

B. The city council is responsible for establishing policy and legislation affecting land use within the city. The city council acts on recommendations of the reviewing body in legislative and quasi-judicial matters.

C. The planning commission is the designated planning agency for the city as specified by state law. The planning commission is responsible for a variety of discretionary recommendations to the city council on land use legislation, comprehensive plan amendments and certain quasi-judicial matters. The planning commission is the decision making body for conditional uses. SEE ECC 15.250.040. The planning commission duties and responsibilities are specified in the bylaws duly adopted by the planning commission.

D. The hearing examiner is responsible for certain quasi-judicial decisions designated by this title and the review of administrative appeals.

E. The landmarks and design commission is the designated body responsible for certain quasi-judicial and legislative decisions established by this title relating to properties identified as being on the Ellensburg Landmark Register.

F. The director shall have the authority to administer the provisions of the LDC, to make determinations with regard to the applicability of the regulations, to interpret unclear provisions, to require additional information to determine the level of detail and appropriate methodologies for required analysis, to prepare application and informational materials as required, to promulgate procedures and rules for unique circumstances not

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anticipated within the standards and procedures contained within the LDC, to decide all requests for non-landmark register departures from the City's design standards (See ECC 15.210.060 for "departure" provisions), and to enforce requirements.

G. The rules and procedures for proceedings before the hearing examiner, appointed review bodies, and city council are adopted by ordinance and available from the city clerk's office and the department.

15.110.070 Relationship to other codes.

The LDC is part of a comprehensive program of regulation related to land use and development within the city. The Ellensburg City Code (the "ECC") contains other regulations that relate, directly or indirectly, to land use and development, including but not limited to, hearing examiner (Chapter 1.70A), building and fire (Title 3), traffic (Title 8), utilities (Title 9), annexation (Title 10), and impact fees (Title 14). In order to understand all of the regulations that may relate to land use and development, readers are advised to consult both the LDC and the ECC.

15.110.090 Interpretation of terms.

A. For the purposes of the LDC, unless it is plainly evident from the context that a different meaning is intended, certain words and terms are herein defined as follows:

1. The word "shall" is always mandatory, while the word "should" is not mandatory, and "may" is permissive.
2. Words in the present tense include the future, the singular includes the plural and the plural includes the singular.
3. The word "and" indicates that all connected items or provisions apply.
4. The word "or" indicates that the connected items or provisions may apply singularly or in any combination.
5. The term "either/or" indicates that the connected items or provisions shall apply singularly but not in combination.
6. Where terms are not specifically defined in ECC 15.130.060, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language, latest edition, shall be considered in determining ordinarily accepted meanings.

B. Illustrations found herein are not intended to supersede or replace written definitions, restrictions or standards.

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15.120 Comprehensive Plan

15.120.010 Comprehensive Plan.

The city of Ellensburg comprehensive plan, as amended in 2007 to comply with the Growth Management Act and as may subsequently be amended thereafter, was adopted pursuant to Ordinance 4474 (2007) and is incorporated herein by this reference. The regulations contained within the LDC are intended to be consistent with and implement this comprehensive plan.

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15.130 Definitions

The following definitions apply to the LDC unless specifically identified as applying to only a specific Chapter or section of the LDC.

NOTES:

1. ECC Chapter 15.270 *Environmental Procedures – State Environmental Policy Act (SEPA)* adopts by reference a number of definitions from the Washington State Administrative Code (WAC) for SEPA purposes. Where a conflict exists between a definition below and a definition adopted by reference from a WAC within ECC Chapter 15.270, the definition adopted by reference in Chapter 15.270 shall be applicable for purposes of ECC Chapter 15.270.
2. All ECC Article 6 *Critical Areas* definitions are set forth within Article 6. Where a conflict exists between a definition below and a definition within Article 6, the definition in Article 6 shall be applicable for purposes of Article 6.

15.130.010 A definitions.

Accent lighting. "Accent lighting" means any luminaire that emphasizes a particular object or draws attention to a particular area for aesthetic purposes.

Accessory building. "Accessory building" means a subordinate building or portion of the main building, the use of which is incidental and related to that of the main building use on the same lot. See ECC 15.320.110 for related standards.

Accessory dwelling unit (ADU). "Accessory dwelling unit" means a self-contained residential unit that is accessory to a single-family home on a lot and may be added to, created within, or detached from the primary single-family dwelling unit. An accessory dwelling unit has its own bathroom, kitchen facilities, living and sleeping areas, though it can share other features with the single-family dwelling including the yard, parking, or storage. See ECC 15.540.040 for special ADU design provisions.

Accessory use. "Accessory use" means on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. See ECC 15.310.030 for special accessory use provisions.

Administrative decision. "Administrative decision" means any decision made by the decision-maker. This includes decisions on code interpretation related to permit applications, and decisions as to whether or not permit applications meet the standards for any project that requires a decision.

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Adult family home. "Adult family home" means a residential home in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services."

Affordable housing unit. "Affordable housing unit" means, for the purpose of ECC 15.330.020, housing reserved for occupancy by eligible households and affordable to households with annual incomes below eighty percent of the regional median income, adjusted for household size, and no more than thirty percent of the monthly household income is paid for monthly housing expenses. Housing expenses for ownership housing include mortgage, property taxes, property insurance, and homeowner dues. Housing expenses for rental housing include rent and appropriate utility allowance.

Agriculture. "Agriculture" means the use of land for farming, dairying, pasturing and grazing, horticulture, floriculture, viticulture, apiaries, animal and poultry husbandry, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, and accessory activities, including, but not limited to, storage, harvesting, feeding or maintenance of equipment, but excluding stockyards, slaughtering or commercial food processing.

Airport. "Airport" means, for the purpose of ECC Chapter 15.350, the Kittitas County Airport (Bowers Field).

Airport elevation. "Airport elevation" means, for the purpose of ECC Chapter 15.350, 1,766 feet above mean sea level.

Airport overlay zone. "Airport overlay zone", as established in ECC Chapter 15.350 shall include the runway protection zone, inner safety zone, inner turning zone, outer safety zone, sideline zone, and the airport operation zone as depicted on Map "B," "Safety Zones" and numbered Zones 1 through 6, respectively, and shall also encompass the area identified within 14 CFR Federal Aviation Regulation (FAR), Part 77, as amended and depicted on Map "A," "Part 77."

Airport surface. "Airport surface" means, for the purpose of ECC Chapter 15.350, a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface along the same slope as the approach zone height limitation slope set forth in ECC 15.350.030. The perimeter of the approach surface coincides with the perimeter of the approach zone.

Alley. "Alley" means a thoroughfare which has been dedicated or deeded to the public for public use and which affords a secondary means of access to abutting property in most cases.

Alter or alteration. "Alter" or "alteration", for purposes of the LDC, means any construction or remodeling which modifies all or part of the the exterior appearance of a building, structure, or site, including but not limited to addition, removal, or replacement of architectural features; redesign of building components; change or substitution of existing materials; change of paint color; and site improvements. For purposes of ECC Chapter 15.240, *Nonconformance,* "alter" or "alteration" shall be as defined in ECC Chapter 15.240. For purposes of ECC Title 3, *Building and Fire*, "alter" or "alteration" shall be as defined in the International Building Code and International Residential Code.

Alteration, sign. "Alteration" means any change of copy, sign face, color, size, shape, illumination, position, location, construction, or supporting structure of any sign.

Appeal, closed record. A "closed record appeal" means an administrative appeal on the record to a local government body or officer, including the legislative body, following an open record hearing decision on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed. The appeal may be granted or granted with modifications if the appellant proves that the decision of the decision making body is not supported by a preponderance of the evidence or is clearly erroneous. In all other cases, the appeal shall be denied. In the appeal consideration, substantial weight shall be accorded to the decision maker's decision.

Appeal, open record. An "open record appeal" means an administrative appeal of a Type I or II decision that creates the City's record through testimony and submission of evidence and information under procedures prescribed by the City by ordinance or resolution. An open record appeal hearing may be held only if there has been no open record pre-decision hearing held on the project permit application.

Applicant. "Applicant" means any person, firm or corporation, other entity or authorized representative undertaking an application for a development proposal, permit, or approval.

Approach, transitional, horizontal, and conical zones. "Approach, transitional, horizontal, and conical zones" are set forth and defined in ECC 15.350.030.

Arts Commission. "Arts Commission" means the City Arts Commission created in Chapter 1.33 ECC.

Average gross floor area. The gross floor area of a building divided by the number of floors.

Awning. "Awning" means a covering structure constructed of canvas, cloth, or other flexible material projecting horizontally from and attached to a building.

Approach, transitional, horizontal, and conical zones. "Approach, transitional, horizontal, and conical zones", for the purpose of ECC Chapter 15.350, are set forth and defined in ECC 15.350.030.

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Articulation. "Articulation" means the giving of emphasis to architectural elements (like windows, balconies, entries, etc.) that create a complimentary pattern or rhythm, dividing the large buildings into smaller indentifiable pieces.

15.130.020 B definitions.

Basement. "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

Bed and breakfast. "Bed and breakfast" means overnight accommodations and a morning meal in a dwelling unit provided to transients for compensation. See ECC 15.340.010 for applicable provisions.

Binding site plan. "Binding site plan" means an alternative method of land division authorized by RCW 58.17.035, for the sale or lease of commercial, mixed-use, or industrial properties, condominiums and manufactured home parks that is more flexible than traditional subdivision procedures. See ECC 15.260.120 for applicable provisions.

Block. "Block" means a group of lots, tracts or parcels bounded by streets, pedestrian access ways, and other private internal circulation routes that allow for public access. For the purpose of block design provisions development proposal, permit, or approval, blocks are bounded by streets, pedestrian access ways, and other private interval circulation routes that allow for public access.

Boarding houses, lodging houses, sororities, fraternities. "Boarding houses, lodging houses, sororities, fraternities" means an establishment with lodging for 5 or more persons on a weekly or longer basis with a central kitchen and dining area maintained exclusively for residents and their guests.

Boundary line adjustment. A division of land made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, 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 dimension to meet minimum requirements for width and area for a building site. A boundary line adjustment may also include an extinguishment of an existing lot line resulting in the merger of 2 or more lots into a single lot of record. See ECC 15.260.050 for applicable provisions.

Brewpub. "Brewpub" means a restaurant that manufactures up to 5,000 barrels of fermented malt beverages per year on premise as an accessory use. Such an accessory use shall not occupy more than 30 percent of the gross floor area of the restaurant.

Building. "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.

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Building height. "Building height" means the vertical distance measured from the highest elevation of the proposed finished grade around the building to the highest point of the structure.

Building official. "Building official" means the city of Ellensburg Building Official or designee.

Built Green of Central Washington. "Built Green of Central Washington" is a residential green building rating program covering Kittitas, Yakima and Klickitat Counties and administered by the Central Washington Home Builders Association. Built Green currently certifies only single-family residential development using a menu of prescriptive measures based on the National Association of Home Builder's (NAHB) National Green Building Standard. Projects earn between a 2 – 5 star rating based on the number of "points" achieved during the design and construction process. Only those projects seeking 4- and 5- star certification required verification by a third party. Link: www.builtgreencw.org

Business or professional office. "Business or professional office" means an office wherein business, technical or scientific services are rendered involving labor, skill, education and special knowledge for certain compensation or profit, but such labor, skill, education and special knowledge being predominantly mental or intellectual, rather than physical, manual or mercantile in nature. Examples of such uses would include, but not be limited to, the offices of lawyers, accountants, dentists, physicians, brokers, insurance agents, and optometrists.

15.130.030 C definitions.

Cannabis. "Cannabis", for the purpose of ECC Chapter 15.370, means all parts of the plant *Cannabis,* whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. For the purposes of this ordinance, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term "cannabis" includes cannabis products and useable cannabis.

Cannabis products. "Cannabis products", for the purpose of ECC Chapter 15.370, means products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three-tenths of one percent, and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term "cannabis products" does not include useable cannabis. The definition of "cannabis products" as a measurement of THC concentration only applies to the provisions of this ordinance and shall not be considered applicable to any criminal laws related to marijuana or cannabis.

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Certificate of approval or COA. "Certificate of approval" or "COA" means the approval issued by the commission for alterations to a designated landmark, or to a property located within a landmark historic district, certifying the changes as having no adverse affect on the significant features of the property that contributed to its designation. See ECC 15.280.

Certified local government or CLG. "Certified local government" or "CLG" means a local government certified by the Washington State Historic Preservation Officer as having established its own historic preservation commission and a program meeting federal and state standards. See ECC 15.280.

City. "City" means the incorporated city of Ellensburg, county of Kittitas, state of Washington, and its appointed or elected officials.

City clerk. "City clerk" means the city clerk of Ellensburg or his/her designee.

Class of properties eligible to apply for special valuation in the city of Ellensburg. "Class of properties eligible to apply for special valuation in the city of Ellensburg" means only those properties listed on the Ellensburg landmarks register, or the National Register of Historic Places, or properties contributing to an Ellensburg landmarks register historic district, which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW. Also see ECC 15.280.

Closed record hearing. "Closed record hearing" means a final decision hearing by a local government body or officer, including the legislative body, following an open record hearing on a project permit application which results in a pre-decision recommendation being made by that government body or officer. The closed record hearing is based on the record developed in the pre-decision open record hearing, with no or limited new evidence or information allowed to be submitted and the final decision is issued based on that record.

Collective Garden. "Collective Garden", for the purpose of ECC Chapter 15.370, means those gardens authorized under RCW 69.51A.085, which allows qualifying patients to assume responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies, and labor necessary to plant, grow, and harvest cannabis; cannabis plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants (as limited below). Qualifying patients may create and participate in collective gardens for the purpose of producing, processing, transporting and delivering cannabis for medical use subject to the following conditions:

1. No more than ten qualifying patients may participate in a single collective garden at any time;
2. A collective garden may contain no more than fifteen plants per patient up to a total of forty-five plants;

3. A collective garden may contain no more than twenty-four ounces of usable cannabis per patient up to a total of seventy-two ounces of usable cannabis; and
4. A copy of each qualifying patient's valid documentation or proof of registration with the registry established in state law (now or in the future), including a copy of the patient's proof of identity, must be available at all times on the premises of the collective garden; and
5. No usable cannabis from the collective garden may be delivered to anyone other than one of the qualifying patients participating in the collective garden.

Community garden. "Community garden" means an open space with a series of garden plots that are used by residents of a development. It can also be a publicly accessible open space for use by residents of the neighborhood or City. The plots can be used to grow flowers, vegetables, herbs, or other plants. See ECC 15.520.030(E)(5) for community garden standards associated with multifamily developments.

Community residential facility (CRF). "Community residential facility" means a facility that provides, on a regular basis, personal care, including dressing and eating and health-related care and services for at least five, but not more than 15 functionally disabled persons and which is not licensed under Chapter 70.128 RCW. A residential care facility shall not provide the degree of care and treatment that a hospital or long-term care facility provides.

Comprehensive plan. "Comprehensive plan" means the long-range plan used as a guide for the physical, economic, and social development of Ellensburg, as adopted by the Ellensburg city council on March 19, 2007, including all subsequent amendments thereto, Ordinance No. 4474, 2007.

Conditional use. "Conditional use" means a use which may be appropriate on a specific parcel of land within a given zoning district under certain conditions, but which is not appropriate on all parcels within the same zoning district. Such conditional uses may be permitted in such zoning districts, but only if specific provision for such conditional use is made in this title. See ECC 15.240.040 and ECC Article 3.

Conference center. "Conference center" means an establishment developed primarily as a meeting facility, including only facilities for recreation, overnight lodging, and related activities provided for conference participants.

Conical surface. "Conical surface" means, for the purpose of ECC Chapter 15.350, a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 feet upward to each one foot outward for a horizontal distance of 4,000 feet.

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Cottage Housing. "Cottage housing" means a type of housing design established in ECC 15.540.050 that consists of small, detached dwelling units arranged in a cluster of four to 12 dwelling units around a common central open space at a density greater than the underlying zoning district. Such dwelling units may not exceed 1,200 total square feet in size and may be configured as condominiums or fee simple lots.

Council. "Council" means the duly constituted legislative authority of the city of Ellensburg.

Crime Prevention through Environmental Design (CPTED). "CPTED" means a multi-disciplinary approach to deterring criminal behavior through environmental design. CPTED strategies rely upon the ability to influence offender decisions that precede criminal acts by affecting the built, social and administrative environment.

Critical areas. "Critical areas" include the following areas and ecosystems: wetlands; areas with a critical recharging effect on aquifers used for potable water; fish and wildlife habitat conservation areas; frequently flooded areas; and geologically hazardous areas. See ECC Article 6.

Critical facilities. "Critical facilities" means facilities for which even a slight chance of flooding would represent a major risk. Critical facilities include, but are not limited to, schools, hospitals, police, fire and emergency response installations, nursing homes, installations which produce, use or store hazardous materials or hazardous waste of a type and in amounts deemed to be inappropriately located in a 100-year floodplain. See ECC Article 6.

Cultivation. "Cultivation", for the purpose of ECC Chapter 15.370, means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.

Cut-off angle. "Cut-off angle" (of a luminaire) means the angle measured from the lowest point between a vertical line from the center of the lamp extended to the ground and the first line of sight at which the bare source is not visible.

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15.130.040 D definitions.

Day care. "Day care" means an establishment for group care of nonresident adults or children. Specifically:

1. Day care shall include child day care services, adult day care centers, and the following:
    a. Adult day care, such as adult day health centers or social day care as defined by the Washington State Department of Social and Health Services;
    b. Nursery schools for children under minimum age for education in public schools;
    c. Privately conducted kindergartens or pre-kindergartens when not a part of a public or parochial school; and
    d. Programs covering after-school care for school children.
2. Day care establishments are subclassified as follows:
    a. Day care I – a maximum of 12 adults or children in any 24-hour period; and
    b. Day care II – over 12 adults or children in any 24-hour period.

Decision-maker. "Decision-maker" refers to the individual or official body identified in the LDC as having the responsibility to approve or deny project permit applications made to the city.

Dedications. "Dedications" means a deliberate appropriation of land by an owner in fee simple, for any general and public use.

Department. "Department" means the Ellensburg community development department.

Departure. "Departure" means an alternative way to meet specific design standards set forth in this title. See ECC 15.210.060 for general information and procedures associated with departures.

Designated care provider. "Designated care provider", for the purpose of ECC Chapter 15.370, means a person who:

1. Is eighteen years of age or older;
2. Has been designated in a written document signed and dated by a qualifying patient to serve as a designated care provider under this ordinance and RCW 69.51A; and
3. Is in compliance with the terms and conditions set forth in RCW 69.51A.040. A qualifying patient may be the designated care provider for another qualifying patient and be in possession of both patients' cannabis at the same time.

Design review, minor project. "Design review, minor project" refers to the review process required for construction activity requiring a permit meeting the following criteria:

1. The construction of any new nonresidential building with a gross floor area of less than 15,000 square feet or more;
2. The construction of any new residential building which contains less than 10 dwelling units; or
3. Exterior modifications and building additions except:
    a. Minor exterior modifications per ECC 15.250.030(B)(3);
    b. Non-residentiall building additions that result in 15,000 square feet or more of floor area; and
    c. Residential building additions that add 10 or more dwelling units; and
3. The development is not located on the Landmarks Register as established in ECC 15.280.080.

See ECC 15.250.030 for details on the design review process.

Design review, major project. "Design review, major project" refers to the review process required for construction activity requiring a permit meeting one or more of the following criteria:

1. The construction of any new nonresidential floor area with a gross floor area of 15,000 square feet or more (including new buildings or additions to existing buildings);
2. The construction of any new residential building or a residential building addition which contains 10 or more dwelling units; or
3. All construction activity requiring a building permit which will result in any new structure or alter the exterior appearance of an existing building on the Landmarks Register as established in ECC 15.300.080.

See ECC 15.250.030 for details on the design review process.

Development. "Development" means the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, grading, landfill, drainage, removal of vegetation, or disturbance of land or water; and use of land or water or the intensification or expansion of the use of land or water.

Development agreement. "Development agreement" means a contract between an applicant and the city defining their respective roles and responsibilities for final approval of a land development.

Development application. "Development application" means a written request completed by a developer, seeking City approval for a development.

Development approval. "Development approval" means any authorization issued by the city of Ellensburg which approves a development.

Director. "Director" means the city of Ellensburg community development director or his/her designee, unless otherwise specified.

Docket. "Docket" (noun) means the process for determining which proposed annual comprehensive plan amendments will be considered during the annual review process. See ECC 15.250.090.

Dual frontage properties. "Dual frontage properties" refers to properties that have street frontage on 2 opposite boundaries, one of which is the street address and primary access.

Dwelling, cottage. "Cottage" means a small single family dwelling that is clustered with other similar units surrounding a common open space. See ECC 15.540.050 for special cottage housing provisions.

Dwelling, duplex. "Duplex" refers to a building that is entirely surrounded by open space on the same lot and contains 2 dwelling units or two dwelling units that are physically separated but on the same lot. See ECC 15.540.030 for special duplex provisions.

Dwelling, live-work unit. "Live-work unit" means an individual dwelling unit that is used for residential and non-residential use types. The dwelling unit type may be any type that is permitted in the applicable zoning district. Permitted non-residential uses may be those that are permitted in the applicable zoning district.

Dwelling, multifamily. "Multifamily" refers to a building that contains 3 or more dwelling units.

Dwelling, townhouse. "Townhouse" refer to a row of 3 or more attached single family dwellings. Each unit has its own front and/or rear access to the outside. See ECC 15.540.060 for special townhouse provisions.

Dwelling, triplex. "Triplex" refers to a building that is entirely surrounded by open space on the same lot and contains 3 dwelling units or 3 dwelling units that are physically separated but on the same lot. See ECC 15.540.030 for special triplex provisions.

Dwelling, single-family. "Single-family dwelling" means a dwelling that is entirely surrounded by open space on the same lot, and which is designed for and occupied exclusively by one family and the household employees of the family, if any. See ECC 15.540.020 for special single family dwelling provisions.

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Dwelling unit. "Dwelling unit" or "dwelling" means a building or portion thereof providing complete housekeeping facilities for one family. A "dwelling unit" does not include a motel or hotel, which is separately defined.

15.130.050 E definitions.

Early notice. "Early notice" means the city's response to an applicant stating whether it considers issuance of a determination of significance is likely for the applicant's proposal pursuant to WAC 197-11-350. See ECC 15.270.

Easement. "Easement" means a grant by a property owner to specific persons or to the public to use land for a specific purpose or purposes. This may include pedestrianways, bicycle paths, utility easements, drainage, open space, etc.

Elevation. "Elevation" means the height of an object in relation to mean sea level. When referred to in relation to architectural drawings, "elevation" means the architectural view of the front, side, or back surface of a structure to include doors, windows, and rooftop screening that is an extension of the façade, but excluding any roof area and rooftop equipment or structures.

Essential public facilities. "Essential public facilities" means those facilities identified in RCW 36.70A.200 that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020. See ECC 15.250.100.

15.130.060 F definitions.

Family. "Family" means one or more persons occupying a dwelling unit and living as a single housekeeping unit as distinguished from a group occupying a boarding or lodging house or hotel.

Farmers' markets. "Farmers' market" means a public market at which farmers and other vendors sell agricultural products, crafts, and food and beverages.

Federal Aviation Administration (FAA). "Federal Aviation Administration" is the national aviation authority of the United States.

Fence. "Fence" means a barrier composed of posts or piers connected by boards, rails, panels, or wire, or a masonry wall designed for the purpose of enclosing space or separating parcels of land. "Fence" does not include retaining walls.

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Fill or fill material. "Fill or fill material" means earth or other solid material that is brought onto a property for use in regrading the ground surface; stabilizing on-site soils for support of structures, pavement, and other property features; altering watercourses or wetlands; or other purposes where the material becomes a part of the property. Fill material does not include such things as topsoil, beauty bark, compost, sand, gravel, or crushed rock used as a landscaped surface treatment.

Final subdivision or plat. "Final subdivision or plat" means the final drawing of the subdivision and dedication prepared for filing for record with the county auditor and containing all requirements set forth in Chapter 58.17 RCW and in this title. See ECC Chapter 15.260.

Fish and wildlife habitat conservation areas. "Fish and wildlife habitat conservation areas" means areas which include the following: See ECC Article 6

1. Areas in which endangered, threatened, and sensitive species have a primary association.
2. All naturally occurring ponds and their submerged aquatic beds that provide fish or wildlife habitat.
3. Areas of local importance for those species which are present in the community.
4. All lakes, ponds, streams and rivers planted with game fish by a governmental or tribal entity.

Fixture. "Fixture" (also called a "luminaire") means a complete lighting unit including the lamps, together with the parts required to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.

Flood. "Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation or runoff of surface waters. See ECC Article 6.

Flood insurance rate maps. "Flood insurance rate maps" means those maps which depict the various flood insurance rate zones of the 100-year floodplain which are determined by the Federal Emergency Management Agency. This term is interchangeable with "floodplain maps." See ECC Article 6.

Floodplain. "Floodplain" means that area of land shown on the city's flood insurance rate maps as being inundated by the waters of the 100-year flood. See ECC Article 6.

Floodway. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. See ECC Article 6.

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Floor area. "Floor area" means the sum of the gross horizontal area of the floor or floors measured from the exterior faces of the exterior walls, including elevator shafts and stairwells on each floor and all horizontal areas having a ceiling height of 7 feet or more, but excluding all parking and loading spaces, cellars, unroofed areas, roofed areas open on 2 sides, areas having ceiling height of less than 7 feet and basements used exclusively for storage or housing of mechanical or central heating equipment.

Floor area, gross (GFA). "Gross floor area" means the sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls. The term gross floor area includes basements, elevator shafts and stairwells at each story, floor space used for mechanical equipment with structural head room, interior balconies, and mezzanines. For the purpose of determining off-street parking requirements, this definition excludes areas within the building used for parking and loading purposes.

Floor area ratio (FAR). "Floor area ratio" means dividing the floor area of all buildings on a lot by the area of that lot.

Foot candle. "Foot-candle" means a measure of luminance or a measure of how bright a light appears to the eye. One foot-candle is equal to one lumen/square foot. As an example, a typical 60-watt incandescent lamp (840 lumens) produces a luminance of one-tenth foot-candle at a distance of about 25 feet.

Fossil fuel light. "Fossil fuel light" means any outdoor lighting fixture producing light directly by the combustion of natural gas or other fossil fuel.

Frontage. "Frontage" means either the front of the lot abutting a street or the front of a building (where the main entrance to the particular use is), depending on the context it is used in. Unless the context specifically refers to "building frontage", the term frontage shall mean the front of the lot abutting the street. Where a lot is adjacent to multiple streets, then it has multiple frontages, for the purpose of the standards in this title unless otherwise noted.

Frequently flooded areas. "Frequently flooded areas" means lands within the floodplain subject to a one percent or greater chance of flooding in any given year. These lands shall be consistent with all designations of the Federal Emergency Management Agency (FEMA) and the National Flood Insurance Program. These are designated on the FEMA flood insurance rate map set by the Federal Insurance Administration as being inundated by the waters of the 100-year flood. See ECC Article 6.

Fruit stand. "Fruit stand" means a building, structure, or land area used for the sale of fresh fruit or vegetables grown on-site.

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15.130.070 G definitions.

Garage, private. "Private garage" means an accessory building or an accessory portion of the main building designed and/or used for shelter or storage of automobiles, boats, and/or any other vehicles owned or operated by the occupants of the main building, and in which no occupation for profit is carried on. (See also ECC 15.320.060, Accessory building.)

Gated community. "Gated community" means a development that is surrounded by a fence and featuring controlled access at the entry or entries. See ECC 15.420.030 for related provisions.

General service establishment. "General service establishment" refers to a category of uses whose primary activity is the provision of assistance, as opposed to products, to individuals, businesses, industry, government, and other enterprises. Specific uses in this category include but are not limited to postal and courier services, equipment rentals, repair shops, laundries, automobile fueling, veterinary clinics, and other services.

Geologically hazardous areas. "Geologically hazardous areas" means areas reasonably subject to significant hazards because of their susceptibility to erosion, sliding, earthquake or other geological events and as such are not suited to siting commercial, residential or industrial development consistent with public health or safety concerns. The intent is to classify and designate areas on which development should be prohibited, restricted or otherwise controlled because of danger from geological hazards. Those areas in the city designated as having slopes which exceed 40 percent are designated as geologically hazardous areas and subject to the requirements of ECC Article 6 - Critical Areas District.

Glare. "Glare" means light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

Grade. "Grade" means the elevation of the ground surface. "Existing grade," and "finish grade" are defined as follows:

1. "Existing grade" means the grade before grading; and
2. "Finished grade" means the final grade of the site that conforms to an approved plan.

Green roof. "Green roof" is an area of living vegetation installed on top of buildings that can help mitigate stormwater runoff, increase thermal and acoustical properties within the building, and provide habitat for wildlife.

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15.130.080 H definitions.

Hazardous waste. "Hazardous waste," for the purpose of this title, means and includes all dangerous and extremely hazardous wastes designated in WAC 173-303-040, 173-303-070 through 173-303-103, and RCW 70.105.010.

Hazard to air navigation. "Hazard to air navigation" means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Hearing, open-record. "Open record hearing" means a hearing, conducted by a single hearing body or officer that creates the record through testimony and submission of evidence and information, under procedures prescribed by ordinance or resolution. An open record hearing may be held prior to the decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal,"(see definition for "appeal, open record") but only if no open record predecision hearing has been held on the project permit.

Heavy industry. "Heavy industry" means construction, mining, manufacturing, transportation, and public utilities due to the land use intensity impacts typically associated with large industrial uses, their accessory outdoor storage uses, and large building areas. This use category includes, but is not limited to food processing, wrecking yards, breweries, building material manufacturing, chemical plants, concrete and asphalt plants, freight facilities, and livestock feeding lots.

Heavy retail and service. "Heavy retail and service" includes retail and/or service activities that may have exterior service or storage areas. This use category includes, but is not limited to contractors, agricultural supplies, building materials, manufactured homes, heating fuels, truck stops, outdoor display/sales, and warehousing in buildings no larger than 50,000 gross square feet in area.

Height. "Height," for the purpose of determining the height limits in all airport overlay zones set forth in Chapter 15.350 and shown on the airport overlay zone (A-O) Map "A," the datum shall be mean sea level elevation unless otherwise specified.

For the purpose of building height, see the definition of "building height" set forth in ECC 15.130.020.

Historic resource inventory or inventory. "Historic resource inventory" or "inventory" means the comprehensive inventory of historic properties within the boundaries of the city. See ECC 15.280.

Home occupation. "Home occupation" means any activity undertaken for gain or profit that results in a product or service and is carried on in a dwelling, or building accessory to a dwelling. See ECC 15.340.020 for applicable standards.

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Homeowners association. "Homeowners association" means a corporation, unincorporated association, or other legal entity, each member of which is an owner of residential real property located within the association's jurisdiction, as described in the governing documents, and by virtue of membership or ownership of property is obligated to pay real property taxes, insurance premiums, maintenance costs, or for improvement of real property other than that which is owned by the member. "Homeowners' association does not mean an association created under chapter 64.32 or 64.34 RCW. See ECC 15.290.020 for provisions associated with maintenance and control of common areas, parking areas, open spaces, access areas, buffer areas, and any and all other common aspects of a development project.

Horizontal surface. "Horizontal surface" means, for the purpose of ECC Chapter 15.350, a horizontal plane 150 feet above the established airport elevation.

Hospital. "Hospital" means an institution and associated clinics and facilities receiving in-patients and out-patients and rendering medical, surgical and/or obstetrical care.

Hotel. "Hotel" means any building or portion thereof in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a boarding, lodging, sorority or fraternity house.

15.130.090 I definitions.

Impervious surface. "Impervious surface" means any hard surfaced, man-made area that does not readily absorb or retain water, including, but not limited to, building roofs, parking areas, graveled areas, sidewalks, and paved recreation areas.

Improvement. "Improvement" means any building, structure, or object constituting a physical improvement of real property.

Incentives. "Incentives" are such compensation, rights, privileges, or combinations thereof which the Ellensburg city council or other county, state, or federal public agencies, by virtue of applicable present or future legislation, may be authorized to grant or obtain for the owner(s) of designated landmarks, landmark sites, or landmark districts. Examples of economic incentives include, but are not limited to, tax relief, conditional use permits, rezones, street vacations, transfers of development rights, facade easements, gifts, preferential leasing policies, private or public grants-in-aid, beneficial placement of public improvements or amenities, or the like. See ECC 15.280.

Indoors. "Indoors", for purpose of ECC Chapter 15.370, means within a fully enclosed and secure structure that complies with the Washington State Building Code, as adopted by the City of Ellensburg, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be

broken through, such as 2 inches by 4 inches or thicker studs overlain with 3/8 inch or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

Installed. "Installed" means the initial installation of outdoor light fixtures, as defined herein, made subsequent to the enactment of the ordinance codified in this chapter and shall not pertain or apply to those outdoor light fixtures existing at the time of enactment of the ordinance codified in this chapter, or to the maintenance or replacement of existing fixtures with like or similar fixtures.

Interim recycling facility. "Interim recycling facility" means a site or establishment engaged in collection or treatment of recyclable materials, which is not the final disposal site, and including:

1. Drop boxes;
2. Source-separated, organic waste processing facilities; and
3. Collection, separation and shipment of glass, metal, paper or other recyclables.

15.130.100 J definitions.

15.130.110 K definitions.

Kennel. "Kennel" or shelter means any outdoor or indoor facility, which houses four or more small domestic animals (that number not including one unweaned litter) for periods longer than 24 hours as a commercial venture, as a nonprofit organization, or for a governmental purpose. The facility may be either a separate business or an accessory use. A kennel is to be distinguised from a veterinary clinic which houses animals for periods that may exceed 24 hours as a commercial venture that is accessory to the primary medical activity performed in a veterinary clinic – See definition of "Office, medical".

15.130.120 L definitions.

Lamp. "Lamp" means the light-producing source installed in the socket portion of a luminaire.

Landmark. "Landmark" means any historic property and the improvement(s) thereon designated as a landmark pursuant to ECC Chapter 15.280.

Landmark district. "Landmark district" means a contiguous geographic area of multiple properties and/or improvements thereon designated as a landmark district pursuant to ECC Chapter 15.280.

Landmark site. "Landmark site" means a property, with or without improvements or above-ground features, designated as a landmark site pursuant to ECC Chapter 15.280.

Landmarks and Design Commission. "Landmarks and Design Commission" means the commission created in ECC 15.280.030.

Landmarks register, or register. "Landmarks register," or "register" means the local listing of historic properties designated as landmarks, landmark sites, or landmark districts pursuant to criteria set forth in ECC 15.280.080.

Larger than utility runway. "Larger than utility runway" means a runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.

Leadership in Energy and Environmental Design (LEED). "LEED" is a green building certification system used throughout North America and internationally. Administered by the U.S. Green Building Council (USGBC), various LEED rating systems apply to residential, commercial and institutional buildings. Each rating system consists of a checklist of prescriptive and performance-based measures and certification is earned based on the number of "points" a project achieves during the design and construction process. Certification is administered through the Green Building Certification Institute. Link: www.usgbc.org

Legal parcel. "Legal parcel", for the purpose of ECC Chapter 15.370, means a parcel of land for which one legal title exists. Where contiguous legal parcels are under common ownership or control, which for purposes of this ordinance shall also include parcels organized as a condominium, such legal parcels shall be counted as a single parcel.

Light industry. "Light industry" refers to a category of uses that accommodate limited intensity levels of manufacturing and assembly activities, storage, warehousing, services, associated offices and similar uses. This use category includes, but is not limited to contractors, call centers, textiles, wood products, printing, pharmaceuticals, machinery manufacturing, research and development, regional distribution, and crematories.

Light pollution. "Light pollution" means general sky glow caused by the scattering of artificial light in the atmosphere and resulting in decreased ability to see the natural night sky.

Light trespass. "Light trespass" means any light emitted by an outdoor luminaire that shines directly beyond the property on which the luminaire is installed, or indirectly shines beyond the property on which the luminaire is installed at a brightness (luminance) that exceeds one-half foot-candle at the property line.

Living Building Challenge. "Living Building Challenge" is certification program administered by the International Living Future Institute. It addresses both residential and commercial buildings and developments and is comprised of a list of 20 performance-based imperatives, or mandatory requirements necessary to achieve certification. A Living Building must be completed and occupied for a minimum of 12-months prior to certification, which is based on actual rather than predicted performance. Link: www.ilbi.org

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Long Plat. "Long plat" or "subdivision plat" means the map or representation of a subdivision of land into 10 or more lots, tracts or parcels, both in preliminary and final form, containing all of the pertinent information as required by this title. See ECC Chapter 15.260.

Lot. For purposes of this title, a "lot" is a parcel of land ~~of~~ and may consist of:

1. A single lot of record;
2. A portion of a lot of record;
3. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record;
4. A parcel of land described by metes and bounds; provided, that in no case of division or combination of parcels of land shall any residual lot or parcel be created which does not meet the requirements of this title.

   For the purpose of subdivision regulations set forth in Chapter 15.260, a "lot" is a fractional part of subdivided land having fixed boundaries, being of sufficient area and dimensions to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.

Lot line. "Lot line" means a line bounding a lot; synonymous with "street line" when a lot line coincides with a right-of-way line of an abutting street.

1. "Front lot line" means, for interior lots, the lot line abutting on a street. When a corner lot or double frontage lot has nearly equal frontage on 2 streets, designation of the front lot line shall be made by the director based on the context of the site and addressing needs for fire, life, and safety.
2. "Rear lot line" means the lot line opposite and farthest from the front lot line. For a pointed or irregular lot, the rear lot line shall be an imaginary line, parallel to and farthest from the front lot line, not less than 10 feet long and wholly within the lot.
3. "Side lot line" means any lot line other than a front or rear lot line; in the case of a corner lot, the lot line abutting the side street is termed an "exterior side lot line"; all other side lot lines are termed "interior side lot lines."

Lot types – Corner, interior, through. The following illustrates terminology used in this title with reference to lot types:

1. "Corner lot" means a lot located at the intersection of 2 or more streets.
2. "Interior lot" means a lot other than a corner lot with frontage only on one street other than an alley.
3. "Through lot" means a lot other than a corner lot with frontage on more than one street other than an alley and may also be referred to as a "double frontage lot."

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Luminaire. See definition for "fixture."

15.130.130 M definitions.

Maintenance and repair in-kind. "Maintenance and repair in-kind" means work whose purpose and effect is to prevent or correct deterioration or damage to real property and the improvements thereon, using like materials, and returning the property to the condition and appearance that existed prior to the deterioration or damage.

Manufactured home, designated. "Manufactured home, designated" means a single family dwelling constructed after June 15, 1976, and installed in accordance with the U.S. Department of Housing and Urban Development (HUD) requirements for manufactured housing, and bearing the appropriate insignia indicating such compliance, and meeting the specific design criteria set forth in ECC 15.340.030. Designated manufactured homes are allowed as single family dwellings in all zones that permit single family dwellings.

Manufactured home, new. "Manufactured home, new" means any manufactured home required to be titled under Title 46 RCW, which has not been previously titled to a retail purchaser, and is not a "used mobile home" as defined in RCW 82.45.032(2). New manufactured homes are allowed in manufactured home parks pursuant to the requirements in ECC 15.340.040.

Manufactured home lot. "Manufactured home lot" means a portion of a manufactured home park used or intended to be used for the parking of one manufactured home, including the land covered by the manufactured home, adjacent open spaces, and attached or detached accessory buildings and structures. See ECC 15.340.040 for manufactured home park provisions.

Manufactured home park. "Manufactured home park" means a lot, parcel, or tract of land having as its principal use the rental of space for occupancy by 2 or more manufactured homes, including any accessory buildings, structures or uses customarily incidental thereto. See ECC 15.340.040 for manufactured home park provisions.

Marquee. "Marquee" means an immobile covering structure projecting horizontally from and attached to a building and constructed of material other than cloth, canvas or other fabrics.

Median income. "Median income" means, for the purpose of ECC 15.330.020, the median income for the Ellensburg Micropolitan Statistical Area as most recently determined by the Secretary of Housing and Urban Development under Section 8(f)(3) of the United States Housing Act of 1937, as amended, or if programs under said Section 8(f)(3) are terminated, median income determined under the method used by the Secretary prior to such termination. In the event that HUD no longer publishes median income figures for the Ellensburg Micropolitan Statistical Area or Kittitas County, the city may use any other method for determining the Kittitas County median income, adjusted for household size.

Medical (or medicinal) use of cannabis. "Medical (or medicinal) use of cannabis" means, for purpose of ECC Chapter 15.370, the manufacture, production, processing, possession, transportation, delivery, ingestion, application, or administration of cannabis for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating medical condition.

Miniwarehouse. "Miniwarehouse" means an enclosed single story building(s) designed and constructed to provide individual compartmentalized controlled access stalls or lockers which shall be used only for the storage of personal property. Ministorage is synonymous with miniwarehouse.

Mixed-use building. "Mixed-use building" refers to a building that includes both residential and non-residential uses and/or business or professional office uses with other non-residential uses. Such uses may be mixed vertically or horizontally in one building. Examples include a restaurant with apartments and/or professional offices upstairs or professional offices on one end of the building with retail and/or residential uses on another end.

Mobile home. "Mobile home" means a single-family residence transportable in one or more sections, built on a permanent chassis, designed to be used as a permanent dwelling and constructed before June 15, 1976.

Moderate income household. "Moderate income household" means, for the purpose of ECC 15.330.020, a household whose gross income of all permanent household members over the age of 18 is equal to or less than 80 percent of the Kittitas County Median Income, adjusted for household size.

Modulation. "Modulation" means a measured and proportional inflection on a building's face. Together, articulation and modulation and their interval create a sense of building scale.

Motel. See definition for "Hotel" in ECC 15.130.080.

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15.130.140 N definitions.

National Register of Historic Places. "National Register of Historic Places" means the national listing of properties significant to the cultural heritage of the country. See ECC 15.280.

Net project area. "Net project area" means all of the land area included within a development project excluding land dedicated for public streets, parks, stormwater facilities, critical areas, or other required areas.

Nonconformance (nonconformity). "Nonconformance" or a "nonconformity" or a "nonconforming" means any lawfully established use, lot, improvement or structure that no longer conforms to the current development standards of the LDC due to changes in the LDC or its application to the subject property. See ECC 15.240.

Nonconforming uses, lots and structures are further classified as either:

> "Benign nonconformance": A nonconformance that does not have a negative impact on the health and safety of the public but may have an impact on public welfare. Examples may include lots with inadequate landscaping, number of parking spaces, or minimal deviation from dimensional standards; or structures that are within a required yard setback, or are taller than allowed by the zoning district; or a use such as an existing multi-family development in a single family zoning district. Such uses fail to meet current zoning or development standards but the nonconformity has been in existence and is not significant or demonstrably harmful to the health and safety of the public, and there is little or no need to limit the development from expansion, redevelopment, or other activities provided such expansion or redevelopment does not negatively increase the existing impact on public health, safety or welfare
>
> "Detrimental nonconformance": A nonconformity that has a negative impact on the health, safety and welfare of the public. Examples include uses involving hazardous materials, such as gasoline, in single family neighborhoods, uses that produce significant noise, such as body shops or paint shops, uses that have been deemed incompatible in certain locations, such as adult entertainment establishments near schools, or uses that have large trip generation characteristics such as drive through restaurants. Detrimental nonconformities clearly have the potential for harm and should be subject to limitations leading to their eventual removal or modification into compliance with current standards.

Nonconforming lot. "Nonconforming lot" means a lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the LDC but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

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Nonprecision instrument runway. "Nonprecision instrument runway" means, for the purpose of ECC Chapter 15.350, a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

Nursery and greenhouses (commercial). "Nursery and greenhouses" means an establishment for the growth, display, and/or sale of plants, shrubs, trees, and materials used in indoor or outdoor plantings conducted within or without an enclosed building.

Nursing home. "Nursing home" means any facility licensed by the Washington State Department of Social and Health Services or other appropriate state agencies, providing convalescent, chronic or domiciliary care for a period in excess of 24 consecutive hours, for 3 or more patients or residents not related by blood or marriage to the licensee.

15.130.150 O definitions.

Obstruction. "Obstruction" means, for purposes of ECC Chapter 15.350, any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in ECC Chapter 15.350.

Occupancy. "Occupancy" means the purpose for which a building is used or intended to be used. For purposes of this title, a change of occupancy is not intended to include change of tenants or proprietors, but intended to indicate a change in the type of use.

Office, business or professional. "Business or professional office" means an office wherein business, technical or scientific services are rendered involving labor, skill, education and special knowledge for certain compensation or profit, but such labor, skill, education and special knowledge being predominantly mental or intellectual, rather than physical, manual or mercantile in nature. Examples of such uses would include, but not be limited to, the offices of lawyers, accountants, dentists, physicians, brokers, insurance agents, and optometrists.

Office, medical. "Medical office" means an office or clinic used exclusively by physicians, dentists, and similar personnel for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients shall be kept on the premises. The term also includes veterinary clinics and such veterinary clinics may keep domestic animals overnight inside the clinics for short periods of time in association with and accessory to the treatment of such domestic animals.

Off-site. "Off-site" means separate and/or geographically separated noncontiguous property located within the city of Ellensburg corporate boundaries. Off-site hazardous waste treatment and storage facilities treat and store hazardous wastes generated from separate property locations within the city of Ellensburg.

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One-hundred-year (100-year) flood. "One-hundred-year (100-year) flood" means a type of flood which can be expected to occur at any time in a given year based upon recorded historical precipitation and other valid data, but with an average statistical one percent chance of being equaled or exceeded during any one year. This term is interchangeable with a "one percent" or "intermediate regional flood" or "base flood." See ECC Article 6.

On-site. "On-site" means the same, geographically contiguous, or bordering property. On-site hazardous waste treatment and storage facilities treat and store wastes generated on the same property.

Open space. "Open space" means any area which is preserved and/or improved to serve as active or passive recreational areas or for resource protection in an essentially undeveloped state. Applicable provisions are set forth in ECC 15.420.040 (standards for parks and open spaces integrated into subdivisions), and ECC 15.520.030 (open space standards for non-residential and multifamily uses). Also, ECC Chapter 15.540 includes open space standards for particular housing types.

Outdoors. "Outdoors" means, for purposes of ECC Chapter 15.370, any location that is not "indoors" within a fully enclosed and secure structure as defined herein.

Outdoor lighting fixture. "Outdoor lighting fixture" means a luminaire outside of an enclosed building or structure or any luminaire directed such that it primarily illuminates outdoor areas.

Owner occupancy. "Owner occupancy or owner occupied" means occupancy by a property owner, as reflected in property title records, who makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means, and actually resides at the site more than nine months out of any given year.

Owner of property. "Owner of property" means the fee simple owner of record as exists in the Kittitas County assessor's records.

Outlet center. "Outlet center" means a shopping center which does not contain an anchor retail store and which at least 51 percent of the retail tenants are manufacturer outlet retailers offering manufacturer-branded goods. The minimum size of an outlet center shall be 150,000 gross square feet and the maximum size of any single retail tenant shall not exceed 15,000 gross square feet of floor area.

15.130.160 P definitions.

Park. "Park" means those areas of land under public ownership devoted to passive and active recreation activities and facilities. Such activities include open spaces, playgrounds, athletic fields, athletic or recreation structures.

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Parking space, off-street. "Off-street parking space" means an off-street parking space available for the parking of one motor vehicle conforming to the standards set forth in ECC Chapter 15.550 and Section 6 (parking standards), public works development standards (ADD LINK).

Pedestrian accessway. "Pedestrian accessway" refers to a publicly accessible walkway or trail that provides a mid-block connection between streets. See ECC 15.420.020(A)(4) for applicable standards.

Pedestrian-oriented space. "Pedestrian-oriented space" is defined in ECC 15.520.030(C).

Permeable pavement. "Permeable pavement" is a paving system which allows rainfall to percolate through it into the underlying soil or an aggregate reservoir. Examples include porous asphalt, porous concrete, interlocking concrete pavers, and open cell paving grids.

Permit, project permit, or project permit application. "Permit", "project permit", or "project permit application" means any land use or environmental permit or license required from a local government for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.

Person. "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons, however organized. "Person" includes a trustee, a receiver, an assignee, or a similar representative.

Personal services. "Personal services" means services rendered to individuals for their personal physical appearance and conditioning needs. Examples would include but not be limited to the following types of services: barber, beautician, masseur, and steam and sauna baths.

Personally identifiable information. "Personally identifiable information", for the purpose of ECC Chapter 15.37, means any information that includes, but is not limited to, data that uniquely identify, distinguish, or trace a person's identity, such as the person's name, or address, either alone or when combined with other sources, that establish the person is a qualifying patient or designated provider.

Places of assembly. "Places of assembly" means a structure for groups of people to gather for an event or regularly scheduled program. Examples include but are not limited to arenas, religious institutions, lecture halls, banquet facilities, and similar facilities.

Planning Commission. "Planning Commission" means the Ellensburg Planning Commission created by Chapter 1.14 ECC.

Plant. "Plant" means, for the purpose of ECC Chapter 15.370, an organism having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system shall be considered part of the same single plant.

Precision instrument approach. "Precision instrument approach" is, for the purpose of ECC Chapter 15.350, designed to provide an approach path for exact alignment and descent of an aircraft on final approach to a runway.

Precision instrument runway 29. "Precision instrument runway 29" is, for the purpose of ECC Chapter 15.350, a 50,000-foot-long trapezoid that is 1,000 feet wide at the point where it meets the primary surface. It has a 50:1 slope for the first 10,000 feet and a slope of 40:1 for the remaining 40,000 feet. The approach surface is 16,000 feet wide at the outermost point.

Preliminary subdivision or plat. "Preliminary subdivision or plat" means a scaled drawing of a proposed subdivision showing the general layout of streets, lots, blocks, rights-of-way, easements and other required elements of a plat which shall furnish a basis for the preliminary approval or disapproval of the general layout of the subdivision and preparation of a final subdivision. See ECC Chapter 15.260.

Preservation planner. "Preservation planner" means, for the purposes of ECC Chapter 15.280, the department of community development employee or consultant assigned to staff the Ellensburg landmarks and design commission and administer the historic preservation program.

Primary surface. "Primary surface" means, for the purpose of Airport Overlay Zone regulations set forth in ECC Chapter 15.350, a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. For military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Premises. "Premises" means a specified lot or tract of land under single ownership.

Process. "Process" means, for the purpose of ECC Chapter 15.370, to handle or process cannabis in preparation for medical use.

Produce. "Produce" means, for the purpose of ECC Chapter 15.370, to plant, grow, or harvest cannabis for medical use.

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Public agency or utility office. "Public agency or utility office" means a building or portion thereof used primarily for administration purposes by a public agency or utility.

Public meeting. "Public meeting" means an informal meeting of people to obtain comments from a city commission, committee, or public agency and members of the public prior to a decision on a project permit application.

Public place. "Public place" includes, for the purpose of ECC Chapter 15.370, streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, buses, ferries, and other public conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

Public transportation.

1. "Public transportation" means the conveyance of passengers and/or freight by buses, trains, airplanes or taxis for a fare.
2. "Passenger terminals" means the facilities used as transfer areas, ticketing agencies and administrative offices for "public transportation," excluding taxi stands or bus stops along prescribed bus routes.
3. "Deadhead stations" means the facilities used for the storage and mechanical maintenance of vehicles engaged in "public transportation."

Public use. "Public use" means any use of land by the public or a local, state or federal government agency.

Public utility. "Public utility" means any use of land by a local, state, or federal agency, or by any person, firm or corporation licensed or franchised by such a government agency involving the transportation or transmission of materials, signals or electrical energy by vehicle or through conduit, wire, pipe or other similar device. Typical examples of this would include water, gas and sewer mains, television or telephone lines, and refuse collection. For the purpose of this title, such uses located or to be located on the properties they are to serve shall not be included in this definition.

Public works development standards. "Public works development standards" means those standards (ADD LINK) filed by the director of public works with the Ellensburg city clerk, as

approved and adopted by reference in ECC 4.04.020, including any amendments thereto made in accordance with ECC 4.04.040.

15.130.170 Q definitions.

Qualifying patient. "Qualifying patient" means, for the purpose of ECC Chapter 15.370, a person who:

1. Is a patient of a health care professional;
2. Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;
3. Is a resident of the state of Washington at the time of such diagnosis;
4. Has been advised by that health care professional about the risks and benefits of the medical use of cannabis;
5. Has been advised by that health care professional that he or she may benefit from the medical use of cannabis; and
6. Is otherwise in compliance with the terms and conditions established in chapter RCW 69.51A.

The term "qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this ordinance and RCW 69.51A are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

Quasi-judicial decision. "Quasi-judicial" means the action taken and discretion exercised by public administrative agencies or bodies that are obliged to investigate or ascertain facts and draw conclusions from them as the foundation for official actions. The review process Types III and IV as defined in ECC 15.210.030 are examples of quasi-judicial decisions.

15.130.180 R definitions.

Regional retail commercial. "Regional retail commercial" means any use which involves the display and sale of retail consumer goods and also includes personal, professional, household services, and general grocery sales. Regional retail commercial developments contain a minimum of 100,000 square feet of enclosed gross floor area of commercial uses; provided, that at least 50,000 square feet must be constructed for and used by one retailer. As used in this LDC, "regional retail commercial" uses are subject to special location and design provisions (see ECC 15.250.070 and Chapter 15.590). "Regional retail commercial" development may also include other uses provided they are permitted in the relevant zone in which such development is located.

Recreational vehicle. "Recreational vehicle" is a vehicle designed primarily for recreational camping, travel or seasonal use which has its own motive power or is mounted on or towed by another vehicle, including but not limited to:

1. Travel trailer;
2. Folding camping trailer;
3. Park trailer;
4. Truck camper;
5. Motor home; and
6. Multi-use vehicle.

Recreational vehicle park. "Recreational vehicle park" means a lot, parcel or tract of land, or a portion of a manufactured home park, having as its principal use the rental of space for temporary, short-term, transient occupancy by 2 or more travel trailers, including any accessory buildings, structures and uses customarily incidental thereto. See ECC 15.340.050 for applicable standards.

Recreation – indoor commercial. "Recreation – indoor commercial" means a commercial recreation land use conducted entirely within a building, including, but not limited athletic and health clubs, pool or billiard halls, skating rinks, swimming pools, and tennis courts.

Recreation – outdoor commercial. "Recreation – outdoor commercial" means a commercial recreation land use conducted primarily outdoors, including, but not limited to water parks, amusement parks, and miniature golf courses.

Residential care facilities. "Residential care facilities" means a facility that provides, on a regular basis, personal care, including dressing and eating and health-related care and services for at least five, but not more than 15 functionally disabled persons and which is not licenses under RCW Chapter 70.128. A residential care facility shall not provide the degree of care and treatment that a hospital or long-term care facility provides.

Residential treatment facility. "Residential treatment facility" means, for the purposes of ECC 15.370, a facility providing for treatment of drug and alcohol dependency.

Retail. "Retail" means any use which involves the display and sale of retail consumer goods.

Reverse frontage lot. "Reverse frontage lot" is a double frontage lot for which the boundary along one of the streets is established as the rear lot line.

Reviewing authority. "Reviewing authority" refers to the individual or official body identified as having the responsibility to review and approve or deny permit applications described in this title. Also see "Decision-maker" in ECC 15.130.040.

Right-of-way. "Right-of-way" means a general term denoting land, property or interest therein which is meant for public use, usually for transportation purposes. Rights-of-way are distinguished from easements in that they are separate and distinct from the lots adjoining such rights-of-way and are not included in any private ownership.

Runway. "Runway" means, for purposes of ECC Chapter 15.350, a defined area on an airport prepared for landing and takeoff of aircraft along its length.

15.130.190 S definitions.

School. "School" means, for the purposes of ECC Chapter 15.370, an institution of learning for minors, whether public or private, offering regular course of instruction required by the Washington Education Code. This definition includes an elementary school, middle or junior high school, or high school.

Senior housing. "Senior housing" means a residential complex containing multifamily dwellings designed for and principally occupied by senior citizens (over 62 years old). For the purpose of permitted uses in ECC 15.310.040, senior housing is a type of multifamily dwelling, unless it also meets the definition of senior citizen assisted housing, set forth in ECC 15.130.190(B) below.

Senior citizen assisted housing. "Senior citizen assisted housing" means housing in a building consisting of 2 or more dwelling units restricted to occupancy by at least one occupant 62 years of age or older per unit, and must include at least 2 of the following support services:

1. Common dining facilities or food preparation service;
2. Group activity areas separate from dining facilities;
3. A vehicle exclusively dedicated to providing transportation services to housing occupants;
4. Have a boarding home (assisting living) license from Washington State Department of Social and Health Services.

SEPA rules. "SEPA rules" means Chapter 197-11 WAC, as now existing or hereafter amended by the Department of Ecology. See ECC 15.270.

Shielding. "Shielding" means that no light rays are emitted by a fixture above the horizontal plane running through the lowest point of the fixture.

Short plat. "Short plat" or "short subdivision plat" means the map or representation of a short subdivision, both in preliminary and final short subdivision plat form, containing all of the pertinent information as required by this title. See ECC Chapter 15.260.

Short subdivision. "Short subdivision" means the division of land into 9 or fewer lots, tracts or parcels. See ECC Chapter 15.260.

Significant feature. "Significant feature" means, for purposes of ECC Chapter15.280, any physical characteristic of a landmark, landmark site, or landmark district which the commission has stipulated in the designation as important to the historic value of the property, and for which a certificate of approval is required prior to alteration.

Site development permit. "Site development permit" means a permit, issued by the city, to develop, redevelop or partially develop a site exclusive of any required building or land use permit. A site development permit may include one or more of the following activities: paving, grading, clearing, filling, tree removal, on-site utility installation, stormwater facilities, walkways, striping, wheelstops or curbing for parking and circulation, landscaping, or restoration. See ECC 15.250.020 for applicable standards.

Small Wind Energy System (SWES). "Small Wind Energy System" means, for purposes of ECC 15.340.060, a wind energy conversion system with a rated output up to and including 20 kW in residential zones and up to and including 100kW in commercial, industrial and public reserve zones and consisting of: wind turbine, tower, base and associated control or conversion electronics, as well as all anchors, guy cables and hardware.

Special valuation for improvements to historic property or special valuation. "Special valuation for improvements to historic property" or "special valuation" means, for purposes of ECC Chapter 15.280, the local option program established under the authority of Chapter 84.26 RCW which, once implemented, makes available to property owners a special tax valuation for rehabilitation of historic properties, under which the assessed value of an eligible historic property is determined at a rate that excludes, for up to 10 years, the actual cost of the rehabilitation.

Start of construction. "Start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date or the conclusion of any extension that may have been granted. See ECC Title 3. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Storefront. "Storefront" means a building located adjacent to the sidewalk and featuring non-residential uses on the ground floor, an entry facing the sidewalk, and transparent window area along at least 70 percent of the ground floor façade between 30 inches and 8 feet above grade.

Street. "Street" means a thoroughfare including an alley which has been dedicated to the public and designated for public use as a street.

Strip commercial development. "Strip commercial development" means commercial development in a linear form along any public street. Characteristics of strip commercial development are:

1. Primary access is from one street.
2. Lot(s) are less than 300 feet deep.
3. There is little or no commercial development on the street to the rear of the lot(s).
4. Uncoordinated development of separate lots.

Structure. "Structure" means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. It shall also include but not be limited to buildings, manufactured homes, walls, fences, billboards and poster panels; provided. For the purposes of the floodplain district provisions only, as set forth in ECC Article 6, the term "structure" shall be limited to mean a walled and roofed building including a gas or liquid storage tank that is principally aboveground. For the purposes of Airport Overlay Zone regulations set forth in ECC Chapter 15.350, "structure" means an object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

Structural alteration. "Structural alteration" means any change, addition, or modification in the supporting members of a building or structure such as bearing walls, columns, beams or girders, floor joists or roof joists.

Studio apartment. "Studio apartment" means a dwelling unit no larger than 500 square feet with one habitable room together with a kitchen or kitchenette and bathroom facilities.

Subdivision. "Subdivision" means the division of land as governed by Washington State in Chapter 58.17 RCW and by Chapter 15.260 of the LDC and other applicable sections of the LDC.

Substantial improvement. "Substantial improvement" means any repair, reconstruction, alteration or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the alteration takes place or, if the structure is damaged, before the damage occurred.

Supplemental directional sign. "Supplemental directional sign" is a sign that is required under the Washington State Department of Transportation "Motorist Information Sign Program" to provide supplemental direction to assist interstate travelers to locate businesses advertised on interstate information signs through the state program. Such signs shall be no more than 24 inches by 12 inches in size, shall be of similar color and design as required under the state

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program for motorist information signs, and may be located at off-premises locations within the city.

15.130.200 T definitions.

Temporary use. "Temporary use" means a use which will operate for less than 60 days. See ECC 15.250.010 for details.

Terminal or deblitating medical condition. "Terminal or debilitating medical condition" means, for the purposes of ECC Chapter 15.370:

1. Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or
2. Intractable pain, limited for the purpose of this ordinance to mean pain unrelieved by standard medical treatments and medications; or
3. Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or
4. Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or
5. Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or
6. Diseases, including anorexia, which result in nausea, vomiting, cachexia, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or
7. Any other medical condition duly approved by the Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery as directed in this chapter.

THC concentration. "THC concentration" means, for the purposes of ECC Chapter 15.370, percent of tetrahydrocannabinol content per weight or volume of useable cannabis or cannabis product.

Theater. "Theater" means a place of public assembly intended and expressly designed for the presentation of motion pictures, other than an adult theater.

Tower height. "Tower height" means, for the purposes of ECC Chapter 15.350, the distance measured from the finished grade to the highest point of the structure.

Transitional surfaces. "Transitional surfaces," for the purposes of ECC Chapter 15.350, extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each one foot vertically from the sides of the conical surfaces.

Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

Transportation demand management (TDM). "TDM" means a broad range of strategies that reduce or shift use of the roadway, thereby increasing the efficiency and life of the overall transportation system. TDM programs influence travel behavior by using strategies that accommodate more person-trips in fewer vehicles, shift the location or time of day at which trips are made, or reduce the need for vehicle trips.

Treatment. "Treatment" means the physical, chemical, or biological processing of dangerous waste to make such wastes nondangerous or less dangerous, safer for transport, amendable for energy or material resource recover, amendable for storage, or reduced in volume.

Tree. "Tree" means, for the purpose of airport overlay zone regulations set forth in ECC Chapter 15.350, any object of natural growth.

15.130.210 U definitions.

Usable floor area. "Usable floor area" is a term used in computing parking requirements, meaning the aggregate area of a building enclosed by the interior face of exterior walls on the first story, and including the floor area, similarly measured, of each additional story which is connected to the first story by a fixed stairway, escalator, ramp or elevator, and the floor area of all accessory buildings, measured similarly, but excluding that part of any floor area which is occupied by heating, ventilating, or other permanently installed equipment required for operation of the building, and by unenclosed porches, light shafts, public corridors and public toilets. For uses not enclosed with a building, the area for sales, display, or service shall be measured to determine equivalent usable floor area.

Useable cannabis. "Useable cannabis" means,, for the purposes of ECC Chapter 15.370, dried flowers of the *Cannabis* plant having a THC concentration greater than three-tenths of one percent. Useable cannabis excludes stems, stalks, leaves, seeds, and roots. For purposes of this subsection, "dried" means containing less than fifteen percent moisture content by weight. The term "useable cannabis" does not include cannabis products.

Utility facility. "Utility facility" means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public. For commercial wireless communication support towers, antenna arrays, and facilities, see ECC 15.340.070 for applicable standards and procedures.

Utility runway. "Utility runway" means, for the purposes of ECC Chapter 15.350, a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight or less.

15.130.220 V definitions.

Valid documentation. "Valid documentation" means, for purposes of ECC Chapter 15.370:

1. A statement signed and dated by a qualifying patient's health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of cannabis;
2. Proof of identity such as a Washington state driver's license or identicard, as defined in RCW 46.20.035; and
3. In the case of a designated care provider, the signed and dated document valid for one year from the date of signature executed by the qualifying patient who has designated the provider.

Variance. A "variance" is an authorized relaxation of the terms of this title where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the title would result in unnecessary and undue hardship. As used in this title, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning division or district or adjoining zoning divisions or districts. See ECC 15.250.050.

Vehicle. "Vehicle" means any contrivance in or on which persons or things may be contained, carried or conveyed, whether in motion or standing, and includes mobile homes or recreational vehicles as defined in this title, whether or not fixed or fitted with wheels or runners. (See ECC 15.130.020, Building.)

Visual runway. "Visual runway" means, for the purposes of ECC Chapter 15.350, a runway intended solely for the operation of aircraft using visual approach procedures.

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15.130.230 W definitions.

Washington Heritage Register. "Washington Heritage Register" means the state listing of properties significant to the cultural heritage of the state. See ECC 15.280.

Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties or State Advisory's Council's Standards. "Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties" or "State Advisory's Council's Standards" means the rehabilitation and maintenance standards used by the Ellensburg landmarks and design commission as minimum requirements for determining whether an historic property is eligible for special valuation, and whether or not the property continues to be eligible for special valuation once it has been so classified. See ECC Chapter 15.280.

Wetlands. "Wetlands" means, for purposes of ECC Article 6, areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support and that, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, waste water treatment facilities, farm ponds and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted. The Washington State Wetlands Rating System, published by the Washington State Department of Ecology in October, 1991 (Publication No. 91-58), shall be used to identify and determine the relative functions, critical status, unique status, and sensitivity of a wetland. See ECC Article 6.

Wind turbine. "Wind Turbine" means, for purposes of ECC 15.340.060, the parts of the wind system including the blades, generator and tail.

Wireless communication antenna array. "Wireless communication antenna array" means one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency (RF) signals through electronic energy, which may include omnidirectional antenna (whip), directional antenna (panel) and parabolic antenna (dish).

Wireless communication facility. "Wireless communication facility" means any unstaffed facility for the transmission and/or reception of radio frequency (RF) signals through electromagnetic energy usually consisting of an equipment shelter or cabinet, a support tower or other structure used to achieve the necessary elevation, and the transmission and reception devices or antenna.

Wireless communication support tower. Wireless communication support tower" means a structure designed specifically to support a wireless communication antenna array, and may include a guy wire support tower, monopole, lattice tower and other similar structures.

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15.130.240 X definitions.

15.130.250 Y definitions.

Yard. "Yard" means a required open space unoccupied and unobstructed by any structure or portion of a structure from 3 feet above the general ground level of the graded lot upward; provided, however, that fences, walls, covered building entries, and limited building projections may be permitted in any yard subject to limitations as indicated herein (see ECC 15.320.080).

Yard, front. "Front yard" means a yard extending between side lot lines across the front of a lot and abutting the front property line.

Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be parallel.

Yard, rear. "Rear yard" means a yard extending across the rear of the lot between inner side yard lines. In the case of through lots, there will be no rear yard.

Depth of required rear yards shall be measured at right angles to a straight line joining the rearmost points of the side lot lines. The forward rear yard line of a required rear yard shall be parallel to the straight line so established.

Yard, side. "Side yard" means a yard extending from the rear line of required front yard to the rear lot line. In the case of through lots, side yards shall extend from the rear lines of the front yards required. In the case of corner lots with normal frontage, there will be only one side yard, adjacent to an interior lot.

Widths of required side yards shall be measured at right angles to a straight line joining the ends of front and rear lot lines on the same side of the lot. The inner side yard line of a required side yard shall be parallel to the straight line so established.

15.130.260 Z definitions.

Zero lot line development. "Zero lot line development" means a development in which the configuration of the structure and open space on a single family lot of record results in single family residences, which share a common street frontage, to shift the structure to one side of the lot, thereby reducing or eliminating the structure's setback on that side of the lot. See ECC 15.540.020.

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Article 2: Permits, Legislative Actions & Procedures

Public Hearing Draft, November 2013

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15.200 Purpose/Administration

15.200.010 Purpose.

The purpose of this article is to establish standard procedures for land use permit applications, public notice, hearings and appeals in the city. These procedures are designed to promote timely and informed public participation in discretionary land use decisions; eliminate redundancy in the application, permit review, hearing and appeal processes; provide for uniformity in public notice procedures; minimize delay and expense; and result in development approvals that implement the policies of the comprehensive plan. These procedures also provide for an integrated and consolidated land use permit and environmental review process.

15.200.020 Administration.

The provisions of this article supersede all other procedural requirements that may exist in other sections of the city code. When interpreting and applying the standards of this LDC, its provisions shall be the minimum requirements. Where conflicts occur between provisions of this article and/or between this article and other city regulations, the more restrictive provisions shall apply.

15.200.030 User guide.

This chapter sets forth the procedural steps for each of the five process Types used by the city of Ellensburg to review project permit applications. Those process Types are based on who makes the final decision, the amount of discretion exercised by the decision-maker, the level of impact associated with the decision, the amount and type of input sought before making the decision, and the type of appeal opportunity available.

To identify the procedural steps for a specific project permit application, the user should:

A. Type of permit. First, determine the Type of permit application that is required for the project by locating the particular Type of project in the Tables set forth in ECC 15.210.050. You may also contact the community development department to determine the Type of application that is required.

B. Process. Second, determine the process steps that are applicable to that Type of application by referring to the Table in ECC 15.210.040.

1. Table 15.210.040(A) identifies who the decision-maker is, which may be the director, appointed city board or commission, the hearing examiner, or city council, depending on the level of discretion to be exercised in the review and final decision process and the level of public input that is sought to assist in the final decision process. To determine the decision-maker for a specific permit application within one of the permit Types, please refer to the Tables set forth in ECC 15.210.050;

2. Table 15.210.040(B) identifies the procedures that will be followed in the review and final decision process for each Type of permit. Those address the predecision reviews, decision reviews, and appeals of decisions. The review may be administrative, or it may

require a public meetings and/or public hearing. To determine the procedure that will be followed for a specific permit application within one of the Types, please refer to the Tables set forth in ECC 15.210.050;

3. Table 15.210.040(C) identifies the notice requirements for each Type of permit review process.

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15.210 Permit Review Process "Types"

15.210.010 Classification of permit review process types.

A. Decisions on applications shall be classified as Type I, II, III, IV, or V, based on the amount of discretion exercised by the decision-maker, the level of impact associated with the decision, the amount and type of input sought, and the type of appeal opportunity available. The procedures for the 5 different permit review process Types are distinguished according to who makes the decision, whether public notice is required, whether a public hearing is required before a decision is made, and whether an administrative appeal process is provided. The Types of decisions are set forth in ECC 15.210.030 and the requirements for each Type are set forth in ECC 15.210.040.

B. **Exclusions.** The following permits are excluded from the permit review requirements of this Article and from RCW 36.70B.060 through 36.70B.080 and RCW 36.70B.110 through 36.70B.130, and the review processes for these excluded permits is governed instead by the individual permit review process established for each:

1. Ellensburg Landmark Register designations pursuant to ECC Chapter 15.280;
2. Historic preservation special valuation decisions pursuant to ECC 15.280
3. Sidewalk use permits pursuant to ECC 4.14.170;
4. Adult entertainment licenses pursuant to ECC 6.72;
5. Regional retail commercial master site plan applications pursuant to ECC 15.250.070; and
6. Development agreements pursuant to RCW 36.70B.200 and ECC Chapter 15.380; and

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15.210.020 Determination of proper permit review process type.

A. Determination by director. The director shall determine the proper procedure for all permit applications. If there is a question as to the appropriate Type of process, the director shall resolve it in favor of the higher Type number.

B. Optional consolidated project permit application processing. A Type V legislative non-project action shall not be consolidated with a project permit application, but may be processed concurrently with the project permit application to the extent permitted by the processes and timelines established in the LDC for each action. All project approvals that involve 2 or more project permit application processes may, at the applicant's written request, be processed collectively under the highest numbered Type procedure required for any part of the application or may be processed individually under each of the procedures identified by the code. If the application is processed under the individual procedures option, the highest numbered Type procedure must be processed prior to the subsequent lower numbered procedure.

C. SEPA review. SEPA review is governed by ECC Chapter 15.270 and all applications shall be reviewed under SEPA, unless categorically exempt from such SEPA review. SEPA review shall be conducted concurrently with project permit review. The following actions are exempt from such concurrent review:

1. Projects categorically exempt from SEPA; and
2. Components of previously completed planned actions, to the extent permitted by law and consistent with the EIS for the planned action.

D. Decision-maker(s). Applications processed in accordance with subsection (B) of this section which have the same highest numbered procedure but are assigned different hearing bodies shall be heard collectively by the highest decision-maker(s). The city council is the highest, followed by the hearing examiner, followed by the designated board or commission, and then the director.

E. Hearings. During the permit review process, permits are allowed only one open record hearing, which can be either an open record predecision public hearing or an open record appeal public hearing, and one closed record appeal hearing, except for the appeal of a determination of significance which must be appealed directly to city council in a closed record appeal hearing at the time it is issued and prior to any further review on the underlying permit.

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15.210.030 Permit review process types, defined.

A. Review Process Type I. These decisions are based on compliance with specific, nondiscretionary and/or technical standards that are clearly enumerated in the LDC or other adopted city development codes. Most of these decisions are made administratively through a Type I review process by the director or by the landmarks and design commission if the project involves properties listed on the landmark register. There are generally no notice or hearing requirements and no appeal opportunity for Type I decisions except for judicial appeals. Type I decisions are not subject to environmental review under the State Environmental Policy Act (SEPA), codified at Chapter 43.21C RCW (also see Chapter 15.270 herein).

B. Review Process Type II. Unless otherwise specified, most Type II decisions are made by the director based on standards and clearly identified criteria in the LDC or other adopted city development codes. Some landmarks and design commission decisions are also Type II decisions. Type II decisions require some level of public notice and typically do not include a public hearing but may include a predecision public meeting. The Type II process requires that the director or other designated decision-maker, issue a written report that sets forth a decision to approve, approve with modifications or conditions, or deny the application. The written decision report will also include any threshold determinations under SEPA or critical area final determinations under ECC Article 6. Such Type II project decisions are appealable to the hearing examiner in an open record appeal hearing, except for departure decisions made by the director pursuant to ECC Chapter 15.210.060 and certificate of approval decisions made by the landmarks and design commission pursuant to the procedures set forth in ECC Chapter 15.280, which are appealable to city council in an open record appeal hearing.

C. Review Process Type III. These are quasi-judicial decisions that are made by the designated decision-maker and involve the use of discretionary judgment in the review of each specific application. Type III decisions require findings, conclusions, an open record public hearing and recommendations prepared by the review authority for the final decision. Any administrative appeal of a SEPA threshold determination or critical area final determination shall be consolidated with the open record public hearing on the project permit, except a SEPA determination of significance, which must be appealed directly to city council at the time it is issued and prior to any further review on the underlying permit.

D. Review Process Type IV. These quasi-judicial decisions are made by the city council and the hearing examiner and involve the use of discretionary judgment in the review of each specific application. Type IV decisions may require a predecision open record public hearing by the designated body which will then provide recommendations to the decision-maker. The final decision must include findings and conclusions in support of the decision. Any administrative appeal of a SEPA threshold determination shall be consolidated with the open record public hearing on the project permit, except a SEPA determination of significance which must be appealed directly to city council at the time it is issued and prior to any further review on the underlying permit.

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E. Review Process Type V. These are legislative, non-project decisions made by the city council under its authority to establish policies and regulations regarding future private and public developments, and management of public lands. Type V actions include comprehensive plan adoption or amendment, area-wide rezones, annexations, adoption or changes to development regulations, and the siting of essential public facilities. Because Type V actions are not project permit applications, they are not governed by the same procedural rules as project permits. Each Type V action is included separately in the LDC with its own established review and decision process.

15.210.040 Permit review process types: Decision-making, procedures & notice requirements.

A. Decision making and appeal process. Table 15.210.040(A) below sets out the permit review decision making and appeal processes for the permit review process Types.

Table 15.210.040(A) Decision making and appeal process for permit review process types.

	Type I	Type II	Type III	Type IV	Type V
Final decision made by:	Director or designated decision-maker (see ECC 15.210.050(A)	Director or designated decision-maker (see ECC 15.210.050(B))	Designated decision-maker (see ECC 15.210.050 (C)	Designated decision-maker (see ECC 15.210.050(D)	City council
Recommendation made by:	NA	NA	designated body	designated body	planning commission
Open record predecision public hearing	No	No Except that landmarks and design commission holds a predecision open record public hearing (see ECC 15.280)	Yes	Yes	Yes multiple open record predecision hearings can be held
Open record appeal public hearing -	No	Yes, except for landmarks and design commission decisions which have a closed record appeal	No	No	No

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	Type I	Type II	Type III	Type IV	Type V
Closed record appeal hearing	No	No, except for landmarks and design commission decisions	Yes	No	No
Appeal to:	superior court	Hearing examiner except landmarks and design commission decisions are appealed to city council and director decisions on departures are appealed to city council	hearing examiner or city council)	superior court	superior court or to the growth management hearings board if GMA action
Judicial appeal (see ECC 15.230.110)	Yes	Yes	Yes	Yes	Yes

B. Procedures. Table 15.210.040(B) below set out the permit review procedures for the 5 permit review process Types.

Table 15.210.040(B) Procedures for permit review process types.

	Type I	Type II	Type III	Type IV	Type V
Pre-application meeting (see ECC 15.220.010)	No	No[1]	Yes	Yes	Docketing
Notice of complete application (see ECC 15.220.040)	No	Yes	Yes	Yes	Docketing
Notice of application (see ECC 15.220.040)	No	Yes	Yes	Yes	Docketing
SEPA determination (see ECC Chapter 15.270)	No	Yes If applicable	Yes If applicable	Yes	Yes If applicable
Notice of hearing (see ECC 15.220.020)	No	No	Yes	Yes	Yes

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	Type I	Type II	Type III	Type IV	Type V
Notice of decision (see ECC 15.220.080)	No	Yes	Yes	Yes	Yes
120 day review period (see ECC 15.220.070)	No[2]	Yes	Yes	Yes	No

Notes/conditions:

1. A pre-application meeting shall be required for all major design review projects as set forth in ECC 15.250.030.
2. Short subdivisions have a 30 day deadline for issuance (after determination of complete application). A final subdivision must issue in 30 days and a preliminary subdivision must issue in 90 days (after determination of complete application). See RCW 58.17.140 and ECC 15.260.060 and ECC 15.260.120.

C. Notice requirements. Table 15.210.040(C) below set out the notice requirements for the 5 permit review process types.

Table 15.210.040(C) Notice requirements for permit applications. See ECC Chapter 15.220.

	Send to property owners within 300'	Public notice (see ECC 15.220.040)	Post property (see ECC 15.220.050)	Send to agencies	Send to applicant
Notice of completeness (see ECC 15.220.040)					X
Notice of application (see ECC 15.220.040)	X	X, except for Type I permits	X, except for Type I permits		X
SEPA determination (see ECC Chapter 15.270)		X	X	X	X
Notice of open record predecision hearing or meeting, if applicable	X	X			X
Notice of decision (see ECC 15.220.080)		X			X
Notice of appeal hearing, if applicable	X	X			X

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15.210.050 Projects under permit review process types.

A. Review Process Type I. Table 15.210.050(A) below identifies the types of projects and permits that require a Type I review process. Any decision-making, procedural, or noticing variations to the Type I review process are described in the middle column. The right column identifies code sections applicable to the project/permit.

Table 15.210.050(A) Projects under Type I review process. Where superscript numbers are included in a cell, please reference the applicable number under "Notes/conditions" below the table.

Type I Project[1]	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Administrative decision	No variation	15.130.010(D)
Permitted use	No variation	Chapter 15.310
Commercial wireless communication support towers, antenna arrays and facilities in residential zones	No variation Except if on a landmark register property, then must undergo review and decision by the landmarks commission as Type II project. (see ECC 15.340.070)	15.340.070
Boundary line adjustments	No variation	15.260.050
Final subdivision approval	Final decision by city council; (see ECC 15.260.060)	15.260.060
Final short subdivision approval	(see ECC 15.260.120)	Chapter 15.260
Minor changes to approved preliminary subdivision	No variation	15.260.110
Non-conforming use determination	No variation	Chapter 15.240
Critical area variance or exemption request	Published notice in the newspaper	Article 6
Critical area initial and final determination	SEE Article 6 for process variation	Article 6
Small wind energy system (one per parcel)[2]	No variation Except if on a landmark register property, then must undergo review and decision by the landmarks commission as Type II project. SEE ECC 15.340.060	15.340.060
Home occupation	No variation	ECC 15.340.020
Minor revision to regional retail	No variation	ECC 15.250.070(C)(5)

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Type I Project[1]	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
commercial master site plan		
Minor preliminary plat alteration	No variation	ECC 15.260.110(A)
Temporary use	No variation	ECC 15.250.010
Site development permits (no SEPA required)	No variation	ECC 15.250.020

Notes/conditions:

1. If any Type I project requires a SEPA threshold determination it automatically becomes a Type II project.
2. Where more than one small wind energy system is proposed for a parcel, then a conditional use permit is required.

B. Review Process Type II. Table 15.210.050(B) below identifies the types of projects and permits that require a Type II review process. Any decision-making, procedural, or noticing variations to the Type II review process are described in the middle column. The right column identifies code sections applicable to the project/permit.

Table 15.210.050(B) Projects under Type II review process. Where superscript numbers are included in a cell, please reference the applicable number under "Notes/conditions" below the table.

Type II Project	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Administrative variance	No variation	15.500.040
Code interpretation	No variation	15.110.060(E)
Temporary use	No variation	15.250.010
Design review, major and minor	No variation	15.250.030 Article 5 (Project Design)
Design review departure request for landmark register property	Decision by landmarks & design commission after a public hearing; Appeal open record to city council	15.210.060 (departures)
Design review departure request for non-landmark register property	Appeal open record to city council	15.210.060 (departures)

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Type II Project	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Commercial wireless communication support towers, antenna arrays and facilities in commercial and industrial zones	No variation, except landmark register properties require decision by landmarks & design commission after a public hearing	15.340.070
Landmark certificate of approval (COA)	Landmarks & design commission decision after public hearing; Appeal open record to city council	15.280.090
Landmark register demolition	Landmarks & design commission decision after a public hearing; Appeal open record to city council	15.280.090
Short subdivision, preliminary	No variation	Chapter 15.260 (Subdivisions) Article 4 (Community Design)
Short subdivision alteration	No variation	Chapter 15.260.170(C)

C. Review Process Type III. Table 15.210.050(C) below identifies the types of projects and permits that require a Type III review process. Any decision-making, procedural, or noticing variations to the Type III review process are described in the middle column. The right column identifies code sections applicable to the project/permit.

Table 15.210.050(C) Projects under Type III review process. Where superscript numbers are included in a cell, please reference the applicable number under "Notes/conditions" below the table.

Type III Project	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Binding site plan	City council decision	15.260.120
Conditional use permit	Planning commission decision after open record hearing; Appeal closed to city council	15.250.040
Variance	Hearing Examiner decision after open record hearing; Appeal closed to city council	15.250.050
Critical area exception for public agency or reasonable use	City council Decision after open record public hearing.	Article 6

Type III Project	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Extension requests for regional retail commercial master site plan projects	City council decision after open record public hearing	15.250.070(C)(4)(c)

D. Review Process Type IV. Table 15.210.050(D) below identifies the types of projects and permits that require a Type IV review process. Any decision-making, procedural, or noticing variations to the Type IV review process are described in the middle column. The right column identifies code sections applicable to the project/permit.

Table 15.210.050(D) Projects under Type IV review process. Where superscript numbers are included in a cell, please reference the applicable number under "Notes/conditions" below the table.

Type IV Project	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Preliminary subdivision	Hearing examiner recommendation to city council after open record hearing; City council decision after closed record hearing	Chapter 15.260
Site specific rezone	Hearing examiner recommendation to city council after open record hearing; City council decision after closed record hearing	15.250.060 Chapter 15.300
Master plan for P-R zone uses	Hearing examiner recommendation to city council after open record hearing; City council decision after closed record hearing	15.250.080 and 15.310.050
Plat vacation	City council decision after open record hearing	15.260.110(B)
Plat alteration (major)	City council decision after open record hearing	15.260.110(C)

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Type IV Project	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Regional retail commercial master site plans	Director recommendation to City council at a public meeting; City council decision after open record public hearing; Not subject to decision timelines	15.130.160 (public meeting) and 15.250.070 (master site plan provisions for regional retail commercial projects)
Major revisions to regional retail commercial master site plans	City council decision after open record public hearing; Not subject to decision timelines	15.250.070(C)(5)

E. Review Process Type V. Table 15.210.050(E) below identifies the types of approvals and permits that require a Type V review process. Any decision-making, procedural, or noticing variations to the Type V review process are described in the middle column. The right column identifies code sections applicable to the permit.

Table 15.210.050(E) Approvals subject to Type V review process. Where superscript numbers are included in a cell, please reference the applicable number under "Notes/conditions" below the table.

Type V Approvals	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Rezone (other than site specific)	No variation	15.250.060 and Chapter 15.300
Land development code amendment	See 15.250.100	15.250.100
Comprehensive plan amendment	See 15.250.090	15.250.090
Annexations	No variation	Chapter 15.360
Essential public facilities	See 15.250.110	15.250.110; RCW 36.70A.200; and Chapter 11 of the comprehensive plan

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15.210.060 Departures.

A. Overview and purpose. The LDC provides for a number of specific departure opportunities to development standards. The purpose is to provide applicants with the option of proposing alternative design treatments provided such departures meet the "purpose" of the particular standard and any additional departure criteria set forth for the particular departure opportunity.

B. Departures are voluntary. This provision allows the flexibility for applicants to propose alternative designs on a voluntary basis, provided they meet the purpose of the standard and applicable departure criteria as noted above.

C. Applicability. Departure opportunities are available only to specific standards that allow for departures. Articles 4 and 5 include one or more standards that allow for departure opportunities.

D. Procedures. Permit applications that include departure requests go through the standard review procedures set forth in ECC 15.210.050 depending on the application Type.

E. Approval Criteria. Project applicants must successfully demonstrate to the decision maker how the proposed departure meets the purpose(s) of the standard and other applicable departure criteria that applies to the specific standard.

F. Documentation. The decision maker shall document the reasons for approving all departures (to be maintained with project application records) for the purpose of providing consistency in decision-making by the city.

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15.220 Permit Review Procedures

15.220.010 Pre-application meeting.

A pre-application meeting is required prior to submitting an application for any Type III or IV permit, major design review project (Type II review) permit, and for an application for a permit located within a critical area or its buffer, pursuant to ECC Article 6.

Applicants for other permits are encouraged to request a pre-application meeting with the city. Pre-application meetings with staff provide an opportunity to discuss the proposal in general terms, identify the applicable city requirements and the permit review process including the permits required by the action, timing of the permits and the approval process.

The director shall specify submittal requirements for pre-application meetings, which shall include a critical areas information form if critical areas are involved with the project. Plans presented at the pre-application meeting are non-binding and do not "vest" an application or a proposed project unless such plans have been submitted as part of a project permit application that previously has been deemed complete by the city A summary of a pre-application meeting, including any documentation provided to the city by the applicant or to the applicant by the city, shall be made and included in the project file following the meeting.

15.220.020 Application.

A. Who may apply. An application may be submitted by:

1. The property owner or any agent of the property owner with written authorization of agency to submit the application for the property owner for any Type I, II, III or IV permit. The city council, planning commission, or city staff may initiate a Type V application except for Comprehensive Plan amendments which are governed by 15.250.090.
2. Each applicant submitting a project permit to the city shall designate a single person or entity to receive determinations and notices under this title. The applicant shall include the name, current address and current telephone number of the designated person or entity. The applicant shall be responsible for immediately notifying the city of any change of name, address or telephone number of the designated person or entity.

B. Submittal requirements.

1. The director shall prepare written submittal requirements for each type of permit application, including type, detail, and number of copies to be submitted for an application to be deemed complete. The director may waive specific submittal requirements determined to be unnecessary for review of an application. The director may require additional material such as maps, studies, or models when the director determines such material is needed to adequately assess the proposed project. Applicants may obtain application materials from the community development department.

2. In addition to the submittal requirements and conditions set forth above, the following project permit applications require specific submittal materials that are set forth in the identified LDC sections:
   a. Short subdivision, preliminary subdivision, and binding site plan submittal requirements are set forth in ECC Chapter 15.260;
   b. Certificate of approval application requirements are set forth in ECC Chapter 15.280;
   c. Regional retail commercial master site plan application requirements are set forth in ECC 15.250.070; and
   d. Critical area determinations are set forth in Article 6.

15.220.030 Determination of completeness.

A. Written determination. Within 28 calendar days after receiving an application for a Type I,II, III or IV decision, the director shall provide to the applicant a written determination that the application is complete, or that the application is incomplete and what is necessary to make the application complete. If the director does not provide a written determination within the 28 calendar days, the application shall be deemed complete as of the end of the 28th calendar day.

B. Additional information request and timeline.

1. If the additional information requested by the director is not fully submitted within 90 calendar days from the date it was requested, the application shall be considered withdrawn and any unspent filing fees, as determined by the director, shall be returned to the applicant. The applicant may submit a written request for extension of this deadline. The director may grant a single extension if there is a demonstration that the applicant is actively working on obtaining the requested information, and such extension is in the interests of the city.
2. Within 14 calendar days after receiving any additional information needed to make the application complete, the director shall provide to the applicant a written determination that the application is complete, or that the application is incomplete and what is necessary to make the application complete.

C. Criteria. A permit application is complete for the purposes of this Section when it meets the submittal requirements established by the director in ECC 15.220.020, even though additional information may be required or subsequent project modifications may occur. The determination of completeness shall not preclude the director from requesting additional information or studies either at the time of the determination of completeness or later, if new information is required to complete review of the application or substantial changes in the permit application are proposed.

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15.220.040 Public notice of application.

A. Issue notice. Within 14 calendar days of the determination of completeness, the city shall issue a notice of application for all Type II, III, and IV projects. Notice of any SEPA pre-threshold determination comment opportunities available pursuant to ECC Chapter 15.270 or critical area determination comment opportunities pursuant to ECC Article 6 shall be combined with the notice of application.

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

1. The dates of application, determination of completeness, and the date of the notice of application;
2. The name and address of the applicant or the applicant's designated applicant ;
3. The location and description of the project;
4. The requested actions and any required studies, if known;
5. The date, time, and place of any predecision public meeting or open record hearing, if one has been scheduled;
6. Identification of any environmental or critical area documents related to the project, if any, and where they are located for review;
7. A statement of the limits of the public comment period. The comment period for all applications subject to review under this section is 21 calendar days beginning on the day following the date of notice of application;
8. A statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;
9. The name and phone number and email address of the city staff contact for the application;
10. Identification of the known development regulations that will be used in determining consistency of the project with the comprehensive plan; and
11. Any other information that the city determines to be appropriate.

C. Public notification. The notice of application shall be made available to the public, through the following methods:

1. Mail. For site specific proposals requiring a Type II (except signs), Type III or Type IV review process, the department shall mail notice to owners of real property located within 300 feet of the subject property and to any agencies with jurisdiction;
2. Post site. The applicant for site specific proposals requiring a Type III or IV review process and/or requiring SEPA review pursuant to ECC Chapter 15.270, shall post a notice board on the site at the applicant's expense within 5 calendar days after the date of issuance of the determination of complete application per the requirements set forth in ECC 15.220.050 below and ECC 15.270.120; and

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3. Newspaper. For site specific proposals requiring a Type III or Type IV review process and for non-site specific proposals requiring a Type V review process, the department shall also publish a notice of the application in the newspaper of general circulation for the general area in which the proposal is located. This notice shall include the project location and description, the type of permit(s) required, comment period dates, staff contact information, and the location where the complete application may be reviewed.

D. Public comments. The department must receive all comments received on the notice of application by 5:00 p.m. on the last day of the comment period. Comments may be mailed, emailed, faxed, or personally delivered.

15.220.050 Notice board requirements.

Posted notice for a proposal as required in ECC 15.220.040(C)(2) above shall consist of one or more notice boards posted at the applicant's expense by the applicant within 5 calendar days following the department's issuance of a determination of completeness as follows:

A. Notice board. The department shall provide the applicant with a reduced paper copy of the required notice which the applicant shall be responsible for enlarging to a 6-square foot (2-feet tall by 3-feet wide) waterproof sign for posting;

B. Number of boards. A single notice board shall be posted for a project. This notice board may also be used for the posting of the notice of decision and notice of hearing. Additional notice boards may be required by the department when:

1. The site does not abut a public road;
2. A large site abuts more than one public road; or
3. The department determines that additional notice boards are necessary to provide adequate public notice;

C. Location of the notice board. The notice board shall be located:

1. At the midpoint of the site's street frontage or as otherwise directed by the department for maximum visibility;
2. 5 feet inside the street property line except when the board is structurally attached to an existing building; provided, that no notice board shall be placed more than 5 feet from the street property without approval of the department;
3. So that the top of the notice board is between 7 to 9 feet above grade; and
4. Where it is completely visible and readable from the facing property line of the site;

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D. Notice boards shall be:

1. Maintained in good condition by the applicant during the notice period through the time of the final city decision on the proposal, including the expiration of any applicable appeal periods and, for decisions that are appealed, through the time of the final resolution of any appeal. Failure to properly maintain the notice board in good condition and in the proper location as specified above may result in the director making a determination that there is a need to provide additional time for public notice;
2. In place at least 28 days prior to the date of any required hearing for a Type III or IV project, or at least 14 days following the department's issuance of a determination of completeness for any Type II project;
3. Removed within 14 days after the final decision has been made on the project and all applicable appeal periods have passed; and
4. Removal of the notice board prior to the required time above may be cause for discontinuance of city review until the notice board is replaced and remains in place for the specified time period; and

E. An affidavit of posting shall be submitted to the department by the applicant within 7 days following the department's determination of completeness to allow continued processing of the application by the department.

15.220.060 Optional consolidated permit process for multi-agency permit applications.

The applicant for a development permit(s) from the city which also involves applications for development permits from other agencies may request that one open record public hearing be held between the city and any other public agency with jurisdiction. The intention of such combined public hearing would be to supply the different public agencies with the same public record for their separate review and decision-making process.

Such request for a combined public hearing shall be subject to mutual agreement between the applicant and the city as to the timing of the public hearing and the expense related to compiling the record required by the various public agencies involved.

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15.220.070 Permit processing time limits.

A. Decisions on Type I permits should be issued within 21 days of the date the application was received and, in the event that the decision will take longer than 21-days, the applicant shall be notified, provided with a reason for the delay and an estimate of the timeframe in which the decision will be made. Decisions on Type II, III, or IV project permits shall be made within 120 calendar days from the date of issuance of a determination that the application is complete. Exceptions to this 120 calendar day time limit are:

1. Substantial project revisions are made or requested by an applicant, in which case the 120 calendar days will be calculated from the time that the city determines the revised application to be complete;
2. The time required to prepare a critical area report pursuant to ECC Article 6 (if applicable) and the time required to issue a draft and final Environmental Impact Statement (EIS) in accordance with the State Environmental Policy Act (if applicable);
3. Any period for administrative appeals of project permits;
4. Landmarks and Design Commission Certificates of Approval must be issued within 21 days, unless the COA involves another permit application review process, in which case the permit processing time limits are governed by that other permit application review process, or unless the COA is for a demolition in which case the time limits set forth in ECC 15.280.090 shall apply;)
5. Amendments to the comprehensive plan or LDC for which the schedule for adoption is established legislatively;
6. Short subdivisions, preliminary and final subdivisions, and binding site plans which are governed by the processing time limits set forth in ECC Chapter 15.260; or
7. Development agreements (See ECC Chapter 15.380 and RCW 36.70B.200).

B. The time limits set for Type I, II, III, or IV projects do not include:

1. Any period of time during which the applicant has been requested in writing by the department to correct plans, perform studies, including critical area reports pursuant to ECC Article 6, or provide additional information. This period of time shall be calculated from the date the department notifies the applicant of the need for such additional information, studies or reports, until the date the department determines that the additional information satisfies the request for such information or 14 calendar days after the date the information has been provided to the department, whichever is earlier.
2. If the department determines that the additional information submitted to the department by the applicant under paragraph (1) above is insufficient, the department shall notify the applicant of the deficiencies in writing within 14 calendar days from the date the information was provided to the department, and the procedures provided in paragraph (1) above shall apply as if a new request has been made.

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C. If the department is unable to issue its final decision on a project permit application within the time limits provided for in this section, it shall notify the applicant of that inability to issue the final decision within the prescribed time limits. Such notice shall include a statement of the reasons why the time limit has not been met and an estimated date for issuance of the notice of decision.

15.220.080 Public notice of decision.

For Type I, II, III, and IV project permits, the director shall issue and mail a notice of decision to the parties of record, to any person who, prior to the rendering of the decision, requested notice of the decision in writing and to the Kittitas County Assessor's Office. The notice of decision may be a copy of the final report, and must include the SEPA threshold determination and critical area final determination if the project was not categorically exempt from SEPA and critical area determination. For Type III and IV permits, the notice of decision shall also be posted on the subject property and published in the city's official newspaper pursuant to the requirements in ECC 15.220.030(D) and 15.220.050.

15.220.090 Limitations on refiling of applications.

Upon denial of an application by the Director, the Hearing Examiner or the City Council, no new application for substantially the same proposal shall be accepted within one year from the date of denial.

15.220.100 Limitation on number of applications.

The City shall not accept more than one application for a development proposal for each development site at any one time, unless all applications are necessary for the same development proposal.

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15.220.110 Permit expiration timelines for clearing, grading & fill, and site development permits.

A site development permit may be issued pursuant to ECC 15.250.020 approving land clearing, grading, fill, and/infrastructure improvements required in conjunction with the development of a site. The expiration limitations of this permit are as follows:

A. Site development permit – Permit expiration. Site development permits shall become invalid unless start of construction authorized by such permit is commenced within 180 calendar days after its issuance, or if the start of construction authorized by such permit is suspended or abandoned for a period of 180 calendar days after the time construction is commenced. Site development permits associated with subdivision applications shall expire when the preliminary subdivision approval has expired as set forth by RCW 58.17.140.

B. Site development permit – Permit extension. The director is authorized to grant a single 180 calendar day extension when the applicant requests an extension in writing at least 60 days before the expiration of the site development permit. Extensions may be granted for those permits issued in conjunction with a preliminary subdivision approval that has been extended as provided in RCW 58.17.140 but shall expire when the preliminary subdivision approval has expired as set forth in RCW 58.17.140. Denial of extension requests shall be appealable to city council as an open record appeal.

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15.230 General Provisions for Permit Application Hearings & Appeals

15.230.010 Limitations on the number of hearings.

A. No more than one open record hearing shall be heard on any project permit application. The appeal hearing on a SEPA threshold determination of nonsignificance or a critical area determination pursuant to ECC Article 6 shall be consolidated with any open record hearing on the project permit.

B. A public meeting may be held by a designated body prior to making a recommendation to a decision-maker. The purpose of such public meeting shall be to help inform the recommendation or decision but will not involve the acceptance of any evidence or formal testimony. Materials submitted and utilized in informing any recommendation shall accompany the recommendation to the decision-maker. Procedures for public meetings are governed by RCW Chapter 42.30 RCW.

15.230.020 Public notice of public hearing.

Notice of the time and place of an open record hearing shall be made available to the public by the department no less than 14 days prior to the hearing, through use of these methods:

A. Mail. Mailing to owners of real property located within 300 feet of the subject property;

B. Newspaper. The department shall publish a notice of the open record public hearing in the newspaper of general circulation for the general area in which the proposal is located; and

C. Post site. Posting the property (for site-specific proposals). (See ECC 15.220.050)

15.230.030 Effective date of decision.

Unless an administrative appeal is timely filed, a project permit decision of the city shall be effective on the date the written decision is issued.

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15.230.040 General description of appeals.

A. Type I project permits are appealable only to Superior Court.

B. Type II project permits are appealable to the hearing examiner [unless otherwise noted in Table 15.210.050(B)] who conducts an open record appeal hearing.

C. Type III project permit decisions are appealable to city council which conducts a closed record appeal hearing, except Type III decisions made by city council which are appealable to superior court.

D. Appeals of city council decisions (Type IV and V permits), and appeals of an appeal authority's decisions shall be made to the Superior Court or to the Growth Management Hearings Board, as applicable to the matter being appealed.

15.230.050 Grounds for administrative appeal.

Any appeal to Type II and III project permit decisions shall be linked to the criteria of the underlying project permit decision. The grounds for filing an appeal shall be limited to the following:

A. The designated decision-maker exceeded his or her jurisdiction or authority;

B. The designated decision-maker failed to follow applicable procedures in reaching the decision;

C. The designated decision-maker committed an error of law; or

D. The findings, conclusions or decision prepared by the designated decision-maker are not supported by substantial evidence.

15.230.060 Standing to initiate an administrative appeal.

A. Limited to parties of record. Only parties of record may file an administrative appeal.

B. Definition. The term "parties of record" for the purposes of this chapter, shall mean:

1. The applicant;
2. Any person who testified at the open record public hearing on the application;
3. Any persons who submitted written comments concerning the application (excluding persons who have only signed petitions or mechanically produced form letters);
4. The Ellensburg city council;
5. Property owners within 300 feet of the property subject to the project permit; or
6. Any person who can demonstrate that he/she is aggrieved by the decision in a manner sufficient to establish standing to initiate an administrative appeal

15.230.070 Appeals.

Appeals of a project permit decision shall be governed by the following:

A. Time to file. An appeal shall be considered timely only if it is filed with the community development director within 14 calendar days after written notice of the decision is mailed and is accompanied by the appropriate appeal fee. Appeals shall be delivered to the community development department by mail, personal delivery or by fax before 5:00 p.m. on the last business day of the appeal period. Appeals received by mail after 5:00 p.m. on the last day of the appeal period will not be accepted, no matter when such appeals were mailed or postmarked.

B. Computation of time. For the purposes of computing the time for filing an appeal, the day the decision is issued shall not be counted. If the last day of the appeal filing period is a Saturday, Sunday, or holiday designated by RCW 1.16.050 or by a city ordinance, then the appeal must be filed on the next business day.

C. Acceptance of appeal. The director shall accept appeals that meet the requirements of this section and shall schedule such appeals for consideration by the appeal body or city council as provided in ECC 15.230.040 above. The director shall reject any appeal that fails to meet the filing and submittal requirements of this section. The appeal fee shall be refunded in the event the director rejects an appeal, or in the event that the appellant files a written statement with the director at least fifteen calendar days before the scheduled date for consideration of the appeal. In all other cases, the appeal fee shall be nonrefundable.

D. Content of appeal. Appeals shall be in writing, be accompanied by the required appeal fee, and contain the following information:

a. appellants' name, address and phone number;

b. a statement describing appellants' standing to appeal;

c. identification of the application or decision that is the subject of the appeal;

d. appellants' statement of grounds for appeal and the facts upon which the appeal is based, with specific references to the facts in the record;

e. the specific relief sought;

f. a statement that the appellant has read the appeal and believes the contents to be true, followed by the appellants' signature or the signature of the appellants' agent, provided such agent's authorization is in writing and accompanies the appeal.

E. Effect. The timely filing of an appeal shall stay the decision-maker's decision until such time as the appeal is concluded or withdrawn.

F. Burden of proof. The appellant shall bear the burden to demonstrate that at least one of the grounds for administrative appeal as set forth in ECC 15.230.050 above has occurred.

G. Standard of review. The appeal body shall determine whether there is substantial evidence in the administrative record to support an affirmative finding that one of the grounds for

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administrative appeal raised by the appellant has been met. The appeal body may affirm, modify or reverse the decision of the hearing body.

H. Decision. The appeal body shall issue a written decision on the appeal supported by written findings and conclusions. The director shall mail notice of the appeal body's decision to the appellant(s), the applicant, and other parties of record. The notice shall consist of the appeal body's decision identifying the case by number and appellants' name. The notice shall also include a statement concerning any appeal rights for the appeal decision. Where applicable, the notice shall comply with the official notice provisions of RCW 34.21C.075.

15.230.080 Open record hearing or appeal hearing proceedings.

A. Responsibility of director for hearing. The director shall:

1. Schedule a predecision public hearing or an appeal public hearing as applicable. If the matter is a predecision public hearing, the open record hearing shall be heard within 60 calendar days from the issuance of the notice of application. If the matter is an appeal of a decision which provides for an open record appeal hearing, such appeal hearing shall be held and a decision made within 45 days from the date the appeal is filed unless otherwise established by statute.
2. Provide notice of public hearing as required per ECC 15.220.020.
3. Prepare the staff report on the application, which shall be a single report stating all of the decisions made as of the date of the report, including recommendations on a project permit that did not require an open record predecision hearing. The report shall state any mitigation required or proposed under the development regulations or the city's authority under SEPA.
4. Once a decision has been issued, prepare the notice of decision, if required by the hearing body, and mail a copy of the notice of decision to those required to receive such decision.

B Conflict of interest, ethics, open public meetings act, appearance of fairness.
The hearing body shall be subject to the code of ethics (RCW 35A.42.020,) prohibitions on conflict of interest (RCW 35A.42.020 and Chapter 42.23 RCW), open public meetings (Chapter 42.30 RCW), and appearance of fairness (Chapter 42.36 RCW) as the same now exist or may hereafter be amended.

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C. Ex parte communication.

1. No member of the hearing body may communicate, directly or indirectly, regarding any issue in a proceeding before the hearing body, other than to participate in communications necessary to procedural aspects of maintaining an orderly process, unless such member provides notice and opportunity for all parties to participate, except as provided in this subsection:
   a. The hearing body may receive advice from legal counsel;
   b. The hearing body may communicate with staff members on code or procedural matters; and
   c. If, before serving as the hearing body in a quasi-judicial proceeding, any member of the hearing body receives an ex parte communication of a type that could not properly be received while serving, the member of the hearing body, promptly after starting to serve, shall disclose the communication as described in subsection (2) below.
2. If a member of the hearing body receives an ex parte communication in violation of this section, he or she shall place on the record:
   a. All written communications received;
   b. All written responses to the communication;
   c. A statement of the substance of all oral communications received and all oral responses made; and
   d. The identify of each person from whom the hearing body member received any ex parte communications.
3. Any person in the hearing audience may object to the participation in the hearing of any hearing body member who has placed an ex parte communication on the record and the hearing body member may choose to recuse himself or herself from the hearing or may provide rebuttal to said objection and indicate on the record that he or she believes that they can continue on to hear the matter in a fair and unbiased manner.

D. Disqualification.

1. A member of the hearing body who is disqualified through recusal shall not be counted for purposes of forming a quorum. Any member who is disqualified by recusal may do so only by making full disclosure to the audience, abstaining from voting on the proposal, vacating the seat on the hearing body and physically leaving the hearing room.
2. Except for Type V actions, a member absent during the presentation of evidence in a hearing may not participate in the deliberations or decision unless the member has reviewed the evidence received.

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E. Burden and nature of proof.

Except for Type V actions, the burden of proof is on the proponent to demonstrate that the project permit application is supported by proof established on the record that it conforms to the applicable elements of the LDC and Comprehensive Plan and that any significant adverse environmental impacts have been adequately addressed.

F. Order of proceedings.

The order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate:

Before receiving information on the issue, the following shall be determined:

1. Any objections on jurisdictional grounds shall be noted on the record and, if there is objection, the hearing body has the discretion to proceed or terminate;
2. Any abstentions or disqualifications shall be determined;
3. The hearing body may view the area in dispute with or without notification to the parties, but shall place the time, manner and circumstances of such view on the record;
4. Information shall be received from the staff and then from proponents and then from opponents. The presiding officer may approve or deny a request from a person attending the hearing to ask a question. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, the presiding officer will direct the question to the person submitting testimony; and
5. When the presiding officer has closed the public hearing portion of the hearing, the hearing body shall openly discuss the issue and may not ask further questions of any person without re-opening the public hearing, except that questions to staff of code or procedural clarification or legal question to the city attorney.

G. Decision and notice of decision.

1. Following the hearing procedure described in this section, the hearing body shall approve, conditionally approve, or deny the application. If the hearing is an appeal, the hearing body shall affirm, affirm with conditions, or reverse the decision that is on appeal.
2. The hearing body's written decision shall be issued within 10 working days after the hearing on the project permit application. The notice of decision shall be issued within 120 days after the City notifies the applicant that the application is complete.

H. Issuance of notice of final decision. The notice of decision shall be issued pursuant to ECC 15.220.080.

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15.230.090 Closed record hearing or appeal hearing proceedings.

A. A closed record hearing or appeal hearing shall be heard and decided within 45 days from the date the appeal is filed unless otherwise established by statute.

B. The procedure for closed record hearing or appeal hearing shall be the same as set forth in ECC 15.230.080, *Open record hearing or appeal hearing*, except that:

   1. The closed record hearing shall be limited solely to the record established in the predecision open record hearing on which the decision was made and the hearing body shall be limited in its review to determining whether the decision is supported by the record. The appeal body may decide:

      a. To uphold the decision as being supported by the record; or

      b. Reverse the decision as not being supported by the record.

   2. Participation in the closed record hearing shall be limited to the city, including all staff, the applicant for the proposal subject to appeal, and those persons or entities which have timely filed complete written appeal statements and paid the appeal fee. No new testimony or evidence can be entered into the record although the hearing body can seek clarification of the record.

C. The designated appeal body shall issue a decision on the appeal within 10 days after the conclusion of the appeal hearing, unless the project permit applicant has agreed in writing to an extension of that timeframe.

15.230.100 Judicial review.

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

15.230.110 Conflicts.

In the event of any conflict between any provision of this chapter and any other city ordinance, the provisions of this chapter shall control. Specifically, but without limitation, this means that the provisions of this chapter shall control with reference to authority to make decisions and the timeframe for making those decisions, including the requirements to file an appeal.

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15.240 Nonconformance

15.240.010 Purpose.

A. Establish the legal status of a nonconformance by creating provisions through which a nonconformance may be maintained, altered, reconstructed, expanded or terminated;

B. Encourage the eventual elimination of nonconforming uses having potentially undesirable impacts on conforming uses; and

C. Encourage the adaptive re-use of existing non-conforming public facilities, which will continue to serve the community, and to ensure public review of redevelopment plans by allowing:

   1. Temporary re-uses of closed public school facilities retained in school district ownership, and the reconversion of a temporary re-use back to a school use;

   2. Permanent re-use of publicly owned surplus nonresidential facilities (e.g., schools, fire stations, government facilities) not retained in public ownership; or

   3. Permanent re-use of historic structures listed on the National Register or designated as city landmarks by the landmarks and design commission and accepted by the city council.

15.240.020 Applicability.

Any use, structure, lot or other site improvement (e.g., landscaping or signage), which was legally established prior to the effective date of a land use regulation that rendered it nonconforming, shall be considered nonconforming if:

A. The use is now prohibited or cannot meet use limitations applicable to the zone in which it is located; or

B. The use, structure or lot does not comply with the development standards or other requirements of this code;

A change in the required permit review process shall not create a nonconformance.

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15.240.030 Benign and detrimental nonconformities.

The provisions of this chapter often distinguish benign nonconformities from detrimental nonconformities based on the differing levels of impacts that the various types of nonconformities may cause to surrounding uses that conform to the LDC.

A. Benign nonconformity. A nonconformity that does not have a negative impact on the health and safety of the public but may have an impact on public welfare. Examples may include not enough landscaping, too few parking spaces, or minimal deviation from dimensional standards.

B. Detrimental nonconformity. A nonconformity that has a negative impact on the health and safety of the public. Examples include uses involving hazardous materials, such as gasoline, in single family neighborhoods, uses that produce significant noise, such as body shops or paint shops, uses that have been deemed incompatible, such as adult entertainment establishments near schools, or uses that have large trip generation characteristics such as drive through restaurants.

The director shall make a written determination as to whether a nonconformity is benign or detrimental and include the rationale for such determination. Such determination shall be subject to Type I permit review processes for purposes of notice and appeal.

15.240.040 Nonconforming use.

A. Expansion of nonconforming uses. No existing building, structure, or land devoted to a nonconforming use shall be expanded, enlarged, extended, reconstructed, intensified, or structurally altered unless the use thereof is changed to a use permitted in the district in which such building, structure, or land is located except as follows: When authorized by conditional use permit, a benign nonconforming use may be expanded, enlarged, extended, reconstructed, intensified, or structurally altered as long as the intensity of the benign nonconformity is the same or smaller.

B. Change of nonconforming use. When authorized by the director, a benign nonconforming use may be changed to a similar use that does not increase the intensity of impacts on surrounding conforming uses. For example, a change from a benign non-residential use in a residential zone to another benign use shall be acceptable.

C. Discontinuance of nonconforming use. When a detrimental nonconforming use of land or a nonconforming use of all or part of a structure is discontinued or abandoned for a period of 12 months, such use shall not be resumed, notwithstanding any reserved intent not to abandon such use. Normal seasonal cessation of use, or temporary discontinuance for purposes of maintenance or improvements, shall not be included in determination of the 12 month period of discontinuance. Evidence that such use has been actively available and marketed for sale or lease shall be considered by the director in determining if a nonconforming use has been discontinued.

E. Reversion to nonconforming use. If a nonconforming use is changed to a permitted use, the nonconforming use shall not be resumed.

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F. Residential exception to nonconforming use status. Legally established residential uses located in any zoning district shall not be deemed nonconforming in terms of use and density provisions and shall be a legal use.

15.240.050 Nonconforming structure.

Except for properties that are on the Landmark Register, no nonconforming structure may be expanded, enlarged, or extended where they increase an existing nonconformity. Nonconforming buildings may be repaired, maintained and rebuilt provided such work does not increase an existing nonconformity.

15.240.060 Nonconforming lots.

A. Residential zones. In any residential zone, and in nonresidential zones where single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected or modified on any nonconforming lot of record, even though such lot fails to meet lot area and width requirements of the zone in which such lot is located; provided that:

1. Such lot is in separate ownership; and
2. The proposed development meets other applicable development standards such as setbacks and building height.

B. Other districts. In any other district, permitted building and structures may be constructed on a nonconforming parcel or legal lot of record, provided applicable development standards such as setbacks, landscaping, and off-street parking requirements are met.

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15.250 Review and Decision Criteria For Certain Permits

15.250.010 Temporary use permits – Type II review process.

A. Purpose. A temporary use permit is a mechanism by which the city may permit a use to locate within the city on private property on an interim basis, without requiring full compliance with the LDC or by which the city may permit seasonal or transient uses not otherwise permitted.

B. Procedures. Temporary uses are subject to the Type II review process as set forth in Chapter 15.210.

C. Decision criteria. The director may approve or modify and approve an application for a temporary use permit if:

1. The temporary use will not be detrimental to public health, safety, or welfare, nor injurious to property and improvements in the immediate vicinity of the subject temporary use;
2. The temporary use is not incompatible in intensity and appearance with existing land uses in the immediate vicinity of the temporary use;
3. Adequate parking is provided for the temporary use and, if applicable, the temporary use does not create a parking shortage for the existing uses on the site; and
4. Hours of operation of the temporary use are specified; and
5. The temporary use will not create noise, light, or glare which would adversely impact surrounding uses and properties.

D. Time period. A temporary use permit is valid for up to 60 calendar days from the effective date of the permit, except that the director may establish a shorter time frame or extend a temporary use permit for up to one year. Temporary uses for more than one year shall require review and approval by city council as a Type IV decision.

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15.250.020 Site development permits – Type I or II review process.

A. Purpose. The purpose of a site development permit is to provide a mechanism to review activities that involve clearing and removal of vegetation, excavation, grading, and earthwork construction that may or may not be in preparation of site development within the city in order to protect public health, safety, and welfare by:

1. Minimizing adverse stormwater impacts generated by the removal of vegetation and alteration of landforms;
2. Protecting water quality from the adverse impacts associated with erosion and sedimentation;
3. Minimizing aquatic and terrestrial wildlife habitat loss caused by the removal of vegetation;
4. Protecting sensitive areas from adverse clearing and grading activities;
5. Preventing damage to property and harm to persons caused by excavations and fills; and
6. Establishing administrative procedures for the issuance of permits, approval of plans, and inspection of clearing and grading operations.

B. Applicability. A site development permit is required for the following activities or as determined by the director:

1. The construction of 2 or more detached single-family dwelling units on a single parcel;
2. Site improvements associated with short plat and subdivisions;
3. The construction of 2 or more nonresidential or multifamily structures on a single parcel; or
4. All clearing, grading, or fill activities, except those exempt activities specified in subsection (C) below.

C. Exemptions. The following activities are exempt from site development permit requirements herein, however they may still be subject to SEPA review (see ECC 15.270) and critical areas review (see ECC Article 6):

1. An on-site excavation or fill for basements and footings of a building, retaining wall, parking lot, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than 5 feet after the completion of such structure;
2. Maintenance of existing driveways or private access roads within their existing road prisms; provided, that the performance and restoration requirements of this chapter are met and best management practices are utilized to protect water quality;

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3. Any grading approved by the city engineer within a publicly owned road right-of-way, provided this does not include clearing or grading that expands further into a critical area or buffer;
4. Clearing, grading or fill by a public agency for the following routine maintenance activities:
    a. Roadside ditch cleaning, provided the ditch does not contain salmonids;
    b. Pavement maintenance;
    c. Normal grading of gravel shoulders;
    d. Maintenance of culverts;
    e. Maintenance of flood control or other approved surface water management facilities; and/or
    f. Routine clearing within road right-of-way;
5. Cemetery graves; provided, that this exception does not apply except for routine maintenance if the clearing or grading is within a critical area as regulated in ECC Article 6;
6. Minor stream restoration projects for fish habitat enhancement by a public agency, utility, or tribe within a critical area as regulated in ECC Article 6;
7. Any clearing, grading or fill that has been approved by the director as part of a commercial site development permit and for which a financial guarantee has been posted;
8. The following activities are exempt from the clearing, grading and fill requirements of this chapter and no permit shall be required, subject to the limitations in critical areas and their buffers as set out in ECC Article 6:
    a. Normal and routine maintenance of existing lawns and landscaping, including up to 50 cubic yards of top soil, mulch, or bark materials added to existing landscaped areas;
    b. Emergency tree removal to prevent imminent danger or hazard to persons or property;
    c. Normal and routine horticultural activities associated with commercial orchards, nurseries, or Christmas tree farms. This does not include clearing, grading or in order to develop or expand such activities;
    d. Normal and routine maintenance of existing public park properties and private and public golf courses. This does not include clearing, grading or fill in order to develop or expand such activities in critical areas;
    e. Removal of noxious weeds from steep slope hazard areas and the buffers of streams and wetlands;
    f. Pruning and limbing of vegetation for maintenance of above-ground electrical and telecommunication facilities; provided, that the clearing is consistent with the electric, natural gas, cable communication and telephone utility exemption in critical areas as regulated in ECC Article 6;

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9. The cutting and removal of any coniferous tree of less than 8 inches DBH or any deciduous tree of less than 12 inches DBH when not located within a critical area or buffer;
10. The pruning, limbing, and general maintenance of trees outside of environmentally critical areas and buffers, consistent with the requirements of ECC Article 6;
11. The pruning, limbing, and general maintenance of trees in buffers or that are otherwise required to be retained pursuant to ECC Article 6;
12. An excavation that is less than 2 feet in depth or does not create a cut slope greater than 5 feet in height and steeper than one unit vertical in 2 units horizontal (66.7 percent slope), that does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course, excluding work in critical areas and their buffers;
13. A fill less than one foot in depth and placed on natural terrain with a slope flatter than one unit vertical in 5 units horizontal (20 percent slope), or less than 3 feet in depth, not intended to support structures, that does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course, excluding work in critical areas and their buffers; and
14. Normal routine maintenance of existing single-family drainage systems, including but not limited to excavation to replace existing pipes, catch basins and infiltration trenches, that does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course, excluding work in critical areas and their buffers.

D. Procedures. Site development permits are subject to the Type I review process, except where such projects require a SEPA threshold determination a Type II review process is required (see Chapter 15.210 for review process details).

E. Operating conditions and standards of performance.

1. Any activity that will clear, grade, fill or otherwise disturb the site, whether requiring a clearing, grading, or fill permit or not, shall provide erosion and sediment control (ESC) that prevents, to the maximum extent possible, the transport of sediment from the site to drainage facilities, water resources, and adjacent properties. Erosion and sediment controls shall be applied as specified by the temporary ESC measures and performance criteria and implementation requirements in the city's erosion and sediment control standards.
2. Cuts and fills shall conform to the following provisions unless otherwise approved by the director:
   a. Slope. No slope of cut and fill surfaces shall be steeper than is safe for the intended use and shall not exceed 2 horizontal to one vertical, unless otherwise approved by the director;
   b. Erosion control. All disturbed areas including faces of cuts and fill slopes shall be prepared and maintained to control erosion in compliance with subsection (1) of this section;
   c. Preparation of ground. The ground surface shall be prepared to receive fill by removing unsuitable material such as concrete slabs, tree stumps, brush, and car bodies;

d. Fill material. Except in an approved sanitary landfill, only earth materials that have no rock or similar irreducible material with a maximum dimension greater than 18 inches shall be used;

e. Drainage. Provisions shall be made to:

   i. Prevent any surface water or seepage from damaging the cut face of any excavations or the sloping face of a fill; and

   ii. Carry any surface waters that are or might be concentrated as a result of a fill or excavation to a natural watercourse, or by other means approved by the city engineer;

f. Bench/Terrace. Benches, if required, at least 10 feet in width shall be back-sloped and shall be established at not more than 25 feet vertical intervals to control surface drainage and debris. Swales or ditches on benches shall have a maximum gradient of 5 percent;

g. Access roads – Maintenance. Access roads to grading sites shall be maintained and located to the satisfaction of the city engineer to minimize problems of dust, mud, and traffic circulation;

h. Access roads – Gate. Access roads to grading sites shall be controlled by a gate when required by the director;

i. Warning signs. Signs warning of hazardous conditions, if such exist, shall be affixed at locations as required by the director;

j. Fencing. Fencing, where required by the director, to protect life, limb, and property, shall be installed with lockable gates that must be closed and locked when not working the site. The fence must be no less than 5 feet in height and the fence material shall have no horizontal opening larger than 2 inches;

k. Setbacks. The tops and the toes of cut and fill slopes shall be set back from property boundaries and from structures as far as necessary for safety of the adjacent properties and structures and to prevent damage resulting from water runoff or erosion of the slopes;

   Slopes and setbacks shall be determined by the director; and

l. Hours of operation. Hours of operation, unless otherwise authorized by the director, shall be between 7:00 a.m. and 7:00 p.m.

F. Decision criteria. A site development permit that complies with all applicable development regulations as provided in this title shall be approved.

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15.250.030 Design review – Type II review process.

A. Purpose.

1. To promote the public health, safety, and general welfare of the citizens of the city;
2. To recognize that land use regulations aimed at the orderliness of community growth, the protection and enhancement of property values, the minimization of discordant and unsightly surroundings, the avoidance of inappropriateness and poor quality of design and other environmental and aesthetic objectives provide not only for the health, safety and general welfare of the citizens, but also for their comfort and prosperity and the beauty and balance of the community, and as such, are the proper and necessary concerns of local government;
3. To increase awareness of design considerations among the citizens of Ellensburg; and
4. To create a review process that balances flexibility and predictability for applicants, staff, public officials, and community members.

B. Minor and major project design review.

1. Exterior modifications to any property that is on the landmarks register are reviewed for applicable design review by the landmarks and design commission pursuant to ECC 15.280.090.
2. For all non-landmark register properties, exterior modifications and new construction are subject to both major and minor design review, as defined in ECC 15.130.040, and are reviewed for conformance with applicable land use and zoning provisions in ECC Article 3, applicable community design provisions in Article 4, and applicable project design provisions in ECC Article 5, plus other applicable provisions set forth in the LDC.
3. The director shall have the authority to determine if a minor exterior modification to a non-landmark register property is not significant, and therefore does not require design review, based on factors such as the scope, location, context and visibility of the change or modification. The director may determine that design review is not required for such minor exterior modifications including, but not limited to: repainting structures to similar colors; relocating, modifying or adding mechanical equipment; reorganization of portions of parking lots involving less than 5 spaces; modifications to locations of existing lighting; or minor changes to existing approved landscaping, provided that cost of work does not exceed 15 percent of the structure's current Kittitas County assessed value as of the time the initial application for the work is submitted.

If there is no current Kittitas County assessed value for a structure, a current appraisal of the structure, which shall be provided by the applicant and acceptable to the director, shall be used as the value point of reference for the structure.

C. Procedures. Minor and major design review projects are subject to the Type II review process as set forth in ECC Chapter 15.210.

1. Major design review projects require a pre-application meeting (see ECC 15.220.010); and

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2. Projects on landmark register properties which include one or more departure requests, require a review and approval by the landmarks and design commission through a Type II review process as set forth in Table 15.210.050(B).
3. Projects not on landmark register properties which include one or more departure requests, require a review and approval by the director through a Type II review process as set forth in Table 15.210.050(B).

D. Decision criteria. Decision criteria for minor and major design review projects are set forth in Articles 3-5 of this title.

15.250.040 Conditional use permits – Type III review process.

A. Purpose. The purpose of a conditional use permit is to locate a permitted use on a particular property, subject to conditions placed on the permitted use to ensure compatibility with nearby land uses.

B. Procedures. Conditional use permits are subject to the Type III review process as set forth in ECC Chapter 15.210.

C. Decision criteria. The city may approve or approve with conditions only if the applicant demonstrates that:

1. The size of the site is adequate for the proposed use, including all facilities and amenities that are required by this Title or desired by the applicant;
2. The proposed use will not be detrimental to the public health, safety, and general welfare of the community and will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties;
3. The topography, soils, and other physical characteristics of the site are appropriate for the use and potential problems due to weak foundations soils can be eliminated or reduced to the extent necessary to avoid hazardous situations;
4. The proposed use will not be injurious to, or adversely affect the uses, property, or improvements adjacent to, or in the vicinity of the site upon which the proposed use is to be located;
5. The proposed use is compatible with adjacent land uses and consistent with the character of the surrounding area;
6. The proposed use will be supported by adequate water, sewer, storm drainage, schools, electrical, ploice, fire protection facilities and services. The use will not overburden or adversely affect said public facilities and services;
7. The traffic generated by the proposed use will not unduly burden the traffic circulation system in the vicinity;
8. An adequate site layout is proposed for on-site circulation and transportation activities, considering the potential impacts of the proposed use on traffic flow and control, emergency vehicle movements and safety associated with the suitability of access

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points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths, or other transportation facilities required by this title or desired by the applicant;

9. The proposal will cause no unreasonably adverse effects to wetlands, shorelands, wildlife habitat, and other critical areas;
10. Buffering devices such as fencing, landscaping or topographic characteristics adequately protect adjacent properties from adverse effects of the proposed use, including adverse visual or auditory effects;
11. The granting of the conditional use is consistent and compatible with the intent of the goals, objectives and policies of the comprehensive plan;
12. The proposed use complies with the appropriate development and performance and all other applicable provisions of the city of Ellensburg development standards; and
13. All conditions necessary to lessen any impacts of the proposed use have been included in the project design or will be required as conditions of approval.

D. Appropriate conditions for approval. In approving a conditional use, the planning commission may impose conditions including, but not limited to, any of the following conditions:

1. Limit the manner in which the use is conducted, including restricting the time an activity may take place and imposing restraints to minimize such environmental effects such as noise, vibration, air pollution, glare and odor;
2. Establish a special yard or other open space, lot area or dimension;
3. Limit the height, size or location of a building or other structure;
4. Designate the size, number or naturer of vehicle access points;
5. Increase the amount of street dedication, roadway width or improvements within the street right-of-way;
7. Designate the size, location, screening, drainage, surfacing or other improvements of off-street parking or truck loading areas;
8. Limit or otherwise designate the number, size, location, and height of lighting of signs;
9. Limit the number and intensity of outdoor lighting or require its shielding;
10. Require screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility;
11. Require and establish the size, height, location or materials for a fence;
12. protect existing trees, vegetation, water resources, wildlife habitat or other significant natural resources;

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13. Impose special conditions on the proposed development to ensure that it is in conformance with the surrounding neighborhood and the intent and purpose of the zoning district classification; and/or
14. Require such financial guarantees and evidence that any applied conditions will be complied with.

15.250.050 Variances – Type III review process.

A. Purpose. A variance is a mechanism by which the city may grant relief from the zoning provisions and standards of the LDC, where practical difficulty renders compliance with the LDC an unnecessary hardship.

B. Procedures. Variance permits are subject to the Type III review process as set forth in ECC Chapter 15.210.

C. Decision criteria. The city may approve, approve with conditions, or deny variances. Granting of variances require compliance with all of the following:

1. The variance is necessary because of the unique size, shape, topography, or location of the subject property;
2. The strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;
3. The subject property is deprived, by provisions of this title, of rights and privileges enjoyed by other properties in the vicinity and under an identical zone, however, the existence of similar nonconforming uses of neighboring lands, structures, or buildings in the same zone shall not be considered grounds for the issuance of a variance;
4. The need for the variance is not the result of deliberate actions of the applicant or property owner, including any past owner of the same property;
5. The variance is compatible with the comprehensive plan;
6. The variance does not create a health or safety hazard;
7. The granting of the variance will not be materially detrimental to the public welfare or injurious to:
    a. The property or improvements in the vicinity, or
    b. The zone in which the subject property is located;
8. The variance does not relieve an applicant from:
    a. Any of the procedural or administrative provisions of this title, or
    b. Any standard or provision that specifically states that no variance from such standard or provision is permitted, or
    c. Use or building restrictions, or

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d. Any provisions of the critical areas development standards except as provided in ECC Article 6;

9. The variance from setback or height requirements does not infringe upon or interfere with easement or covenant rights or responsibilities;

10. The variance does not allow the establishment of a use that is not otherwise permitted in the zone in which the proposal is located; and

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

15.250.060 Rezones – Type IV or V review process.

Site-specific rezones to change the current zoning of a property to a new zoning category that is consistent with the comprehensive plan land use designation for the property are reviewed as Type IV processes. Type V reviews involve the legislative revisions to the zoning map for area-wide changes including comprehensive plan updates and those proposed to implement subarea plans.

A. Purpose. The purpose of this section is to provide procedures for amending the text, maps, and charts of this title, and amendment criteria for amending the official zoning map.

B. Procedures. Site specific rezones are subject to the Type IV review process as set forth in ECC Chapter 15.210. All other rezones are subject to the Type V review process as set forth in ECC Chapter 15.210.

C. Site specific rezone decision criteria. The city may approve or approve with modifications an application for a rezone of property only if the applicant has adequately demonstrated that all of the following statements apply to the proposed rezone:

1. Conditions have changed since the imposition of the zoning classification on the property;

2. The proposed rezone bears a substantial relationship to the public health, safety, morals, and general welfare;

3. The proposed rezone is consistent with the comprehensive plan; and

4. The proposed rezone to a particular zoning district shall be consistent with the development standards in the LDC for the zoning district.;

Applicants may propose conditions to be imposed on the site specific rezone in order to mitigate any detrimental effect the rezone might have on uses or property in the immediate vicinity of the proposed rezone. Any conditions imposed by the city on the rezone shall be incorporated in a development agreement executed by the city council and the property owner(s), under the procedures set forth in RCW 36.70B.170 through 36.70B.200 and ECC Chapter 15.380 (Development Agreements).

The burden of this demonstration is on the rezone applicant.

15.250.070 Master site plans for regional retail commercial projects – Special review process.

A. Purpose. The purpose of this section is to provide procedures for the review and decision on master site plan applications for regional retail commercial projects.

B. Application submittal requirements. In addition to the submittal requirements set forth in 15.220.020(B), a complete master site plan application for regional retail commercial projects shall consist of the following:

1. A SEPA Checklist and payment of the appropriate SEPA application fee;
2. A complete application form provided by the city, which shall include a title and location of the proposed development, together with the names, addresses and telephone numbers of:
   a. the recorded owners of the land and the applicant, and if applicable; and
   b. any architect, planner, designer, or engineer responsible for the preparation of the plan;
3. Payment of the appropriate application fee;
4. A written description, corresponding to the site plan addressing:
   a. the scope of the project
   b. location and gross floor area of each proposed structure
   c. category of permitted, conditional or accessory uses proposed in terms of square feet to be covered by impervious surfaces
5. A vicinity map showing:
   a. the site boundaries;
   b. existing roads and accesses within and adjacent to the site; and
   c. adjacent parcels, including current zoning and current usest hereof.
6. A topographic map, at two-foot intervals, showing existing and proposed contours, with locations and classifications of any existing streams, wetlands, steep slopes and other natural features and/or critical areas;
7. Plans drawn to a scale approved by the director as appropriate for the size of the project showing the general location and square footages of proposed uses, buildings, buffer areas, yards, open spaces and landscaped areas;
8. A circulation plan drawn to a scale acceptable to the city engineer illustrating all access points for the site and the proposed size and location of driveways, streets and roads that have immediate impact on public rights-of-way, and the location and number of all off-street parking spaces;
9. Plans for all utilities, including drainage and storm water retention and detention;

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10. A statement demonstrating how the proposed plan is consistent with and implements the city of Ellensburg comprehensive plan, the land use designation under the comprehensive plan, and the criteria for approval as set forth below; and

11. Building elevations and landscaping plans are not required for an application to be deemed complete, however those final plans are required to be approved prior to issuance of any building or development permits for the project. If building elevation and landscaping plans are submitted subsequent to the master site plan application, those designs are subject to the statement requirements in 10 above.

C. Procedures. Master site plans for regional retail commercial projects follow the general Type IV review process although they are exempt from the project permit timeline requirements in ECC 15.210.010(B) and are also subject to the following provisions:

1. Recommendation. The director will review the project at a public meeting as defined in ECC 15.130.160 and make a recommendation to the city council. In making its recommendation, the director may engage with a consultant to assist in reviewing the design features of the project against the regional retail design standards set forth in ECC Chapter 15.590.

2. Expiration of regional retail commercial master site plan. Within 5 years after the date of regional retail commercial master site plan approval, or at the expiration of any approved extension granted by the city in 4 below, a complete building permit application shall be submitted for no less than 100,000 square feet; otherwise the regional retail commercial master site plan approval shall expire and be of no further effect.

3. Concurrent applications and optional consolidated project permit application processing. Unless an applicant for a regional retail commercial master site plan requests otherwise, the regional retail commercial master site plan shall be processed together with all associated permit applications related to the master site plan project to the extent that procedural requirements allow for simultaneous processing. If an applicant makes a written request to consolidate the master site plan application processing with the processing of other permit applications related to the master site plan project application, the city may consolidate the regional retail commercial master site plan application process with any or all permit applications, utility service agreements, building permit applications or other city approval processes associated with the master site plan application pursuant to the consolidation requirements in ECC 15.210.020 to the extent that procedural requirements allow. In the event consolidation is granted by the city, the vesting of rights associated with any of the consolidated actions shall be per applicable statutes unless otherwise provided in a development agreement entered into pursant to ECC Chapter 15.380.

4. Extensions. A regional retail commercial master site plan not subject to a development agreement for phasing may be extended once, for a period of up to 5 years after the original date of approval. In granting the extension, the city council may condition approval on the extended regional retail commercial master site plan being subject to

any new or amended regulations, requirements, policies or standards which have been adopted after the original of approval, unless 50 percent or more of the on-site work has commenced on all phases.

a. Deadline for filing application. Requests for an extension of the regional retail commercial master site plan must be submitted to the city no more than 180 days prior to expiration and no less than 60 days prior to the expiration of the approval.

b. Complete application. A complete application for a regional retail commercial master site plan extension shall consist of the following:

   i. The length of extension being requested; and

   ii. A textual description demonstrating how the request complies with the criteria for approval in (d) below.

c. Procedure. An application for an extension of a regional retail commercial master site plan shall be processed as a Type 3 permit.

d. Criteria for approval. The city council may grant the one-time extension of the regional retail commercial master site plan, for up to 5 years, with or without conditions, if the applicant demonstrates compliance with the following criteria:

   i. That there is still adequate provision made for water, sanitary sewer and/or public utilities (electric, gas, phone and cable) if the extension is granted;

   i. That the regional retail commercial master site plan complies with the zoning and environmental (including but not limited to, sensitive areas ordinances, storm water drainage regulations) ordinances in place at the time the extension application was submitted; and

   iii. The applicant demonstrates good cause for the delay in not commencing construction during the original 5 year period based on circumstances beyond the control of the applicant.

5. Master site plan revisions. Revisions to a regional retail commercial master site plan may be approved through the Type I review process so long as the revision does not result in an increase in the number of on-site parking spaces by more than 10 percent of the amount originally approved or an increase in the square footage of building gross floor area by more than 10 percent of the amount originally approved. Revisions of approved retail commercial master site plans in excess of the above amount shall require a Type IV review process as described herein and in ECC Chapter 15.210.

D. Decision criteria. Applicants proposing a regional retail commercial master site plan shall demonstrate that the site plan application is able to satisfy all of the applicable code requirements. The regional retail commercial master site plan may only be approved if the city finds that all applicable code requirements are met, and that all of the following are satisfied:

1. Where permitted:

a. ECC Table 15.310.040 sets forth the zones that regional retail commercial master site plans are permitted, provided that the property is within the designated boundaries of the regional retail commercial areas as shown in Figures 15.250.070(A) and (B) below..

b. Regional retail commercial master site plans shall not be allowed on any property which is less than 40 acres in size, and which consists of one parcel or separate and contiguous parcels, separated only by a public right-of-way.

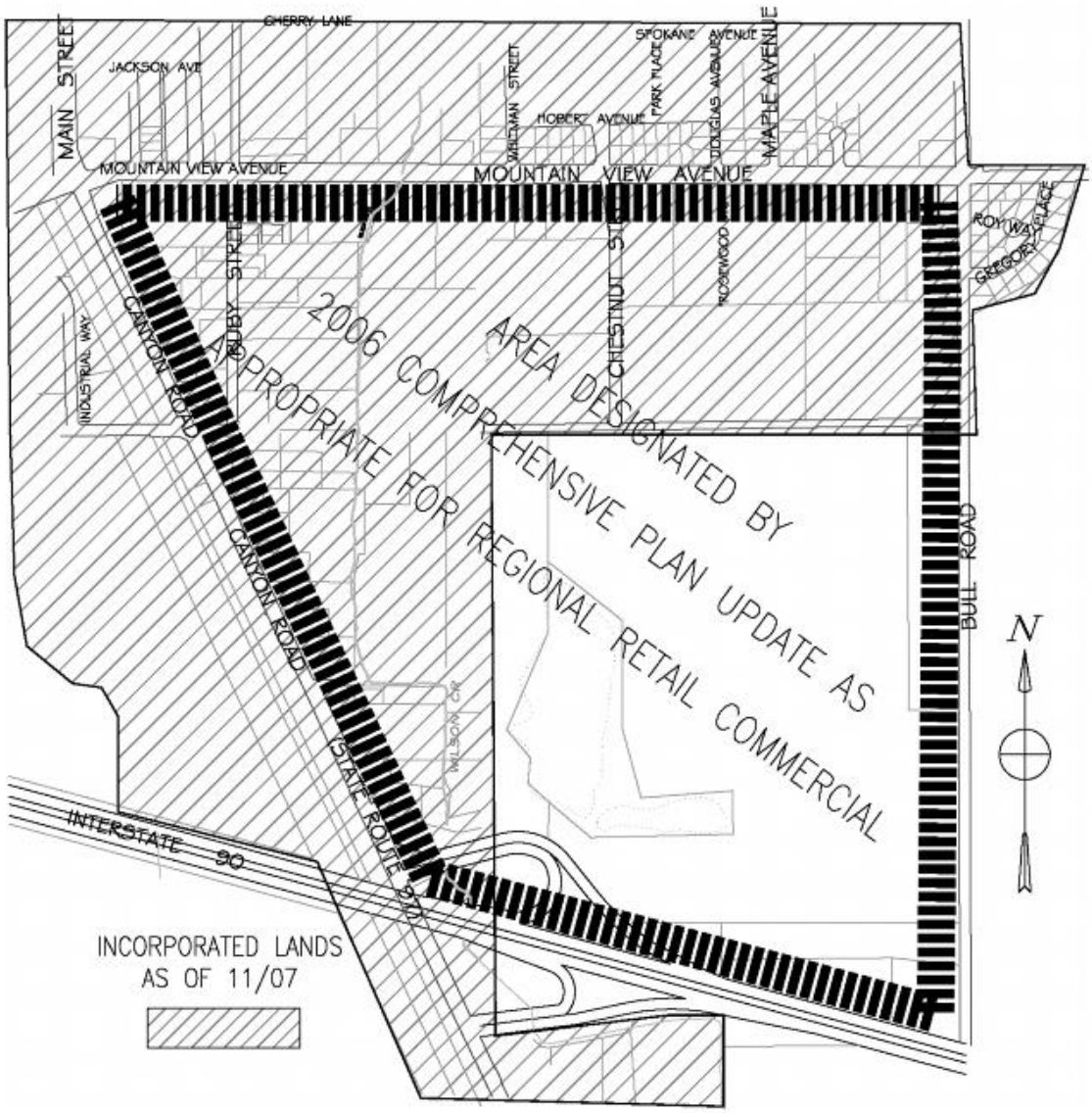

Figure 15.250.070(A). South interchange area.

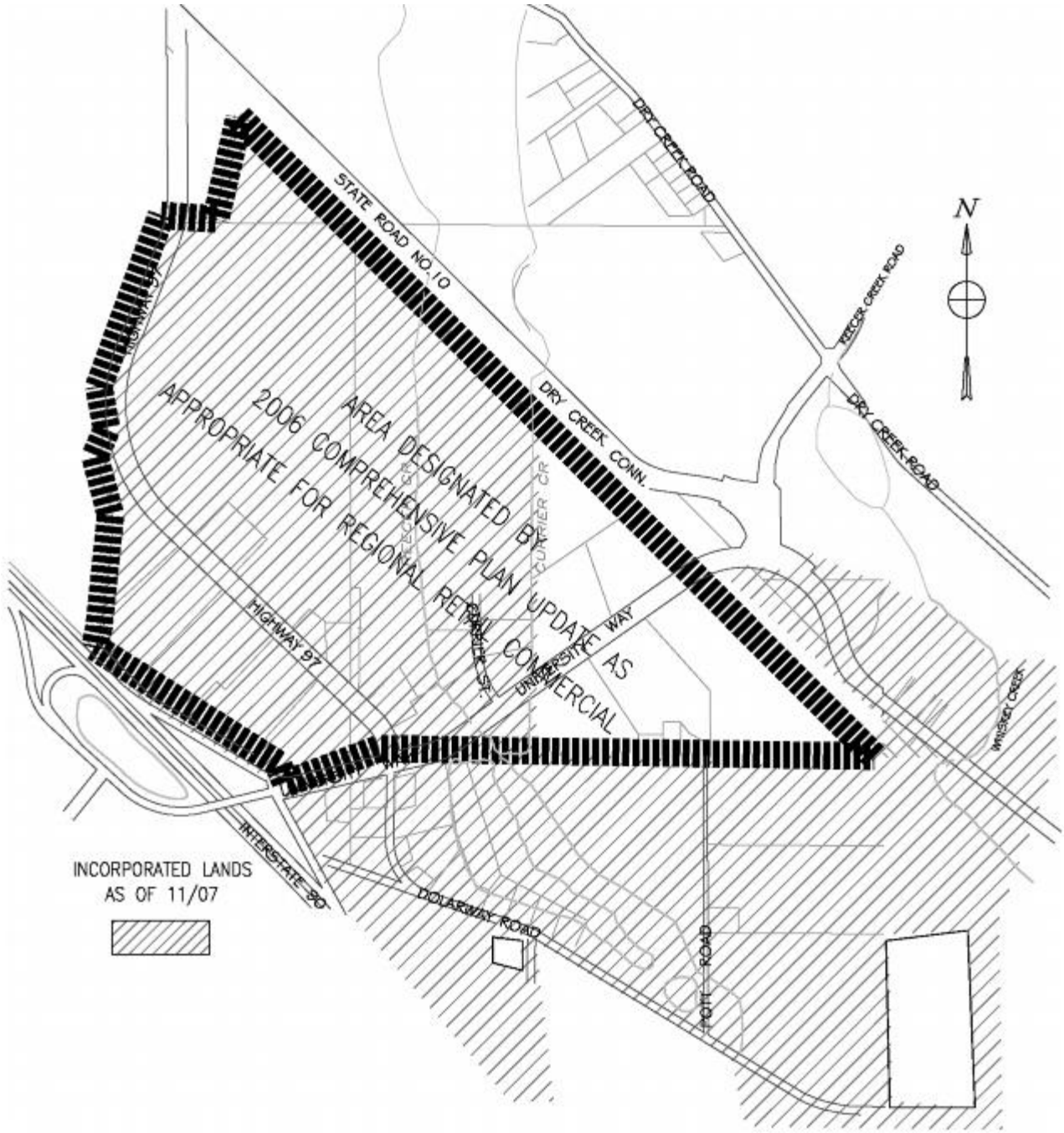

Figure 15.250.070(B). West interchange area.

2. The site access, proposed on-site circulation and off-street parking meets all public works development standards (ADD LINK), regional retail commercial design standards (ECC Chapter 15.590), and makes adequate provision for roads, streets, alleys and other public ways. All streets, roads, sidewalks and other amenities shall be constructed as required by the city's public works development standards. The streets and sidewalks shall be suitable and adequate to handle anticipated traffic within the proposed regional retail commercial master site plan and in the vicinity of the development. Adequate access shall include at least 3 points of entrance onto the 40-acre project site, one of which must be from an arterial street, and 2 must be from different compass directions or sides of the property, or at least one street connection to each neighboring parcel;
3. The regional retail commercial master site plan makes adequate provision for all public utilities, including, but not limited to, water, sanitary sewer, and storm water drainage. The water and sanitary sewer facilities shall be suitable and adequate to provide service within the proposed regional retail commercial master site plan and in the vicinity of the development;
4. The regional retail commercial master site plan is consistent with the city's comprehensive plan;
5. The fire marshal and the building official have provided a recommendation demonstrating compliance with the applicable fire and building codes of the city;
6. The perimeter of the regional retail commercial master site plan is compatible with the existing land use or properties that abut or are directly across the street from the subject property. Compatibility includes but is not limited to size, scale and mass; and
7. Each phase of the proposed regional retail commercial master site plan, as it is planned to be completed, contains the required parking spaces, open space, landscaping and utility area necessary for creating and sustaining a desirable and stable environment;
8. All land within an approved regional retail commercial master site plan is subject to the regulations of the underlying zone as set forth in ECC Article 3, except as modified by the provisions of this chapter. In the event of any differences between the provisions of this chapter and the underlying zone, the provisions of this chapter shall apply;
9. Types of uses and development permitted. Uses defined as "regional retail commercial" development in ECC 15.130.180 are permitted. In addition, the uses allowed outright in the underlying zone are allowed in a regional retail commercial development; and
10. The regional retail commercial master site plan and subsequent development shall comply with applicable project design provisions of ECC Chapter 15.590. Where there is a conflict between the provisions of ECC Chapter 15.590 and this section, the provisions of this section shall apply.

E. Phasing. An applicant may request that a development agreement be entered into with the city for development of the regional retail commercial master site plan to be phased over a period not to exceed 10-years. In addition to the requirements for a development

agreement in ECC Chapter 15.380, approval of any phased regional retail commercial master site plan shall include, but not be limited to, the following conditions:

1. The proposed development contains a minimum of 100,000 square feet of enclosed gross floor area of commercial uses, provided, that at least 50,000 square feet must be constructed for and used by one retailer;
2. In the first phase of the regional retail commercial master site plan, development of permitted uses other than regional retail commercial allowed in the T-C and C-H zones (such as hotel/motel, eating and drinking, office and other uses) are not subject to the minimum enclosed gross floor area requirement;
3. The minimum enclosed gross floor area in the first phase may be satisfied by combining the gross floor area of separate buildings within the regional retail commercial master site plan, including buildings separated by a road; and
4. There is no minimum size requirement for subsequent phases of development.

F. Designation of regional retail commercial master site plans.

The city council has designated the areas of the city which are eligible to develop with regional retail commercial projects in the comprehensive plan land use map and the comprehensive plan commercial land use policy statements. Modification of any boundaries or institution of any additional areas eligible for regional retail commercial projects shall follow the comprehensive plan amendment process.

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15.250.080 Master Plan for P-R zone uses – Type IV review process.

A. Purpose. The purpose of the master plan is to permit appropriate institutional development within specific boundaries while minimizing impacts, and to balance the public benefits of the growth and change of the community's major institutions with the livability and vitality of the community's neighborhoods.

B. Applicability. Recognizing that some institutions require long-range development plans and consist of large areas of land with multiple land uses, a master plan may be prepared for all, or a portion, of an entity's land area which is subject to this chapter and which master planned land encompasses an area of 3 acres or more.

C. Application submittal requirements. In addition to the submittal requirements set forth in ECC 15.220.020(B), master plan applications shall include at a minimum: boundaries, land uses, circulation within and adjacent to the area, parking, utilities, open spaces, landscaping, and specific development standards. Such development standards may depart from provisions in Articles 3-5 herein, provided the applicant demonstrates that the proposed standards meet the purpose and decision criteria herein.

D. Procedures. Land development code amendments are subject to the Type IV review process as set forth in ECC Chapter 15.210.

E. Decision criteria. The city council may approve or approve with modifications a master plan proposal if:

1. The proposal minimizes impacts to surrounding uses;
2. The proposal balances the public benefits of the growth and change of the community's major institutions with the livability and vitality of the community's neighborhoods; and
3. The proposal will not adversely affect the public health, safety or general welfare.

Upon the approval and adoption of the master plan by the city council, the development standards and requirements, if any, established in the master plan shall apply within the boundaries of the area subject to the master plan.

15.250.090 Comprehensive plan amendments – Type V review process.

A. Purpose. A comprehensive plan amendment or review is a mechanism by which the city may modify the text or map of the comprehensive plan in accordance with the provisions of the Growth Management Act, in order to respond to changing circumstances or needs of the city, and to review the comprehensive plan on a regular basis.

B. Initiation of text and map amendments.

1. The city's comprehensive plan shall be subject to continuing evaluation and review by the city. Any amendment or revision to the comprehensive plan shall conform to RCW Chapter 36.70A.
2. Comprehensive plan amendments may be initiated by citizens, by the planning commission or other boards and commissions of the city, city staff, city council, or any

other interested persons including applicants, hearing examiners and staff of other agencies. The proposed amendments or revisions to the comprehensive plan shall be docketed and considered by the city no more frequently than once every year except that amendments may be considered more frequently under the following circumstances:

a. The initial adoption of a subarea plan. Subarea plans adopted under this section must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under Chapter 43.21C RCW;

b. The development of an initial subarea plan for economic development located outside of the one hundred year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

c. The adoption or amendment of a shoreline master program under the procedures set forth in Chapter 90.58 RCW;

d. The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

e. The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.440, provided that amendments are considered in accordance with the public participation program established by the county or city under RCW 36.70A.130(2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

3. All docketed amendment proposals shall be considered by the city concurrently so the cumulative effect of the various proposals can be ascertained. However, the city may adopt amendments or revisions to its comprehensive plan that conform with RCW Chapter 36.70A after appropriate public participation whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with a court.

4. The city shall periodically review the densities permitted within its boundaries, and to the extent to which urban growth has occurred within the city according to the timetable established by the Growth Management Act. The city shall revise its projected population figures a minimum of every 10 years to accommodate the urban growth projected to occur in the city for the succeeding 20 year period.

C. Procedures. Comprehensive plan amendments are subject to the Type V review process with the following variations:

1. A complete application for a comprehensive plan amendment shall be made on the comprehensive plan amendment form provided by the Ellensburg community

development department. Additional supporting materials, such as photographs, statistics, etc. shall be included with the application;

2. The city will accept applications for comprehensive plan amendments between January 1 and June 30 of every year. The start of that acceptance period shall be advertised in accordance with the city's noticing requirements;
3. In the city council's first regular meeting in July, the city council shall review the proposed amendments timely submitted for consideration to be docketed for review that year. Each proposed amendment shall be accompanied by the amendment application materials and a staff discussion of the proposed amendment with a recommendation on whether or not the proposed amendment is an appropriate amendment subject and is ready for consideration to be docketed for review that year;
4. Within 15 days of the docketing date, the proposed amendments chosen to be docketed by city council shall then be transmitted to the SEPA responsible official for SEPA review and to the planning commission for review at a public hearing, and a 60-Day Notice of Intent to Adopt Comprehensive Plan or Development Regulation amendments shall be sent to the Washington State Department of Commerce. The city council may also request other city boards or agencies or other governmental entities to provide comments and recommendations on proposed comprehensive plan amendments. The comments and recommendations must be submitted to the city by the date of the planning commission's hearing unless the city grants an extension of time. Letters of support or objection to a proposed comprehensive plan amendment may be filed by any interested party. The letters must be filed by the date of the city council public hearing unless an extension of time is granted;
5. The SEPA responsible official shall issue a SEPA threshold decision on the docketed amendments on or before the second Friday in August;
6. The planning commission shall schedule and hold a public hearing on the docketed amendments and shall then make a recommedation to city council prior to council's first regular meeting in October. The planning commission shall make one of 4 decisions in considering comprehensive plan text and map amendments:
   a. Approval in the form submitted for public hearing;
   b. Approval with changes;
   c. Approval in part; or
   d. Disapproval;
7. A public hearing to consider the docketed amendments shall be scheduled for city council's first regular meeting on October. Any appeal of the SEPA Threshold Determination shall also be heard at that public hearing;
8. The city council, after a recommendation from staff and the planning commission, and after holding a public hearing, shall make one of the following decisions:

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a. Approval in accordance with the findings and recommendations submitted by the planning commission;

b. Approval with modifications;

c. Refer all or part of the plan text or map amendment proposal back to the planning commission;

d. Refer all or part of the plan text or map amendment proposal to the following year's annual amendment process; or

e. Disapprove.

If the city council's decision is to refer the amendment request back to the planning commission, the council must specify which matters it wishes reconsidered by the planning commission. The final form and content of the comprehensive plan is determined by the city council; and

9. The comprehensive plan together with any and all amendments shall be provided to the city clerk to be placed in a permanent file and made available for public inspection. The city shall also transmit a complete and accurate copy of its comprehensive plan amendments to the Washington State Department of Commerce within 10 days of adoption in accordance with state law.

15.250.100 Land development code amendments – Type V review process.

A. Purpose. An amendment to the LDC (and where applicable amendment of the zoning map) is a mechanism by which the city may bring its land use and development regulations into conformity with the comprehensive plan or respond to changing conditions or needs of the city.

B. Procedures. Land development code amendments are subject to the Type V review process as set forth in ECC Chapter 15.210. Site specific rezones are governed by ECC 15.250.060.

C. Decision criteria. The city council may approve or approve with modifications an amendment proposal for the text of the LDC if:

1. The amendment is in accordance with the comprehensive plan; and

2. The amendment will not adversely affect the public health, safety or general welfare; and

3. The amendment is not contrary to the best interest of the citizens and property owners of the city.

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15.250.100 Siting essential public facilities – Type V review process.

A. Purpose. To establish a process for establishing facilities identified in RCW 36.70A.200 that are typically difficult to site.

B. Procedures. Siting essential public facilities are subject to the Type V review process as set forth in ECC Chapter 15.210, with the following supplemental provisions:

1. Service area. The director shall determine if the facility serves a regional, countywide, statewide or national need. If it does, then the director may condition the review with a requirement that the review process include one or more sites in parts of the service area outside of Ellensburg.
2. Multi-jurisdictional review. Where more than one local government is involved in the review process, Ellensburg staff shall participate in a multi-jurisdictional review process and use the data, analysis and environmental documents prepared in that process in the city's review if Ellensburg determines those documents are adequate.

C. Decision criteria. The city council may approve or approve with modifications the siting of essential public facilities if:

1. The amendment is in accordance with all city ordinances and the comprehensive plan (notably Chapter 11, Essential Public Facilities), including;
   a. The future land use map;
   b. The Capital Facilities Element and budget; and
   c. The Utilities, Community Housing, Economic Development, Urban Growth Area, and Transportation Elements;
2. The amendment will not adversely affect the public health, safety or general welfare; and
3. The amendment is not contrary to the best interest of the citizens and property owners of the city.

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15.260 Subdivisions

15.260.010 Citation of chapter.

This chapter may be cited as the city of Ellensburg Subdivision Ordinance and shall supplement and implement the state regulations of plats, subdivisions and dedications.

15.260.020 Purpose.

Subdivision is a mechanism by which to divide land into lots, parcels, sites, units, plots, condominiums, tracts, or interests for the purpose of sale. The purpose of this title is to:

A. Establish the authority and procedures for segregating land in Ellensburg.

B. Define and regulate divisions of land that are exempt from the short subdivision or subdivision requirements.

C. Ensure consistency with and implement the Ellensburg comprehensive plan as amended in accordance with the Washington State Growth Management Act, RCW 36.70A.120.

D. Require uniform monumenting of land subdivisions and conveyance by accurate legal description.

E. Protect and preserve the public health, safety and general welfare in accordance with the standards established by Ellensburg and the state of Washington.

F. Ensure consistency with Chapter 58.17 RCW.

15.260.030 Subdivision categories.

A. Boundary line adjustment. A minor reorientation of a lot line between existing lots to correct an encroachment by a structure or improvement to more logically follow topography or other natural features, or for other good cause, which results in no more lots than existed before the boundary line adjustment. A boundary line adjustment may also include an extinguishment of an existing lot line resulting in the merger of 2 or more lots into a single lot of record.

B. Short subdivision. A subdivision of 9 or fewer lots.

C. Subdivision (sometimes referred to as a long plat). A subdivision of 10 or more lots.

D. Binding site plan. A land division for commercial, industrial, mixed use master planned developments, and condominium ownership.

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15.260.040 Exemptions.

Consistent with RCW 58.17.040, the subdivision and short subdivision provisions of this chapter shall not apply to:

A. Divisions of lands for cemeteries and other burial plots while used for that purpose;

B. Divisions of land made by testamentary provisions or laws of descent;

C. Divisions of land into lots or tracts consistent with RCW 58.17.040(7), for which a condominium binding site plan has been recorded in accordance with the binding site plan provisions set forth in this title;

D. An adjustment of boundary lines made in accordance with the provisions of this title;

E. Divisions of land for the purpose of lease when no residential structures other than mobile homes are permitted to be placed upon the land and for which a binding site plan for the use of the land as a mobile home park has been approved by the director;

F. Divisions of land by binding site plan into lots or tracts classified for industrial or commercial use consistent with the binding site plan provisions of this title; or

G. A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose.

15.260.050 Boundary line adjustment – review procedures and criteria.

A. Procedures. Adjustments of property boundary lines are subject to the Type I review process as set forth in ECC Chapter 15.210. Applications shall be reviewed by the director and certified as meeting the requirements of this section within 30 working days after receiving a complete application.

B. Application contents. Applications for a boundary line adjustment shall contain the following:

1. The minimum application requirements set forth in ECC 15.220.020 and a completed boundary line adjustment application form provided by the department, which shall include the signatures of all owner's of interest in the land involved in the boundary line adjustment;

2. Payment of a the application fee in the amount established in the city's adopted fee schedule (ADD LINK);

3. Three copies of an accurate preliminary map drawn to scale;

4. A current title report showing ownership and legal description of all parcels involved in the boundary line adjustment;

5. The existing and proposed dimensions and area of the lots involved in the boundary line adjustment;

6. Legal descriptions of the existing lot lines and the proposed lot lines after the adjustment, as prepared by a professional land surveyor licensed in the state of Washington.

C. Decision criteria. The director shall approve an application for a boundary line adjustment if it is determined that:

1. No additional lot, tract, parcel, site or division will be created by the proposed adjustment.
2. No lot is modified which contains insufficient area and dimensions to meet the minimum requirements of the zone in which the affected lots are situated. Where a lot is located within a zone that does not provide for a minimum area or dimension, no lot or tract is modified which contains insufficient area for a building site.

   For the purposes of this chapter, a "building site" means the lot or property contains sufficient area and dimension to accommodate a development capable of housing the type of uses established within ECC Article 3 for the underlying zoning classification;
3. No lot is modified which does not have adequate drainage, water supply and sanitary sewage disposal, and access for vehicles, utilities and fire protection, and no existing easement or tract in favor of the public is rendered impractical to serve its purpose;
4. The boundary line adjustment is consistent with the applicable provisions of the city's zoning code;
5. No lot is modified which is inconsistent with an applicable requirement or condition of a previous land use action, subdivision, or short subdivision;
6. No lot, use, or structure is made nonconforming or more nonconforming than that which existed at the time of application; and
7. No lot is modified in a manner that circumvents a zoning regulation which would otherwise be applicable to any lot affected by the boundary line adjustment.

D. Minimum improvements. Boundary line adjustments shall not be subject to any minimum improvements as outlined in ECC 15.260.060(F).

E. Final decision. If the director determines that all the above criteria are met, he or she shall issue a notice of approval decision. If the director determines one or more of the above criteria are not met, he or she shall send a letter to the applicant listing those criteria that are not met in the proposed boundary adjustment.

F. Recording. Upon approval, prior to recording the boundary adjustment, the following must be submitted to the community development department for review.

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G. Requirements for final boundary map. Once the boundary line adjustment has been approved by the director:

1. Survey of the Boundary Line Adjustment. A final boundary map shall be prepared by a land surveyor licensed in the state of Washington at a scale of 100 feet to the inch, or larger, which shall contain the following:
   a. Company name, address and phone number of the land surveyor;
   b. City file number;
   c. Date prepared;
   d. Sheet number and number of sheets;
   e. Certification by the licensed land surveyor with stamp and signature;
   f. Lot numbers;
   g. Monuments at all new lot corners, angle points, and intersections with old lines;
   h. North arrow;
   i. Legend of symbols used;
   j. Basis of bearings;
   k. All dimensions to hundredths of a foot;
   l. All existing easements and tracts shown;
   m. Existing lot lines to be adjusted, shown as dashed lines; and
   n. The final legal descriptions as prepared by the licensed land surveyor, together with lot closures for each lot.
2. The applicant will be responsible for recording the boundary line adjustment, including an exhibit that corresponds to the drawing approved by the city, with the Kittitas County auditor's office and a copy of the recorded documents must be returned to the planning department within 10 calendar days of such recording.

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15.260.060 Preliminary Subdivision (long plat) review procedures and criteria.

A. Procedures.

1. Land subdivisions that create 10 or more lots (sometimes referred to as long plats) are subject to the Type IV review process as set forth in ECC Chapter 15.210.
2. Time limits. Subdivisions that are granted preliminary approval shall be effective for a period set forth in RCW 58.17.140, during which time the final subdivision application shall be submitted for approval and recording.

   The city shall make a decision on approval or denial of a preliminary subdivision application within 90 days of the determination that the application is complete.

B. Application contents. Applications for a preliminary subdivision shall contain the following:

1. The minimum application requirements set forth in ECC 15.220.020 and a completed subdivision application form provided by the department, which shall include the signatures of all owner's of interest in the land involved in the preliminary subdivision;
2. Payment of a the application fee in the amount established in the city's adopted fee schedule (ADD LINK);
3. A completed SEPA Checklist and payment of the SEPA application fee;
4. A completed critical area information form or critical area report pursuant to ECC Article 6, if applicable;
5. A title report of the property to be subdivided;
6. A recorded copy of the deed for the property to be subdivided;
7. Copies of all existing or proposed restrictive covenants involving the land within the proposed subdivision;
8. Names and addresses of the owner(s) of the property to be subdivided and of any person or entity holding an interest in the property as identified on the title report in sub-section 5 above;
9. Names and addresses of all property owners within 300 feet of the boundaries of the proposed subdivision as those names appear on the records of the Kittitas County Assessor;
10. The preliminary subdivision plat drawing which shall comply with all general drafting standards and Tier 3 drafting guidelines required by the city's public works development standards – Section 5 - drafting standards (ADD LINK). Five copies of the drawing shall be provided with the application, along with an electronic copy on CD media in a format readable by the city's current version of AutoCAD, and one reduced copy not to exceed 11-inches by 17-inches. In addition to the drafting standards set forth in the city's public works development standards, such drawing shall clearly show the following:

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a. Vicinity sketch showing the parcel boundaries and the major street system, with street names, within a one-quarter-mile radius;

b. Zoning of the property proposed for subdivision;

c. Location and size of existing and proposed utilities, railroads, and irrigation rights-of-way on the property proposed for subdivision;

d. Plan view of proposed streets, their names and widths, pedestrian ways, all utilities and easements;

e. Location and size of all proposed ditches, culverts, catch basins, detention or retention ponds or other parts of the design for the control of surface water drainage;

f. Approximate boundaries of all areas subject to irrigation or storm water overflow;

g. Location, width and direction of flow of all watercourses on the site; and

h. Location and identification of all critical areas, including associated buffers, on the property proposed for subdivision or on adjacent properties, as required by ECC Article 6;

11. Preliminary grading plan pursuant to public works department requirements;

12. Preliminary storm water plan pursuant to public works department requirements;

13. Preliminary landscaping plan pursuant to Articles 4 and 5 of this title;

14. A narrative addressing ownership and maintenance of open spaces, stormwater facilities, public trails and critical areas, and the applicable approval criteria and standards of the Ellensburg Municipal Code. It should also address any proposed building conditions or restrictions;

15. Transportation study, if required by the public works department;

16. Location of any proposed building envelopes on the lots being created; and

17. Any other information in the opinion of the director which is necessary to determine if the proposed subdivision makes appropriate provisions for physical problems or hazards involving public health, safety and/or welfare.

C. Referral to city departments and other agencies for comments. The community development department shall distribute one copy of the preliminary subdivision application to the public works department, energy services department, building department, fire marshal, and any public agency that may be affected by the proposed preliminary subdivision.

Whenever the property proposed to be subdivided is located within one-half mile of the corporate limits of the unincorporated county, a copy of the proposed preliminary subdivision application shall be distributed to the respective jurisdiction.

The community development department will transmit any department or agency review materials to the hearing examiner as part of the staff report on the application.

D. Hearing Examiner Recommendation. The hearing examiner shall be responsible for holding an open record public hearing pursuant to procedures established in Chapter 15.210 ECC to review the proposed preliminary subdivision application together with accompanying materials and documents, land use applications, staff reports and public testimony. Based on the comments and testimony established at the public hearing, the hearing examiner shall make a recommendation on the preliminary subdivision application and any other related land use applications to the city council or return the preliminary subdivision application to the applicant with a request for additional information. If the hearing examiner makes a recommendation, such recommendation shall be for approval, disapproval, or approval with conditions. In recommending any proposed preliminary subdivision, the hearing examiner shall propose written findings of fact and conclusions of law to the city council which shall state fully the reasons for the recommendation.

E. City council action.

1. The hearing examiner recommendation, findings and all supporting documents shall be forwarded to the city council. The community development department shall set a date and time for a public hearing before the city council to review the recommendation of the hearing examiner in a closed record hearing at which no new testimony or information may be presented. The city council shall then make its own decision supported by written findings of fact and conclusions of law and approve, approve with conditions, or disapprove the preliminary subdivision application.

2. Prior to making a decision the city council may refer the preliminary subdivision application back to the hearing examiner for further consideration or may require the applicant to modify the preliminary subdivision application, or require more information to be submitted.

F. Decision criteria. The city may approve, approve with conditions, or deny a preliminary subdivision application based on conformance with the following decision criteria:

1. The preliminary subdivision conforms to all applicable zoning standards of the city as set forth in the LDC, including the form and intensity standards in ECC Chapter 15.320, the streetscape design standards in ECC Chapter 15.410, the subdivision design standards in ECC Chapter 15.420, the project design standards in ECC Article 5, and the public works development standards [ADD LINK].

2. All lots within the preliminary subdivision are provided with satisfactory access established consistent with the requirements of the public works development standards[ADD LINK], ECC Title 4, public works construction, the streetscape design standards and subdivision design and block standards in LDC Article 4, and the project design standards in ECC Article 5;

3 All lots within the preliminary subdivision are provided with adequate provisions for water supplies, sanitary wastewater facilities, and storm drainage and surface water facilities consistent with the requirements of the public works development standards[ADD LINK] and ECC Title 9, Utilities;

4. All lots within the preliminary subdivision are provided with adequate provisions for electric service, and for natural gas service if applicable, consistent with the requirements of the city's energy services department design standards and with ECC Title 9, utilities;
5. The preliminary subdivision conforms to all applicable critical areas standards set forth in ECC Article 6; and
6. The preliminary subdivision makes appropriate provisions for the public health, safety and general welfare and for such open spaces, drainage ways, streets or roads, alleys other public ways, transit stops, potable water supplies, sanitary wastes, natural gas mains and services, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school.

15.260.070 Preliminary subdivision – Required minimum improvement standards.

A. Public works improvements. In order to meet the public interest, the following minimum public works improvements shall be required and shall be constructed in accordance with the public works development standards (ADD LINK) and other city utility standards:

1. Installation of concrete curbs and gutters according to the public works development standards;
2. Construction of streets in accordance with the public works development standards;
3. Installation of monuments and monument cases in accordance with the public works development standards;
4. Installation of storm drainage system including inlet, pipe, manholes, detention or retention facilities if deemed necessary, all in accordance with the public works development standards;
5. Installation of iron pipe or reinforcing rods at the corners of all lots, plots or tracts in accordance with the public works development standards;
6. Construction of sidewalks on abutting sides of all public streets in accordance with the public works development standards; and
7. Installation of water and sewer mains, water service lines and side sewers to serve each lot platted in accordance with the public works development standards.

B. Public utility improvements. In order to meet the public interest, the following minimum public electric utility improvements, and public natural gas utility improvements, if applicable, shall be required to be constructed within the subdivision and shall be constructed in accordance with the public works development standards and the energy services department development standards:

1. Installation of underground ducts, manholes and vaults to accommodate the electrical distribution system within the subdivision;

2. Trenching and installation of all necessary public facilities for natural gas distribution within the subdivision; and
3. Communication and television signal service facilities with ducting provided for communication and television service at the right-of-way crossings through a minimum two-inch PVC duct type unless otherwise required by the City based on recommendation from the respective utility.

15.260.080 Phasing of subdivision.

A subdivision may be developed and recorded as final in phases. Any phasing proposal shall be submitted for review at any time prior to final subdivision application. Approval of the phasing plan shall be based on making the following findings:

A. The phasing plan includes all land contained within the approved preliminary subdivision, including areas where off-site improvements are being made;

B. The sequence and timing of development is identified on a phasing map;

C. Each phase shall consist of a contiguous group of lots that meets all pertinent development standards on its own. The phase cannot rely on future phases for meeting any city codes;

D. Each phase provides adequate circulation and utilities;

E. Specific public improvements that are necessary for the entire development may be required to be completed with the first phase, regardless of phase design or completion schedule of future phases, such as but not limited to storm water facilities which may be designed to be located in a subsequent phase but that are necessary to be developed in the first phase in order to ensure the facility essential to all of the subdivision is developed even if subsequent phases are never completed; and

F. Any approved phase of a preliminary subdivision that has not been completed and recorded as final by the city prior to the lapse of the preliminary subdivision approval as set forth in ECC 15.260.060(A)(2) above will be deemed to have lapsed with that preliminary subdivision.

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15.260.090 Installation of improvements.

A. An approved preliminary subdivision shall not be filed for record as a final subdivision until the applicant has constructed or bonded for all improvements required by the city in the final decision on the preliminary subdivision application.

B. Timing and inspection fee. The applicant shall not begin installation of improvements in an approved preliminary subdivision application until the director and the city engineer have approved the improvement plans, the director and the applicant have agreed in writing on a time schedule for installation of the improvements, and the applicant has paid all inspection fees.

C. Acceptance – Maintenance bond. The director shall not accept the improvements for the city of Ellensburg until the improvements have been inspected and found satisfactory, and the applicant has posted a bond or surety to guarantee against defects of workmanship and materials for 2 years from the date of acceptance. (ADD LINK TO SECTION 9 OF THE PUBLIC WORKS DEVELOPMENT STANDARDS)

15.260.100 Final subdivision application review procedures and criteria.

A. Procedures. Final subdivision applications are subject to the Type I review process as set forth in ECC Chapter 15.210, with exceptions provided herein.

B. Application contents. Applications for a final subdivision shall contain the following:

1. The minimum application requirements set forth in ECC 15.220.020 and a completed final subdivision application form provided by the department, which shall include the signatures of all owners' of interest in the land involved in the subdivision application as verified by the title report in sub-section 4 below;
2. A final subdivision plat drawing on mylar or other reproducible material which shall comply with all general drafting standards and Tier 3 drafting guidelines required by the city's public works development standards – Section 5 - drafting standards (ADD LINK). Three copies of the drawing shall be provided with the application, along with an electronic copy on CD media in a format readable by the city's current version of AutoCAD, and one reduced copy not to exceed 11-inches by 17-inches. In addition to meeting the drafting standards set forth in the city's public works development standards, such drawing shall clearly show the following:
    a. Name of the owner(s) of the property being subdivided and mortgagee(s) of said property, if any;
    b. Legal description of the property;
    c. Boundary and lot lines, lot dimensions, lot area in square feet, and lot and block numbers;
    d. Name and official seal of the licensed professional surveyor preparing the final subdivision plat certifying that the plat is a true and accurate survey;
    e. Date, scale and north arrow;
    f. Location of rights-of-way and easements, with easement purpose identified;

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g. Statements of approval and places for signatures for the city engineer, city energy services director, community development director, the mayor of the city of Ellensburg, irrigation water district representative if applicable, and the county auditor;

h. A certification signed by the county treasurer's office that all taxes and delinquent assessments for which the property may be liable as of the date of certification hve been duly paid; and

i. A notarized acknowledgment by the owner(s) and mortgagee(s), if any, of the approval of the final subdivision plat and the dedication of streets and other public places;

3. Engineered design drawings for all required minimum improvements as shown on the approved preliminary subdivision plat drawing, which drawings shall meet the requirements of the public works development standards (ADD LINK), and be approved by the city engineer prior to filing of the final subdivision application;

4. A title report of the property to be subdivided if the final subdivision application is not submitted to the administrator for review within 120 days of the approval of the preliminary subdivision application; and

5. If required public improvements are not to be installed prior to final subdivisionapplication and will be bonded for instead, a subdivision improvements agreement shall be submitted including the following:

   a. Public improvements to be provided in the subdivision as shown on the approved engineering design drawings;

   b. Estimated cost of constructing said public improvements;

   c. Phases of development of the subdivision, if phasing was provided for and approved in the preliminary subdivision approval, and completion dates for said phases;

   d. Provisions for the dedication of park land or payment of fees in lieu of such land if applicable;

   e. A bond guaranteeing the installation of the public improvements which shall meet the requirements of the public works development standards and be approved and accepted by the city engineer; and

   f. In lieu of a bond the applicant may fulfill the public improvements requirement by actually installing the improvements required in the preliminary subdivision approval under the direction of the city engineer.

6. A copy of any deeds, covenants, conditions, or restrictions together with a copy of the documents which establish and govern any homeowners' association which may be required.

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C. Recommendations as prerequisites for final subdivision approval. Each preliminary subdivision submitted for final approval shall be accompanied by the following recommendations:

1. Director's recommendation as to compliance with the terms of preliminary subdivision approval of the proposed subdivision; and
2. City engineer's recommendation as to compliance with the terms of preliminary approval of the proposed subdivision.

Except as provided in RCW 58.17.140, an agency or person issuing a recommendation for subsequent approval under subsections (1) and (2) of this subsection shall not modify the terms of its recommendations without the consent of the applicant.

D. Decision criteria. A final subdivision application shall be approved if the subdivision proposed for approval:

1. Conforms to all of the preliminary subdivision terms and conditions of approval; and
2. Meets all other applicable final subdivision requirements as set forth in Chapter 58.17 RCW, other applicable State laws, this Chapter, and any other applicable City ordinances which were in effect at the time of preliminary subdivision approval.
3. Approval and inscription: The city council shall make written findings of fact relating to its decision on the final subdivision application. If the decision is to approve the final subdivision application, a specific written finding of fact shall also be made that:
   a. Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, natural gas mains and services, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
   b. The public use and interest will be served by the approval of such subdivision and dedication.
4. Upon approval of the final subdivision, the city council shall authorize the mayor to suitably inscribe and execute council's written approval on the face of the final subdivision plat drawing.

E. Effect of final subdivision approval. Any lots in a final subdivision filed for record shall be a valid land use, notwithstanding any change in zoning laws, for a period of 5 years from the date of filing. A subdivision shall be governed by the terms of approval of the final subdivision, and the statutes, ordinances and regulations in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of 5 years after final plat approval unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

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F. Time frame for approval. The final subdivision application, or portion thereof, shall be approved, disapproved, or returned to the applicant by the city within 30 days from the date of the application.

G. Recording. The final subdivision plat, in the form specified in this chapter, shall be recorded by the director with the Kittitas County Auditor within 10 working days after city council approval and shall be recorded in the presence of the applicant and with the cost of recording paid by the applicant.

15.260.110 Changes to approved preliminary and final subdivisions.

A. Preliminary subdivision. The director may approve minor changes to an approved preliminary subdivision, or its conditions of approval upon written request of the applicant, subject to the Type I review process as set forth in ECC Chapter 15.210, with exceptions as provided herein.

Decision criteria: The proposed changes shall not conflict with the preliminary approval conditions, will not increase the number of lots, and will not conflict with any applicable city standards. If the proposal involves additional lots, rearrangements of lots or roads, additional impacts to surrounding property, or other major changes, the proposal shall be reviewed in the same manner as a new preliminary subdivision application.

B. Subdivision plat vacation. A subdivision plat vacation is a Type IV application, and shall be processed in accordance with procedures for such applications as set forth in ECC Chapter 15.210.050(D).

1. Application contents. In addition to the minimum application requirements set forth in ECC 15.220.020, a subdivision plat vacation application shall contain the following:

   a. The reasons for the proposed vacation;

   b. Signatures of all parties having an ownership interest in that portion of the subdivision proposed to be vacated;

   c. If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for vacation would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the vacation of the subdivision or portion thereof;

   d. A copy of the approved subdivision plat drawing sought to be vacated, together with all subdivision plat drawing amendments recorded since the date of the original approval;

   e. Any other information required by the community development director for the purposes of ascertaining ownership and the existence of easements or covenants affecting the subject property.

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2. Criteria for approval of a subdivision plat vacation. The subdivision plat vacation may be approved or denied after a written determination is made whether the public use and interest will be served by the vacation of the subdivision. If any portion of the land contained in the subdivision was dedicated to the public for public use or benefit, such land, if not deeded to the city, shall be deeded to the city unless the city council shall set forth findings that the public use would not be served in retaining title to those lands.

   a. Vacation of Streets. When the vacation application is specifically for a city street vacation, the city's street vacation procedures shall be utilized. When the application is for the vacation of a subdivision plat together with the streets, the procedure for vacation in this section shall be used. However, vacations of streets may not be made that are prohibited under Chapter 35.70 RCW or the city's street vacation ordinance.

   b. Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the subdivision plat or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement.

C. Subdivision plat alteration. A subdivision plat alteration is a Type IV application, and shall be processed in accordance with procedures for such applications as set forth in ECC Chapter 15.210.050(D)

1. Application contents. These requirements are in addition to the minimum application requirements in ECC 15.220.020.

   a. The reasons for the subdivision plat alteration;

   b. Signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites or divisions in the subject subdivision or portion to be altered;

   c. If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof;

   d. A copy of the approved subdivision plat drawing sought to be altered, together with all subdivision plat amendments recorded since the date of the original approval; and

   e. Any other information required by the community development director for the purposes of ascertaining ownership and the existence of easements or covenants affecting the subject property.

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2. Criteria for approval of a subdivision plat alteration.
   a. The plat alteration may only be approved after a written determination is made that:
      i. that the public use will be served by the alteration of the subdivision;
      ii. that the altered subdivision will be in compliance with all zoning and design standards in this Title or in the public works development standards (ADD LINK);
      iii. if any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration; and
      iv. if any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.
   b. Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement.
3. Revised subdivision plat. After approval of the subdivision plat alteration, the city council shall order the applicant to produce a revised drawing of the approved alteration of the final subdivision plat drawing, which after signature of the city council, shall be filed with the Kittitas County auditor to become the lawful plat of the property.

15.260.120 Short subdivision plat (sometimes referred to as short plats) review procedures and criteria.

A. Procedures. Short subdivisions are divisions that create nine or fewer lots and are sometimes referred to as short plats. Short subdivision applications are subject to the Type II review process as set forth in ECC Chapter 15.210, with exceptions provided herein.

B. Application contents. Applications for a preliminary short subdivision shall contain all of the items required for a preliminary subdivision in ECC 15.260.060(B) above except as follows: No SEPA Checklist is required unless the proposed short subdivision is determined to not be exempt from SEPA review.

C. Referral to city departments and other agencies for comments. The community development department shall distribute one copy of the preliminary short subdivision application to the public works department, energy services department, building department, fire marshal, and any public agency that may be affected by the proposed preliminary subdivision.

Whenever the property proposed to be subdivided is located within one-half mile of the corporate limits of the unincorporated county, a copy of the proposed preliminary short subdivision application shall be distributed to the respective jurisdiction.

Comments may be submitted for 14 days after the date of issuance of the notice of application.

D. Decision criteria. The director may approve, approve with conditions, or deny a short subdivision application based on conformance with the following decision criteria:

1. Conformance with applicable provisions of the LDC, including the form and intensity standards in ECC Chapter 15.320, the streetscape design standards in ECC Chapter 15.410, the subdivision design standards in ECC Chapter 15.420, the project design standards in ECC Article 5, the public works development standards [INSERT LINK], and applicable critical areas standards set forth in ECC Article 6;
2. Integration of specific provisions. Short subdivisions shall integrate appropriate provisions for the public health, safety and general welfare and for such open spaces, drainage ways, streets or roads, alleys other public ways, transit stops, potable water supplies, sanitary wastes, natural gas mains and services, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school;
3. Public interest. The public's interest shall be served by the short subdivision and dedication;

E. Time frame for approval: The Administrator shall make a decision on approval or denial of a preliminary short subdivision application within 30 days of the determination that the application is complete. An approved preliminary short subdivision application is valid for 1 year from date of approval. Failure to submit the final short subdivision application within that 1 year timeframe will result in a lapse of the preliminary short subdivision approval

15.260.130 Preliminary short subdivision – Required minimum improvement standards.

The required minimum improvement standards for a preliminary short subdivision shall be the same as set forth in ECC 15.260.070 for preliminary subdivisions.

A. Installation of improvements: An approved preliminary short subdivision shall not be filed for record as a final short subdivision until the applicant has constructed or bonded for all improvements required by the city in the final decision on the preliminary short subdivision.

B. Timing and inspection fees. The applicant shall not begin installation of improvements in an approved preliminary short subdivision until the city engineer has approved the improvement plans, the city engineer and the applicant have agreed in writing on a time schedule for installation of the improvements, and the applicant has paid an inspection fee.

C. Acceptance – maintenance bond. The city engineer shall not accept the improvements for the city of Ellensburg until the improvements have been inspected and found satisfactory, and the applicant has posted a bond or surety to guarantee against defects of workmanship and materials for 2 years from the date of acceptance. (ADD LINK TO SECTION 9 OF THE PUBLIC WORKS DEVELOPMENT STANDARDS)

15.260.140 Final short subdivision application review procedures and criteria.

A. Procedures. Final short subdivision applications are subject to the Type I review process as set forth in ECC Chapter 15.210.

B. Application contents. Applications for a final short subdivision shall contain the same items as an application for a final subdivision as set forth in ECC 15.260.100(B).

C. Recommendations as prerequisites for final short subdivision t approval. Each preliminary short subdivision application submitted for final approval shall be accompanied by the following recommendation: City engineer's recommendation as to compliance with the terms of the approval of the preliminary short subdivision.

D. Decision criteria. Upon receipt of a complete final short application the director shall have 30 calendar days for review to determine conformance with the approved preliminary short subdivision and all applicable regulations and standards. A final short subdivision application shall be approved if the short subdivision:

1. Conforms to all of the preliminary short subdivision application terms and conditions of approval; and
2. Meets all applicable requirements for approval as set forth in this Chapter, and any other applicable City ordinances which were in effect at the time of preliminary short subdivision approval.
3. The director shall make written findings of fact relating to the decision on the final short subdivision application. If the decision is to approve the final short subdivision application, a specific written finding of fact shall also be made that:
    a. Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, natural gas mains and services, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
    b. The public use and interest will be served by the approval of such short subdivision and any dedications associated with it.

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15.260.150 Short subdivision final plat – Certifications and filing.

A. Upon approval of the final short subdivision application the administrator, city energy services director, and the city engineer shall sign the final short subdivision plat drawing. The final short subdivision plat drawing shall then be presented by the director to the county treasurer for review and signature in the presence of the applicant and shall be recorded with the county auditor with the cost of recording paid by the applicant. Such signatures and approval of the final short plat drawing shall be subject to the following determinations:

1. The requirements of Chapter 58.17 RCW and other applicable state law, the city's comprehensive plan, and any other applicable city ordinances that were in effect at the time of preliminary short subdivision approval, and this chapter have been met;
2. Conditions imposed on the preliminary short subdivision approval, if any, have been met;
3. The bond or other proposed security for required improvements meets the requirements of the public works development standards (ADD LINK) and has been approved and accepted by the city engineer; and
4. Every approved short subdivision containing a deed, dedication or easement filed for record shall be accompanied by a title report confirming that title of the land as described and shown on the short subdivision plat drawing is in the name of the owner(s) signing the certificate.

B. If the final short subdivision application is not approved by the administrator, the decision, along with reasons for denial, shall be communicated in writing to the applicant.

C. **Effect of final short subdivision application approval.** Any lots in a final short subdivision filed for record shall be a valid land use, notwithstanding any change in zoning laws, for a period of 5 years from the date of filing. A short subdivision shall be governed by the terms of approval of the final short subdivision application, and the statutes, ordinances and regulations in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of 5 years after final short subdivision approval unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the short subdivision.

15.260.160 Short subdivision final approval -Prohibition on further division.

Property in approved short subdivisions that have been filed for record may not be further divided in any manner within a period of 5 years without the filing of a new subdivision pursuant to Section 15.260.060 above, except that when the approved short subdivision contains less than 4 parcels, nothing in this section shall prevent the owner who filed the short subdivision from filing an alteration within the 5 year period to create up to a total of 4 lots within the original approved short subdivision boundaries. This requirement shall be stated on the face of the recorded short subdivision plat drawing.

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15.260.170 Changes to approved preliminary and final short subdivisions.

A. Preliminary short subdivision. The director may approve minor changes to an approved preliminary short subdivision, or its conditions of approval upon written request of the applicant, subject to the Type I review process as set forth in ECC Chapter 15.210.

Decision criteria: The proposed changes shall not conflict with the preliminary short subdivision approval conditions, will not increase the number of lots, and will not conflict with any applicable city standards. If the proposal involves additional lots, rearrangements of lots or roads, additional impacts to surrounding property, or other major changes, the proposal shall be reviewed in the same manner as a new application.

B. Short subdivision vacation. A short subdivision vacation is a Type II application and shall be processed in accordance with the procedures for such applications as set forth in ECC Chapter 15.210.050(B), EXCEPT if land dedicated to the public is included in the vacation request in which case it is a Type III application, and shall be processed in accordance with procedures for such applications as set forth in ECC Chapter 15.210.050(C). In the event that the vacation request only involves public street right-of-way, the city's street vacation process shall be used as set forth in sub-section 2(b) below.

1. Application contents. In addition to the minimum application requirements set forth in ECC 15.220.020, a short subdivision vacation application shall contain the following:
   a. The reasons for the proposed vacation;
   b. Signatures of all parties having an ownership interest in that portion of the short subdivision proposed to be vacated;
   c. If the short subdivision is subject to restrictive covenants which were filed at the time of the approval of the short subdivision, and the application for vacation would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the vacation of the short subdivision or portion thereof;
   d. A copy of the approved short subdivision plat drawing sought to be vacated, together with all short subdivision plat drawing amendments recorded since the date of the original approval; and
   e. Any other information required by the community development director for the purposes of ascertaining ownership and the existence of easements or covenants affecting the subject property.
2. Criteria for approval of a short subdivision vacation. The short subdivision vacation may be approved or denied after a written determination is made that:
   a. The public use and interest will be served by the vacation of the short subdivision. If any portion of the land contained in the short subdivision was dedicated to the public for public use or benefit, such land, if not deeded to the city, shall be deeded to the city unless the city council shall set forth findings that the public use would not be served in retaining title to those lands.

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b. Vacation of Streets. When the short subdivision vacation application is specifically for a city street vacation, the city's street vacation procedures shall be utilized. When the application is for the vacation of a short subdivision together with the streets, the procedure for vacation in this section shall be used. However, vacations of streets may not be made that are prohibited under Chapter 35.70 RCW or the city's street vacation ordinance.

c. Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the short subdivision plat drawing or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement.

C. Short subdivision alteration. A short subdivision alteration is a Type II application, and shall be processed in accordance with procedures for such applications as set forth in ECC Chapter 15.210.050(A)

1. Application contents. These requirements are in addition to the minimum application requirements in ECC 15.220.020.

   a. The reasons for the short subdivision alteration;

   b. Signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites or divisions in the subject short subdivision or portion to be altered;

   c. If the short subdivision is subject to restrictive covenants which were filed at the time of the approval of the short subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the short subdivision or portion thereof;

   d. A copy of the approved short subdivision drawing sought to be altered, together with all short subdivision drawing amendments recorded since the date of the original approval; and

   e. Any other information required by the community development director for the purposes of ascertaining ownership and the existence of easements or covenants affecting the subject property.

2. Criteria for approval of a short subdivision alteration.

   a. The short subdivision alteration may be approved only after a written determination is made:

      i. That the public use will be served by the alteration of the short subdivision;

      ii. That the altered short subdivision will be incompliance with all zoning and design standards in this Title or in the public works development standards (ADD LINK);

      iii. If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration; and

      iv. If any land within the alteration contains a dedication to the general use of persons residing within the short subdivision, such land may be altered and divided equitably between the adjacent properties.

b. Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the short subdivision plat drawing or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement.

3. Revised short subdivision plat drawing. After approval of the alteration, the director shall order the applicant to produce a revised drawing of the approved alteration of the final short subdivision plat drawing which, after execution of the signatures required for final approval per ECC 15.260.150, shall be filed with the kittitas county auditor to become the lawful short subdivision plat drawing of the property.

15.260.180 Binding site plan review procedures and criteria.

A. Purpose.

This chapter shall govern a subdivision of land through the optional binding site process provided for in RCW 58.17.035, or its successor. If approved under this chapter, a division of land authorized by a binding site plan is exempt from the subdivision and short subdivision regulations and processes. Binding site plans are authorized by RCW 58.17.035, or its successor, to be used for condominiums and for the division of commercial or industrial zoned properties.

B. Applicability.

The underlying zoning district standards shall apply for development utilizing the binding site plan process. The binding site plan option shall apply to the following:

1. Commercial zoned property in the C-H, C-T and C-CII zoning districts;
2. Industrial zoned property in the I-H and I-L zoning districts;
3. Condominiums for one or more units in any R-S, R-L, R-M, R-H, C-N, C-C or C-CII zoning district that are owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest; and
4. Land divisions for the purpose of leasing property that is located:
   a. Within a manufactured home park provided that no residential structure other than manufactured homes are to be placed on the land within a manufactured home park; and
   b. Within the C-T zoning district provided that no residential structure other than recreational vehicles are to be placed on the land within an approved recreational vehicle park.

C. Application – Administration.

All applications shall be submitted to the administrator. Binding site plan applications shall be processed as a Type III permit pursuant to the requirements set forth in ECC 15.210.030(C).

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D. Complete application requirements.

All requests for a binding site plan shall be filed with the administrator together with the application fee as set forth in the adopted fee schedule (ADD LINK) (NOTE: CITY TO ADD FEE SCHEDULE). An application for a binding site plan shall not be determined to be complete until all of the following have been provided on the binding site plan drawing or on any other supporting documentation submitted along with the binding site plan drawing:

1. The minimum application requirements set forth in ECC 15.220.020 and a completed binding site plan application form provided by the department, which shall include the signatures of all owner's of interest in the land involved in the subdivision application;
2. A recorded copy of the deed for the property proposed for the binding site plan;
3. A current title report on the property proposed for the binding site plan;
4. Copies of all existing or proposed restrictive covenants to be imposed upon land in the binding site plan;
5. Textual description of phasing if proposed, including the timing for all public improvements, required landscaping and binding site plan amenities to be installed with each phase;
6. Names and addresses of all property owners within 300 feet of the boundaries of the property proposed for the binding site plan as those names appear on the records of the county assessor;
7. Any information in the opinion of the administrator which is necessary to determine if the proposed binding site plan makes appropriate provision for physical problems or hazards involving public health, safety and/or welfare;
8. A completed SEPA Checklist and payment of the SEPA application fee;
9. A completed critical area information form or critical area report pursuant to ECC Article 6, if applicable;
10. A preliminary binding site plan drawing which shall comply with all general drafting standards and Tier 3 drafting guidelines required by the city's public works development standards – Section 5 - drafting standards (ADD LINK). Five copies of the drawing shall be provided with the application, along with an electronic copy on CD media in a format readable by the city's current version of AutoCAD, and one reduced copy not to exceed 11-inches by 17-inches. In addition to the drafting standards set forth in the city's public works development standards, such drawing shall clearly show the following:
    a. Vicinity sketch showing the parcel boundaries and the major street system within a 1/4-mile radius;
    b. Zoning of the property within the binding site plan;
    c. The name and locations of adjacent subdivisions, short plats and binding site plans;
    d. Location and size of existing and proposed utilities, railroads and irrigation rights-of- way within the binding site plan;

e. Plan view of proposed streets with their names and widths, any proposed pedestrian ways, and all proposed utilities and easements;

f. Location and size of all proposed ditches, culverts, catch basins, detention or retention ponds or other parts of the design for the control of surface water drainage;

g. Approximate boundaries of all areas within the binding site plan subject to irrigation or storm water overflow and the location, width and direction of flow of all watercourses and the extent and location on the site of the 100-year flood flow from said watercourses;

h. name and address of the owner(s) of the binding site plan property and all mortgagee(s) of said property;

i. Legal description of the binding site plan property;

j. Surveyed boundary lines of the binding site plan property with complete bearings, lineal dimensions and the acreage;

k. The length of each lot line, together with bearings and other data necessary for the location of any lot line in the field; lot area in square feet; and number of lots and blocks which shall be numbered consecutively from one to total number of lots;

l. All section, township, municipal and city lines lying within or adjacent to the binding site plan property;

m. Name, address and official seal of the licensed professional land surveyor preparing the binding site plan drawing;

n. Ties and controlling reference points to existing and permanent points, monuments and markers;

o. Date, scale, north point and origin of meridian, with the scale shown at 100 feet to the inch unless otherwise approved by the city engineer;

p. Proposed phasing plan with clear delineation of each phase;

q. Locations of land areas intended to be dedicated for public use or reserved for use of owners of the property in the binding site plan, along with a textual declaration of the dedication or reservation. Any roads not dedicated to the public must be clearly marked on the face of the binding site plan drawing as private roads. (Any dedication, donation or grant as shown on the face of the binding site plan shall be considered for all intents and purposes as a quitclaim deed to the donee or donees, grantee or grantees for his, her, or their use for the purposes intended by the donors or grantors.);

r. Location, centerline, and width of all existing and proposed rights-of-way and easements along with name of all existing or proposed streets within and adjoining the binding site plan and the name and auditor's file number for all easements;

s. The areas and locations of open space, recreational amenities, and critical areas including prescribed critical area buffers;

t. Areas designated for landscaping, vehicle use, parking, truck loading, and non-motorized transportation corridors or pathways;

u. The location of all existing and proposed structures;

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v. A declaration that all development of the property shall conform to that shown on the binding site plan drawing and conditions placed upon the binding site plan; and 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;

w. Signatures and date lines for:

   i. Certification by a registered land surveyor of the state of Washington that the binding site plan and legal descriptions were prepared under his or her direct supervision;

   ii. The approvals of the city engineer, energy services director and community development director;

   iii. The county treasurer indicating that the real property taxes are current;

   iv. All owners and all other's holding an interest in the binding site plan property with acknowledgments for all such signatures;

   v. Approval by the mayor; and

   vi. Approval by the irrigation district, if applicable.

x. If the binding site plan is in conjunction with condominiums, pursuant to Chapters 64.32 or 64.34 RCW, the following statement must be included on the face of the binding site plan:

   All development and use of the land described herein shall be in accordance with this binding site plan, as it may be amended with the approval of the city, town, or county having jurisdiction over the development of such land, and in accordance with such other governmental permits, approvals, regulations, requirements, and restrictions that may be imposed upon such land and the development and use thereof. Upon completion, the improvements on the land shall be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest. This binding site plan shall be binding upon all individuals or entities now and hereafter having any interest in the land described herein; and

y. All binding site plan designs shall include, as determined by the director, overall site landscaping, pedestrian walkways and connections, parking and circulation, recreational amenities, walls and fences, architectural design guidelines, lighting, and other site plan standards as set forth by the underlying zoning district. For commercial, business park, and industrial divisions, building envelope or use does not have to be identified at the time of the binding site plan. However, site plan review for subsequent building size, location and use will be required when submitted.

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E. Design standards and dedications.

In order to meet the public interest:

1. A binding site plan shall conform to the applicable zoning and development standards of the city of Ellensburg land development code, codified in Title 15 ECC and the public works development standards and all other city utility development standards;
2. Each lot in a binding site plan shall be provided with satisfactory access established consistent with the requirements of the public works development standards (ADD LINK) and Title 4 ECC, public works construction (ADD LINK);
3. Each lot in a binding site plan shall be provided with adequate provisions for water supplies, sanitary wastewater facilities and stormwater and drainage facilities consistent with the requirements of the public works development standards and Title 9 ECC, Utilities (ADD LINK);
4. Each lot in a binding site plan shall be provided with adequate provisions for electric utility service, and natural gas utility service if applicable, consistent with the requirements of the city Energy Services Department and Title 9 ECC, Utilities (ADD LINK); and
5. Approval of binding site plans may be conditioned upon dedications to the city of drainage ways, other public ways, water supplies, sanitary waste facilities, parks, playgrounds, sites for schools, and other needs of the public.

F. Administrative review.

Upon deeming the binding site plan to be a complete application and issuing the notice of application pursuant to Chapter 15.220.040 ECC, the director shall transmit the binding site plan to city departments, the Kittitas Valley Fire and Rescue fire marshal, the SEPA responsible official for any required SEPA review pursuant to ECC Chapter 15.270, and to the landmarks and design commission for any required landmark and design review pursuant to ECC Chapter 15.280. The director shall concurrently perform critical area review if such review is required pursuant to Article 6 of this title. Within 45 days from the date the binding site plan application was deemed complete the director shall transmit to the planning commission any and all review comments or recommendations on the binding site plan that have been received from staff, SEPA responsible official, the public, and any other reviewing body, along with the director's recommendation on the binding site plan.

G. Planning commission review.

Upon receipt of the review and recommendations transmitted by the director, the planning commission shall hold a public meeting at the next regularly scheduled planning commission meeting, provided such meeting is at least 14 days from the transmittal date, to consider the binding site plan and the comments and recommendations made to date. The planning commission shall then make a recommendation to city council on whether to approve, approve with conditions or deny the binding site plan. The director shall transmit that planning commission recommendation to city council.

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H. City council review.

At the next regular or special city council meeting following transmittal of the planning commission recommendation to city council, the council shall set a public hearing date for a regular or special city council meeting at least 14 days but not more than 30 days in the future. Public notice of the hearing shall be accomplished pursuant to the requirements in ECC 15.210.

I. Criteria for approval.

In its review of the binding site plan, the city council shall make an inquiry into the public use and interest proposed to be served by the establishment of the binding site plan and any dedication to be made by the binding site plan, and shall consider:

1. Whether the binding site plan conforms to ECC 15.620.180;
2. If appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
3. Whether the public interest will be served by the approval of the binding site plan and any dedication.

J. Findings and conclusions.

The city council shall not approve any binding site plan unless written findings are made that:

1. The binding site plan conforms to ECC 15.620.180;
2. Appropriate provisions are made for the public health, safety, and general welfare and for other such open spaces, drainage ways, streets or roads, alleys, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
3. The public use and interest will be served by the approval of the binding site plan and any dedication.

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K. Time limit on action.

An application for a binding site plan shall be approved, approved conditionally or disapproved by the city council within 90 days from the date the application was deemed complete unless the applicant consents to a time extension; provided, that if an environmental impact statement is required as provided in RCW 43.21C.030, the 90 period shall not include the time spent preparing and circulating the environmental impact statement.

L. Duration of approval.

Preliminary approval of the binding site plan shall be effective for 5 years from the date of such approval by the city council, during which time the final binding site plan may be submitted.

M. Irrigation water district approval.

Any binding site plan which lies in whole or in part in an irrigation district organized pursuant to Chapter 87.03 RCW shall provide for such irrigation water rights-of-way and any other improvements as shall be required by the irrigation district for each parcel of land in such district and such rights-of-way shall be evidenced by the respective binding site plan submitted for final approval to the city council.

N. Final binding site plan – Submittal deadline.

The final binding site plan application shall be submitted to the administrator within 5 years of the date of preliminary binding site plan approval. Failure to submit the final binding site plan application within that time period will result in a lapse of the preliminary binding site plan approval.

O. Final binding site plan – Application.

The final binding site plan application shall include the same information as for a final subdivision application as set forth in ECC 15.260.100.

P. Final binding site plan – Administrative action.

1. Upon receipt of the final binding site plan application containing the items identified in ECC 15.620.180(O), the city council shall have 30 days for review to determine conformance with the approved preliminary binding site plan and all applicable regulations and standards. The city council shall make written findings of fact relating to its decision on the final binding site plan and, if approved, shall direct the mayor to sign the final binding site plan. Upon approval by the city council, the director, the city energy services director, and the city engineer shall sign the final binding site plan document and shall present the final binding site plan document to the mayor for signature. The final binding site plan shall then be presented to the county treasurer for review and signature. Such signatures and approval of the final binding site plan document shall be subject to the following determinations:

    a. The requirements of Chapter 58.17 RCW and other applicable state law, the city's comprehensive plan, and any other applicable city ordinances that were in effect at the time of preliminary binding site plan approval, and this title have been met;

b. Conditions imposed on the preliminary binding site plan approval, if any, have been met; and

c. The bond or other proposed security meets the requirements of the public works development standards and has been approved and accepted by the city engineer.

2. If the final binding site plan is not approved by city council, the decision, along with reasons for denial, shall be communicated in writing to the applicant.

Q. Final binding site plan – Filing.
The final binding site plan shall not be officially complete until the signed original final binding site plan and subdivision improvements agreement, if required, have been recorded with the county auditor. Said documents shall be recorded by the director within 10 working days after city council approval, in the presence of the applicant and with the cost of recording paid by the applicant. Filing of the final binding site plan shall not relieve the property owner of the obligation to complete the minimum public improvements.

R. 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. The vacated portion shall constitute one lot unless the property is subsequently divided by an approved subdivision or short plat. In the event the vacation is of a dedicated road right-of-way, the review process shall follow the city's road vacation process.

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15.270 Environmental Procedures – State Enviornmental Policy Act (SEPA)

15.270.010 Authority.

This chapter is adopted under the authority of the State Environmental Policy Act ("SEPA"), RCW 43.21C.120, and the SEPA rules, WAC 197-11-904. This chapter contains the city's SEPA procedures and policies.

15.270.020 Purpose.

The purposes of this chapter are to adopt the uniform requirements of Chapter 197-11 WAC and to establish specific local procedures and policies where appropriate in order to perform environmental review and comply with SEPA.

15.270.030 Conflicts.

Any irreconcilable conflict between this chapter, Chapter 197-11 WAC, and/or Chapter 43.21C RCW shall be resolved in favor of the provision that is most protective of the environment and meets the minimum standards of 197-11 WAC.

15.270.040 Scope and policy.

The city of Ellensburg adopts by reference WAC 197-11-030, as now existing or hereinafter amended, subject to the following:

A. Under WAC 197-11-030(1) and (2), the terms "agency" and "agencies" shall include the city of Ellensburg and its respective departments.

B. Under WAC 197-11-030(2)(a), the text is revised to interpret and administer the policies, regulations, and laws of the state of Washington and applicable ordinances and resolutions of the city of Ellensburg in accordance with the policies set forth in RCW 43.21C and WAC 197-11.

C. The city establishes these procedures to implement the State Environmental Policy Act, herein referred to as "SEPA," Chapter 43.21C RCW, consistent with those rules under Chapter 197-11 WAC. The procedures are promulgated under WAC 197-11-020(1), which states: "Each agency must have its own SEPA procedures consistent with" Chapter 197-11 WAC and Chapter 43.21C RCW. Consistent with WAC 197-11-020(3), these provisions, Chapter 197-11 WAC, and Chapter 43.21C RCW, must be read together as a whole to comply with the spirit and letter of the law.

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15.270.050 Definitions.

The city adopts by reference WAC 197-11-040, 197-11-220 and 197-11-700 through 197-11-799, as now existing or hereafter amended, subject to the following:

A. Terms defined under ECC Chapter 15.130 shall also apply to this chapter.

B. Where a conflict exists between those terms under ECC Chapter 15.130 and terms under WAC 197-11-040, 197-11-220, and 197-11-700 through 197-11-799, the more specific definition that meets the minimum standards and spirit of 197-11 WAC shall apply.

15.270.060 Purpose and general requirements.

The city adopts by reference WAC 197-11-055 through 197-11-158, WAC 197-902 through 197-11-906, and WAC 197-11-914 through 197-11-916, as now existing or hereafter amended, subject to the following:

A. Analyzing similar actions in a single document. The city adopts the optional provision of WAC 197-11-060(3)(c).

B. Consolidated review. Except as otherwise exempted, environmental review under this chapter and development proposal review under this title shall be consolidated as specified in ECC 15.210.020.

C. Time guidelines. Under 197-11-055(2)(b), the responsible official will make a threshold determination within 90 days of determining that a completed application has been submitted, consistent with WAC 197-11-055(2)(d), subject to:

1. The calculation of the number of days in subsection (C)(2) of this section shall not include those days between the mailing of any request for additional information and the re-submittal of such requested information.

2. The responsible official shall not make a threshold determination when there is not adequate information to make a threshold determination within ninety (90) days. When there is not adequate information to make a determination at the end of ninety (90) days, the responsible official shall notify the applicant in writing regarding the information required to make a threshold determination.

3. Content of SEPA checklist—Responsibility. The applicant shall prepare the initial environmental checklist, unless the responsible official specifically elects to prepare the checklist. The responsible official shall make a reasonable effort to verify the information in the checklist and supporting documentation and shall have the authority to determine the final content of the checklist.

4. Additional information for SEPA checklist—Timelines. The responsible official may set reasonable deadlines for the submittal of information, studies, or documents that are necessary for, or subsequent to, threshold determinations. Unless an extension is requested in writing and approved, failure to meet such deadlines shall cause the application to be deemed withdrawn.

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D. Environmental review costs. The applicant shall pay all costs related to environmental review in accordance with the chapter, including compliance with public notice requirements.

15.270.070 Planned actions.

The city adopts by reference the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, as supplemented in this chapter:

197-11-164 Planned actions—Definitions and criteria.
197-11-168 Ordinances or resolutions designating planned actions—Procedures for adoption.
197-11-172 Planned actions—Project review.

Planned actions allowed under this chapter shall also comply with the permit processes and procedures established in ECC Title 15, Article 2.

15.270.080 Integration with Model Toxics Control Act.

The city adopts by reference the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, as supplemented in this chapter:

197-11-250 SEPA/Model Toxics Control Act integration.
197-11-253 SEPA lead agency for MTCA actions.
197-11-256 Preliminary evaluation.
197-11-259 Determination of nonsignificance for MTCA remedial action.
197-11-262 Determination of significance and EIS for MTCA remedial actions.
197-11-265 Early scoping for MTCA remedial actions.
197-11-268 MTCA interim actions.

15.270.090 Designation of responsible official.

The city adopts by reference section 197-11-910 WAC, as now existing or hereafter amended, as supplemented in this chapter.

A. For those proposals for which the city is a lead agency, the responsible official shall be the director.

B. For all proposals for which the city is a lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required EIS, and perform all other functions assigned to the lead agency or responsible official by those sections of the SEPA rules that have been adopted by reference.

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15.270.100 Lead agency determination and responsibilities – Adoption by reference.

The city adopts by reference the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, as supplemented in this chapter:

197-11-050 Lead agency.
197-11-920 Agencies with environmental expertise.
197-11-922 Lead agency rules.
197-11-924 Determining the lead agency.
197-11-926 Lead agency for governmental proposals.
197-11-928 Lead agency for public and private proposals.
197-11-930 Lead agency for private projects with one agency with jurisdiction.
197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and/or more state agencies.
197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
197-11-938 Lead agencies for specific proposals.
197-11-940 Transfer of lead agency status to a state agency.
197-11-942 Agreements on lead agency status.
197-11-944 Agreements on division of lead agency duties.
197-11-946 DOE resolution of lead agency disputes.
197-11-948 Assumption of lead agency status.

A. The responsible official shall determine the lead agency for any application for or initiation of a proposal that involves a nonexempt action, as provided in WAC 197-11-050, unless the lead agency has been previously determined or unless another agency is in the process of determining the lead agency.

B. When the city is the lead agency for a proposal, the responsible official shall supervise compliance with the necessary threshold determination requirements, and if an EIS is necessary, shall supervise the preparation of the EIS.

15.270.110 Categorical exemptions – Adoption by reference.

A. The city adopts by reference the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, as supplemented in this chapter:

197-11-305 Categorical exemptions.
197-11-800 Categorical exemptions except as noted in subsection B of this section.
197-11-880 Emergencies.
197-11-890 Petitioning DOE to change exemptions.

B. The city establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(b):

1. For residential dwelling units in 197-11-800(1)(b)(i) up to 9 dwelling units.
2. For agricultural structures in 197-11-800(1)(b)(ii) up to 10,000 square feet.
3. For office, school, commercial, recreational, service or storage buildings in 197-11-800(1)(b)(iii) up to 12,000 square feet and up to 20 parking spaces.
4. For parking lots in 197-11-800(1)(b)(iv) up to 20 parking spaces.
5. For landfills and excavation in 197-800(1)(b)(v) up to 200 cubic yards.

15.270.120 Threshold determinations – Adoption by reference.

The city adopts by reference the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, as supplemented in this chapter:

197-11-300 Purpose of this part.
197-11-310 Threshold determination required.
197-11-315 Environmental checklist.
197-11-330 Threshold determination process.
197-11-335 Additional information.
197-11-340 Determination of nonsignificance (DNS).
197-11-350 Mitigated DNS.
197-11-355 Optional DNS process.
197-11-360 Determination of significance (DS)/initiation of scoping.
197-11-390 Effect of threshold determination.

A. Pre-threshold determination comment period. Prior to issuance of a threshold determination, the city shall provide a 14 calendar day pre-threshold determination comment period, unless the city has chosen to use the Optional DNS Process established in WAC 197-11-355, in which case there shall be no pre-threshold determination comment period and the threshold determination process shall be as established in WAC 197-11-310 through 390. The pre-threshold determination comment period process is as follows:

1. Public notice of the project application and completed SEPA Checklist and the opportunity to provide pre-threshold determination comments shall be provided in accordance with the Type II permit public notice requirements established in ECC 15.210.050 and 15.220.040, and WAC 197-11-510, and WAC 197-11-340(b) except that the requirement to mail notice to property owners within 300 feet of the project shall not be required for the pre-threshold determination notice unless the underlying permit also requires such mailed notice. The notice shall include the pre-threshold comment period deadline and shall advise that additional comment opportunities may exist at the time a threshold determination is issued.
2. The pre-threshold determination comment period shall run for 14 calendar days beginning on the day following the date that public notice was provided pursuant to subsection 1 above.

3. Comments must be made in writing and must be submitted to the responsible official prior to the expiration of that 14 calendar day comment period.
4. Prior to making the threshold determination, the responsible official may request that the applicant provide written responses to any timely submitted comments, and all timely submitted comments and applicant responses shall be included in the SEPA record and considered by the responsible official in making the threshold determination.

B. Mitigated determination of non-significance. Pursuant to WAC 197-11-350, the responsible official may issue a DNS which may include conditions attached to the proposal by the responsible official, or may issue a DNS which includes conditions based on changes to, or clarifications of, the proposal that have been made by the applicant in writing prior to issuance of the threshold determination. The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific.

C. Public notice. Public notice of the threshold determination shall be provided as required pursuant to ECC 15.210.050 and 15.220.040, WAC 197-11-340, WAC 197-11-355, and WAC 197-11-360.

D. Environmental checklist.

1. A completed environmental checklist, a completed critical area information form and/or critical area report deemed necessary pursuant to ECC Article 6, shall be filed at the same time as an application for a development proposal or other approval not exempted by this chapter. The checklist shall be in the form of WAC 197-11-960 with such additions that may be required by the responsible official in accordance with WAC 197-11-906(4) and this chapter.
2. A checklist is not needed if the responsible official determines that one of the following applies: an EIS is required; SEPA compliance has been completed; SEPA compliance has been initiated by another agency.
3. The responsible official shall use the environmental checklist to determine the lead agency. If the city is the lead agency, information provided in the environmental checklist, critical area information form or critical area report and/or landmark certificate of approval application shall assist the responsible official in making a threshold determination.
4. For private proposals, the applicant is required to complete the environmental checklist, critical area information form and/or critical area report. The responsible official may provide assistance as necessary. For city proposals, the department initiating the proposal shall complete the environmental checklist, critical area information form and/or critical area report for that proposal.
5. The responsible official may decide to annotate the environmental checklist for a private proposal if the responsible official has relevant information or if the applicant has provided incomplete or inaccurate information.

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15.270.130 Environmental impact statements (EIS) and other environmental documents.

The city adopts by reference the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, as supplemented in this chapter:

197-11-400 Purpose of EIS.
197-11-402 General requirements.
197-11-405 EIS types.
197-11-406 EIS timing.
197-11-408 Scoping.
197-11-410 Expanded scoping.
197-11-420 EIS preparation.
197-11-425 Style and size.
197-11-430 Format.
197-11-435 Cover letter or memo.
197-11-440 EIS contents.
197-11-442 Contents of EIS on non-project proposals.
197-11-443 EIS contents when prior non-project EIS.
197-11-444 Elements of the environment.
197-11-448 Relationship of EIS to other considerations.
197-11-450 Cost-benefit analysis.
197-11-455 Issuance of DEIS.
197-11-460 Issuance of FEIS.

A. Pursuant to WAC 197-11-408(2)(a), all comments on a DS and scoping notices shall be in writing, except where a public meeting on EIS scoping occurs pursuant to WAC 197-11-410(1)(b).

B. Pursuant to WAC 197-11-420, 197-11-620, and 197-11-625, the responsible official shall be responsible for preparation and content of an EIS and other environmental documents. The responsible official shall contract with consultants, as necessary, for the preparation of environmental documents and EISs. The responsible official may consider the opinion of the applicant regarding the qualifications of the consultant, but the responsible official shall retain sole authority for selecting persons or firms to author, co-author, provide special services or otherwise participate in the preparation of required environmental documents.

C. Consultants or subconsultants contracted by the city to prepare environmental documents for a private development proposal:

1. Shall not act as agents for the applicant in preparation or acquisition of associated underlying permits or actions;

2. Shall not have a financial interest in the proposal for which the environmental documents is being prepared; and

3. Shall not perform any work nor provide any services for the applicant in connection with or related to the proposal.

D. The responsible official may include additional elements as part of the environment for the purpose of a complete EIS analysis, however such additional elements shall not add to the criteria for threshold determinations or perform any other function or purpose under this chapter unless such elements otherwise fall within the scope of this chapter.

15.270.140 Public notice and comments – Adoption by reference.

The city adopts by reference the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, as supplemented in this chapter:

197-11-500 Purpose of this part.
197-11-502 Inviting comment.
197-11-504 Availability and cost of environmental documents.
197-11-508 SEPA register.
197-11-535 Public hearings and meetings.
197-11-545 Effect of no comment.
197-11-550 Specificity of comments.
197-11-560 FEIS response to comments.
197-11-570 Consulted agency costs to assist lead agency.

A. Whenever the city issues a DNS under WAC 197-11-340(2) or a MDNS under WAC 197-11-350 or a DS under WAC 197-11-360(3), the city shall give public notice as follows:

1. If public notice is required for a nonexempt permit or approval, the notice shall state whether a DNS, MDNS or DS has been issued and when comments are due;
2. If no public notice is required for the permit or approval, the city shall give notice of the DNS, MDNS or DS by:
   a. Posting the property, for a site-specific proposal;
   b. Publishing notice in a newspaper of general circulation in the county, city or general area where the proposal is located; and
   c. Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;
3. When the city issues a DS under WAC 197-11-360(3), the city shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.
4. If an environmental document is issued concurrently with the notice of application, the public notice requirements for the notice of application in RCW 36.70B.110(4) will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1).

B. If a DNS is issued using the optional DNS process in WAC 197-11-355, the public notice requirements for a notice of application in RCW 36.70B.110(4) as supplemented by the requirements in WAC 197-11-355 will suffice to meet the SEPA public notice requirements in WAC 197-11-510(1)(b).

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C. Whenever the city issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by indicating the availability of the DEIS in any public notice required for a nonexempt license, and:

   1. Publishing notice in a newspaper of general circulation in the county, city or general area where the proposal is located; and

   2. Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;

D. Whenever possible, the city shall integrate the public notice required under this section with existing notice procedures for the city's nonexempt permit(s) or approval(s) required for the proposal as established in ECC 15.210.050 and 15.220.040.

E. The city may charge the applicant a reasonable fee to cover the required public notice expenses for the SEPA review of the applicant's proposal.

15.270.150 Designation of official to perform consulted agency responsibilities.

The city adopts by reference 197-11-910, as now existing or hereafter amended, as supplemented in this chapter:

A. The responsible official shall be responsible for preparation of written comments for the city in response to a consultation request pertaining to a threshold determination or the scoping and reviewing of a draft EIS.

B. The responsible official shall be responsible for the city's compliance with WAC 197-11-550 and 197-11-912 whenever the city is a consulted agency. The responsible official is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from appropriate departments of the city.

C. The responsible official shall be responsible for reviewing all SEPA determinations made by Kittitas County. If it is the decision by the responsible official that any such SEPA determination substantially impacts the interests of the city, a response shall be forwarded to Kittitas County on behalf of the city.

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15.270.160 Responsibility as consulted agency.

The city adopts by reference 197-11-912 WAC, as now existing or hereafter amended, as supplemented in this chapter. Pursuant to WAC 197-11-912, all requests from other agencies that the city consults on threshold investigations, the scope process, EISs or other environmental documents shall be submitted to the department of community development. The department of community development shall be responsible for coordination with affected city departments and for compiling and transmitting the city's response to such requests for consultation.

15.270.170 Using existing environmental documents – Adoption by reference.

The city adopts by reference WAC 197-11-600 through 197-11-640, as now existing or hereafter amended, by reference.

15.270.180 SEPA decisions – Adoption by reference.

The city adopts by reference the following sections of Chapter 197-11 WAC, as now existing or hereafter amended, as supplemented in this chapter:

197-11-650 Purpose of this part.
197-11-655 Implementation.
197-11-660 Substantive authority and mitigation.

A. The substantive authority set forth in this section is supplemental to all other authorities the city may possess under federal, state, regional and local law.

B. The city may approve, condition, restrict, limit, modify or deny a development proposal under this chapter based on the following considerations:

1. The conditions, restrictions or limitations are reasonably required to mitigate or prevent specific probable adverse environmental impacts identified in analytical documents prepared pursuant to this chapter or this title.
2. The conditions, restrictions or limitations are reasonably related to the services, demands, or other impacts caused or created by the development proposal, will mitigate or avoid the adverse impacts, and are capable of being accomplished.
3. The conditions, restrictions or limitations are based on one or more of the policies or goals identified in the comprehensive plan, other adopted city policies or the Ellensburg Municipal Code and cited in the decision document.
4. The policies or goals on which the conditions, restrictions or limitations are based were in effect when the DNS, MDNS or EIS was issued.
5. The conditions, restrictions or limitations are set forth in a written decision document.
6. Whether other local, state or federal requirements or mitigation measures applied to the development proposal are sufficient to mitigate an identified significant environmental impact.

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C. In addition to the considerations set forth above (as may be applicable to a proposal), no development proposal shall be denied under this chapter unless:

   1. A finding is made that the proposal would result in probable significant adverse environmental impacts that are identified in a final EIS or final supplemental EIS; and

   2. A finding is made that there are no reasonable mitigation measures that are sufficient to mitigate the identified impacts.

D. Applicants may propose voluntary mitigation or contributions in addition to any mitigation that may be required under this chapter.

15.270.190 SEPA/GMA integration.

The city adopts by reference WAC 197-11-210 through 197-11-235, as now existing or hereinafter amended as supplemented in this chapter.

15.270.200 Appeals.

A. The city adopts by reference WAC 197-11-680, as now existing or hereafter amended, as supplemented in this chapter.

B. Any interested person may appeal a threshold determination or the adequacy of a final EIS pursuant to the procedures set forth in this section. No other SEPA appeal shall be allowed. Appeals shall be as set out in ECC Chapter 15.230.

C. All appeals filed pursuant to this section shall comply with the requirements of ECC Chapter 15.230. The procedural determination of the responsible official shall carry substantial weight in every appeal proceeding. The appeal provided by this section shall be a necessary prerequisite to standing to file any judicial appeal arising under this chapter.

D. All appeals filed pursuant to this section shall be consolidated with the open record hearing on the underlying proposal except those listed as exempt from that requirement in RCW 43.21C.075(3)(b).

15.270.210 Notice of action.

A. The city, applicant for, or proponent of, an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

B. The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the city clerk, applicant or proponent pursuant to RCW 43.21C.080.

C. The filing of a notice of action officially starts the time period allowed for filing a judicial appeal of any decision made under this chapter.

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15.270.220 Forms – Adoption by reference.

The city adopts by reference the following forms and sections of Chapter 197-11 WAC, as now existing or hereafter amended:

197-11-960 Environmental checklist.
197-11-965 Adoption notice.
197-11-970 Determination of nonsignificance (DNS).
197-11-980 Determination of significance (DS) and scoping notice.
197-11-985 Notice of assumption of lead agency status.
197-11-990 Notice of action.

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15.280 Ellensburg Landmark Register & Procedures

15.280.010 Short title.

The following sections shall be known and may be cited as the "landmarks and design ordinance" of the city of Ellensburg."

15.280.020 Declaration of purpose.

This chapter is intended to identify, evaluate, designate, protect, enhance, and perpetuate historic places within the city of Ellensburg in order to:

A. Safeguard the heritage of the city as represented by those buildings, districts, objects, sites, and structures which reflect significant elements of Ellensburg's history;

B. Foster civic pride in the beauty and accomplishments of the past;

C. Stabilize and improve the economic vitality of buildings, neighborhoods, and the community as a whole;

D. Strengthen the city's tourism industry by enhancing its historic character;

E. Facilitate early resolution of conflicts between preservation of historic resources and alternative land uses;

F. Protect property values and public and private investment in the existing built environment;

G. Provide incentives to property owners for the acquisition, preservation, restoration, redevelopment, and continued use of outstanding historic properties; and

H. Encourage the rehabilitation of eligible historic properties through the "special valuation for improvements to historic property" program, a property tax incentive, as provided in Chapter 84.26 RCW.

15.280.030 Creation of Ellensburg landmarks and design commission.

There is hereby created an Ellensburg landmarks and design commission which shall have the powers, duties and functions provided in this chapter.

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15.280.040 Members, qualifications and terms.

A. The Ellensburg landmarks and design commission shall consist of 7 members appointed by a majority of the Ellensburg city council. A majority of members so appointed shall be residents of the city of Ellensburg.

B. All members of the commission shall have demonstrated an active interest in historic preservation and design review.

C. The commission shall include at least 2 owners of property from within the downtown and First Railroad Addition historic districts, as defined in 15.300.060(B) and (C) or a property individually listed on the Ellensburg landmarks register. One member shall be a member of the Ellensburg Downtown Association (EDA) for a term of 4 years. One member shall be a general at-large position. The commission shall include at least 3 professionals (active or retired) who work or worked among the related fields of history, architecture, construction, landscape design, historic preservation, planning, anthropology, archaeology, cultural geography, American studies, land use law, or real estate.

D. A commission action that would otherwise be valid shall not be rendered invalid by the temporary vacancy of one or all of the professional positions, unless the commission action is related to meeting certified local government (CLG) responsibilities cited in the certification agreement between the Ellensburg city council and the State Historic Preservation Officer.

E. Appointment of new members to the commission shall be for a period of 4 years. Vacancies shall be filled by the Ellensburg city council for any unexpired term in the same manner as the original appointment.

15.280.050 Powers and duties.

The primary role of the Ellensburg landmarks and design commission is two-fold: historic landmarks preservation and design review.

A. Historic landmarks preservation. In the area of historic landmarks preservation, the primary role of the Ellensburg landmarks and design commission is to identify and actively encourage the conservation of Ellensburg's historic resources through a register of landmarks and historic resources and a review of proposed changes to landmarks; to raise community awareness of Ellensburg's history and built environment; and to serve as the city's primary resource in matters of heritage, historic planning, and preservation. In carrying out these responsibilities, the Ellensburg landmarks and design commission shall engage in the following:

1. Conduct and maintain a comprehensive Ellensburg historic resource inventory; publicize and periodically update inventory findings. Properties included in the inventory shall be noted on official zoning records with an "HI" (for historic inventory). This notation shall not modify the underlying zone classification;

2. Initiate and maintain the Ellensburg landmarks register. This official register shall be compiled of buildings, structures, sites, objects, and districts evaluated by the

commission as possessing historic significance worthy of recognition by the city of Ellensburg and worthy of preservation;

3. Review citizen nominations to the Ellensburg landmarks register according to evaluation criteria set forth in ECC 15.280.080, and adopt standards in its rules to guide this review;
4. Develop incentive programs to assist landmark owners with the use, reuse, and redevelopment of historic buildings. Such incentives may include facade design assistance, revolving loan funds, and tax or building code relief;
5. Review proposals to alter or demolish landmarks, landmark sites, or landmark districts listed in the register as provided in ECC 15.280.090; and adopt standards in its rules to guide this review and the issuance of certificates of approval;
6. Conduct all commission meetings in compliance with Chapter 42.30 RCW, Open Public Meetings Act, provide for adequate public participation, and adopt standards in its rules to guide this action;
7. Submit nominations to the Washington Heritage Register and the National Register of Historic Places and adopt standards in its rules to guide this action;
8. Through staff, provide review and comment to the department of community development on development proposals affecting historic resources within the boundaries of the city of Ellensburg;
9. Provide review and comment to the Ellensburg city council on land use planning, housing, transportation, municipal improvements, and other activities proposed by any agency of the city of Ellensburg, Kittitas County, Washington State, or the federal government, as they relate to the historic resources of Ellensburg;
10. Advise the Ellensburg city council generally on matters of historic preservation and heritage tourism, and perform other related functions as assigned by the Ellensburg city council;
11. Investigate and report to the Ellensburg city council on current federal, state, local and private funding sources available to promote public and private historic preservation projects and heritage tourism in the city of Ellensburg;
12. Establish working liaisons with existing nonprofit organizations and with federal, state, and local government entities to further historic preservation objectives in Ellensburg;
13. Provide current information to property owners on techniques and appropriate treatments for maintaining and rehabilitating historic properties. This may take the form of pamphlets, newsletters, workshops, or similar activities;
14. Compile a list of historic preservation consultants, building movers, and available vacant lots to assist in avoiding demolition of historic buildings. Consider proposing a property maintenance ordinance to assist with mothballing vacant historic buildings;
15. Conduct educational and interpretive programs pertaining to Ellensburg's historic resources; and

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16. Serve as the local review board for special valuation as provided under Chapter 84.26 RCW and ECC 15.280.110.

B. Design review. In the area of design review, the primary role of the Ellensburg landmarks and design commission is to review and make the decision on modifications (including signage) or demolitions of a registered landmark or any property located within a landmark district. See ECC 15.280.090 for the design review process for landmark property/district related projects.

15.280.060 Rules, officers and records.

The landmarks and design commission shall establish and adopt its own rules of procedure, and shall select from among its membership a chairperson and such other officers as may be necessary to conduct the landmarks and design commission's business. A majority of the membership will constitute a quorum for the purpose of transacting business. Action by the landmarks and design commission shall be by majority vote. A tie vote on a motion to approve shall constitute a failure of the motion and denial of the application. All meetings shall be open to the public and the landmarks and design commission shall keep minutes of its proceedings, and the minutes and a copy of its adopted rules shall be kept on file in the office of the city clerk and be open to inspection by the public.

15.280.070 Landmarks and design commission staff.

Assistance to the landmarks and design commission shall be provided by the department of community development, which shall assign a professionally qualified member of the department's staff, or a qualified consultant, to act as a preservation planner to assist the landmarks and design commission in fulfilling its historic landmarks preservation duties. Under direction of the landmarks and design commission, the preservation planner shall be the custodian of the landmarks and design commission's historic landmarks records. The preservation planner shall conduct official correspondence, assist in organizing the landmarks and design commission, and carry out the technical work of the landmarks and design commission in all historic landmarks preservation activities.

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15.280.080 Ellensburg landmarks register.

There is hereby created an Ellensburg landmarks register.

A. Criteria for eligibility to the register. Any building, structure, site, object, or district may be designated for listing in the Ellensburg landmarks register if it is significantly associated with the settlement, development, architecture, politics, economy, social history, archaeology, or cultural heritage of the community; retains integrity of location, setting, design, materials, workmanship, feeling, and association; is at least 50 years old; and if it meets at least one of the following criteria:

1. Is associated with events that have made a significant contribution to the broad patterns of local, state, or national history;
2. Is closely linked with the life of a person important in the history of the city, state, or nation;
3. Embodies the distinctive visual characteristics of an architectural type, period, style, or method of construction;
4. Is an outstanding work of a designer, builder, or architect;
5. Has yielded, or may be likely to yield, important archaeological information related to history or prehistory; and/or
6. Because of prominent spatial location, contrasts of siting, age, or scale, it is an easily identifiable visual feature of its neighborhood and contributes to the distinctive identity of that neighborhood.

B. Process for designating properties to the landmarks register (a Type II review process exception).

1. Any person may nominate a building, structure, site, object, or district for inclusion in the Ellensburg landmarks register. Members of the landmarks and design commission or the landmarks and design commission as a whole may generate nominations. In its designation program, the landmarks and design commission shall consider the Ellensburg historic resource inventory and the Ellensburg comprehensive plan. Owner(s') consent is required before the landmarks and design commission shall consider the nomination.
2. Nominations shall be made on forms provided by the landmarks and design commission. Completed nominations received by the commission will be scheduled for review within 15 working days of receipt.
3. The landmarks and design commission shall consider the merits of the nomination at a public hearing, in accordance with the criteria for eligibility set forth in subsection (A) of this section, and according to the nomination review standards established in rules.
4. Adequate notice shall be given to the general public, the property owner(s), the author of the nomination, and lessees, if any, prior to the public hearing. Such notice shall include publication in a newspaper of general circulation in Ellensburg and posting of the property.

5. Within 10 days of holding the public hearing, the landmarks and design commission shall render a decision on whether a nominated property meets the criteria set forth in subsection (A) of this section. If the finding is that the nominated property meets the criteria set forth in subsection (A) of this section, the property shall be officially listed as a landmark, landmark site, or landmark district or part thereof. Notice of the decision shall be sent to the property owner(s), the author of the nomination, any occupants of the building the preservation planner, and the Ellensburg city council. If the listed property is adjacent to the boundary of an existing landmark district, said boundary shall be amended accordingly. If the listed property will create a new landmark district, then the listed area shall be designated on the official zoning map with the notation "LR" to indicate the district is on the landmark register. An isolated property shall be designated on the official zoning map with the notation "LR" to indicate the property is on the landmark register.
6. For individual landmark designations, the landmarks and design commission shall include in its designation the applicable criteria on which the listing is based, a legal description of the property, and a list of all significant features that contribute to its historic character.
7. For landmark district designations, the landmarks and design commission shall include in its designation recommendation the applicable criteria, a description of the boundaries of the district, and a list of all buildings, structures, sites, and objects which contribute to its historic character.
8. Whenever the landmarks and design commission rejects the nomination of all or any part of property, the commission shall, within 10 working days, issue a written decision including reasons supporting the determination that the criteria set forth in subsection (A) of this section have not been met. Notice of the decision shall be sent to the property owner(s), author of the nomination, any lessees, the preservation planner, and the Ellensburg city council.
9. The commission's decision on a COA may be appealed to the city council in a closed record appeal hearing.
10. Properties listed in the Ellensburg landmarks register shall be recorded on official zoning records with an "LR" (for landmark register). This designation shall not change or modify the underlying zone classification.

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C. Downtown and residential historic districts.

1. The existing downtown historic district, defined in ECC 15.300.060(B) and hereafter known as the "downtown historic district," and the existing residential historic district, defined in ECC 15.300.060(C) and hereafter known as the "First Railroad Addition historic district," are hereby designated as Ellensburg landmark districts. The geographic area encompassed by each district is identified on the map attached to and made a part of this chapter by reference.
2. The commission shall compile existing historical data and property records, prepare Ellensburg landmarks register nomination forms, and create complete landmark files for each of the landmark districts.
3. The provisions of ECC 15.280.090 and 15.280.100 shall hereafter apply to the downtown historic district and the First Railroad Addition historic district.

D. Removal of properties from the register. In the event that any designated landmark property is no longer deemed eligible for inclusion in the register owing to loss of historic integrity, the landmarks and design commission may initiate removal of such designation by the same procedure as provided for in establishing the designation in subsection (B) of this section.

15.280.090 Review of changes to landmarks register properties.

A. Review required.

1. No person shall alter, repair, enlarge, newly construct, relocate, or demolish any registered landmark, or any property located within a landmark district, nor install any exterior sign pursuant to subsection (A)(2) below, without review by the landmarks and design commission and approval of a certificate of approval (COA).
2. This review shall apply to all exterior features of the property visible from a public right-of-way. This review applies whether or not a permit from the city of Ellensburg is required.
3. Review of alterations to Ellensburg landmarks register properties under this chapter is in lieu of design review required for both major and minor projects and sign review per ECC 15.210.050(B).

B. Exemptions. The following activities are exempted from landmarks review and do not require a COA: maintenance and repairs in-kind which do not alter the historic character-defining exterior features visible from a public right-of-way and do not utilize substitute materials; repairs to or replacement of utility systems which do not alter exterior features visible from a public right-of-way; and all interior work.

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C. Review process - (a Type II review process exception).

1. Requests for review and issuance of a certificate of approval.

    a. Application for a COA shall be made by filing an application for such certificate with the preservation planner on forms provided by the department. A written description of materials required for the landmarks and design commission's review, including but not limited to site plans, elevations, and material samples, shall be provided to the applicant. Preliminary plans may be submitted to the preservation planner for review and an advisory opinion.

    b. If an application is made to the department of community development for any permit which affects a designated landmark, or a property located in a landmark district, the building official shall promptly refer such application to the preservation planner, and such shall be deemed an application for a COA if accompanied by the additional materials required for COA review. No city permit shall be issued, nor work begun, until the landmarks and design review process has been completed and a COA has been issued pursuant to this chapter.

2. Landmarks and design commission review.

    a. At a regularly scheduled public hearing, the landmarks and design commission shall review the proposed work according to therelevant design provisions set forth in Articles 4 and 5 of this title. After concluding the public hearing, the landmarks and design commission shall approve or disapprove the application. Approval projects shall be based upon appropriateness of design as reflected in said provisions.

    b. The landmarks and design commission may approve with or without conditions or disapprove an application. The decision of the landmarks and design commission shall be rendered within 15 working days of the date of receipt of a completed application, unless the parties agree to an extension. The landmarks and design commission's findings in support of any decision shall be in writing and shall cite the applicable design provisions.

    c. If the landmarks and design commission make a decision to issue a COA, such certificate shall be promptly issued to the applicant by the preservation planner an a copy of such certificate shall be transmitted to the building official.

    d. If the landmarks and design commissio denies the application, the applicant and the building official shall be notified of such denial, including the reasons why approval of the application is not warranted.

    e. The commission's decision on a COA may be appealed to the city council in a closed record appeal hearing.

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D. Demolition. Application for a COA for whole or partial demolition of a property listed in the Ellensburg landmarks registershall be reviewed by the landmarks and design commission in accordance with the procedures set forth in subsection (C) of this section and ECC 15.280.100 with the following exceptions:

1. The landmarks and design commission shall meet initially with the applicant to consider alternatives to demolition, including available incentives for preservation. These negotiations may last no longer than 90 days from the first meeting of the landmarks and design commission, unless either party requests an extension.
2. If no request for an extension is made and the existence of a condition of unreasonable economic return, as set forth in ECC 15.280.100, has been proven and no alternative to demolition has been agreed to, the landmarks and design commission shall make a decision on issuance of the COA. The preservation planner shall promptly transmit a copy of such decision to the the building official.
3. The landmarks and design commission may require conditions of approval including, but not limited to, mitigation measures.
4. Any person aggrieved by any action of the commission denying or approving a demolition request may file a notice of appeal as set forth in Chapter 15.23, however, such appeal shall be a closed record appeal to city council rather than to the hearing examiner.

15.280.100 Evaluation of economic impact.

A. In making its decision the landmarks and design commission shall, when requested by the property owner, consider evidence of economic impact on the owner from the denial or partial denial of a COA. In no case may a COA be denied, in whole or in part, when it is established that the denial will, when available economic incentives are utilized, deprive the owner of a reasonable economic use of the property, and there is no viable and reasonable alternative which would have less impact on the significant features specified in the designation.

B. To prove the existence of a condition of unreasonable economic return, the applicant must establish, and the landmarks and design commission must find, both of the following:

1. The landmark is incapable of earning a reasonable economic return without completing the alterations or demolition proposed; and
2. The owner has the present intent and the secured financial ability, demonstrated by appropriate documentary evidence, to complete the proposed alteration or, in the case of demolition, to complete any proposed new construction.

C. The applicant shall establish a condition of unreasonable economic return with appropriate documentation that may include:

   1. Proof of current level of economic return, including: amount paid for landmark; annual gross and net income from the property for the last 5 years; remaining balance on mortgage and annual debt service; real estate taxes for previous 4 years and most recent assessed valuation; appraisals obtained during last 3 years; fair market value immediately prior to and after landmark designation; form of ownership; or federal income returns relating to the landmark for the last 2 years.

   2. Proof of lack of marketability, including: reasonableness of asking sales price; offers received within previous 2 years; real estate broker or firm engaged to sell or lease property; or advertisements placed for sale or lease.

   3. Proof of no feasible alternative uses that could earn a reasonable economic return, including: report from a licensed engineer or architect with historic preservation experience attesting to the landmark's structural soundness and suitability for rehabilitation; cost estimates for proposed alteration and for compliance with landmarks and design commission's decision; estimated market value of property after proposed alteration and, in the case of proposed demolition, after renovation of landmark for continued use; testimony of an architect, developer, or real estate professional with experience in historic preservation as to economic feasibility of rehabilitation or reuse of landmark; unfeasibility of new construction around, above, or below landmark.

   4. Proof of lack of available and applicable economic incentives.

D. Upon reasonable notice to the owner, the landmarks and design commission may appoint an expert to provide advice and testimony concerning the value of the landmark, the availability of incentives, and the economic impacts of approval, denial, or partial denial of a COA.

E. Any adverse economic impact caused intentionally or by willful neglect shall not constitute a basis for granting a COA.

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15.280.110 Special valuation for historic properties.

A. There is hereby established and implemented a special valuation program for historic properties as provided in Chapter 84.26 RCW and Chapter 254-20 WAC.

B. The Ellensburg landmarks and design commission is hereby designated as the local review board for the purposes set forth in Chapter 84.26 RCW and is authorized to perform all functions of a local review board authorized by Chapter 84.26 RCW and Chapter 254-20 WAC.

C. The class of properties eligible to apply for special valuation in the city of Ellensburg means all properties listed on the Ellensburg landmarks register, or properties contributing to an Ellensburg landmarks register historic district, which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW.

D. The landmarks and design commission shall adopt administrative rules for implementing special valuation and shall comply with all other local review board responsibilities identified in Chapter 84.26 RCW and Chapter 254-20 WAC.

E. Any decision of the landmarks and design commission acting on any application for classification as historic property eligible for special valuation may be appealed to Superior Court under RCW 34.05.510 through 34.05.598 in addition to any other remedy of law. Any decision on the disqualification of historic property eligible for special valuation, or any other dispute, may be appealed to the county board of equalization.

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15.290 Code Enforcement

15.290.010 Notice – Correction order.

If the city manager, or his designate, shall find that any of the provisions of this title are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this title to ensure compliance with or to prevent violations of its provisions.

15.290.020 Homeowners association maintenance.

Where this Title requires that a homeowners' association or other similar legal entity is responsible for the maintenance and control of common areas, parking areas, open spaces, access areas, buffer areas, and any and all other common aspects of a development project, prior to approval of the development project an agreement to maintain and control such common aspects shall be submitted by the applicant for the review and approval by the city attorney as to form, content, and compliance with the intent of this Title and said agreement shall be filed of record with the Kittitas County auditor and shall run with the land and be binding upon all future members of the homeowners' association or other similar legal entity. If such association or similar legal entity fails to maintain and control in a reasonable manner pursuant to the terms of the agreement, the city shall have the right to provide for the maintenance and control and bill the association or other similar legal entity accordingly. If the association or other similar legal entity does not remit payment in a timely manner, the city shall have the right to place a lien on the property owners that comprise the association or similar entity.

15.290.030 Complaints.

Whenever a violation of this title occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the city manager or his designate. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this title.

15.290.040 Penalty.

Violation of the provisions of this title or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this title or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $300.00 or imprisoned for not more than 90 days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

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15.290.050 Separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided.

15.290.060 Remedy by city.

Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

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Article 3: Zoning Districts & Land Uses

Public Hearing Draft, November 2013

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15.300 Zones, Maps and Designations

15.300.010 Purpose.

The city is divided into zones established in this code for the following purpose:

A. To provide for the geographic distribution of land uses into zones that reflect the goals and policies of the comprehensive plan.

B. To protect and promote the public's health, safety, and the general welfare.

C. To maintain a stability in land use designation with similar characteristics and level of activity through the provisions of harmonious groupings of zones together.

D. To provide and efficient and compatible relationship of land uses and zones.

15.300.020 Zoning map and boundaries.

A. The location and boundaries of the zones defined by this chapter shall be shown and delineated on zoning maps adopted by ordinance.

B. Changes in the boundaries of the zones, including application or amendment of interim zoning, shall be made by ordinance adopting or amending a zoning map.

C. Zoning maps are available for public review at the department of community development permit center during business hours. Zoning maps are available online at (ADD LINK).

15.300.030 Zone and map designation purpose.

The purpose statements for each zone and map designation set forth in the following sections shall be used to guide the application of the zones and designations to all lands in the city. The purpose statements also shall guide interpretation and application of land use regulations within the zones and designations, and any changes to the range of permitted uses within each zone through amendments to this title.

15.300.040 Residential zones and map designations.

A. Residential suburban zone (R-S).

The R-S zone is intended to provide for a mix of predominantly single detached dwelling units in a walkable neighborhood setting. These purposes are accomplished by:

1. Allowing detached single family dwellings as the predominate use, with options to integrate other compatible housing types in a relatively low urban density;

2. Providing standards and guidelines that reinforce Ellensburg's established pattern of attractive and walkable residential neighborhoods;

3. Providing standards and guidelines that promote the integration of usable open space for residential uses;

4. Providing standards and guidelines that encourage parks, trails, open spaces, and natural features to be integrated with the design of new development.
5. Providing for a minimum density standard to avoid large scale low density sprawl.
6. Providing an opportunity to integrate compatible small-scaled retail and service uses in strategic locations that serve the surrounding neighborhood.
7. Providing a flexible system of bonus incentives (see ECC 15.330.020) that allow for an increase in density in exchange for:
    a. Energy efficient building and site design;
    b. Mix of housing types;
    c. Off-street trails;
    d. Purchase of transferable development rights (subject to the city adopting a TDR program) that help to preserve valuable resource lands outside of the city;
    e. Preservation of historic buildings; and/or
    f. Affordable housing; and
8. Use of this zone is appropriate for:
    a. Areas designated mixed residential in the comprehensive plan; and
    b. Predominately large acreage sites in outlying areas of the city with the capability of creating new compact and walkable residential neighborhoods.

B. Residential low density zone (R-L).

The R-L zone is intended to protect and enhance the character of existing low density residential neighborhoods while allowing for compatible infill development. These purposes are accomplished by:

1. Allowing detached single family dwellings as the predominate use, with options to integrate accessory dwelling units and duplexes and cottage housing on larger lots;
2. Providing standards and guidelines that reinforce Ellensburg's established pattern of attractive and walkable residential neighborhoods;
3. Providing standards and guidelines that promote the integration of usable open space for residential uses;
4. Providing standards and guidelines that encourage parks, trails, open spaces, and natural features to be integrated with the design of new development;
5. Providing a minimum density standard to avoid large scale low density sprawl;
6. Providing a flexible system of bonus incentives (see ECC 15.330.020) that allow for an increase in density in exchange for:
    a. Energy efficient building and site design;
    b. Mix of housing types;
    c. Off-street trails;

d. Purchase of transferable development rights (subject to the city adopting a TDR program) that help to preserve valuable resource lands outside of the city;

e. Preservation of historic buildings; and/or

f. Affordable housing; and

7. Use of this zone is appropriate for:

a. Areas designated mixed residential in the comprehensive plan; and

b. Areas characterized as predominately detached single family in character.

C. Residential medium density zone (R-M).

The R-M zone is intended to provide for a mixture of housing types in a walkable neighborhood setting. These purposes are accomplished by:

1. Allowing a variety of housing types including detached single family dwellings, cottage housing, townhouses, and multifamily;
2. Providing standards and guidelines to help ensure that new infill development will be compatible in scale and character with existing development;
3. Providing standards and guidelines that reinforce and/or enhance the character and walkability of streets within the zone;
4. Providing standards and guidelines that promote the integration of usable open space for residential uses;
5. Providing standards and guidelines that encourage parks, trails, open spaces, and natural features to be integrated with the design of new development on large sites;
6. Providing a minimum density standard to avoid large scale low density sprawl;
7. Providing an option for a modest floor area ratio bonus (see ECC 15.330.030) in exchange for:

a. Energy efficient building and site design; or

b. Purchase of transferable development rights (subject to the city adopting a TDR program) that help to preserve valuable resource lands outside of the city; and

8. Use of this zone is appropriate for:

a. Areas designated mixed residential in the comprehensive plan; and

b. Areas characterized by a mix of single and multifamily buildings;

c. Areas within one-half mile of Central Washington University;

d. Areas located along designated arterial streets;

e. Areas adjacent to commercial zoned property; or

f. Areas located along corridors served by transit.

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D. Residential high density zone (R-H).

The R-H zone is intended to comprise areas for high density multifamily residential development in areas served by transit and within walking distance from commercial services. These purposes are accomplished by:

1. Allowing multifamily dwellings and providing a minimum density limit;
2. Providing standards and guidelines that promote compact and walkable development patterns that are well integrated with surrounding multifamily developments;
3. Providing standards and guidelines that promote the integration of usable open space for residential uses;
4. Providing standards for maximum floor area ratio which provide a flexible way to ensure that new development is compatible in scale to adjacent developments;
5. Providing an option for a modest floor area ratio bonus (see ECC 15.330.030) in exchange for:
   a. Energy efficient building and site design; or
   b. Purchase of transferable development rights (subject to the city adopting a TDR program) that help to preserve valuable resource lands outside of the city; and
6. Use of this zone is appropriate for:
   a. Areas designated high density or mixed residential in the comprehensive plan; and
   b. Areas within one-quarter mile of Central Washington University;
   c. Areas characterized by multifamily buildings;
   d. Areas adjacent to commercial zoned property; or
   e. Areas located along corridors served by transit.

E. Manufactured home park zone (MHP).

The MHP zone comprises areas developed or suitable for development for placement and occupancy of manufactured homes for residential purposes on rented or leased sites in manufactured home parks. These purposes are accomplished by:

1. Establishing regulations to establish, stabilize, and protect the residential character of the zone and to prohibit all incompatible activities;
2. Establishing provisions for common open space; and
3. Establishing standards for a safe and connected circulation system.

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15.300.050 Non-Residential and mixed-use zones.

A. Commercial neighborhood zone (C-N).

The C-N zone is intended to provide small scale shopping areas to serve the residential neighborhoods in outlying areas of the city. These are intended to be pedestrian-oriented areas in convenient locations and designed compatible with the surrounding neighborhood. These purposes are accomplished by:

1. Allowing small scale retail, personal services and other compatible uses that serve the surrounding residential neighborhood;
2. Providing a minimum separation of neighborhood commercial zones of 2,000 feet to minimize their overuse, while providing the opportunity for such uses to be within reasonable walking distance of all residential uses;
3. Providing a maximize size of 5 acres for neighborhood commercial zones to maintain a small scale and compact, pedestrian-oriented design;
4. Allowing townhouses and multifamily uses as a secondary use due to their complementary nature and ability to enhance the walkability of these zones;
5. Providing standards and guidelines that enhance the appearance and function of neighborhood center uses and their compatibility with surrounding residential uses; and
6. Use of this zone is appropriate for:
   a. Areas designated mixed residential in the comprehensive plan;
   b. Areas located adjacent to a collector or arterial roadway;
   c. Areas at least 2,000 feet from an existing commercial zone; and
   d. Areas centralized to serve existing and/or planned residential neighborhoods within ¼ mile of the site.

B. Commercial tourist zone (C-T).

The C-T zone is intended to encourage suitable areas for commercial lodging, service stations, eating and amusement places, and other establishments primarily servicing Interstate 90 and U.S. Highway 97 travelers. In addition, specific areas of the C-T zone which have a comprehensive plan designation of general commercial may have regional retail commercial uses if special development criteria in ECC 15.250.070 are met. These purposes are accomplished by:

1. Allowing commercial uses that serve the traveling public;
2. Providing the opportunity for regional retail uses in specific areas deemed appropriate for such uses; and
3. Providing standards and guidelines that enhance the appearance and function of commercial-tourist uses and their compatibility with surrounding uses;
4. Use of this zone is appropriate for:
   a. Areas designated Tourist Commercial and General Commercial in the comprehensive plan; and
   b. Areas located within one-half mile of an Interstate 90 interchange.

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C. Commercial highway zone (C-H).

The C-H zone is intended to accommodate diversified commercial establishments. These purposes are accomplished by:

1. Allowing a broad range of commercial uses that serve the community including retail, personal and general services, and office uses;
2. Allowing small to large scale retail uses, but excluding super scale retail (over 60,000 square feet of floor area) unless associated with a regional retail commercial project meeting the provisions of ECC 15.250.070; and
3. Providing standards and guidelines that enhance the appearance and function of commercial highway uses and their compatibility with surrounding uses;
4. Use of this zone is appropriate for:
   a. Areas designated corridor neighborhood commercial, general commercial, or tourist commercial in the comprehensive plan; and
   b. Areas adjacent to, or with good access to, arterial streets and highways.

D. Residential office zone (R-O).

The R-O zone is intended to serve as a transition zone separating more intensive uses from single family residential districts. These purposes are accomplished by:

1. Allowing a variety of housing types including detached single family dwellings, cottage housing, townhouses, and multifamily;
2. Providing for office uses that are compatible in scale and character with permitted residential uses.
3. Providing for limited small scale non-residential uses on street corner sites provided they are integrated with residential or office uses in a mixed-use building.
4. Providing standards and guidelines to help ensure that new infill development will be compatible in scale and character with existing development;
5. Providing standards and guidelines that reinforce and/or enhance the character and walkability of streets within the zone;
6. Providing a minimum density standard to avoid large scale low density sprawl;
7. Providing an option for a modest floor area ratio bonus (see ECC 15.330.030) in exchange for:
   a. Energy efficient building and site design; or
   b. Purchase of transferable development rights (subject to the city adopting a TDR program) that help to preserve valuable resource lands outside of the city; and
8. Encouraging historic preservation and adaptive re-use of historic properties;
9. Use of this zone is appropriate for:
   a. Areas designated mixed residential in the comprehensive plan; and
   b. Areas characterized by a mix of single and multifamily buildings and office uses; and/or

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c. Areas located generally between commercial and single family residential zones;

E. Central commercial zone (C-C).

The C-C zone is intended to encourage and accommodate the development and redevelopment of a viable central business district serving a broad trade area. The intended physical form of the district is an intensive concentration of compatible business, professional and commercial activities. These purposes are accomplished by:

1. Allowing a range of commercial uses that serve the broad trade area;
2. Promoting office uses, which provide for local employment and complement other commercial uses in the zone;
3. Promoting residential as a secondary use in the zone, including upper floors on storefront dominated streets;
4. Providing standards and guidelines that preserve and/or enhance the historic character and scale of buildings within the zone; and
5. Providing standards and guidelines that reinforce and/or enhance the character and walkability of streets within the zone;
6. Use of this zone is appropriate for areas designated central commercial in the comprehensive plan.

F. Central commercial II zone (C-CII).

The C-C II zone is intended to provide for orderly expansion of the downtown commercial core. The zone is not to be used to allow strip commercial development or C-C II zones physically separate from the downtown commercial core. These purposes are accomplished by:

1. Allowing a range of commercial uses that serve the broad trade area;
2. Promoting office uses, which provide for local employment and complement other commercial uses in the zone;
3. Promoting residential as a secondary use in the zone;
4. Providing standards and guidelines that preserve and/or enhance the historic character and scale of buildings within the zone;
5. Providing standards and guidelines that promote compatibility between uses; and
6. Providing standards and guidelines that reinforce and/or enhance the character and walkability of streets within the zone;
7. Use of this zone is appropriate for areas designated central commercial in the comprehensive plan.

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G. Light industrial zone (I-L).

The I-L zone is intended to accommodate certain industrial structures and uses having physical and operational characteristics which might adversely affect the economic welfare of adjoining residential and commercial uses. These purposes are accomplished by:

1. Allowing a range of general service and light industrial uses which can be operated in a relatively clean, quiet and safe manner compatible with adjoining industrial uses and without serious effect, danger or hazard to nearby residential uses;
2. Providing for eating and drinking establishments that serve other permitted uses in the zone;
3. Providing for offices as an accessory use, except where owners have purchased development rights from county properties within defined sending areas (subject to the city's adoption of a TDR program); and
4. Providing design standards and guidelines that enhance the appearance and function of uses in the zone and their compatibility with surrounding uses;
5. Use of this zone is appropriate for areas designated light industrial in the comprehensive plan.

H. Heavy industrial zone (I-H).

The I-H zone is intended to accommodate certain industrial structures and uses including large-scale or very specialized industrial operations which might have external physical effects of an offensive or hazardous nature. These purposes are accomplished by:

1. Allowing the processing of raw materials and the manufacturing, processing, storing, and compounding of semi-finished or finished durable or nondurable products; and
2. Providing design standards and guidelines that provide for flexibility in the layout of buildings and site features, yet enhance the appearance of I-H zone uses and their compatibility with surrounding uses;
3. Use of this zone is appropriate for areas designated heavy industrial in the comprehensive plan.

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15.300.060 Special districts.

A. Public reserve zone (P-R).

The P-R zone is a special use classification established to provide existing and future areas where public uses, such as, but not limited to, governmental, educational, recreational, cultural, and other public uses operated by a public entity may be allowed to develop. It is anticipated that the uses allowed may be unique and may involve a combination of uses not permitted outright in any other zoning districts. These purposes are accomplished by:

1. Allowing a full range of public uses including parks, schools, community centers, and governmental facilities;
2. Providing viable options for the adaptive reuse of surplus public facilities provided new uses can be integrated with the surrounding communities in a compatible manner; and
3. Use of this zone is appropriate for:
   a. Areas designated public institutional or public open space in the comprehensive plan; and
   b. Other sites planned to accommodate public uses allowed in the zone.

B. Downtown Historic District.

1. Designated. The geographic area identified in Figure 15.300.060 below is designated an Ellensburg landmark district, hereafter to be known as the Downtown Historic District. The requirements of this chapter and ECC Chapter 15.280 shall apply to all existing structures or structures hereafter constructed within this district; and
2. No person, firm or corporation shall construct any new, or reconstruct, alter, remodel, paint, repair or demolish any existing structure within the Downtown Historic District prior to completing the review process required by the city landmarks and design ordinance (Chapter 15.280 ECC).

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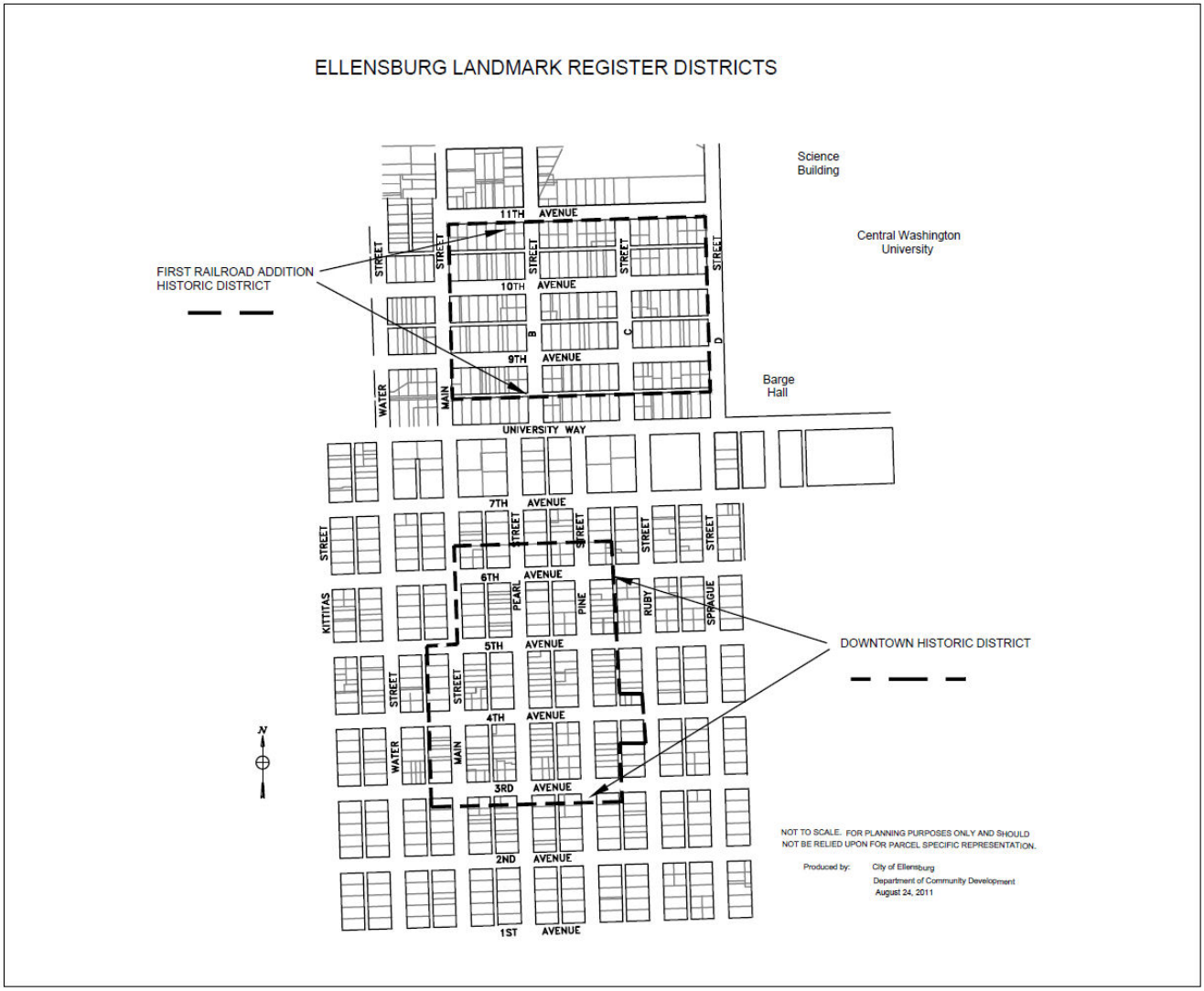

Figure 15.300.060(B). Downtown and First Railroad Addition Historic District boundaries.

C. First Railroad Addition Historic District.

1. Designated. The geographic area identified in Figure 15.300.060 above ~~are~~is designated as an Ellensburg landmark district, hereafter to be known as the First Railroad Addition Historic District. The requirements of this chapter and Chapter 15.280 ECC shall apply to all existing structures or structures hereafter constructed within this district; and

2. No person, firm or corporation shall construct any new, or reconstruct, alter, remodel, paint, repair or demolish any existing structure within the First Railroad Addition Historic District prior to completing the review process required by the city landmarks and design ordinance (Chapter 15.280 ECC).

D. Airport overlay zone (A-O).

The airport overlay (A-O) zone encompasses properties located on, adjacent to, and in the vicinity of Bowers Field, in order to protect the health, welfare, safety, and quality of life of the general public, property owners, airport operators, and aviation community. The intent is also to ensure compatible land uses in the vicinity of the affected environments of the airport overlay zone.

Properties within the A-O overlay zone [see Figure 15.300.060(D)] are subject to the standards in ECC Chapter 15.350, Airport Overlay Zone Standards, in addition to the provisions of the underlying zoning district. Where there is a conflict between the provisions of the A-O overlay zone and the underlying zoning district, the provisions of the A-O overlay zone shall apply.

Map B: Airport overlay zone and applicable airport safety zones

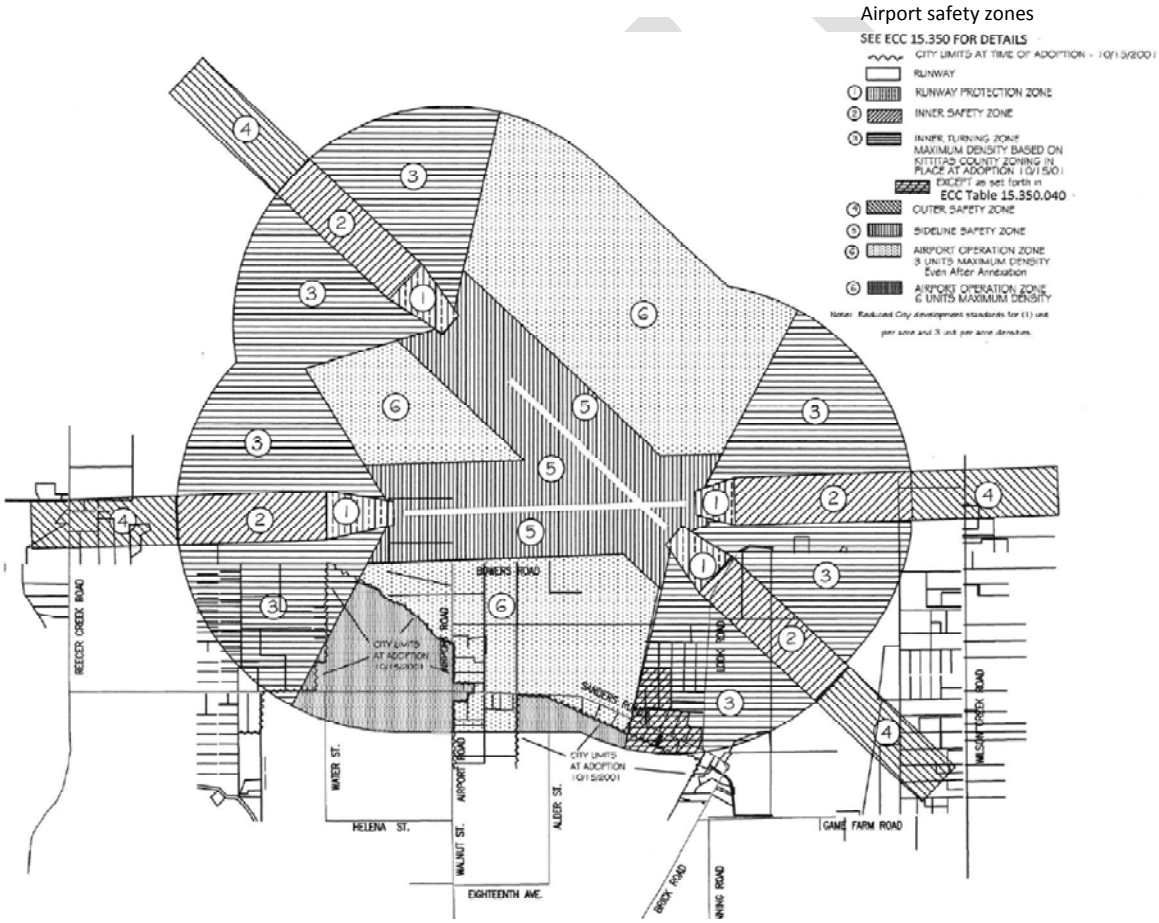

Figure 15.300.060(D). Airport overlay zone and applicable airport safety zones as described in ECC Chapter 15.350.

15.310 Permitted Uses

15.310.010 Purpose.

A. The purpose of this subchapter is to establish the uses generally permitted in each zone which are compatible with the purpose of the zone and other uses allowed within the zone.

B. The use of a property is defined by the activity for which the building or lot is intended, designed, arranged, occupied, or maintained.

C. The use is considered permanently established when that use will be or has been legally established in continuous operation for a period exceeding 60 days. A use which will operate for less than 60 days is considered a temporary use, and subject to the requirements of a temporary use permit (see ECC 15.250.010).

15.310.020 Interpretation of land use tables.

A. The land use tables in this chapter determine whether a use is allowed in a zoning district. The zoning district is located on the vertical column and the use is located on the horizontal row of these tables.

B. If 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 Type I review procedures set forth in ECC Chapter 15.210 plus other applicable requirements in this title. Where the use is associated with new development, it is subject to the Type II review procedures, also set forth in ECC Chapter 15.210.

D. If the letter "C" appears in the box at the intersection of the column and the row, the use is allowed subject to the conditional use review procedures specified in ECC 15.250.040 and the general requirements of the code.

E. If the letter "A" appears in the box at the intersection of the column and the row within the P-R zone column, the use is allowed as an accessory use to the primary permitted public on the property and is allowed in the district subject to the Type I review procedures set forth in ECC Chapter 15.210 plus other applicable requirements in this title.

F. Clarification of uses and special conditions.

   1. If a * appears after the use, then the use is defined in ECC 15.310.060;

   2. Where an ECC reference/link appears after a use, then the use is subject to standards set forth in that section or chapter;

   3. If a number appears in the box at the intersection of the column and the row, the use may be allowed subject to the development condition with the corresponding number immediately following the land use table. If there are multiple numbers, then the use is subject to all applicable development conditions; and

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4. If more than one letter-number combination appears in the box at the intersection of the column and the row, the use is allowed in that zone subject to different sets of limitation or conditions depending on the review process indicated by the letter, the general requirements of the code and the specific conditions indicated in the development condition with the corresponding number immediately following the table.

15.310.030 Accessory uses.

An accessory use, as defined in ECC 15.130.010 and identified on the use tables in ECC 15.310.040 by an "A", is permitted in any zone if:

A. It is on the same lot as the principal use to which it is accessory; and

B. It is of a nature customarily incidental and subordinate to, the principal use or structure.

15.310.040 Use tables.

Table 15.310.040 Residential-based uses.

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-T	C-H	C-C	C-CII	I-L	I-H	P-R	MHP
RESIDENTIAL, GENERAL														
Dwelling, single family* (ECC 15.540.020)	P	P	P		P									P
Dwelling, cottage * (ECC 15.540.050)	P	P	P		P								A[6]	
Dwelling, duplex* (ECC 15.540.030)	P[1]	P[1,2]	P		P				P[7]	P[7]			A[6]	
Dwelling, townhouse* (ECC 15.540.060)	P[1,5]	P[1]	P	P	P	P[3]			P[7]	P[7]			A[6]	
Dwelling, multifamily* (ECC Article 5)	P[1,5]		P	P	P	P[3]			P[7]	P[7]			A[6]	
Dwelling, live-work*	P[1,4]		P[4]	P[4]	P[4]	P			P[7]	P[7]				
Manufactured home park* (ECC 15.340.040)			C	P	C								A[6]	P
GROUP RESIDENCES														
Boarding houses, lodging houses, sororities, fraternities*		C	P	P	C				P[7]	P[7]			A[6]	
Adult family home*	P	P	P	P	P	P			P[7]	P[7]			A[6]	
Community residential facility*			C	C	C	C			P[7]	P[7]			P/A[6]	

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-T	C-H	C-C	C-CII	I-L	I-H	P-R	MHP
Senior citizen assisted housing*			P	P	P	P			P[7]	P[7]			A[6]	
RESIDENTIAL ACCESSORY USES														
Accessory dwelling unit* (ECC 15.540.040)	P	P	P	P	P				P[7]	P[7]				
Home occupations* (ECC 15.340.020)	P	P	P	P	P	P	P	P	P[7]	P[7]	P	P	P[6]	P
Yard sale use	A[8]	A[8]	A[8]	A[8]	A[8]	A[8]	A[8]	A[8]	A[8]	A[8]	A[8]	A[8]	A[8]	A[8]
TEMPORARY LODGING														
Bed & breakfast (ECC 15.340.010)			P	P	P				P[7]	P[7]				
Hotels/Motels*							P	P	P[7]	P[7]				

Development conditions:

1. Subject use may be permitted subject to density bonus incentives set forth in Table 15.320.030 and ECC Chapter 15.330.
2. Duplexes are permitted in the R-L zone per the following conditions.
   a. Lots at least 10,890 square feet in area; or
   b. Corner lots where building entries are provided on separate streets.
3. Residential uses are permitted in the C-N zone provided non-residential uses occupy the ground floor of all buildings fronting on the street. For example, residential uses could be on upper levels of buildings fronting on the street or for deep lots, subject residential uses may occupy any buildings away from the street and behind the buildings that front onto the street.
4. Non-residential uses may be permitted within live-work dwellings subject to the use provisions for the applicable zoning district in Table 15.310.040 below.
5. Townhouses and multifamily dwelling units shall not be located adjacent to existing single family dwellings, except where such uses were approved on an individual plat.
6. All uses permitted in the P-R zone must be either outright permitted and operated as a public use or must be an accessory use to the primary public use (See ECC 15.010.050).
7. Except for lobbies or similar entrances, all permitted residential uses in the C-C and C-CII zones are prohibited within 30 feet of the sidewalk on the ground floor of properties fronting on Storefront Streets per ECC 15.510.050 (E).
8. Yard sales are permitted as an accessory use to a dwelling provided that the following conditions are met:

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a. Only two yard/garage sales per dwelling unit not exceeding 3 consecutive days in duration are allowed per year;

b. The occupant or tenant of the dwelling unit shall supervise and be responsible for the yard/garage sale activities including ensuring that there is no impediment to the passage of traffic on public roads and sidewalks adjacent to the sale;

c. No goods are to be displayed in public rights-of-way without first obtaining a right-of-way use permit from the public works department; and

d. Signs advertising the sale shall not be attached to any public structure, sign, sign or utility pole or traffic control devices and shall be removed within 24 hours of the sale completion.

Table 15.310.040 Non-residential uses.

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-T	C-H	C-C	C-CII	I-L	I-H	P-R
RETAIL													
Auto sales, new & used							P[1]	P	P[2]	P			
Commercial use providing drive-through service							P	P		P			
Farmers markets*						P			P	P			
Fruit stands*	P	P	P	P	P	P	P	P	P	P	P		
Heavy retail (ECC 15.310.060)								P[10]	P[2]	P		P	
Nurseries & greenhouses that are ancillary to a retail use*	P							P	P[2]	P	P	P	
Restaurants, bars, and brewpubs*			P[3]	P[3]	P[3]	P	P	P	P	P	P[11]		A[9]
Coffee house, espresso bar	P[8]		P[3]	P[3]	P[3]	P	P	P	P	P	P[11]		A[9]
Retail, small scale (<2,000sf floor area)	P[8]		P[3]	P[3]	P[3]	P	P	P	P	P			A[9]
Retail, medium scale (2,000-20,000sf floor area)						P		P	P	P			A[9]
Retail, large scale (20,001-60,000sf floor area)						P[4]		P	P	P			
Retail, super scale (>60,000sf floor area)							P[13]	P[13]	C	C			

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-T	C-H	C-C	C-CII	I-L	I-H	P-R
Outlet center								P					
Regional retail commercial projects* (subject to the locational requirements in ECC 15.250.070)	P						P	P					
PERSONAL AND GENERAL SERVICE													
Day care I facilities*	P	P	P	P	P	P		P	P	P	P		A[9]
Day care II facilities*	C	C	C	C	P	P		P	P	P			A[9]
General service establishments (ECC 15.310.060)						P[5]	P[6]	P	P[2]	P	P		
Heavy services (see Heavy retail and services definition in ECC 15.130.080)*								P[10]	P[2]	P		P	
Hospitals*	C	C	C		P				C	P			P[9]
Offices, medical*	P[8]				P	P		P	P	P			P/A[9]
Kennels *								P		P	P		
Nursing homes*	C	C	C	P	P				P	P			P/A[9]
Personal service establishments*	P[8]		P[3]	P[3]	P[3]	P	P	P	P	P			A[9]
Places of assembly*	C	C	C	C	P	P			P	P	C		A[9]
Radio station (commercial)		C						C			C	C	A[9]
BUSINESS SERVICE													
Conference center*							P	P	P	P			A[9]
Offices, business or professional*, small scale (<2,000sf floor area)	P[8]					P	P	P	P	P	P[7]		P/A[9]
Offices, business or professional*, medium scale (2,000-20,000sf floor area)	P[8]						P	P	P	P	P		P/A[9]

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Use	R-S	R-L	R-M	R-H	R-O	C-N	C-T	C-H	C-C	C-CII	I-L	I-H	P-R
Offices, business or professional*, large scale (20,001-60,000sf floor area)								P	P	P	P		P/A[9]
Miniwarehouse facility*			C					C			P	P	
INDUSTRIAL													
Light industry (ECC 15.130.120)									P[2,11]	P[2,11]	P	P	
Hazardous waste treatment (off-site)(see definition of "off-site" in ECC 15.130.150)											C	C	
Hazardous waste treatment (on-site) (see definition of "on-site" in ECC 15.130.150)							C	C	C	C	C	C	A[9]
Heavy industry (ECC 15.310.060)												C	

Development conditions:

1. Sales of used vehicles in this zone is limited to uses that include sales of new vehicles as the primary use.
2. Use must be enclosed entirely within a building.
3. Use is permitted if located adjacent to a street corner and within a mixed-use building or within a live-work dwelling. Such uses shall be subject to Secondary Street frontage standards as set forth in EMC 15.510.060.
4. Grocery stores shall be the only retail uses permitted with more than 20,000 square feet of gross floor area.
5. Except for gas service stations, the use must be enclosed entirely within a building.
6. Includes gas service stations with truck stop facilities only. No other general service uses are permitted.
7. Except for office uses that are accessory to a permitted use, office uses may be permitted through the purchase of transferable development rights, subject to the adoption of a TDR program by the city.
8. Subject non-residential uses may be permitted in the RS zone subject to the following conditions:
   a. The location for planned non-residential uses shall be designated on the plat.

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b. Non-residential uses may be integrated into subdivisions provided the subdivision encompasses at least 5 acres in gross land area and the planned uses are at least 1,200 feet from an existing C-N zone or commercial use.

c. Non-residential uses shall not be located adjacent to existing single family dwellings, except where such uses were approved on an individual plat.

d. For the purpose of identifying appropriate site orientation standards for future non-residential development, the plat shall indicate the street frontage type designation for streets fronting planned non-residential uses as either Storefront, Secondary, or Landscaped Street (see ECC Chapter 15.510).

9. All uses permitted in the P-R zone must be either outright permitted and operated as a primary public use or must be an accessory use to that primary public use. See ECC 15.010.050.

10. Home retail uses are limited to 60,000 square feet of floor area.

11. Includes light industrial activities that result in the production of goods placed for on-site retail sale. Special restrictions:

    a. No power tools or equipment are allowed which by their decibel, frequency, and/or other feature of their operation would negatively impact the surrounding area by reason of decibel levels, light (see Chapter 15.58 for standards), dust or other physical effect; and

    b. Production or manufacturing activity shall not occur between the hours of 10:00 p.m. and 6:00 a.m.

12. Subject use is permitted in the district only when accessory to a permitted use (see accessory use definition in ECC 15.130.010).

13. Subject use is permitted in the district only as part of an approved regional retail commercial project (see ECC 15.250.070).

Table 15.310.040 Special uses.

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-T	C-H	C-C	C-CII	I-L	I-H	P-R
PARK, OPEN SPACE & RECREATIONAL													
Cemeteries, columbarium or mausoleums	P	P											
Golf course	P												P[11]
Golf driving range (not associated with a golf course)	C						C	C					P[11]
Recreation - outdoor (commercial)*							P	P			C		A
Recreation - indoor (commercial)*							P	P	P	P	C		A

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-T	C-H	C-C	C-CII	I-L	I-H	P-R
Recreational vehicle parks (ECC 15.340.050)							P						
Parks, Playgrounds (public or private)	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]		P[1]	P[1]	P[1]	P[1]		P
CULTURAL & ENTERTAINMENT													
Adult entertainment establishment*							P[2]						
Art, performing arts, and recording studios								P	P	P			P/A[7]
Museums									P	P			P/A[7]
EDUCATIONAL													
Schools	C	C	C	C	C			C	C	C			P[5]
GOVERNMENTAL													
Court								P	P	P			P
Fire facility								P					P
Police facility						P[3]		P	P[3]	P	P		P
Public agency or utility office*						P	P	P	P	P	P	P	P/A
Public agency or utility yard	P[4]	P[4]	P[4]	P[4]	P[4]	P		P	C[4]	P	P	P	P/A
Utility facility*[8]	P	P	P		P	P	P	P	P	P	P	P	P
Fairgrounds													P
Public transportation passenger terminals							P	P	P	P			P
RESOURCE													
Gardening or fruit raising (accessory use or non-commercial)	P	P	P	P	P	P	P	P	P	P	P	P	P/A[7]
Agriculture*	P[9]												
Small wind energy[10] systems (ECC 15.340.060)	P	P	P	P	P	P	P	P	P[10]	P	P	P	P/A[7]
REGIONAL													
Airport													PC[6]

Development conditions:

1. Lighting for structures and fields shall be directed away from residential areas through the use of exterior full cut-off shields or through optics within the fixture.
2. Adult entertainment is regulated pursuant to Chapter ECC 6.72. Zoning locational standards within the C-T zone for adult entertainment establishments are:

   All such establishments must be at least 1,000 feet from any residential zone, parks, schools, historic district, any dwelling, freeway, highway, interstate, or major arterial (see map on file in the city clerk's office);
3. Limited to "storefront" police offices. Such offices shall not have:
   a. Holding cells;
   b. Suspect interview rooms (except in the NC zone); or
   c. Long-term storage of stolen properties.
4. Public agency or utility yard conditions:
   a. Utility yards only on sites with utility district offices; or
   b. Public agency yards are limited to material storage, vehicle maintenance, and equipment storage for road maintenance, facility maintenance, and parks facilities.
5. Excluding private or nonprofit commercial schools, for which the principal course work is business, vocational, or technical.
6. A conditional use permit is required for the following uses:
   a. Facilities to sell, service and store airplanes, service airport patrons, and those ordinarily incidental and essential to operation of a municipal airport; and
   b. Airport landing areas.
7. All uses permitted in the P-R zone must be either outright permitted and operated as a public use or must be an accessory use to the primary public use, See ECC 15.310.050. Subject uses must be managed by a public agency.
8. Wireless communication facilities, including wireless communication support towers and antenna arrays, are subject to the provisions of ECC 15.340.070.
9. Agriculture uses are permitted in the subject zone provided the following conditions are met:
   a. The raising of swine, poultry or goats shall be restricted to youth educational projects or limited household consumption occurring on the same lot, or lots of record;
   b. No nuisances, such as noise, odor, air pollution, wastes, vibration, traffic or physical hazards, shall result therefrom; and
   c. Fencing and housing adequate to certain livestock shall be provided where livestock are kept, and all livestock shall be kept and maintained in accordance with applicable laws and regulations.

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10. Small wind energy systems on properties listed in the Ellensburg landmarks register are subject to landmarks and design commission Certificate of Approval .
11. Subject use shall be permitted only if it is a public facility.

15.310.050 Supplemental P-R zone provisions.

A. Permitted accessory uses.

1. Services such as food, pharmacies, gift shops, bookstores, newsstands, flower shops and similar uses, and facilities such as vehicle service and repair, storage yards, and physical plants, that are associated with a permitted use, integral to the operation of the permitted use itself, and owned and operated by the public institution involved or conducted through a lease or contract with a private individual or entity;
2. Facilities accessory to an institution, such as housing and dining facilities for students, staff or faculty of colleges, universities, and hospitals, are allowed within the principal building(s);
3. Retail services, such as concessions and rental facilities usually associated with public parks, fairgrounds, other public recreation facilities, and public educational institutions;
4. Helipads operated in conjunction with a public hospital;
5. Human medical offices, such as doctor or dentist facilities, operated in conjunction with a primary permitted use.

B. Conditional use. Buildings located within 100 feet of a residential zone and intended to be higher than 35 feet may be permitted within the P-R zone through the granting of a conditional use permit according to the procedures set out in ECC 15.250.040.

C. Master planning. Recognizing that some institutions require long-range development plans and consist of large areas of land with multiple land uses, a master plan may be prepared for all, or a portion, of an entity's land area which is subject to this chapter and which master planned land encompasses an area of 3 acres or more. See ECC 15.250.080 for application requirements, review procedures, and decision criteria for such master plans.

D. Rezone of P-R property when no longer used for public purposes. Recognizing that over time some land and structures that are zoned P-R and are used for P-R purposes may change uses to non-public uses or may become obsolete or surplussed out of active public use and occupancy, the property owner may in such situations seek a rezone out of P-R zoning pursuant to the terms and processes set forth in ECC 15.250.100, subject to the following:

The rezone applicant may request that the P-R zoned property be rezoned to any zoning district classification that abuts the subject property.

1. In the event that the P-R zoned property is developed with a structure that is not consistent with the development allowed in the abutting zones, such as a large school in the middle of a single family residential zone, the rezone applicant may request to rezone the property to a different zoning classification other than the abutting zones, provided that a concommitant

agrement that identifies the types of future uses that will be permitted in the structure has been proposed by the applicant and agreed to by city council as part of any rezone approval.

2. In the event that the P-R zoned property is developed with a structure that has been identified on the Ellensburg historic resource inventory and the property owner desires to demolish all or part of the structure, a certificate of approval for such demolition must first be applied for and approved by the landmarks and design commission pursuant to ECC 15.280.090(D) before the rezone permit review can be initiated.

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15.320 Form and Intensity Standards

15.320.010 Purpose.

A. To promote forms of development that reinforce and/or enhance the desired character of Ellensburg neighborhoods;

B. To promote compatibility between developments; and

C. To minimize environmental impacts of development.

15.320.020 Interpretation of tables.

A. The form and intensity standards tables address the form and intensity of development specific to individual zoning districts. The zoning district is located on the vertical column and the form/intensity topic being addressed is located on the horizontal row of these tables.

B. Where an ECC reference/link appears after the form and intensity topic, then the use is subject to standards set forth in that section or chapter.

C. If a number appears in the box at the intersection of the column and the row, refer to the development condition with the corresponding number immediately following the table. If there are multiple numbers, then all development conditions apply.

D. ECC 15.320.050-140 provide clarification and exceptions to the form and intensity standards herein.

15.320.030 Form and intensity standards table – Residential zones.

Table 15.320.030 Form and intensity standards table – Residential zones.

Topic	R-S	R-L	R-M	R-H	R-O
DEVELOPMENT INTENSITY AND CONFIGURATION					
Minimum lot area	None[1]	None[1]	None[1]	None[1]	None[1]
Minimum frontage	None[1,2]	None[1,2]	None[1,2]	None[1,2]	None[1,2]
Density, minimum (ECC 15.320.050)		6/du/acre[3]	8/du/acre[3]	15 du/acre	8/du/acre[3]
Density, maximum (base)[10] (ECC 15.320.050)	6 du/acre	8 du/acre	No limit	No limit	No limit
Density, maximum with bonus (see ECC Chapter 15.330)	12 du/acre[4]	16 du/acre[4]	No limit	No limit	No limit
Maximum floor area ratio (FAR) (ECC 15.320.050)		0.5[5]	1.0[6]	1.5[6]	1.0[6]

Topic	R-S	R-L	R-M	R-H	R-O
Maximum building height	35 ft	35 ft	35 ft[7]	45 ft[7]	35 ft[7]
BUILDING PLACEMENT (see ECC 15.320.070-130)					
Minimum front yard[8, 9]	15 ft	15 ft	15 ft	15 ft	15 ft
Garage front yard setback	22 ft	22 ft	22 ft	22 ft	22 ft
Minimum rear yard	20ft	20ft	20ft	20ft	20ft
Minimum rear yard, accessory structures (including garages) and detached accessory dwelling units	5 ft[12]	5 ft[12]	5 ft[12]	5 ft[12]	5 ft[12]
Minimum side yard[11]	5 ft/10 ft[13]	5 ft/10 ft[13]	5 ft/10 ft[13]	5 ft/10 ft[13]	5 ft/10 ft[13]
Minimum side yard (corner)	5 ft	5 ft	5 ft	5 ft	5 ft

Development conditions:

1. Lot sizes may be variable provided they are sized and shaped sufficient to accommodate permitted uses and conform to applicable design and density standards.
2. New lots shall have access directly to a public right-of-way or may obtain access from a courtyard access [ECC 15.420.050(C)] or shared driveway [ECC 15.420.060(A)(2)].
3. The density minimum shall apply only to new subdivisions greater than one acre in size.
4. Exception: Projects complying with Net Zero Energy provisions may exceed the maximum density limits as set forth in ECC 15.330.020(A).
5. townhouses and multifamily uses, where permitted through density bonus provisions, are exempt from maximum FAR standards.
6. See ECC 15.330.030 for FAR bonus provisions.
7. For buildings, or portions thereof, with pitched roofs, the maximum height may be increased by 5 feet. Applicable roof slopes must be at least 4:12 to qualify for this additional height.
8. Porches and covered entries may project up to 6 feet into the front yard.
9. No front yard is required for buildings adjacent to designated “Storefront Streets”.
10. Base maximum density refers to the maximum density allowed without utilizing density bonuses.
11. Townhouses and zero lot line homes are exempt from side yard standards internal to a development. However, such uses shall meet applicable side yard standards for adjacent lots outside of the development.

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12. Accessory structures and accessory dwelling units, where built on top of an existing garage, may be built to a property line abutting an alley, provided sufficient turning movement and emergency vehicle access is provided within the alley.

13. For lots 6,000 square feet or less, the minimum side yard shall be 5 feet on each side.

15.320.040 Form and intensity standards – Non-residential zones.

Table 15.320.040 Form and intensity standards table – Non-residential zones.

Standard	C-N	C-T	C-H	C-C	C-CII	I-L	I-H	P-R
DEVELOPMENT INTENSITY AND CONFIGURATION								
Minimum lot area	None[1]	None[1]	None[1]	None[1]	None[1]	None[1]	None[1]	None[1]
Density, minimum (ECC 15.320.050)	NA	NA	NA	NA	NA	NA	NA	NA
Density, maximum (ECC 15.320.050)	None	None	None	None	None	NA	NA	NA
Maximum building height [see ECC 15.320.060 for height exceptions]	35 ft	35 ft[2]	35 ft[2]	45 ft	70 feet	35 feet [2,3]	None	None[4]
BUILDING PLACEMENT (see ECC 15.320.070-130)								
Minimum front yard	10 ft[3]	10 ft[3]	10 ft[3]	None[3]	None[4]	10 ft[3]	10 ft	10 ft[5]
Garage front yard setback	22 ft	22 ft	22 ft	22 ft	22 ft	22 ft	22 ft	22 ft
Minimum rear yard (see ECC 15.520.020 for supplemental standards)	None[6]	None[6]	None[6]	None[6]	None[6]	None[6]	None[6]	None[5]
Minimum side yard (see ECC 15.520.020 for supplemental standards)	None[6]	None[6]	None[6]	None[6]	None[6]	None[6]	None[6]	None[5]

Development conditions:

1. Lot sizes may be variable provided they are sized and shaped sufficient to accommodate permitted uses and conform to applicable design and density standards.

2. The maximum height limit for regional retail project buildings is 50 feet.

3. For exceptions and detailed standards, see ECC Chapter 15.510, Site Orientation Standards.
4. For areas within 100 feet of a residential zone, the maximum building height shall be 35 feet, except where provided for in ECC 15.310.050(B).
5. For P-R zoned sites adjacent to residential zones, setback standards shall be the same as the adjacent residential zone. Where more than one zone borders the applicable site, setback standards shall be the same as the zone closest to the proposed structures. Where a non-residential zone is closest to the applicable structure, then there are no side or rear setback requirements.
6. Where the subject property borders a residential zone, the minimum side or rear setbacks shall be the same as the adjacent residential zone.
7. See ECC 15.330.030 for FAR bonus provisions.

15.320.050 Density and floor area ratio calculations.

A. Calculations for determining minimum density: Net area.

All site areas shall be used in the calculation of minimum allowed residential density or project floor area except:

1. Street rights-of-way, easements, or other areas reserved or dedicated for public use (such as parks, open space, and stormwater retention facilities) except private easements that serve as primary access to no more than 5 lots; and
2. Submerged lands, landslide hazard areas and buffers, Category I-IV wetlands and buffers, and Type 1, 2, 3 and 4 streams and buffers.

B. Calculations for determining maximum density: Gross developable acreage.

1. All site areas may be used in the calculation of the maximum allowed residential density or project floor area except as outlined under the provisions of subsection (2) of this section.
2. Submerged lands, landslide hazard areas and buffers, Category I-IV wetlands and buffers, and Type 1, 2, 3 and 4 streams and buffers shall not be credited toward the maximum density or floor area calculations. Property used for new roadways, trails, storm water facilities, or other features used by residents may be counted as part of the site area for density calculations. Property transferred to the city for the construction of public roadways or other public feature shall be counted as part of the site area if the city and property owner reach such an agreement as part of the transfer.

C. Density calculations. Minimum and maximum density for an individual site shall be calculated by multiplying the gross developable acreage by the applicable number of dwelling units. When calculation results in a fraction, the fraction shall be rounded to the nearest whole number as follows:

1. Fractions of 0.50 and above shall be rounded up.
2. Fractions below 0.50 shall be rounded down.

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D. Prohibited reduction. Any portion of a lot that was used to calculate compliance with the standards and regulations of this title shall not be subsequently subdivided or segregated from such lot.

E. Floor area ratio (FAR) calculations. Floor area ratio is defined as the floor area (see 15.130.060) of all buildings on a lot divided by the area of that lot. For example, a one story building that covers 50 percent of the lot has a FAR of 0.50. A 2-story building that covers the entire lot has an FAR of 2.0.

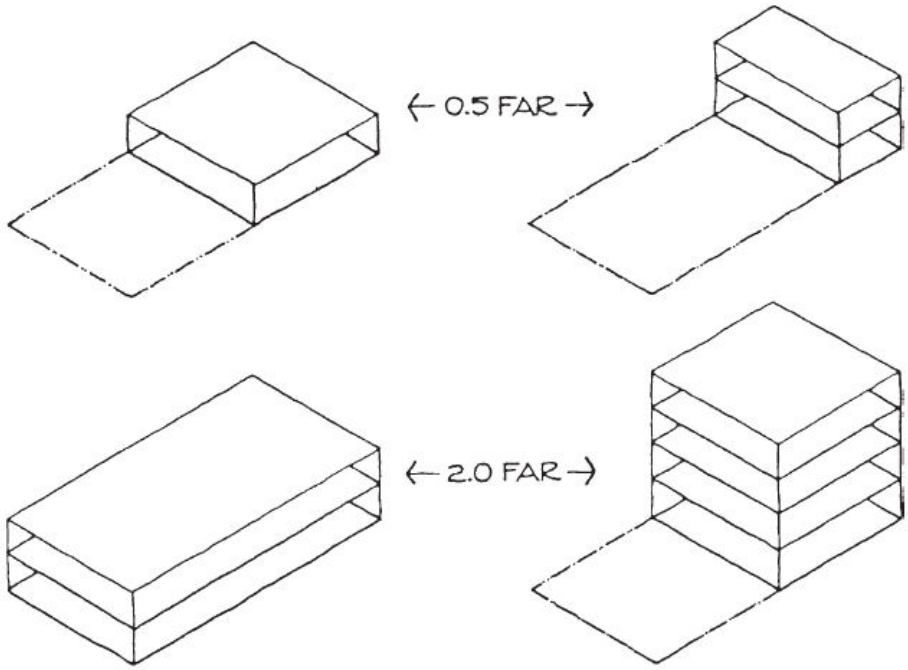

Figure 15.320.050(D). Floor area ratio examples.

15.320.060 Height exceptions.

The following structures may be erected above the height limits set forth in ECC 15.320.030 and ECC 15.320.040:

A. An additional 2 feet in height is allowed for structures with green roofs occupying at least 50 percent of the area of the roof;

B. Roof structures housing or screening elevators, stairways, tanks, rooftop wind generators, ventilating fans or similar equipment required for building operation and maintenance may exceed the height limit by up to 10 feet in the CC and CC-II zones. Such structures constructed for non-residential or multifamily uses area subject to screening standards in ECC 15.520.060.

C. Fire or parapet walls may exceed the height limit by up to 10 feet in the CC and CC-II zones; and,

D. Skylights, flagpoles, chimneys, church steeples, crosses, spires, communication transmission and receiving structures, and similar structures.

15.320.070 Setback measurements.

A. Front yard setback. The front yard is measured from the street right-of-way or the edge of a surface improvement (sidewalk) which extends beyond a right-of-way, whichever is closer to the proposed structure, to a line parallel to and measured perpendicularly from the street right-of-way or the edge of the surface improvement at the depth prescribed for each zone. For dual frontage properties, the front yard is measured from the street right-of-way that is the property's street address and primary access.

B. Side yard setback. The side yard setback is measured from the side lot line adjacent to another private property to a line parallel to and measured perpendicularly from the side lot lines at the depth prescribed for each zone.

C. Rear yard setback. The rear yard setback is measured from the rear lot line adjacent to another private property or an alley to a line parallel to and measured perpendicularly from the rear lot lines at the depth prescribed for each zone.

D. Corner lots. For corner lots, setbacks from all street rights-of-way shall conform to setback and other development standards for front yards, unless otherwise noted.

15.320.080 Permitted projections into yards.

The following structures may extend into or be located in required setbacks:

A. Fireplace structures, bay or garden windows, enclosed stair landings, closets, or similar structures may project 30 inches into a front or rear yard, provided such projections are:

   1 Limited to 2 per facade; and

   2. Not wider than 10 feet;

B. Eaves, cornices, and signs may not project more than:

   1. 3 feet into a front or rear yard; and

   2. 2 feet into the side yard;

C. Porches and covered entries may project up to 6 feet into the front yard subject to conformance with any required site vision standards set forth in ECC 15.320.140 applicable to the lot;

D. Uncovered porches and decks, which exceed 18 inches above the finished grade, may project up to 6 feet into the front or rear yards;

E. Storefront weather protection projections into the public right-of-way are acceptable, provided they don't interfere with street trees or extend beyond the edge of the sidewalk;

F. The following features may project into any front yard:

   1. Unenclosed porches and entry features may project 6 feet into the front yard;

   2. Mailboxes and newspaper boxes;

   3. Fire hydrants and associated appendages;

   4. Bus shelters; and

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5. Monument signs;

G. The following features may project into any yard:

1. Telephone poles and lines;
2. Power poles and lines;
3. Cable TV and internet lines;
4. Light and flagpoles;
5. Sprinkler systems;
6. Trellises not exceeding 8 feet in height, not wider than 10 feet;
7. Culverts and underground water, sewer, and accessory facilities for the provision of utilities, such as drains;
8. Electrical equipment cabinets and similar utility boxes and vaults;
9. Surface and stormwater water management facilities;
10. Fences per ECC 15.320.140;
11. Uncovered porches and decks not exceeding 18 inches above the finished grade; and
12. Rockeries, retaining walls and curbs provided these structures do not exceed a height of 6 feet from the property line grade; and

H. No projections are allowed into a regional utility corridor or access easement.

15.320.090 Setbacks from alleys.

Accessory structures and accessory dwelling units, where built on top of an existing garage, may be built to a property line abutting an alley, provided sufficient turning movement and emergency vehicle access is provided within the alley.

15.320.100 Setback modifications.

A. In addition to providing the standard street setback, a lot adjoining a half-street or designated arterial shall provide an additional width of street setback sufficient to accommodate construction of the planned half-street or arterial.

B. For residential lots adjacent to designated Local Streets and built to applicable standards set forth in Section 3 (Street Standards) of the city's public works development standards (ADD DIRECT LINK), setbacks shall be measured from the back of the sidewalk rather than the right-of-way edge, provided no residential structures are built within the public right-of-way.

15.320.110 Accessory buildings.

Where an accessory building is attached to and made a part of the main building for at least 50 percent of the length of one of the abutting walls of such accessory building, or where the total length of the abutting walls of the accessory building is equal to 50 percent of the longest wall of the

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building, then the accessory building shall be considered an integral part of the main building and such accessory building shall comply in all respects with the requirements of this title applicable to the main building as provided, and shall be not closer than 10 feet to the main building, except that covered walkways or breezeways between main and accessory buildings shall be permitted.

15.320.120 Lot or site divided by zone boundary.

When a lot is divided by a zone boundary, the following rules shall apply:

A. When a lot contains both residential and nonresidential zoning, the zone boundary between the zones shall be considered a lot line for determining permitted building height and required setbacks on the site;

B. When a lot contains residential zones of varying density:

   1. Any residential density transfer within the lot shall be allowed from the portion with the lesser residential density to that of the greater residential density;

   2. Compliance with these criteria shall be evaluated during review of any development proposals in which such a transfer is proposed; and

C. Uses on each portion of the lot shall only be those permitted in each zone pursuant to ECC Chapter 15.310.

15.320.130 Fences, walls, and hedges.

A. Residential uses and zones.

1. Front yard and between façade and street. 42 inches maximum height. Homes with accessory day care uses are allowed fences up to 48 inches tall, provided the portion of the fence above 42 inches is at least 50 percent transparent;

Figure 15.320.140(A)(1). Acceptable fences and walls for the front yard of residential uses. The left image uses a picket fence. The middle image uses a low wrought iron fence. The right image uses a low masonry retaining wall.

2. Corner lot, side yard, flanking street. 42 inches maximum fence or wall height for areas less than 5 feet from the property line or sidewalk, whichever is less (but not within the right-of-way). For homes with accessory day care uses, the maximum height in this area may be increased to 48 inches, provided the portion of the fence above 42 inches is at least 30

percent transparent. For areas at least 5 feet from the property line or sidewalk, whichever is less (but not within the right-of-way), the maximum fence or wall height is 8 feet;

3. Side and rear yards. 8 feet maximum fence or wall height, except that the maximum height of any fence less than 5 feet from a sidewalk shall be 42 inches. For homes with accessory day care uses, the maximum height in this area may be increased to 48 inches, provided the portion of the fence above 42 inches is at least 30 percent transparent;

Figure 15.320.140(A)(2). Acceptable and unacceptable fences on corner lots for side yard/flanking streets or along reverse frontage lots where the back yard abuts a street. The left example is a low picket fence. Taller fences like that in the middle image are acceptable along the side and rear yard, but are not allowed within 5 feet of a sidewalk. The right image shows an acceptable example where the fence is setback away from the sidewalk to allow space for landscaping.

4. Fences, walls and hedges less than 3 feet from an alley are limited to 42 inches in height. Fences or walls set back 3 feet or more from the alley may be up to 6 feet in height. Fences or walls at least 10 feet from an alley may be up to 8 feet in height.

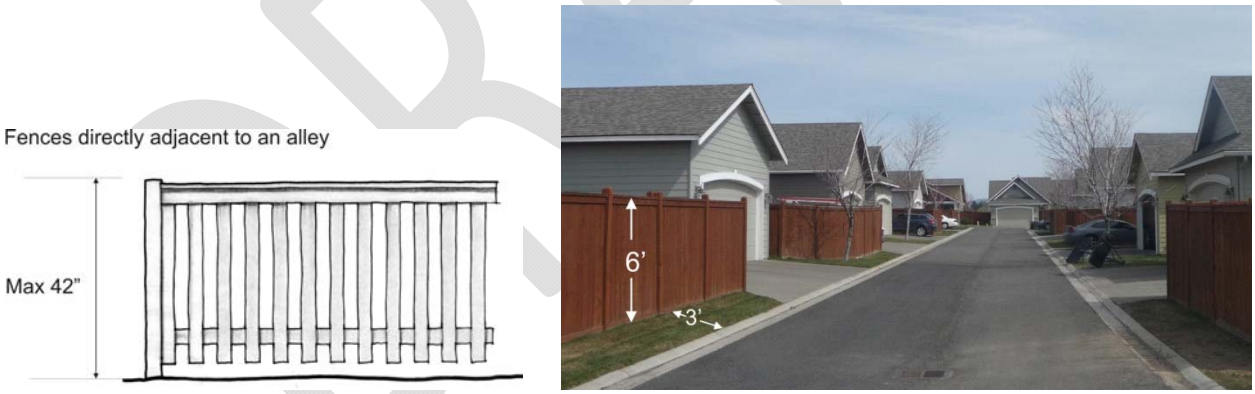

Figure 15.320.140(A)(2). Acceptable fences along an alley. The 42" fence on the left is allowed along the edge of an alley. The taller 6' fence in the middle is allowed with a 3-foot minimum setback from the alley.

5. Residential developments are subject to Edges and Fences provisions as set forth in ECC 15.420.030, which addresses gated communities and reverse frontage lots; and

6. Multifamily uses are subject to the following provisions:

   a. Side/rear yard design provisions set forth in ECC 15.520.020; and

   b. Blank wall treatment provisions as set forth in ECC 15.530.060.

B. All other uses and zones.

1. Fences less than 10 feet from a streetfront property line or sidewalk, whichever is less (but not within the right-of-way) are limited to 42 inches in height. Day care uses are allowed fences up to 48 inches tall in this area, provided the portion of the fence above 42 inches is at least 30 percent transparent. Otherwise, the maximum height for fences shall be 8 feet. Also see ECC 15.320.140 below for site distance requirements along streets and site access points;
2. Properties adjacent to designated Storefront Streets as set forth in ECC 15.510.040 are subject to fence restrictions in ECC 15.510.050;
3. Non-residential uses are subject to side/rear yard design provisions set forth in ECC 15.520.020; and
4. Non-residential uses are subject to blank wall treatment provisions as set forth in ECC 15.530.060.

C. Fence and wall measurements.

1. Fence and freestanding wall height shall be measured from the horizontal projection of the predominant ground level of either the finished grade where such grade has been established, or from the horizontal projection of the predominant existing grade in the vicinity of the fence; and
2. Fence height shall be measured to the upper surface of the fence panel.

D. Fence material standards.

1. Chain link fences.
   a. Chain link fences are prohibited in residential zones and in yards associated with residential uses; and
   b. Chain link fences are allowed in non-residential zones subject to height limits set forth in (B) above. Where visible from the street, such fences taller than 42 inches shall be screened with landscaping per the Blank Wall Treatment standards set forth in ECC 15.530.060. Chain link fences visible from the street are encouraged to use blue or black vinyl coating.
2. No fence, wall or hedge shall contain barbed wire, electrical current or charge of electricity, broken glass or similar hazardous materials or devices except where livestock is to be contained by barbed or electrically charged wire, in which case the fence shall be located not closer than 5 feet from the property line. Where an adjacent existing fence, wall, or hedge on a property line dividing properties under separate ownership establishes a barrier, then such barbed wire fence or electrically charged fence may be placed on the property line with the mutual consent of the property owners. Fences enclosing storage areas in industrial zones (I-L and I-H) may use barbed wire so long as such wire is located not less than 6 feet above grade.

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15.330 Density Bonus Incentives

15.330.010 Purpose.

A. To promote a variety of housing types;

B. To promote green building policies and practices;

C. To promote compact development patterns that encourage the use of non-motorized forms of transportation;

D. To promote the integration of trails into the design of new developments;

E. To promote the preservation of historic resources;

F. To promote the integration of affordable housing into new development; and

G. To encourage the preservation of valuable resource lands outside of the city.

15.330.020 Density bonus system for the R-S and R-L zones.

Table 15.330.020 below summarizes the types of bonus elements and the range of density bonuses by percentages for each element. Details and conditions for each bonus element are provided in paragraphs (A) through (H) in this section. Developments may use a combination of bonus elements provided they comply with the maximum density provisions set forth for the zone in Table 15.320.030. An exception to the maximum density provisions are only provided for projects complying with Net Zero Energy standards as set forth in paragraph (A) below.

Table 15.330.020. Density bonuses for the R-S and R-L zones.

Bonus element	Density bonus % increase	Special conditions
Energy efficient construction/Built Green, LEED or other similar environmental certification	25-150%	See (A) below for details.
Greater mix of housing types	10-15%	See (B) below for details. This option may be applied to all development sites with at least 5 acres.
Off street trails	5-20%	See (C) below for details.
Transfer of development rights (TDR)	Up to 50%	See (D) below for details.
Historic preservation	15 to 50%	See (E) below for details.
Affordable housing	15 to 50%	See (F) below for details.

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A. Energy efficient construction.

1. Table of green building and energy efficient density bonuses: 4 tiers of density incentives are employed to promote increasing levels of green building performance and higher energy efficiencies (via a green building rating system) in new developments. Applicable green building rating systems shall be indicated on the plat and confirmed with individual building permit application as directed in paragraph (2), Project certification, below. The following table outlines density bonuses associated with specific green building rating systems for single family, duplex and townhomes developments in the R-S and R-L zones.

Table 15.330.020(A). Energy efficiency density bonuses for the R-S and R-L zones.

Density Bonus	20%	50%	100%	150%
Compliance Paths for Single-Family, Cottages, Duplexes, and Townhomes, Multifamily				
Certification Level Required*	LEED-Silver or Built Green 4-star	LEED-Gold or Built Green 5-star	LEED-Platinum	Living Building Challenge

Conditions/Notes:

* Equivalent rating systems which require third party verification maybe be approved at the discretion of reviewing authority.

2. Project certification.

   a. Building permit. The applicant shall submit a building permit that is consistent with all conditions of the land use permit approval. The applicant shall also submit documentation that the project has applied for certification by a green building rating system, such as LEED or Built Green. Proof of ongoing certification shall be required during construction and project certification must be completed prior to final occupancy.

   b. Living Building Challenge. For projects pursuing the Living Building Challenge for the purpose of a density bonus, the applicant must show proof of pursuing ongoing certification during construction for all required elements. After construction and prior to issuance of the certificate of occupancy, the applicant must show proof of initial project compliance as to the site, materials, indoor quality and beauty/inspiration components of the Living Building Challenge and that the project is likely to achieve the elements of energy and water following 12 months of occupancy as required under Living Building Challenge certification. For those elements of energy and water that require occupancy of the building for 12 months for Living Building Challenge certification, the applicant must submit a report to the city following 12 months of occupancy, demonstrating its progress towards meeting these remaining elements of the Living Building Challenge standard. If certification of those elements has not been achieved, the applicant must provide quarterly reports of progress towards certification of these elements, including additional steps and timeline that will be taken to achieve certification.

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B. Mix of housing types. Up to a 50 percent density bonus may be provided for providing a diversity of housing types. This option may be applied to all development sites at least 5 acres in area.

1. Housing mix density bonus table.

Table 15.330.020(B). Housing mix density bonuses.

Housing mix	Density bonus
At least 50% of the dwelling units are "alternative housing types" as defined below. At least 2 alternative housing types must be employed, with each type accounting for no less than 10% of the total units.	10%
At least 67% of the dwelling units are "alternative housing types" as defined below. At least 3 alternative housing types must be employed, with each type accounting for no less than 10% of the total units.	15%

2. Alternative housing types include:

   a. Accessory dwelling units (ADU), complying with design provisions set forth in ECC 15.540.040. Also note that while ADU's do not count as a unit for the purpose of calculating density, they may be counted as an alternative housing type for the purpose of calculating the percentage of alternative housing types to total permitted units;

   b. Small detached single family homes. This includes homes no larger than 1,400 square feet in gross floor area, excluding an attached or detached garage or other non habitable floor area. Such homes must comply with design provisions set forth in ECC 15.540.020;

   c. Cottage dwelling units, complying with design provisions set forth in ECC 15.540.050. Also note that each cottage shall count as one-half of a dwelling unit, for the purpose of calculating allowed density. However, for the purpose of determining the percentage of alternative housing types, each cottage dwelling may be counted as a single unit;

   d. Duplexes or triplexes, complying with design provisions set forth in ECC 15.540.030;

   e. Townhouses, complying with design provisions set forth in ECC Article 5 and notably ECC 15.540.060; and

   f. Multifamily buildings, where permitted in the applicable zoning district, complying with design provisions set forth in ECC Article 5.

3. The specific location, mixture, and amount of housing shall be indicated on the plat to ensure compliance with the density bonus provisions herein.

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C. Off-street trails.

1. Density bonus. The density bonus percentage is based on the type and length of off –street trail with respect to the size of the development.

   Table 15.330.020(C). Off-street trail density bonuses.

Trail Type	Trail Extent	Density Bonus %
Walking, soft surface	>1lf of trail/4lf of site perimeter length;	5%
	>2lf of trail/4lf of site perimeter length.	10%
Walking, hard surface	>1lf of trail/4lf of site perimeter length;	10%
	>2lf of trail/4lf of site perimeter length.	15%
Multi-use	>1lf of trail/4lf of site perimeter length;	15%
	>2lf of trail/4lf of site perimeter length.	20%

2. Standards for trails. Trails may either be a soft surface walking path, a hard surfaced walking path, or a wider hard surfaced multi-use pathway. As referenced in the Non-Motorized Transportation Plan, Federal, state, and professional guidance exists to ensure the system is designed to provide safe and accommodating facilities. Ellensburg relies primarily on:

   a. The Federal Highway Administration's (FHWA's) National Bicycling and Walking Study: Case Study No. 24 – Current Planning Guidelines and Design Standards Being Used By State and Local Agencies for Bicycle and Pedestrian Facilities, has detailed engineering solutions for many non-motorized situations.

   b. AASHTO Guide for the Development of Bicycle Facilities, 3rd Edition, offers guidelines and minimum design criteria for safe bicycle facilities.

   c. AASHTO Guide for the Planning, Design, and Operation of Pedestrian Facilities, 1st Edition has guidelines and minimum design criteria for pedestrian facilities.

   d. WSDOT's Bicycle Facility Design Guidance (Chapter 1020) provides uniform minimum standards and criteria for the design and construction of bicycle facilities. It is available at http://www.wsdot.wa.gov/eesc/design/designmanual/desenglish/1020-e.pdf.

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e. WSDOT's Pedestrian Design Guidance (Chapter 1025) serves as a standard for construction and design of pedestrian facilities. It is available at http://www.wsdot.wa.gov/eesc/Design/DesignManual/desEnglish/1025-E.pdf.

f. The John Wayne Pioneer Trail, The Ellensburg Greenway: Reconnection Study (2001) will guide the planning and design of that trail.

g. *ADA Accessibility Guidelines for Transportation Facilities* is consulted to ensure facilities are available to everyone.

h. *Manual on Uniform Traffic Control Devices for Streets and Highways*, USDOT, FHWA; http://mutcd.fhwa.dot.gov/ as adopted and modified by WAC 468-95 provides standards for signs and other traffic control devices. It is available at http://apps.leg.wa.gov/WAC/default.aspx?cite=468-95-330.

3. Context. The trails must be integrated into the design of the development as an amenity. To accomplish this goal, tall fences separating homes from trails are prohibited. Fences that separate homes in the subdivision from trails shall be less than 42 inches in height or at least 33 percent transparent (those portions of the fence taller than 42 inches in height). Notes referencing these standards shall be included on the plat. Fences adjacent to mid-block trails that run along side yards are exempt from this standard.

D. Transfer of development rights (TDR).

Developments may purchase the rights to develop additional units through the city's TDR program (subject to the city adopting a TDR program) in the amount equal to a 50 percent increase in on-site density. For example, if 60 dwelling units are permitted under base maximum density requirements, then up to 30 additional dwelling units may be developed on the site if purchased through the city's TDR program.

E. Historic preservation.

1. Density bonus. For each building that is preserved, the development shall qualify with a minimum of 15 percent and a maximum of 50 percent increase in on-site density for one acre of development. For example, if the development site covers 10 acres, the density bonus qualifies for one of the 10 acres.

2. Eligibility. Properties eligible for this density bonus option must feature a property that is eligible for historic landmark listing under the Ellensburg landmarks register, per ECC 15.280.080. Subject properties must be in habitable condition, or improved to habitable condition. Developments may also receive the density bonus credit if they are moved to another site within the city provided the applicable building/site meet applicable standards set forth in this Title.

F. Affordable housing.

1. Density bonus. The available density bonus increase is based on the percentage of affordable housing units integrated into the subdivision, with a minimum of 15 percent to qualify and a maximum density bonus increase of 50 percent. For percentage shall be based on the number of affordable housing units divided by the base maximum density.

For example, if an applicant proposes 18 affordable units out of 60 maximum base units (30 percent), then the development is eligible for a 30 percent density bonus increase (in this case, 18 additional units). Even if the applicant seeks other density bonuses, the percentage of the affordable housing units will be measured against the base maximum density (not necessarily the total density, after other density bonuses).

2. Affordable housing unit requirements.
   a. Units must be affordable to persons with incomes at or below 80 percent of the median income for Kittitas County residents;
   b. Duration**.** Housing shall serve only income-eligible households for a minimum period of 25 years from the later of the date when the Affordability Agreement between the housing owner and the city, as referenced in subsection (3) below is recorded, or the date when the affordable housing becomes available for occupancy as determined by the city;
   c. Designation of affordable housing units**:** Prior to the issuance of any permit(s), the director shall review and approve the location and unit mix of the affordable housing units consistent with the following standards:
      i. Location. The location of the affordable housing units shall be approved by the city, with the intent that they generally be intermingled with all other dwelling units in the development;
      ii. Tenure. The tenure of the affordable housing units (ownership or rental) shall be the same as the tenure for the rest of the housing units in the development;
      iii. Size (bedroom): The affordable housing units shall consist of a range of number of bedrooms that are comparable to units in the overall development; and
      iv. Size (square footage): In no case shall the affordable housing units be less than 500 square feet for a studio unit, 600 square feet for a one bedroom unit, 800 square feet for a 2 bedroom unit, or 1,000 square feet for a 3 bedroom unit;
   d. Design. The exterior design of the affordable housing units must be compatible and comparable with the rest of the dwelling units in the development and must comply with project design provisions specified in ECC Article 5. The interior finish and quality of construction of the affordable housing units shall at a minimum be comparable to entry level rental or ownership housing in the city; and
   e. Timing/phasing. 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.
3. Affordability agreement. Prior to issuing any building permit, an agreement in a form approved by the director that addresses price restrictions, homebuyer or tenant qualifications, phasing of construction, monitoring of affordability, duration of affordability, and any other applicable topics of the affordable housing units shall be recorded with Kittitas County auditor's office. This agreement shall be a covenant running with the land and shall be binding on the assigns, heirs and successors of the applicant. The city may agree, at its sole discretion, to subordinate any affordable housing regulatory agreement for the purpose of enabling the owner to obtain financing for development of the property.
4. Monitoring and fee. The city reserves the right to establish in the Affordability Agreement referred to in subsection (3) above, monitoring fees for the affordable housing unit, which can

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be adjusted over time to account for inflation. The purpose of any monitoring fee is for the review and processing of documents to maintain compliance with income and affordability restrictions of the Affordability Agreement.

15.330.030 Floor area ratio (FAR) bonus system for the R-M, R-H, and R-O zones.

Projects may qualify for FAR bonuses in the R-M, R-H, and R-O zones per the following:

A. Environmental certification. Projects obtaining minimum Built Green 4-star or LEED-silver may increase the allowable FAR by 0.25 FAR in the R-M, and R-O zones and by 0.5 in the R-H zones.

B. TDR. Projects may increase the allowable FAR by 0.25 FAR in the R-M and R-O zones and by 0.5 in the R-H zones through a purchase of TDR's (subject to the city adopting a TDR program).

C. Publicly accessible art. Projects may increase the allowable FAR by 0.25 FAR in the R-M, R-O, and R-H zones by voluntary contribution of at least 1 percent of the total project budget for the acquisition and installment of publicly accessible art on the development site. In order to qualify for this bonus, the project construction costs must exceed $300,000. In lieu of on-site public art, a developer may make an equivalent contribution to the Ellensburg Public Art Fund.

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15.340 Index of Supplemental Use Criteria

15.340.010 Bed and breakfasts.

Bed and breakfasts shall be permitted in accordance with the use tables in ECC 15.310.040, subject to the following:

A. An approved floor plan shall be kept on file with the inspections department;

B. There shall be no substantial modifications to the exterior appearance of the structure; however, fire escapes, handicapped entrances and other features may be added to protect public safety;

C. Meals shall be available on the premises only for guests and employees of the inn. Rooms may not be equipped with cooking facilities; and

D. Parking shall not be allowed between the building and the street.

15.340.020 Home occupations.

Home occupations shall be permitted in accordance with the use tables in ECC 15.310.040, subject to the following:

A. There shall not be structural alteration that would alter the outward appearance from a residential to commercial nature to accommodate the occupation. An example would be large storefront windows and/or a flat roof with a traditional cornice (see Figure 15.340.020 below);

Figure 15.340.020. Examples of commercial architecture that would not be appropriate for a home occupation in a residential zone.

B. The use, including all storage space, shall not occupy more than 33 percent of the residence's floor area which is finished for living purposes;

C. Only members of the family who reside on the premises and no more than one non-resident shall be engaged in the occupation(s) at any one time; provided, that home occupations with a nonresident employee shall provide off-street parking for the employee on site;

D. There shall be no window display nor shall sample commodities be displayed outside the building;

E. No materials or mechanical equipment shall be used which will have a negative impact on the residential area because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors;

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F. If materials or commodities delivered to or from the residence require delivery by a commercial vehicle larger than a small parcel delivery van or truck, or if the parking of customers' automobiles in a manner or frequency causes disturbance or inconvenience to nearby residences, or if a public parking lot is necessary to accommodate the business, the occupation shall be termed a primary business and not a home occupation;

G. If the proposed activity consists entirely of office procedures and tasks in support of a particular business, and furthermore involves no customer or delivery traffic to the residence in conjunction with the business, such activity shall be considered as an accessory residential use;

H. For purposes of this section, use of the defined term "residence" contained in this code for the purpose of considering a home occupation in an accessory building shall be limited to single-family uses. Home occupations in multifamily dwellings shall be confined to the principal dwelling unit buildings and not be allowed in accessory structures;

I. Any home occupation granted would be personal to the person to whom it is granted and under no circumstances shall any home occupation be carried over as a result of a change in ownership of the business activity. Prior to January 15 of each year the holder of the home occupation approval shall submit written notice to the community development department that they continue to operate the home occupation at the approved location and are in compliance with all home occupation requirements and any conditions that might have been imposed in granting such approval. Failure to submit that annual written notice will result in immediate revocation of the approval; and

J. Only one sign is permitted for a home occupation in a residential zone.

15.340.030 Manufactured homes.

A new designated manufactured home is allowed in all zoning districts that allow single family residences, (see ECC 15.130.130, Definitions), and meets the following criteria:

A. Is comprised of at least 2 fully enclosed parallel sections each of not less than 12 feet wide by 36 feet long;

B. Was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of nominal 3:12 pitch; and

C. Has exterior siding similar in appearance to siding materials allowed on conventional site-built single family residences that are built pursuant to the applicable building code.

D. A manufactured home (see ECC 15.130.130, Definitions) is allowed in a manufactured home park pursuant to to ECC 15.340.040.

15.340.040 Manufactured home park.

Manufactured home parks shall be permitted in accordance with the use tables in ECC 15.310.040, subject to the following property development standards:

A. Minimum area shall be 3 acres;

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B. Developments are subject to form and intensity standards for the applicable zoning district as set forth in ECC Chapter 15.320 unless otherwise directed herein;

C. Setback standards.

1. Minimum front yard. 5 feet from internal private roads; Otherwise, the minimum front yard shall be the same as set forth in ECC Chapter 15.320;

2. Minimum separation of manufactured homes on the site. 10 feet;

3. Side and rear setbacks to the manufactured home park property line (or manufactured home park boundary line as shown on the site development plan) shall meet the setbacks for the applicable zone in ECC Chapter 15.320; and

4. Accessory structures shall be located no closer than:

a. 10 feet to mobile homes on adjacent spaces, unless constructed of noncombustible materials, in which case the minimum setback shall be 5 feet;

b. 5 feet to accessory structures of mobile homes on adjacent spaces; and

c. 5 feet to the mobile home or other accessory structures on the same space, except a carport or garage may be attached to the mobile home, and the separation may be waived when such structures are constructed of noncombustible materials;

D. Development shall include common open space that meets the design criteria of ECC 15.320.030(E)(1) and equals no less than 5 percent of the net project area;

E. Internal access roads must conform to one of the 3 local access street design options as referenced in ECC 15.410.070, including auto lanes, parking lanes, planting strips (between the road and sidewalk only for private roads), and sidewalks. Through roads (streets that extend from one end of the lot to the other) shall be dedicated as public streets and must comply with Section 3 (street standards) of the city's public works development standards (ADD LINK);

F. Developments shall comply with block and connectivity standards set forth in ECC 15.420.020;

G. Developments shall provide an appropriate side and rear yard design treatment along the manufactured home park property line (or manufactured home park boundary line as shown on the site development plan) that meets the provisions of ECC 15.520.020;

H. At least one of the off-street parking spaces required for each manufactured home shall be located on or adjacent to each manufactured home pad;

I. All utility distribution and service lines located within the boundaries of a manufactured home park, including electric power, water supply, sewage disposal, natural gas, telephone, and television antenna cable, shall be installed underground in accordance with applicable city codes;

J. Every manufactured home shall be permanently connected to electric power, water supply, sewage disposal, gas, and telephone service lines in compliance with applicable city codes.

K. Mobile homes may be sited within the manufactured home park provided they comply with manufactured home setbacks and other development standards herein. Mobile homes must also

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pass a fire safety inspection performed by the Washington State Department of Labor and Industries before an installation permit will be issued;

L. All mobile homes supported by piers shall be fully skirted; and

M. A manufactured home park may include a storage area for RVs owned by residents of the park, provided the storage area contains no utility hook-ups and no RV within the storage area shall be used as living quarters; and

N. Recreational vehicles, used as a primary residence, are permitted within manufactured home park per RCW 35A.21.312, provided they meet the service and utility provisions per subsection (J) above or ECC 15.340.050(M) below.

15.340.050 Recreational vehicle park.

Recreational vehicle parks shall be permitted in accordance with the use tables in ECC 15.310.040, subject to the following performance standards:

A. Minimum size of the recreational vehicle park. 100,000 square feet;

B. Maximum gross density. 1 recreational vehicle space per each 2,000 square feet of land area;

C. Recreational space. 8 percent of the total site area shall be provided as defined recreation space. The recreation space shall be easily accessible and shall be improved and maintained in such a manner so as to provide adequate recreational facilities for the residents of the recreational vehicle park;

D. Minimum width. Each recreational vehicle space shall have a minimum width of 25 feet;

E. Interior private streets.

1. 12 feet of width per each travel lane and 10 feet of width per each parking lane. A minimum of 20 feet shall be provided for one-way systems; and

2. The streets shall be improved in accordance with Section 3 (street standards) of the city's public works development standards (ADD LINK). In addition, all streets shall be well-drained, well-lighted, and continuously maintained in operable condition;

F. Spacing between units. There shall be a minimum side-to-side dimension of 12 feet between units and a minimum end-to-end dimension of 10 feet between units;

G. Minimum setbacks required. The following setback requirements shall apply:

1. 25 feet from a public street;

2. 5 feet from an interior private street; and

3. 15 feet from the park boundary;

H. Off-street parking. A minimum of 1 off-street parking space shall be required for each recreational vehicle space. It shall be located within the recreational vehicle space. In addition, 1 off-street parking space per each 3 recreational vehicle spaces shall be required for guest parking. The guest parking spaces shall be grouped and distributed evenly throughout the park;

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I. Pedestrian walkways. Pedestrian walkways having a width of not less than 4 feet shall be provided from the recreational vehicle spaces to all service buildings, and facilities, refuse collection areas, and recreation areas. The walkways shall be hard-surfaced, well-drained, and well-lighted;

J. Landscaping. See ECC Chapter 15.570 for applicable landscaping standards;

K. Limit of stay. No recreational vehicle shall remain within in a recreational vehicle park for more than 120 days in any one-year period;

L. Solid waste disposal. The storage, collection and disposal of solid waste in recreational vehicle parks shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, or accident or fire hazards. Individual or grouped refuse containers must be screened from view except on collection day;

M. Utilities. The following requirements for utilities shall apply:

1. A water supply system shall be provided in the recreational vehicle park for each recreational vehicle space designed to accommodate the park user occupying a self-contained recreational vehicle, the water system for a recreational vehicle park shall be constructed and maintained in accordance with all applicable state and local codes and regulations;

2. Watering stations. Each recreational vehicle park shall be provided with one or more accessible water supply outlets for filling recreational vehicle water storage tanks;

3. Sewage disposal system. An adequate and safe sewage disposal system shall be provided in a recreational vehicle park for each recreational vehicle space designed to accommodate the park user occupying a self-contained vehicle and shall be connected to the public sewage system. The sewage disposal system in a recreational vehicle park shall be constructed and maintained in accordance with all applicable state and local codes and regulations;

4. Sanitary stations. Each recreational vehicle park shall be provided with sanitary dumping stations in the ratio of 1 for every 100 recreational vehicle spaces or fractional part thereof. The construction of the sanitary station shall be in accordance with the appropriate county department of health. Sanitary stations shall be screened from other activities by a visual barrier such as fences, walls, or natural growth and shall be separated from any recreational vehicle space by a distance of not less than 50 feet;

5. Electrical supply system. Each recreational vehicle park shall be provided with an underground electrical system which shall be installed and maintained in accordance with all applicable state and local codes and regulations;

6. Other utility systems. If other utility systems such as natural gas, television cable, or telephone are installed in a recreational vehicle park, such installation shall be in accordance with state and local codes and regulations; and

N. All recreational vehicle spaces shall be well marked and numbered.

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15.340.060 Small wind energy systems.

A. Purpose. To facilitate the installation and construction of wind energy systems in the city of Ellensburg for private landowners, subject to reasonable restrictions.

B. Applicability. The requirements set forth herein shall govern the siting of small wind energy systems (SWES) used to generate mechanical or electrical energy to perform work, and which may be connected to the utility grid pursuant to the Revised Code of Washington, Chapter 80.600, Net Metering of Electricity, serve as an independent source of energy, or serve as part of a hybrid system.

The requirements of this ordinance shall apply to all new Small Wind Energy Systems (SWES) proposed after the effective date of this ordinance. Any SWES for which a required permit has been properly issued prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance; provided, however, that any such pre-existing SWES that is not producing energy for a continuous period of 12 months shall meet the requirements of this ordinance prior to recommencing production of energy. No modification that increases the height of the system or significantly increases its output shall be allowed without full compliance with this ordinance.

C. Where permitted.

1. One SWES system per parcel is permitted in all zones subject to satisfying all requirements as set forth in this chapter, except:
   a. where otherwise noted in ECC 15.310.040; and
   b. on properties listed in the Ellensburg landmark register which must first under landmarks and design commission approval as a Type II permit per ECC 15.210.050(B)
2. Multiple SWES per parcel are permitted in all zoning districts (except where otherwise noted in ECC 15.310.040) subject to the issuance of a conditional use permit per ECC 15.250.040.

D. General requirements for small wind energy systems. . In addition to the general requirements listed below, the applicant must provide documentation showing that the SWES meets the *AWEA Small Wind Turbine Performance and Safety Standards* as promulgated by the American Wind Energy Association:

1. Visual appearance - lighting and power lines.
   a. Wind Turbines shall be painted a non-reflective, non-obtrusive color such as the manufacturer's default color option or a color that conforms to the environment and architecture of the community, unless FAA standards require otherwise. The reviewing authority may require a photo of a *S*WES of the same model as that proposed in the landowner's application, adjacent to a building or some other object illustrating scale (e.g., manufacturer's photo).
   b. No SWES shall be artificially lighted, except to the extent required by the FAA or other applicable authority.
   c. No SWES shall be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind turbine.

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d. Electrical controls, control wiring and power lines shall be wireless or underground, except where SWES wiring is brought together for connection to the transmission or distribution network adjacent to that network.

2. Setbacks and height limits. The following setback requirements shall apply to all SWES towers:

   a. SWES structures up to 40 feet shall be allowed in all zones as a Type I review project (see ECC Chapter 15.210). SWES structures exceeding 40 feet, but no more than a maximum of 100 feet, are allowed in the P-R zone and all commercial and industrial zones with a conditional use permit per ECC 15.25.040;

   b. Property lines. Each tower shall be set back from the nearest property line a distance no less than 1.1 times its tower height unless appropriate easements are secured from adjacent property owners, or other acceptable mitigation is approved by the reviewing authority;

   c. Communication and electrical lines. Each SWES shall be set back from the nearest above-ground public or private non-participating utility a distance no less than 1.1 times its tower height determined from the existing power line or telephone line. Each SWES shall be set back from the nearest above-ground public or private participating utility a distance as specified by said utility; and

   d. Setbacks shall be measured to the outer edge of the base of the SWES structure towers. Guy cables and other accessory support structures may be located within setback areas.

3. Sound levels and measurement. Audible sound due to SWES operations shall not exceed 55 dBA for any period of time, when measured at the property line of any abutting property. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.

4. Safety.

   a. The blade tip of any wind turbine shall, at its lowest point, have ground clearance of no less than 15 feet, as measured at the lowest point of the arc of the blades.

   b. Wind turbine towers shall not provide step bolts or a ladder readily accessible to the public and all step bolts, ladder or access apparatus shall be a minimum height of 10 feet above ground level.

   c. All electrical equipment shall be safely and appropriately enclosed from unintentional access by means such as barrier fencing, equipment cabinetry or similar. All access doors to wind turbine towers and electrical equipment shall remain locked until access is necessary.

   d. Appropriate warning signage (e.g., electrical hazards) shall be placed on wind turbine towers~~,~~ and electrical equipment.

   e. All *S*WES shall be equipped with over speed controls to limit rotation of blades to a speed below the designed limits of the system. No changes or alterations from the certified

design shall be permitted unless accompanied by a licensed professional engineer's statement of certification.

f. Any *S*WES found to be unsafe by the building official shall be repaired by the landowner to meet federal, state and local safety standards or removed within 3 months.

5. Federal, state and local requirements.

a. *S*WES shall comply with all current adopted city of Ellensburg codes and ordinances, including but not limited to Ellensburg Municipal Code Titles 3, 4, and 15.

b. *S*WES must comply with regulations of the Federal Aviation Administration (FAA).

c. All *S*WES electrical systems shall comply with requirements per the Washington State Department of Labor & Industries and the current adopted edition of the National Electrical Code (NEC).

d. All *S*WES with the intention to tie to their respective utility provider's grid system shall meet the requirements of Chapter 80.60 of the Revised Code of Washington, Net Metering of Electricity.

E. Abandonment process.

1. At such time that a SWES is scheduled to be abandoned or discontinued, the applicant will notify the building official by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.

2. Upon abandonment or discontinuation of use, the owner shall physically remove the SWES within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the building official. The term “physically remove” shall include, but not be limited to:

a. Removal of the wind turbine and tower and related above grade structures.

b. Restoration of the location of the SWES to its natural condition, except that any landscaping, grading or below-grade foundation may remain in the after-conditions.

3. In the event that an applicant fails to give such notice as required in 'A' above, the SWES shall be considered abandoned or discontinued if it has been out-of-service for a continuous 12-month period. After the 12 months of inoperability, the building official may issue a notice of abandonment to the owner of the SWES. The owner shall have the right to respond to the notice of abandonment within 30 days from Notice receipt date. The building official shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides information that demonstrates the SWES has not been abandoned.

4. If the owner fails to respond to the Notice of Abandonment or if after review by the building official it is determined that the SWES has been abandoned or discontinued, the owner of the small wind energy system shall remove the SWES at the owner’s sole expense within 3 months of receipt of the notice of abandonment.

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5. As a condition of initial SWES permit approval, the applicant may be required to provide a form of surety (e.g., post a bond, letter of credit or establish an escrow account or other) at the time of building permit approval to cover costs of the removal in the event the city must remove the facility. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism to accommodate the rate of inflation over 15 years.

15.340.070 Commercial wireless communication support towers, antenna arrays and facilities.

A. Residential zones – Type I review process.

Commercial wireless communication support towers, antenna arrays and facilities which do not exceed 47 feet in height from adjacent grade shall be permitted in all residential zones subject to the setback requirements as set forth for other buildings and structures in the zone. Said commercial wireless facilities which exceed 47 feet in height from adjacent grade shall be permitted uses in all residential zones; provided, however, they shall maintain a minimum setback of 300 feet from any property line.

B. Commercial, industrial and public reserve zones – Type II review process.

Commercial wireless communication support towers, antenna arrays and facilities shall be permitted uses in all commercial, industrial and public reserve zones of the city; provided, that they are not greater than 12 feet in height above the buildings on which they are located, or 12 feet in height above adjacent buildings. Such commercial wireless communication support towers, antenna arrays and facilities greater than 12 feet in height above the building on which they are located or greater than 12 feet in height above adjacent buildings shall be permitted; provided, however, they are located at least 150 feet from any residential zone. In addition, commercial wireless communication antenna arrays shall be permitted uses on the city of Ellensburg water tower, located in the northeast quarter of the northwest quarter, Section 1, Township 17 North, Range 18 East, Willamette Meridian, commonly referred to as Craig's Hill; provided, that they do not extend more than four feet in height above the tallest point of the water tower. Associated facilities shall also be permitted uses. Associated facilities shall not exceed 12 feet in height from ground elevation and shall be contained with a defined and vegetated, screened, city- maintained compound, approximately 8,000 square feet in size, with fencing, vegetative screening and antenna colors reviewed by the landmarks and design commission at a public meeting (see ECC 15.130.160). Self-supporting towers and associated facilities must adhere to all the conditions set forth in this section.

C. Subject to building permit review.

All wireless communication support towers, antenna arrays and facilities shall require a city of Ellensburg building permit if the tower or facility is greater than six feet in height measured from adjacent grade, and all such towers over six feet shall submit the manufacturer's structural engineered plans for the erection of such towers. Any such towers or facilities located on public reserved zoned property shall be reviewed by KITTCOM prior to the issuance of a building permit.

D. Facilities within an Ellensburg landmark district.

Construction of a wireless communication support tower, wireless communication antenna array or wireless communication facility within an Ellensburg landmark district are subject to the procedures set forth in ECC 15.280.090 and are reviewed as a Type II permit per ECC 15.210.050(B).

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15.350 Airport Overlay Zone (A-O) Standards

NOTE: The information contained in this chapter may not be the most current information and should be confirmed at the Ellensburg or Kittitas County planning departments.

15.350.010 Purpose.

A. The purpose of the airport overlay zone is to protect the viability of Kittitas County Airport (Bowers Field) as a significant resource to the community by encouraging compatible land uses and densities, reducing hazards to lives and properties, and ensuring a safe and secure flying environment;

B. The airport overlay zone and subdistricts therein are based on aircraft accident data from the National Transportation Safety Board (NTSB) as depicted in the Airport Master Plan Safety Zones and, the Federal Aviation Regulation (FAR) Part 77 Imaginary Surfaces and FAA AC 150/5200-33A, Hazardous Wildlife Attractants on or near Airports.

C. As the name implies, this overlay zone is laid over the existing zoning districts. It is shown outside of the current city limits as advisory to adjacent jurisdictions.

D. The airport overlay zone modifies the density and land use requirements of the underlying zoning districts. These modifications are based on the guidelines within the WSDOT Aviation Division's "Airports and Compatible Land Use, Volume 1" and provide for maximum protection to the public, health, safety and general welfare of the community, airport users, and citizens working and residing within the airport protection district.

15.350.020 Statutory authority.

This chapter is adopted pursuant to RCW 36.70.547 and 36.70A.510 that require a county, city or town to enact development regulations to discourage the siting of incompatible land uses adjacent to general aviation airports.

15.350.030 Airport overlay zone.

In order to carry out the purpose of this chapter there is hereby created an airport overlay zone (A-O) that is composed of the following surface and safety zones. The zones cover a geographic area that is affected by airport activities and are defined on the basis of factors including, but not limited to, aircraft noise, aircraft flight patterns, airport safety zones, local circulation patterns and area development patterns. The boundaries of the airport surface and safety zones are shown on airport overlay zone (A-O) Map “B,” “Safety Zones” [see Figure 15.300.060(D)], which are attached to the ordinance codified in this chapter and incorporated by reference, and which shall also be on file and open for inspection in the Kittitas County public works department, Kittitas County planning department and city of Ellensburg community development department. The surface and safety zones are overlaid on top of the existing underlying zoning that remains in full force and effect. Where the requirements imposed by the surface and safety zones conflict with the requirements of the underlying zoning, the more restrictive requirement shall be enforced.

A. Surface zones. In order to carry out the provisions of this chapter, there are created and established certain surface zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Kittitas County Airport (Bowers Field). Such zones are shown on Kittitas County Airport (Bowers Field) Overlay Zone Map "A," "Part 77," as amended, which is on file and open for inspection in the Kittitas County public works department. Within each of the surface zones there are hereby established certain height restrictions for structures and trees. The surface zones are established and defined as follows:

1. Runways 07, 25, and 11, Larger than utility with a visibility minimum greater than ¾-mile non-precision instrument approach zone. The 500-foot inner edge coincides with the width of the primary surface and slopes 34 feet outward for each one foot upward beginning at the end of and at the same elevation as the primary surface and expands to a horizontal distance of 3,500 feet at a horizontal distance of 10,000 feet along the extended runway centerline. Its centerline is the continuation of the runway centerline as depicted on Map "A." Height restrictions: no object shall penetrate the imaginary line created by a slope 34 feet outward for each one foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

2. Runway 29, Larger than utility with a visibility minimum lower than ¾-mile precision instrument approach zone. The 1,000-foot inner edge of this approach zone coincides with the width of the primary surface. The approach zone expands uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway as depicted on Map "A." Height restrictions: no object shall penetrate the imaginary line created by a slope 50 feet outward for each one foot upward for the first 10,000 feet of this zone and 40 feet outward for each one foot upward for the remaining 40,000 feet of this zone.

3. Transitional zones. This zone is defined by a slope 7 feet outward for each one foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 139 feet above mean sea level, as depicted on Map "A." Height restrictions: no object shall penetrate the imaginary line created by a slope 7 feet outward for each one foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface. Further, where the precision instrument runway approach zone projects beyond the conical zone, no object shall penetrate the imaginary line created by a slope 7 feet outward for each one foot upward beginning at the sides of and the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.

4. Horizontal zone. This zone is established at 150 feet above the airport elevation or at a height of 1,916 feet above mean sea level by swinging arcs of 5,000 feet radial for all runways designated utility or visual and 10,000 feet for all other runways from the centers of the primary surface of each runway and connecting adjacent arcs by drawing lines tangent to those arcs, as depicted on Map "A." The horizontal zone does not include the approach and

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transitional zones. Height restrictions: no object shall penetrate the imaginary horizontal line created at 150 feet above the airport elevation or at a height above the airport of 1,916 feet above mean sea level.

5. Conical zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there for a horizontal distance of 4,000 feet as depicted in Map "A." Height restrictions: no object shall penetrate the imaginary line created by a slope 20 feet outward for each one foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height up to 3,500 feet above the surface of the land.

B. Safety zones. In order to carry out the provisions of this chapter and to promote land use compatibility on lands within and adjacent to and in the vicinity of the Kittitas County Airport (Bowers Field), there are created and established certain safety zones. Such safety zones are shown on Kittitas County Airport (Bowers Field) overlay zone Map "B," "Safety Zones," as amended and shall also be identified on the city of Ellensburg official zoning map by inclusion of the prefix "Airport" attached to the corresponding underlying zone name. Within each of the safety zones certain land use limitations are hereby established and certain development standards are hereby imposed in addition to the land uses and development standards of the underlying zoning district. Where the requirements imposed by these safety zones conflict with the requirements of the underlying zoning, the more restrictive requirement shall be enforced. The safety zones are established and defined as follows:

1. Runway protection zone 1. An area extending beyond the centerlines of runways 11, 29, 07 and 25 as depicted on Map "B" (shaded area No. 1). This zone begins from the outer boundaries of the primary surface, 200 feet from the ends of the runways and extends out 1,700 feet to its widest point, which measures 1,010 feet across, 505 feet on either side of the runway centerline.

2. Inner safety zone 2. An area extending beyond the centerlines of runways 11, 29, 07 and 25 as depicted in Map "B" (shaded area No. 2). This zone begins at the end of the runway protection zone 1 and extends out 2,800 feet. The zone measures 1,010 feet across, 505 feet on either side of the runway centerline.

3. Inner turning zone 3. A fan-shaped area extending beyond the centerlines of runways 11, 29, 07 and 25 as depicted on Map "B" (shaded area No. 3). This zone begins at the primary surface, 200 feet from the end of the runway centerline and extends out with a 60-foot radius arc on either side of the runway centerline to 4,500 feet and connects to the centerline of the inner safety zone with sweeping arcs.

4. Outer safety zone 4. An area extending beyond the centerlines of Runways 11, 29, 07 and 25 as depicted on Map "B" (shaded area No. 4). This zone begins at the end of the inner safety zone and extends out 3,000 feet. The zone measures 1,000 feet across, 500 feet on either side of the runway centerline.

5. Sideline zone 5. An area adjacent to Runways 11, 29, 07, and 25 as depicted on Map "B" (shaded area No. 5). This zone begins from the outer boundaries of the primary surface, and

extends out 1,000 feet perpendicular to the primary surface and connects to the 60-degree sector of the inner turning zone.

6. Airport operations zone 6. This zone is depicted on Map "B" (shaded area No. 6) and begins from the outer boundaries of the sideline zone and extends out 5,000 feet perpendicular to the primary surface and connects to the 60-degree sector of the inner turning zone.

15.350.040 Uses, development requirements and restrictions.

A. General development requirements and restrictions applicable to all zones.

1. Underlying zoning requirements. In addition to the airport overlay zone (A-O) development requirements and restrictions set forth in subsections (A)(2) through (9) of this section and in Table 15.350.040 of this section, all uses and activities are at all times subject to the requirements of the underlying zoning district. Where the requirements and restrictions imposed by the airport overlay zone (A-O) safety zones conflict with the requirements of the underlying zoning district, the more restrictive requirement shall be applied.
2. Height. All uses shall be subject at all times to the height restrictions set forth in ECC 15.350.030(A).
3. Signal and radio communication interference. Electrical interference with navigational signals or radio communication between the airport and aircraft is prohibited and will be regulated in accordance with rules and regulations promulgated and enforced by the Federal Communications Commission (FCC) and Federal Aviation Administration (FAA).
4. Lighting and glare. Activities or uses that create lighting which makes it difficult for pilots to distinguish between airport lights and nonairport lights or that create glare in the eyes of pilots using the airport are prohibited and will be regulated in accordance with rules and regulations promulgated and enforced by Federal Aviation Administration (FAA) regulations. All newly installed outdoor lighting fixtures shall be arranged and shielded so that area lighting shall not shine into the sky.
5. Visibility. Activities or uses that create excessive amounts of dust, smoke, or other emissions that may result in impairment of visibility in the vicinity of the airport are discouraged and will be regulated in accordance with rules and regulations promulgated and enforced by the Washington State Department of Ecology under the Clean Air Act and other state and federal regulations.
6. Large bodies of water. Activities or uses that create large areas of standing water are discouraged and shall be reviewed and regulated in accordance with the provisions set forth in the city's SEPA regulations as set forth in Chapter 15.270 ECC.
7. Flammable and combustible materials. Flammable and combustible liquids and specifications for fuel storage shall be in accordance with the International Fire Code (IFC) as adopted in ECC Title 3.
8. Noise insulation. Noise insulation for new structures shall be in accordance with the International Building Code and the Washington State Energy Code as adopted in ECC Title 3.

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9. Subdivision. When any division of land including short plats, plats, subdivisions, planned unit developments, or boundary line adjustments occurs on any land within the airport overlay zone (A-O) safety zones 1 through 6, a note shall be recorded with the county auditor as follows: "This property is located within the airport overlay zone in which a variety of airport aviation activities occur. Such airport aviation activities may impact the use of your property."

B. Additional safety zone uses, development requirements and restrictions. In addition to the general development requirements and restrictions set forth in subsection (A) of this section, certain additional development requirements and restrictions are necessary in specific safety zone areas in order to protect the health, welfare, safety, and quality of life of the general public, property owners, airport operators, and aviation community, and also to ensure compatible land uses in the vicinity of the airport. Those additional development requirements and restrictions are set forth in Table 15.350.040 below.

Table 15.350.040 Additional safety zone uses, development requirements and restrictions.

Airport Safety Zones	Additional Safety Zone Uses, Development Requirements and Restrictions
Zone 1 (Runway Protection Zone)	1. Land uses, which by their nature will be relatively unoccupied by people should be encouraged (mini-storage, small parking lots, etc.)
	2. Schools, play fields, hospitals, nursing homes, and churches are prohibited.
Zone 2 (Inner Safety Zone)	1. Schools, play fields, hospitals, nursing homes, and churches are prohibited.
	2. Zoning changes on property within zone 2 that is within the unincorporated Ellensburg urban growth area (UGA) and which later annexes into the city limits shall maintain an average residential density after annexation that is consistent with the underlying Kittitas County zoning on the property in effect at the date of annexation.
Zone 3 (Inner Turning Zone)	1. Schools, play fields, hospitals, nursing homes, and churches are prohibited.
	2. Zoning changes on property within zone 3 that has annexed into the city limits prior to the date of adoption of the ordinance codified in this chapter shall maintain a maximum residential density of 6 dwelling units per gross acre with a planned unit development (PUD) option available but limited to that average maximum of 6 dwelling units per gross acre with no density bonuses available.
	3. Zoning changes on property within zone 3 that is within the unincorporated Ellensburg urban growth area (UGA) and which later annexes into the city limits shall maintain an average maximum residential density after annexation that is consistent with the underlying Kittitas County zoning on the property in effect at the date of annexation, except that those properties which, as of the date of the

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	ordinance codified in this chapter, have frontage on Sanders Road within zone 3 will be allowed to maintain a maximum density of one dwelling unit per acre after annexation to the city of Ellensburg.
Zone 4 (Outer Safety Zone)	1. Schools, play fields, hospitals, nursing homes, and churches are prohibited.
	2. Zoning changes on property within zone 4 that is within the unincorporated Ellensburg urban growth area (UGA) and which later annexes into the city limits shall maintain an average maximum residential density after annexation that is consistent with the underlying Kittitas County zoning on the property in effect at the date of annexation.
Zone 5 (Sideline Zone)	1. Schools, play fields, hospitals, nursing homes, and churches are prohibited.
Zone 6 (Airport Operations Zone)	1. Zoning changes on property within zone 6 that has annexed into the city limits prior to the date of adoption of the ordinance codified in this chapter shall maintain an average maximum residential density of 6 dwelling units per gross acre with a planned unit development (PUD) option available but limited to that average maximum of 6 dwelling units per gross acre with no density bonuses available.
	2. Zoning changes on property within zone 6 that is within the unincorporated Ellensburg urban growth area (UGA) and which later annexes into the city limits shall maintain an average maximum residential density of 3 dwelling units per gross acre after annexation. The minimum lot size for future subdivisions after annexation shall be 7,000 gross square feet; however, whenever any future subdivision of such property creates a lot that is smaller in size than 14,520 square feet, a note shall be placed on the face of the plat stating that there can be no further subdivision of any parcel created by that subdivision while the property is situated within the airport overlay zone (A-O).

Note:

1. All aviation uses are permitted in all zones but only when located on property owned by the Kittitas County Airport.
2. When calculating densities and available dwelling units in accordance with the requirements set forth in Table 15.35.040, if the number of dwelling units available on a property is not a whole number, then it shall be rounded down to the nearest whole number if the fraction is 0.49 or less and rounded up to the nearest whole number if the fraction is 0.5 or greater.
3. Required development standards for public infrastructure shall be consistent with the established city standards in effect at the time of development permitting. An exception is made for those properties that are designated with a density of either 3 dwelling units per acre or one dwelling unit per acre as determined by Table 15.35.040. For those excepted properties, new local residential streets shall only be required to provide for sidewalk improvements on one side of a

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street and street lighting improvements at street intersections. All other standards, including but not limited to those for community arterial and collector streets, municipal utilities and any other required improvements, shall be consistent with the established city standards in effect at the time of development permitting.

15.350.050 Permits.

A. Future uses and supplemental permit review requirements. In addition to compliance with LDC provisions for uses and structures in the underlying zone per ECC 15.110.050, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone created by this chapter unless a permit therefore has been applied for to the city of Ellensburg community development department and granted by the reviewing authority, except as specifically provided in subsections (A)(1), (2) and (3) of this section. Permits for such activities shall be processed as a Type I decision per ECC Chapter 15.21, except where otherwise specified by applicable activity in underlying zone. Supplemental A-O zone permit requirements:

1. Hereafter, no use shall be conducted, and no building, structure and appurtenance shall be erected, relocated, remodeled, reconstructed, altered or enlarged unless in compliance with the provisions of the LDC, and then only after securing all permits and approvals required hereby. It shall be unlawful to build or use any building or structure or to use premises in the city for any purpose or use other than the uses listed as being permitted in the zone in which such building, land, or premises is located.
2. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree is consistent with the provisions of this chapter;
3. A certificate from an engineer or land surveyor that clearly states that no airspace obstruction will result from the proposed use;
4. All construction on airport property and any construction that penetrates Federal Regulation Part 77 surfaces shall prepare and submit FAA form 7460; and
5. A site plan showing the following shall be submitted:
   a. The location of the project in relation to the Kittitas County Airport.
   b. The location and height of all proposed buildings, structures, and natural vegetation as measured from the established airport surface elevation.

No permit for a use inconsistent with the provisions of this chapter shall be granted unless a variance has been approved in accordance with subsection (D) of this section.

B. Exceptions to permit requirements.

1. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

2. In areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
3. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

C. Existing uses. No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of the ordinance codified in this chapter, as amended, or than it is when the application for a permit is made.

D. Nonconforming uses abandoned or destroyed. Whenever the director determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

E. Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property not in accordance with the regulations prescribed in this chapter may apply for a variance from such regulations per ECC 15.250.050. Such a variance application shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Prior to considering an application for variance to the requirements of this chapter, the board of adjustment (or other decision-maker) shall furnish a copy of the application to the Kittitas County Airport manager for advice as to the aeronautical effects of the variance. If the Kittitas County Airport manager does not respond to the application within 30 days after receipt, the board of adjustment (or other decision-maker) may act on its own to grant or deny said application.

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15.360 Annexations

All lands annexed to the city shall automatically and immediately upon annexation be classified consistent with the comprehensive plan designation for the applicable site(s). Where the comprehensive plan designation includes more than one implementing zone, city council shall classify the land pursuant to the Type V review process set forth in ECC Chapter 15.210, to the zone that best suits the site based on the zoning designation criteria set forth in Chapter 15.300 and the context of the site. Annexations shall be governed by the requirements of RCW Chapter 35A.14.

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15.370 Medical Cannabis

15.370.010 Findings.

The following findings are made in support of this Chapter:

A. Through its amendment/adoption of chapter RCW 69.51A, the State of Washington has found that there is medical evidence to show that some patients with terminal or debilitating medical conditions benefit from the medical use of cannabis.

B. The State of Washington has determined that qualifying patients with terminal or debilitating medical conditions, who, in the judgment of their health care professionals, may benefit from the medical use of cannabis, shall not be arrested, prosecuted or subject to other criminal sanctions or civil consequences under state law, based solely on their medical use of cannabis, notwithstanding any other provision of law.

C. Nothing in this chapter shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of cannabis for nonmedical purposes. Nothing in this chapter shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of cannabis for nonmedical purposes.

D. Cannabis plants, whether grown indoors or outdoors, especially as they mature prior to harvest, may produce a distinctive odor that may be detectable far beyond property boundaries.

E. Where cannabis plants have been grown outdoors in other states, local authorities have received a significant number of formal complaints of odor that may be detectable far beyond property boundaries.

F. Cannabis, whether grown for medicinal purposes or diverted to the black market, may be sold for thousands of dollars per pound.

G. The strong smell of cannabis may create an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery and armed robbery.

H. Cannabis that is grown indoors may require excessive use of electricity which may overload standard electrical systems, creating an unreasonable risk of fire.

I. The ability of qualified patients to cultivate cannabis in collective gardens for medical purposes does not confer upon them the right to create or maintain a public nuisance. No more than 45 cannabis plants are allowed on any one legal parcel, which should keep the complaints regarding odor and the risks of fire and crime to a minimum.

J. Pursuant to RCW 69.51A.130, no civil or criminal liability may be imposed by any court on cities, towns, or counties or other municipalities and their officers and employees for actions taken in good faith under this chapter and within the scope of their assigned duties.

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15.370.020 Applicability.

No part of this chapter is intended to or shall be deemed to conflict with federal law, including but not limited to, the Controlled Substances Act, 21 U.S.C. Section 800 *et seq.*, the Uniform Controlled Substances Act (Chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under either Act, or any other local, state or federal law, statute, rule or regulation.

15.370.030 Restrictions on Collective Gardens.

Nothing in this chapter shall be construed to require the filing of an application for, or the issuance of, a permit from the City of Ellensburg as a condition of engaging in an activity which is subject to the provisions of this chapter; provided however, all Collective Gardens must comply with the following provisions:

A. Location and Distance Restrictions.

1. No Collective Garden shall be permitted outdoors.
2. No Collective Garden shall be located within 300 feet of any school or public park.
3. No Collective Garden shall be located anywhere the cannabis plants are visible from the public right of way or a public place.
4. The distance between the above-listed uses and the Collective Garden where the cannabis is being cultivated shall be measured from the nearest exterior wall of the building in which the cannabis is cultivated, to the nearest boundary line of the property on which the facility, building or structure or portion of the facility, building or structure in which the above-listed use occurs is located.
5. Accessory Uses. Collective Gardens shall not be allowed as an accessory use.
6. Home Occupation Use Prohibited. Collective Gardens are prohibited as Home Occupations.

B. Operating Standards.

1. The following restrictions apply to the operation of all Collective Gardens located within any incorporated area of the City of Ellensburg.
   a. Odor. The cultivation of cannabis shall not subject residents of neighboring parcels who are of normal sensitivity to objectionable odors.
   b. Lighting. All lights used for the cultivation of cannabis shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed.
   c. Visibility. Cannabis shall not be grown or on display in any location where the cannabis plants are visible from the public right of way or a public place.
   d. Signage. There shall be no exterior signage relating to the Collective Garden.
   e. Compliance with Codes. The Collective Garden shall be in compliance with the applicable provisions of the currently adopted edition of the Washington State Building Code.

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f. Limitation on Square Footage Devoted to Collective Garden. The Collective Garden shall be limited to no more than 100 contiguous square feet per legal parcel.

g. Security. Security measures at the Collective Garden shall include, at a minimum, the following:

(i) the Collective Garden shall be located within a fully enclosed and secure structure as defined in section ECC 15.130.090 ("Indoors");

(ii) there shall be deadbolt locks on all exterior doors; and

(iii) all windows and roof hatches shall be secured.

h. Nuisance. The Collective Garden shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other adverse impacts, or be hazardous due to use or storage of materials, processes, products or waste.

C. Ownership and Limitation on Numbers. No more than one Collective Garden may be located on a legal parcel of land, and the parcel must be owned or leased to one of the members of the Collective Garden.

D. No Nonconforming Status. Notwithstanding the provisions of Chapter 15.240 (Nonconforming Uses), an existing Collective Garden in operation as of the effective date of this Chapter shall be brought into full compliance with the provisions of this Chapter within one year of its effective date.

E. Delivery Only Among Members. No usable cannabis from the Collective Garden may be delivered to anyone other than one of the qualifying patients participating in the Collective Garden. Collective Garden employees/volunteers or Collective Garden members may not sell any cannabis plants or usable cannabis. Such activities may be prosecuted under the Uniform Controlled Substances Act, Chapter 69.58 RCW.

F. No On-site Sales of Paraphernalia. There shall be no on-site display or sale of paraphernalia used for the use or consumption of medical cannabis at the Collective Garden.

G. Nuisance. Nothing in this Chapter shall be construed as a limitation on the City's authority to abate any violation which may exist from the cultivation of cannabis plants from any location, indoor or outdoor, including from within a fully enclosed and secure building.

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15.370.040 Violations.

A. It is a violation of this Chapter for any person owning, leasing, occupying or having charge or possession of any parcel of land within any incorporated area of the City of Ellensburg to cause or allow such parcel of land to be used for the cultivation of marijuana or cannabis plants for medicinal purposes in excess of or contrary to the limitations and restrictions set forth herein.

B. The cultivation of more than the number of cannabis plants set forth in this Chapter on one legal parcel within the City of Ellensburg, regardless of whether the persons growing the cannabis is/are a "qualified patient," or members of a "collective garden" as defined herein, is hereby prohibited.

C. Any violations of this Chapter may be enforced as set forth in Chapter 15.290 (Enforcement), or as applicable, the Uniform Controlled Substances Act, chapter 69.58 RCW. In addition, violations of subsections A and B of this Section are deemed to be a public nuisance and may be abated by the City of Ellensburg under the procedures set forth in state law for the abatement of public nuisances.

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15.380 Development Agreements

15.380.010 Authority.

The city may enter into a development agreement with a person having ownership or control of real property within the city limits. The city may also enter a development agreement for real property outside of the city limits but within the urban growth area (UGA) as part of a proposed annexation or a service agreement.

15.380.020 General provisions of development agreements.

A. A development agreement shall be consistent with the applicable policies and goals of the city of Ellensburg's comprehensive plan and all applicable development regulations adopted by the city pursuant to 36.70A RCW. The development agreement shall specify the following:

   1. Project elements such as permitted uses, residential densities, and nonresidential densities and intensities or building sizes;
   2. The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications.
   3. Mitigation measures, development conditions and other requirements of chapter 43.21C RCW (SEPA);
   4. Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping and other development features;
   5. Provisions for affordable housing, if applicable;
   6. Parks and common open space preservation;
   7. Review procedures and standards for implementing decisions;
   8. Phasing, if applicable;
   9. A build-out or vesting period for applicable standards; and
   10. Any other appropriate development requirement or procedure.

B. As provided in RCW 36.70B.170, the development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

15.380.030 Enforceabilty.

Unless amended or terminated, a development agreement is enforceable during its term by a party to the agreement. A development agreement and the development standards in the agreement govern during the term of the agreement, or for all or that part of the build-out period specifiedin the agreement. The agreement may not be subject to an amendment to a zoning ordinance or development standard or a new zoning zoning ordinance or development standard or regulation adopted after the effective date of the agreement. The permit approval issued by the city after the execution of the agreement must be consistent with the development agreement.

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15.380.040 Approved procedure for development agreements.

A development agreement is a Type V development project permit application and shall be processed in accordance with the procedures established in this Title. A development agreement shall be approved by the Ellensburg city council after a public hearing.

15.380.050 No deadline for final decision, form of agreement, term, recordation.

A. Development agreements are not "project permit applications" as defined in RCW 36.70B.020. Therefore, there is no deadline for processing a development agreement. If an applicant requests that the city execute a development agreement as part of its approval of a project permit application, the applicant must first sign a written waiver of the deadline for issuance of a final decision of the project permit application.

B. Form. No development agreement shall be presented to the decision-making body unless in a form approved by the city attorney. Every development agreement shall be signed by the property owner and all other parties with a substantial beneficial interest in the property that is the subject of the development agreement, prior to any public hearing held for the purpose of authorizing execution of the development agreement.

C. Term.

   1. Development agreements may be approved for a maximum period of five years.

   2. In determining the appropriate term for a development agreement, the city council should consider the type, size and location of the development and phasing if proposed.

   3. Extensions. A one time extension for up to five years may be requested if authorized in the development agreement. If extensions are authorized in a development agreement, an applicant must request the extension at least 60 days prior to expiration. All extension requests shall be reviewed by the city council after a public hearing on the request, unless another process is expressly provided for in the development agreement.

D. Recordation. A development agreement shall be recorded against the real property records of the Kittitas County assessor's office. During the term of the development agreement, the agreement is binding on the parties and their successors, including any area that is annexed to the city.

15.380.060 Judicial appeal.

If the development agreement relates to a project permit application, the provisions of Chapter 36.70C RCW shall apply to the appeal of the decision on the development agreement.

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Article 4: Community Design

Public Hearing Draft, November 2013

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15.400 Introduction

15.400.010 Purpose.

This article was authorized by the city council as a major implementation tool of Ellensburg's comprehensive plan. Overall, this article intends to:

A. Provide clear objectives for those embarking on the planning and design of development projects in Ellensburg;

B. Preserve and protect the public health, safety, and welfare of the citizens of Ellensburg;

C. Promote and accomplish the goals, policies, and objectives of the Ellensburg comprehensive plan;

D. Provide a summary of streetscape design standards;

E. Provide standards for the layout of streets and subdivisions;

F. Upgrade the character and visual appearance of Ellensburg;

G. Promote increased pedestrian, bicycling, and transit use throughout the city; and

H. Promote compact and energy efficient development patterns throughout Ellensburg.

15.400.020 Applicability and compliance.

The community design provisions in this article generally apply to the following development within the city:

A. All street improvements. See Section 3 (street standards) of the city's (ADD LINK) public works development standards for details on the types of developments that are subject to street improvements.

B. All subdivisions, including binding site plans.

C. All other development within the city. However, the provisions herein largely focus on large site development (where new street connections may be required with new development) or parks or design components of subdivisions.

These standards are intended to supplement other provisions of Title 15 and other existing city codes applicable to developments. Where there is a conflict between the provisions of this article and other codes, the provisions herein shall apply.

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15.400.030 How the provisions of this article are applied.

Most sections within the chapters herein include the following elements:

A. **Purpose** statements, which are overarching objectives.

B. **Standards** use words such as "**shall,**" "**must,"** and **"is/are required,**" signifying required actions.

C. **Guidelines** use words such as "**should**" or **"is/are recommended,"** signifying voluntary measures.

D. **Departures** are provided for specific standards. They allow alternative designs provided the reviewing authority determines the design meet the purpose of the standards and guidelines and other applicable criteria. See ECC 15.210.060 for related procedures associated with departures.

Furthermore, this article contains some specific standards that are easily quantifiable, while others provide a level of discretion in how they are complied with. In the latter case, the applicant must demonstrate to the director, in writing, how the project meets the purpose of the standard or standards.

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15.410 Streetscape Design

15.410.010 Purpose.

Streetscapes are typically defined as the areas between buildings that are occupied by the public street right-of-way and related street, sidewalk, and landscaping improvements, and any setback and yard areas on private property. Ellensburg's streetscapes are among the most important urban design features of the community, because their appearance, character and the impressions they evoke, create the public image of the city. Streetscape design also impacts the ability of residents and visitors to move from place to place. A high priority for the city is to create a multi-modal network of streets, where roads are shared by a combination of pedestrians, bicyclists, motorists, and transit users. To accomplish this goal, streets need to be both safe and attractive to these users.

This chapter provides a summary of street design provisions for the full range of street classifications. For the detailed design provisions, see Section 3 (Street Standards) of the city's public works development standards (ADD LINK). Standards and guidelines for the privately-owned portions of the streetscape (setbacks/yards, landscaping and buildings) are addressed via site orientation standards in Chapter 15.510 of this Title.

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15.410.020 Arterial street design.

A. Purpose. Provide safe and attractive arterial streets to facilitate movement of multi-modal traffic through the city and to regional and community destinations. As mobility is the primary function of the arterial streets, access to property may be limited to accommodate traffic flow.

B. Implementation. Street section connections to existing curbs/sidewalks shall be as follows:

1. When curbs/sidewalks exist on one abutting end of proposed project, the new development shall transition from existing location to the new street section as provided by current code requirements.
2. When existing curbs/sidewalks exist on both abutting ends of a proposed project (in-fill), or along the frontage of the proposed project, the project applicant may petition the public works director for a departure from the code streetscape requirements. This departure, if granted, would allow for the continuation of the existing roadway section across the proposed development. As a condition of departure, the applicant shall be required to dedicate necessary rights of way to construct improvements and execute a deferral agreement to participate in a future project to construct said improvement(s) in accordance with ECC 4.06.060.

C. Principal arterial street design.
Design. Principal arterials typically include 2 lanes of travel in each direction, a center/left turn lane, bicycle lanes, planting strips with street trees, and sidewalks. On-street parking may be included in single family zones and in in commercial zones where storefronts are permitted (see Chapter 15.510). See Section 3 (street standards) of the city's public works development standards (ADD LINK) for detailed standards.

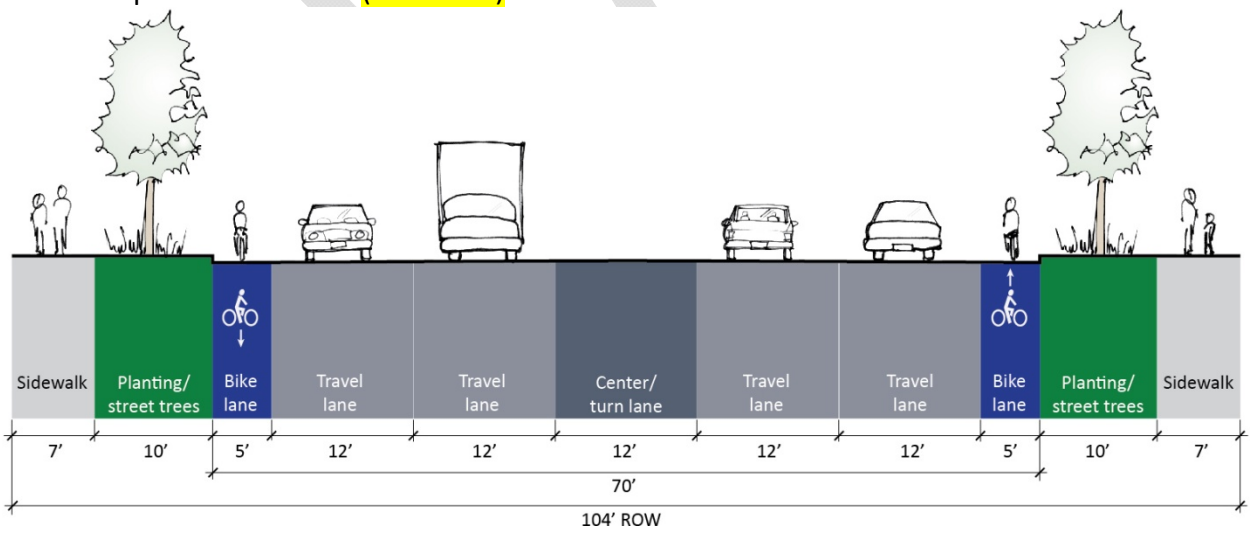

Figure 15.410.020(B). Cross-section of standards for typical new principal arterial streets with standard dimensions. Variations could include on-street parking lanes in single family zones and commercial zones in special circumstances, and wider sidewalks with trees in grates in commercial zones.

D. Minor arterial street design.

Design. Minor arterials typically include one lane of travel in each direction, a center/left turn lane, bicycle lanes, planting strips with street trees, and sidewalks. On-street parking may be included in single family zones and in special circumstances in commercial zones. See Section 3 (street standards) of the city's public works development standards (ADD LINK) for detailed standards.

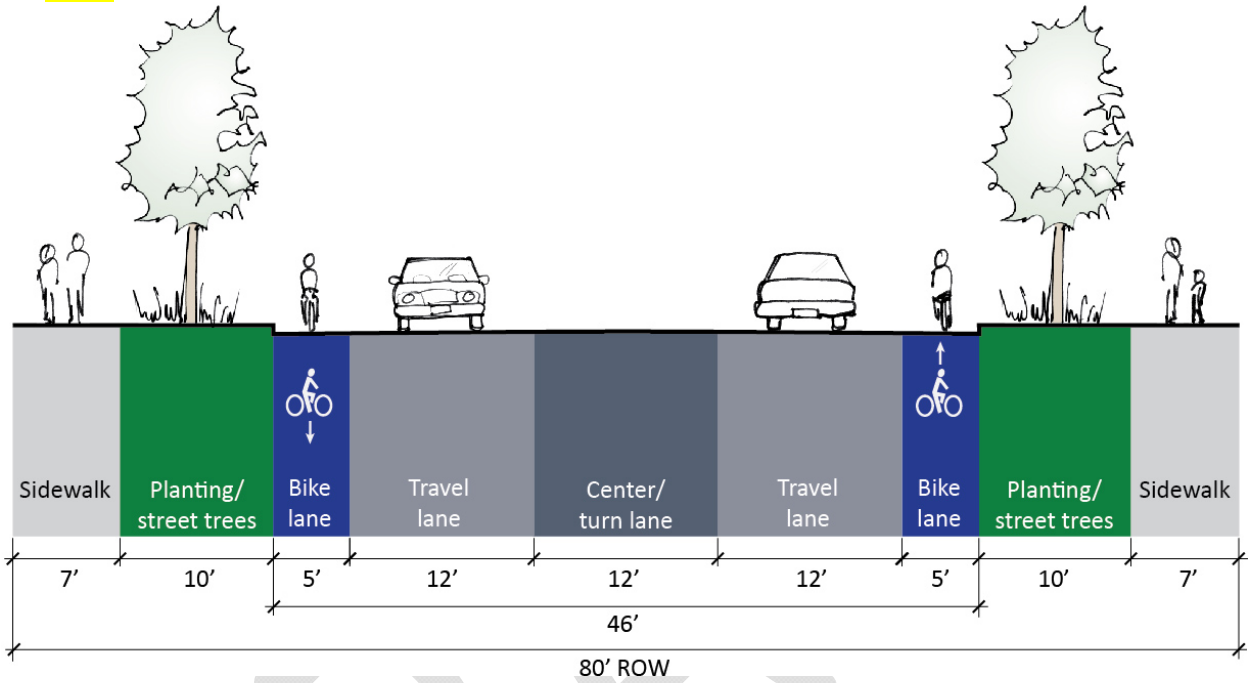

Figure 15.410.020(D). Cross-section of standards for new minor arterial streets located in commercial, industrial, and multifamily zones (with standard dimensions). Variations could include on-street parking lanes in single family zones and commercial zones in special circumstances, and wider sidewalks with trees in grates in commercial zones.

15.410.030 Collector street design.

A. Purpose. Provide safe and attractive collector streets that balance mobility and access to encourage flow of traffic from neighborhoods and provide access to property.

B. Implementation. Street section connections to existing curbs/sidewalks shall be as follows:

1. When curbs/sidewalks exist on one abutting end of proposed project, the new development shall transition from existing location to the new street section as provided by current code requirements.
2. When existing curbs/sidewalks exist on both abutting ends of a proposed project (in-fill), or along the frontage of the proposed project, the project applicant may petition the public works director for a departure from the code streetscape requirements. This departure, if granted, would allow for the continuation of the existing roadway section across the proposed development. As a condition of departure, the applicant shall be required to dedicate necessary rights of way to construct improvements and execute a deferral agreement to participate in a future project to construct said improvement(s) in accordance with ECC 4.06.060.

C. Design. Collector streets typically include one lane of travel in each direction with shared auto and bicycle lanes, on-street parking, planting strips with street trees, and sidewalks. See Section 3 (street standards) of the city's public works development standards (ADD LINK) for detailed standards.

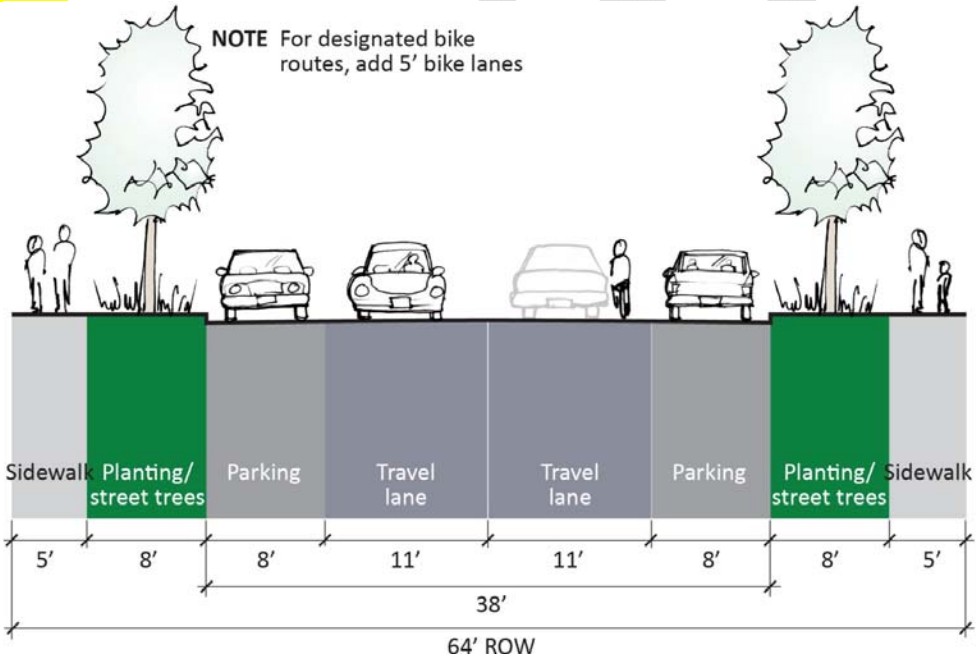

Figure 15.410.030. Cross-section of standards for collector streets (with standard dimensions). Variations could include removal of on-street parking lanes in single family zones (where alleys and other provisions for off-street parking are provided to adjacent lots) and commercial zones in special circumstances, and wider sidewalks with trees in grates in commercial zones.

15.410.040 Local access street design.

A. Purpose. Provide safe and attractive local access streets that provide access to property.

B. Implementation. Street section connections to existing curbs/sidewalks shall be as follows:

1. When curbs/sidewalks exist on one abutting end of proposed project, the new development shall transition from existing location to the new street section as provided by current code requirements.
2. When existing curbs/sidewalks exist on both abutting ends of a proposed project (in-fill), or along the frontage of the proposed project, the project applicant may petition the public works director for a departure from the code streetscape requirements. This departure, if granted, would allow for the continuation of the existing roadway section across the proposed development. As a condition of departure, the applicant shall be required to dedicate necessary rights of way to construct improvements and execute a deferral agreement to participate in a future project to construct said improvement(s) in accordance with ECC 4.06.060.

C. Design. There are 3 optional designs for local access streets, including 20-foot, 24-foot, and 30-foot wide streets, to allow flexibility for subdivision design while accommodating functional access needs and community design goals. Travel lanes are shared auto and bicycle lanes. Planting strips with street trees and sidewalks are included on both sides of the street. See Section 3 (street standards) of the city's public works development standards (ADD LINK) for detailed standards.

1. Continuity. The designs shall be consistent on individual blocks. An exception is for a hybrid design. An example would be a 20-foot street that integrates parking pockets on one side of the street.
2. Limitation for 20-foot streets. The 20-foot street is intended to be used only in special cases where there is available guest parking on nearby streets or additional off-street parking is provided within walking distance of homes. All dwelling units shall be within 500 feet (measured via along sidewalks or other internal pathways) of available on-street or off-street guest parking equal to 1 space per dwelling unit, minimum. Developments may integrate parallel parking bulb-outs (see Figure 15.410.040 below) along these streets, provided the bulb-outs take up no more than 50 percent of the planting strip length.

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Figure 15.410.040. Example of a local access street with integrated parallel parking bulb-outs

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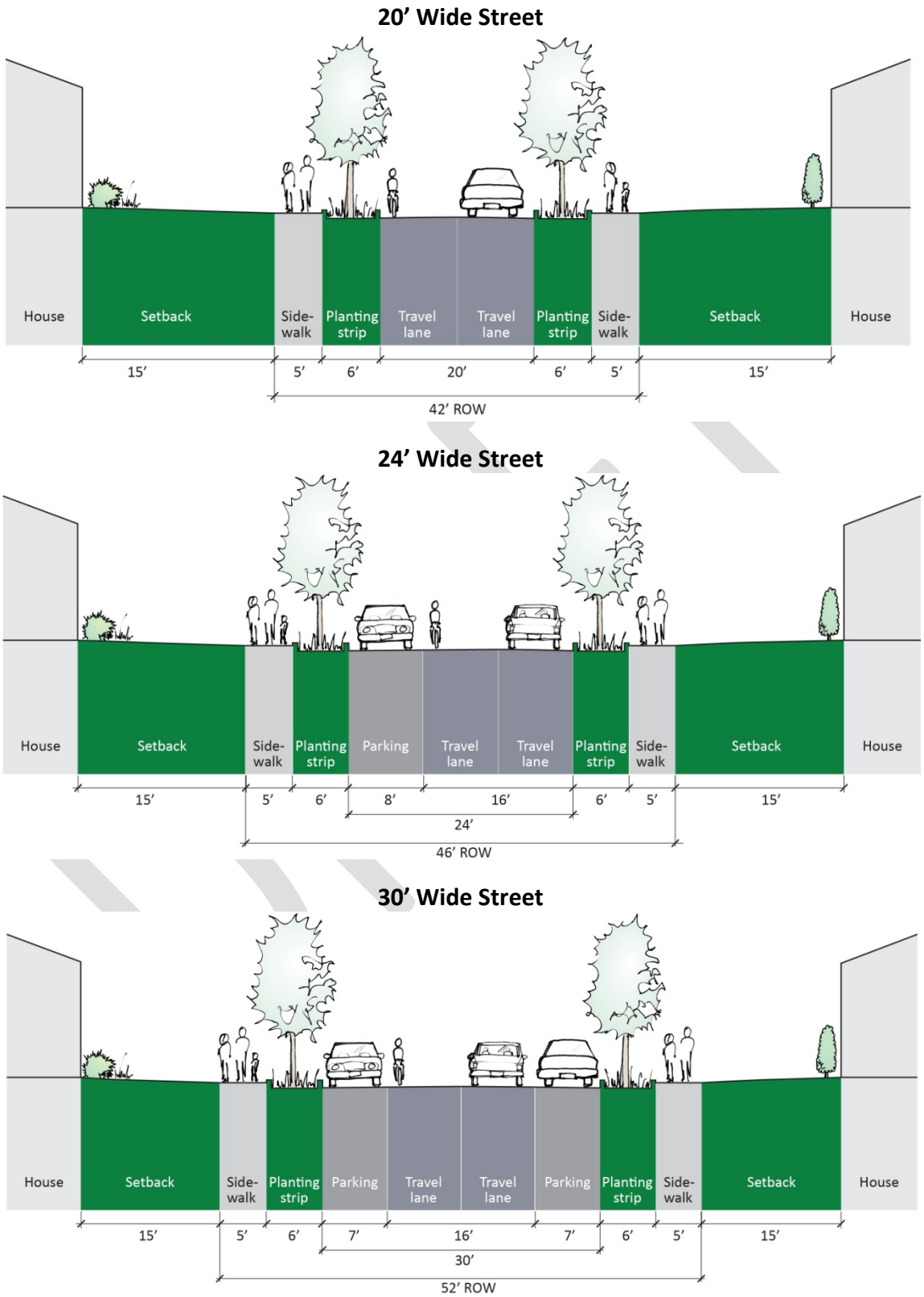


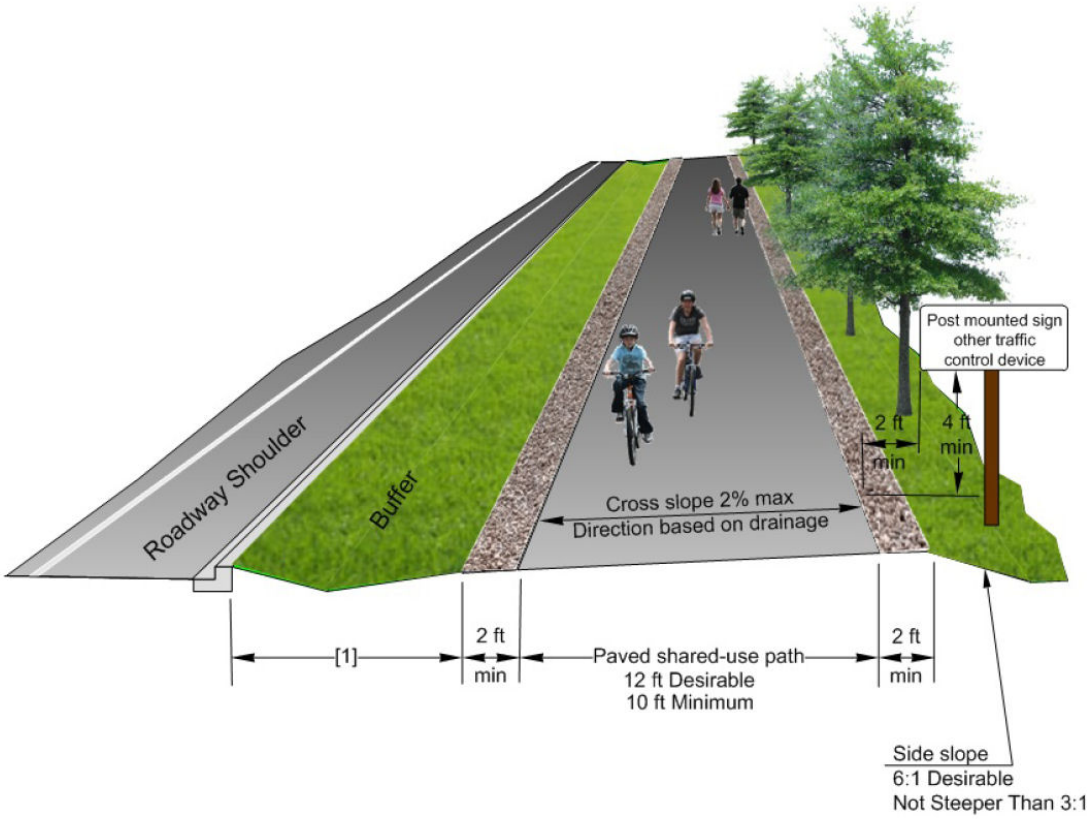
Figure 15.410.040. Cross-sections for local access street design options (with standard dimensions).

15.410.050 Multi-use pathways.

A. Purpose. Provide standards and guidelines for multi-use pathways in Ellensburg.

B. Alternative to standard sidewalks. Multi-use pathways, designed per standards and guidelines herein, may be used in place of a standard sidewalk for all streets.

C. Standards and guidelines. Multi-use pathways shall be constructed to WSDOT's Shared Use Path design standards (Chapter 1515 of the WSDOT Design Manual: http://www.wsdot.wa.gov/publications/manuals/fulltext/M22-01/1515.pdf). This includes a minimum paved width of 10 feet, with 12-foot pathways desirable in areas anticipating substantial use.



Note:

[1] 3 ft minimum. Provide as much separation from the roadway as practicable.

Figure 15.410.050. Cross-sections for a multi-use pathway adjacent to a roadway with maximum speed of 35 mph or less, from Chapter 1515 of the WSDOT Design Manual.

15.420 Subdivision Design & Block Structure

15.420.010 Purpose.

The purpose of this chapter is to:

A. Enhance the character and livability of Ellensburg's neighborhoods;

B. Encourage compact and walkable neighborhoods;

C. Promote "eyes on the street" for safety;

D. Promote subdivision design that reduces energy consumption; and

E. Integrate open spaces, natural elements, and recreational features into the design of developments.

15.420.020 Block design & connectivity standards.

Ellensburg's comprehensive plan places a high priority on being a "walkable" community. "Walking" also includes alternative pedestrian-oriented modes of travel including wheel chairs and power chairs that are intended to be used on sidewalks and paths. In order to be walkable, there needs to be frequent accessible and attractive connections between destinations. Consequently, this requires a well connected system of streets and pathways that encourages people to walk. Thus block size and design has a direct impact on the walkability of a community.

A. All zones.

1. Connectivity to abutting lands. The street system of proposed subdivisions shall be designed to connect with existing, proposed, and planned streets outside of the subdivision. Wherever a proposed development abuts unplatted land or other land with the capability of being further subdivided, street stubs shall be provided to allow access to future abutting subdivisions and to logically extend the street system into the surrounding area. All street stubs shall be provided with a temporary turn-around unless specifically exempted by the fire marshal, and the restoration and extension of the street shall be the responsibility of any future developer of the abutting land.

2. Continuation of streets. Planned streets shall connect with surrounding streets to permit the convenient movement of traffic between residential neighborhoods and to facilitate emergency access and evacuation. Connections shall be designed to meet or exceed the block standards in subsections (B) and (C) below, and to avoid or minimize through traffic on local streets.

3. Pedestrian accessways. Short internal pathways can improve pedestrian mobility within developments. Examples could include an an accessway in the middle of a block or at the end of a cul-de-sac. Such access ways shall conform to all of the following standards:

   a. Width. Pedestrian accessways shall be located within dedicated public rights-of-way or private easements allowing public access with a minimum dimension of 10 feet in width;

b. Design. Pedestrian accessways shall be constructed to sidewalk standards for Local Access Roads or be designed as a multi-use trail per direction in the Non-Motorized Transportation Plan (ADD LINK). Also see Section 3 (street design) of the public works development standards(ADD LINK). Alternative designs may be considered where significant environmental constraints are present;

c. Safety. The accessway shall incorporate design treatments that avoid a "tunnel effect" in the corridor and create a potential safety problem. Design solutions could involve the width, length, and/or the alignment of the corridor, height of fences adjacent to the corridor, lighting treatments, and/or the proposed landscaping along the corridor;

d. Accessibility. Pedestrian accessways shall conform to applicable ADA requirements, except where not required by applicable ADA rules and regulations;

e. The city may require landscaping as part of the required pedestrian accessway improvement to buffer pedestrians from adjacent vehicles and land uses. Plantings shall emphasize drought tolerant and low maintenance materials and shall maintain adequate visibility for safety; and

f. Where pedestrian accessways are privately owned, they shall be operated and maintained by the developer until: (1) the declaration and covenants for plat are recorded, and (2) a homeowners organization has been established which shall be legally responsible for the operation and maintenance of the pedestrian accessway.

B. Residential zones. New residential developments shall provide an integrated and connected network of streets to help provide a sense of place and orientation and provide multiple travel route options for all users. A street network dominated by long, irregular loop roads and cul-de-sacs is not appropriate. The following standards apply to new development in the residential zones.

1. Blocks shall be designed to provide pedestrian and vehicular connections at intervals no greater than 660 feet.

2. DEPARTURES to the standard in paragraph (1) will be considered by the reviewing authority per ECC 15.210.060 provided the alternative design meets the purposes of the standards (see ECC 15.420.010) and meets the following criteria:

   a. A departure provides the opportunity for a public open space or other public amenity that goes well beyond minimum standards herein. For example, a larger block could allow for the development of a compact village of homes around a centralized open space; and

   b. Departures meeting criteria set forth in paragraph (a) above allow configurations with pedestrian and vehicular connections at intervals greater than 660 feet, but no greater than 1,000 feet, except when the following conditions are present: Where topography, right-of-way, existing construction or physical conditions, or other geographic conditions prevent compliance or impose an unusual hardship on the applicant, the reviewing authority shall relax the standards provided the proposed design maximizes pedestrian and vehicular connectivity on the site given the constraints.

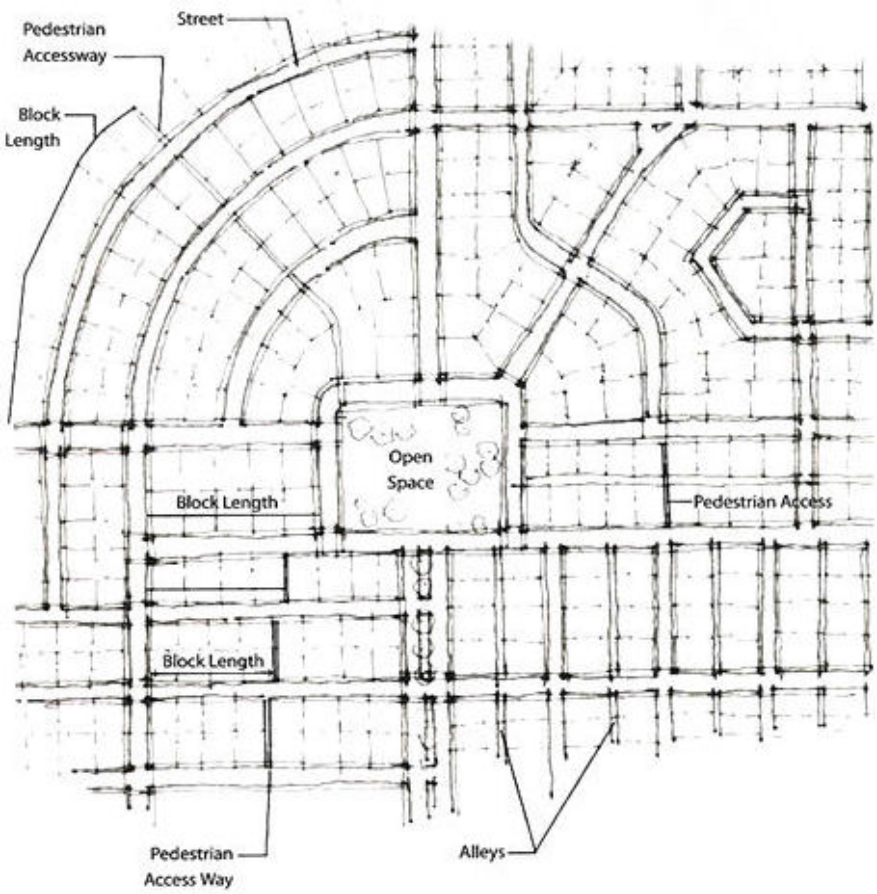


Figure 15.420.020(B)(1). A good example of a connected network of streets. Also note how block lengths are measured.

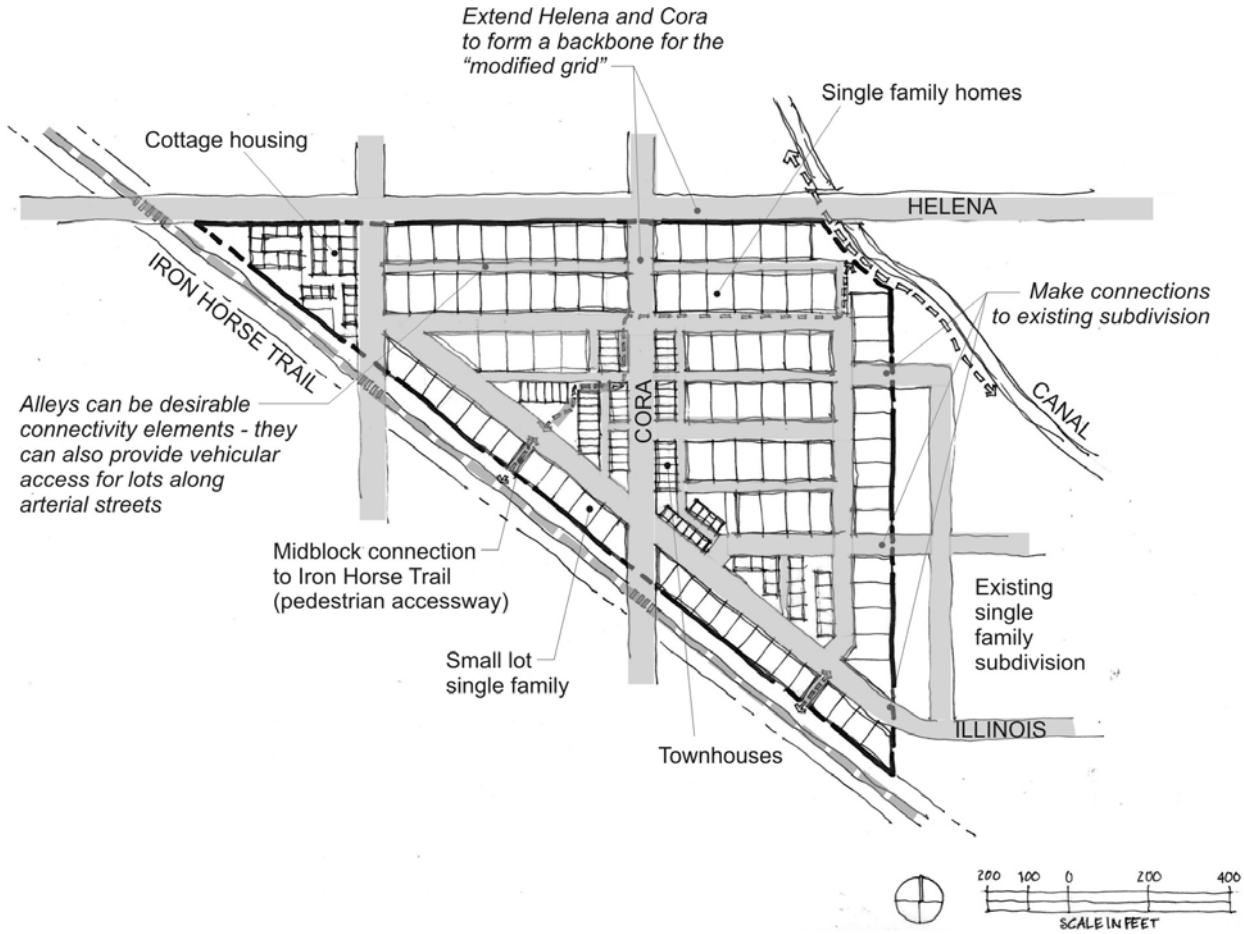


Figure 15.420.020(B)(2). Illustrating an example subdivision design and street grid on a site in Ellensburg. All blocks shown meet requirements (maximum length 660-feet). Note that mid-block pedestrian connections are used to access the Iron Horse Trail, rather than a full street connection, which would not be desirable in this case.

C. Commercial and light industrial zones. Similar to residential areas, an integrated and connected network of streets is important in commercial zones to help provide a sense of place and orientation and provide multiple travel route options for all users. Connectivity is particularly critical in areas that allow for a mix of uses (including both residential and commercial uses). More flexibility is warranted in industrial zones, interchange commercial areas (such as the C-T zone), and within service oriented commercial areas (such as the C-H zone).

1. C-C, CC-II, and C-N zones. Blocks shall be designed to provide pedestrian and vehicular connections at intervals no greater than 400 feet; and
2. C-H, C-T, and I-L zones. [see Figure 15.420.020(C)]
   a. Blocks shall be designed to provide pedestrian connections at intervals no greater than 660 feet; and
   b. Blocks shall be designed to provide vehicular connections at intervals no greater than 1,320 feet. Private streets and other internal circulation routes may be used to meet block/circulation requirements where such connections meet the purposes of the standards.

Figure 15.420.020(C). Examples of private streets and internal circulation elements that could be used to meet the connection standards for the C-T, C-H, or I-L zones.

3. Exceptions to the standard in paragraphs (1) and (2) above will be considered by the reviewing authority when the following conditions are present: Where topography, right-of-way, existing construction or physical conditions, or other geographic conditions prevent compliance or impose an unusual hardship on the applicant, the reviewing authority shall relax the standards provided the proposed design maximizes pedestrian and vehicular connectivity on the site given the constraints.

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15.420.030 Community design provisions.

A. Development of neighborhoods. New residential subdivisions are encouraged to be designed to be integrated with the surrounding neighborhood to ensure that they maintain the established character, where consistent with the goals and policies of the comprehensive plan. Subdivisions in city expansion areas should be designed so that individual, separately developed projects work together to create distinct neighborhoods, instead of disjointed or isolated enclaves. The case study in Figure 15.420.020(B)(2) above is a good example of how to accomplish this.

B. Integration with existing/planned open space. New residential subdivisions adjacent to planned or existing parks or other public open spaces (e.g., creeks, riparian areas), or the landscaped grounds of schools or other public facilities shall be designed to maximize visibility and pedestrian access to these areas through street configuration, pathways, and development orientation.

C. Integration with natural amenities. [see Figure 15.420.030(C)]New residential subdivisions are encouraged to preserved and integrate natural amenities (views, mature trees, creeks, rock outcrops, and other similar features) with the development as an amenity. Clustering of lots/units and adjusting roadway configuration to integrate these features is encouraged as a means of achieving these goals. Public access and visibility to these natural amenities is encouraged. For example, trails along the perimeter of wetland buffers are an attractive option.

Figure 15.420.030(C). Examples of a subdivision configured to save large existing trees as an amenity to new housing development.

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D. Edges and fences.

"Gated communities," and other residential developments designed to appear as continuous walled-off areas, disconnected and isolated from the rest of the community, are not allowed. While privacy fences separating rear yards between homes are desirable for privacy, tall fences that back up to streets tend to reduce the number of "eyes on the street" and make such streets feel less safe and welcoming. New subdivisions in Ellensburg should consider ways to integrate the new developments into the community rather than walling them off.

Specifically:

1. Gated communities are prohibited.
2. Subdivision design that incorporates reverse frontage lots is prohibited. This refers to double frontage lots that front on one street, but back up to the other and typically include fences that run along the street edge for back yard privacy [see Figure 15.420.030(D)(1)]. As an alternative to lots backing up to collectors and arterials, developments can provide lots that face such streets and incorporate alleys to the rear for vehicular access. Consider wider front yards and/or planting strips to buffer negative impacts from these streets. [see Figure 15.420.030(D)(2)]

   Exception: Reverse frontage lots are allowed where rear yard fences are buffered from the street by an irrigated landscaped strip at least 10 feet wide in a permanent easement with Type A, B, C landscaping (per ECC 15.570.040) or other landscaping that effectively mitigates the visual impact of the fence on the streetscape. The landscaped strip and adjacent sidewalk shall be maintained by a private homeowners' association pursuant to ECC 15.290.020.

Figure 15.420.030(D)(1). Examples of reverse frontage lots that back up to collectors and arterial streets (note fences lining the street)(images courtesy of BING maps).

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Figure 15.420.030(D)(2). Examples of lots that front an arterial street and contain alleys in the back for garage access.

E. Design diversity. Residential subdivisions are encouraged to incorporate measures that promote design diversity. This can be accomplished by: [see Figures 15.420.030E(1) and (2)]

1. Providing a mixture of lot sizes and/or front setbacks (which could be specified on the plat); and/or
2. Providing a diversity of floor plans and façade treatments that avoid monotonous streetscapes. This could be accomplished with provisions on the plat and/or special covenants required for lots.

Figure 15.420.030(E)(1). The above homes feature a good diversity of façade designs, colors and rooflines.

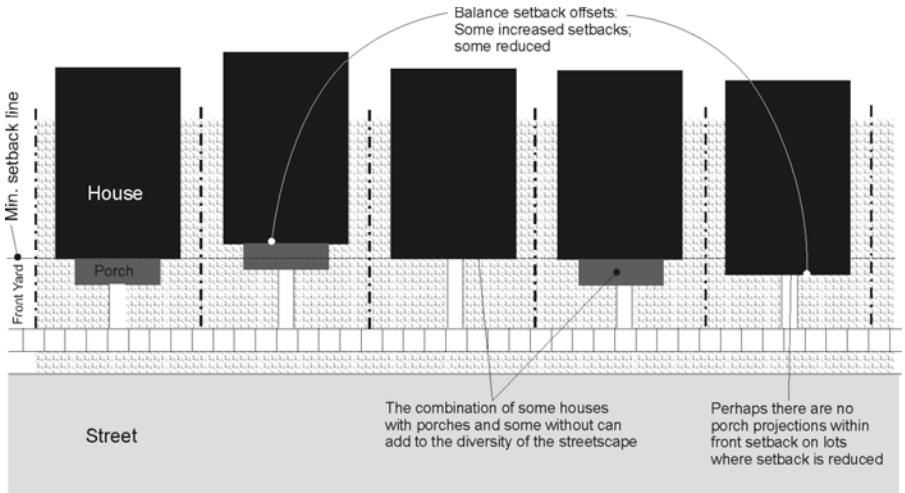

Figure 15.420.030(E)(2). Avoid monotonous rows of duplicative homes (top example). One solution is to use a diversity of floor plans and façade/roofline designs per Figure 15.420.030(E)(1) above. Another solution is to proscribe variable setbacks such as in the example above.

15.420.040 Open space/parks.

Parks and open space integrated into subdivisions shall meet the following design criteria:

A. Must be convenient, usable and accessible. All open spaces shall be physically and visually accessible from the adjacent street or major internal pedestrian route. Open spaces shall be in locations that the intended user(s) can easily access and use, rather than simply left-over or undevelopable space in locations where very little pedestrian traffic is anticipated. Locations integrated with transit stops, for instance, would be encouraged, as there is likely to be pedestrian traffic in the area.

Figure 15.420.040(A). These parks are located in accessible and centralized locations within the neighborhood. Both parks have accessibility from streets on multiple sides combined with good visibility from adjacent homes.

B. Must be inviting. Inviting open spaces feature amenities and activities that encourage pedestrians to use and explore the space. On a large scale, it could be a combination of active and passive recreational uses. It could include a children's play area, special landscaping element, or even a comfortable place to sit and watch the world go by. In order for people to linger in an open space, it must be comfortable. For instance, a plaza space should receive ample sunlight, particularly at noon, and have design elements that lend the space a "human scale," including landscaping elements, benches and other seating areas, and pedestrian-scaled lighting. No use shall be allowed within the open space that adversely affects the aesthetic appeal or usability of the open space.

Figure 15.420.040(B). Examples of inviting park design, with design features and amenities that attract usage from the surrounding community.

C. Must be safe. Safe open spaces incorporate Crime Prevention through Environmental Design (CPTED) principles:

1. Natural surveillance – which occurs when parks or plazas are open to view by the public and neighbors. For example, a plaza that features residential units with windows looking down on space means that the space has good "eyes" on the park or plaza;
2. Lighting that reflects the intended hours of operation and is appropriate for the proposed activities;
3. Landscaping and fencing. Avoid configurations that create dangerous hiding spaces or minimize views;
4. Entrances should be prominent, well lit, and highly visible from inside and outside of the space; and
5. Maintenance. Open spaces shall utilize commercial grade materials that will last and require minimal maintenance costs. Walls, where necessary, shall be designed and treated to deter graffiti. Use and maintain landscape materials that reduce maintenance cost and maintain visibility, where desired.

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D. **Provides for uses/activities that appropriately serve the anticipated residents and users of the development.** For example, common open space that serves a variety of functions will attract greater usage. When designing open spaces, project applicants should consider a broad range of age groups, from small children, to teens, parents, and seniors.

E. **Must be well maintained.** Open space shall be maintained by the land owner(s) unless the city or other public authority accepts and offer of dediction.

15.420.050 Lot design.

Lots within subdivisions shall be designed to allow placement of homes to address functional design issues. Lots shall be designed to contain a usable building area. If the building area would be difficult to develop, the lot shall be redesigned or eliminated, unless special conditions can be imposed that will ensure the lot is developed consistent with the standards of this code and does not create nonconforming structures, uses or lots.

The placement and orientation of lots and homes should consider privacy, solar orientation, access, location and access to open space and other factors that can contribute to the overall livability of the home and its relationship to the surrounding environment. Flexibility shall be encouraged in spatial orientation of homes on lots to address these issues and create interesting and attractive streetscapes with homes having a high functional value that might not otherwise occur with a less flexible approach.

To maximize site efficiency and usable open space, small lot developments (generally less than 5,000 square feet in area and less than 50 feet wide) are encouraged to utilize zero-lot line and courtyard access configurations (as described below) or related design schemes provided they meet access, design, and other applicable standards set forth in this Title.

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A. Zero lot line. This is a configuration where the house and/or garage is built up to one of the side property lines, providing the opportunity for more usable side yard space. Standards:

1. Dwelling units and accessory structures may be placed on one interior side property line. The opposite side yard shall be at least 10 feet. Also see ECC 15.540.020 for single family standards, including minimum usable open space.
2. Privacy wall. In order to maintain privacy, no windows, doors, air conditioning units, or any other types of openings in the walls along a zero lot line structure are allowed except for windows that do not allow for visibility into the side yard of the adjacent lot. Examples include clerestory or obscured windows. See Figure 15.420.050(A) below for an example of a privacy wall for a zero lot line house.
3. Eaves along a zero lot line may project a maximum of 18 inches over the property line.
4. Lots intended for zero lot line homes shall be noted on the plat, together with minimum side yard areas and maximum building envelopes.

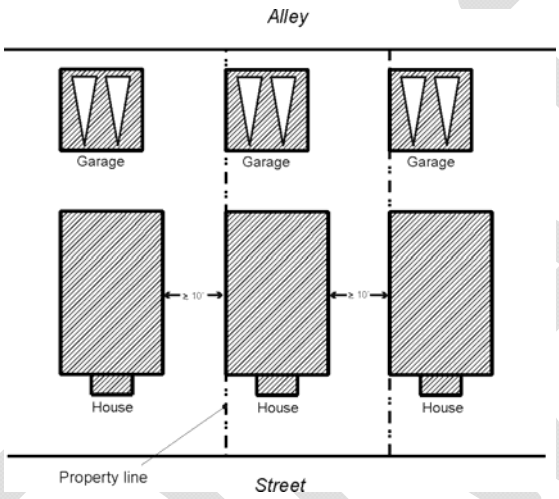

Figure 15.420.050(A). Zero lot line layout example (left). The right image shows the side yard and privacy wall for a zero lot line house.

B. Reciprocal use easement lots. This works similar to the zero lot line configuration, except that the homes and accessory structures meet the standard setbacks and easements are granted on one side yard to allow consolidated use of the side yards by the adjacent property [see Figure 15.420.050(B) for example]. Also, configurations providing for reciprocal use easements in the rear yard are allowed to maximize usable open space [see Figure 15.420.050(B) for example]. Standards/provisions:

1. Reciprocal easements shall be noted on the plat. Easement areas may be used for minimum usable open space requirements set forth in ECC 15.540.020(D).
2. Privacy wall. In order to maintain privacy, no windows, doors, air conditioning units, or any other types of openings in the walls of a structure along a reciprocal use easement are allowed except for windows that do not allow for visibility into the side yard of the adjacent lot. Examples include clerestory or obscured windows. See Figure 15.420.050(A) above for an example of a privacy wall.
3. Areas within reciprocal use easements may count towards usable open space requirements for applicable lots.

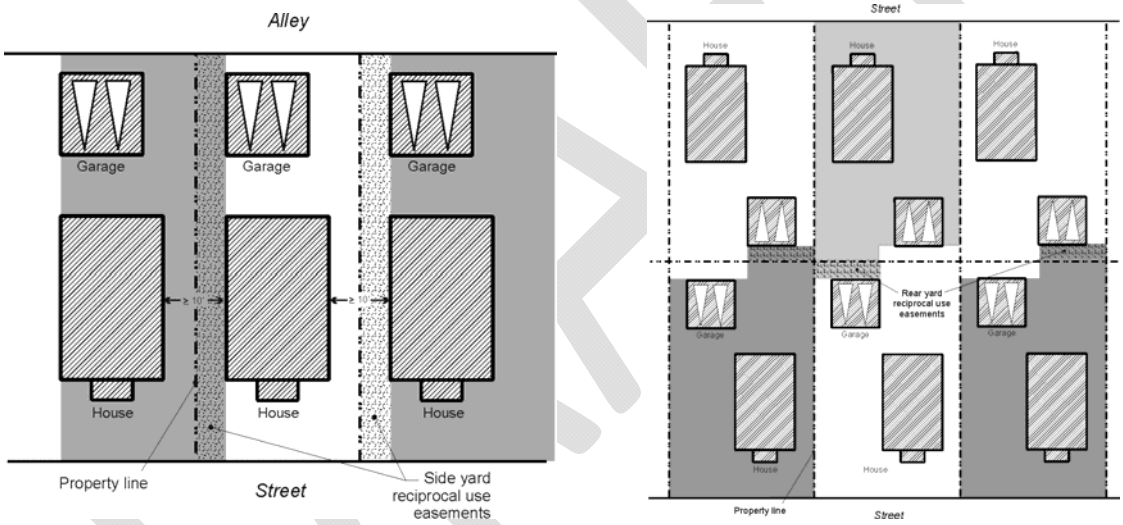

Figure 15.420.050(B). Example of a reciprocal side yard easement configuration (left image) and reciprocal rear yard easement configuration (right image)

C. Courtyard access lots. This includes a series of lots clustered around a private internal roadway. Standards:

1. Maximum number of lots served by a courtyard access: 5 (this includes lots fronting the street on either side of the courtyard access).
2. Maximum length of a courtyard access: 100 feet (or deeper if approved by the fire code official). The length may be increased to 150 feet if all structures beyond 100 feet of the street are equipped with automatic fire sprinkler systems.
3. Surface width of courtyard access: 15 feet minimum, to provide access for ambulances. Provisions shall be made to keep the access clear of snow, vehicles ("no parking" signs), and vegetation.
4. An easement of 20 feet in width shall be secured over the applicable parcels to allow lots legal access to the public street. A maintenance agreement shall be required for all applicable lots and must be recorded on the plat.
5. Buildings accessed from a courtyard access are limited to 2 stories in height, due to aerial apparatus access limitations.

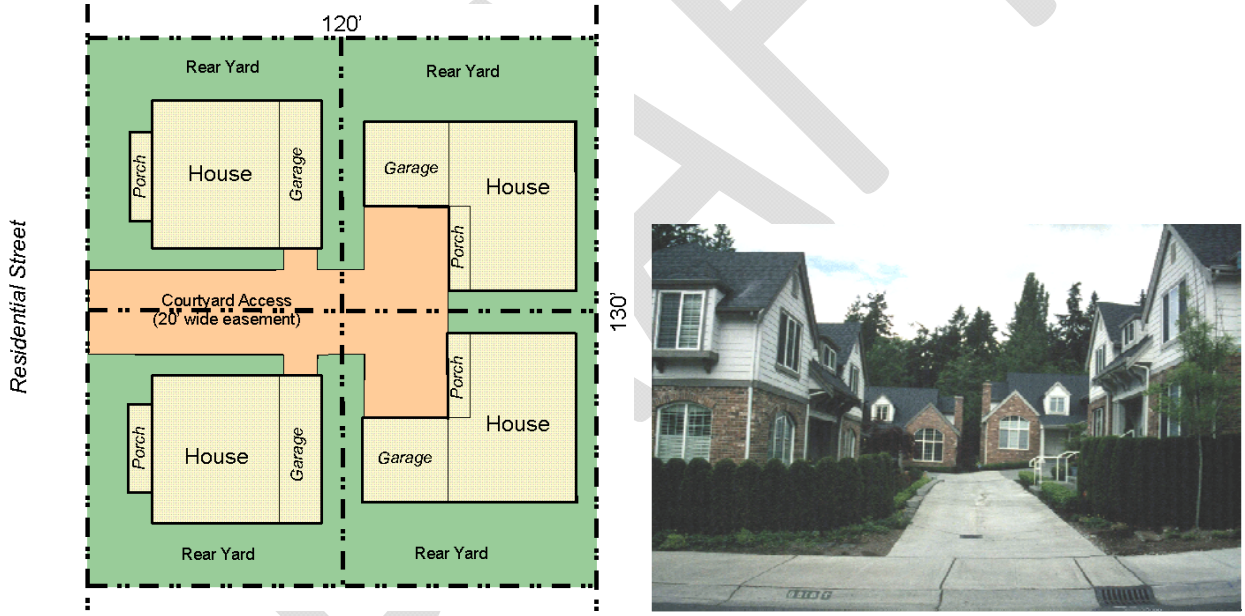

Figure 15.420.050(C). Examples of courtyard access lots.

D. Pedestrian-only entry lots. This includes configurations where one or more lots are clustered around a pedestrian easement and/or common open space and do not front on a street [see Figure 15.420.050(D) for an example]. Most cottage housing developments (see ECC 15.540.050) are an example of this. Standards:

1. A pedestrian entry easement shall be provided to all homes that do not front on a street, alley, or common open space.
2. Pedestrian entry easements shall be a minimum of 10 feet wide with a 5-foot minimum sidewalk constructed per local access street standards in Section 3 of the public works development standards (ADD LINK).
3. Fire sprinklers are required for homes more than 100 feet from a fire access road.
4. Buildings within pedestrian-only entry lots are limited to 2 stories in height.
5. Homes more than 150 feet from a street will require fire department access as defined in the current International Fire Code (IFC).
6. These lots must contain private detached or shared garages off an alley or other access if approved by the public works director.

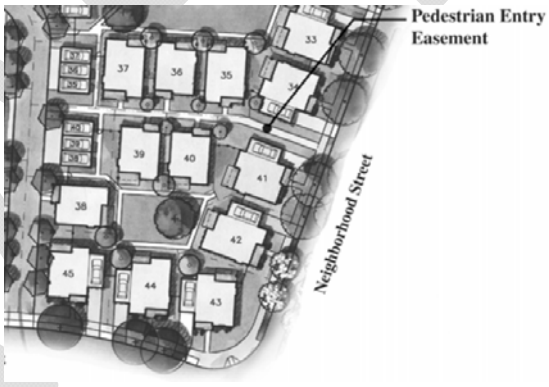

Figure 15.420.050(D). Pedestrian-only entry lot configuration examples.

E. Alley access lots. This includes configurations where lots are provided with vehicular access by an alley designed per Section 3 (street standards) of the city's public works development standards (ADD LINK). Pedestrian access to each alley access lot shall be provided by either a public street (per ECC Chapter 15.410 and Section 3, street standards, of the city's public works development standards) or a pedestrian easement a minimum of 10 feet wide with a 5-foot minimum sidewalk constructed per local access street standards in Section 3, street standards, of the public works development standards.

Figure 15.420.050(E). Alley access lot examples. The left example, Wheaton Court in Ellensburg, features direct pedestrian access to the street in the front and garage access off of an alley in the back. In the right image, lots feature pedestrian access from a trail/open space corridor (easement) with garage access off of an alley in the back.

F. Protective covenants. The styles of developments discussed above require special consideration to ensure conflicts between neighbors are minimized and that opportunities are provided for a home owners association to deal with unique issues created by these development forms. Covenants for these development styles shall be written to address issues unique to small lot developments that use reciprocal use and easement agreements. The city shall review and approve any necessary easements and/or covenant agreement.

15.420.060 Access, services and utilities.

A. Each lot in a residential subdivision shall have access directly to a public right-of-way, except for:

1. Alternative lot designs as described in EEC 15.420.050 in this chapter. Driveways shall be constructed per public works development standards (ADD LINK) and ECC Title 4, public works construction;

2. Shared driveways may access up to 5 lots provided they are at least 15 feet wide and a maximum of 400 feet long. Provisions shall be made to keep the driveways clear of snow, vehicles ("no parking" signs), and vegetation.

Any lot created that is not adjacent to a public right-of-way but that has a right of ingress and egress to that right-of-way provided that such right has been established as a matter of record in a manner that runs with the land and is irrevocable.

B. Each lot in a residential subdivision shall be provided with adequate provisions for water supplies, sanitary wastewater facilities, storm drainage and surface water facilities, electric, and natural gas facilities (if applicable), consistent with the requirements of the public works development standards (ADD LINK) and ECC Title 9, Utilities; and

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C. Approval of subdivisions may be conditioned upon dedications to the city of drainage ways, other public ways, water supplies, sanitary wastewater facilities, parks, playgrounds, and sites for schools per RCW 58.17.110 and subject to the provisions of RCW 82.02.020.

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Article 5: Project Design

Public Hearing Draft, November 2013

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15.500 Introduction

15.500.010 Purpose.

This article was authorized by the city council as a major implementation tool of Ellensburg's comprehensive plan. Overall, this article intends to:

A. Provide clear objectives for those embarking on the planning and design of development projects in Ellensburg;

B. Preserve and protect the public health, safety, and welfare of the citizens of Ellensburg;

C. Promote and accomplish the goals, policies, and objectives of the Ellensburg comprehensive plan;

D. Preserve and enhance downtown's historic resources and character;

E. Ensure that new mixed-use and commercial development is of high quality and appropriate to Ellensburg's character;

F. Upgrade the visual appearance of Ellensburg's principal vehicular corridors;

G. Ensure that new developments within existing neighborhoods are compatible with, and enhance the character of Ellensburg's neighborhoods;

H. Promote increased pedestrian, bicycling, and transit use downtown, and in the residential areas;

I. Promote compact and energy efficient development patterns throughout Ellensburg;

J. Enhance the livability of Ellensburg's residential developments;

K. Increase awareness of design considerations among the citizens of Ellensburg; and

L. Maintain and enhance property values within Ellensburg.

15.500.020 Applicability and compliance.

The project design provisions in this article generally apply to all new development within the city, including building additions, site improvements, and new signage. However, since each chapter herein addresses different design and development elements, the applicability of each chapter is clarified at the beginning of the chapter. For instance, some chapters may only apply to new commercial and multifamily development, while individual sections in Chapter 15.540 only apply to specific housing types.

It's also important to note that these standards are intended to supplement other provisions of Title 15 and other existing city codes applicable to developments. Where there is a conflict between the provisions of this article and other codes, the provisions herein shall apply.

For building additions, remodels, and site improvements, 3 different thresholds have been established to gauge how the standards herein are applied to such projects. See Figure

15.500.020 below for examples of site development and the respective types of improvements required under each of the three levels of improvements.

A. Level I Improvements include all exterior remodels, building additions, and/or site improvements commenced within a 3 year period (based on the date of permit issuance) that affect the exterior appearance of the building/site and/or increase the building's footprint by up to 50 percent. The requirement for such improvements is only that the proposed improvements meet the standards and do not lead to further nonconformance with the standards. For example, if a property owner decides to replace a building façade's siding, then the siding shall meet the applicable exterior building material standards, but elements such as building articulation would not be required.

B. Level II Improvements include all improvements commenced within a 3 year period (based on the date of permit issuance) that increase the building's footprint by more than 50 percent, but not greater than 100 percent. All standards that do not involve repositioning the building or reconfiguring site development shall apply to Level II Improvements. For example, if a property owner of an existing home in the R-O Zone wants to convert the home to an office and build an addition equaling 75 percent of the current building's footprint, then the following elements shall apply:

1. The location and design of the addition/remodel shall be consistent with the Site Orientation Standards (Chapter 15.510), which address building frontages, entries, parking lot location, and front yard landscaping. For such developments seeking additions to buildings where off-street parking location currently does not comply with applicable parking location standards, building additions are allowed provided they do not increase any current non-conformity and generally bring the project closer into conformance with the standards. (see Chapter 15.550 Off-Street Parking)
2. Comply with applicable site planning and design elements (Chapter 15.520).
3. Comply with all building design provisions of Chapter 15.530, except architectural scale and materials provisions related to the existing portion of the building where no exterior changes are proposed. The entire building shall comply with building elements/details, materials, and blank wall treatment standards of ECC 15.530.060.
4. Comply with the off-street parking, signage, and landscaping provisions of Chapters 15.550-570 that relate to proposed improvements.

C. Level III Improvements include all improvements commenced within a 3 year period (based on the date of permit issuance) that increase the building's footprint by more than 100 percent. Such developments shall conform to ALL applicable standards.

The application review procedures for new development are addressed in Article 2 of this title. For procedures associated with new developments requiring a building permit, see ECC 15.250.030, Design review.

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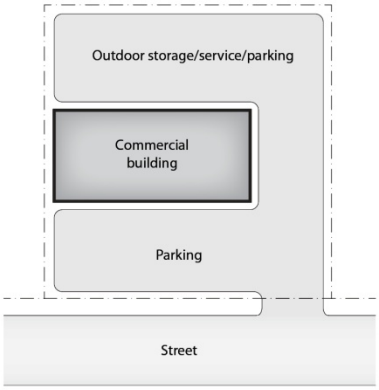
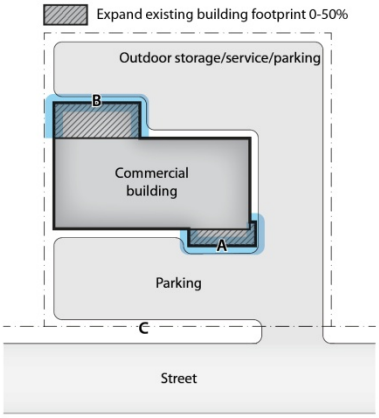
Existing



Pre-existing non-conformities:

- Parking in front of building
- No pedestrian connection to entry
- Doesn't meet streetscape and landscaping standards
- Facade doesn't meet standards

Level I Improvement Example

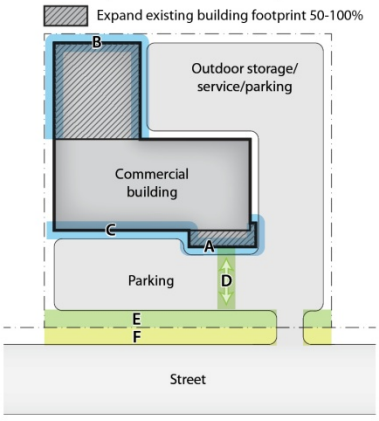


A. Entry addition meets facade and building design/ materials standards (15.53)

B. Rear addition meets applicable building design/ materials standards (15.53)

C. Landscaping improvements are encouraged but not required. See ECC 4.06.060(D)(3) to determine if street improvements are required.

Level II Improvement Example



A. Entry addition meets facade and building design/ materials standards (15.53)

B. Rear addition meets applicable building design/ materials standards (15.53)

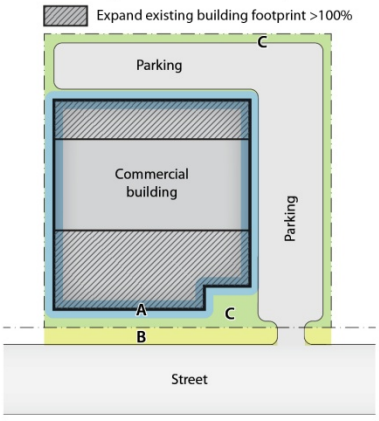
C. Facade upgraded to meet applicable facade, building design/materials standards (15.53)

D. Pedestrian access improvements per 15.52.040

E. Parking lot landscaping improvements per 15.57.050

F. Landscaping improvements are encouraged but not required. See ECC 4.06.060(D)(3) determine if street improvements are required.

Level III Improvement Example



A. Entire building meets applicable facade and building design standards (15.53)

B. Landscaping improvements are encouraged but not required. See ECC 4.06.060(D)(3) to determine if street improvements are required.

C. Site design conforms with Chapter 15.52 provisions (site planning and design elements).

Figure 15.500.020. Examples of site development and the respective types of improvements required under each of the three levels of improvements.

15.500.030 How the provisions of this article are applied.

Most sections within the chapters herein include the following elements:

A. Purpose statements, which are overarching objectives.

B. Standards use words such as "**shall,**" "**must,"** and **"is/are required,**" signifying required actions.

C. Guidelines use words such as "**should**" or **"is/are recommended,"** signifying voluntary measures.

D. Departures are provided for specific standards. They allow alternative designs provided the reviewing authority determines the design meet the purpose of the standards and guidelines and other applicable criteria. See ECC 15.210.060 for related procedures associated with departures.

Furthermore, this article contains some specific standards that are easily quantifiable, while others provide a level of discretion in how they are complied with. In the latter case, the applicant must demonstrate to the director, in writing, how the project meets the purpose of the standard or standards.

15.500.040 Administrative variance.

A. Purpose. To apply limited flexibility in the application of the development standards herein.

B. Applicability. The director may allow an administrative variance for proposals that are within 10 percent of compliance of applicable dimensional standards within Article 5. For example, ECC 15.530.030(D) requires articulation features at intervals no more than 30 feet along facades. The applicant could request an administrative variance to allow the articulation interval to be increased by up to 10 percent (to 33 feet).

C. Procedures. An administrative variance is subject to the Type II review process set forth in ECC Chapter 15.210.

D. Decision criteria. Proposals shall meet the purpose(s) of the applicable development standards.

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15.510 Site Orientation

15.510.010 Purpose.

A. To reinforce the historic storefront character of Ellensburg's downtown core area;

B. To enhance the pedestrian environment throughout Ellensburg;

C. To minimize potential negative impacts of parking lots and garages on the streetscape;

D. To promote "eyes on the street" for security for pedestrians and to create a more welcoming and interesting streetscape; and

E. To reinforce and enhance the streetscape character of Ellensburg's established residential neighborhoods.

15.510.020 Applicability.

The provisions of this chapter shall apply to all non-residential and multifamily development.

15.510.030 How to use this chapter.

Site orientation standards for individual properties depend on the type of street properties front onto. Thus, consider the following steps in using this chapter:

A. Go to the maps in ECC 15.510.040 to find your property and the street frontage type designation for the street or streets fronting your property. For properties in residential zones, the standards for Landscaped Streets (see ECC 15.510.080) apply. For properties in Light Industrial (I-L), Heavy Industrial (I-H), and Public Reserve (P-R) zones, see ECC 15.510.090. For properties that front onto multiple streets, see provisions in ECC 15.510.110;

B. Go to the appropriate code section in this chapter for the site orientation standards for applicable street frontage type designation. Table 15.510.030 below includes a summary of the 5 street frontage type designations along with links to the appropriate sections, the intention for each street type, and key design/use provisions; and

C. Review ECC 15.510.120 for criteria for "departures" to site orientation standards and ECC 15.210.060 for general information and procedures associated with departures.

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Table 15.510.030. Street frontage type descriptions.

Street Frontage Type & link to standards	Intention	Key Design/Use Provisions
Storefront Street *15.510.050*	To emphasize a "Main Street" setting with storefronts adjacent to the sidewalk	Buildings placed at back edge of sidewalk; Non-residential use required on ground floor facing street; Parking located to side or rear of buildings.
Secondary Street *15.510.060*	To provide the option of a storefront or other frontage types with landscaped setbacks	Option: Buildings placed at back edge of sidewalk OR with landscaped setback; No additional ground floor use restrictions; Parking located to side or rear of buildings, except in some districts.
Gateway Streets *15.510.070*	To provide/reinforce a pattern of landscaped development frontages and modest building setbacks along these highly visible streets	Buildings feature modest front yard setbacks; No additional ground floor use restrictions; Parking located to side or rear of buildings
Landscaped Street *15.510.080*	To provide/reinforce a pattern of landscaped development frontages and modest building setbacks	Buildings feature modest front yard setbacks; No additional ground floor use restrictions; Parking located to side or rear of buildings, except in some districts.

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15.510.040 Street frontage type maps.

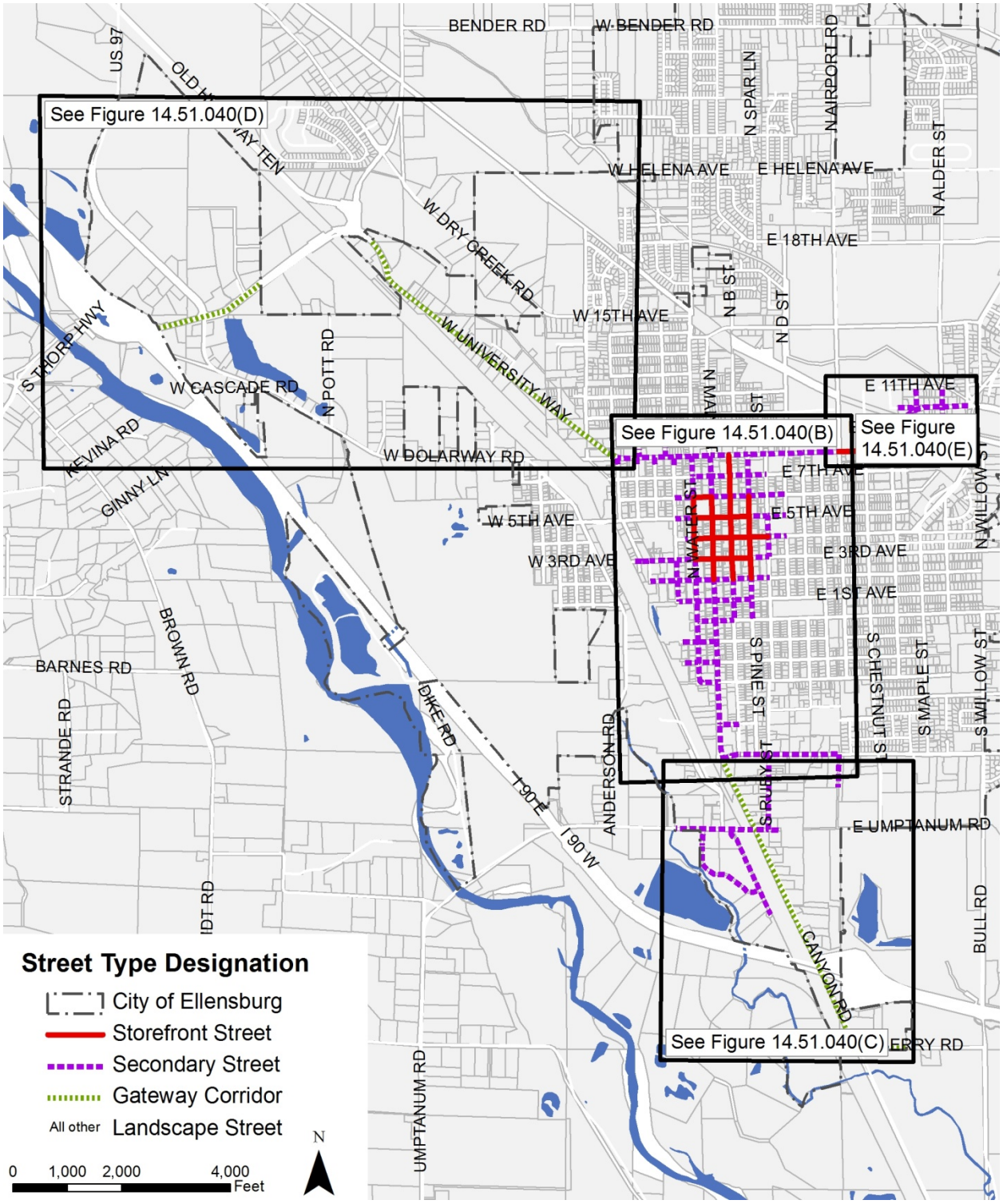

Figure 15.510.040(A). Index map for street frontage type designations.

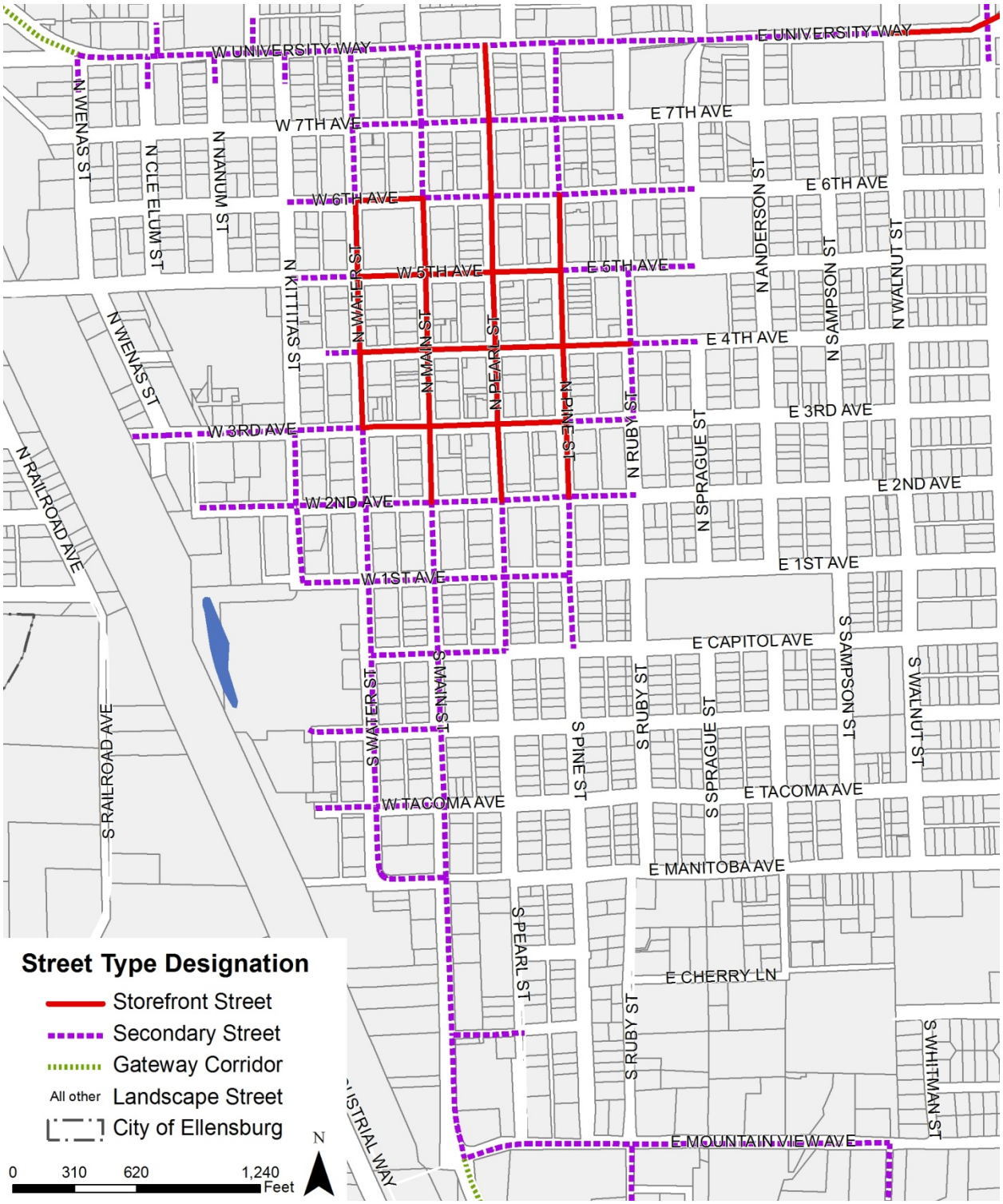

Figure 15.510.040(B) sets forth street frontage type designations for the greater Downtown area, which is roughly bounded by West 9th Avenue in the north, the railroad in the west, Mountain View Avenue in the south, and Walnut Street in the east.

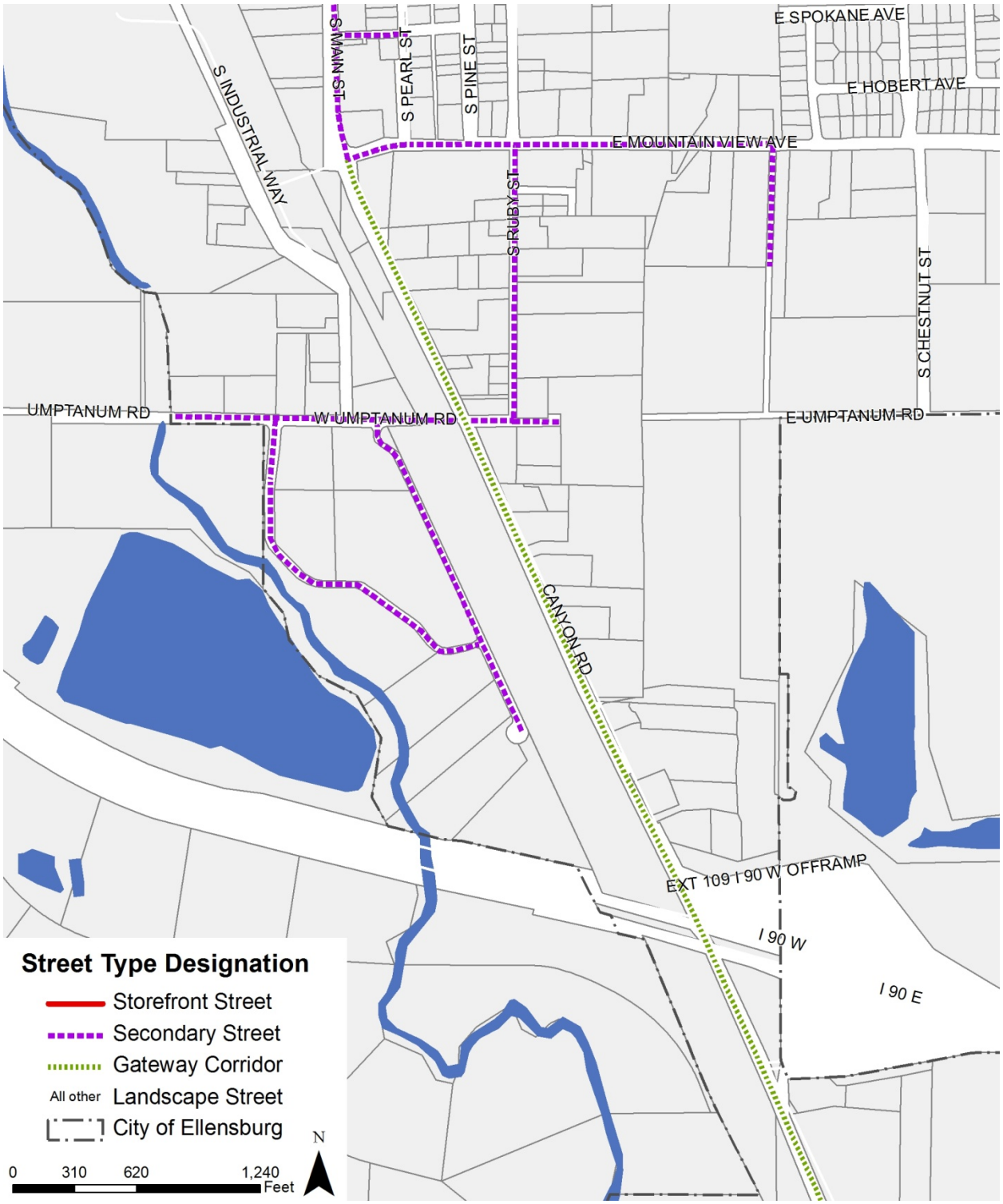

Figure 15.510.040(C) sets forth street frontage type designations for the Canyon Road corridor/south interchange area.

Figure 15.510.040(D). Street frontage type designations for the west interchange area.

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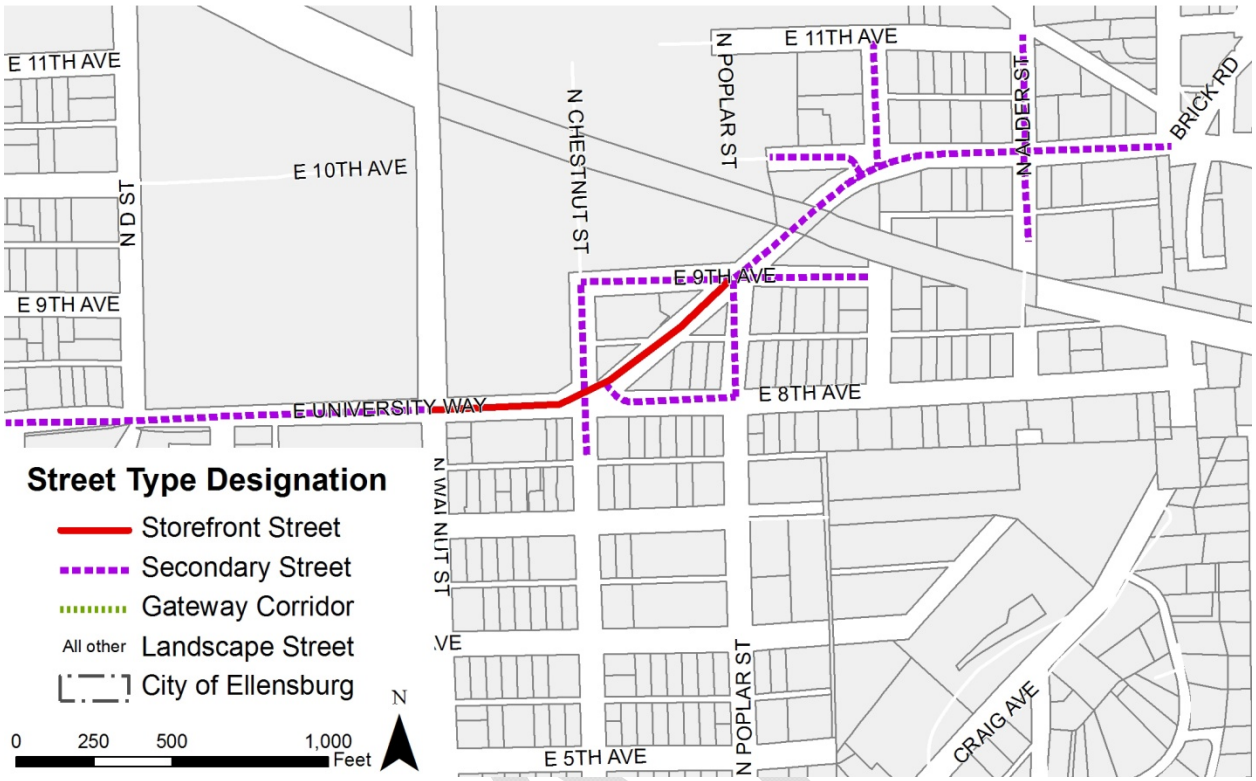

Figure 15.510.040(E). Street frontage type designations for the campus area.

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15.510.050 Storefront Street standards.

The intent is to emphasize and/or reinforce a "Main Street" setting with storefronts placed adjacent to sidewalks.

A. Applicability. The standards herein shall apply to all designated Storefront Streets per ECC 15.510.040.

B. Building frontage. Buildings shall be located adjacent to the sidewalk. Building setbacks from the public right-of-way may be permitted provided the space between the front property line and the building:

1. Is a widened sidewalk area; or
2. Is a pedestrian-oriented space, as defined in ECC 15.520.030(C).

C. Parking location.
Parking shall be located to the rear, below, or above storefronts. Where some off-street parking (both surface and structured) adjacent to the storefront street is unavoidable, no more than 60 feet of frontage shall be occupied by parking and vehicular access [see Figure 15.510.050(B)]. New parking lots adjacent to street corners shall be prohibited.

D. Vehicular access. Vehicular access (driveways) is discouraged on storefront streets. Where vehicular access is unavoidable, no more than one curb cut shall be allowed.

E. Ground floor use. Except for lobbies or similar entrances, residential uses are prohibited within 30 feet of the sidewalk on the ground floor of designated Storefront Streets.

F. Building entry. Building entries shall face the sidewalk.

G. Weather protection. Weather protection at least 3 feet deep is required over all primary entries. For south and west facing facades, weather protection at least 6 feet deep along a majority of the storefront is encouraged to provide shade in the summer months. Storefront all-weather protection projections shall not interfere with street trees, street lights, street signs, or extend beyond the edge of the sidewalk and they must maintain at least 8 feet of clearance over the sidewalk.

H. Storefront transparency. Transparent window area along at least 70 percent of the ground floor façade between 30 inches and 8 feet above grade is required. Display windows may count for up to 50 percent of the transparency requirements provided they are at least 16 inches of depth to allow for changeable displays. Tack on display cases shall not qualify as transparent window area. DEPARTURES to the transparency requirement will be considered pursuant to the provisions of ECC 15.210.060 and ECC 15.510.120 below. Such departures may decrease the minimum amount of transparency by up to 50 percent (with no less than 35 percent of the ground floor facade between 30 inches and 8 feet above grade.

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I. Ground floor and façade heights.

1. The ground floor shall have a minimum floor-to-floor height of 15 feet, as measured from grade.
2. All storefront facades shall maintain a minimum height of 20 feet.

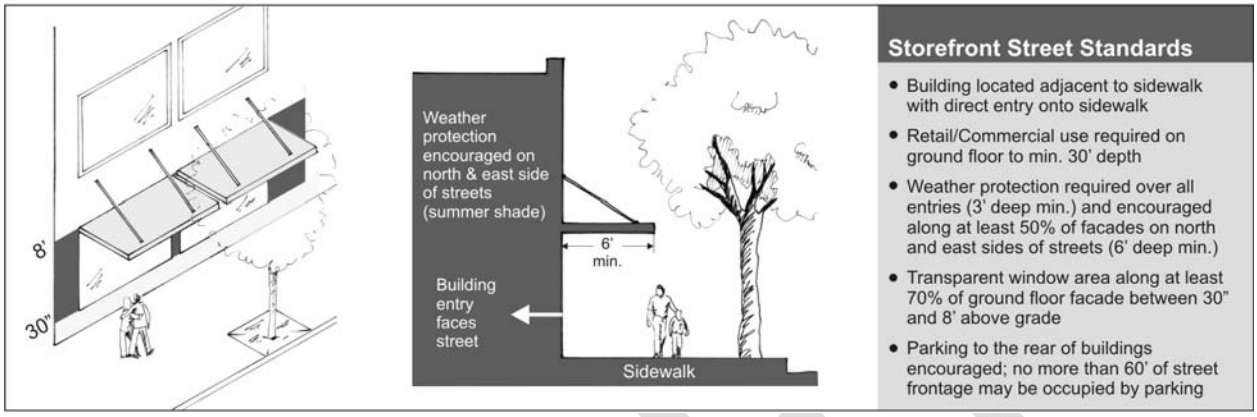

Figure 15.510.050(A). Summary of key Storefront Street standards.

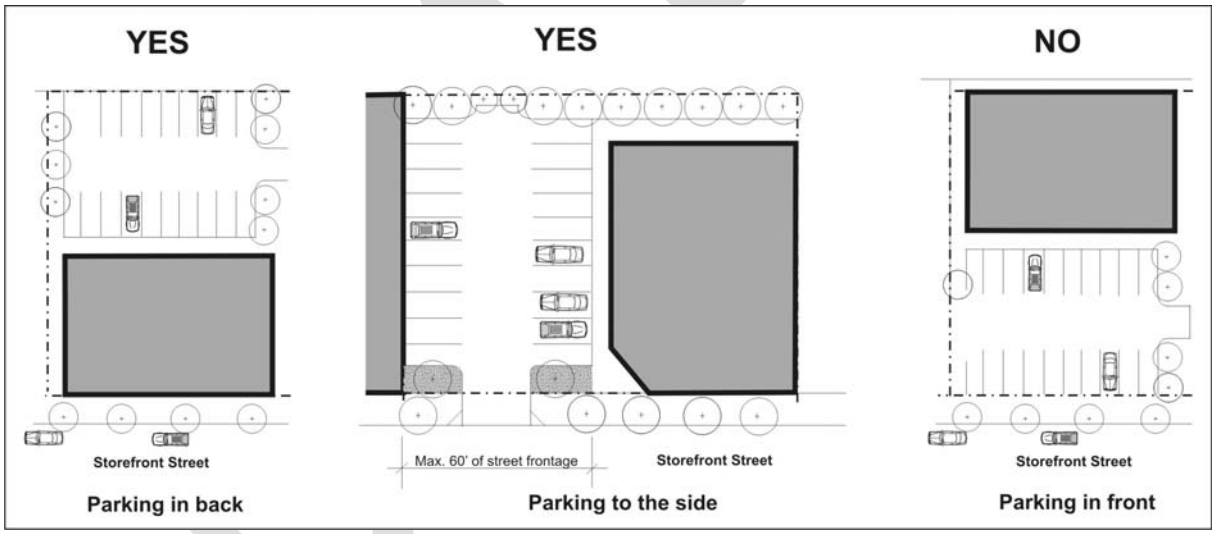

Figure 15.510.050(B). Parking location standards for designated Storefront Streets.

Figure 15.510.050(C). Current storefront examples. Note the large storefront windows and recessed entries in the left image. In the right image, note the relatively tall height of the single story building. The height helps to add a sense of enclosure to the street.

Figure 15.510.050(D). These facades do not meet the storefront standards. The tack-on display cases in the left image do not qualify as transparent window area.

15.510.060 Secondary Street standards.

For all designated Secondary Streets, development frontages may either be storefronts [see subsection (B) below], landscaped frontages [see subsection (C) below], or a combination of both.

A. Applicability. The standards herein shall apply to all non-residential and multifamily development on designated Secondary Streets per ECC 15.510.040.

B. Storefront standards. All storefront buildings along designated Secondary Streets shall comply with all building-related Storefront Street standards set forth in ECC 15.510.050 above.

C. Landscaped frontage standards for Secondary Streets.

1. Building setbacks. 10 feet minimum or consistent with minimum requirements of the applicable zoning district (see ECC 15.320.030 and .040), whichever is greater. Covered entries and other weather protection features may extend into this setback by up to 6 feet.
2. Building entry. At least one building entry shall be visible from the sidewalk.
3. Weather protection. Weather protection at least 3 feet deep shall be provided over all primary entries.
4. Transparency. Transparent window area shall be provided along at least 15 percent of the façade of the building (all vertical surfaces of the façade). DEPARTURES will be considered pursuant to ECC 15.210.060 and ECC 15.510.120 below.
5. Landscaping. Pursuant to ECC 15.320.030(C), all areas between the sidewalk and the building shall be landscaped, except for walkways, porches, decks, and other areas meeting the definition of pedestrian-oriented space.

D. Parking location.
No more than 50 percent of the street frontage can be occupied by off-street parking and driveways [see Figure 15.510.060(B)]. DEPARTURES will be considered pursuant to ECC 15.210.060 and ECC 15.510.120 below.

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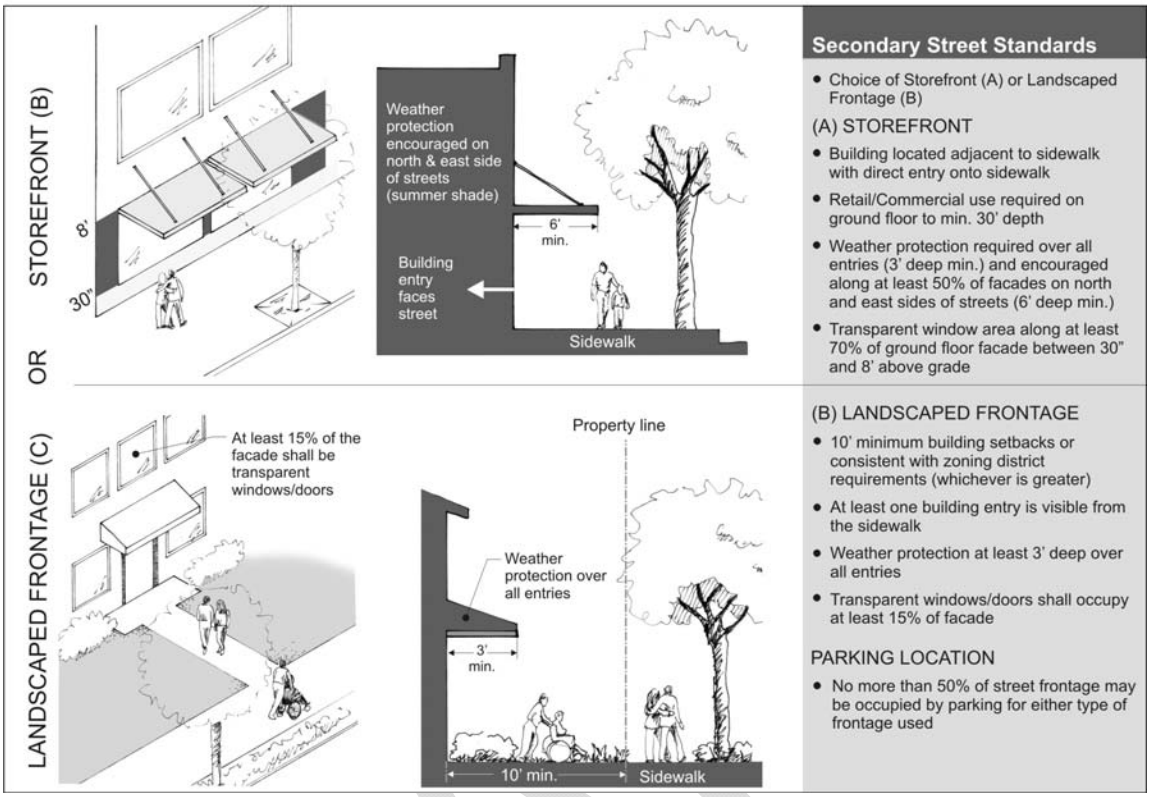

Figure 15.510.060(A). Summary of key Secondary Street standards.

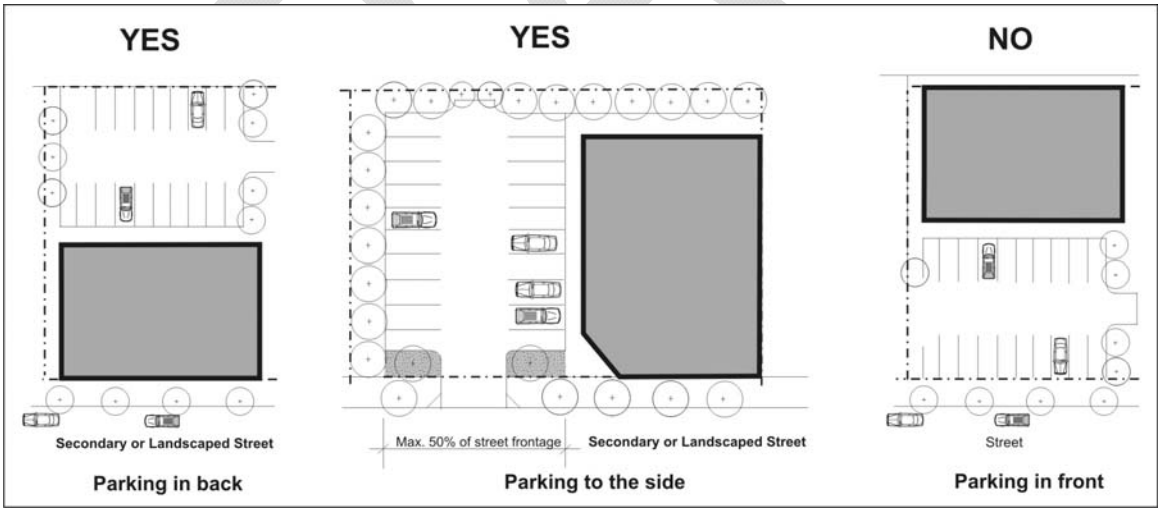

Figure 15.510.060(B). Parking location standards for designated Secondary Streets.

15.510.070 Gateway Street standards.

A. Applicability. The standards herein shall apply to all designated Gateway Streets per ECC 15.510.040.

B. Building setbacks. 15 feet minimum, or consistent with minimum requirements of the applicable zoning district (see ECC 15.320.040), whichever is greater.

C. Building entry. At least one building entry shall be visible from the sidewalk.

D. Weather protection. Weather protection at least 3 feet deep shall be provided over all primary entries.

E. Transparency. Transparent window area shall be provided along at least 15 percent of the façade of the building (all vertical surfaces of the facade). DEPARTURES will be considered pursuant to ECC 15.210.060 and ECC 15.510.120 below.

F. Landscaping. All areas between the sidewalk and the building shall be landscaped, except for walkways, porches, decks, and other areas meeting the definition of pedestrian-oriented space.

G. Parking location. Parking and driveways shall be located to the side or rear of buildings. Drive-through lanes between the sidewalk and the building are prohibited. DEPARTURES will be considered pursuant to ECC 15.210.060 and ECC 15.510.120 below.

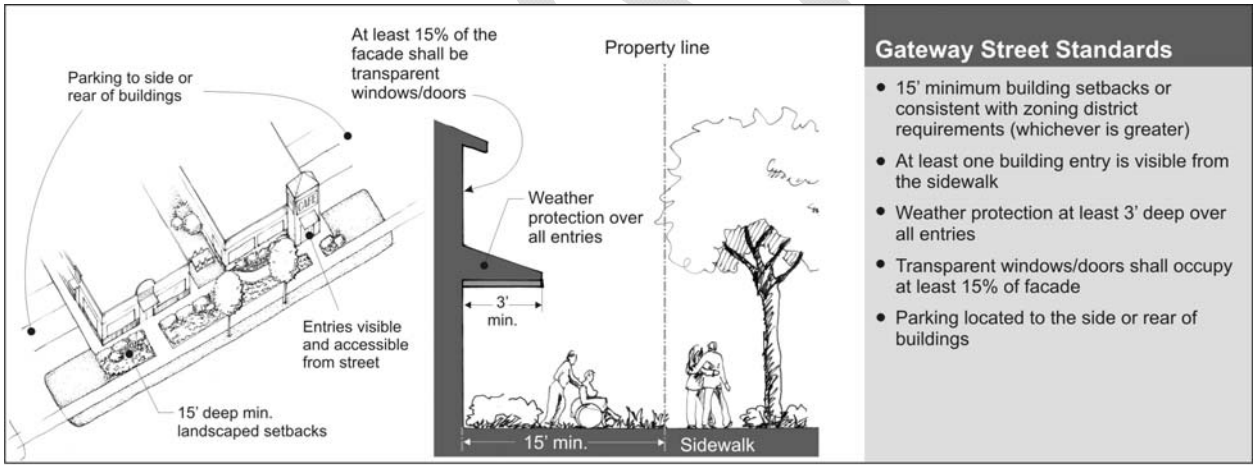

Figure 15.510.070. Summary of key Gateway Street standards.

15.510.080 Landscaped Street standards.

A. Applicability. The standards herein shall apply to all non-residential and multifamily development on designated Landscaped Streets per ECC 15.510.040.

B. Building setbacks. 15 feet minimum, or consistent with minimum requirements of the applicable zoning district (see ECC15.320.030 and .040), whichever is greater.

C. Building entry. At least one building entry shall be visible from the sidewalk.

D. Weather protection. Weather protection at least 3 feet deep shall be provided over all primary entries.

E. Transparency. Transparent window area shall be provided along at least 15 percent of the façade of the building (all vertical surfaces of the façade). DEPARTURES for non-residential uses will be considered pursuant to ECC 15.210.060 and ECC 15.510.120 below.

F. Landscaping. All areas between the sidewalk and the building shall be landscaped, except for walkways, porches, decks, and other areas meeting the definition of pedestrian-oriented space.

G. Parking location. No more than 50 percent of the street frontage can be occupied by off-street parking and driveways. DEPARTURES will be considered pursuant to ECC 15.210.060 and ECC 15.510.120 below.

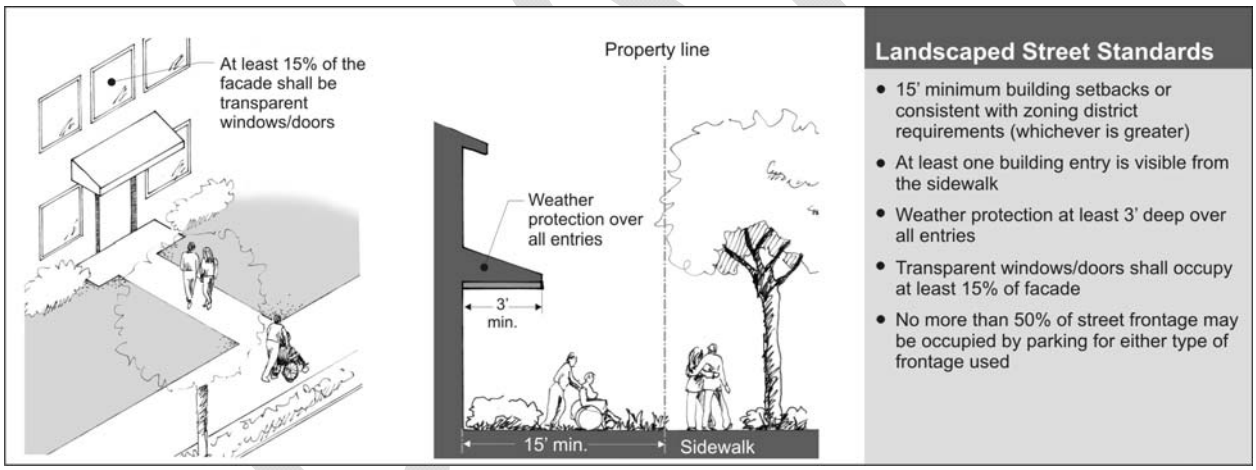

Figure 15.510.080. Summary of key Landscaped Street standards.

15.510.090 Site orientation standards for properties in the light industrial (I-L), heavy industrial (I-H), and public reserve (P-R) zones.

Unless otherwise designated on a map within ECC 15.510.040, sites within the I-L, I-H, and P-R zones shall comply with the standards for Secondary Streets (see ECC 15.510.060), except there are no limitations as to the location of parking along street frontages. Parking lot landscaping and buffer provisions set forth in ECC 15.520.070 are applicable.

15.510.100 Site orientation standards for properties in all residential zones.

All non-residential and multifamily development within residential zones shall comply with the frontage standards for Landscaped Streets as set forth in ECC 15.510.080.

15.510.110 Where properties front onto multiple streets.

Where properties front onto multiple streets and/or multiple street type designations, the frontages shall comply with the applicable standards for each street frontage, with the following exceptions:

A. Entries.

1. For street corner properties, a pedestrian entry on only one of the frontages is required. However, pedestrian entries located at the corner and/or along both streets are encouraged. Storefront Street frontages shall take precedence over non-Storefront Street frontages in terms of which street to locate frontages along. For properties fronting 3 or more streets, direct pedestrian entries shall be required on at least 2 street frontages. DEPARTURES will be considered pursuant to ECC 15.210.060 and ECC 15.510.120 below.
2. For dual frontage properties, a pedestrian entry needs to be visible from both streets. DEPARTURES will be considered pursuant to ECC 15.210.060 and ECC 15.510.120 below.

B. Transparency. For street corner properties and other properties fronting on multiple streets, the minimum required transparency percentage may be reduced by 50 percent on secondary facades (facades where no entry is included). DEPARTURES will be considered pursuant to ECC 15.210.060 and ECC 15.510.120 below.

C. Parking location. For properties fronting on multiple streets, DEPARTURES will be considered pursuant to ECC 15.210.060 for all but one of the frontages. Departures to parking location standards shall not be granted for developments adjacent to Storefront Streets, except where the site fronts onto 3 or more Storefront Streets.

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15.510.120 Site orientation departures.

Select departure opportunities are provided pursuant to ECC 15.210.060 for each of the street type designations set forth in Sections 15.510.050 through 15.510.080. For each proposed departure, the applicant shall demonstrate how the proposal meets the purposes of the standards herein. Considerations for determining whether an alternative design meets the purposes of the standards include:

A. Current and future context. Consider both the current context of the site and the possible future context of the surrounding area per the comprehensive plan goals and policies and zoning/design provisions set forth in this title.

B. Special site constraint. Consider whether the shape or location of the site presents any special challenges in meeting the parking location requirement.

C. Visual impacts. Consider whether the proposed design of streetfront elements (such as the combination of landscaping, building frontages, or other site elements/details) help to mitigate the visual impacts of large parking areas fronting on the street.

D. Impacts to non-motorized traffic. Consider whether the proposed design addresses or impacts non-motorized transportation elements along the street frontage.

E. Conformance with Ellensburg Design Standards (ADD DIRECT WEB LINK)**.** Consider whether the proposed design conforms to applicable provisions of the Design Standards, which includes chapters on multifamily, commercial, and industrial development. If there is a conflict between the Ellensburg Design Standards and the provisions in this article, the provisions herein shall apply.

15.510.130 Civic building frontages.

Public buildings are exempted from the site orientation standards herein provided design treatments are integrated that meet the following objectives:

A. Enliven the pedestrian environment adjacent to the sidewalk; and

B. Incorporate a visually prominent and inviting entry from the street (applied to the frontage containing the public building entry).

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15.520 Site Planning & Design Elements

15.520.010 Purpose & applicability.

A. Purpose. This section provides direction for the layout of buildings, open spaces, circulation elements, and large site development and the design of site elements consistent with the goals and policies of the Ellensburg comprehensive plan.

B. Applicability. Unless otherwise noted, the provisions in this section apply to all new non-residential and multifamily development within the city.

15.520.020 Side/rear yard design.

A. Purpose.

1. To provide for compatibility between developments;
2. To provide side and rear yard design options that enhance Ellensburg's pedestrian environment and the areas around the development; and
3. To provide flexible standards that allow property owners to maximize on-site development while meeting community design goals.

B. Solar access and privacy along side and rear yards.

1. Buildings or portions thereof containing multifamily dwelling units whose only solar access is from the applicable side of the building (facing towards the side property line) shall be set back from the applicable side or rear property lines at least 15 feet. See figure 15.520.020(B) below.
2. Balconies or rooftop decks within 15 horizontal feet of a side property line must utilize opaque guard rails to minimize privacy impacts to adjacent properties.

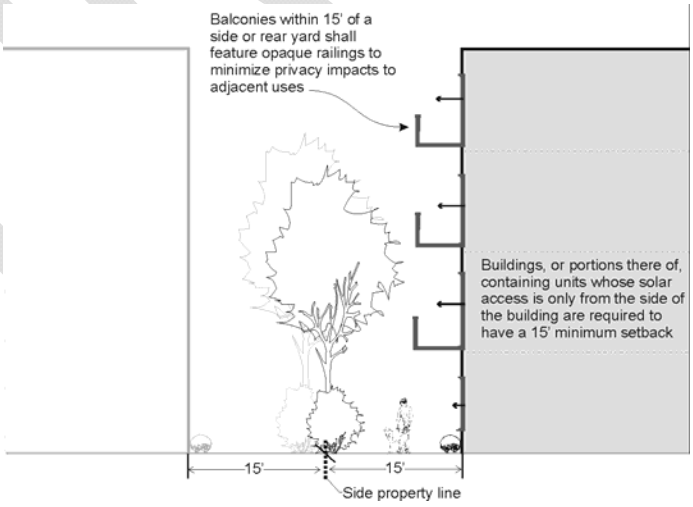

Figure 15.520.020(B). Solar access and privacy standards for multifamily residential buildings along side/rear yards.

C. Side/rear yard design/options.

All new developments and developments qualifying as Level II or III Improvements shall incorporate one or more of the following design options along side and rear property lines:

1. Provide Landscaping Type A [see ECC 15.570.040(A)] at least 10 feet deep along side and rear property lines. This treatment shall be required for developments in the I-H, I-L, C-H, C-T that abut residential zoned properties (zone edges that run along streets or alleys are not applicable to this standard). DEPARTURES: Alternative buffer techniques will be considered pursuant to ECC 15.210.060 provided the design mitigates the anticipated impacts between uses and applicable property owners provide written notice to the city that the proposed buffer design is acceptable.
2. Provide Landscaping Type B or C [see ECC 15.570.040(B) or (C)] at least 10 feet deep along side and rear property lines where a visual separation of uses is desired. The width of the planting strip may be reduced to 5 feet if used in conjunction with a screen fence between 6-8 feet tall.
3. Other treatments that meet the purpose of the standards. Factors that must be considered in determining the appropriate treatment include views, applicable uses, connectivity, and desired level of privacy. Some options include:
    a. Shared pathway along or adjacent to the property line with landscaping. This is a desirable configuration that can enhance pedestrian circulation and provides an efficient use of space. This treatment requires a recorded agreement with applicable adjacent property owner(s).
    b. Shared internal drive along or adjacent to the property line. This is a desirable configuration for non-residential uses that can enhance circulation and provides an efficient use of space. This treatment requires a recorded agreement with applicable adjacent property owner(s).
    c. Tall privacy fence or hedge (up to 8 feet tall). This is most applicable where screening on-site uses is desired and/or for commercial uses adjacent to residential uses – where the fence doesn't negatively impact views from the street or nearby properties. Except for developments in the I-H Zone, landscaping elements shall be included in front of the fence to screen and soften the view of the fence.
    d. Low screen fence or hedge (up to 42 inches tall). This may be a more attractive option where a taller fence might provide negative visual impacts to the proposed or adjacent uses.
    e. Where allowed in the specific zoning district, buildings sited up to the property line may be acceptable provided material, color, and/or textural changes to the building wall are included that add visual interest to the wall. See ECC 15.530.060(D) for applicable zero-lot line building design provisions.

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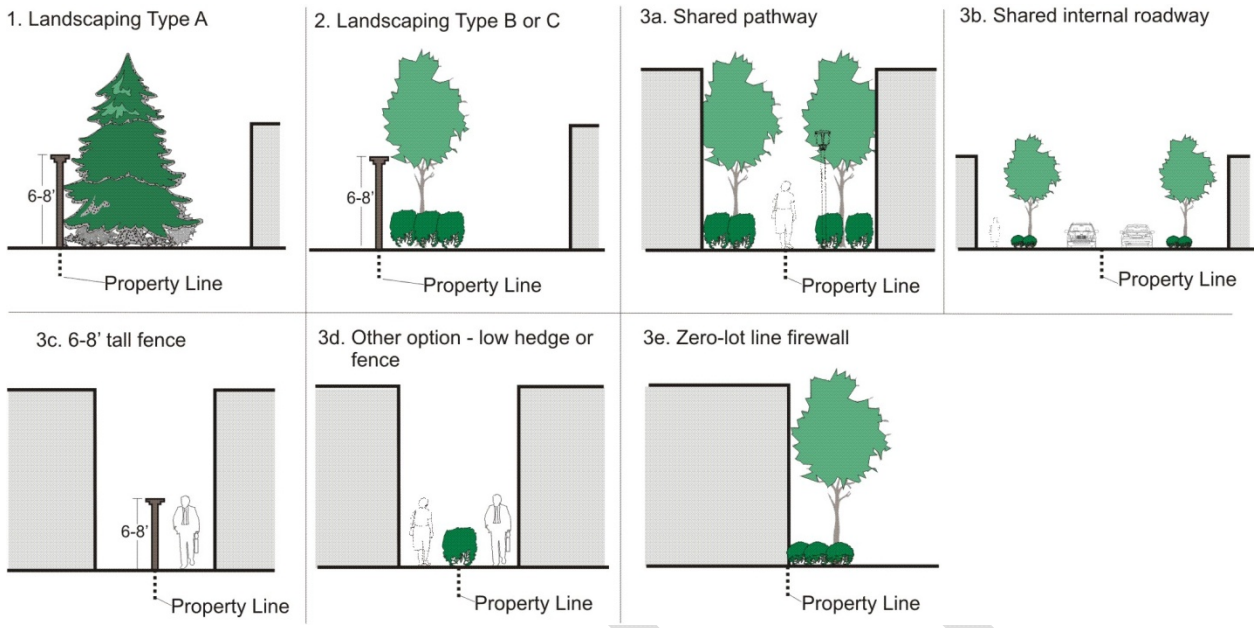

15.520.020(C). Illustrating the various side and rear yard design treatment standards and options.

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15.520.030 Open space for non-residential and multifamily uses.

A. Purpose.

1. To enrich the pedestrian environment in Ellensburg;
2. To provide accessible, safe, convenient, and usable on-site open space for residential uses;
3. To promote the health of residents by providing access to on-site open space for recreational activities, physical exercise, and/or food production;
4. To create open spaces that enhance the residential setting; and
5. To provide for pedestrian-oriented open space in conjunction with large scale commercial development.

B. Open space requirements for non-residential uses. [see Figure 15.520.030(B)]
All non-residential development on sites outside of the I-H zone more than one acre in size, including commercial portions of mixed use development, shall provide pedestrian-oriented space equal to at least one percent of the net project area plus one percent of the gross non-residential building floor area, exclusive of structured parking. The intent is to mitigate the impacts of large scale commercial development, provide outdoor spaces for resting, dining, and socializing, and to contribute to the desired pedestrian-oriented character of commercial areas and the economic viability of Ellensburg. The one percent standard is modest with respect to building and parking areas, provides for proportionality, and the standards provide flexibility in how the standard can be met. Buildings used entirely for storage purposes are exempt from this standard. Pedestrian-oriented space shall comply with the design provisions of paragraph (C) below. The applicable open space(s) shall be maintained by the property owner.

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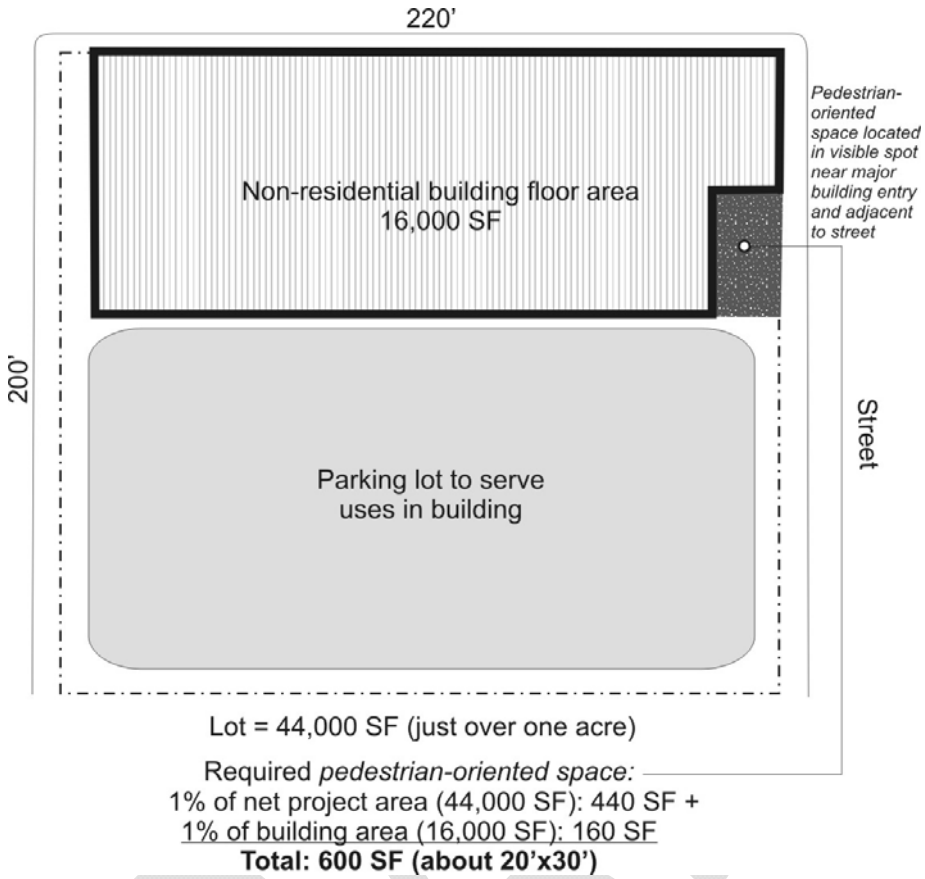

Figure 15.520.030(B). Illustrating the amount of open space required for non-residential development.

C. Pedestrian-oriented space design criteria.

These spaces, as required per paragraph (B) above, are intended to be publicly accessible spaces that enliven the pedestrian environment by providing (1) opportunities for outdoor dining, socializing, relaxing and (2) visual amenities that contribute to the character of commercial areas. Design criteria for pedestrian-oriented space:

1. Sidewalk area, where widened beyond minimum requirements, shall count as pedestrian-oriented open space. The additional sidewalk area may be used for outdoor dining and temporary display of retail goods. The standards in paragraphs (2) through (4) below shall not apply to sidewalks, where used as usable open space;
2. The following design elements are required for pedestrian-oriented open space:
   a. Spaces shall be physically and visually accessible from the adjacent street or major internal vehicle or pedestrian route. Spaces shall be in locations that the intended user can easily access and use, rather than simply left-over or undevelopable spaces where very little pedestrian traffic is anticipated;
   b. Paved walking surfaces of either concrete or approved unit paving;
   c. Pedestrian-scaled lighting (no more than 14 feet in height) at a level averaging at least 2-foot candles throughout the space. Lighting may be on-site or building-mounted lighting; (see ECC Chapter 15.580 Outdoor Lighting for additional lighting requirements.)

d. At least 3 feet of seating area (bench, ledge, etc.) or one individual seat per 60 square feet of plaza area or open space. This provision may be relaxed or waived where there are provisions for movable seating that meet the purpose of the standard;

e. Spaces shall be positioned in areas with significant pedestrian traffic to provide interest and security – such as adjacent to a building entry; and

f. Landscaping that adds visual or seasonal interest to the space.

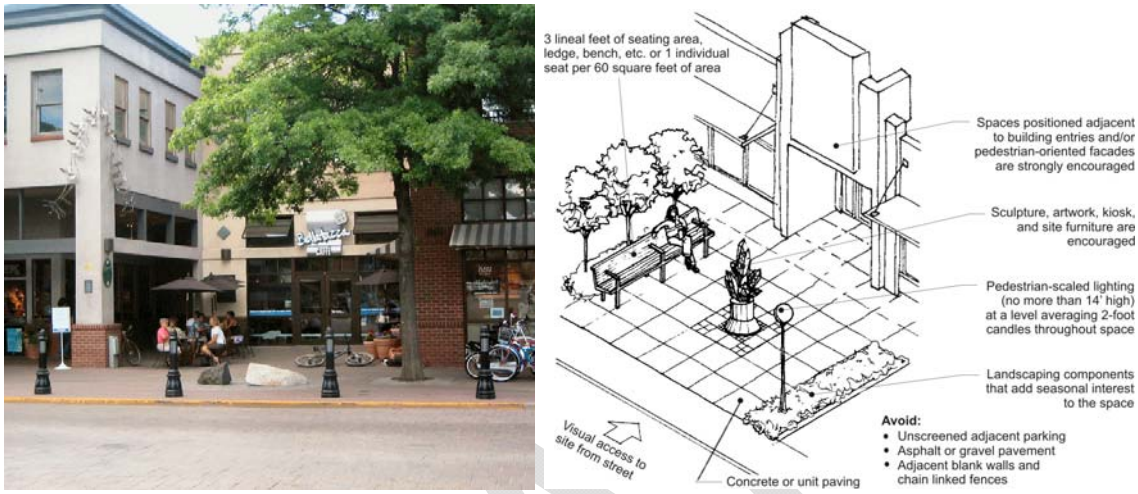

Figure 15.520.030(C). Examples of pedestrian-oriented open spaces.

3. The following features are encouraged in pedestrian-oriented space:

   a. Pedestrian amenities such as a water feature, drinking fountain, and/or distinctive paving or artwork;

   b. Provide pedestrian-oriented facades on some or all buildings facing the space;

   c. Consideration of the sun angle at noon and the wind pattern in the design of the space;

   d. Transitional zones along building edges to allow for outdoor eating areas and a planted buffer;

   e. Movable seating;

   f. Incorporation of water treatment features such as rain gardens or the use of an area over a vault as a pedestrian-oriented space; and

   g. Weather protection, especially weather protection that can be moved or altered to accommodate conditions.

4. The following features are prohibited within pedestrian-oriented space:

   a. Asphalt or gravel pavement, except where continuous gravel or asphalt paths intersect with the space;

   b. Adjacent chain link fences;

   c. Adjacent unscreened blank walls; and

   d. Adjacent dumpsters or service areas.

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D. Open space requirements for multifamily uses.

All multifamily development, including multifamily portions of mixed use development, shall provide open space at least equal to 10 percent of the building living space, not counting corridors, lobbies, etc. For example, for an 8-unit development where the units average 1,000 square feet, the minimum required open space shall be 800 square feet. The applicable open space(s) shall be maintained by the property owner or homeowners association, where applicable, per 15.290.020. The required open space may be provided in a combination of the following ways:

1. 100 percent of the required open space may be in the form of common open space available to all residents and meeting the requirements of subsection (E)(1) below. Common open space may be in the form of courtyards, front porches, patios, play areas gardens or similar spaces;
2. Up to 50 percent of the required open space may be provided by private or common balconies meeting the requirements of subsection (E)(2) below;
3. For mixed-use buildings up to 50 percent of the required open space may be provided by common indoor recreation areas meeting the requirements of subsection (E)(3) below;
4. For mixed-use buildings, up to 50 percent of the required open space may be provided by shared roof decks located on the top of buildings which are available to all residents and meet the requirements of subsection (E)(4) below; and/or
5. Up to 25 percent of the required open space may be provided by community garden areas meeting the requirements of subsection (E)(5) below.

E. Multifamily open space design criteria.

1. Common open space includes landscaped courtyards or decks, front porches, gardens with pathways, children's play areas, or other multi-purpose recreational and/or green spaces. Special requirements and recommendations for common open spaces include the following:
   a. Required setback areas shall not count towards the open space requirement unless they are portions of a space that meets the dimensional and design requirements and guidelines set forth below;
   b. Space shall be large enough to provide functional leisure or recreational activity. To meet this requirement, no dimension shall be less than 15 feet in width (except for front porches);
   c. Spaces (particularly children's play areas) shall be visible from at least some dwelling units and positioned near pedestrian activity;
   d. Spaces shall feature paths, landscaping, seating, lighting and other pedestrian amenities to make the area more functional and enjoyable;
   e. Individual entries may be provided onto common open space from adjacent ground floor residential units, where applicable. Small, semi-private open spaces for adjacent ground floor units that maintain visual access to the common area are encouraged to enliven the

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space. Low walls or hedges (less than 3 feet in height) are encouraged to provide clear definition of semi-private and common spaces;

f. Separate common space from ground floor windows, automobile circulation, service areas and parking lots by utilizing landscaping, low-level fencing, and/or other treatments that enhance safety and privacy (both for common open space and dwelling units);

g. Space should be oriented to receive sunlight, facing east, west, or (preferably) south, when possible;

h. Space should sited to minimize impacts from prevailing winds;

i. Stairways, stair landings and above grade walkways shall not encroach into minimum required common open space areas. An atrium roof covering may be built over a courtyard to provide weather protection provided it does not obstruct natural light inside the courtyard; and

j. Shared front porches qualify as common open space provided:

   i. No dimension is less than 8 feet; and

   ii. The porches are accessible to all residents.

Figure 15.520.030(D)(1). Examples of common open space.

2. Private balconies and decks. Such spaces shall be at least 35 square feet, with no dimension less than 4 feet, to provide a space usable for human activity. The space shall meet ADA standards. This standard also applies to individual front porches if counted toward townhouse open space requirements.

3. Indoor recreational areas. Such spaces shall meet the following conditions:

   a. The space shall meet ADA standards and shall be located in a visible area, such as near an entrance, lobby, or high traffic corridors; and

   b. Space shall be designed specifically to serve interior recreational functions and not merely be leftover unrentable space used to meet the open space requirement. Such space shall include amenities and design elements that will encourage use by residents.

4. Shared rooftop decks. Such spaces shall meet the following requirements:

   a. Space shall be ADA accessible to all dwelling units;

   b. Space shall provide amenities such as seating areas, landscaping, and/or other features that encourage use;

c. Space shall feature hard surfacing appropriate to encourage resident use; and

d. Space shall incorporate features that provide for the safety of residents, such as enclosures, railings, and appropriate lighting levels.

5. Community gardens. [see Figure 15.520.030(D(2)] Such spaces shall meet the following conditions:

a. All spaces shall be located to receive at least 6 hours of natural sunlight per day in summer months;

b. All spaces shall have access to irrigation;

c. All spaces shall have tillable soil to a depth of 1 foot, minimum;

d. Spaces may be provided in shared or private yard areas, at ground level, on balconies, or on rooftop decks;

e. Where some or all of the community garden is within shared common open space, a management program shall be required setting forth the following provisions.

i. Access to interested residents meeting minimum space requirements set forth herein;

ii. Provisions for space management and maintenance; and

iii. No additional fees shall be assessed to space users beyond standard homeowners' association or resident maintenance fees; and

f. Standards where community garden space is provided within shared common open spaces.

i. Walkways between planting beds shall be at least 2 feet wide; and

ii. Planting beds shall be raised above surface level. For ground level spaces, planting beds shall be raised at least 6 inches. For rooftop spaces, planting beds shall be raised by at least 18 inches.

Figure 15.520.030(D)(2). Community garden example.

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15.520.040 Internal pedestrian access and design.

A. Purpose. To improve the pedestrian environment by providing safe and clear connections between the sidewalk and adjacent uses, between businesses, and through parking lots.

B. Access to sidewalk. All buildings shall have clear pedestrian access to the sidewalk. Where a use fronts 2 streets, access shall be provided from the road closest to the main entrance, preferably from both streets. Buildings with entries not facing the street shall have a clear and obvious pedestrian access way from the street to the entry.

C. Sites with multiple businesses or buildings. Pedestrian paths or walkways connecting all businesses and the entries of multiple commercial buildings frequented by the public on the same development site shall be provided.

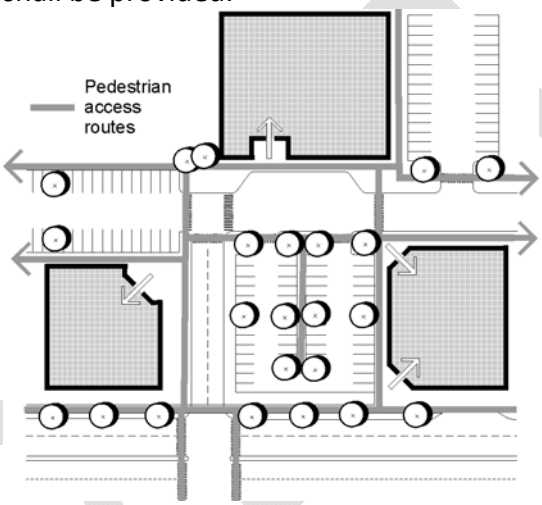

Figure 15.520.040(C). Good internal pedestrian circulation. Note connections from the street, between buildings and through parking lots.

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D. Parking lot pathways.

A hard-surfaced walkway with 6 feet of unobstructed width shall be provided for safe walking areas through parking lots greater than 150 feet long (measured either parallel or perpendicular to the street front). Walkways shall be provided for at least every 3 parking aisles or a distance of less than 150 feet shall be maintained between paths. Such access routes through parking areas shall be separated from vehicular parking and travel lanes by use of contrasting paving material, which may be raised above the vehicular pavement. Speed bumps may not be used to satisfy this requirement. Trees and pedestrian-scaled lighting (maximum 15 feet in height) shall be used to clearly define pedestrian walkways or other pedestrian areas within the parking area.

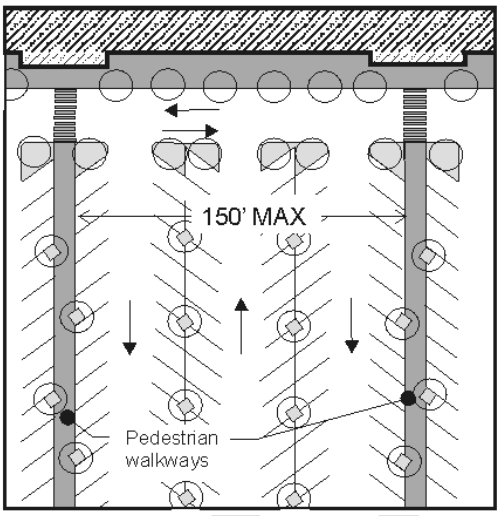

Figure 15.520.040(D). Parking lot pathway standards and example.

E. Internal walkway widths and design.

1. Pathways along the front facade of mixed-use and retail buildings 100 feet or more in length (measured along the facade) that are not located adjacent to a street must be at least 12 feet wide with 8 feet minimum unobstructed width and include the following:

   a. Street trees shall be placed at an average of 30 feet on-center and placed in planting pits (except where trees are placed in continuous planting strips). Breaks in the tree coverage will be allowed near major building entries to enhance visibility. However, no less than one tree per 60 lineal feet of building facade must be provided;

   b. Planting strips may be used between any vehicular access or parking area and the pathway, provided that the required trees are included and the pathway is at least 8 feet in width and the combined pathway and planting strip is at least 14 feet in width; and

   c. Pedestrian-scaled lighting may be used as a substitute to the required street trees, provided they are used at the same intervals.

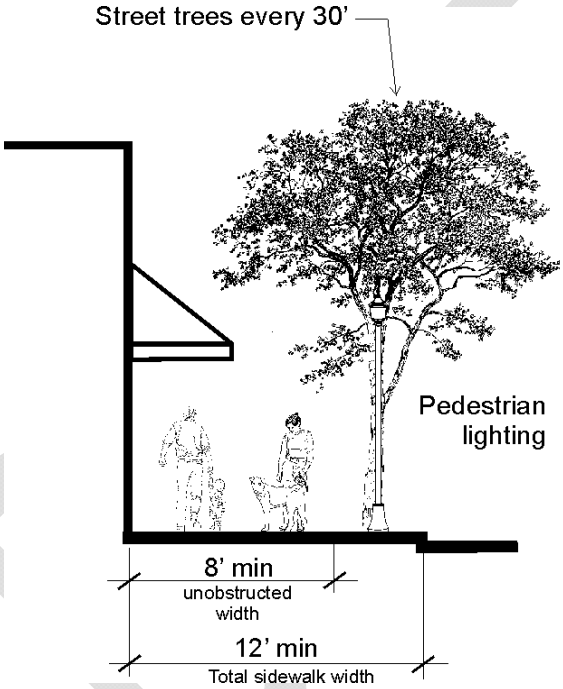

Figure 15.520.040(E)(1). Internal walkway standards and an example along retail or mixed-use buildings.

2. For all other interior pathways, the applicant shall successfully demonstrate that the proposed walkway is of sufficient width to accommodate the anticipated number of users.

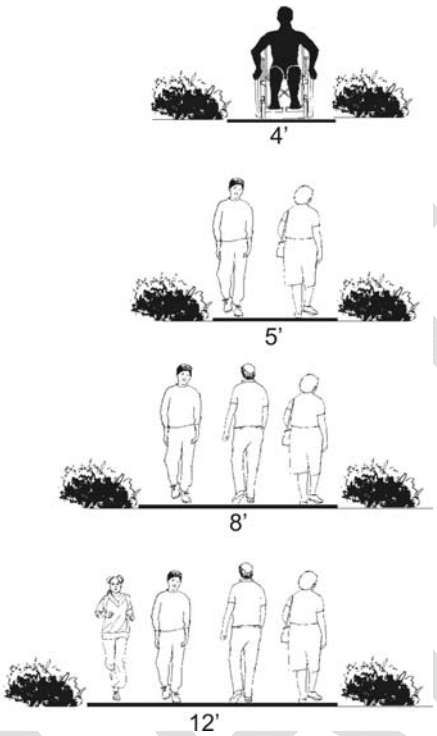

Figure 15.520.040(E)(2). Considerations for pathway walking widths.

F. Pedestrian crossings.

1. Crosswalks are required when a walkway crosses a paved area accessible to vehicles; and
2. Applicants must continue the sidewalk pattern and material across internal driveways.

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15.520.050 Internal vehicular circulation.

A. Purpose.

1. To create a safe, convenient, and efficient network for vehicle circulation and parking;
2. To enhance the visual character of interior access roads; and
3. To minimize conflicts with pedestrian circulation and activity.

B. Internal vehicular circulation standards.

All developments shall provide a safe and convenient network of vehicular circulation that connects to the surrounding road/access network and provides the opportunity for future connections to adjacent parcels, where applicable.

Large site circulation: Sites larger than 2 acres and deeper than 150 feet (as measured perpendicular to fronting right-of-way) are required to facilitate enhanced internal vehicular connections.

Specifically:

1. Multifamily and non-residential developments shall comply with applicable block design and connectivity standards set forth in ECC 15.420.020;
2. Where abutting developed land provides road stub-outs, easements, or other methods to provide the opportunity for future road connections, the interior network of the new development shall be designed to utilize these connections;
3. Buildings and internal vehicular access shall be configured to allow future redevelopment on applicable adjacent sites to connect to the project's internal roads. Examples include internal road stubouts, "T" intersections near the property line, or the capability of constructing a new vehicular connection based on the location and design of buildings.

Exceptions to (2) and (3) above:

a. On-site environmental conditions make such a connection cost prohibitive or undesirable; or
b. Applicable adjacent site is unlikely to be redeveloped in the near future based on the AV Value (ratio of the assessed value of improvements to the assessed value of land). Parcels with an AV ratio of less than 1.0, where the value of the building is less than the value of the land, are assumed to have redevelopment potential.

B. Driveways. See Section 3, driveway standards (public works development standards) (ADD LINK).

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C. Drive-through lanes.

1. Drive-through lanes shall be delineated from other pedestrian pathways and vehicular use areas by means of a landscaping divider median. See Table 15.550.040(A) for stacking requirements.
2. Drive-through lanes between a building and the street. All applicable developments shall comply with the following standards:
   a. For the purpose of the site orientation standards in ECC Chapter 15.510, drive through lanes between a street and a parking are considered as a parking lot;
   b. Drive through lanes shall be separated from the sidewalk by a planting strip with Type C landscaping at least 5 feet in width. Alternative landscaping schemes may be permitted provided they meet the minimum planting width requirement and help to mitigate the visual impact of the drive through use on the streetscape environment; and
   c. Drive through lanes shall not restrict pedestrian access between the sidewalk and on-site buildings, as determined by the reviewing authority. Where pedestrian routes cross drive through lanes, a crosswalk that is raised or features a change in texture and/or other treatment must be utilized to enhance the safety and visual appearance of the pedestrian crossing.

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15.520.060 Service areas and mechanical equipment.

A. Purpose.

1. To minimize the potential negative impacts of service elements; and
2. To encourage thoughtful siting of service elements that balance functional needs with the desire to screen negative impacts.

B. Service element location and design.

All developments shall provide a designated spot for service elements (refuse and disposal). Such elements shall meet the following requirements:

1. Service elements shall be located to minimize the negative visual, noise, odor, and physical impacts to the street environment, adjacent (on and off-site) residents or other uses, and pedestrian areas;
2. The designated spot for service elements shall be paved with concrete;

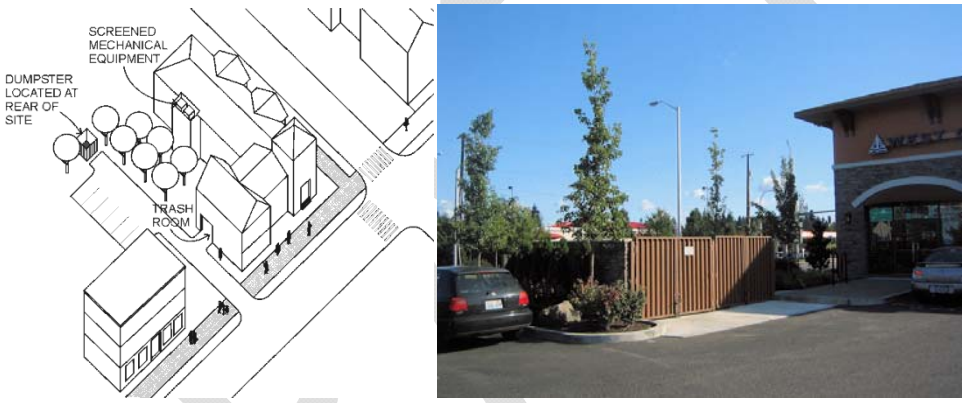

Figure 15.520.060(B). Appropriate service area location and enclosure example.

3. Appropriate enclosure of the common trash and recycling elements shall be required. Requirements and considerations:
   a. Service areas visible from the street, pathway, pedestrian-oriented space or public parking area (alleys are exempt) shall be enclosed and screened around their perimeter by a durable wall or fence at least 6 feet high. Developments shall use materials and detailing consistent with primary structures on-site. Acceptable materials include brick, concrete block or stone;
   b. The sides and rear of the enclosure must be screened with Type A, B, or C landscaping (see ECC 15.570.040) at least 5 feet deep in locations visible from the street, dwelling units, customer parking areas, or pathways to soften the views of the screening element and add visual interest;
   c. Collection points shall be located and configured so that the enclosure gate swing does not obstruct pedestrian or vehicle traffic, or does not require that a hauling truck project into any public right-of-way;
   d. Proximity to adjacent residential units will be a key factor in determining appropriate service element treatment; and
   e. Preferably, service enclosures are integrated into the building itself.

C. Utility meters, electrical conduit, and other service utility apparatus.

These elements shall be located and/or designed to minimize their visibility to the public. Project designers are strongly encouraged to coordinate with applicable service providers early in the design process to determine the best approach in meeting these standards. If such elements are mounted in a location visible from the street, pedestrian pathway, common open space, or shared auto courtyards, they shall be screened with vegetation or by architectural features.

Figure 15.520.060(C). Good and bad utility meter configurations. The examples on the left are consolidated and somewhat screened by landscaping elements, whereas the right examples are exposed and degrade the character of these townhomes.

D. Rooftop mechanical equipment.

All rooftop mechanical equipment shall be organized, proportioned, detailed, screened, landscaped (with decks or terraces) and/or colored to be an integral element of the building and minimize visual impacts from the ground level of adjacent streets and properties. For example, screening features should utilize similar building materials and forms to blend with the architectural character of the building.

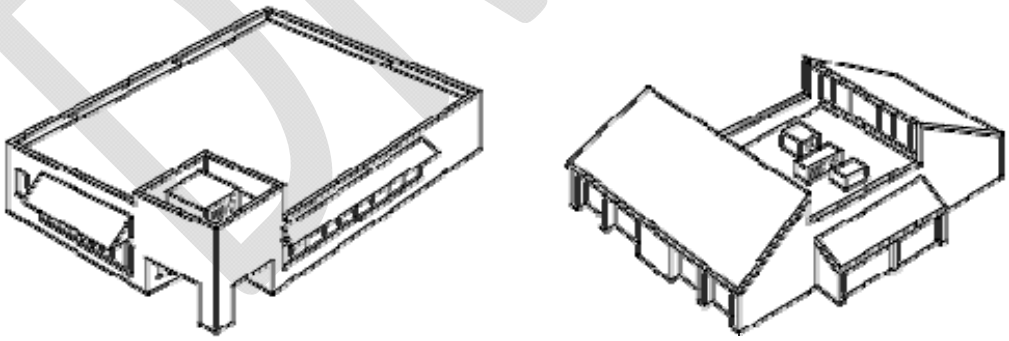

Figure 15.520.060(D). Screening examples of rooftop mechanical equipment.

15.520.070 Parking lot design.

A. Purpose. To minimize potential negative impacts of parking lots on the streetscape's visual character, pedestrian environment, local water quality conditions, and adjacent uses.

B. Surface parking lot screening standards.

1. Where new surface parking lots or parking lots associated with new construction or Level III Improvements (see 15.500.020) are adjacent to streets, one of the following buffer options between the sidewalk and the parking lot shall be incorporated:

   a. Provide a 5-foot wide planting bed that incorporates a continuous low wall (approximately 3 feet tall). The planting bed shall be in front of the wall and feature Type C landscaping [see ECC 15.570.040(C)]. DEPARTURES utilizing alternative landscaping schemes will be considered pursuant to ECC 15.210.060 provided they meet the purpose of the standards in this section. The wall shall be constructed of brick, stone, decorative concrete or concrete block, or other permanent material that provides visual interest and helps to define the street edge; [see Figure 15.520.070(B)(1)(a)] or

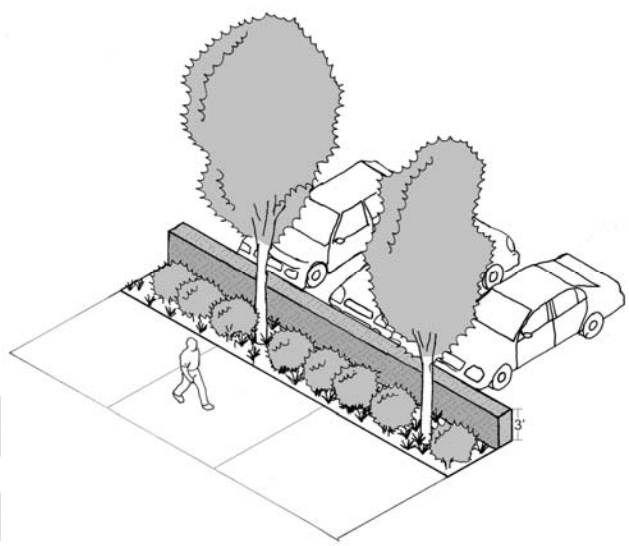

Figure 15.520.070(B)(1)(a). Parking lot planting buffer with low wall.

   b. Provide an elevated planter which is a minimum of 5 feet wide and between 2 and3 feet in height. Ledges that are approximately 12 inches in width are encouraged as they can double as a seating area. The planter must be constructed of masonry, concrete or other permanent material that effectively contrasts with the color of the sidewalk and combines groundcover and annuals, perennials, ornamental grasses, low shrubs, and/or small trees that provide seasonal interest; [see Figure 15.520.070(B)(1)(b)] or

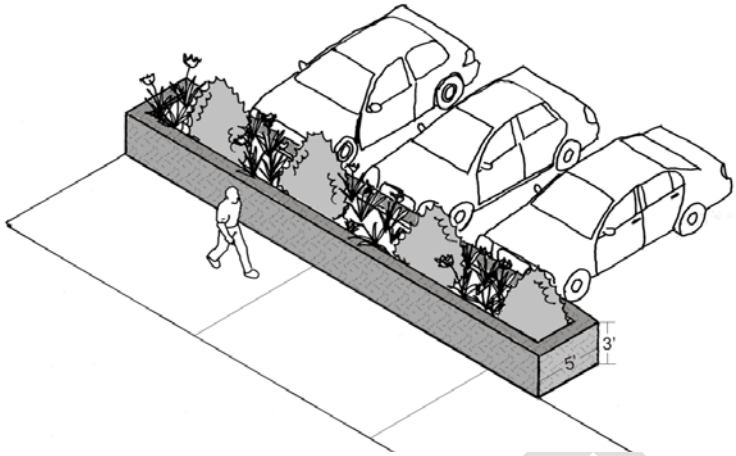

Figure 15.520.070(B)(1)(b). Elevated parking lot planting buffer.

c. Provide at least 10 feet of Type C landscaping [ECC 15.570.040(C)]. [see Figure 15.520.070(1)(c)]

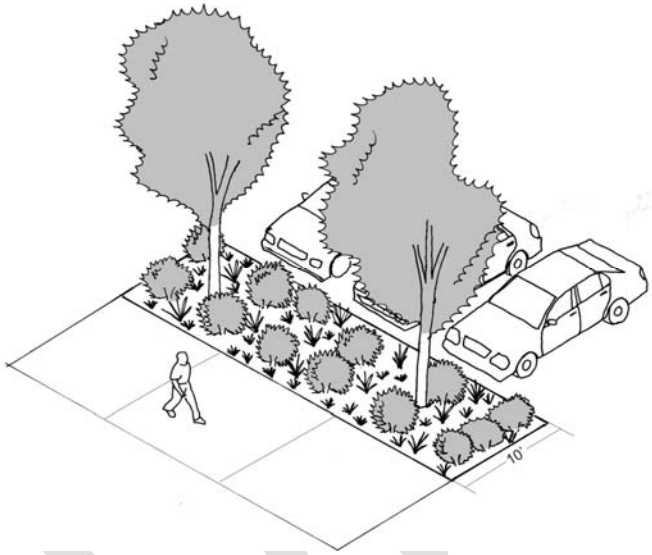

Figure 15.520.070(B)(1)(c). Example of a 10-foot parking lot buffer with Type C landscaping.

All options above should choose and maintain plantings to maintain eye level visibility between the street/sidewalk and parking area for safety. This means that shrubs and other low plantings should be maintained below 3 feet in height while trees (once they achieve taller heights) should generally have their crowns raised up to the 8-foot level. [see Figure 15.520.070(B)(1)(c)]

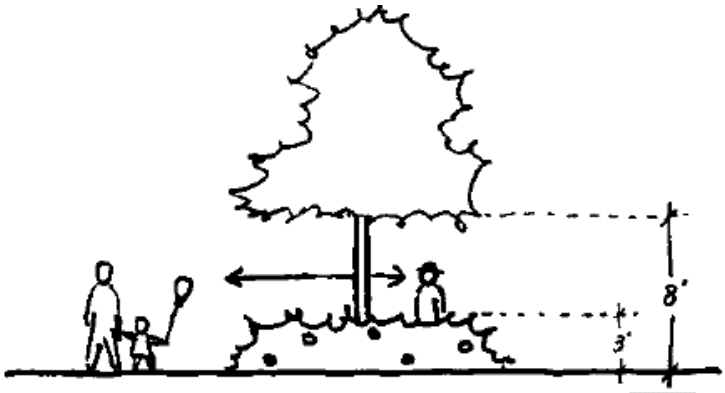

Figure 15.520.070(B)(1)(c). Parking lot planting buffers shall emphasize the 3:8 rule for visibility and safety.

d. Where new surface parking lots or parking lots associated with new construction or Level III Improvements (see 15.500.020) are located along side property lines, a 6-8 foot screen fence shall be required on the property line with at least 5 feet of Type A, B, or C landscaping (see ECC 15.570.040) in front of the fence. Breaks in the fence/landscaping are permitted for internal pedestrian and vehicular connections between properties. Properties fronting on designated Storefront Streets and/or those with shared parking agreements with applicable neighbors are exempt from this requirement. DEPARTURES will be considered pursuant to ECC 15.210.060 provided they meet the purpose of the standards in this section.

2. Other relevant code sections.

a. Section 6 (parking standards) of the city's public works development standards (ADD LINK) and ECC Chapter 15.550 (off-street parking);

b. Parking lot pathway standards set forth ECC 15.520.040(C); and

c. Internal parking lot landscaping standards set forth in ECC 15.570.050(A)(3).

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15.520.080 Special features and amenities.

A. Purpose.

1. To create attractive and comfortable pedestrian environments; and
2. To enhance the unique character and identity of downtown and other commercial/mixed-use areas within Ellensburg.

B. Durable pedestrian furniture. Pedestrian furniture provided in public spaces shall be made of durable, vandal- and weather-resistant materials that do not retain rainwater and can be reasonably maintained over an extended period of time.

C. Streetscape amenities.

Streetscape amenities must be integrated into the design of sidewalks in conjunction with new development and Level III Improvements [see 15.500.020(C)] along all designated Storefront and Secondary Streets. Level I and II Improvements [see 15.500.020(A) and (B)] and project sites adjacent to sidewalks that were recently constructed or upgraded by the city shall be exempt from these standards as determined by the director. For each 100 cumulative lineal feet of Storefront Street frontage, at least 2 of the desired amenity elements listed below shall be included. Along designated Secondary Streets, at least one amenity element shall be included. The type, location, and design of chosen amenities shall contribute to a well-balanced mix of features on the street. Such amenities shall be installed per ECC 4.14.100 and maintained by the adjacent property owner. Amenities below that are publicly funded, already required by code, and/or that obstruct pedestrian movement shall not qualify as an amenity to meet this standard.

Desired amenities include:

1. Seating. Each 6 feet of seating area or 4 individual seats count as one amenity element. Seating areas should generally be located in areas that provide views of pedestrian activity. Seating ledges must be at least 12 inches wide to qualify;
2. Trash receptacles. To qualify as an amenity, at least one trash receptacle is needed per 100 linear feet of sidewalk. For designated Storefront Streets, this shall be required;
3. Permanent landscaping elements including planting beds and other landscaping elements that add visual interest to the sidewalk;
4. Special pavement patterns and/or tree grates;
5. Bicycle racks;
6. Informational kiosks (may count as 2 amenity elements at the discretion of the permit review authority);
7. Decorative clocks (may count as 2 amenity elements at the discretion of the permit review authority);
8. Artwork as approved by the arts commission (may count as 2 amenity elements at the discretion of the arts commission);
9. Special lighting; and

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10. Other amenities that meet the purpose of the standards.

Figure 15.520.080. Examples of desirable streetscape amenities for Ellensburg.

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15.530 Building Design

15.530.010 Purpose & applicability.

A. Purpose. This section provides direction for the design of buildings consistent with the goals and policies of the Ellensburg comprehensive plan.

B. Applicability. Unless otherwise noted, the provisions in this section apply to all non-residential and multifamily development.

15.530.020 Historic buildings and districts.

A. Purpose. To preserve and reinforce the historic character of Ellensburg's downtown and older residential areas.

B. Historic buildings and districts standards and guidelines.

1. All development projects identified on the Ellensburg Landmarks Register are subject to review by the Ellensburg landmarks and design commission per ECC Chapter 15.280 and conformance with the following design standards for rehabilitating existing buildings.
   a. Retain and preserve the overall historic character of the building;
   b. Ensure that proposed alterations are compatible with the building's own architectural character, and do not create a false historical appearance;
   c. Retain and preserve early alterations which have architectural significance in their own right;
   d. Treat distinctive original features, finishes, and examples of skilled craftsmanship with sensitivity;
   e. Repair rather than replace deteriorated architectural features whenever possible;
   f. Use the gentlest means possible when surface cleaning exterior masonry;
   g. Protect and preserve significant archaeological sites affected by the project, or provide mitigation for their disturbance; and
   h. Design new additions to existing buildings and new infill construction to be compatible with the massing, scale, materials, and architectural features of adjacent historic structures.

   These standards are supplemented and further defined or explained by that document entitled "Design Standards for the City of Ellensburg (ADD LINK)," as currently enacted.

2. Property owners of historic district buildings shall use the Secretary of Interior's Standards for the Treatment of Historic Properties (web: http://www.nps.gov/hps/tps/standguide/) (hard copy also available at City Hall) as a guide to preserve, rehabilitate, restore, reconstruct, or add to historic properties. These standards provide detailed recommendations on restoration, maintenance, repair, replacement, design, alterations, building materials, roofs, interiors, etc.

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15.530.030 Architectural scale.

A. Purpose.

1. To reduce the scale of large buildings and add visual interest;
2. To promote compatible development in terms of architectural scale; and
3. To enhance the visual character of Ellensburg.

B. Building articulation – Storefronts.

All buildings adjacent to Storefront Streets (see ECC15.510.040 for maps) or meeting the definition of a storefront (see ECC 15.130.190 must include articulation features no more than every 40 feet to create a pattern of small storefronts. Buildings less than 60 feet wide are exempt from this standard. At least 2 of the following methods must be employed:

1. Use of window and/or entries that reinforce the pattern of small storefront spaces;
2. Use of weather protection features that reinforce small storefronts. For example, for a business that occupies 120 feet of frontage, use 3 separate awnings to break down the scale of the storefronts. Alternating colors of the awnings may be useful as well;
3. Change of roofline per ECC 15.530.030(F) below;
4. Use of vertical piers that reinforce the storefront pattern;
5. Change in building material or siding style; and/or
6. Other methods that meet the purpose of the standards.

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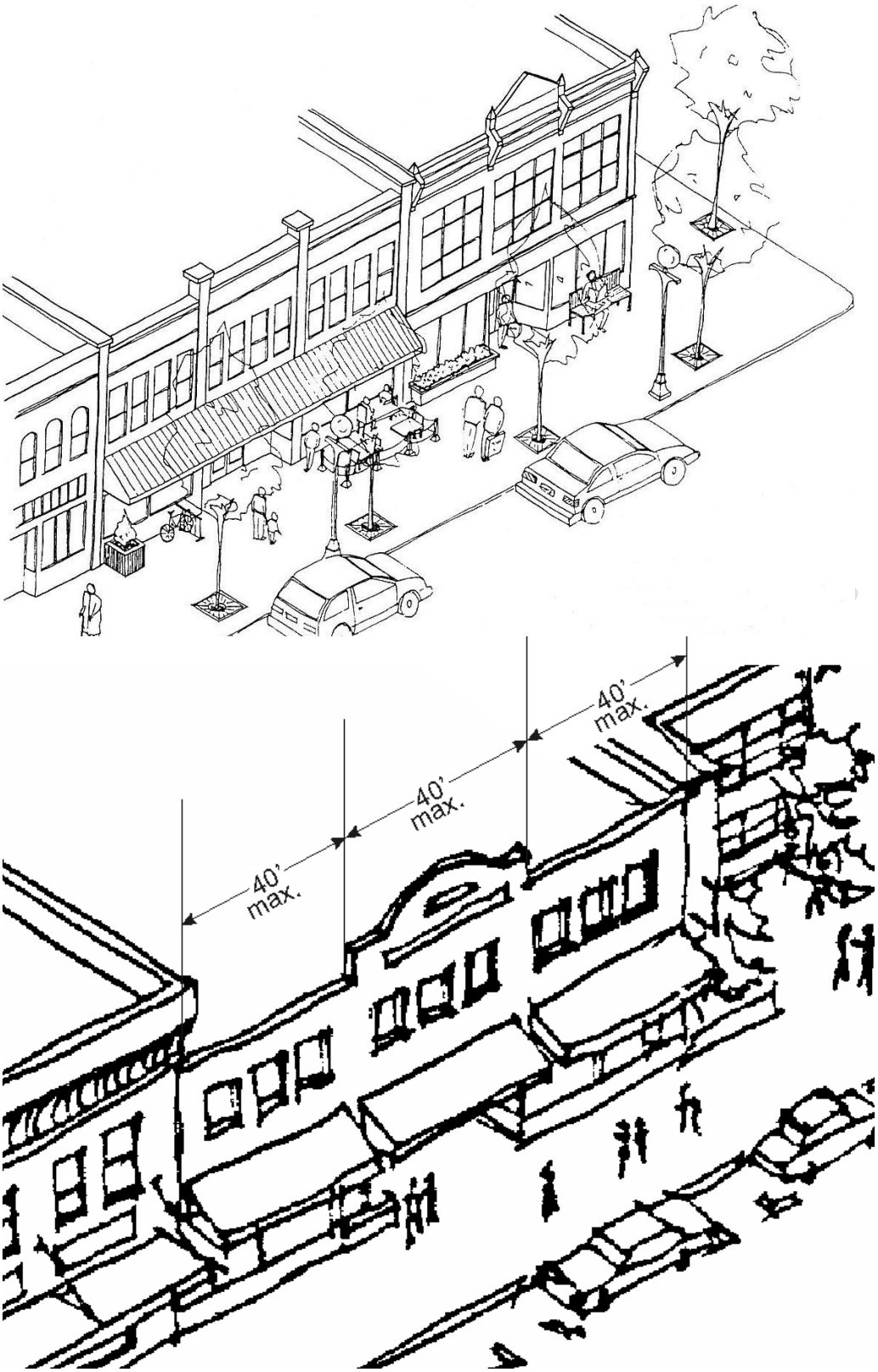

Figure 15.530.030(B). Storefront articulation examples.

DEPARTURES will be considered pursuant to ECC 15.210.060 provided the design meets the purpose of the standards in this section. For example, the proposed articulation may be longer, but if the building features attractive detailing, materials, interesting roofline treatments, and interesting storefront design that helps the design fit into the site's context and contributes to the pedestrian environment and existing/desired character, then perhaps it should be considered for approval as a departure.

C. Building articulation – Other non-residential /mixed-use buildings.
All other buildings featuring non-residential uses on the ground floor [not covered in ECC 15.530.030(B) above] shall include at least 3 of the following articulation features along all facades facing a street and containing the customer building entries (alley facades are exempt) at intervals of no more than 60 feet.

1. Providing vertical building modulation of at least 2 feet in depth and 4 feet in width if combined with a change in siding materials and/or roofline modulation per ECC 15.530.030(F) below. Otherwise, the vertical modulation shall be at least 10 feet deep and 15 feet wide, to qualify;
2. Providing horizontal modulation (upper level stepbacks). To qualify for this measure, the minimum upper level stepback shall be at least 5 feet and the treatment shall be used consistently with other articulation elements or utilized along at least 75 percent of the façade;
3. Repeating distinctive window patterns at intervals less than the articulation interval;
4. Providing a covered entry or separate weather protection feature for each articulation interval;
5. Use of vertical piers that reinforce storefront pattern. To qualify for this measure, the piers must project at least 2 inches from the façade and extend from the ground to the roofline;
6. Change of roofline per ECC 15.530.030(F) below;
7. Changing materials and/or color with a change in building plane;
8. Providing lighting fixtures, trellis, tree, or other landscape feature within each interval; and/or
9. Other methods that meet the purpose of the standards.

DEPARTURES will be considered pursuant to ECC 15.210.060 provided the design meets the purpose of the standards in this section. Criteria to consider are the level of detailing, quality of building materials, design of storefronts, and integration with/or enhancement of, the surrounding context.

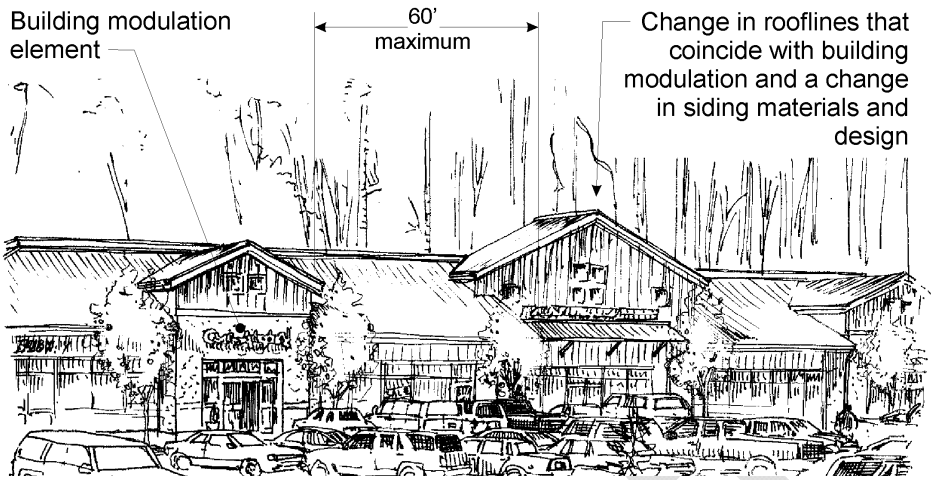

Figure 15.530.030(C). Building articulation example for other non-storefront commercial facades.

D. Building articulation – Multifamily buildings.

All multifamily buildings and residential portions of mixed-use buildings shall include at least 3 of the following articulation features at intervals of no more than 30 feet along all facades facing a street, common open space, and common parking areas:

1. Repeating distinctive window patterns at intervals less than the required interval;
2. Providing vertical building modulation. Minimum depth and width of modulation is 18 inches and 4 feet (respectively) if tied to a change in color or building material and/or roofline modulation as defined in ECC 15.530.030(F) below. Otherwise, minimum depth of modulation is 10 feet and minimum width for each modulation is 15 feet. Balconies may not be used to meet modulation option unless they are recessed or projected from the façade and integrated with the building's architecture. For example, "cave" balconies or other balconies that appear to be "tacked on" to the façade will not qualify for this option;
3. Change of roofline per ECC 15.530.030(F) below;
4. Providing horizontal modulation (upper level step-backs). To qualify for this measure, the minimum upper level stepback shall be at least 5 feet and the treatment shall be used consistently with other articulation elements or utilized along at least 50 percent of the façade;
5. Articulating of the building's top, middle, and bottom. This includes a distinctive ground floor or lower floor design, consistent articulation of middle floors, and a distinctive roofline; and/or
6. Other methods that meet the purpose of the standards.

DEPARTURES will be considered pursuant to ECC 15.210.060 provided the design meets the purpose of the standards in this section. Criteria to consider are the level of detailing, quality of building materials, types and length of articulated features, and integration with/or enhancement of, the surrounding context.

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For articulation of townhouses, see ECC 15.540.060(E).

Figure 15.530.030(D)(1). Articulation for multifamily buildings.

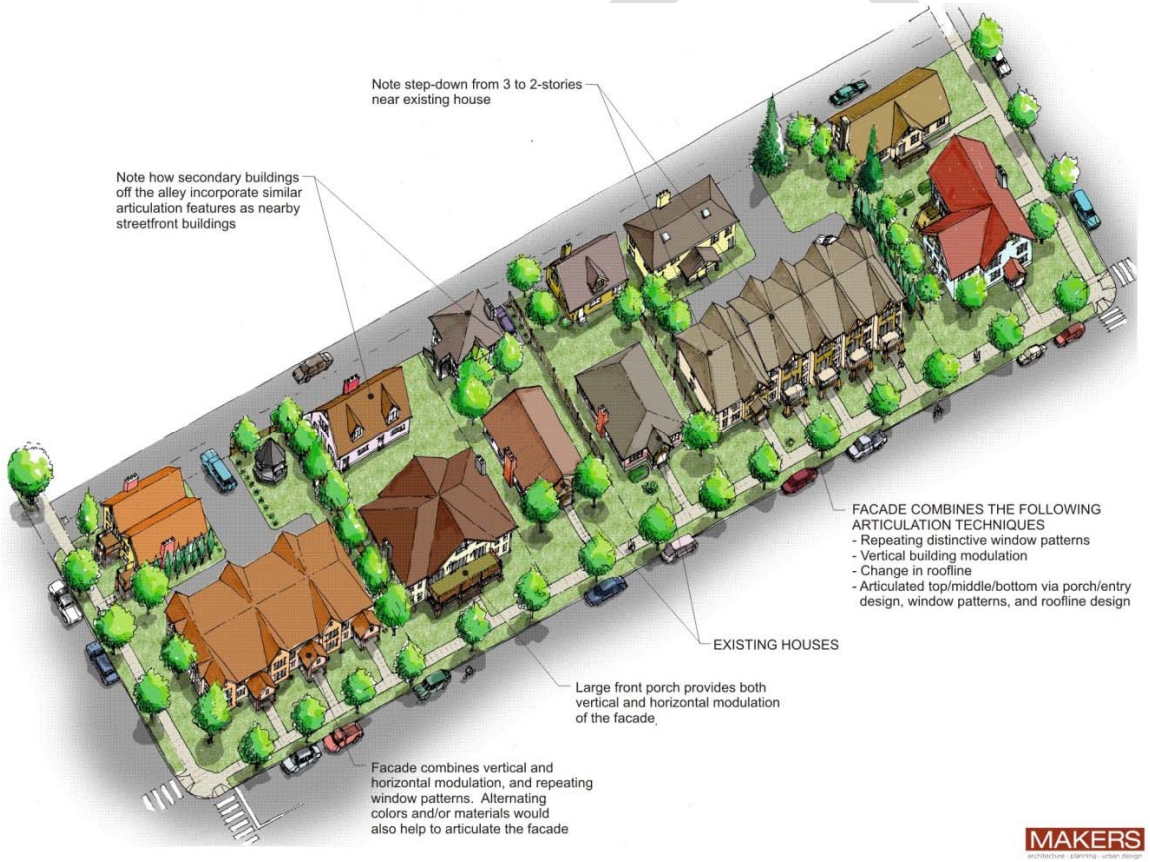

Figure 15.530.030(D)(2). Illustrating desirable multifamily building articulation compatible with the design of older neighborhood homes.

E. Roofline/cornice design options.

Rooflines visible from a public street, open space, or public parking area must meet one of the following design options:

1. Comply with roofline modulation provisions per ECC 15.530.030(F) below;
2. Provide a decorative building cornice that projects at least 6 inches from the face of the building. The cornice line must extend along at least 75 percent of the façade; or
3. Any combination of the options above.

Buildings in the I-H zone and buildings in the I-L zone that are primarily used for manufacturing, storage, and/or service uses and are generally not visible from the street or customer parking lot are exempt from this standard.

Figure 15.530.030(E)(1). Decorative cornice examples on existing historic buildings downtown (left images). The right image shows examples of a variety of cornice designs on a new building.

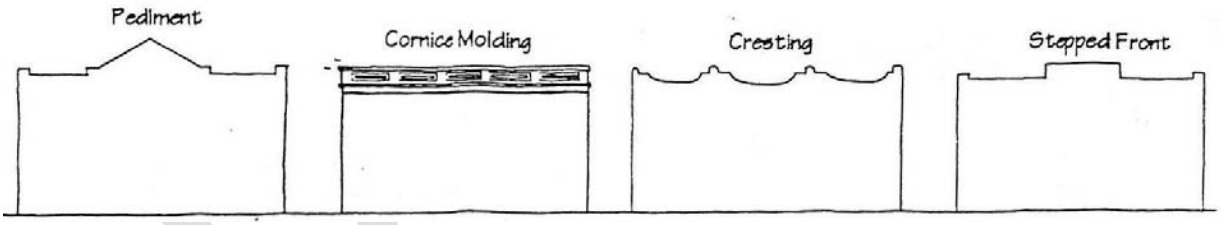

Figure 15.530.030(E)(2). Acceptable roof forms for commercial buildings.

F. Roofline modulation.

In order to qualify as a roofline modulation treatment in the standards herein, rooflines shall be varied by emphasizing dormers, chimneys, stepped roofs, gables, or a broke or articulated roofline consistent with the required articulation interval. Modulation shall consist of either:

1. For flat roofs or facades with horizontal eave, fascia, or parapet, the minimum vertical dimension of roofline modulation is the greater of 2 feet or 0.1 multiplied by the wall height (finish grade to top of the wall) when combined with vertical building modulation techniques described in paragraphs (C)(2) above. Otherwise, the minimum vertical dimension of roofline modulation is the greater of 4 feet or 0.2 multiplied by the wall height;
2. A sloped or gabled roofline segment of at least 20 feet in width and a minimum slope of 6:12. The roofline must include modulated segments at no more than the interval required per the applicable standard above; or
3. A combination of the above.

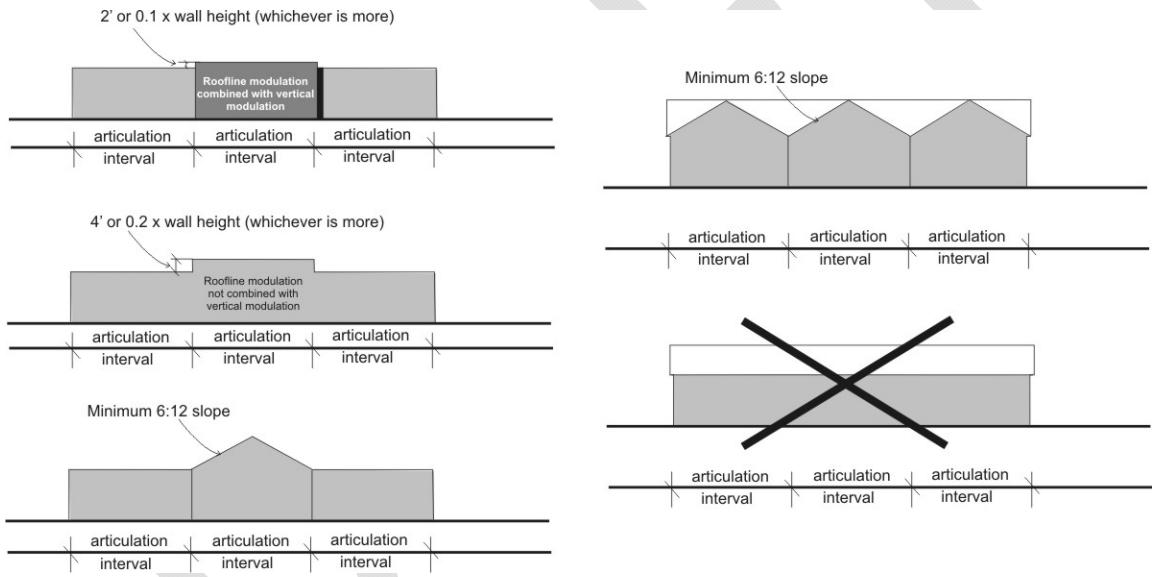

Figure 15.530.030(F). Roofline modulation standards.

G. Maximum façade width.

The maximum façade width (facades facing the street or customer parking lot) for commercial and residential buildings is 120 feet (buildings in the I-H zone are exempt from this standard). Exceptions: Buildings exceeding 120 feet in width shall incorporate significant modulation and/or articulation features that effectively break up the scale of the building and add visual interest from the street. Such buildings shall incorporate at least one of the following design elements:

1. Provide vertical building modulation at least 10 feet deep and 20 feet wide. For multi-story buildings the modulation must extend through more than one-half of the building floors;
2. Use of a contrasting vertical modulated design component featuring at least two of the following:
   a. Component extends through all floors above the first floor fronting on the street. Exception: upper floors that are stepped back more than 10 feet from the façade are exempt;
   b. Utilizes a change in building materials that effectively contrast from the rest of the façade;
   c. Component is modulated vertically from the rest of the façade by an average of 6 inches; and
   d. Component is designed to provide roofline modulation per ECC 15.530.030(F) above; or
3. Façade employs building walls with contrasting articulation that make it appear like 2 distinct buildings. To qualify for this option, these contrasting facades must employ both of the following:
   a. Different building materials and/or configuration of building materials; and
   b. Contrasting window design (sizes or configurations).

DEPARTURES will be considered pursuant to ECC 15.210.060 provided the design meets the purpose of the standards in this section. Elements to consider are the level of detailing, quality of building materials, types of articulated features, and integration with/or enhancement of, the surrounding context (considering views from all publicly observable locations within the area).

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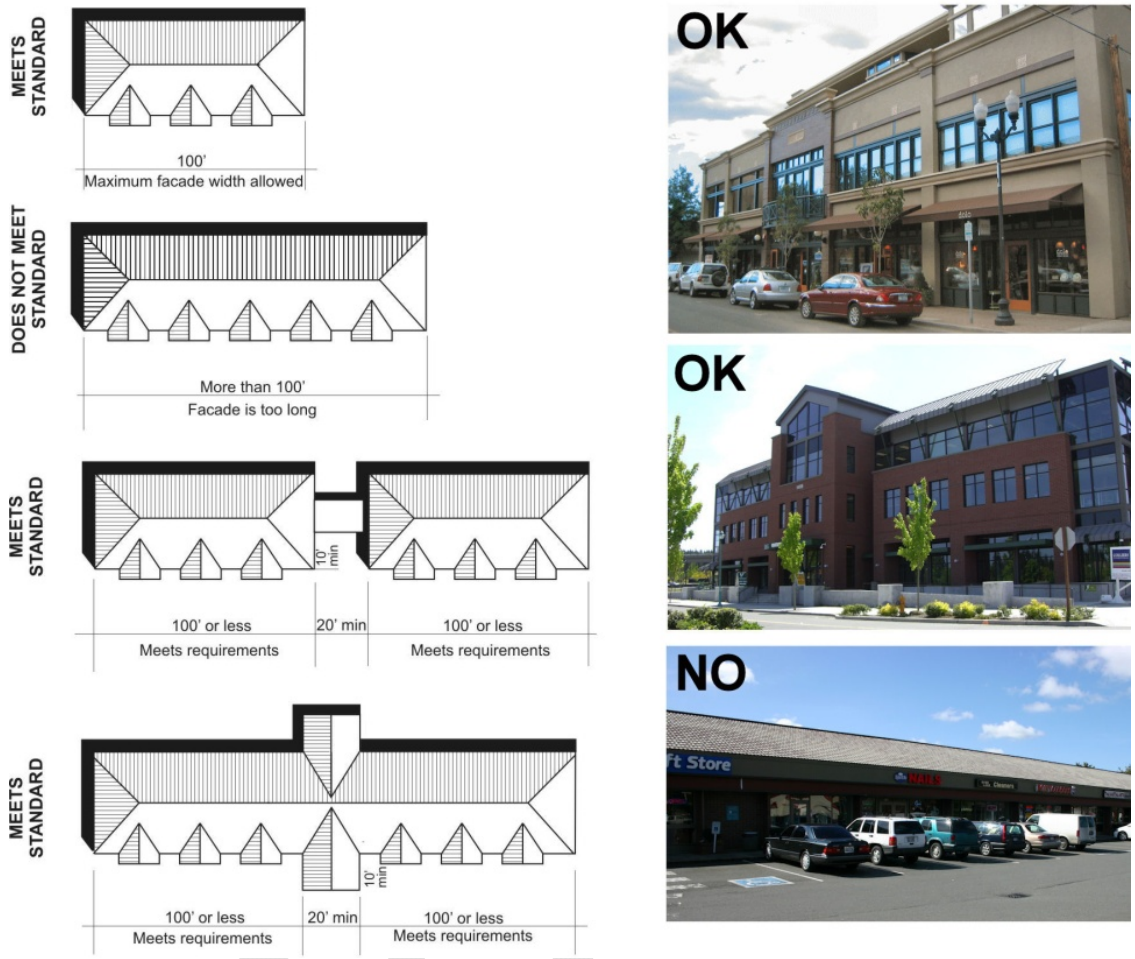

Figure 15.530.030(G). Maximum façade width standards and acceptable/unacceptable departure examples. The upper right examples uses a chance in materials, façade articulation (window styles), and roofline change. The middle right image uses substantial façade and roofline modulation. The lower right doesn't include any notable articulation or modulation.

15.530.040 Building elements and details.

A. Purpose. To encourage the incorporation of design details and small-scale elements into building facades that are attractive at a pedestrian scale.

B. Applicability. All non-residential and mixed-use buildings shall comply with the building elements and details standards herein unless otherwise noted.

C. Façade details toolbox.
All non-residential and mixed-use buildings shall be enhanced with appropriate details. All new buildings and additions and buildings associated with Level II and III Improvements must employ at least one detail element from each of the 3 categories below for each façade facing a street, featuring a customer entry, or featuring the primary residential entry for each façade articulation interval (see ECC 15.530.030). For example, a building with 120 feet of street frontage with a façade articulated at 40-foot intervals will need to meet the standards for each of the 3 façade segments below.

1. Window and/or entry treatment:
   a. Display windows divided into a grid of multiple panes;
   b. Transom windows;
   c. Roll-up windows/doors;
   d. Other distinctive window treatment that meets the purpose of the standards;
   e. Recessed entry;
   f. Decorative door;
   g. Arcade;
   h. Landscaped trellises or other decorative element that incorporates landscaping near the building entry; or
   i. Other decorative or specially designed entry treatment that meets the purpose of the standards.
2. Building elements and façade details:
   a. Custom-designed weather protection element such as a steel canopy, cloth awning, or retractable awning;
   b. Decorative, custom hanging sign(s);
   c. Decorative building-mounted light fixtures;
   d. Bay windows, trellises, towers, and similar elements; or
   e. Other details or elements that meet the purpose of these standards.
3. Building materials and other facade elements:
   a. Use of decorative building materials/use of building materials. Examples include decorative use of brick, tile, or stonework;
   b. Artwork on building (such as a mural) or bas-relief sculpture;

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c. Decorative kick-plate, pier, beltcourse, or other similar feature;

d. Hand-crafted material, such as special wrought iron or carved wood; or

e. Other details that meet the purpose of the standards.

"Custom," "decorative," or "hand-crafted" elements referenced above must be distinctive or "one-of-a-kind" elements or unusual designs that require a high level of craftsmanship.

DEPARTURES to the standards above will be considered pursuant to ECC 15.210.060 provided the number, quality, and mix of details meet the purpose of the standards in this section.

Figure 15.530.040(C). Façade details examples. The building on the left uses decorative windows and doors, decorative roofline and columns, and decorative materials (brick and wood). The center image uses a decorative entry feature (metal feature over entry), decorative weather protection and lighting, and decorative use of brickwork. The right image uses decorative wood beams over the entry, decorative windows and doors, and stonework.

D. High visibility street corner buildings.

Buildings located at designated high visibility street corners [see subsection (1) below] shall provide one or more of the elements listed in subsection (2) on the building corner. All corner building design elements must be sized to be proportional to the building and the size of the applicable intersection (for example, larger intersections warrant more substantial design treatments).

1. Designated high visibility street corners include all street corners within the Downtown Historic District (see Figure 15.300.060) and other street corners illustrated in Figure 15.530.040(D)(2) below.

2. Street corner design element options:

   i. A cropped building corner with corner pedestrian entry;

   ii. A bay window or turret;

   iii. A clock or bell tower;

   iv. Balconies above the ground floor;

   v. Sculpture or artwork element; Must be a one-of-a-kind design element;

   vi. Distinctive use of facade materials; and/or

vii. Other special or unique corner building treatment, other than the use of fabric or vinyl awnings, for pedestrian weather protection at the corner of the building.

Figure 15.530.040(D)(1). Desirable building corner examples.

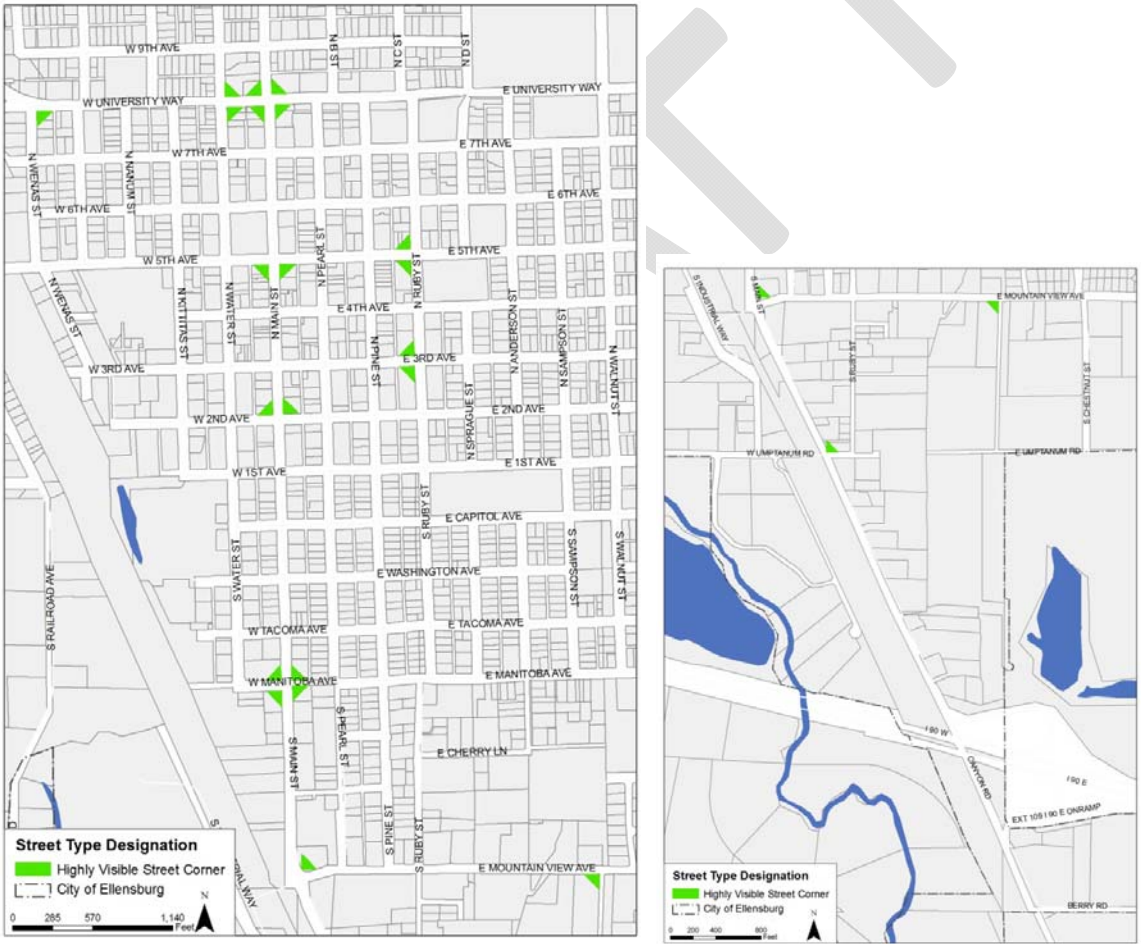

Figure 15.530.040(D)(2). Designated high visibility street corners. All street corners within the Downtown Historic District are considered a High Visibility Street Corner.

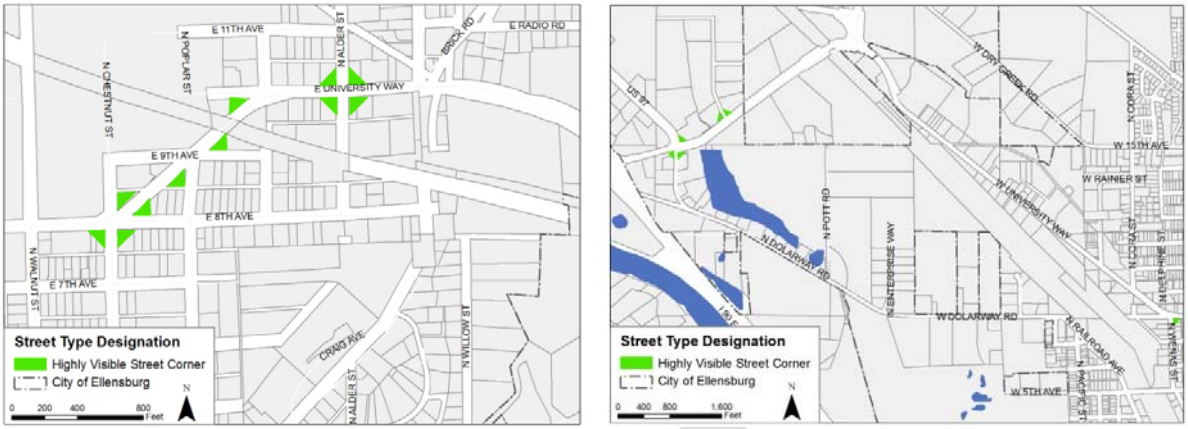

Figure 15.530.040(D)(2). Designated high visibility street corners, cont.

E. Window design.

Buildings shall employ techniques to recess or project individual windows above the ground floor at least 2 inches from the façade or incorporate window trim at least 4 inches in width that features color that contrasts with the base building color. Buildings in the I-H zone and facades of buildings in the I-L zone that do not face a street or contain a customer entrance are exempt from this standard. DEPARTURES will be considered pursuant to ECC 15.210.060 where buildings employ other distinctive window or facade treatment that adds a sense of depth to the facade and/or visual interest to the building.

Figure 15.530.040(E). Acceptable and unacceptable (far right image) window design on upper floors. Note that the windows in the brick building on the left are recessed from the façade. The windows in the middle images include trim. The image on the right includes no trim or recess/projection, and thus would not be permitted.

F. Year of construction plaque. All new commercial and mixed-use buildings may note the year of construction of the building by the installation of a plaque attached to the building near the main entrance. Numbers etched into stone, brick, or concrete may be used in lieu of a plaque. The year of construction is to be noted by numbers not less than 6 inches high nor more than 12 inches high. Other information associated with the building that may be of public interest may be included.

15.530.050 Building materials.

A. Purpose.

1. To encourage high-quality building materials that reinforce the historic small town character of Ellensburg.
2. To discourage poor materials with high life-cycle costs.
3. To encourage the use of materials that reduce the visual bulk of large buildings.

B. Applicability. All non-residential and mixed-use buildings shall comply with the materials standards herein. Exception: Buildings in the I-H zone and buildings in the I-L zones that do not face a street or contain a customer entrance are exempt from these standards.

C. Metal siding standards.
Metal siding may be used if it is incorporated with other permitted materials and it complies with the following:

1. It features visible corner molding and trim and does not extend lower than 2 feet above grade. Masonry, concrete, or other durable material must be incorporated between the siding and the ground plane;
2. Metal siding shall be factory finished, with a matt, non-reflective surface; and
3. The use of metal siding is prohibited on all landmark register properties and within all historic districts.

Figure 15.530.050(C). Acceptable and unacceptable metal siding examples. Notice the corner and window trim and use of concrete block near the ground level on the left image. The circled area on the right includes metal siding all the way to the ground, which is prohibited.

D. Concrete block standards.

Concrete block may be used if it is incorporated with other permitted materials and it complies with the following:

1. When used for the primary façade, buildings must incorporate a combination of textures and/or colors to add visual interest. For example, combining split or rock-façade units with smooth blocks can create distinctive patterns; and
2. Concrete block may comprise no more than 50 percent of a façade facing a public right-of-way or open space. DEPARTURES to this standard will be considered pursuant to ECC 15.210.060 provided design treatments are included to enhance the visual character of the building at all observable scales.

Figure 15.530.050(D). Acceptable and unacceptable concrete block examples. The left example uses a mixture of split-faced colored concrete block and smooth-faced concrete block, together comprising just under 50 percent of the whole façade. The large expanse of smooth-faced concrete block on the right is not desirable for Ellensburg facades.

E. Standards for EIFS or other similar synthetic stucco finishes.

EIFS refers to "Exterior Insulation Finishing System". Such material/finishes (including other similar synthetic stucco materials) may be used if it is incorporated with other permitted materials and it complies with the following:

1. EIFS must be trimmed in wood, masonry, or other material and must be sheltered from extreme weather by roof overhangs or other methods and are limited to no more than 50 percent of the façade area facing a public right-of-way or open space. DEPARTURES to this standard will be considered pursuant to ECC 15.210.060 provided design treatments are included to enhance the visual character of the building at all observable scales;
2. Horizontal surfaces exposed to the weather must be avoided; and
3. EIFS and similar surfaces should not extend below 2 feet above the ground plane. Concrete, masonry, or other durable material must be used for wall surfaces within 2 feet of grade to provide a durable surface where damage is most likely.

Figure 15.530.050(E). Acceptable and unacceptable stucco examples. The left image uses concrete block near the sidewalk, while the Petco maintains EIFS to the base of the façade.

F. Prohibited materials.

1. Mirrored glass where used on more than 10 percent of the façade;
2. T-111 siding and similar processed sheet products;
3. Chain-link fencing (except for temporary fencing and for parks);
4. Fiberglass products and similar sheet products; and
5. Back-lit vinyl awnings used as signs.

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15.530.060 Blank wall treatment.

A. Purpose.

a. To avoid untreated blank walls.

b. To retain and enhance the character of Ellensburg's streets, business districts, and neighborhoods.

B. Blank wall definition. A wall (including building façades and retaining walls) is considered a blank wall if:

1. A ground floor wall or portion of a ground floor wall over 6 feet in height has a horizontal length greater than 15 feet and does not include a transparent window or door; or

2. Any portion of a ground floor wall having a surface area of 400 square feet or greater does not include a transparent window or door.

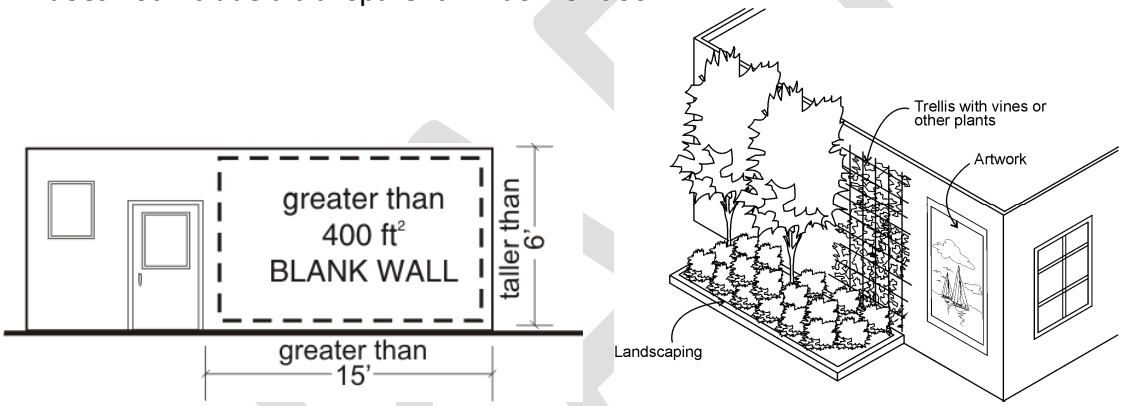

Figure 15.530.060(B). Blank wall definition and treatment examples.

C. Blank wall treatment standards.
Untreated blank walls visible from a public street or pedestrian pathway are prohibited. Methods to treat blank walls can include:

1. Display windows at least 16 inches of depth to allow for changeable displays. Tack on display cases shall not qualify as a blank wall treatment;

2. Landscape planting bed at least 5 feet wide or a raised planter bed at least 2 feet high and 3 feet wide in front of the wall with planting materials that are sufficient to obscure or screen at least 60 percent of the wall's surface within 3 years;

3. Installing a vertical trellis in front of the wall with climbing vines or plant materials;

4. Installing a mural as approved by the reviewing authority; and/or

5. Special building detailing that adds visual interest at a pedestrian scale. Such detailing must use a variety of surfaces; monotonous designs will not meet the purpose of the standards.

   For large visible blank walls, a variety of treatments may be required to meet the purpose of the standards.

D. Firewalls along property lines are exempt from the above standards, but where they are visible to the public, they shall include horizontal and/or vertical banding or other design treatments to add visual interest to the wall.

Figure 15.530.060(D). Acceptable and unacceptable fire wall treatments. Note the use of horizontal banding in the left image. Plain concrete block as in the right image is not allowed.

15.530.070 Energy efficient building design.

The following provisions are intended to encourage energy efficient building design within Ellensburg.

A. Purpose.

1. To reduce greenhouse gas emissions resulting from buildings; and
2. To encourage high quality energy efficient construction that reduces long term maintenance costs.

B. Residential buildings. New and remodeled buildings should be designed to meet the Northwest ENERGY STAR Homes Certification Requirements for Single Family Homes or Multifamily Homes (link: http://www.northwestenergystar.com/partner-resources/bopmulti/index.html).

C. Commercial or mixed-use buildings. New and remodeled buildings should be designed to earn the ENERGY STAR rating by achieving the rating of 75 or higher using the EPA Energy Target Finder tool (link: http://www.energystar.gov/index.cfm?c=new_bldg_design.bus_target_finder).

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15.540 Housing Type Standards

15.540.010 Purpose and applicability.

A. Purpose. This section provides supplemental direction for the design of new residential developments consistent with the goals and policies of the comprehensive plan.

B. Applicability. Each section herein provides standards that apply to a particular type of housing. Like all other standards in this article, the provisions herein supplement other relevant standards set forth in ECC, most notably the zoning provisions and dimensional standards set forth in ECC Chapter 15.320. Triplexes and townhouses are also subject to all other provisions in this article unless otherwise noted.

15.540.020. Single family design standards.

A. Purpose.

1. To enhance the character of the street;
2. To maintain "eyes on the street" for safety to pedestrians and to create a more welcoming and interesting streetscape;
3. To deemphasize garages and driveways as major visual elements along the street; and
4. To provide usable yard space for residents.

B. Entries and façade transparency.

1. Clear and obvious pedestrian access between the sidewalk and the building entry is required for new homes (the driveway may be used to help meet this requirement) ;
2. All new houses shall provide a covered entry. Covered entries may project up to 6 feet into the front yard per ECC Chapter 15.320; and
3. At least 10 percent of the façade (all vertical surfaces facing the street) shall include transparent windows or doors. For facades facing north, at least 8 percent of the facade shall include transparent windows or doors.

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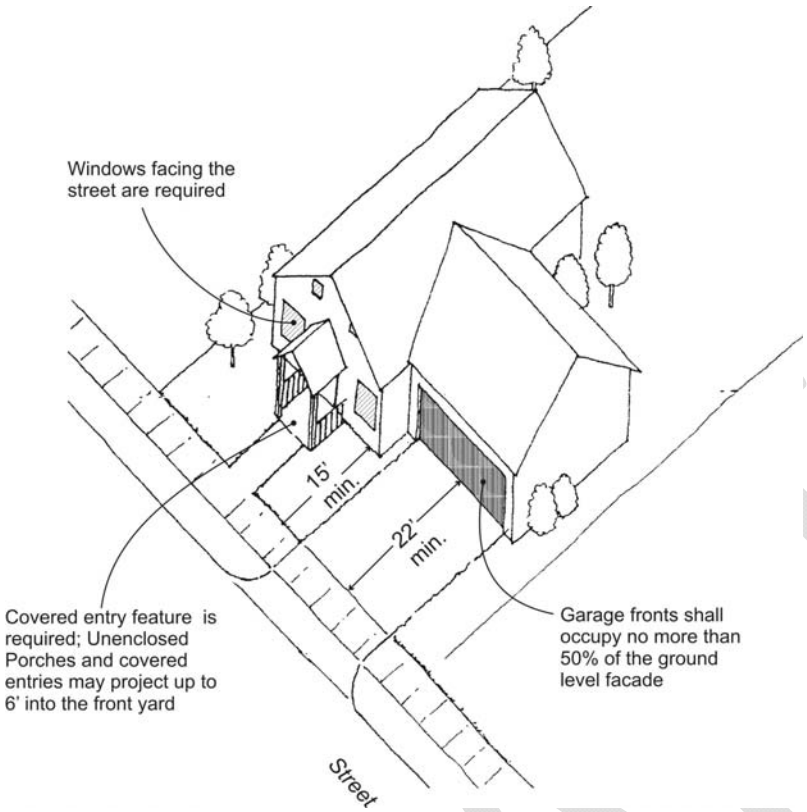

Figure 15.540.020(B). Single-family design requirements.

C. Garages placement and design.

1. Where lots abut an alley, the garage or off-street parking area are encouraged to take access from the alley;
2. The garage doors shall occupy no more than 50 percent of the ground-level façade facing the street. DEPARTURE: garage doors may exceed this limit up to a maximum of 65 percent of the ground level façade facing the street provided at least 2 of the following design details are utilized. For front loaded lots where the garage faces the street and the garage is even with the façade of the house or less than 5 feet behind the front façade of the house, at least one of the following design details shall be utilized:
   a. A decorative trellis over the entire garage;
   b. A window or windows are placed above the garage on a second story or attic space under roofline;
   c. A balcony that extends out over the garage and includes columns;
   d. Utilizing all single vehicle car doors as an alternative to wider garage doors suitable for two car garages;
   e. Decorative windows on the garage door;
   f. Decorative details on the garage door. Standard squares on a garage door will not qualify as a decorative detail;

g. A garage door color (other than white) that matches or complements the color of the house; and/or

h. Other design techniques that meet the intent, as determined by the director; and

Figure 15.540.020(C). Garage design detail examples.

3. The minimum garage setback is at least 22 feet from the sidewalk edge.

D. Driveway standards.

Where a new driveway off of a public street is permitted, the following standards apply:

1. No more than one driveway per dwelling unit;
2. Driveways for individual lots 50 feet or wider may be up to 24 feet in width; and
3. Driveways for individual lots less than 50 feet wide may be up to 12 feet in width. Tandem parking configurations may be used to accommodate 2-car garages for single family and duplex structures pursuant to ECC 15.550.040(A).

Also see Section 3, street standards, of the city's public works development standards for additional driveway standards (ADD LINK).

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E. Minimum useable open space.

All new single-family residences shall provide a contiguous open space equivalent to 10 percent of the lot size (excluding area within an adjacent alley or public right-of-way). Such open space shall not be located within the front yard. The required open space shall feature a minimum dimension of 15 feet on all sides. For example, a 6,000 square foot lot would require a contiguous open space of at least 600 square feet, or 20 feet by 30 feet in area. Driveways shall not count in the calculations for usable open space. Single family additions shall not create or increase any non-conformity with this standard.

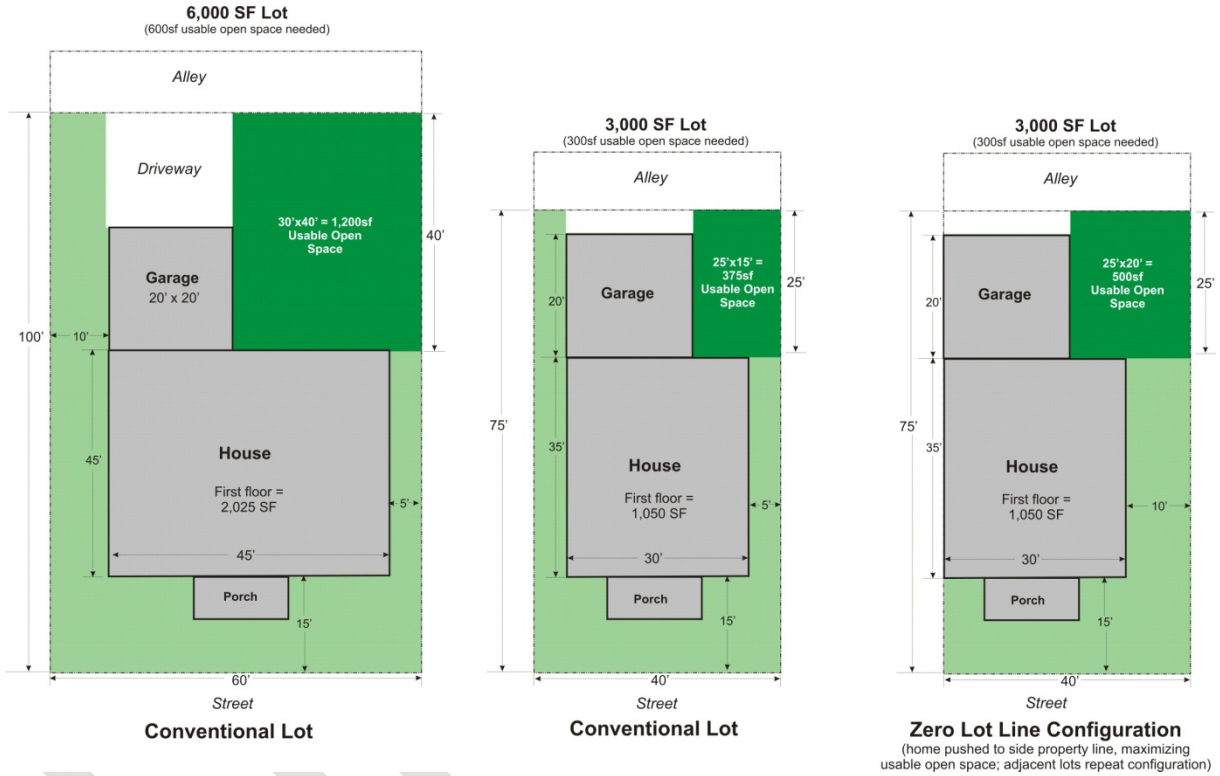

Figure 15.540.020. Examples of how to meet open space requirements for alley-loaded lots.

F. Energy efficiency. Single family homes and accessory buildings are encouraged to meet the energy efficiency guidelines set forth in ECC 15.530.070.

15.540.030 Duplex and triplex design standards.

A. Purpose. Duplexes and triplexes should be designed similar in nature to single-family homes and shall feature a visible entry and windows facing the street. The visibility of driveways and garages should be minimized and sufficient private open space should be provided.

B. Design provisions. Specifically, duplexes and triplexes shall comply with the single family design provisions set forth in ECC 15.540.020 above with the following exceptions and additional provisions:

1. Duplexes and triplexes may include a 24-foot wide shared driveway or two 12-foot driveways on opposite ends of the lot;
2. Tandem parking to accommodate 2-car garages may be used for duplex structures but not for triplex structures pursuant to ECC 15.550.040(A);
3. Separate covered entries for each unit are required (applicable to new buildings only);
4. Duplexes on corner lots shall place pedestrian entries on opposite streets (applicable to new buildings only); and
5. Duplexes and triplexes shall use articulated roof forms to help break up the massing of buildings and distinguish individual units. Duplexes on corner lots may be exceptions, where it is often desirable for a duplex to appear as one home (but with entries on opposite streets).

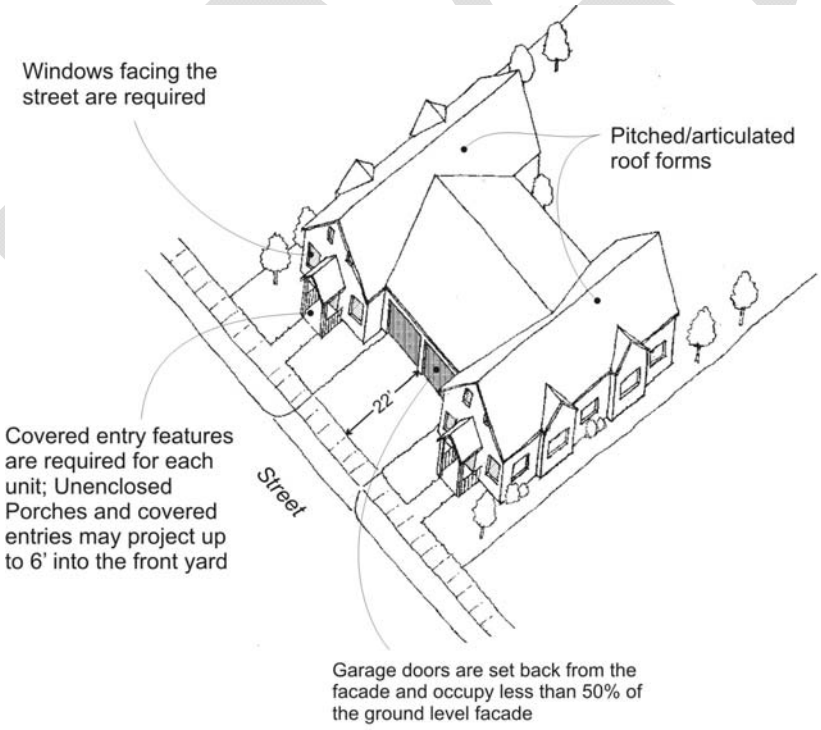

Figure 15.540.030. Diagram illustrating duplex design provisions.

15.540.040 Accessory dwelling unit design standards (ADU).

A. Purpose.

1. To provide infill housing opportunities throughout residential zones in Ellensburg;
2. To provide affordable housing options; and
3. To provide an opportunity for rental income for property owners.

B. Standards for all ADUs. ADUs are prohibited on any lot of record that is currently developed with a single family dwelling unit that has been converted to a multi-family use. For example, this would include a single family dwelling unit that has a defined "Unit A" and a "Unit B."

Subject to the prohibition above, one accessory dwelling unit is permitted on any lot of record that is currently developed with a single family dwelling unit provided all of the following conditions are met:

1. No more than 2 bedrooms shall be provided in an accessory dwelling unit;
2. ADUs shall contain a minimum of 300 square feet in floor area, exclusive of stairways or garage area;
3. One additional off-street parking space shall be required for an ADU;
4. ADUs must be screened from neighboring properties with a 6 to 8 foot height solid visual barrier where necessary to protect abutting property owners' privacy; and
5. The presence of an accessory dwelling unit must be clearly identified on each entrance by proper numbering.

C. Standards for an attached ADU.

1. ADUs may not exceed 40 percent of the floor area of a primary dwelling unit or 1,000 square feet, whichever is less. Exception: The city may allow increased size for an attached ADU in order to efficiently use all floor area on one floor or a portion of an existing house constructed as of INSERT ADOPTION DATE OF THIS ORDINANCE, as long as all other standards herein are met; and
2. Additions to existing homes. The ADU shall be architecturally consistent with the principal unit. Specific standards:
   a. Exterior materials. The exterior finish material must be the same or visually match in type, size and placement the exterior finish material of the primary dwelling;
   b. Roof pitch. The roof pitch must be similar to the predominant roof pitch of the primary dwelling;
   c. Trim. Trim must be the same in type, size, and location as the trim used on the primary dwelling;
   d. Windows. Windows must match those in the primary dwelling in proportion (relationship of width to height) and orientation (horizontal or vertical). This standard does not apply when it conflicts with building code regulations; and

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e. Front façade. The front façade of the principal dwelling shall not be significantly altered to accommodate an ADU, except where the whole structure is being remodeled.

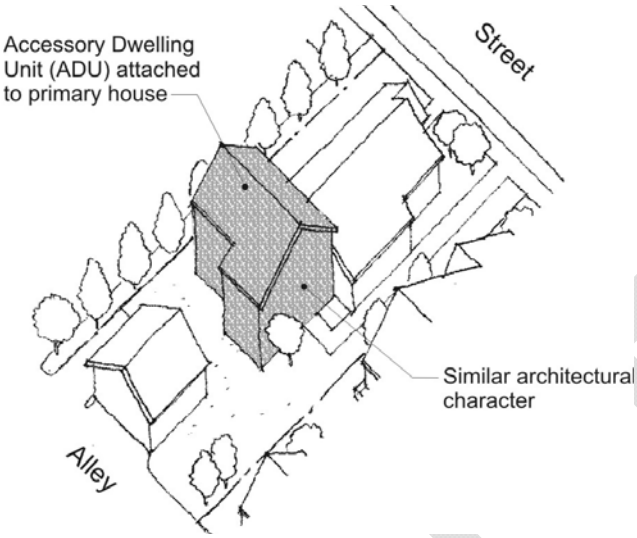

Figure 15.540.040(C). Attached ADU example.

D. Standards for a detached ADU (DADU)

1. DADUs may not exceed 40 percent of the floor area of a primary dwelling unit or 1,000 square feet, whichever is less;
2. Detached DADUs may be separate free standing structures located to the side or rear of a primary dwelling unit or may be placed next to and/or above a garage;
3. DADUs are subject to the building placement standards set forth for garages for the applicable land use district in ECC Chapter 15.320;
4. The site coverage of the DADU and accessory buildings shall not exceed 40 percent of the rear yard area;
5. There shall be a minimum separation of 15 feet between the existing dwellings and the DADU, except where the DADU is built on top of and/or next to an existing garage; and

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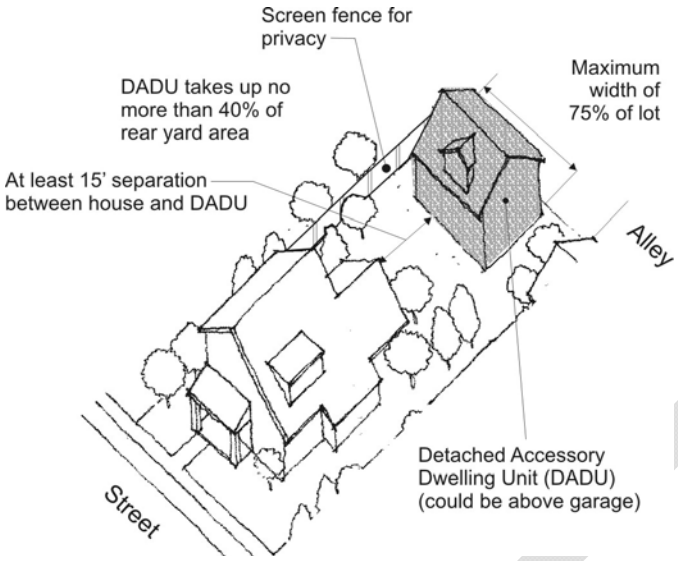

Figure 15.540.040. DADU example/standards.

6. The maximum width of the DADU shall be 75 percent of the width of the lot, including all projecting building elements such as bay windows and balconies.

15.540.050 Cottage housing design standards.

A. Purpose.

1. To provide an opportunity for small, detached housing types clustered around a common open space;
2. To ensure that cottage developments contribute to the overall character of residential areas;
3. To provide for centrally located and functional common open space that fosters a sense of community;
4. To provide for semi-private area around individual cottages to enable diversity in landscape design and foster a sense of ownership;
5. To minimize visual impacts of parking areas on the street and adjacent properties and the visual setting for the development; and
6. To promote conservation of resources by providing for clusters of small dwelling units on a property.

B. Description.

Cottage housing refers to clusters of small detached dwelling units arranged around a common open space.

C. Lot configuration.

Cottages may be configured as condominiums or fee-simple lots provided they meet the standards herein.

D. Density bonus.

Due to the smaller relative size of cottage units, each cottage shall be counted as one-half a dwelling unit for the purpose of calculating density. For example, a cluster of 6 cottages would be equivalent to 3 dwelling units.

E. Dimensional standards.

Table 15.540.050 Dimensional standards for cottages:

Standard	Requirement
Maximum floor area	1,200SF
Minimum common space (See subsection (I) below for more info)	400 SF/unit
Minimum private open space (See subsection (J) below for more info)	200 SF/unit
Maximum height for cottages	26 ft. (all parts of the roof above 18 ft. shall be pitched with a minimum roof slope of 6:12)
Maximum height for cottages accessory structures	18 ft.
Setbacks (to exterior property lines)	See ECC 15.320.030
Minimum distance between structures (Including accessory structures)	10 ft.
Minimum parking spaces per cottage:	See Table 15.550.040(A)

F. Units in each cluster.

Cottage housing developments shall contain a minimum of 4 and a maximum of 12 cottages located in a cluster to encourage a sense of community among the residents. A development site may contain more than one cottage housing development.

G. Windows on the street.

Transparent windows and/or doors are required on at least 10 percent of the facades (all vertical surfaces) of all cottages facing the street and common open space. For facades facing north, at least 8 percent of the facade shall include transparent windows or doors. DEPARTURES will be considered pursuant to ECC 15.210.060 for cottages where that standard applies to 2 or more facades, provided the design meets the purpose of the standards.

H. Parking and driveway location and design.

1. Parking shall be located on the same property as the cottage development;
2. Where lots abut an alley, the garage or off-street parking area is encouraged to take access from the alley;

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3. Parking areas shall be located to the side or rear of cottage clusters and not between the street and cottages. Parking is prohibited in the front and interior setback areas;
4. Parking and vehicular areas shall be screened from public street and adjacent residential uses by landscaping or architectural screens. For parking lots adjacent to the street, at least 10 feet of Type C landscaping [see ECC 15.570.040(C)] shall be provided between the sidewalk and the parking area. For parking lots along adjacent residential uses, at least 5 feet of Type A, B, or C landscaping (see ECC 15.570.040) shall be required. The city will consider alternative landscaping techniques provided they effectively mitigate views into the parking area from the street or adjacent residential uses and enhance the visual setting for the development;
5. Parking shall be located in clusters of not more than 5 adjoining uncovered spaces (except where adjacent to an alley). DEPARTURES will be considered pursuant to ECC 15.210.060 provided alternative configurations improve the visual setting for development;
6. Garages may be attached to individual cottages provided all other standards herein are met and the footprint of the ground floor, including garage, does not exceed 1,000 square feet. Such garages shall be located away from the common open spaces; and
7. No more than one driveway per cottage cluster shall be permitted, except where clusters front onto more than one street.

I. Common open space requirements.

1. Open space shall abut at least 50 percent of the cottages in a cottage housing development;
2. Open space shall have cottages abutting on at least 2 sides;
3. Cottages shall be oriented around and have the main entry from the common open space;
4. Cottages shall be within 60 feet walking distance of the common open space; and
5. Open space shall include at least 1 courtyard, plaza, garden, or other central open space, with access to all units. The minimum dimensions of this open space are 15 feet by 20 feet.

J. Required private open space.

Private open space shall be required adjacent to each dwelling unit, for the exclusive use of the cottage resident(s). The space shall be usable (not on a steep slope) and oriented toward the common open space as much as possible, with no dimension less than 10 feet.

K. Porches.

Cottage facades facing the common open space or common pathway shall feature a roofed porch at least 80 square feet in size with a minimum dimension of 8 feet on any side.

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L. Covered entry and visual interest. Cottages located facing a public street shall provide:

1. A covered entry feature (with a minimum dimension of 6 feet by 6 feet) visible from the street;
2. At least 10 feet of landscaped open space between the residence and the street; and
3. At least 2 architectural details, such as:
   a. Decorative lighting;
   b. Decorative trim;
   c. Special door;
   d. Trellis or decorative building element; and/or
   e. Bay window.

   Alternative design treatments will be considered as DEPARTURES pursuant to pursuant to ECC 15.210.060 provided the design treatments provide visual interest to the pedestrian.

M. Character and diversity.

Cottages and accessory buildings within a particular cluster shall be designed within the same "family" of architectural styles. Examples elements include:

1. Similar building/roof form and pitch;
2. Similar siding materials;
3. Similar porch detailing; and/or
4. Similar window trim;

A diversity of cottages can be achieved within a "family" of styles by:

1. Alternating porch styles (such as roof forms);
2. Alternating siding details on facades and/or roof gables; and/or
3. Different siding color.

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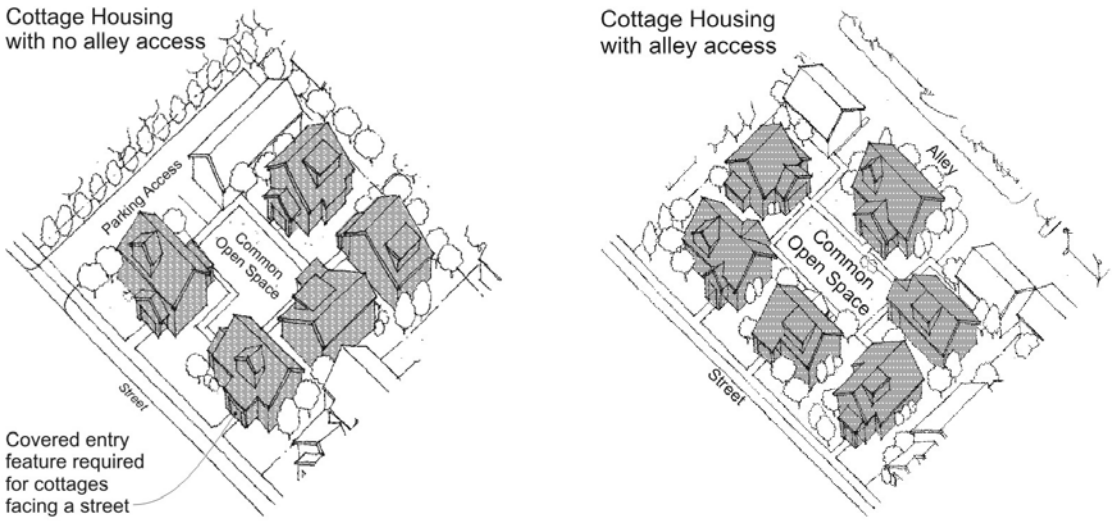

Figure 15.540.050. Typical cottage housing layouts.

Figure 15.540.050(M). Cottage housing examples.

N. Energy efficiency. Cottages and accessory buildings are subject to energy efficiency guidelines and standards set forth in ECC 15.530.070.

15.540.060. Townhouse design standards.

A. Purpose.

1. To ensure that townhouse developments enhance the pedestrian-oriented character of downtown streets;
2. To provide adequate open space for townhouse developments;
3. To reduce the impact of garages and driveways on the pedestrian environment;
4. To reduce the apparent bulk and scale of townhouse buildings compatible with adjacent uses; and
5. To promote architectural variety that adds visual interest to the neighborhood.

Figure 15.540.060(A). Desirable townhouse example. With units fronting on the street and garages placed to the rear accessible from an alley or shared driveway.

B. Entries.

1. Townhouses fronting on a street must all have individual ground-related entries accessible from the street. Configurations where enclosed rear yards back up to a street are prohibited;
2. Separate covered entries at least 3 feet deep are required for all dwelling units;
3. For sites without alleys or other rear vehicular access, new buildings must emphasize individual pedestrian entrances over private garages to the extent possible by using both of the following measures:
   a. Enhance entries with a trellis, small porch, or other architectural features that provides cover for a person entering the unit and a transitional space between outside and inside the dwelling; and
   b. Provide a planted area in front of each pedestrian entry of at least 20 square feet in area, with no dimension less than 4 feet. Provide a combination of shrubs or groundcover and a tree (refer to city arborist or street tree list if available); and
4. Planting strips with no dimension less than 4 feet are required adjacent to the primary entry of all dwelling units. This includes townhouses located to the rear of lots off an alley or private internal drive.

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C. Garages and driveways.

1. Where lots abut an alley, the garage or off-street parking area should take access from the alley;
2. For lots without alleys, individual driveways off of the street are prohibited (shared driveways are required);
3. Garages facing a public street are prohibited;
4. Internal drive aisle standards.
   a. Must meet minimum fire code widths;
   b. Minimum building separation along uncovered internal drive aisles shall be 25 feet. The purpose is to provide adequate vehicular turning radius, allow for landscaping elements on at least one side, and to provide adequate light and air on both sides of the dwelling units and drive aisles, which often function as usable open space for residents; and
   c. Upper level building projections over drive aisles are limited to 3 feet, and must comply with provisions in (b) above.

Figure 15.540.060(C). Good and bad examples of garage/entry configurations. The left example features a landscaped area and a trellis to highlight the entry. In the middle image, the balconies and landscaped areas deemphasize the garage. In the right image, the lack of landscaping is a glaring omission.

D. Open space. Townhouse residential units shall provide open space at least equal to 10 percent of the building living space, not counting automobile storage. The required open space may be provided by a one or more of the following ways:

1. Usable private open space that is directly adjacent and accessible to dwelling units. Such space shall have minimum dimensions of at least 12 feet on all sides and be configured to accommodate human activity such as outdoor eating, gardening, toddler play, etc.;
2. Common open space meeting the requirements of ECC 15.520.030(E)(1).
3. Balconies, decks and/or front porches meeting the requirements of ECC 15.520.030(E)(2)and/or
4. Community garden space meeting the requirements of ECC 15.520.030(E)(5).

E. Building design.

1. Townhouse articulation. Townhouse buildings shall comply with multifamily building articulation standards as set forth in ECC 15.530.030(D) except that the articulation intervals shall be no wider than the width of units in the building. Thus – if individual units are 15 feet wide, the building shall include at least 3 articulation features per ECC 15.530.030(D) for all facades facing a street, common open space, and common parking areas at intervals no greater than 15 feet.

2. Repetition with variety. [see Figures 15.540.060(E)(2) and 15.540.060(E)(3)] Townhouse developments shall employ one or more of the following "repetition with variety" guidelines:

   a. Reversing the elevation of 2 out of 4 dwellings for townhouses;

   b. Providing different building elevations for external townhouse units (versus internal units) by changing the roofline, articulation, windows, and/or building modulation patterns;

   c. Adding a different dwelling design or different scale of the same design, such as adding a one-story version of the basic dwelling design where 2 stories are typical (or a 2 story design where 3 stories are typical); and/or

   d. Other design treatments that add variety of provide special visual interest. While the variable use of color on buildings can be effective in reducing the perceived scale of the building and adding visual interest, color changes alone are not sufficient to meet the purpose of the guidelines.

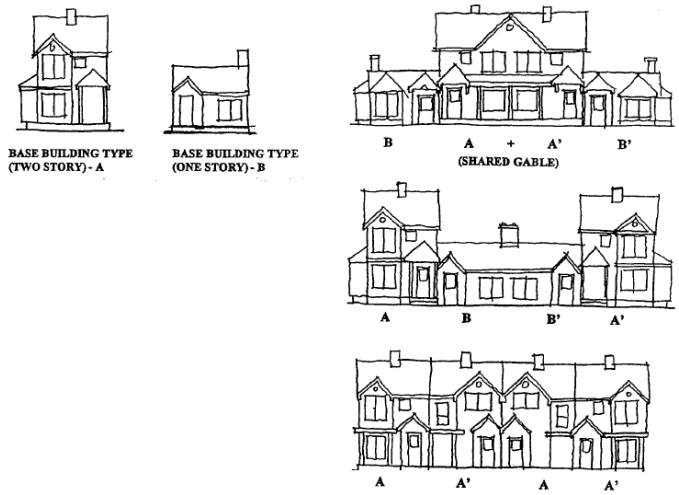

Figure 15.540.060(E)(2). Acceptable townhouse configuration employing the repetition with variety concept.

Figure 15.540.060(E)(3). An acceptable townhouse building. Note the landscaped front yards and individual walkways and entries. The internal units each have distinct, but identical windows and roof forms. The outside unit is differentiated through the use of building materials, window design, unit size, and facade detailing.

F. Energy efficiency. Townhouses are subject to energy efficiency provisions set forth in ECC 15.530.070.

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15.550 Off-Street Parking

15.550.010 Purpose.

The purpose of this chapter is to provide adequate parking for all uses allowed in this title, to reduce demand for parking by encouraging alternative means of transportation including public transit and bicycles, and to increase pedestrian mobility by:

A. Setting minimum off-street parking standards for different land uses and districts that assure safe, convenient and adequately sized parking facilities;

B. Recognizing that developed properties are likely to support a variety of different uses over time; and

C. Providing for parking and storage of bicycles.

15.550.020 Authority and application.

A. The regulations of this chapter apply to all off-street parking areas in all zoning districts within the city of Ellensburg.

B. The regulations of this chapter apply to all new development applications, all new parking lot construction or enlargement. In addition, these regulations shall apply at the time of enlarging, moving or increasing the capacity of existing structures by creating or adding dwelling units, commercial or industrial floor space, or seating facilities, and shall also apply when an existing land use within an existing structure is changed to a category of land use as set forth below that is different than the category of land use (as set forth in Table 15.550.040) for which the existing parking facility was designed and installed.

C. Whenever a building or use is expanded, enlarged or altered, additional off-street parking will be required for such expansion, enlargement or alteration based on the additional square footage of the expansion, enlargement or alteration, not on the total square footage of the building. However, in the event of enlargement or alteration of a structure, no additional off-street parking need be provided where the number of parking spaces required for such expansion, enlargement, or alteration is less than 10 percent of the off-street parking requirement specified in this chapter.

D. Before an occupancy permit may be granted for any new or enlarged building or for a change of use in any existing building, the use shall be required to meet the provisions of this chapter.

E. If this chapter does not specify a parking requirement for a land use, the director shall establish the minimum requirement based on a study of anticipated parking demand. Transportation demand management actions taken at the site shall be considered in determining anticipated demand. In the study the applicant shall provide sufficient information to demonstrate that the parking demand for a specific land use will be satisfied. Parking studies shall be prepared by a professional engineer with expertise in traffic and parking analyses, or an equally qualified individual as authorized by the director.

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15.550.030 Parking plan – building permit, surety bond, and occupancy requirements.

A. Building Permit. No building permit nor parking lot construction or enlargement shall be issued until a parking plan showing provisions for the required off-street parking, as specified in this chapter, has been submitted and approved by the director. The plan shall clearly indicate the proposed development, including parking lot location, size, shape, design, number of spaces, curb cuts, lighting, landscaping, and other features and appurtenances required by this chapter. The landscaping requirements for parking areas shall also meet the requirements of ECC Chapter 15.570. The parking plan shall show/state the number of parking spaces and handicap spaces required and provided.

B. Surety. Before a building permit is issued for any building or structure for which this chapter requires off-street parking and where such off-street parking is not to be contained within the building for which the building permit is requested, the director may require that the applicant provide the city with a surety bond or other sufficient security approved by the city attorney guaranteeing to the city the installation and improvement of the required off-street parking within a time not to exceed 6 months following the completion of the building(s) for which such off-street parking is to be provided.

C. Occupancy. All required off-street parking areas must be completed and landscaped prior to occupancy of any structure EXCEPT as provided in ECC Chapter 15.570 (landscaping).

15.550.040 Computation of required off-street parking spaces.

A. Spaces required. Except as modified in subsections below, off-street parking areas shall contain at a minimum the number of parking spaces as stipulated in the following table. Off-street parking ratios expressed as number of spaces per square feet means the usable or net square footage of floor area, exclusive of nonpublic areas. Nonpublic areas include but are not limited to building maintenance areas, storage areas, closets or restrooms. If the formula for determining the number of off-street parking spaces results in a fraction, the number of off-street parking spaces shall be rounded to the nearest whole number with fractions of 0.50 or greater rounding up and fractions below 0.50 rounding down.

Table 15.550.040(A). Computation of required off-street parking spaces.

Category of Land Use	Minimum Parking Spaces Required
RESIDENTIAL/LODGING	
Dwelling, single family/duplex/ townhouse	2.0 per dwelling unit; For structures containing more than 4 bedrooms, one additional space for each bedroom in excess of 4 shall be provided. NOTE: Tandem parking to accommodate 2-car garages are permitted for single family and duplex dwelling units.
Accessory dwelling unit	1.0 per unit
Apartment:	

Category of Land Use	Minimum Parking Spaces Required
Studio units Studio units in C-C zone outside of theDowntown Historic District	1.2 per dwelling unit 0.7 per dwelling unit
One bedroom units One bedroom units in C-C zone outside of the Downtown Historic District	1.5 per dwelling unit 0.7 per dwelling unit
2 bedroom units or larger	1.0 per bedroom
Cottage housing	1.5 per dwelling unit
Senior housing	1.0 per dwelling unit (this may be reduced based on the characteristics of the use)
Adult family home	2.0 per dwelling unit; For structures containing more than 4 bedrooms, one additional space for each bedroom in excess of 4 shall be provided. NOTE: Tandem parking to accommodate 2-car garages are permitted
Senior citizen assisted housing	1.0 per 2 dwelling or sleeping units
Community residential facilities	1.0 per 2 bedrooms
Boarding houses, lodging houses, sororities, fraternities	1.0 per bedroom
Hotel/motels (where restaurants and conference facilities are included, see standards for applicable use)	1.0 per guest room
Bed and breakfast guesthouse	1.0 per guest room, plus 2.0 per facility
GENERAL RETAIL & SERVICE	
Offices, banks, medical clinics, supermarkets, retail shops, department stores, or similar uses	1.0 per 300 square feet of gross floor area
General retail or service use with drive-in facility	Same parking for retail & service as provided herein, plus sufficient off-street drive-through stacking area to accommodate 3 vehicles without negatively impacting other required parking areas, ingress and egress into such parking areas, or traffic on public streets
Day care facility	1.0 per employee PLUS 1.0 temporary loading parking per each 8 full-day equivalent children
FOOD & BEVERAGE	
Restaurant, taverns, or similar uses where patrons sit-down for service	1.0 per 200 square feet of gross floor area for sit-down facilities with a minimum number of 5 spaces required

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Category of Land Use	Minimum Parking Spaces Required
Drive-in restaurant	Same parking as restaurant plus sufficient off-street drive-through stacking area to accommodate 6 vehicles without negatively impacting other required parking areas, ingress and egress into such parking areas, or traffic on public streets
Drive-in coffee stand	2.0 per facility plus sufficient off-street drive-through stacking area to accommodate 6 vehicles without negatively impacting other required parking areas, ingress and egress into such parking areas, or traffic on public streets
PLACES OF ASSEMBLY	
Churches, funeral homes, mortuaries, clubs, lodges, museums, auditoriums, theaters, conference facilities, public or commercial recreational facilities, or similar uses	0.25 per person of maximum occupancy as established by the Fire Marshal with a minimum of 5 spaces required
INDUSTRIAL & LAND CONSUMPTIVE USES	
Wholesale trade, warehousing (including miniwarehouse facilities), processing and manufacturing facilities, heavy equipment repair, lumber yard, car sales, or similar land consumptive but low traffic generation uses	1.0 per 1,500 square feet of gross floor area for structures up to 20,000 square feet in gross size with a minimum of 5 spaces required OR 1.0 per 2,000 square feet of gross floor area for structures greater than 20,000 square feet in gross size NOTE: For vehicle sales lots, the sales area is not considered to be a parking facility and does not have to comply with the requirements of this chapter. HOWEVER, all required parking must be designed and reserved for customer parking only.
PUBLIC & QUASI PUBLIC USES	
Hospital	1.5 per each 5 beds with a minimum of 5 spaces required
Elementary and junior high schools	1.0 per classroom, plus 1 per 50 students
High schools, college or university, trade school, or business school	1.0 per classroom, plus 1 per 10 students
Governmental office	1.0 per 350 square feet of gross floor area

B. Uses in the C-C zone. There are no off-street parking requirements for any uses in the C-C zone, except residential uses located outside of the Downtown Historic District shall provide at least 0.7 parking spaces per bedroom (studio apartments shall be considered a 1 bedroom apartment).

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C. Shell building permit applications. When the city has received a shell building permit application, off-street parking requirements shall be based on the possible tenant improvements or uses authorized by the zone designation and compatible with the limitations of the shell permit. When the range of possible uses result in different parking requirements, the director shall establish the amount of parking based on a likely range of uses.

For example, an applicant submits a permit for a 5,000 square foot shell building in the C-H zone. The zone allows for a range of retail, personal, and general service retail uses. Most permitted uses in this zone fall in the category of general retail & service uses in Table 15.550.040(A) which requires 1 space per 300 square feet of gross floor area. Restaurants require more parking (1 space per 200 square feet of gross floor area). While the director might find it unreasonable to require parking for the "worst case scenario" in terms of possible use types, he or she will typically choose a requirement that falls between the possible use scenarios. In this case, the odds are that most possible uses fall in the general retail & service use category with a lower parking requirement, though a slightly higher parking requirement would make sense given the possibility of a use such as a restaurant, which requires greater parking. Thus, a compromise standard, requiring a minimum of 1 space per 275 square feet of gross floor area would be reasonable in this instance.

D. Other provisions of code. Where other provisions of this code stipulate reduced minimum parking requirements, those provisions shall apply.

E. Bicycle parking. Multifamily and non-residential developments shall provide for bicycle parking per the standards below:

1. Amount of bicycle parking:

Table 15.550.040(B). Computation of required off-street bicycle parking spaces.

Category of Land Use	**Minimum Parking Spaces Required**
Single family dwelling	None
Multifamily dwelling	0.5 space per dwelling unit (units with private garages are exempt)
Hotel/motels	1.0 per 20 guest rooms
Offices, banks, medical clinics, supermarkets, retail shops, department stores, or similar uses	1.0 per 5,000 square feet of gross floor area for up to 50,000 square feet, then 1.0 per 10,000 square feet beyond 50,000
Restaurant, taverns, or similar uses where patrons sit-down for service	1.0 per 800 square feet of gross floor area
All other uses	1.0 per 5 required vehicle parking spaces

2. Parking location and design: Non-residential uses: Bicycle facilities for patrons shall be located within 100 feet of the building entrance and located in safe, visible areas that do not impede pedestrian or vehicle traffic flow. Bicycle parking shall be protected from

weather by a building overhang or covered walkway. Proper lighting of area is required per ECC Chapter 15.580.

3. Parking location and design: Residential uses: Bicycle facilities for residents shall be located within 100 feet of all building or individual unit entrances and located on the ground level in safe, covered, visible areas that do not impede pedestrian or vehicle traffic flow. Proper lighting of area is required per ECC Chapter 15.580.
4. Bicycle parking hardware shall be installed according to its manufacturer's instructions, allowing adequate clearance for bicycles and their riders.
5. Projects in the C-C zone may contribute to a Bicycle Parking Fund (subject to establishment by the city) maintained by the city in-lieu of required parking set forth in Table 15.550.040(B) above. Calculation of the required fund contributions will be based on the cost to purchase, install, and maintain bicycle parking and associated improvements. The cost will be adjusted annually by the city. The fund will be used by the city to provide bicycle parking in the C-C zone and in other locations within the city.

F. Primary use. The minimum number of parking spaces shall be computed based on the primary uses on the property, EXCEPT as stated in sub-section G below that addresses accessory uses. When there are 2 or more separate primary uses on a property, the required off-street parking for the property is the sum of the required parking for the individual primary uses.

G. Accessory use. When more than 20 percent of the gross floor area on a property is in an accessory use, the required off-street parking shall be calculated separately for the accessory use and for the primary use and then added together for the total required off-street parking. When 20 percent or less of the gross floor area on a property is in an accessory use, the required off-street parking shall be calculated on the gross floor area of the building as if it were all under the primary use.

Examples:

1. A 40,000 square foot building containing a 30,000 square foot warehouse space (75% of total) and a 10,000 square foot accessory office space (25% of total). The minimum parking requirement would be calculated separately for the office use and the warehouse use and then added together.
2. The same 40,000 square foot building containing a 35,000 square foot warehouse space (88% of total) and a 5,000 square foot accessory office space (12% of total). The required parking would be based solely on the gross floor area of the building as if it were all the primary use (40,000).

H. On-street parking. On-street parking immediately adjacent to the property may be counted towards the parking requirement for non-residential uses.

I. Off-site parking. Off-site parking is not permitted for residential uses outside of the C-C zone, except for guest parking provisions associated with local access streets per ECC 15.410.040(B)(2). For non-residential uses, a maximum of 25 percent of the required off-street parking for a building or use may be located on a separate lot of record. Specifically:

1. The location of the off-site parking shall be within 600 feet of any property line of the property for which the off-site parking is provided;
2. Off-site parking facilities are subject to applicable design provisions in this article, including site orientation standards in Chapter 15.510, site planning and design elements in Chapter 15.520, and landscaping standards in Chapter 15.570;
3. There shall be sidewalks or paved pedestrian paths between the off-site parking site and the use for which the off-site parking is provided;
4. There shall be adequate lighting to provide safe walking between the off-site parking and the use for which the off-site parking is provided;
5. The owner of the off-site parking property shall execute a covenant in a form acceptable to the city attorney that shall clearly:
   a. Identify the legal description of the property that is to benefit from the off-site parking lot and the legal description of the off-site property that is to be encumbered in whole or in part by the covenant;
   b. Specify the terms and conditions of the such encumbrance; and
   c. Clearly state that the terms of the covenant cannot be modified or revoked without the written consent of the city council.

   The covenant shall be recorded with the Kittitas County Auditor's office to run as a deed restriction on both the benefited and encumbered properties as long as the business requiring these off-street parking spaces is in operation. A copy of the recorded covenant shall be provided to the community development department.

15.550.050 Continued use of required parking spaces.

A. Continued use. Required off-street parking spaces must be available for the continued use of residents, customers, or employees of the use and the continued use of a building or structure or property for which off-street parking is required shall be conditioned upon the continued existence of such off-street parking.

B. Assignment prohibited. Required off-street parking spaces may not be assigned in any way to another use on another site EXCEPT as provided in the section below relating to cooperative parking facilities.

C. Use for non-parking purposes prohibited. Required off-street parking spaces shall not be used for the parking of equipment or for storage of materials or goods or inoperable vehicles. Use of required off-street parking for commercial or other purposes in conjunction with special events of a limited and specific duration shall require separate review and approval by the director in conjunction with the special event function.

D. Maintenance required. The off-street parking required by this chapter shall be maintained in a good and functioning condition as determined by the director based on a review and recommendation by the public works department.

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15.550.060 Cooperative parking facilities.

Cooperative parking facilities may be provided subject to the approval of the director where 2 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 cooperative parking facilities can be provided, the director may reduce the on-site parking requirements based on 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. The continuation of the cooperative facility shall be assured by a sufficient legal document, such as a covenant or reciprocal easement agreement, or by participation in a local improvement district or parking cooperative or association. If a covenant is used, the owner of the off-site parking property shall execute a covenant in a form acceptable to the city attorney that shall clearly:

   1. Identify the legal description of the properties that are to benefit from the cooperative parking facilities and the legal description of the property that is to be encumbered in whole or in part by the covenant;

   2. Specify the terms and conditions of the such encumbrance; and

   3. Clearly state that the terms of the covenant cannot be modified or revoked without the written consent of the city council.

   The covenant shall be recorded with the Kittitas County Auditor's office to run as a deed restriction on both the benefited and encumbered properties. A copy of the recorded covenant shall be provided to the community development department.

D. Shared parking associated with multi-tenant retail and commercial facilities will be considered to be a cooperative parking facility. Lease agreements recorded per paragraph (C) above will satisfy the requirement for a sufficient legal document.

E. In the event that the uses subject to the cooperative parking facility agreement change to different categories of use than the original uses, the new uses must be reviewed by the director to ensure that there is adequate on-site parking for the new use combined with the other uses subject to the cooperative parking facility agreement.

15.550.070 Loading space requirements.

A. Every nonresidential building engaged in retail, wholesale, manufacturing, or storage activities, excluding self-service storage facilities, shall provide loading spaces in accordance with the standards listed below:

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Table 15.550.070(A). Loading space requirements for retail, wholesale, manufacturing, or storage activities, excluding self-service storage facilities.

Gross Floor Area	**Required Number of Loading Spaces**
10,000 to 40,000 square feet	1
40,001 to 96,000 square feet	2
96,001 to 160,000 square feet	3
160,001 to 196,000 square feet	4
For each additional 70,000 square feet	1 additional

B. Every building engaged in hotel, office building, restaurant, hospital, auditorium, convention hall, exhibition hall, sports arena/stadium or other similar use shall provide loading spaces in accordance with the standards listed below:

Table 15.550.070(B). Loading space requirements for hotel, office building, restaurant, hospital, auditorium, convention hall, exhibition hall, sports arena/stadium or other similar uses.

Gross Floor Area	Required Number of Loading Spaces
40,000 to 120,000 square feet	1
120,001 to 264,000 square feet	2
264,001 to 520,000 square feet	3
520,001 to 784,000 square feet	4
784,001 to 920,000 square feet	5
For each additional 200,000 square feet	1 additional

C. For storefronts and other similar buildings sited adjacent to a street without individual businesses over 10,000 square feet and no alley access, loading space may be provided by on-street designated loading zones upon approval of the public works director as a Type I decision based on access and safety considerations. A site plan, proposed conditions, and reason for on-street loading facilities shall be included in the application.

D. Each loading space required by this section shall be a minimum of 10 feet wide, 30 feet long, and have an unobstructed vertical clearance of 14 feet 6 inches, and shall be surfaced, improved and maintained as required by this chapter. Loading spaces shall be located so that trucks shall not obstruct pedestrian or vehicle traffic movement or project into any public right-of-way. All loading space areas shall be separated from parking areas and shall be designated as truck loading spaces.

E. Any loading space located within 100 feet of areas zoned for residential use shall be screened and operated as necessary to reduce noise and visual impacts. Noise mitigation measures may include architectural or structural barriers, beams, walls, or restrictions on the hours of operation.

F. Multi-story self-service storage facilities shall provide 2 loading spaces, and single story facilities one loading space, adjacent to each building entrance that provides common access to interior storage units. Each loading berth shall measure not less than 25 feet by 12 feet with an unobstructed vertical clearance of 14 feet 6 inches, and shall be surfaced, improved and maintained as required by this chapter. Any floor area additions or structural alterations to a building shall be required to provide loading space or spaces as set forth in this chapter.

15.550.080 Parking lot design and construction standards.

A. Parking area access standards. See Section 6, parking standards of the city's public works development standards (ADD LINK).

B. Parking stall and aisle dimensions. See Section 6, parking standards of the city's public works development standards (ADD LINK).

C. Parking area development and design provisions.

1. For parking area surfacing standards, see Section 6, parking standards of the city's public works development standards (ADD LINK). Fire lane shall be in accordance with the International Fire Code (IFC) as adopted in ECC Title 3;

2. For on-site parking lot location standards along street frontages, see ECC Chapter 15.510 (site orientation standards);

3. For pedestrian access provisions within parking lots, see ECC 15.520.040 (internal pedestrian access and design).

4. For lighting standards, see ECC Chapter 15.580 (outdoor lighting).

5. For parking lot screening and internal landscaping, see subsection ECC 15.570.050(A) (surface parking lot landscaping).

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15.570 Landscaping

15.570.010 Purpose.

A. Promote well-conceived and attractive landscaping that reinforces the architectural and site planning concepts in response to site conditions and context;

B. To enhance environmental conditions;

C. To maintain and enhance the character of the area;

D. To reduce negative potential impacts between adjacent and neighboring uses;

E. To encourage the use of attractive and drought tolerant plant materials native to eastern Washington;

F. To ensure that plants will quickly achieve their intended visual objectives;

G. To promote tree retention and the protection of existing native vegetation;

H. To define, break up, and screen parking areas to reduce potentially negative impacts on adjacent uses;

I. To provide for the long-term establishment and health of new landscape plantings; and

J. To ensure the long term maintenance and attractiveness of landscape plantings.

15.570.020 Applicability.

The standards herein apply to non-residential and multifamily development unless otherwise noted herein.

15.570.030 Plant material standards.

A. Native and naturalized plant species.

New landscaping materials shall include species native to eastern Washington or hardy, waterwise, and non-invasive species appropriate in the climatic conditions of eastern Washington (decorative annuals are an exception). Washington State University maintains a list of trees, shrubs, vines, ground covers, perennials, grasses, bulbs, and annuals that are appropriate for eastern Washington (link: http://public.wsu.edu/~lohr/wcl/). The selection of plant species should include consideration of soil type and depth, the amount of maintenance required, spacing, exposure to sun and wind, the slope and contours of the site, compatibility with existing native vegetation preserved on the site, water conservation where needed, and the impact of landscaping on visibility of the site for purposes of public safety and surveillance.

B. Tree standards and guidelines.

Unless otherwise noted herein, required trees shall meet the following standards at time of planting:

1. Required trees within parking areas shall be a minimum caliper of 1 inch (as measured 6 inches above the root ball) and a minimum height of 10 feet at the time of planting.

2. Required deciduous trees (other than street trees) shall be fully branched, have a minimum caliper of 1 1/2 inches (as measured 6 inches above the root ball), and a minimum height of 6 feet at the time of planting.
3. Required evergreen shall be fully branched and a minimum of 6 feet in height, measured from the treetop to the ground, at the time of planting.
4. If the reviewing authority decides reducing the minimum size of trees will not detract from the desired effect of the trees, the minimum size of trees (other than street trees) may be reduced if the applicant submits a written statement by a licensed Washington landscape architect or Washington-Certified Professional Horticulturist (CPH) certifying that the reduction in size at planting will not decrease the likelihood the trees will survive.

C. Shrub standard.

Shrubs, except for ornamental grasses, shall be a minimum of 1-gallon size at the time of planting.

D. Ground cover standards and guidelines.

1. Ground covers shall be planted and spaced to result in total coverage of the required landscape area within 3 years, or as per recommendations by a licensed Washington landscape architect or CHP as follows:
   a. 4 inch pots at 18-inches on-center.
   b. One-gallon or greater sized containers at 24-inches on-center.
   c. A bed of flowers in place of ground cover plants. A reduction in the minimum size may be permitted if certified by a registered landscape architect or CHP that the reduction shall not diminish the intended effect or the likelihood the plants will survive;
2. Grass is acceptable as ground cover in landscaped areas, but generally not preferred for water conservation and maintenance purposes. (Lawn areas designed as play areas are an exception); and
3. Ground cover areas shall contain at least 2 inches of composted organic material at finished grade.

E. Soil augmentation and mulching.

1. Existing soils shall be augmented with a 2 inch layer of fully composted organic material tilled a minimum of 6 inches deep prior to initial planting.
2. Landscape areas shall be covered with at least 2 inches of mulch to minimize evaporation. Mulch shall consist of organic materials such as bark chips and wood grindings or yard waste, sawdust, and/or manure that is fully composted. Washed rock can also be used as a mulch.
3. Berm/mound standards. Berms or mounds shall be no steeper than 3(H): 1(V). Any slopes steeper than 3: 1 (: 1 is maximum permitted by the city for fill slopes) need

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erosion control netting or other erosion control methods in planting areas not covered by grass (e.g., rockery).

4. Tree/shrub height and location. The landscape plan should plan for the mature size of trees and major shrubs to avoid interference with windows, decks or lighting.

15.570.040 Landscaping types.

Below are described 4 landscaping types. These landscaping types may be required by different sections of code within this chapter and elsewhere in this article.

A. Type A landscaping.

1. Type A landscaping shall function as a full screen and visual barrier. This landscaping is typically found between residential and nonresidential areas and to screen unwanted views;
2. Type A landscaping shall minimally consist of:
   a. A mix of primarily evergreen trees and shrubs generally interspersed throughout the landscape strip and spaced to form a continuous screen;
   b. Predominately evergreen trees;
   c. Trees provided at the rate of 1 tree per 300 square feet or 1 tree per 30 linear feet, whichever is greater, of landscape strip;
   d. Predominately evergreen shrubs provided at the rate of 1 shrub per 20 square feet of landscape strip;
   e. Groundcover; and
   f. The selected plant materials and configuration will be able to completely screen 70 percent of the unwanted views within 5 years of planting and fully screen the unwanted view within 6 years. This requirement will account for the size of materials planted and their typical growth rate;

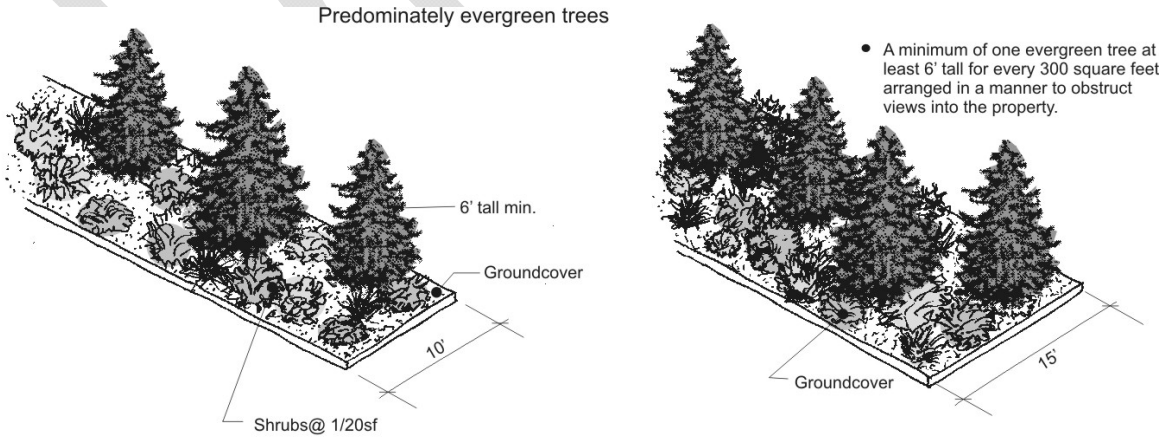

Figure 15.570.040(A). Type A landscaping standards.

B. Type B landscaping.

1. Type B landscaping is a "filtered screen" that functions as a visual separator. This landscaping is typically found between differing types of residential development, and to screen unwanted views from the pedestrian environment;

2. Type B landscaping shall minimally consist of:

   a. A mix of evergreen and deciduous trees and shrubs generally interspersed throughout the landscape strip spaced to create a filtered screen;

   b. At least 50 percent deciduous trees and at least 30 percent evergreen trees;

   c. Trees provided at the rate of 1 tree per 300 square feet or 1 tree per 30 linear feet, whichever is greater, of landscape strip;

   d. Shrubs provided at the rate of 1 shrub per 20 square feet of landscape strip and spaced no more than 8 feet apart on center;

   e. Groundcover; and

   f. The selected plant materials and configuration will meet the purpose of the standards within 5 years of planting. This requirement will account for the size of materials and the growth rate;

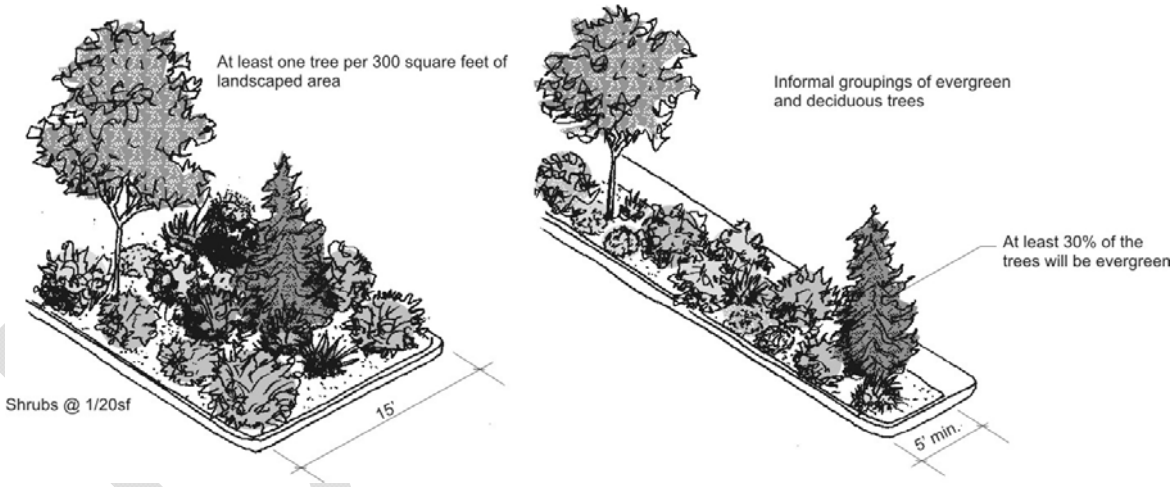

Figure 15.570.040(B). Type B landscaping standards.

C. Type C landscaping.

1. Type C landscaping is a "see-through screen" that functions as a partial visual separator to soften the appearance of parking areas and building elevations. This landscaping is typically found along street frontage or between multifamily developments;
2. Type C landscaping shall minimally consist of:
   a. Primarily deciduous trees generally spaced to create a continuous canopy that extends well beyond the landscaped area;
   b. At least 70 percent deciduous trees;
   c. Trees provided at the rate of 1 tree per 300 square feet or 1 tree per 30 linear feet, whichever is greater, of landscape strip;
   d. Shrubs provided at the rate of 1 shrub per 20 square feet of landscape strip and spaced no more than 8 feet apart on center;
   e. Groundcover;
   f. Maintain trees and shrubs to maximize pedestrian visibility (generally between 3 and 8 feet above grade); and
   g. The selected plant materials and configuration will meet the purpose of the standards within 5 years of planting. This requirement will account for the size of materials and the growth rate.

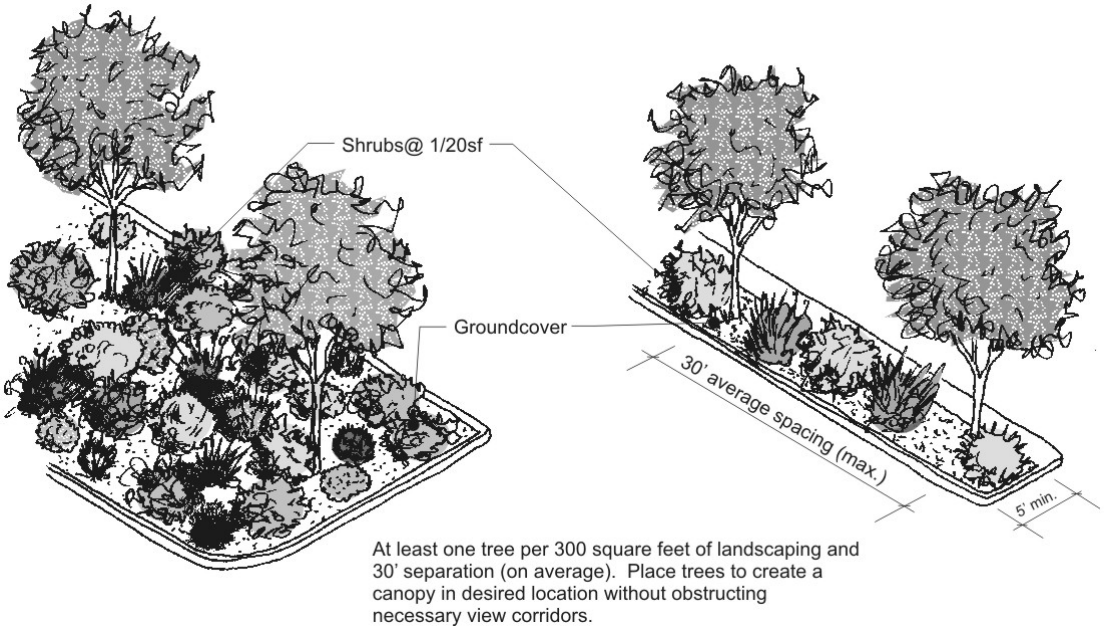

Figure 15.570.040(C). Type C landscaping standards.

D. Type D landscaping.

1. Type D landscaping refers to all other landscaped areas that do not qualify as Type A-C landscaping. While native and low maintenance trees and shrubs are encouraged in these areas, lawn areas may be used for recreational or design purposes. These areas also could include flower beds and perennial beds.
2. Type D landscaping may include any combination of plant materials provided they comply with ECC 15.570.030.

15.570.050 Landscape site design standards.

A. Surface parking lot landscaping.

1. Purpose. To minimize potential negative impacts of parking lots on downtown's visual character, pedestrian environment, local water quality conditions, and adjacent uses.
2. Parking lot perimeters.
   a. For parking lots adjacent to public streets, use Type C landscaping at least 6 feet deep and no less than the minimum applicable building setback (whichever is more).
   b. For parking lots along internal private roadways in commercial areas, provide a planting strip at least 6 feet wide with Type C landscaping.
   c. For parking lots along internal lot lines, use Type A or B landscaping at least 10 feet deep. DEPARTURES to the landscaping standard will be considered pursuant to ECC 15.210.060 provided the alternative landscaping design meets the purposes of the standards in this section.
3. Internal parking lot landscaping.
   a. 20 square feet of planting area utilizing Type C landscaping is required for each parking space. Parking lots containing less than 40 spaces are exempt from this standard;
   b. At least 1 tree is required for every planting island within a parking lot;
   c. All parking spaces shall be within 50 feet of a planting island with a tree;
   d. Planting islands must be at least 6 feet deep and wide to be used in planting area calculations;
   e. Wheel stops, curbs or walkways shall be used to protect planting islands from vehicles;
   f. Canopy type trees shall be utilized;
   g. Rain gardens and swales may be integrated into required planting areas (see Section 4 of the public works development standards for related standards)(ADD LINK); and
   h. DEPARTURES to the landscaping standard will be considered pursuant to ECC 15.210.060 provided the alternative landscaping design meets the purposes of the applicable standards.

B. Side/ rear yard screening. See ECC 15.520.020 for applicable standards.

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C. Foundation planting.

All street-facing elevations must have landscaping along any exposed foundation. The landscaped area may be along the outer edge of a porch instead of the foundation. This landscaping requirement does not apply to portions of the building facade that provide access for pedestrians or vehicles to the building. The foundation landscaping must meet the following standards:

1. The landscaped area must be at least 3 feet wide;
2. There must be at least 1 3-gallon shrub for every 3 lineal feet of foundation; and
3. Ground cover plants must fully cover the remainder of the landscaped area.

Figure 15.570.050(D). Foundation plantings would be required along the exposed concrete foundation.

15.570.060 Installation and maintenance.

A. Timing of installation.

The applicant shall install landscaping and screening required by this title consistent with the approved site plan or an approved modification thereto before the city issues an occupancy permit or final inspection for the development in question; provided, the reviewing authority may defer installation of plant materials for up to 6 months after the city issues an occupancy permit or final inspection for the development in question if the reviewing authority finds doing so increases the likely survival of plants.

B. Installation standards.

The applicant shall show and comply with the following:

1. Plant materials will be installed to current nursery industry standards.
2. Plant materials shall be properly supported to ensure survival. Support devices such as guy wires or stakes shall not interfere with vehicular or pedestrian movement.
3. Existing trees and plant materials to be retained shall be protected during construction, such as by use of chain link or other sturdy fence placed at the dripline of trees to be

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retained. Grading, topsoil storage, construction material storage, vehicles and equipment shall not be allowed within the dripline of trees to be retained.

C. Verification of the installation of landscape.

Required planting/irrigation shall be installed within 6 months of the date of final construction permit approval or the issuance of a certificate of occupancy, whichever is later. For development sites 20,000 square feet in area (this includes the entire lot or parcel or applicable portion of site being developed including buildings, parking and storage areas, landscaping, etc.) or larger, the applicant shall submit a copy of the approved landscape plan(s) with a letter signed and stamped by a Washington-licensed landscape architect or CPH certifying that the landscape and irrigation (if any) have been installed in accordance with the attached approved plan(s) and verifying that any plant substitutions are comparable to the approved plantings and suitable for the site. Any substituted plants shall be no smaller than those shown on the approved plan(s) and shall have similar characteristics in terms of height, drought tolerance and suitability for screening.

D. Maintenance standards.

All landscape areas shall be maintained in accordance with the following standards:

1. All landscaping shall be maintained with respect to pruning, trimming, mowing, watering, insect control, fertilizing, or other requirements to create a healthy growing condition and attractive appearance and to maintain the purpose of the landscape type. Vegetation shall be controlled by pruning, trimming or otherwise so that it will not interfere with the maintenance or repair of any public utility, restrict pedestrian or vehicular access, or obstruct sight distance at intersections;
2. Dead, diseased, stolen, vandalized, or damaged plants shall be replaced within 3 months with the plants indicated on the approved landscape plan;
3. All landscaped areas shall be maintained reasonably free of weeds and trash; and
4. All required landscaping that is located within public rights-of-way shall be maintained by the abutting property owner.

E. Irrigation standards.

The purpose of this standard is to ensure that plants will survive the critical establishment period when they are most vulnerable due to lack of watering.

All required landscaped areas in the city must comply with at least one of the following:

1. A permanent built-in irrigation system with an automatic controller will serve the landscape area in question, and the system will be installed and operational before the city grants an occupancy permit or final inspection for the development in question.
2. A temporary irrigation system will serve the landscape area in question; provided the applicant can successfully demonstrate that the proposed temporary irrigation system will provide sufficient water to ensure that the plant materials to be planted will survive installation and, once established, will survive without watering other than natural rainfall.

3. A permanent or temporary irrigation system will not serve the landscape area in question (c); provided:
    a. The reviewing authority finds the landscape area otherwise fulfills the requirements of this section, and
    b. The applicant submits the following with the site plan application:
        i. A statement from a Washington-licensed landscape architect or CPH certifying that the materials to be planted will survive without watering other than natural rainfall, and
        ii. A plan for monitoring the survival of required vegetation on the approved site plan for at least one year and for detection and replacement of required vegetation that does not survive with like-kind material or other material approved by the reviewing authority, and
        iii. A statement from the applicant agreeing to install an irrigation system if the reviewing authority finds one is needed to ensure survival of required vegetation, based on the results of the monitoring plan.

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15.580 Outdoor Lighting

15.580.010 Purpose.

A. To encourage the judicious use of lighting in conjunction with other security methods to increase site safety;

B. To encourage the use of lighting as an integral design component to enhance buildings, landscaping, and other site features and for the enjoyment of property;

C. To encourage night sky visibility and to reduce the general illumination of the sky in Ellensburg;

D. To promote energy conservation;

E. To reduce the horizontal glare and vertical light trespass from a development onto adjacent parcels and natural features; and

F. To discourage the use of lighting for advertising purposes.

15.580.020 Applicability.

A. All outdoor lighting fixtures that are to be installed on private and public property in association with any building permit application or subdivision application shall comply with this chapter. This chapter does not apply to interior lighting. Types of outdoor lighting to which this chapter applies include, but are not limited to, lighting for:

   1. Building and structures including, but not limited to, overhangs and canopies;
   2. Recreational areas;
   3. Parking lot lighting;
   4. Landscape and architectural lighting.

B. The city's building official shall administer and enforce this chapter.

15.580.030 Exemptions.

The following are exempt from the provisions of this chapter:

A. Traffic control signals and devices;

B. Public street lights; provided, however, public street lights must conform to the most current version of the city's public works development standards (ADD LINK);

C. Temporary emergency lighting (i.e., fire, police, medical personnel, repair workers) or warning lights;

D. Moving vehicle lights;

E. Navigation lights (e.g., on radio/television towers, microwave towers) or any other lights where state or federal statute or other provision of the Ellensburg City Code requires lighting that cannot comply with this chapter. In such situations, lighting shall be shielded to

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the maximum extent possible, and lumens shall be minimized to the maximum extent possible, while still complying with state or federal statute;

F. Seasonal decorations;

G. Outdoor lighting approved by the building official for temporary or periodic events (e.g., fairs, nighttime construction);

H. Outdoor lighting fixtures installed prior to the effective date of the ordinance codified in this chapter;

I. Fossil fuel lights.

15.580.040 Lighting standards and guidelines.

The following general standards shall apply to all nonexempt outdoor lighting fixtures and accent lighting unless specifically noted:

A. All light trespass as defined in ECC 15.130.120 is prohibited.

B. Shielding. [see Figures 15.580.040(B)(1) through (4)] Outdoor lighting fixtures and accent lighting with 2,000 lumens or more must be shielded and aimed downward. The shield must mask the direct horizontal surface of the light source. The light must be aimed to ensure that the illumination is only pointing downward onto the ground surface, with no escaping direct light permitted to contribute to light pollution by shining upward into the sky.

C. All outdoor lighting fixtures and accent lighting shall be designed, installed, located and maintained such that there is no light trespass [see Figure 15.580.040(B)(3)].

D. Accent lighting shall be directed downward onto the illuminated object or area and not toward the sky or onto adjacent properties [see Figure 15.580.040(B)(4)]. Direct light emissions of such accent lighting shall not be visible above the roof line or beyond the building, structure, or object edge.

E. Bridge, flag, fountain, statue, monument, similar public artwork, feature lighting and private street lighting are permitted provided such lighting does not cause the spilling of direct light to other properties or traveled public ways.

F. Sports field lighting. Lighting shall be fully shielded with an allowance of 5 percent uplighting. Sports field lighting shall be exempt from the light trespass provisions of this chapter; provided, however, such light shall be extinguished when not in use and fixtures shall be aimed to control light trespass to the extent possible for the mounting height and required shielding.

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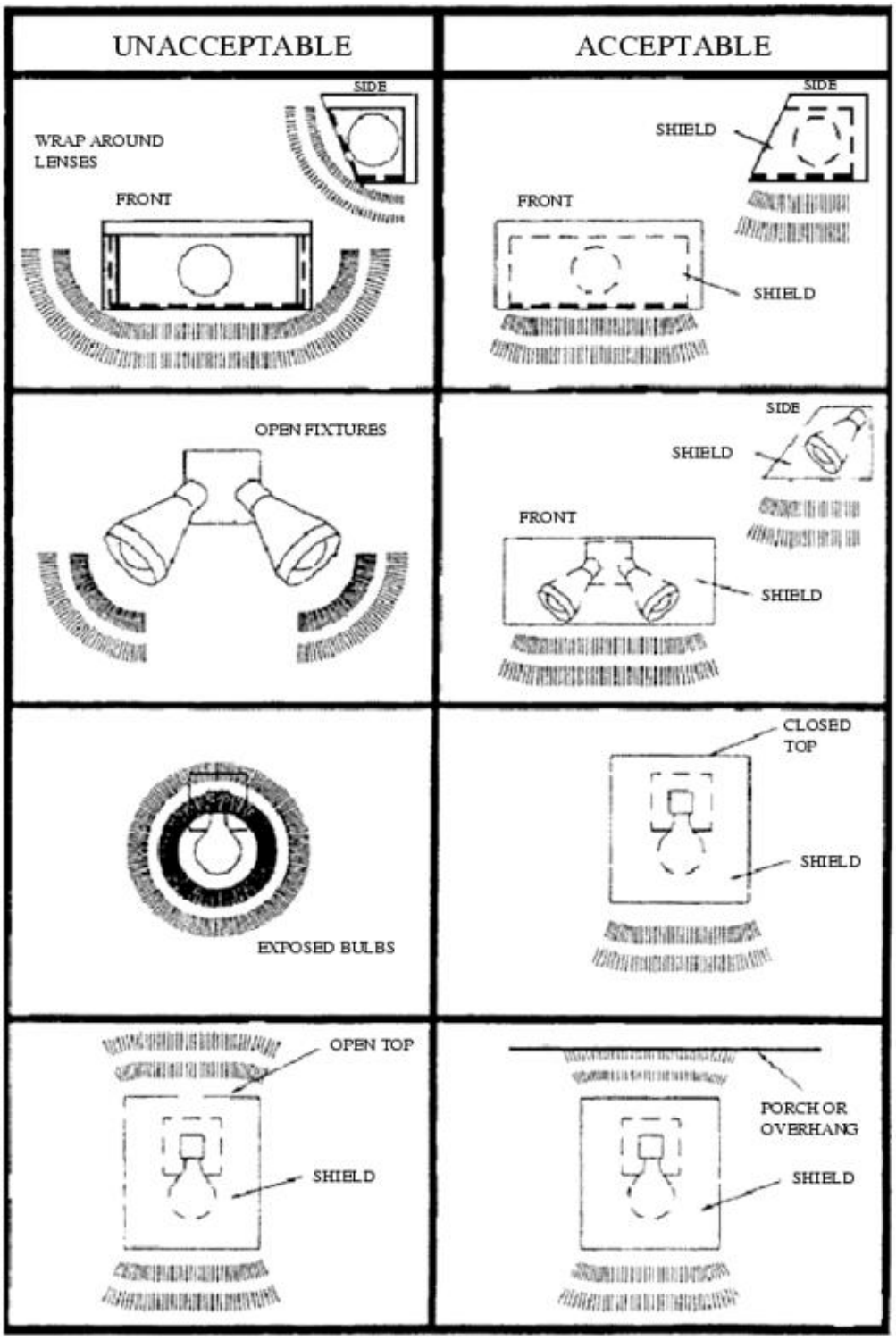

Figure 15.580.040(B)(1). Wall-mounted lights.

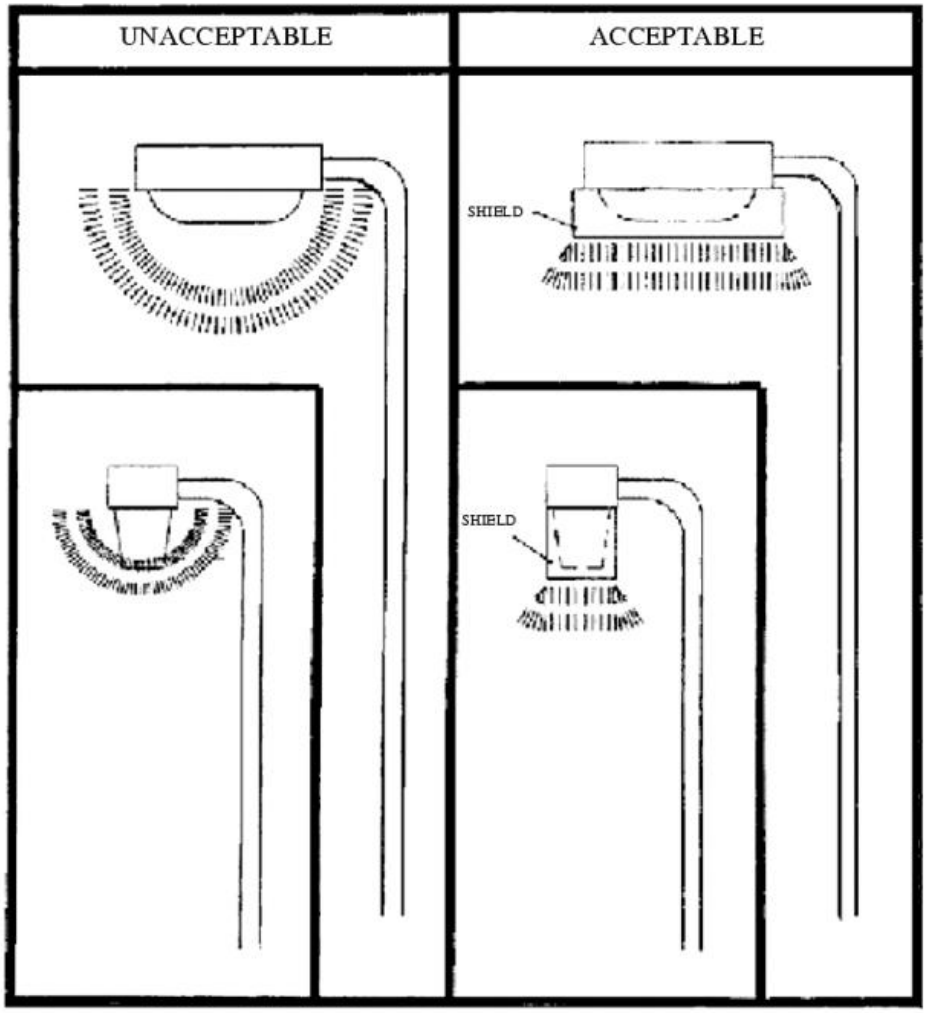

Figure 15.580.040(B)(2). Freestanding outdoor lighting fixtures.

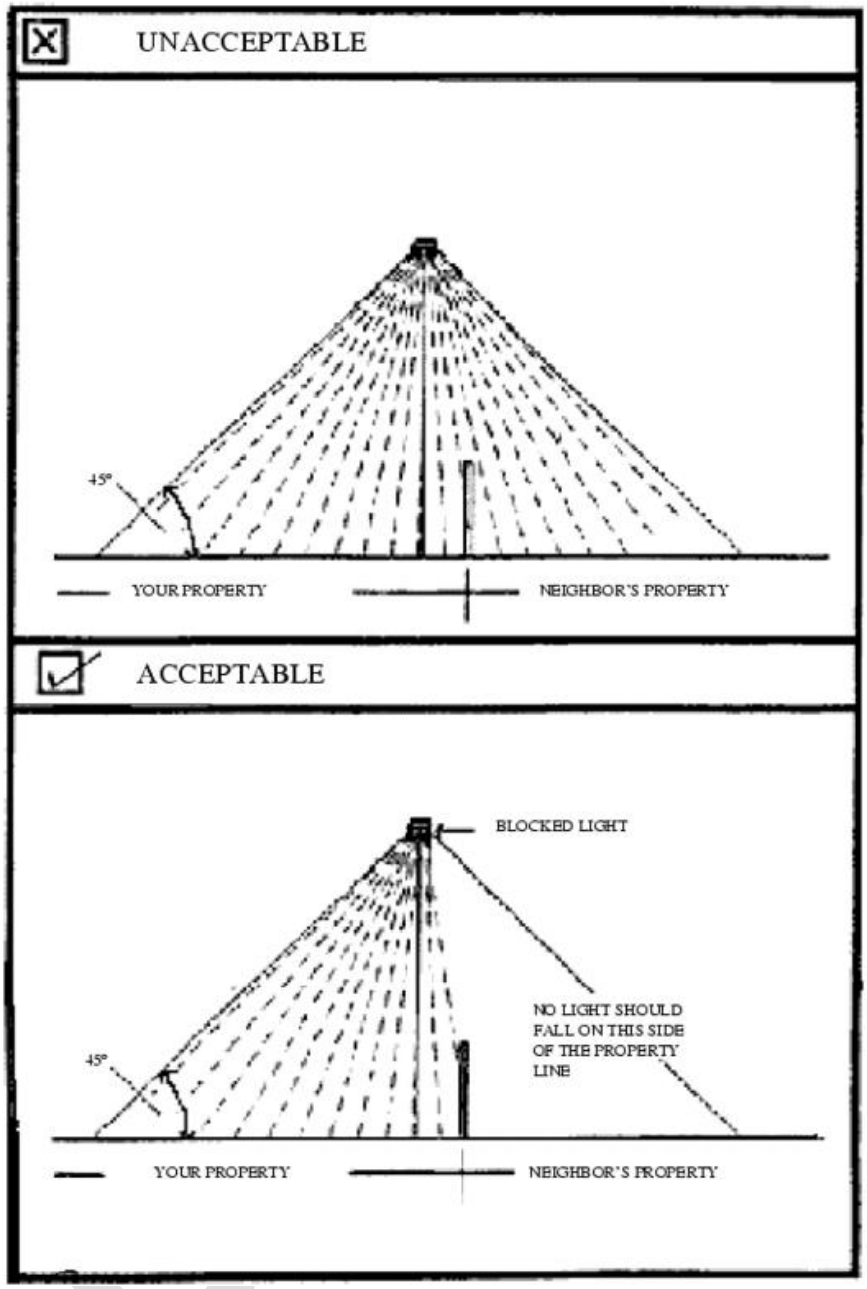

Figure 15.580.040(B)(3). Outdoor lighting fixtures – street and lot light cut-off at property line.

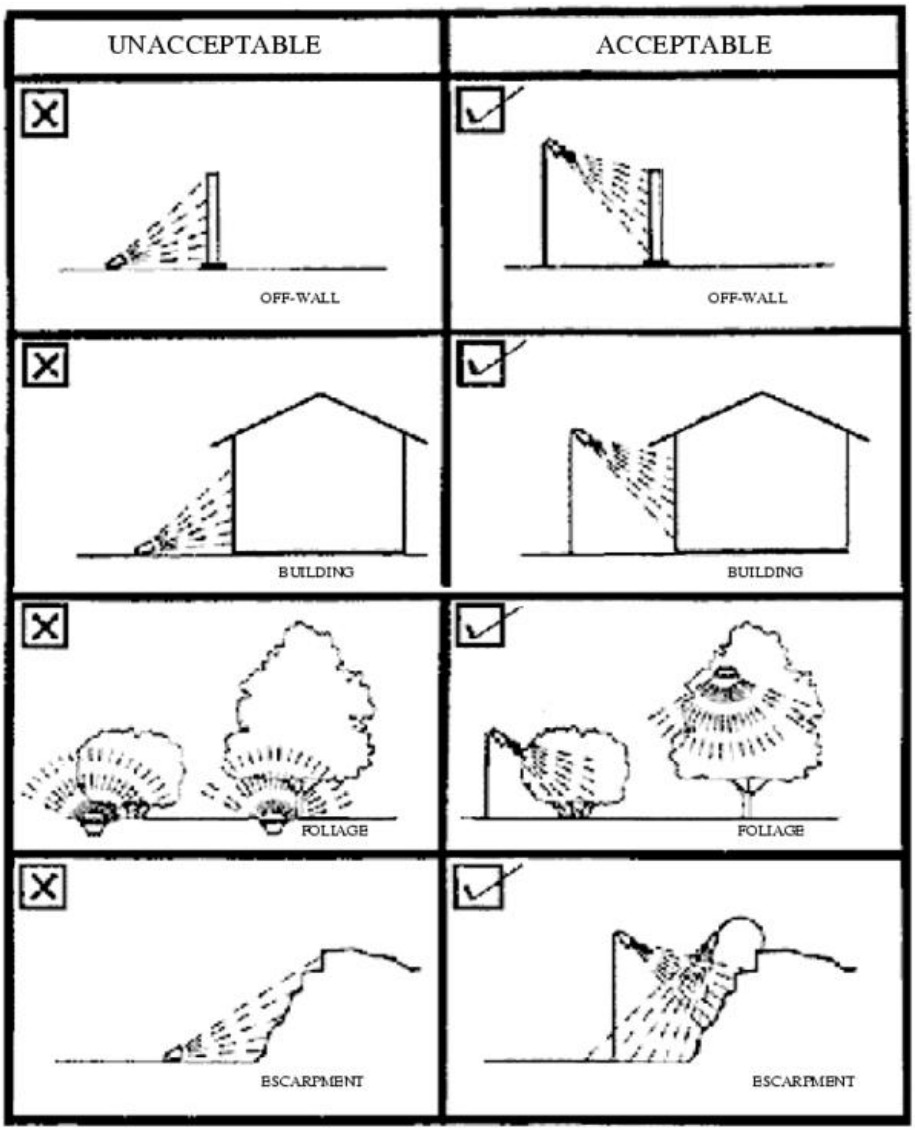

Figure 15.580.040(B)(4). Accent lighting.

G. Lighting standards for all new non-residential and multifamily development within the city. An exterior lighting plan providing appropriate lighting levels in all areas used by pedestrians or automobiles, including building entries, walkways, parking areas, circulation areas, and other open space areas shall be submitted and meet the following standards and guidelines:

1. All public areas shall be lighted with average minimum and maximum levels as follows:
   a. Minimum (for low or non-pedestrian and vehicular traffic areas) of 0.5 foot candles;
   b. Moderate (for moderate or high volume pedestrian areas) of 1 to 2 foot candles; and
   c. Maximum (for high volume pedestrian areas and building entries) of 4 foot candles;

2. Lighting shall be provided at consistent levels, with gradual transitions between maximum and minimum levels of lighting and between lit areas and unlit areas. Highly contrasting pools of light and dark areas shall be avoided;
3. Parking lot lighting fixtures shall be non-glare and mounted no more than 25 feet above the ground, with lower fixtures preferable so as to maintain a human scale;
4. Pedestrian-scaled lighting (light fixtures no taller than 15 feet) is encouraged in areas with high anticipated pedestrian activity. Lighting shall enable pedestrians to identify a face 45 feet away in order to promote safety; and
5. Vegetation and landscaping shall be maintained in a manner that does not obstruct security lighting.

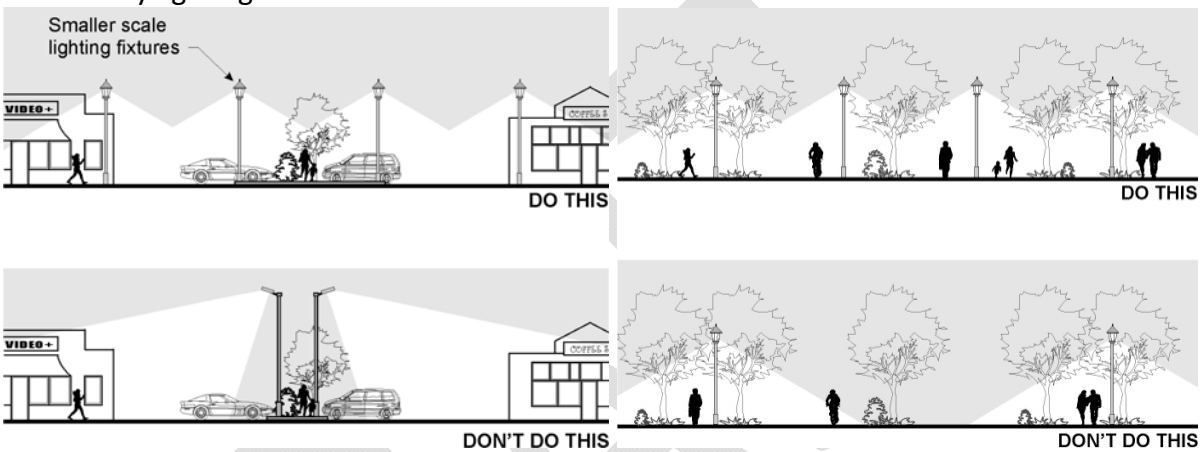

Figure 15.580.040(G). Lighting guidelines.

15.580.050 Submission of plans and evidence of compliance with code.

A. Submission contents. The applicant for any building permit or subdivision approval required by any provision of the laws of this jurisdiction in connection with proposed work involving outdoor lighting fixtures shall submit (as part of the application for permit or subdivision approval) evidence that the proposed work will comply with this chapter. The submission shall contain but shall not necessarily be limited to the following, all or part of which may be part of or in addition to the information required elsewhere in the laws of this jurisdiction upon application for the required permit or subdivision approval:

1. Plans indicating the location on the premises of all proposed newly installed or relocated outdoor lighting fixtures;
2. Description of all proposed newly installed or relocated outdoor lighting fixtures. The description may include, but is not limited to, catalog cuts and illustrations by manufacturers (including sections where required), lamp types, wattages and initial lumen outputs; and
3. Photometric data, such as that furnished by manufacturers, or similar showing the angle of cut-off of proposed newly installed or relocated outdoor light emissions.

B. Additional submission. The above required plans, descriptions and data shall be sufficiently complete to enable the building official to readily determine whether compliance with the requirements of this chapter will be secured. If such plans, descriptions and data cannot enable this ready determination, the applicant shall additionally submit as evidence of compliance to enable such determination such certified reports of tests as will do so; provided, that these tests shall have been performed and certified by a recognized testing laboratory.

C. Subdivision plats. If any subdivision proposes to have installed street or other common or public area outdoor lighting, submission of the information as described in subsection (A) of this section shall be required for all such lighting, and the lighting shall comply with the most current version of the city's public works development standards (ADD LINK).

D. Lamp or fixture substitution. Should any outdoor light fixture approved through the imposition of the requirements of this chapter, or the type of light source therein, be changed after the permit has been issued, a change request must be submitted to the building official for approval, together with adequate information to assure compliance with this chapter, which must be received prior to substitution.

15.580.060 Approved materials and methods of construction or installation/operation.

Approval of alternatives. The provisions of this chapter are not intended to prevent the use of any design, material, or method of installation or operation not specifically prescribed by this chapter, provided any such alternate has been approved by the building official to meet the purpose and intent of this chapter.

15.590 Regional Retail Commercial Design Standards

15.590.010 Purpose.

To establish design criteria for the review and approval of master site plans for regional retail commercial projects pursuant to ECC 15.250.070(D)(10).

15.590.020 Applicability.

The provisions herein apply to all master site plans for regional retail commercial projects pursuant to ECC 15.250.070 and subsequent development activity within the master site plan area. Such master site plans and subsequent development are exempt from the standards in ECC Chapters 15.510 through 15.580 unless otherwise noted herein.

15.590.030 Site planning.

A. Responding to the site characteristics.

1. Develop the site plan in response to specific site characteristics, including natural features, vegetation, topography, or existing amenities and location within the community.

   Design techniques:

   a. Commercial development should enhance valued neighborhood amenities such as stream corridors, trees and natural areas.

   b. Siting should acknowledge and reinforce desirable existing spatial patterns of the neighborhood.

2. Coordinate adequate public services and utilities in the design phase to serve the proposed uses.

B. Transitions to surrounding neighborhoods.

Link proposed development to walkways, trails, and bicycle systems in the surrounding area by connecting and lining up directly to existing linkages, closing gaps and treating crossings of barriers on development site with special design treatment, minimizing barriers, designing with consistent materials, widths and locations, and providing safe, easy and clearly identifiable access to and along the linkages. Safe, convenient and attractive connections to downtown linkages should be provided.

C. Streetscape compatibility.

Develop the site plan in response to safety, interaction/activity, informal surveillance.

Design techniques:

1. Ensure shared access and coordination of internal driveways and parking areas.

2. Cooperate in a welcoming gateway to the city from interstate highways and incorporate directional signage to historic downtown and Central Washington University (subject to federal, state and local ordinances).

D. Transitions to sidewalks, streets and buildings.

1. Design of building massing, height, and scale should provide a sensitive transition to adjoining residential neighborhoods.
2. New commercial developments, whose bulk and scale may negatively impact adjacent residential areas, should mitigate the effect through careful site planning and architectural design.

   Design techniques: Possible mitigation techniques include

   a. Locating open space on the site's edge to further separate the building from less intensive uses.
   b. Stepping down the massing of the building along the site's edge.
   c. Limiting length of, or articulating building facades to reflect adjacent residential patterns.
   d. Creative use of landscaping.

E. Street frontages and building orientation.

Orient the building toward the principal street frontage, and face the primary entrance toward that frontage.

Design techniques:

1. Commercial architecture in Ellensburg has traditionally maintained a strong relationship to the street.
2. Buildings in the mixed use retail and office park areas should abut the sidewalks on at least one side.
3. Orienting the building's formal facade and primary entrance toward the principal street frontage creates pedestrian interaction, minimizes automobile dominance, and results in a lively streetscape.
4. Avoid facing buildings to the side with the resultant erosion of the streetscape.
5. Site entrances shall be emphasized with landscape treatments to strongly indicate the pedestrian orientation of these areas.
6. Consideration should be given to the relationship between buildings and adjacent open space areas. All design should appear as an integrated part of an overall site plan.
7. Roadways should be designed to reduce the visual impact of pavement area through siting of structures, berms and landscaping.

F. Human activity.

1. Design the project to human scale in order to provide pedestrian interest and facilitate pedestrian activity.

   Design techniques:

   a. Use setback areas for pedestrian activities such as outdoor seating or dining, for a plaza or recessed entity, or for landscaping.

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b. Arcades, colonnades, or awnings at ground floor level provide pedestrian interest and can provide protection.

c. Create clear and safe pedestrian pathways from the sidewalks to the building's entrance.

d. Include public gathering spaces throughout the site, locating smaller retail buildings close to streets, and developing quality landscaping along street frontages.

e. Appropriate pedestrian amenities could include benches, planters, decorative paving, artwork, lighting, and/or bicycle racks.

2. The design should provide for a sense of enclosure and safety along commercial streets including the provision of sidewalks, benches, public transportation and a clear pedestrian and bicycle access to all buildings including both internal connections and linkages to city's planned and existing sidewalk and trail network.

3. Column and bay spacing along street fronts should be provided at intervals no greater than 36 feet apart in order to maintain a pedestrian-oriented scale and rhythm.

G. Respect for adjacent sites.

Structures should be scaled to other structures and spaces.

H. Phased developments.

1. Future development pads shall be designed to relate to the rest of the project's architecture and will provide pedestrian-scale exterior features.

2. Each phase of the development shall be designed to be consistent with, but not necessarily the same as, the balance of the project architecture, including materials, colors, and general style.

I. Transition between uses and streetscape.

1. Use open spaces to assist in the organization of architectural elements.

2. Provide common garden elements and/or human activity focus points.

3. Lessen the impact of parking by creating a prominent street front which is desirable for development attractiveness, public safety and pedestrian access.

15.590.040 Landscaping and hardscape features.

A. Reinforcing design continuity with neighboring and adjacent sites.

1. Select plant materials that are suitable to the site and to Ellensburg's climate zone, and provide a viable stationary irrigation system.

Design techniques:

a. Choice of plant materials and their placement on the site are critical to the valley's windy, semi-arid climate.

b. Install a stationary irrigation system that provides full coverage of the landscaped area.

2. Building entries, primary vehicular entries and building perimeters should be enhanced with landscaping which could include ornamental vines, groundcovers, shrubs and/or trees selected for their screening, canopy, spatial enclosure and seasonal variation.
3. Benches, kiosks, signs, bollards, waste receptacles, street vending carts, water fountains, lighting standards, perch walls, sidewalks, pathways, trails and special water features should be designed to be compatible elements of like materials and design.
4. Streetscape plantings should be simplified to allow adequate visibility from automobiles to businesses.
5. The use of potted plants and flowers as well as street trees are encouraged, but should not impede pedestrian traffic.
6. The landscape design character of Ellensburg should be reinforced by using:

   Design techniques:

   a. Street trees – Ellensburg has a long-term "Tree City" designation. If a street has a uniform planting of street trees, or an area of distinctive species, plant additional street trees that match the planting pattern or species.
   b. Similar plant materials – When many lots on a block feature similar landscape materials, emphasis on these materials will help a new project fit into the local context.
   c. Similar construction materials textures, colors or elements – Extending a low brick wall, using paving similar to a neighboring use or employing similar stairway construction are ways to achieve design continuity.
7. Use landscaping to integrate the commercial development with the community, through the establishment of sidewalks, street trees per city of Ellensburg street tree list, and street lighting.

   Design techniques:

   a. Plant regularly spaced trees to shade the sidewalk and street, and consider the use of planters to create a safety barrier between street and sidewalk, or between sidewalk and setback.
   b. Utilize the city of Ellensburg's street tree list to select climate-appropriate species.
   c. Street lighting designs should reflect the scale of the neighborhood.
8. Provide landscaping of appropriate scale in the area of the required setbacks, in conformance with city code.

   Design techniques:

   a. Incorporate landscape materials into the design of setbacks to help define pedestrian spaces, circulation, and building access.
   b. Landscaping can be effectively used to denote property edges and to accent architectural elements of street facades.
   c. Use landscaping to soften the effect of blank walls.

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B. Landscaping to enhance a large commercial building and/or site.

1. Enhance the site with landscaping.

   Design techniques:

   a. Softening the form of the building by screening blank walls, terracing retaining walls, etc.
   b. Providing a framework such as a trellis or arbor for plants to grow on.
   c. Incorporating a planter guard or low planter wall as part of the architecture.
   d. Distinctively landscaping open areas created by building modulation.
   e. Incorporating upper story planter boxes or roof planters.
   f. Including a special feature such as a courtyard, fountain or pool.
   g. Emphasizing entries with special planting in conjunction with decorative paving and/or lighting.
   h. Screening a building from view by its neighbors, or an existing use from the new building.

2. Screen dumpsters, utilities, and service areas from view with landscaping.

   Design techniques:

   a. Where service elements cannot be located away from the street front, they should be screened from view and not encroach upon the pedestrian right-of-way.
   b. Use an effective combination of landscape materials with fencing to screen the service area, and locate its opening away from the sidewalk.

C. Landscaping to Address Special Site Conditions.

1. High bank front yard. Where the building's ground floor is elevated above a sidewalk pedestrian's eye level, landscaping can help make the transition between grades.

   Design techniques:

   a. Rockeries with floral displays, live ground cover or shrubs.
   b. Terraces with floral displays, ground covers or shrubs.
   c. Low retaining walls with raised planting strips.
   d. Stone or brick masonry walls with vines or shrubs.

2. Barrier-free access. Where wheelchair ramps must be provided on a street front, the ramp structure might include a planting strip on the sidewalk side of the elevated portions of the ramp.
3. Steep banks or stream bed topography. Special plantings or erosion control measures may be necessary to prevent site destabilization and/or to enhance the visual qualities of the site in connection with neighboring improvement programs.
4. Boulevards. Incorporate landscaping which reflects and reinforces the sense of streetscape.
5. Greenbelt or other natural setting. Protect or preserve greenbelts and other settings by:

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Design techniques:

a. Minimizing the removal of significant trees.

b. Replacing trees that were removed with new trees.

c. Emphasizing naturalized or native landscape materials.

d. Retaining natural greenbelt vegetation that contributes to greenbelt preservation.

e. Selecting colors that are more appropriate to the natural setting.

15.590.050 Parking lots and structures.

Reduce the visual impact of parking lots and parking structures.

A. Parking – Surface.

1. Where possible, break-up or divide large parking lots. Employee and overflow parking may be located behind buildings and away from areas of high public visibility. Handicap stalls should be located throughout the development.

   Design techniques:

   a. The relationship of building facade to the street, and safe pedestrian access to the building entrances, are of primary consideration in commercial development.

   b. Parking must not dominate the street front.

2. Parking areas should include landscape areas. The size and location of parking areas should be minimized and related to the group of buildings served.

   Design techniques:

   a. All parking lots visible from public rights-of-way, or located within 20 feet of residential property, should be screened using a combination of trees, shrubs, walls, and/or trellis structures with plants.

   b. Screening need not be sight-obscuring, and need not be uniform along the property frontage.

3. Minimize long, straight, monotonous rows and effect of large paved areas by visually breaking up the parking lot with landscaped islands. Landscape islands shall be distributed throughout the parking lot at a rate of 24 square feet per stall.

4. Landscaping shall be provided to screen surface parking areas and provide transition between the project and surrounding areas. Landscape and screen surface parking areas visible to the public.

3. Pedestrian access from parking areas and vehicle circulation through parking areas should be safe and clearly defined.

4. Landscaped medians are encouraged where access and traffic allow.

5. Open space and landscaping should be coordinated and linked wherever possible, particularly in relation to public areas and the pedestrian system.

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6. Design and locate parking areas in a manner that will break up large areas of parking and provide for shared parking among businesses.
7. Locate off-street parking to the rear or side of the building, whenever possible.

   Design techniques:

   a. The site plan should minimize the number and width of driveways and curb cuts along the street and should consider alleyway access.
   b. Various parking lot configurations may be possible, depending upon site constraints; large lots may be broken into several smaller lots.
8. Minimize the visual impact of parking surface run-off treatments, and incorporate them into landscaping where possible.
9. Allow surface parking in front of large retail structures and anchor retailers but reduce visibility of parking from public streets with landscaping and the location of smaller structures.

B. Parking Structures.

1. The presence and appearance of garage or large door entrances should be minimized so that they do not dominate the street or building frontage.

   Design techniques:

   a. Recess the portion of the facade where the entry is located to help conceal it.
   b. Extend portions of the structure over the garage entry to help conceal it.
   c. Emphasize other elements of the facade to reduce the visual prominence of the garage entry.
2. Structured parking should be designed to avoid undifferentiated planes. The scale of parking structures should be modulated by interruptions of the facades, setbacks, and lowering the first level below the existing grade (where the water table allows) to reduce total height.
3. Facades of parking structures should include a landscape treatment in addition to architectural screening.

   Design techniques:

   Parking structures should have landscaping around the ground level perimeter and the top floor which will correspond to adjacent land uses and activities. Landscaping should include, but not be limited to, a combination of shade trees, evergreen trees, shrubs, groundcovers, deciduous native and ornamental shrubs, and vines to further screen the structures.
4. Provide walkways in parking floors with barriers to protect pedestrians from vehicles.

   Design techniques:

   For security, pedestrian routes should be visible and avoid enclosed, hidden areas. Emergency call boxes should be available.

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5. Parking structures should be enclosed with retail or office uses on the exterior or where this enclosure is not feasible, the visual impact should be softened with landscaping or screening.

C. Exterior lighting.

1. An exterior lighting plan for the development area shall be provided and approved.

   Design techniques:

   a. The plan should encourage nighttime pedestrian movement through and around the development area.

   b. Street lighting should relate in scale to the pedestrian characters of the area.

   c. The design of the light standards and luminaries should enhance the design theme.

   d. Exterior lighting installations shall be designed to avoid harsh contrasts in lighting levels.

2. In order to direct light downward and minimize the amount of light spilled into the dark night sky, all lighting fixtures shall be full cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA).

3. Fixtures used to accent architectural features, materials, colors, styles of buildings or art shall be located, aimed and shielded so that light is directed only on those features. Such fixtures shall be aimed or shielded so as to minimize light spill into the dark night sky.

   Design techniques:

   a. Lighting fixtures shall not generate excessive light levels, cause glare or direct light beyond the facade onto neighboring property, streets or the night sky.

   b. Flags of the United States or Washington State may be illuminated from below provided such lighting is focused primarily on the individual flag or flags so as to limit light trespass and spill into the dark night sky.

4. Illumination of landscaping shall utilize diffused or muted lighting, avoid glare, and minimize light trespass and escape beyond landscaping onto neighboring property, streets, or the night sky.

   Design techniques:

   a. Select plants that will not overgrow security lighting.

   b. Vegetation and landscaping shall be maintained in a manner that does not obstruct security lighting and minimizes possible entrapment spaces.

5. Fuel service station and truck stop exterior lighting levels should be adequate to facilitate only the activities taking place in such locations.

   Design techniques:

   a. Canopy light shall be fully recessed or fully shielded so as to ensure that no light source is visible from or causes glare on public rights-of-way or adjacent properties. Lights shall not be mounted on the top or sides of the canopy.

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b. Lighting shall not be used to attract attention to the business.

6. Security lighting should be designed and used to discourage crime and undesirable activity.

Design techniques:

a. Install full cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA).

b. Use the lowest possible illumination to effectively allow surveillance.

c. Use sensor technologies, timers or other means to activate lighting during times when it will be needed to conserve energy, provide safety, and promote compatibility between different land uses.

d. Aim lighting fixtures so that illumination is directed to the designated areas.

D. Architectural design.

1. Building height, bulk and scale.

a. The height, bulk and scale of buildings should be compatible with one another in the development and with neighboring property buildings. Compatibility could be accomplished by:

Design techniques:

i. Architectural context – the use of architectural style, details (such as roof lines or fenestration), color or materials that derive from neighboring uses.

ii. The creative use of landscaping or other screening.

iii. The location of features on-site to facilitate transition, such as locating required open space or the most compatible uses on the edge of the development area.

iv. Treating topographic conditions in ways that minimize impacts on neighboring development, such as by using a rockery rather than a retaining wall to give a more human scale to a project, or stepping a project down a hillside.

2. Architectural Elements and Materials.

a. The building as an individual structure or as part of a series of buildings should respect architectural context of the development area.

Design techniques:

i. Facade articulation.

ii. Building scale and proportion.

iii. Complementary architectural style.

iv. Roof forms.

v. Building details and fenestration patterns.

vi. Complementary materials.

b. Design roof lines to reflect traditional commercial roof configurations.

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Design techniques:

i. Commercial architecture in Ellensburg has traditionally included various roof forms, most often characterized by a decorative parapet wall;

ii. Various roof configurations such as gabled, flat, or shed are possible behind the parapet wall; however, mansard roofs are not traditionally found in Ellensburg and their use is discouraged;

iii. Avoid roof configurations which overly mimic residential styles;

c. Rooftop utilities and mechanical systems should not be visible from the street; Regional retail commercial project buildings have a building height limit of 50 feet which includes any building mechanical equipment.

d. The roofline of buildings should be modulated to avoid the appearance of large areas of flat roof and should include interesting architectural features. Consideration should be given to the appearance.

e. The scale of all structures in relationship to other structures and spaces is important. Multiple stories or the appearance of multiple stories may be used up to the maximum height limit. Some variation in heights contributes to the variety and complexity of the environmental experience, and is encouraged.

Design techniques:

Consider from among a wide range of wall treatments derived from traditional commercial architecture: pediments, cornice molding, cresting, or a stepped false-front design.

f. Organize multi-story commercial building facades with three-part horizontal division and vertical column division.

g. The ground floor of buildings should provide pedestrian interest and activity.

h. Use traditional storefront components and proportions on the ground-floor levels of street-facing facades.

i. Facade designs should include some contemporary translations of traditional commercial facade elements, such as:

Design techniques:

i. Recessed entries.

ii. Kick plates as bases.

iii. Plate glass display windows, commercial in scale.

iv. Transoms.

v. Canopies, marquees, and awnings.

j. Include windows on the second-floor levels of street-facing facades.

Design techniques:

a. Second-story windows create an important rhythm of solid-to-void.

b. Alignment, proportions, and groupings of second-floor windows should relate to first-floor building elements.

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c. Provide second-story windows with architectural detailing of appropriate scale.

k. Modulate, or break up, blank street-facing walls over 40 feet in width with windows, artwork, recesses, columns, bands, textural treatment, landscaping, or a combination of these techniques.

l. Avoid design features of incompatible scale such as:

Design techniques:

i. Residential design features, such as wood-frame porches.

ii. Blank second-story walls;

iii. Box-like design, especially on large buildings;

3. Architectural features.

a. Give special architectural treatment to primary building entrances and corner entrances. Special attention should be given to architectural features, fenestration patterns, and the building's proportions.

Design techniques:

i. Recessed entry.

ii. Roof line emphasis.

iii. Windows above entry.

iv. Canopy, marquee, or awning above entry.

v. Head molding or decorative lintel above doorway.

vi. Contrasting, decorative finish materials.

vii. Beveling.

viii. Roof accentuation or height increase.

ix. Sculptural relief.

x. Landscape emphasis.

b. Create building articulation by:

Design techniques:

i. Modulating the facade by stepping back or extending forward a portion of the façade.

ii. Repeating the window patterns at an interval that equals the articulation interval.

iii. Providing features such as a marquee, patio, deck or covered entry.

iv. Providing a balcony or bay window for each interval.

v. Changing the roofline by alternating dormers, stepped roofs, gables or other roof elements to reinforce the modulation or articulation interval.

vi. Changing the materials with a change in the building plane.

vii. Providing a lighting fixture, trellis, tree or other landscape feature with each interval.

c. Maintain a consistent architectural concept that reflects a human scale by:

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Design techniques:

i. Articulating the building's facades vertically and horizontally in intervals that conform to an existing structural pattern.

ii. Utilizing recessed spaces at ground level.

iii. Reducing the bulk of the main building by building upper floors.

iv. Grouping in a campus setting.

v. Limiting the length of, or otherwise modifying facades, to imply a group of smaller scale buildings.

vi. Reducing or varying the height of the structure to imply a smaller scale building.

4. Exterior finish material.

a. Building exteriors should be constructed of durable and maintainable materials that are typically commercial in character. Exterior should be attractive even when viewed up close. Materials that have texture, pattern, or lend themselves to a high quality of detailing are encouraged.

b. Commercial building materials and exterior finish typical to Ellensburg include:

Design techniques:

i. Clear or painted wooden storefront ornamentation/fenestration.

ii. Metal beaming and columns, decorative iron or visible metal exterior support structure which is incorporated into the building façade.

iii. Brick work with pattern articulation, simple corbelling and accent materials.

iv. Stone columns, fenestration, and accent combined with brick.

v. Cement work that has embossed ornamentation, architectural accent or structural column division.

vi. Ceramic and terra-cotta (pattern/ relief molded), tile ornamentation or decorative panels.

vii. Brick, stone, clay tile, and stucco.

viii. Also acceptable are concrete, EIFS, and wood.

ix. Varying patterns, textures, and combinations of materials and colors encouraged.

c. Select exterior color schemes that are appropriate for large scale development and fall within a traditional commercial range (see color notebook on file at city).

d. Building design must relate in material, colors, scale and form, which are harmonious with the surrounding environment.

e. Buildings should be constructed of materials that minimize light reflection and glare.

f. Green building practices or environmentally sensitive and innovative design and materials are encouraged and should comply with Leadership in Energy and Environmental Design (LEED) standards.

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E. Commercial Signage.

A sign plan shall be submitted with the design review application. The plan at a minimum shall show locations, dimensions and designs of the proposed signs. (Please refer to Chapter 3.12 ECC, Sign Code, for sign regulations in the C-T and C-H zones and the Washington State Department of Transportation for State Highway sign regulations.)

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Article 6: Critical Areas

Public Hearing Draft, November 2013

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15.600 General Provisions

15.600.010 Purpose.

A. The purpose of this chapter is to designate and classify ecologically sensitive and hazardous areas and to protect these areas and their functions and values, while also allowing for reasonable use of private property.

B. This chapter is to implement the goals, policies, guidelines, and requirements of the Ellensburg comprehensive plan and the Growth Management Act.

C. The city finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the city and its residents, and/or may pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation of floodwaters, ground water recharge and discharge, erosion control, protection from hazards, historical, archaeological, and aesthetic value protection, and recreation. These beneficial functions are not listed in order of priority.

D. Goals. By limiting development and alteration of critical areas, this chapter seeks to:

1. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, or flooding;

2. Maintain healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats, and to conserve the biodiversity of plant and animal species;

3. Direct activities not dependent on critical areas resources to less ecologically sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas; and

4. Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and habitat conservation areas.

E. The regulations of this chapter are intended to protect critical areas in accordance with the Growth Management Act and through the application of the best available science, as determined according to WAC 365-195-900 through 365-195-925, and in consultation with state and federal agencies and other qualified professionals.

F. This chapter is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this chapter to make a parcel of property unusable by denying its owner reasonable economic use of the property or to prevent the provision of public facilities and services necessary to support existing development and planned for by the community without decreasing current service levels below minimum standards.

G. The city's enactment or enforcement of this chapter shall not be construed for the benefit of any individual person or group of persons other than the general public.

15.600.020 Authority.

A. As provided herein, the director is given the authority to interpret and apply, and the responsibility to enforce, this chapter to accomplish the stated purpose.

B. The city may withhold, condition, or deny development permits or activity approvals to ensure that the proposed action is consistent with this chapter.

15.600.030 Relationship to other regulations.

A. These critical areas regulations shall apply as an overlay and in addition to zoning and other regulations adopted by the city.

B. Any individual critical area adjoined by another type of critical area shall have the buffer and meet the requirements that provide the most protection to the critical areas involved. When any provision of this chapter or any existing regulation, easement, covenant, or deed restriction conflicts with this chapter, that which provides more protection to the critical areas shall apply.

C. These critical areas regulations shall apply concurrently with review conducted under the State Environmental Policy Act (SEPA), as locally adopted. Any conditions required pursuant to this chapter shall be included in the SEPA review and threshold determination.

D. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, Shoreline Substantial Development Permits, Hydraulic Permit Act (HPA) permits, Section 106 of the National Historic Preservation Act, U.S. Army Corps of Engineers Section 404 permits, National Pollution Discharge Elimination System permits). The applicant is responsible for complying with these requirements, apart from the process established in this chapter.

15.600.040 Administrative procedures.

The following procedures are intended to provide efficient and accurate review of all permits which include actions or development in the city, or requests made under the provisions of this chapter. The review is intended to determine if the proposed permit application or action is located within or potentially affects a critical area and, if so, the necessary level and scope of the critical area review.

A. Combined permit application. When there is a specific underlying permit application required for the proposed activity, the decision procedures required under this chapter, except for exemption decisions made pursuant to ECC 15.610.020, shall be combined with the decision procedures for that underlying permit. When there is a specific underlying permit application required for the proposed activity the applicant shall:

1. Submit an application meeting the complete application requirements for the underlying permit;
2. Submit all information required for critical areas review under this chapter;
3. Submit a complete SEPA checklist and appropriate SEPA checklist fee if SEPA is required for the underlying permit.

The decision procedure for the combined permits shall be subject to the 120-day time procedures outlined in ECC 15.220.070; however, any required SEPA threshold determination shall be issued and any required SEPA public comment period shall be completed prior to a public hearing on the combined permits.

Except as identified below, the combined permit decision procedures, including any public notice and public hearing requirements, shall follow the permit decision procedures which apply to the underlying permit. In the event that there are multiple underlying permits with conflicting permit decision procedures, the combined permit decision procedures shall follow the underlying permit application and notice procedures which require the most extensive decision process.

In the event that there is no underlying permit application or approval required for the proposed activity, the procedures for critical area application review shall be as set forth in B, C, D, E and F below.

B. Exemption decision (a Type II review process). The review process for an exemption request made pursuant to ECC 15.610.020 is a Type II review process as set forth in Chapter 15.210 through 15.220 ECC.

C. Exception decision (a Type III permit review process). Exception requests made pursuant to ECC 15.610.030 and 15.610.040 are a Type III permit review process as set forth in Chapters 15.210 through 15.220 ECC.

D. Initial determination decision (a Type II permit review process). Initial determinations made pursuant to Chapter ECC 15.610.080 are a Type II permit review process as set forth in Chapters 15.210 through 15.220 ECC.

E. Final determination decision (a Type I permit review process). Final determinations made pursuant to Chapters 15.610.160, 15.610.180 and 15.610.190 shall be are a Type I permit review process as set forth in Chapters 15.210 through 15.220 ECC.

F. Variances (a Type III permit review process). Variance requests made pursuant to ECC 15.610.220 shall be reviewed and are Type III permit review processes as set forth in Chapters 15.210 through 15.220 ECC and Chapter 15.250.050 ECC.

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15.600.050 Fees.

A. The city council shall establish fees for filing of a critical area information form, critical area review processing, and other services provided by the city as required by this chapter. These fees shall be based on the anticipated sum of direct costs incurred by the city for any individual development or action and may be established as a sliding scale that will recover all of the city costs including the enforcement of these code provisions. The bases for these fees shall include, but not be limited to, the cost of engineering and planning review time, cost of inspection time, costs for administration, and any other special costs attributable to the critical area review process.

B. Unless otherwise indicated in this chapter, the applicant shall be responsible for the initiation, preparation, submission, and expense of all required reports, assessment(s), studies, plans, reconnaissance(s), peer review(s) by qualified consultants, and other work prepared in support of or necessary to review the application.

15.600.060 Severability.

If any clause, sentence, paragraph, section, or part of this chapter or the application thereof to any person or circumstances shall be judged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered. The decision shall not affect or invalidate the remainder of any part thereof and to this end the provisions of each clause, sentence, paragraph, section, or part of this chapter are hereby declared to be severable.

15.600.070 Interpretation.

In the interpretation and application of this chapter, the provisions of this chapter shall be considered to be the minimum requirements necessary, shall be liberally construed to serve the purpose of this chapter, and shall be deemed to neither limit nor repeal any other provisions under state statute.

15.600.080 Jurisdiction – Critical areas.

A. The city shall regulate all uses, activities, and developments within, adjacent to, or likely to affect, one or more critical areas, consistent with the best available science and the provisions herein.

B. Critical areas regulated by this chapter include:

1. Wetlands;
2. Frequently flooded areas;
3. Critical aquifer recharge areas;
4. Geologically hazardous areas; and
5. Fish and wildlife habitat conservation areas.

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C. All areas within the city meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

15.600.090 Protection of critical areas.

A. Any action taken pursuant to this chapter shall result in at least equivalent functions and values of the critical areas associated with the proposed action, as determined by the best available science. All actions and developments shall be designed and constructed in accordance with ECC 15.610.240 mitigation sequencing. Applicants must first demonstrate an inability to avoid impacts before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.

B. This chapter shall be interpreted to ensure, among other things, that no harm shall occur in critical areas as a result of activities and developments, but it shall not require enhancement of critical areas where such critical areas were degraded prior to the proposed land use activity or development, or where previously existing critical areas no longer exist.

15.600.100 Best available science.

A. Protect functions and values of critical areas with special consideration to anadromous fish. Critical area reports and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish, such as salmon and bull trout, and their habitat.

B. Best available science to be consistent with criteria in WACs. The best available science is that scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified scientific professional, or team of qualified scientific professionals, that is consistent with criteria established in WAC 365-195-900 through 365-195-925.

C. Characteristics of a valid scientific process. In the context of critical areas protection, a valid scientific process is one that produces reliable information useful in understanding the consequences of a local government's regulatory decisions, and in developing critical areas policies and development regulations that will be effective in protecting the functions and values of critical areas. To determine whether information received during the permit review process is reliable scientific information, the director shall determine whether the source of the information displays the characteristics of a valid scientific process. Such characteristics are as follows:

1. Peer review. The information has been critically reviewed by other persons who are qualified scientific experts in that scientific discipline. The proponents of the information have addressed the criticism of the peer reviewers. Publication in a refereed scientific journal usually indicates that the information has been appropriately peer-reviewed;

2. Methods. The methods used to obtain the information are clearly stated and reproducible. The methods are standardized in the pertinent scientific discipline or, if not, the methods have been appropriately peer-reviewed to ensure their reliability and validity;
3. Logical conclusions and reasonable inferences. The conclusions presented are based on reasonable assumptions supported by other studies and consistent with the general theory underlying the assumptions. The conclusions are logically and reasonably derived from the assumptions and supported by the data presented. Any gaps in information and inconsistencies with other pertinent scientific information are adequately explained;
4. Quantitative analysis. The data have been analyzed using appropriate statistical or quantitative methods;
5. Context. The information is placed in proper context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge; and
6. References. The assumptions, analytical techniques, and conclusions are well referenced with citations to relevant, credible literature and other pertinent existing information.

D. Nonscientific information. Nonscientific information may supplement scientific information, but it is not an adequate substitute for valid and available scientific information. Common sources of nonscientific information include the following:

1. Anecdotal information. One or more observations that are not part of an organized scientific effort (for example, “I saw a grizzly bear in that area while I was hiking”);
2. Nonexpert opinion. Opinion of a person who is not a qualified scientific expert in a pertinent scientific discipline (for example, “I do not believe there are grizzly bears in that area”); and
3. Hearsay. Information repeated from communication with others (for example, “At a lecture last week, Dr. Smith said there were no grizzly bears in that area”).

E. Absence of valid scientific information. Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area leading to uncertainty about the risk to critical area function of permitting an alteration of or impact to the critical area, the director shall:

1. Take a precautionary or a no-risk approach, that strictly limits development and land use activities until the uncertainty is sufficiently resolved; and
2. Require application of an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and nonregulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. An adaptive management program shall:

a. Address funding for the research component of the adaptive management program;

b. Change course based on the results and interpretation of new information that resolves uncertainties; and

c. Commit to the appropriate timeframe and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting protection of critical areas and anadromous fisheries.

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15.610 Applicability, Exemptions and Exceptions

15.610.010 Applicability.

A. The provisions of this chapter shall apply to all lands, all land uses and development activity, and all structures and facilities in the city, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the city. No person, company, agency, or applicant shall alter a critical area or buffer except as consistent with the purposes and requirements of this chapter.

B. The city shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first ensuring compliance with the requirements of this chapter, including, but not limited to, the following (as applicable):

   1. Building permit;
   2. Site development permit;
   3. Conditional use permit;
   4. Short plat;
   5. Subdivision;
   6. Master site plan;
   7. Zoning variance;
   8. Zoning code amendment; or
   9. Any other adopted permit or required approval not expressly exempted by this chapter.

C. Approval of a permit or development proposal pursuant to the provisions of this chapter does not discharge the obligation of the applicant to comply with the provisions of this chapter.

15.610.020 Exemptions.

A. Exemption request and review process. The proponent of the activity may submit a written request for exemption to the director that describes the activity and states the exemption listed in this section that applies. The director shall review the exemption request as a Type II permit review process as set forth in Chapter 15.210 through 15.220. If the exemption is approved, it shall be placed on file with the community development department and the proponent may continue through the review process for any underlying permit. If the exemption is denied, the proponent may continue in the critical area review process and shall be subject to the requirements of this chapter.

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B. Exempt activities and impacts to critical areas. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas. To be exempt from this chapter does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's sole expense.

C. Exempt activities. The following developments, activities, and associated uses shall be exempt from the provisions of this chapter; provided, that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements:

1. Emergencies. Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or which pose an immediate risk of damage to private property and which require remedial or preventative action in a timeframe too short to allow for compliance with the requirements of this chapter. Emergency actions which create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer. The person or agency undertaking such action shall notify the city within one working day following commencement of the emergency activity. Within 30 days, the director shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the director determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of ECC 15.610.230, unauthorized alterations and enforcement, shall apply.

   After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan. The person or agency undertaking the action shall apply for review, and the alteration, critical area report, and mitigation plan shall be reviewed by the city in accordance with the review procedures contained herein. Restoration and/or mitigation activities must be initiated within one year of the date of the emergency, and completed in a timely manner; provided, however, the restoration, mitigation, planning and financial requirements set forth in this subsection shall not apply to public safety or volunteer emergency services providers who, in good faith, render emergency response services, and while in the course and scope of such services determine it necessary to damage, destroy or alter property falling under the jurisdiction of this chapter; provided further, this exception from responsibility shall not extend to the landowner or to any persons other than such public safety or volunteer emergency services providers;

2. Operation, maintenance, or repair. Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees, or drainage systems, that do not require construction permits, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed

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operation, maintenance, or repair. Operation and maintenance includes vegetation management performed in accordance with best management practices that is part of ongoing maintenance of structures, infrastructure, or utilities; provided, that such management actions are part of regular and ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of the structure or utility, and do not directly impact an endangered or threatened species; and

3. Passive outdoor activities. Recreation, education, and scientific research activities that do not degrade the critical area, including fishing, hiking, and bird watching. Trails must be constructed pursuant to ECC 15.610.050(C)(5), public and private pedestrian trails.

15.610.030 Exception – Public agency and utility.

A. If the application of this chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this section.

B. Exception request and review process (a Type III permit review process). An application for a public agency and utility exception shall be made to the city and shall include a critical area information form; critical area report (ECC 15.620.210 and 15.610.220), including mitigation plan (ECC 15.610.140), if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW). The director shall process the exception request as a Type III permit review process as set forth in Chapter 15.210 through 15.220 ECC. As part of that review process the director shall prepare a recommendation to the city council based on review of the submitted information, a site inspection, and the proposal's ability to comply with public agency and utility exception review criteria in subsection (D) of this section.

C. Public agency and utility review criteria. The criteria for review and approval of public agency and utility exceptions are as follows:

1. There is no other practical alternative to the proposed development with less impact on the critical areas;

2. The application of this chapter would unreasonably restrict the ability to provide utility services to the public;

3. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

4. The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and

5. The proposal is consistent with other applicable regulations and standards.

D. Burden of proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

15.610.040 Exception – Reasonable use.

A. If the application of this chapter would deny all reasonable economic use of the subject property, the city shall determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this section.

B. Exception request and review process (a Type III permit review process). An application for a reasonable use exception shall be made to the city and shall include a critical area information form; critical area report (ECC 15.610.100 and 15.610.110), including mitigation plan (ECC 15.610.140), if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW and WAC 197-11-158). The directorshall process the exception request as a Type III permit review process as set forth in Chapter 15.210 through 15.220 ECC. As part of that review process the director shall prepare a recommendation to the city council based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria in subsection (D) of this section.

C. Reasonable use review criteria. Criteria for review and approval of reasonable use exceptions follow; one or more may apply:

1. The application of this chapter would deny all reasonable economic use of the property;
2. No other reasonable economic use of the property has less impact on the critical area;
3. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;
4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of the ordinance codified in this chapter, or its predecessor;
5. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
6. The proposal will result in no net loss of critical area functions and values consistent with the best available science; and
7. The proposal is consistent with other applicable regulations and standards.

D. Burden of proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made.

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15.610.050 Allowed activities. (a Type I permit review process).

Certain activities as set forth below are allowed activities that do not require submittal of a separate critical area information form or critical area report. In making the decision whether a proposed activity is an allowed activity for purposes of this chapter, the director shall follow the permit review process set forth for Type I permit in Chapters 15.210 through 15.220 ECC.

A. Critical area report (ECC 15.610.100 and 15.610.110). Activities allowed under this chapter shall have been reviewed and permitted or approved by the city or other agency with jurisdiction, but do not require submittal of a separate critical area information form or critical area report, unless such submittal was required previously for the underlying permit. The director may apply conditions to the underlying permit or approval to ensure that the allowed activity is consistent with the provisions of this chapter to protect critical areas.

B. Required use of best management practices. All allowed activities shall be conducted using the best management practices, adopted pursuant to the city's public works development standards (ADD LINK), ECC Titles 3, 4, 5 and 9, that result in the least amount of impact to the critical areas. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The city shall observe the use of best management practices to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area shall be restored, rehabilitated, or replaced at the responsible party's expense.

C. Allowed activities. The following activities are allowed:

1. Permit requests subsequent to previous critical area review. Development permits and approvals that involve both discretionary land use approvals (such as subdivisions, rezones, or conditional use permits), and construction approvals (such as building permits) if all of the following conditions have been met:
   a. The provisions of this chapter have been previously addressed as part of another approval;
   b. There have been no material changes in the potential impact to the critical area or buffer since the prior review;
   c. There is no new information available that is applicable to any critical area review of the site or particular critical area;
   d. The permit or approval has not expired or, if no expiration date, no more than 5 years has elapsed since the issuance of that permit or approval; and
   e. Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured;
2. Modification to existing structures. Structural modification of, addition to, demolition of or replacement of, an existing legally constructed structure (undertaken pursuant to an issued permit, if required) that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement; provided, that restoration of structures or demolition pursuant to an approved demolition permit must be initiated within one

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year of the date of such damage, as evidenced by the issuance of a valid building permit, and diligently pursued to completion;

3. Activities within the improved right-of-way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a city-authorized private roadway, except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater; subject to the following:
   a. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the right-of-way improvement, including disturbed areas; and
   b. Retention and replanting of native vegetation shall occur wherever possible along the right-of-way improvement and resulting disturbance;
4. Minor utility projects. Utility projects which have minor or short-duration impacts to critical areas, as determined by the director in accordance with the criteria below, and which do not significantly impact the function or values of a critical area(s); provided, that such projects are constructed with best management practices and additional restoration measures are provided. Minor activities shall not result in the transport of sediment or increased stormwater. Such allowed minor utility projects shall meet the following criteria:
   a. There is no practical alternative to the proposed activity with less impact on critical areas;
   b. The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility; and
   c. The activity involves disturbance of an area less than 75 square feet;
5. Public and private pedestrian trails. Public and private pedestrian trails, except in wetlands, fish and wildlife habitat conservation areas, or their buffers, subject to the following:
   a. The trail surface shall meet all other requirements including applicable standards set forth in the city's public works development standards (ADD LINK);
   b. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and
   c. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report.
6. Select vegetation removal activities. The following vegetation removal activities; provided, that except for these activities no vegetation shall be removed from a critical area or its buffer without approval from the director:
   a. The removal of invasive and noxious weeds and vegetation with hand labor and light equipment;
   b. The removal of trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property; provided, that:

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i. The applicant submits a report from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees;

ii. Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees should be removed or converted to wildlife snags;

iii. All vegetation cut (tree stems, branches, etc.) shall be left within the critical area or buffer unless removal is warranted due to the potential for disease or pest transmittal to other healthy vegetation;

iv. The landowner shall replace any trees that are removed with new trees at a ratio of 2 replacement trees for each tree removed (2:1) within one year in accordance with an approved restoration plan. Replacement trees may be planted at a different, nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area. Replacement trees shall be species that are native and indigenous to the site and a minimum of one inch in diameter-at-breast height (dbh) for deciduous trees and a minimum of 6 feet in height for evergreen trees as measured from the top of the root ball;

v. Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation, may be removed or pruned by the landowner prior to receiving written approval from the city; provided, that within 14 days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this chapter;

c. Measures to control a fire or halt the spread of disease or damaging insects consistent with the state Forest Practices Act, Chapter 76.09 RCW; provided, that the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan; and

d. Unless otherwise provided, or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited;

7. Chemical applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the city; provided, that their use shall be restricted in accordance with Washington State Department of Fish and Wildlife Management Recommendations and the regulations of the Washington State Department of Agriculture, Washington State Department of Ecology, and the U.S. Environmental Protection Agency;

8. Minor site investigative work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, archaeological shovel tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored; and

9. Navigational aids and boundary markers. Construction or modification of navigational aids and boundary markers.

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15.610.060 General critical area review requirements.

A. As part of this review, the city shall:

1. Verify the information submitted by the applicant;
2. Evaluate the project area and vicinity for critical areas;
3. Determine whether the proposed project is likely to impact the functions or values of critical areas; and
4. Determine if the proposed project adequately addresses the impacts and avoids impacts to the critical area associated with the project.

B. If the proposed project is within or is likely to impact a critical area, the city shall:

1. Require a critical area report from the applicant that has been prepared by a qualified professional;
2. Review and evaluate the critical area report;
3. Determine whether the development proposal conforms to the purposes and performance standards of this chapter, including the criteria in ECC 15.610.170, Review criteria;
4. Assess the potential impacts to the critical area and determine if they can be avoided or minimized;
5. Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of the critical area and public health, safety, and welfare concerns consistent with the goals, purposes, objectives, and requirements of this chapter; and
6. Assess all residential and commercial redevelopment according to the following criteria and requirements. Standard buffer widths on legal lots or parcels recorded prior to the effective date of the ordinance codified in this chapter may be reduced by the director upon the receipt and consideration of a critical area report as required under ECC 15.610.100 and 15.610.110. In addition to the requirements of such critical area report, the report shall include recommendations for the buffer width and mitigation from the experienced, qualified professional who produced the critical area report, provided the applicant for a development permit or other city approval demonstrates:
   a. The lot was improved with a legally constructed structure prior to the effective date of the ordinance codified in this chapter. Current or continued occupancy is not required to meet this standard.
   b. The legally constructed structure is currently present on the lot or was removed pursuant to a demolition permit approved by the city prior to the effective date of the ordinance codified in this chapter.
   c. The existing buffer or critical area has been degraded by past legal land uses and is currently in a degraded state.
   d. The applicant mitigates for the proposed buffer to result in no net loss of buffer functions per best available science.

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e. The applicant provides in the critical areas report a discussion comparing the functions provided by the existing buffer and the functions provided by the proposed buffer with mitigation demonstrating no net loss of function.

f. The applicant provides for the protection of the reestablished buffer and critical area in perpetuity through one or more of the following measures:

   i. Major and minor subdivisions, commercial, and multifamily residential developments completed under this section shall dedicate all buffers and critical areas as a critical area tract recorded prior to the issuance of an occupancy permit or other final city approval.

   ii. Single-family development and boundary line adjustments shall record a notice on the title of affected properties identifying the presence and location of buffer widths and adjoining critical areas. Recording the notice on title shall occur prior to occupancy permits or other final city approvals and follow the procedure and requirements contained in ECC 15.610.250.

15.610.070 Critical area preapplication consultation.

Any person preparing to submit an application for development or use of land that may be regulated by the provisions of this chapter shall comply with the preapplication process for the underlying permit as set forth in Chapter 15.220.010 ECC. At this meeting, the director shall discuss the requirements of this chapter; provide critical area maps, scientific information, and other source materials; outline the review process; and work with the activity proponent to identify any potential concerns that might arise during the review process, in addition to discussing other permit procedures and requirements.

15.610.080 Critical area information form.

A. Submittal. Prior to the city's consideration of any proposed activity not found to be exempt under ECC 15.610.020, Exemptions, or allowed pursuant to ECC 15.610.050, Allowed activities, the applicant shall submit to the department complete information regarding the critical area on the application for the underlying development, on forms provided by the city.

B. Site inspection. Upon receipt of a project application and the necessary information regarding the critical area, the director shall conduct a site inspection to review critical area conditions on site. The director shall notify the property owner of the inspection prior to the site visit. Reasonable access to the site shall be provided by the property owner for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

C. Critical area information review process. The director and/or his/her designee shall review the critical area information form, conduct a site inspection, and review other information available pertaining to the site and the proposal and make a determination as to whether any critical areas may be affected by the proposal and if a more detailed critical area report shall be submitted.

1. Decision indicators. The director may use the following indicators to assist in determining the need for a critical area report:
   a. Indication of a critical area on the city critical areas maps that may be impacted by the proposed activity;
   b. Information and scientific opinions from appropriate agencies, including but not limited to the Washington State Departments of Fish and Wildlife and Ecology;
   c. Documentation, from a scientific or other reasonable source, of the possible presence of a critical area;
   d. A finding by a qualified professional, or a reasonable belief by the director, that a critical area may exist on or adjacent to the site of the proposed activity; and
   e. Critical areas map (once adopted).

D. Decision on critical area.
   1. No critical areas present. If after a site visit the director's analysis indicates that the project area is not within or adjacent to a critical area or buffer and that the proposed activity is unlikely to degrade the functions or values of a critical area, then the director shall rule that the critical area review is complete and note on the underlying application the reasons that no further review is required. A summary of this information shall be included in any staff report or decision on the underlying permit.
   2. Critical areas present, but no impact – Waiver. If the director determines there are critical areas within or adjacent to the project area, but that the best available science shows that the proposed activity is unlikely to degrade the functions or values of the critical area, the director may waive the requirement for a critical area report. A waiver may be granted if there is substantial evidence that all of the following requirements will be met:
      a. There will be no alteration of the critical area or buffer;
      b. The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of this chapter; and
      c. The proposal is consistent with other applicable regulations and standards. A summary of this analysis and the findings shall be included in any staff report or decision on the underlying permit.
   3. Critical areas may be affected by proposal. If the director determines that a critical area or areas may be affected by the proposal, then the director shall notify the applicant that a critical area report must be submitted prior to further review of the project, and indicate each of the critical area types that should be addressed in the report.

E. Effect of director's determination. A determination regarding the apparent absence of one or more critical areas by the director is not an expert certification regarding the presence of critical areas and the determination is subject to possible reconsideration and reopening if new information is received. If the applicant wants greater assurance of the accuracy of the critical area review determination, the applicant may choose to hire a qualified professional to provide such assurances.

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15.610.090 Public notice of initial determination.

The city shall notify the public of proposals in accordance with the procedure set forth in ECC 15.220.040 for the underlying permit type.

A. If the director determines that no critical area report is necessary, the city shall state the reasons for this determination in the notice of application issued by the city for the proposal.

B. If the director determines that there are critical areas on the site that the proposed project is unlikely to impact and the project meets the requirements for and has been granted a waiver from the requirement to complete a critical area report, a summary of the analysis and findings for this decision shall be stated in the notice of application for the proposal.

C. If the director determines that critical areas may be affected by the proposal and a critical area report is required, public notice of the application shall include a description of the critical area that might be affected and state that a critical area report(s) is required.

15.61.100 Critical area report – Requirements.

A. Preparation by qualified professional. If required by the director in accordance with ECC 15.610.080(D)(3), the applicant shall submit a critical area report prepared by a qualified professional as defined herein.

B. Incorporation of best available science. The critical area report shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance and reference the source of science used. The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this chapter.

C. Minimum report contents. At a minimum, the report shall contain the following:

1. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;

2. A copy of the site plan for the development proposal including:

   a. A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and

   b. A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;

3. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

4. Identification and characterization of all critical areas, water bodies, and buffers adjacent to the proposed project area;

5. A statement specifying the accuracy of the report, and all assumptions made and relied upon;

6. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;

7. A description of reasonable efforts made to apply mitigation sequencing pursuant to ECC 15.610.130, Mitigation sequencing, to avoid, minimize, and mitigate impacts to critical areas;
8. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with ECC 15.610.140, Mitigation plan requirements, including, but not limited to:
   a. The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area; and
   b. The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment;
9. A discussion of the performance standards applicable to the critical area and proposed activity;
10. Financial guarantees to ensure compliance; and
11. Any additional information required for the critical area as specified in the corresponding chapter.

D. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the director.

15.610.110 Critical area report – Modifications to requirements.

A. Limitations to study area. The director may limit the required geographic area of the critical area report as appropriate if:
   1. The applicant, with assistance from the city, cannot obtain permission to access properties adjacent to the project area; or
   2. The proposed activity will affect only a limited part of the subject site.

B. Modifications to required contents. The applicant may consult with the director prior to or during preparation of the critical area report to obtain city approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

C. Additional information requirements. The director may require additional information to be included in the critical area report when determined to be necessary to the review of the proposed activity in accordance with this chapter. Additional information that may be required, includes, but is not limited to:
   1. Historical data, including original and subsequent mapping, aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site;
   2. Grading and drainage plans; and

3. Information specific to the type, location, and nature of the critical area.

15.610.120 Mitigation requirements.

A. The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas when possible. Unless otherwise provided in this chapter, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the best available science in accordance with an approved critical area report and SEPA documents, so as to result in no net loss of critical area functions and values.

B. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

C. Mitigation shall not be implemented until after the director's approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

15.610.130 Mitigation sequencing.

Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas in the following order. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following sequential order of preference:

A. Avoiding the impact altogether by not taking a certain action or parts of an action;

B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;

C. Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;

D. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;

E. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;

F. Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and

G. Monitoring the hazard or other required mitigation and taking remedial action when necessary. Mitigation for individual actions may include a combination of the above measures.

15.610.140 Mitigation plan requirements.

When mitigation is required, the applicant shall submit for approval by the city, a mitigation plan as part of the critical area report. The mitigation plan shall include:

A. Environmental goals and objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

   1. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;

   2. A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and

   3. An analysis of the likelihood of success of the compensation project.

B. Performance standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this chapter have been met.

C. Detailed construction plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

   1. The proposed construction sequence, timing, and duration;

   2. Grading and excavation details;

   3. Erosion and sediment control features;

   4. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and

   5. Measures to protect and maintain plants until established.

   These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

D. Monitoring program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years one, 3, 5, and 7 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be

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monitored for a period necessary to establish that performance standards have been met, but not for a period less than 5 years.

E. Contingency plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

F. Estimates of cost. The mitigation plan shall include an estimate of the costs to implement the required activities under the proposed plan to include both labor and materials. Any required financial guarantees shall be posted in accordance with ECC 15.610.270, Bonds to ensure mitigation, maintenance, and monitoring.

15.610.150 Innovative mitigation.

A. The city should encourage, facilitate, and approve innovative mitigation projects that are based on the best available science. Advance mitigation and mitigation banking are examples of alternative mitigation projects allowed under the provisions of this section wherein one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:

   1. Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;
   2. The applicant(s) demonstrates the organizational and fiscal capability to act cooperatively;
   3. The applicant(s) demonstrates that long-term management of the habitat area will be provided; and
   4. There is a clear potential for success of the proposed mitigation at the identified mitigation site.

B. Conducting mitigation as part of a cooperative process does not reduce or eliminate the required replacement ratios.

15.610.160 Determination.

The director shall make a determination as to whether the proposed activity and mitigation, if any, is consistent with the provisions of this chapter. The director's determination shall be based on the criteria of ECC 15.610.170, Review criteria.

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15.610.170 Review criteria.

A. Any alteration to a critical area, unless otherwise provided for in this chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

   1. The proposal minimizes the impact on critical areas in accordance with ECC 15.610.130, Mitigation sequencing;
   2. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
   3. The proposal is consistent with the general purposes of this chapter and the public interest;
   4. Any alterations permitted to the critical area are mitigated in accordance with ECC 15.610.120, Mitigation requirements;
   5. The proposal protects the critical area functions and values consistent with the best available science and results in no net loss of critical area functions and values; and
   6. The proposal is consistent with other applicable regulations and standards.

B. The city may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this chapter.

C. Except as provided for by this chapter, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences in ECC 15.610.130 shall be denied.

15.610.180 Report acceptance.

If the director determines that the proposed activity meets the criteria in ECC 15.610.150 (Review criteria) and complies with the applicable provisions of this chapter, the director shall prepare a written notice of determination and identify any required conditions of approval. The notice of determination and conditions of approval shall be included in the project file and be considered in the next phase of the city's review of the proposed activity in accordance with any other applicable codes or regulations. Any conditions of approval included in a notice of determination shall be attached to the underlying permit or approval. Any subsequent changes to the conditions of approval shall void the previous determination pending re-review of the proposal and conditions of approval by the director. A favorable determination should not be construed as endorsement or approval of any underlying permit or approval.

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15.610.190 Report rejection.

If the director determines that a proposed activity does not adequately mitigate its impacts on the critical areas and/or does not comply with the criteria in ECC 15.610.170 (Review criteria) and the provisions of this chapter, the director shall prepare written notice of the determination that includes findings of noncompliance. No proposed activity or permit shall be approved or issued if it is determined that the proposed activity does not adequately mitigate its impacts on the critical areas and/or does not comply with the provisions of this chapter. Following notice of determination that the proposed activity does not meet the review criteria and/or does not comply with the applicable provisions of this chapter, the applicant may request consideration of a revised critical area report. If the revision is found to be substantial and relevant to the critical area review, the director may reopen the critical area review and make a new determination based on the revised report.

15.610.200 Completion of the critical area review.

The city's determination regarding critical areas pursuant to this chapter shall be final concurrent with the final decision to approve, condition, or deny the development proposal or other activity involved.

15.610.210 Appeals.

Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this chapter may be appealed according to, and as part of, the appeal procedure for the permit or approval involved.

15.610.220 Variances. (a Type III permit review process)

A. Variances from the standards of this chapter may be authorized by the city in accordance with the procedures set forth in ECC 15.610.040 and ECC 15.210 through 15.220. The hearing examiner shall review the request and make a written finding that the request meets or fails to meet the variance criteria.

B. Variance criteria. A variance may be granted only if the applicant demonstrates that the requested action conforms to all of the criteria set forth as follows:

   1. Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land, and that are not applicable to other lands in the same district;

   2. The special conditions and circumstances do not result from the actions of the applicant;

   3. A literal interpretation of the provisions of this chapter would deprive the applicant of all reasonable economic uses and privileges permitted to other properties in the vicinity and zone of the subject property under the terms of this chapter, and the variance requested is the minimum necessary to provide the applicant with such rights;

4. Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings under similar circumstances;
5. The granting of the variance is consistent with the general purpose and intent of this chapter, and will not further degrade the functions or values of the associated critical areas or otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;
6. The decision to grant the variance includes the best available science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat; and
7. The granting of the variance is consistent with the general purpose and intent of the city's comprehensive plan and adopted development regulations.

C. Conditions may be required. In granting any variance, the city may prescribe such conditions and safeguards as are necessary to secure adequate protection of critical areas from adverse impacts, and to ensure conformity with this chapter.

D. Time limit. The city shall prescribe a time limit within which the action for which the variance is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit shall void the variance.

E. Burden of proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application.

15.610.230 Unauthorized critical area alterations and enforcement.

A. When a critical area or its buffer has been altered in violation of this chapter, all ongoing development work shall stop and the critical area shall be restored. The city shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this chapter.

B. Requirement for restoration plan. All development work shall remain stopped until a restoration plan is prepared. The plan is subject to approval by the city. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in subsection (C) of this section. The director shall, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

C. Minimum performance standards for restoration.

1. For alterations to frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area; provided, that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

a. The structural and functional values that existed prior to the unauthorized alteration shall be restored, including water quality and habitat functions;

b. The soil types and configuration that existed prior to the unauthorized alteration shall be replicated;

c. The disturbed critical area and buffers shall be replanted with vegetation in species types, sizes, and densities chosen from an approved restoration plant list. The functions and values that existed prior to the unauthorized alteration should be replicated at the location of the alteration; and

d. Information demonstrating compliance with the requirements in ECC 15.610.140 (Mitigation plan requirements) shall be submitted to the director.

2. For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area; provided, that if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

a. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard;

b. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

c. The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.

D. Site investigations. The director is authorized to make site inspections and take such actions as are necessary to enforce this chapter. The director shall present proper credentials and make a reasonable effort to contact any property owner before entering onto any property which may be subject to an investigation that could potentially lead to a critical area enforcement action.

15.610.240 Critical area markers and signs.

A. The boundary at the outer edge of critical area tracts and easements shall be delineated with permanent survey stakes, using iron or concrete markers as established by local survey standards.

B. The boundary at the outer edge of the critical area or buffer shall be identified with temporary signs prior to any site alteration. Such temporary signs shall be replaced with permanent signs prior to occupancy or use of the site.

C. These provisions may be modified by the director as necessary to ensure protection of sensitive features or wildlife needs.

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15.610.250 Notice on title.

A. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is submitted shall record a notice with the county auditor. The notice shall state the presence of the critical area or buffer on the property, the application of this chapter to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall "run with the land."

B. The applicant shall submit proof that the notice has been filed for public record before the city approves any site development or construction for the property or, in the case of subdivisions, short subdivisions, planned unit developments, and binding site plans, at or before recording.

15.610.260 Critical area tracts.

A. Critical area tracts shall be used in development proposals for subdivisions, short subdivisions, planned unit developments, and binding site plans to delineate and protect those contiguous critical areas and buffers listed below that total 5,000 or more square feet:

   1. All landslide hazard areas and buffers;
   2. All wetlands and buffers;
   3. All habitat conservation areas; and
   4. All other lands to be protected from alterations as conditioned by project approval.

B. Critical area tracts shall be recorded on all documents of title of record for all affected lots.

C. Critical area tracts shall be designated on the face of the plat or recorded drawing in a format approved by the city attorney. The designation shall include the following restriction:

   1. An assurance that native vegetation will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and
   2. The right of the city to enforce the terms of the restriction.

D. The city may require that any required critical area tract be dedicated to the city, held in an undivided interest by each owner of a building lot within the development with the ownership interest passing with the ownership of the lot, or held by an incorporated homeowner's association or other legal entity (such as a land trust, which ensures the ownership, maintenance, and protection of the tract).

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15.610.270 Bonds to ensure mitigation, maintenance, and monitoring.

A. When mitigation required pursuant to a development proposal is not completed prior to the city final permit approval, such as final plat approval or final building inspection, the city shall require the applicant to post a performance bond or other security in a form and amount deemed acceptable by the city. If the development proposal is subject to mitigation, the applicant shall post a mitigation bond or other security in a form and amount deemed acceptable by the city to ensure mitigation is fully functional.

B. The bond shall be in the amount of 125 percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater.

C. The bond shall be in the form of a surety bond, performance bond, assignment of savings account, or an irrevocable letter of credit guaranteed by an acceptable financial institution, with terms and conditions acceptable to the city attorney and with a company authorized to do business in the state of Washington.

D. Bonds or other security authorized by this section shall remain in effect until the city determines, in writing, that the standards bonded for have been met. Bonds or other security shall be held by the city for a minimum of 5 years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.

E. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

F. Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

G. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the city may demand payment of any financial guarantees or require other action authorized by the city code or any other law.

H. Any funds recovered pursuant to this section shall be used to complete the required mitigation and reimburse the city for its costs relating to the enforcement action.

15.610.280 Critical area inspections.

Reasonable access to the site shall be provided to the city, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

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15.610.290 Enforcement and penalties.

A. Rights of entry.

1. For permitting or inspection of work conducted under permit. Whenever a person applies for a permit or approval under any section of this chapter, the director shall have a limited right of entry to conduct studies necessary to determine whether to approve the proposal or to inspect work being conducted under the permit or approval. The property owner's failure to grant permission for the director to enter the property shall be grounds for denial of the permit or issuance of a stop work order.

2. To investigate violations and corrections. The director is authorized to enter upon property to determine whether the provisions of this chapter are being obeyed and to make any examinations, surveys, and studies as may be necessary in the performance of his or her duties. The director shall obtain the property owner's permission prior to entry. If the property owner declines to give permission or cannot be located, the director shall enter upon the property only in a manner consistent with the constitutions and laws of the United States and the state of Washington. If so required by the constitutions and laws of the United States and the state of Washington, the director shall apply to a court of competent jurisdiction for a search warrant authorizing access to such property for such purpose.

B. Civil violations and penalties.

1. Any person who violates any provision of this chapter shall be subject to a civil infraction not to exceed $300.00 for each violation. The minimum civil penalty shall be $50.00.

2. Each violation of this chapter shall be a separate offense, and in the case of a continuing violation, each day's continuance shall be deemed to be a separate and distinct violation.

3. Civil infractions under this chapter shall be issued and processed in accordance with Chapter 7.80 RCW.

C. Criminal violations and penalties.

1. Any person who intentionally, knowingly, recklessly, or criminally negligently violates any provision of this chapter and who has had a judgment entered against him or her pursuant to subsection (B) of this section within the immediately preceding 5 years shall be subject to criminal prosecution and upon conviction shall be guilty of a misdemeanor.

2. Any person convicted of a crime under subsection (C)(1) of this section shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than 90 days, or by a fine in an amount fixed by the court of not more than $1,000, or by both such imprisonment and fine. Each day or part thereof during which any violation is committed shall constitute a separate offense.

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D. Stop work orders.

1. Whenever any work or development is being done or use is being conducted contrary to the provisions of this chapter, the director may issue a stop work order requiring that all work on the project be stopped or that the use be discontinued.

2. Issuance of a stop work order shall not bar the imposition of a civil or criminal penalty under this chapter or the use of any other provision of this chapter.

3. It is unlawful for any person with actual or constructive knowledge of the issuance of a stop work order pursuant to this chapter to do work or an activity prohibited by the order until the director has removed or lifted the order and issued written authorization for the work or activity to be continued. Violation of a stop work order shall be a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than 90 days in jail or by a fine in an amount fixed by the court of not more than $1,000, or by both such imprisonment and fine. Each day or part thereof during which any violation is committed shall constitute a separate offense.

4. Any person issued a stop work order who believes the issuance of such order was the result of a mistaken determination may appeal its issuance at an informal hearing before the director or his designee. To be timely, such appeal shall be filed in writing at the community development department within 5 business days of the date of issuance of the stop work order. The hearing will be conducted within 3 business days of the director's receipt of the written appeal, unless the appellant requests additional time not to exceed 10 business days following receipt of the appeal. At the hearing, the appellant will be provided: (a) an explanation of, and opportunity to ask questions about, the reasons for and evidence supporting issuance of the stop work order; (b) an opportunity to give any statements, reasons or documentation, personally or through others, explaining why the order was wrongfully or mistakenly issued; (c) an opportunity to identify any mitigating circumstances the appellant believes would justify withdrawal of the order; and (d) the right to have legal counsel present. The director shall issue a written decision within 5 days following the conclusion of the hearing.

E. Nuisance. Any development carried out contrary to the provisions of this chapter shall constitute a public nuisance and may be enjoined as provided by the statutes of the state of Washington.

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15.620 Wetlands

15.620.010 Designation, rating, and mapping wetlands.

A. Designating wetlands. Wetlands are those areas, designated in accordance with the Washington State Wetland Identification and Delineation Manual (1997), that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. All areas within the city meeting the wetland designation criteria in the Identification and Delineation Manual, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

B. Wetland ratings. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system found in the Washington State Wetland Rating System documents Washington State Wetland Rating System for Eastern Washington – Revised (Publication No. 04-06-015, Hruby, T., 2004). These documents contain the definitions and methods for determining if the criteria below are met.

1. Wetland rating categories.

   a. Category I. Category I wetlands are those that meet one or more of the following criteria:

      i. Documented habitat for federal or state listed endangered or threatened fish, animal, or plant species;

      ii. High-quality native wetland communities, including documented Category I or II quality Natural Heritage wetland sites and sites which qualify as a Category I or II quality Natural Heritage wetland (defined in the rating system documents);

      iii. High-quality, regionally rare wetland communities with irreplaceable ecological functions, including sphagnum bogs and fens, estuarine, wetlands, or mature forested swamps (defined in the rating system documents); or wetlands of exceptional local significance.

   b. Category II. Washington Department of Fish and Wildlife, U.S. Fish and Wildlife Services, and National Marine Fisheries Services documented habitats for state listed sensitive plant, fish, or animal species:

      i. Wetlands that contain fish or animal species listed as priority species by the Washington Department of Fish and Wildlife, or plant species listed as rare by the Washington State Department of Natural Resources;

      ii. Wetland types with significant ecological functions as determined by an agency approved functional evaluation methodology that may not be adequately replicated through creation or restoration;

      iii. Wetlands possessing significant habitat value based on a score of 22 or more points in the state Department of Ecology habitat rating system; or

      iv. Documented wetlands of local significance.

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c. Category III. Category III wetlands are those that do not satisfy Category I, II, or IV criteria, and with a habitat value rating of 21 points or less.

d. Category IV. Category IV wetlands are those that meet one or more of the following criteria:

i. Hydrologically isolated wetlands, as determined by the U.S. Army Corps of Engineers Regulatory Branch that are less than or equal to one acre in size, have only one wetland class, and are dominated (greater than 80 percent area cover) by a single, nonnative plant species (monotypic vegetation); or

ii. Hydrologically isolated wetlands that are less than or equal to 2 acres in size, and have only one wetland class and greater than 90 percent area cover of nonnative plant species.

2. Date of Wetland Rating. Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system by the local government, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal modifications.

C. Mapping. The approximate location and extent of potential wetlands are shown on the critical area maps adopted with this ordinance and listed below. Other maps may also be used as they are developed and subsequently adopted by the city. Soil maps produced by U.S. Department of Agriculture National Resources Conservation Service may be useful in helping to identify potential wetland areas. These maps are to be used as a guide for the city, project applicants, and/or property owners, and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation:

1. Ellensburg UGA Wetland Inventory Maps – Figure 2 (Sheets 1 through 6); contained in the city of Ellensburg: Best Available Science Review for Wetlands and Fish and Wildlife Habitat; November 2008; ESA Adolfson.

The exact location of a wetland's boundary shall be determined through the performance of a field investigation by a qualified professional wetland scientist applying the Washington State Wetlands Identification and Delineation Manual as required by RCW 36.70A.175 (Ecology Publication No. 96-94, 1997).

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15.620.020 Critical area report – Additional requirements for wetlands.

A. All critical areas located within 300 feet of the project area that have been designated by the city and are shown on city, state, or federal government agency maps and/or reports shall be addressed in a critical area report for wetlands.

B. Wetland analysis. A written assessment of the wetland, the appropriate wetland type, and required buffer under the provisions of this chapter.

C. As provided for under ECC 15.610.110, the director may require additional information to be included in the critical area report when determined to be necessary for the review of the proposed activity. Additional information for wetlands that may be required includes, but is not limited to, the following:

   1. Vegetative, faunal, and hydrologic characteristics;

   2. Soil and substrate characteristics;

   3. Topographic elevations;

   4. A discussion of water sources supplying the wetland and documentation of the hydrologic regime. Such discussion shall include an analysis of existing and future hydrologic regimes and proposed hydrologic regime for enhanced, created, or restored mitigation areas, if provided for in the project.

15.620.030 Performance standards – General requirements.

A. Activities may only be permitted in a wetland or wetland buffer if the applicant can show that the proposed activity will not degrade the functions and functional performance of the wetland and other critical areas.

B. Activities and uses shall be prohibited in wetlands and wetland buffers, except as provided for in this chapter.

C. Category I wetlands. Activities and uses shall be prohibited from Category I, except as provided for in the public agency and utility exception, reasonable use exception, and variance sections of this chapter.

D. Category II and III wetlands. With respect to activities proposed in Category II and III wetlands, the following standards shall apply:

   1. Water-dependent activities may be allowed where there are no practicable alternatives that would have a less adverse impact on the wetland, its buffers and other critical areas.

   2. Where non-water-dependent activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited, unless the applicant demonstrates that:

      a. The basic project purpose cannot reasonably be accomplished and successfully avoid, or result in less adverse impact on, a wetland on another site or sites in the general region; and

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b. All alternative designs of the project as proposed, that would avoid or result in less of an adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration, or density of the project, are not feasible.

E. Category IV wetlands. Activities and uses that result in unavoidable and necessary impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area report and mitigation plan, but only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full compensation for the acreage and loss functions will be provided under the terms established under ECC 15.620.040(F) and (G).

F. Wetland buffers.

1. Standard buffer widths. Required standard wetland buffers, based on wetland category and land use intensity, are as follows:

Wetland Type	Wetland Buffer Width
Category I	150 feet
Category II	100 feet
Category III	50 feet
Category IV	25 feet

2. Measurement of wetland buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category and the proposed land use. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers.

3. Increased wetland buffer widths. In those situations in which a SEPA checklist discloses that the above buffer widths may not be sufficient to mitigate the significant adverse environmental impacts of the proposal on the wetland, the director may invoke the procedures in Chapter 15.270 (SEPA) ECC and WAC 197-11-158. The director may require increased buffer widths in accordance with the recommendations of the experienced, qualified professional wetland scientist who produced the required critical areas report and best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. The increased buffer width shall not exceed a maximum of 100 percent increase over the buffer width that would otherwise be required by subsection (F)(1) of this section. This determination shall be based on one or more of the following criteria:

a. A larger buffer is needed to protect other critical areas;

b. The buffer or adjacent uplands has a slope greater than 15 percent or is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the wetland;

c. The buffer area has minimal vegetative cover. In lieu of increasing the buffer width where existing buffer vegetation is inadequate to protect the wetland functions and values, implementation of a buffer planting plan may substitute. Where a buffer planting plan is proposed, it shall include densities that are not less than 3 feet on center for shrubs and 8 feet on center for trees and require monitoring and maintenance to ensure success. Existing buffer vegetation is considered inadequate and will need to be enhanced through additional native plantings and (if appropriate) removal of nonnative plants when: (i) nonnative or invasive plant species provide the dominant cover, (ii) vegetation is lacking due to disturbance and wetland resources could be adversely affected, or (iii) enhancement plantings in the buffer could significantly improve buffer functions;

d. The standard buffer is less than that which is necessary to protect documented endangered, threatened, or sensitive wildlife species which have a primary association with the wetland;

e. The wetland contains plants listed as sensitive, threatened, or endangered;

f. The proposed development density is greater than 2 or more residential units per acre and abuts a Category I or II wetland with high habitat value of 29 to 36 points obtained in the wetland critical areas report; or

g. The wetland is associated with a stream segment on the 303d list for pollutants, or has a total daily maximum load for sediment or temperature and the proposal includes removal of trees and shrubs or untreated stormwater runoff.

4. Wetland buffer width averaging. The director may allow modification of the standard wetland buffer width in accordance with an approved critical area report and the best available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified professional wetland scientist demonstrates that:

a. It will not reduce wetland functions or functional performance;

b. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

d. The buffer width is not reduced to less than 75 percent of the standard width or 35 feet.

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5. Interrupted buffer.
    a. Where a legally established, pre-existing use of the buffer exists, those proposed activities that are within the wetland or stream buffer, but are separated from the critical area by an existing permanent substantial improvement, which serves to eliminate or greatly reduce the impact of the proposed activity upon the critical area, are exempt; provided, that the detrimental impact to the critical area does not increase. However, if the impacts do increase, the city shall determine if additional buffer may be required along the impact area of the interruption. Substantial improvements may include developed public infrastructure such as roads and railroads. Substantial improvements may not include paved trails, sidewalks, or parking areas. An allowance for activity in an interrupted buffer may require a critical areas report for the type of critical areas buffer that is affected. In determining whether a critical areas report is necessary, the city shall consider the hydrologic, geologic and/or biological habitat connection potential and the extent and permanence of the interruption.
    b. Where a legally established, pre-existing structure or use is located within a regulated wetland or stream buffer and where the regulated buffer is fully paved and does not conform to the interrupted buffer provision above, the buffer will end at the edge of the pavement, adjacent to the wetland or stream.
6. Buffer consistency. All mitigation sites shall have buffers consistent with the buffer requirements of this chapter.
7. Buffer maintenance. Except as otherwise specified or allowed in accordance with this chapter, wetland buffers and buffers of mitigation sites shall be retained in an undisturbed condition, or shall be maintained as enhanced pursuant to any required permit or approval. Removal of invasive nonnative weeds is required for the duration of the mitigation bond.
8. Buffer uses. The following uses may be permitted within a wetland buffer in accordance with the review procedures of this chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:
    a. Conservation and restoration activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
    b. Passive recreation. Passive recreation facilities designed in accordance with an approved critical area report, including:
        i. Walkways and trails; provided, that those pathways which are generally parallel to the perimeter of the wetland shall be located in the outer 25 percent of the buffer area, and constructed with a surface that does not interfere with the permeability. Raised boardwalks utilizing nontreated pilings area may be acceptable;
        ii. Wildlife viewing structures; and
        iii. Fishing access areas down to the water's edge that shall be no larger than 6 feet.

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c. Stormwater management facilities. Stormwater management facilities, limited to stormwater dispersion outfalls and bioswales, may be allowed within the outer 25 percent of the buffer of Category III or IV wetlands only; provided, that:

i. No other location is feasible; and

ii. The location of such facilities will not degrade the functions or values of the wetland. Stormwater management facilities are not allowed in buffers of Category I or II wetlands.

G. Signs and fencing of wetlands.

1. Temporary markers. The outer perimeter of the wetland and buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and is subject to inspection by the director prior to the commencement of permitted activities. The director shall have the authority to require that temporary fencing be placed on site to mark the outer perimeter of the wetland and its associated buffer area. This temporary marking, and any required temporary fencing, shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

2. Permanent signs. As a condition of any permit or authorization issued pursuant to this chapter, the director may require the applicant to install permanent signs along the boundary of a wetland or buffer.

a. Permanent signs shall be made of a metal face with a green color background and white letters; attached to a metal post, or another nontreated material of equal durability; made with a sign face no smaller than one foot by one foot square and no larger than 2 feet by 2 feet square; and mounted with the bottom of the sign face no less than 3 feet above and no more than 5 feet above adjacent grade. Signs must be posted at a minimum of one per lot of record, or on large parcels every 300 feet, or additional signs as required by the director and must remain unobstructed and be maintained by the property owner in perpetuity. The sign(s) shall be worded as follows or with alternative language approved by the director:

Protected Critical Area

Do Not Disturb

Contact the city of Ellensburg

Regarding Uses and Restriction

b. The provisions of subsection (G)(2)(a) of this section may be modified by the director as necessary to assure protection of sensitive features or wildlife.

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15.620.040 Performance standards – Compensatory mitigation requirements.

Compensatory mitigation for alterations to wetlands shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with the state Department of Ecology Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals, 1994, as revised.

A. Mitigation shall be required in the following order of preference:

   1. Avoiding the impact altogether by not taking a certain action or parts of an action.
   2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.
   3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
   4. Reducing or eliminating the impact over time by preservation and maintenance operations.
   5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.

B. Mitigation for affected functions or functions lost as a result of the proposed activity. Compensatory mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement and shall provide similar wetland functions as those lost by the proposed activity, except when:

   1. The lost wetland provides minimal functions as determined by a site-specific function assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington state watershed assessment plan or protocol; or
   2. Out-of-kind replacement will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.

C. Preference of mitigation actions. Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:

   1. Restoring wetlands on upland sites that were formerly wetlands.
   2. Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of nonnative introduced species. This should only be attempted when there is a consistent source of hydrology and it can be shown that the surface and subsurface hydrologic regime is conducive for the wetland community that is being designed.
   3. Enhancing significantly degraded wetlands in combination with restoration or creation. Such enhancement should be part of a mitigation package that includes replacing the impacted area meeting appropriate ratio requirements.

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D. Type and location of mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach, compensatory mitigation for ecological functions shall be either in-kind and on-site, or in-kind and within the same stream reach, subbasin, or drift cell. Mitigation actions shall be conducted within the same subdrainage basin and on the site as the alteration except when all of the following apply:

1. There are no reasonable on-site or in-subdrainage basin opportunities or on-site and in-subdrainage basin opportunities do not have a high likelihood of success, after a determination of the natural capacity of the site to mitigate for the impacts. Consideration should include: anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, hydrogeomorphic classes of on-site wetlands when restored, proposed flood storage capacity, potential to mitigate riparian fish and wildlife impacts (such as connectivity);
2. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and
3. Off-site locations shall be in the same subdrainage basin unless:
    a. Established watershed goals for water quality, flood or conveyance, habitat, or other wetland functions have been established and strongly justify location of mitigation at another site; or
    b. Credits from a state certified wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification.

E. Mitigation timing. Mitigation projects shall be completed with an approved monitoring plan prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

The director may authorize a one-time temporary delay, up to 120 days, in completing minor construction and landscaping when environmental conditions could produce a high probability of failure or significant construction difficulties. The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, and general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints which preclude implementation of the mitigation plan. The justification must be verified and approved by the city and include a financial guarantee.

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F. Mitigation ratios.

1. Acreage replacement ratios. The following ratios shall apply to creation or restoration that is in-kind, is on-site, is the same category, is timed prior to or concurrent with alteration, and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases. These ratios do not apply to the use of credits from a state certified wetland mitigation bank. When credits from a certified bank are used, replacement ratios should be consistent with the requirements of the bank's certification. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

   a. Category I: 6 to 1;

   b. Category II: 3 to 1;

   c. Category III: 2 to 1;

   d. Category IV: 1½ to 1.

2. Increased replacement ratio. The director may increase the ratios under the following circumstances:

   a. Uncertainty exists as to the probable success of the proposed restoration or creation;

   b. A significant period of time will elapse between impact and replication of wetland functions;

   c. Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or

   d. The impact was an unauthorized impact.

G. Wetlands enhancement as mitigation.

1. Impacts to wetland functions may be mitigated by enhancement of existing significantly degraded wetlands, but must be used in conjunction with restoration and/or creation. Applicants proposing to enhance wetlands must produce a critical area report that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions.

2. At a minimum, enhancement acreage shall be double the acreage required for creation or restoration under subsection (F) of this section. The ratios shall be greater than double the required acreage where the enhancement proposal would result in minimal gain in the performance of wetland functions and/or result in the reduction of other wetland functions currently being provided in the wetland.

3. Mitigation ratios for enhancement in combination with other forms of mitigation shall range from 6:1 to 3:1 and be limited to Class III and Class IV wetlands.

H. Wetland mitigation banks.

1. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:
   a. The bank is certified under Chapter 173-700 WAC;
   b. The director determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
   c. The proposed use of credits is consistent with the terms and conditions of the bank's certification.
2. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.
3. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one adjacent drainage basin for specific wetland functions.

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15.630 Frequently Flooded Areas

15.630.010 Designation of frequently flooded areas.

A. Frequently flooded areas. Frequently flooded areas shall include:

   1. Areas identified on the flood insurance map(s). Those areas of special flood hazard within the incorporated city limits of Ellensburg identified as being within the 100-year floodplain by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Ellensburg, Dated November 5, 1980," with accompanying flood insurance rate and floodway maps (FIRM Community Panel Number 530234 0001C; Community Panel Number 530234 0002C; Floodway Community Panel Number 530095 0552C; all maps effective May 5, 1981). The above study and maps are hereby adopted by reference and declared to be a part of this chapter. The flood insurance study and maps are on file with the Ellensburg community development department, located at 501 N. Anderson Street in Ellensburg, Washington.

B. Use of additional information. The director may use additional flood information that is more restrictive or detailed than that provided in the flood insurance study conducted by the Federal Emergency Management Agency (FEMA) to designate frequently flooded areas, including data on channel migration, historical data, high water marks, photographs of past flooding, location of restrictive floodways, maps showing future build-out conditions, maps that show riparian habitat areas, or similar information.

C. Flood elevation data. When base flood elevation data is not available (A and V zones designated under subsection (A) of this section), the director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, county or other source, in order to administer this section.

D. Designation made by director. The flood insurance maps are to be used as a guide for the city, project applicants and/or property owners and the public, and should be considered a minimum designation of frequently flooded areas. Because flood insurance maps may be continuously updated as areas are reexamined or new areas are identified, the best available information for flood hazard area identification shall be the basis for regulation.

E. Supplemental documentation. Any areas identified by the director in this section shall be supported by professional scientific information.

F. Maintenance of records. The director shall maintain for public inspection all records of floodplain hazards, certificates of floodproofing, and flood elevation data.

G. Mapping. The location and extent of frequently flooded areas are shown on the critical area maps adopted with the ordinance codified in this chapter by the city. The following maps and data are hereby adopted and are available from the city and/or the listed governmental agency: Federal Emergency Management Administration Flood Insurance Rate Maps; Community Panels: 530234 0001C; 530234 0002C; 530095 0439B; 530095 0552C; 530095 0443B; 530095 0556B; 530095 0554C.

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15.630.020 Critical area report requirements – Frequently flooded areas.

A. Prepared by a qualified professional. A frequently flooded areas report shall be prepared for development within floodplains. Such report shall be required to be prepared by a qualified professional who is a hydrologist or engineer, and who is licensed in the state of Washington with experience in preparing flood hazard assessments.

B. Areas addressed in critical area report. The following areas shall be addressed in a critical area report for frequently flooded areas:

1. The location of the proposed activity;
2. All areas of a special flood hazard area, as indicated on the flood insurance map(s) within 200 feet of the project area; and
3. All other flood areas indicated on the flood insurance map(s) within 200 feet of the project area.

C. Flood hazard assessment required. A critical area report for a proposed activity within a frequently flooded area shall contain a flood hazard assessment including the following site- and proposal-related information at a minimum:

1. Site and construction plans. A copy of the site and construction plans for the development proposal showing:
   a. Floodplain (100-year flood elevation); 10-year and 50-year flood elevations and floodway, if required by the director and, in addition, other critical areas, buffers, and shoreline areas;
   b. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain;
   c. Extent and location of proposed clearing and grading activity; and
   d. Elevation of the lowest floor (including basement) of all structures, and the level to which any structure has been floodproofed;
2. Floodproofing certificate. When floodproofing is proposed, a certification by a registered professional engineer or architect that the floodproofing methods meet the requirements of ECC 15.630.040(G), Floodproofing;
3. Watercourse alteration. When watercourse alteration is proposed, the critical area report shall include:
   a. Extent of watercourse alteration. A description of and plan showing the extent to which a watercourse will be altered or relocated as a result of the proposal; and
   b. Maintenance program required for watercourse alterations. A maintenance program that provides maintenance practices for the altered or relocated portion of the watercourse to ensure that the flood-carrying capacity is not diminished;
4. Information regarding other critical areas. Potential impacts to wetlands, fish and wildlife habitat and other critical areas shall be addressed in accordance with the applicable sections of this chapter.

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15.630.030 Warning and disclaimer of liability. *(13.39.490)*

The degree of flood protection required by this chapter poses and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside frequently flooded areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration, for any flood damage that results from reliance on this chapter or any administrative decision lawfully made hereunder.

15.630.040 Performance standards – General requirements.

A. Permit(s) required. The permit required by this section shall be incorporated into the basic underlying permits necessary for the project or activity to proceed within a frequently flooded area, e.g., building permit, short plat, public works permits, State Environmental Policy Act and city critical areas reviews, and similar permits and development reviews. Completion of and compliance with the necessary review processes and permits listed above shall satisfy the requirement of issuance of a development permit for any activity that would alter land or commence a new use within a frequently flooded area.

B. All necessary permits shall be obtained. The director shall verify that all necessary permits have been obtained from those governmental agencies from which prior approval is required by federal, state, or local law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendment of 1972 and the Endangered Species Act of 1973.

C. Development proposals must not reduce the effective base flood storage volume of a floodplain. Grading or other activity that would reduce the effective storage volume must be mitigated by creating compensatory storage on the site. The compensatory storage must provide equivalent volume at equivalent elevations to that being displaced, be hydraulically connected to the source of the flooding, be provided in the same construction season, and occur on site or off site, if legal arrangements can be made to assure that the effective compensatory storage will be preserved over time.

D. Areas without base flood elevation data. Where base flood elevation data is not available [A and V zones designated under ECC 15.630.010(A)], and there is insufficient data available from federal, state, county, or other sources, the director shall determine the base flood elevation using historical data, high water marks, photographs of past flooding, and other available information. If there is insufficient data available for the director to make a determination of the base flood elevation, and standards requiring a base flood elevation cannot be implemented, the director shall require measures that assure the proposed structures will be reasonably safe from flooding. At a minimum, the base flood elevation shall be set at least 2 feet above the highest adjacent grade. The director shall have the authority to set an average base flood elevation if there are sufficient grade deficiencies in elevation around the development area.

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E. Construction materials and methods.

1. Methods that minimize flood damage. All new construction and substantial improvements shall be constructed using flood-resistant materials and utility equipment, and with methods and practices that minimize flood damage.

2. Structures shall be located outside the floodplain. All structures shall be located on the buildable portion of the site out of the floodplain unless there is no buildable site area out of the floodplain. For sites with no buildable area out of the floodplain, structures shall be placed on the highest land on the site, oriented parallel to the anticipated flow of water rather than perpendicular, and sited as far from the watercourse and other critical areas as possible. If the director finds any evidence of active hyporheic exchange on a site, the development shall be located to minimize disruption of such exchange.

3. Utilities shall be protected. All utilities shall be located on the buildable portion of the site out of the floodplain unless there is no buildable site area out of the floodplain. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within their components during conditions of flooding.

F. Elevation certificate required following construction. Following construction of a structure within the floodplain where the base flood elevation is provided, the applicant shall be required to submit to the director an as-built elevation certificate from a licensed professional land surveyor that records the elevation of the lowest floor. The director shall obtain said as-built elevation certificate and maintain said certificates in its official records.

G. Floodproofing.

1. When a structure is to be floodproofed, it shall be designed and constructed using methods that meet the following requirements:

   a. Watertight structure. The structure shall be watertight with walls substantially impermeable to the passage of water below one foot above the base flood level;

   b. Hydrostatic resistance. Structural components shall be capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

   c. Certified by a registered professional engineer or architect. The structure shall be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans.

2. Floodproofing certificate required following construction. Following construction of the structure, the applicant shall obtain a floodproofing certificate from a registered professional engineer or architect that records the actual (as-built) elevation to which the structure was floodproofed.

3. Floodproofing nonresidential buildings. Applicants floodproofing nonresidential buildings shall be notified by the director that flood insurance premiums will be based

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on rates that are one foot below the floodproofed level (for example, a building floodproofed to the base flood level will be rated as one foot below).

H. Anchoring.

1. Anchoring required. All new construction and substantial improvements within the floodplain shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. Manufactured homes shall be anchored. All manufactured homes placed within the floodplain must be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

I. Fill and grading. Fill and grading within the floodplain shall only occur after the review and approval by the city of the clearing, grading, and fill proposal. Such proposal shall require a determination from a licensed professional engineer that the fill or grading will not block side channels, inhibit channel migration, increase flood hazards to others, or be placed within a channel migration zone, whether or not the city delineated such zones as of the time of the application.

15.630.050 Performance standards – Specific uses.

In all frequently flooded areas the following standards are required:

A. Residential construction.

1. Must be no lower than one foot above the base flood elevation. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot above the base flood elevation for the area; and
2. Areas below the lowest floor must meet requirements for crawlspaces as set forth hereinabove in this chapter.

B. Manufactured homes must be elevated. All manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

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C. Recreational vehicles. Recreational vehicles are required to either:

1. Be on the site for fewer than 180 consecutive days;
2. Be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
3. Must obtain a development permit and meet the requirements of this section, including elevation and anchoring, for manufactured homes.

D. Nonresidential construction.

1. Must be no lower than one foot above the base flood elevation. Construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to one foot above the base flood elevation for the area or, together with attendant utility and sanitary facilities, shall be floodproofed in accordance with ECC 15.630.040(G), Floodproofing. Unavoidable impacts to flooded areas (from fill) need to be mitigated; and
2. Areas below the lowest floor must meet the requirements for crawlspaces set forth hereinabove in this chapter.

E. Utilities.

1. Shall be designed to minimize infiltration of floodwaters. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
2. Sanitary sewage systems. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

F. Subdivision proposals.

1. All subdivisions and short subdivisions shall:
   a. Minimize flood damage. Subdivisions and short subdivisions shall be designed to minimize or eliminate flood damage to proposed structures; and public utilities and facilities that are installed as part of such subdivisions, such as sewer, gas, electrical, and water systems, shall be located and constructed to minimize flood damage. Subdivisions should be designed using natural features of the landscape, and should not incorporate flood protection changes;
   b. Have adequate drainage. Subdivisions and short subdivisions shall have adequate natural surface water drainage in accordance with city's public works development standards (ADD LINK) to reduce exposure to flood hazards; and
   c. Show flood areas on plat maps. Subdivisions and short subdivisions shall show the 100-year floodplain, floodway, and channel migration zone where designated by the city on the preliminary and final plat and short plat maps.

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2. Detailed base flood elevation data shall be generated for subdivisions of at least 50 lots or 5 acres. Where detailed base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres.

G. Alteration of watercourses.

1. Shall require the submission of a critical area report by the applicant and be in accordance with the habitat regulations set forth in ECC 15.650.020 and 15.650.030, et seq. Watercourse alterations shall only be allowed when no negative impacts occur to critical areas.
2. Shall not result in blockage. Watercourse alteration projects shall not result in blockage of side channels.
3. Notification required. The city shall notify adjacent communities, the Washington State Department of Ecology, the Washington Department of Fish and Wildlife, and the Federal Insurance Administration of the proposed watercourse alteration at least 30 days prior to permit issuance.
4. Maintenance of alterations. The applicant shall maintain the altered or relocated portion of the watercourse to ensure that the flood carrying capacity is not diminished. The applicant shall furnish the city with a surety bond for maintenance, which bond shall remain in effect for a period of 5 years after completion of the alterations and be in accordance with a maintenance program approved by the director for the alteration project. The bond shall be in an amount to be determined by the director as sufficient to ensure that the flood carrying capacity of the watercourse is not diminished and complies with the terms of the maintenance program. The surety and the form of the bond shall be subject to the approval of the city attorney.

H. Crawlspaces. Crawlspaces are commonly used as a method of elevating buildings to or above the base flood elevation or providing area for easier access to utilities and other building facilities. The following requirements apply to all crawlspaces that have enclosed areas or floors below the base flood elevation:

1. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effect of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required opening standards set forth below in this section. If crawlspace construction is proposed for areas in which the flood velocities exceed 5 feet per second, the design must be reviewed and approved by a registered architect or engineer.

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2. The crawlspace is an enclosed area below the base flood elevation, and as such, must have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. Openings or vents must meet the following criteria:
   a. A minimum of 2 openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
   b. The bottom of all openings shall be no higher than one foot above grade; and
   c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.
3. All portions of the building below the base flood elevation must be constructed with materials resistant to flood damage. The recommended construction practice is to elevate the bottom of the joists and all insulation above the base flood elevation.
4. Any building utility systems within the crawlspace must be elevated above the base flood elevation or designed so that floodwaters cannot enter or accumulate within the system components. Duct work must either be placed above the base flood elevation or sealed from floodwaters.
5. In addition to the above requirements, the following specific provisions also apply to below grade crawlspaces:
   a. The interior grade of a crawlspace below the base flood elevation must not be more than 2 feet below the lowest adjacent exterior grade;
   b. The height of the below grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed 4 feet at any point;
   c. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. Possible options include natural drainage through porous, well-drained soils or drainage systems such as perforated pipes, tiles, gravel or other means; and
   d. Below grade crawlspace construction in accordance with the requirements listed above will not be considered basements.

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15.630.060 Performance standards – Areas of shallow flooding.

A. Residential structures. New construction and substantial improvements of residential structures and manufactured homes within AO zones identified in the flood insurance study and maps referenced in ECC 15.630.010(A) shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site to one foot above the depth number specified in feet on the flood insurance map or at least 2 feet if no depth number is specified.

B. Nonresidential structures. New construction and substantial improvements of nonresidential structures within such AO zones shall either:

   1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site to an height totaling one foot higher than the depth number specified in feet on the flood insurance map or at least 2 feet if no depth number is specified; or

   2. Together with attendant utility and sanitary facilities, be completely floodproofed one foot above the depth number specified in the flood insurance map(s) referenced in ECC 15.630.010(A) so that any space below that depth number is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in ECC 15.630.040(G), Floodproofing.

C. Drainage paths. All development shall include adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

D. Recreational vehicles. Recreational vehicles placed on sites within AO zones on the flood insurance map(s) shall either:

   1. Be on the site for fewer than 180 consecutive days;

   2. Be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

   3. Must meet the requirements of this section and the anchoring requirements for manufactured homes.

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15.630.070 Prohibited uses and activities.

A. Critical facilities. Construction of new critical facilities shall be permissible within frequently flooded areas if no feasible alternative site is available. Critical facilities constructed within frequently flooded areas shall have the lowest floor elevated 3 feet or more above the level of the base flood elevation (100-year flood). Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

   If not otherwise required by the city, locating of critical facilities within a frequently flooded area shall be subject to SEPA review and action.

B. Construction in floodways.

   1. New construction requires certification by a licensed professional engineer. Encroachments, including new construction, substantial improvements, fill, and other development, are prohibited within designated floodways unless certified by a registered professional engineer. Such certification shall demonstrate through hydrologic and hydraulic analyses, performed in accordance with standard engineering practice, that the proposed encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge. Small projects that are solely to protect or create fish habitat and designed by a qualified professional may be allowed without certification if the director determines that the project will not obstruct flood flows. Fish protection projects shall be reviewed on behalf of the city by a qualified professional in the field of hydraulics.

   2. Residential construction and reconstruction prohibited. Construction and reconstruction of residential structures is prohibited within designated floodways, except for:

      a. Repairs, reconstruction, or improvements to a structure that do not increase the ground floor area; and

      b. Repairs, reconstruction or improvements to a structure, for which the cost does not exceed 50 percent of the market value of the structure either:

         i. Before the repair or reconstruction is started; or

         ii. If the structure has been damaged, and is being restored, before the damage occurred.

      Improvement to a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions or to structures identified as historic places may be excluded from the calculation of the 50 percent.

   3. If the provisions of subsection (B)(2) of this section are satisfied, all new construction and substantial improvements shall comply with all applicable requirements of ECC 15.630.040 and 15.630.050.

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15.640 Geologically Hazardous Areas

15.640.010 Designation of geologically hazardous areas

Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard. Such incompatible development may not only place itself at risk, but also may increase the hazard to surrounding development and use. Areas susceptible to one or more of the following types of hazards shall be designated as a geologically hazardous area:

A. Erosion hazard;

B. Landslide hazard;

C. Seismic hazard;

D. Other geological events including mass wasting, debris flows, rock falls, and differential settlement.

15.640.020 Designation of specific hazard areas

A. Erosion hazard areas. Erosion hazard areas include those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a moderate to severe, severe, or very severe rill and interrill erosion hazard. Erosion hazard also includes those areas impacted by shore land and/or stream bank erosion and those areas within a river's channel migration zone.

B. Landslide hazard areas. Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Examples of these may include but are not limited to the following:

   1. Areas of historic failures, such as:

      a. Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a severe limitation for building site development;

      b. Those areas mapped by the Washington State Department of Natural Resources (slope stability mapping) as unstable (U or Class 3), unstable old slides (UOS or Class 4), or unstable recent slides (URS or Class 5); and

      c. Areas designated as quaternary slumps, earthflows, mudflows, or landslides on maps published by the U.S. Geological Survey or Washington State Department of Natural Resources;

2. Areas with all 3 of the following characteristics:
   a. Slopes steeper than 15 percent;
   b. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
   c. Springs or ground water seepage;
3. Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or that are underlain or covered by mass wastage debris of that epoch;
4. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;
5. Slopes having gradients steeper than 80 percent subject to rock fall during seismic shaking;
6. Areas potentially unstable because of rapid stream incision, stream bank erosion, and undercutting by wave action;
7. Areas that show evidence of or are at risk from snow avalanches;
8. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and
9. Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least 10 feet of vertical relief.

C. Seismic hazard areas. Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:

1. The magnitude of an earthquake;
2. The distance from the source of an earthquake;
3. The type of thickness of geologic materials at the surface; and
4. The type of subsurface geologic structure.

Settlement and soil liquefaction conditions occur in areas underlain by cohesionless, loose, or soft-saturated soils of low density, typically in association with a shallow ground water table.

D. Other hazard areas. Geologically hazardous areas shall also include areas determined by the director to be susceptible to other geological events including mass wasting, debris flows, rock falls, and differential settlement.

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15.640.030 Mapping of geologically hazardous areas.

A. The approximate location and extent of geologically hazardous areas are shown on the critical area maps adopted with the ordinance codified in this chapter and listed below. The critical area maps listed below are available from the city and/or the listed governmental agency and include:

   1. U.S. Geological Survey topographical maps;
   2. Washington State Department of Natural Resources seismic hazard maps for Eastern Washington;
   3. Washington State Department of Natural Resources slope stability maps;
   4. Federal Emergency Management Administration flood insurance maps; and
   5. Locally adopted maps.

B. These maps are to be used as a guide for the city, project applicants and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

15.640.040 Critical area report – Additional requirements for geologically hazardous areas.

The following requirements for geologically hazardous area critical area reports are in addition to the requirements for critical area reports set forth in ECC 15.610.100:

A. Area addressed in critical area report. The following areas shall be addressed in a critical area report for geologically hazardous areas:

   1. The project area of the proposed activity; and
   2. All geologically hazardous areas previously identified by the city within 200 feet of the project area or that have potential to affect or be affected by the proposal.

B. Geological hazards assessment. A critical area report for a geologically hazardous area shall contain an assessment of geological hazards including the following site- and proposal-related information at a minimum:

   1. Site and construction plans. The report shall include a copy of the site plans for the proposal showing:

      a. The type of impacts, if any, that the project will either experience or cause in relation to any other critical area so identified under this section;
      b. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities;
      c. The topography of the project site, of the project area, and all hazard areas addressed in the report; and
      d. Clearing limits;

2. Assessment of geological characteristics. The report shall include an assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis shall be accomplished in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:
    a. A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report;
    b. A detailed overview of the field investigations, published data, and references; data and conclusions from past assessments of the site; and site specific measurements, tests, investigations, or studies that support the identification of geologically hazardous areas; and
    c. A description of the vulnerability of the site to seismic and other geologic events;
3. Analysis of proposal. The report shall contain a hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties; and
4. Minimum buffer and building setback. The report shall make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis.

C. Incorporation of previous study. Where a valid critical areas report has been prepared within the last 5 years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, said report may be incorporated into the required critical area report. The applicant shall submit a hazards assessment detailing any changed environmental conditions associated with the site.

D. Mitigation of long-term impacts. When hazard mitigation is required, the mitigation plan shall specifically address how the activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation). Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may also be required to avoid any increase in risk above the pre-existing conditions following abandonment of the activity.

E. Additional analysis to be included in a critical area report for geologically hazardous areas. Parameters for design of site improvements, including appropriate foundations and retaining structures, should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, slope stability and estimates of settlement performance, vegetation management, erosion control, and damage control.

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15.640.050 Performance standards – General requirements.

A. Alterations of geologically hazardous areas or associated buffers may only occur for activities that:

1. Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;
2. Will not adversely impact other critical areas;
3. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and
4. Are certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.

B. Critical facilities prohibited. Critical facilities shall not be sited within geologically hazardous areas unless there is no other practical alternative.

15.640.060 Performance standards – Specific hazards.

A. Erosion and landslide hazard areas. Activities on sites containing erosion or landslide hazards shall meet the standards of ECC 15.640.050, Performance standards – General requirements, and the specific following requirements:

1. Buffer requirement. A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall be determined by the director to eliminate or minimize the risk of property damage, death, or injury resulting from landslides caused in whole or part by the development, based upon review of, and concurrence with, a critical area report prepared by a qualified professional;
   a. Minimum buffer. The minimum buffer shall be equal to the height of the slope or 50 feet, whichever is greater;
   b. Buffer reduction. The buffer may be reduced to a minimum of 10 feet when a qualified professional demonstrates to the director's satisfaction that the reduction will adequately protect the proposed development, adjacent developments, and uses and the subject critical area;
   c. Increased buffer. The buffer may be increased where the director determines a larger buffer is necessary to prevent risk of damage to proposed and existing development;
2. Alterations. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a hazards analysis is submitted and certifies that:
   a. The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;
   b. The development will not decrease slope stability on adjacent properties; and
   c. Such alterations will not adversely impact other critical areas;

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3. Design provisions. Development within an erosion or landslide hazard area and/or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of this chapter. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design provisions are:
    a. The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the International Building Code;
    b. Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;
    c. Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography;
    d. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;
    e. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;
    f. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes; and
    g. Development shall be designed to minimize impervious lot coverage;
4. Vegetation retention. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited;
5. Utility lines and pipes. Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available. The line or pipe shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance shall be allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior;
6. Point discharges. Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area shall be prohibited except as follows:
    a. Conveyed via continuous storm pipe downslope to a point where there are no erosion hazard areas downstream from the discharge;
    b. Discharged at flow durations consistent with the city's public works standards for stormwater runoff control (ADD LINK), with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state; or

c. Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope;

7. Subdivisions. The division of land in landslide hazard areas and associated buffers is subject to the following:

   a. Land that is located wholly within a landslide hazard area or its buffer may not be subdivided. Land that is located partially within a landslide hazard area or its buffer may be divided; provided, that each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer.

   b. Access roads and utilities may be permitted within the landslide hazard area and associated buffers if the city determines that no other feasible alternative exists; and

8. Prohibited development. On-site sewage disposal systems, including drain fields, shall be prohibited within erosion and landslide hazard areas and related buffers.

B. Seismic hazard areas. Activities proposed to be located in seismic hazard areas shall meet the standards of ECC 15.640.050 (performance standards – general requirements).

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15.650 Fish and Wildlife Habitat Conservation Area

15.650.010 Designation of fish and wildlife habitat conservation areas.

A. Fish and wildlife habitat conservation areas include:

1. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association.

   a. Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current listing status.

   b. State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington and identified by the Washington Department of Fish and Wildlife, which are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (state endangered species) and WAC 232-12-011 (state threatened and sensitive species). The state Department of Fish and Wildlife maintains the most current listing and should be consulted for current listing status.

2. State priority habitats and areas associated with state priority species. Priority habitats and species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the state Department of Fish and Wildlife.

3. Naturally occurring ponds under 20 acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

4. Waters of the state. Waters of the state include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-031 (or WAC 222-16-030 depending on classification used).

5. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity.

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6. State natural area preserves and natural resource conservation areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the Washington State Department of Natural Resources.
7. Areas of rare plant species and high-quality ecosystems. Areas of rare plant species and high-quality ecosystems are identified by the Washington State Department of Natural Resources through the Natural Heritage Program.

B. All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter and shall be managed consistent with the best available science, such as the Washington Department of Fish and Wildlife's Management Recommendations for Priority Habitat and Species.

C. Mapping. The approximate location and extent of habitat conservation areas are shown on the critical area maps adopted with the ordinance codified in this chapter by the city, as most recently updated. The following maps and data are hereby adopted and are available from the city and/or the listed governmental agency:

1. Washington Department of Fish and Wildlife Priority Habitat and Species Maps;
2. Washington State Department of Natural Resources, Official Water Type Reference Maps, as amended; and
3. Anadromous and resident salmonid distribution maps contained in the Habitat Limiting Factors Reports published by the Washington Conservation Commission.

The above maps are to be used as a guide for the city, project applicants, and/or property owners and should be continuously updated as new critical areas are identified. The above maps are a reference and do not provide a final critical area designation.

15.650.020 Critical area report – Additional requirements for habitat conservation areas.

A. All critical areas located within 300 feet of the project area that have been designated by the city and are shown on city, state, or federal government agency maps and/or reports shall be addressed in a critical area report for habitat conservation areas.

B. Habitat analysis. A habitat assessment to include at a minimum the following:

1. Detailed description of vegetation on the project area and its associated buffer.
2. Identification of any endangered, threatened, or candidate species that have a primary association with habitat on the project area, and assessment of potential project impacts to use of the buffer and critical area on the site by the species.
3. A detailed discussion of the direct and indirect potential impacts on habitat by the project. Such discussion shall include a discussion of the ongoing management practices that will protect habitat after the project site has been developed.

15.650.030 Performance standards – General requirements.

A. Nonindigenous species. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.

B. Mitigation and contiguous corridors. Mitigation sites shall be located to preserve or achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

C. Approvals of activities. The director shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions shall be based on the best available science and may include, but are not limited to, the following:

   1. Establishment of buffer zones;
   2. Preservation of critically important vegetation and/or habitat features such as snags and downed wood;
   3. Limitation of access to the habitat area, including fencing to deter unauthorized access;
   4. Seasonal restriction of construction activities;
   5. Establishment of a duration and timetable for periodic review of mitigation activities; and
   6. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.

D. Mitigation to at least biological functions. Mitigation of alterations to habitat conservation areas shall achieve at least equivalent biologic and hydrologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.

E. Approvals and the best available science. Any approval of alterations or impacts to a habitat conservation area shall be supported by the best available science.

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F. Buffers.

1. Establishment of buffers. The director shall require the establishment of buffer areas for activities adjacent to habitat conservation areas when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall be designed to address the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby and shall consider the management recommendations issued by the Washington Department of Fish and Wildlife. Habitat conservation areas and their buffers shall be preserved in perpetuity through the use of critical area tracts in accordance with ECC 15.610.260.
2. Seasonal restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply.
3. Habitat buffer averaging. The director may allow the recommended habitat area buffer width to be reduced in accordance with a critical area report, the best available science, and the management recommendations issued by the Washington Department of Fish and Wildlife, only if:
   a. It will not reduce stream or habitat functions;
   b. It will not adversely affect salmonid habitat;
   c. It will provide additional natural resource protection, such as buffer enhancement;
   d. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
   e. The buffer area width is not reduced by more than 25 percent in any location.

G. Signs and fencing of habitat conservation areas.

1. Temporary markers. The outer perimeter of the habitat conservation area or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and verified by the director prior to the commencement of permitted activities. The director shall have the authority to require that temporary fencing be placed on site to mark the outer perimeter of the habitat conservation area and its associated buffer area. This temporary marking, and any required temporary fencing, shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

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2. Permanent signs. As a condition of any permit or authorization issued pursuant to this chapter, the director may require that applicant to install permanent signs along the boundary of a habitat conservation area or buffer.

   a. Permanent signs shall be made of a metal face with a green color background and white letters; attached to a metal post or another nontreated material of equal durability; made with a sign face no smaller than one foot by one foot and no larger than 2 feet by 2 feet; and mounted with the bottom of the sign face no less than 3 feet above and no more than 5 feet above adjacent grade. Signs must be posted at a minimum of one per lot of record, or on large parcels every 300 feet, or additional signs as required by the director and must remain unobstructed and be maintained by the property owner in perpetuity. The sign(s) shall be worded as follows or with alternative language approved by the director:

      Protected Critical Area

      Do Not Disturb

      Contact the city of Ellensburg

      Regarding Uses and Restriction

   b. The provisions of subsection (G)(2)(a) of this section may be modified by the director as necessary to assure protection of sensitive features or wildlife.

15.650.040 Performance standards – Specific habitats.

A. Endangered, threatened, and sensitive species.

1. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by the Washington Department of Fish and Wildlife or applicable state or federal agency.

2. Whenever activities are proposed adjacent to a habitat conservation area within which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the city. All applications for activities proposed adjacent to a habitat conservation area or buffer addressed in this subsection shall be sent for review and comment to the Department of Fish and Wildlife for animal species, the Washington State Department of Natural Resources for plant species, and other appropriate federal or state agencies.

3. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified professional. Activities are adjacent to bald eagle sites when they are within 800 feet, or within one-half mile (2,640 feet) and in a shoreline foraging area. The city shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the Washington Department of Fish and Wildlife.

B. Anadromous fish.

1. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or where such fish have a primary association shall give special consideration to the preservation of anadromous fish habitat, including, but not limited to, adhering to the following standards:

   a. Activities shall be timed to occur only during the allowable work window as designated by the Washington Department of Fish and Wildlife for the applicable species;

   b. An alternative alignment or location for the activity is not feasible;

   c. The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas;

   d. Shoreline erosion control measures shall be designed to use bioengineering methods or soft armoring techniques, according to an approved critical area report; and

   e. Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.

2. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.

C. Wetland habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall conform to the wetland development performance standards set forth in ECC 15.620.030, wetlands. If nonwetlands habitat and wetlands are present at the same location, the provisions of this chapter or ECC Chapter 15.620, Wetlands, whichever provides greater protection to the habitat, apply.

D. Riparian habitat areas. Unless otherwise allowed in this chapter, all structures and activities shall be located outside of the stream buffers.

1. Establishment of stream buffer areas. Stream buffers shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams, seeps, and springs.

2. Stream buffer widths. Required stream buffer widths are shown in the table below. A stream buffer shall have the width required, unless a greater width is required pursuant to subsection (D)(3) of this section, or a lesser width is allowed pursuant to subsection (D)(4) of this section. Widths shall be measured outward in each direction, on the horizontal plane from the ordinary high water mark, or from the top of bank if the ordinary high water mark cannot be identified. Stream buffers should be sufficiently wide to achieve the full range of riparian and aquatic ecosystem functions, which include but are not limited to protection of instream fish habitat through control of temperature and sedimentation in streams; preservation of fish and wildlife habitat; and connection of riparian wildlife habitat to other habitats.

Type 1 Streams: Yakima River	250 feet

Type 2 Streams: Reecer Creek; Currier Creek; Whiskey Creek; Wilson Creek (including West and East Branches); Mercer Creek.	85 feet
Type 3 and 4 Streams and Ponds: Englehorn Pond; West Interchange Ponds; Lyle Creek.	50 feet

3. Increased stream buffer widths. The director may require increased buffer widths in accordance with the recommendations of an experienced, qualified professional, and the best available science on a case-by-case basis when a large buffer is necessary to maintain the structure and functions of the habitat area, based on site-specific characteristics. When the SEPA checklist discloses the possibility that the buffers may be increased, the procedures in WAC 197-11-158 shall be invoked. The criteria to be used to analyze the issue whether the buffers should be increased are as follows:
   a. When the director determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area;
   b. When a channel migration zone is present, the stream buffer width shall be measured from the outer edge of the channel migration zone; or
   c. When the habitat area is within an erosion or landslide hazard area, or buffer, the stream buffer width shall be the recommended distance, or the erosion or landslide hazard area or buffer, whichever is greater.
4. Stream buffer width averaging. The director may allow the recommended stream buffer width to be reduced in accordance with a critical area report only if:
   a. The width reduction will not reduce stream or habitat functions, including those of nonfish habitat;
   b. The width reduction will not degrade the habitat, including habitat for anadromous fish;
   c. The proposal will provide additional habitat protection;
   d. The total area contained in the riparian habitat area of each stream on the development proposal site is not decreased;
   e. The recommended stream buffer width is not reduced by more than 25 percent in any one location;
   f. The width reduction will not be located within another critical area or associated buffer; and
   g. The reduced stream buffer width is supported by the best available science.

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5. Interrupted buffer.
    a. Where a legally established, pre-existing use of the buffer exists, those proposed activities that are within the wetland or stream buffer, but are separated from the critical area by an existing permanent substantial improvement, which serves to eliminate or greatly reduce the impact of the proposed activity upon the critical area, are exempt; provided, that the detrimental impact to the critical area does not increase. However, if the impacts do increase, the city shall determine if additional buffer may be required along the impact area of the interruption. Substantial improvements may include developed public infrastructure such as roads and railroads. Substantial improvements may not include paved trails, sidewalks, or parking areas. An allowance for activity in an interrupted buffer may require a critical areas report for the type of critical areas buffer that is affected. In determining whether a critical areas report is necessary, the city shall consider the hydrologic, geologic and/or biological habitat connection potential and the extent and permanence of the interruption.
    b. Where a legally established, pre-existing structure or use is located within a regulated wetland or stream buffer and where the regulated buffer is fully paved and does not conform to the interrupted buffer provision above, the buffer will end at the edge of the pavement, adjacent to the wetland or stream.
6. Riparian habitat mitigation. Mitigation of adverse impacts to stream buffers shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same subdrainage basin as the habitat impacted.
7. Alternative mitigation for stream buffers. The performance standards set forth in this subsection may be modified at the city's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected subdrainage basin as a result of alternative mitigation measures.

E. Aquatic habitat. The following specific activities may be permitted within a stream buffer, pond, lake, water of the state, and associated buffer when the activity complies with the provisions set forth in the applicable shoreline management program and subject to the standards of this subsection. The standards that provide the most protection to protected habitat and species shall apply.

1. Streambank stabilization. Streambank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bioengineering or soft armoring techniques in accordance with an approved critical area report.

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2. Launching ramps – public or private. Launching ramps may be permitted in accordance with an approved critical area report that has demonstrated the following:
   a. The project will not result in alterations to, or loss of, shoreline substrate within one-quarter mile of the site;
   b. The ramp will not adversely impact critical fish or wildlife habitat areas or associated wetlands; and
   c. Adequate mitigation measures ensure that there is no net loss of the functions or values of riparian habitat as a result of the ramp.
3. Docks. Repair and maintenance of an existing dock or pier may be permitted in accordance with an approved critical area report subject to the following:
   a. There is no increase in the use of materials creating shade for predator species or eelgrass;
   b. There is no expansion in overwater coverage;
   c. There is no new spanning of waters between 3 and 13 feet deep;
   d. There is no increase in the size and number of pilings; and
   e. There is no use of toxic materials (such as creosote) that come in contact with the water.
4. Roads, trails, bridges, and rights-of-way. Construction of trails, roadways, and minor road bridging, less than or equal to 30 feet wide, may be permitted in accordance with an approved critical area report subject to the following standards:
   a. There is no other feasible alternative route with less impact on the environment;
   b. The crossing minimizes interruption of downstream movement of wood and gravel;
   c. Roads in stream buffers shall not run parallel to the water body;
   d. Trails shall be located on the outer edge of the buffer, except for limited viewing platforms, crossings and limited trails;
   e. Crossings, where necessary, shall only occur as near to perpendicular with the water body as possible;
   f. Mitigation for impacts is provided pursuant to a mitigation plan of an approved critical area report;
   g. Road bridges are designed according to the Washington Department of Fish and Wildlife Fish Passage Design at Road Culverts, 1999, and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000; and
   h. Trails and associated viewing platforms shall not be made of continuous impervious materials.
5. Utility facilities. New utility lines and facilities may be permitted to cross watercourses in accordance with an approved critical area report, if they comply with the following standards:
   a. Fish and wildlife habitat areas shall be avoided to the maximum extent possible;

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b. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, where feasible;

c. The utilities shall cross at an angle greater than 60 degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible;

d. Crossings shall be contained within the footprint of an existing road or utility crossing where possible;

e. The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and

f. The utility installation shall not increase or decrease the natural rate of shore migration or channel migration.

6. Public flood protection measures. New public flood protection measures and expansion of existing ones may be permitted, subject to the city's review and approval of a critical area report and the approval of a federal biological assessment by the federal agency responsible for reviewing actions related to a federally listed species.

7. Instream structures. Instream structures, such as, but not limited to, high flow bypasses, sediment ponds, instream ponds, retention and detention facilities, dams, and weirs, shall be allowed only as part of an approved watershed basin restoration project approved by the agency with jurisdiction and upon acquisition of any required state or federal permits. The structure shall be designed to avoid modifying flows and water quality in ways that may adversely affect habitat conservation areas.

8. Stormwater conveyance facilities. Conveyance structures may be permitted in accordance with an approved critical area report subject to the following standards:

   a. No other feasible alternatives with less impact exist;

   b. Mitigation for impacts is provided;

   c. Stormwater conveyance facilities shall incorporate fish habitat features; and

   d. Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.

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15.660 Aquifer Recharge Areas

15.660.010 Critical aquifer recharge areas designation.

Critical aquifer recharge areas (CARAs) are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). CARAs have prevailing geographic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water.

A. Wellhead protection areas. Wellhead protection areas may be defined by the boundaries of the 10-year time of ground water travel or boundaries established using alternate criteria approved by the Washington State Department of Health in those settings where ground water time of travel is not a reasonable delineation criterion, in accordance with WAC 246-290-135.

B. Sole source aquifers. Sole source aquifers are areas that have been designated by the U.S. Environmental Protection Agency pursuant to the Federal Safe Water Drinking Act.

C. Susceptible ground water management areas. Susceptible ground water management areas are areas that have been designated as moderately or highly vulnerable or susceptible in an adopted ground water management program developed pursuant to Chapter 173-100 WAC.

D. Moderately or highly vulnerable aquifer recharge areas. Aquifer recharge areas that are moderately or highly vulnerable to degradation or depletion because of hydrogeologic characteristics are those areas delineated by a hydrogeologic study prepared in accordance with the State Department of Ecology guidelines.

E. Moderately or highly susceptible aquifer recharge areas. Aquifer recharge areas moderately or highly susceptible to degradation or depletion because of hydrogeologic characteristics are those areas meeting the criteria established by the State Department of Ecology.

15.660.020 Aquifer recharge areas susceptibility ratings.

Aquifer recharge areas shall be rated as having high, moderate, or low susceptibility based on soil permeability, geologic matrix, infiltration and depth to water as determined by the criteria established by the State Department of Ecology.

15.660.030 Mapping of critical aquifer recharge areas.

As of the time of adoption of the ordinance codified in this chapter, the city does not believe there are any critical aquifer recharge areas within city limits relating to public drinking supplies. If this situation changes, the city will show the approximate location and extent of critical aquifer recharge areas on the adopted critical areas map.

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15.660.040 Activities allowed in critical aquifer recharge areas.

The following activities are allowed in critical aquifer recharge areas pursuant to ECC 15.610.050, Allowed activities, and do not require submission of a critical areas report.

A. Construction of structures and improvements, including additions, resulting in less than 5 percent or 2,500 square feet (whichever is greater) total site impervious surface area that does not result in a change of use or increase the use of a hazardous substance.

B. Development and improvement of parks, recreation facilities, open space or conservation areas resulting in less than 5 percent total site impervious surface area that do not increase the use of a hazardous substance.

C. On-site domestic septic systems releasing less than 14,500 gallons of effluent per day and that are limited to a maximum density of one system per one acre.

15.660.050 Critical area report – Additional requirements for critical aquifer recharge areas.

In addition to the general critical area report requirements of ECC 15.610.100, critical area reports for critical aquifer recharge areas must meet the requirements of this section. Critical area reports for 2 or more types of critical areas must meet the report requirements for each relevant type of critical area.

A. Hydrogeologic assessment. For all proposed activities to be located in a critical aquifer recharge area, a critical area report shall contain a level one hydrogeological assessment. A level 2 hydrogeologic assessment shall be required for any of the following proposed activities:

   1. Activities that result in 5 percent or more impervious site area;
   2. Activities that divert, alter, or reduce the flow of surface or ground waters, or otherwise reduce the recharging of the aquifer;
   3. The use of hazardous substances, other than household chemicals used according to the directions specified on the packaging for domestic applications;
   4. The use of injection wells, including on-site septic systems, except those domestic septic systems releasing less than 14,500 gallons of effluent per day and that are limited to a maximum density of one system per one acre; or
   5. Any other activity determined by the director likely to have an adverse impact on ground water quality or quantity or in the recharge of an aquifer.

B. Level 1 hydrogeologic assessment. A level 1 hydrogeologic assessment shall include the following site and proposal-related information at a minimum:

   1. Available information regarding geologic or hydrogeologic characteristics of the site including the surface location of all critical aquifer recharge areas located on site or immediately adjacent to the site, and permeability of the unsaturated zone;
   2. Ground water depth, flow direction and gradient based on available information;

3. Currently available data on wells and springs within 1,300 feet of the project area;
4. Location of other critical areas, including surface waters, within 1,300 feet of the project area;
5. Available historic water quality data for the area to be affected by the proposed activity; and
6. Best management practices proposed to be utilized.

C. Level 2 hydrogeologic assessment. A level 2 hydrogeologic assessment shall include the following site- and proposal-related information at a minimum, in addition to the requirements for a level one hydrogeological assessment:

1. Historic water quality data for the area to be affected by the proposed activity compiled for at least the previous 5-year period;
2. Ground water monitoring plan provisions;
3. Discussion of the effects of the proposed project on the ground water quality and quantity, including:
   a. Predictive evaluation of ground water withdrawal effects on nearby surface wells and surface water features; and
   b. Predictive evaluation of contaminant transport based on potential releases to ground water; and
4. A spill plan that identifies equipment and/or structures that could fail, resulting in an impact. Spill plans shall include provisions for regular inspection, repair and replacement of structures and equipment that could fail.

15.660.060 Performance standards – General requirements.

A. Activities may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer.

B. The proposed activity must comply with the water source protection requirements and recommendations of the U.S. Environmental Protection Agency, Washington State Department of Health and the city of Ellensburg Wellhead Protection Plan.

C. The proposed activity must be designed and constructed in accordance with the locally adopted surface water management or water quality regulations.

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15.660.070 Performance standards – Specific uses.

A. Storage tanks. All storage tanks proposed to be located in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:

1. Underground tanks. All new underground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

   a. Prevent releases due to corrosion or structural failure for the operational life of the tank;

   b. Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and

   c. Use material in the construction or lining of the tank that is compatible with the substance to be stored.

2. Aboveground tanks. All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

   a. Not allow the release of a hazardous substance to the ground, ground waters, or surface waters;

   b. Have a primary containment area enclosing or underlying the tank or part thereof; and

   c. A secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.

B. Vehicle repair and servicing.

1. Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.

2. No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the State Department of Ecology prior to commencement of the proposed activity.

C. Residential use of pesticides and nutrients. Application of household pesticides, herbicides and fertilizers shall not exceed times and rates specified in the packaging.

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D. Use of reclaimed water for surface percolation or direct recharge. Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the state Departments of Ecology or Health.

1. Use of reclaimed water for surface percolation must meet the ground water recharge criteria given in RCW 90.46.080(1) and RCW 90.46.010(10). The state Department of Ecology may establish additional discharge limits in accordance with RCW 90.48.080(2).

2. Direct injection must be in accordance with the standards developed by authority of RCW 90.46.042.

E. State and federal regulations. The uses listed below shall be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations.

Statutes, Regulations, and Guidance Pertaining to Ground Water Impacting Activities

Activity	Statute – Regulation – Guidance
Aboveground Storage Tanks	WAC 173-303-640
Animal Feedlots	Chapter 173-216 WAC, Chapter 173-220 WAC
Automobile Washers	Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (Washington Department of Ecology WQ-R-95-96)
Below Ground Storage Tanks	Chapter 173-360 WAC
Chemical Treatment Storage and Disposal Facilities	WAC 173-303-182
Hazardous Waste Generator (Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, etc.)	Chapter 173-303 WAC
Injection Wells	Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC
Junk Yards and Salvage Yards	Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicles Recycler Facilities (Washington State Department of Ecology 94-146)
Oil and Gas Drilling	WAC 332-12-450, Chapter 173-218 WAC

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Statutes, Regulations, and Guidance Pertaining to Ground Water Impacting Activities

Activity	Statute – Regulation – Guidance
On-Site Sewage Systems (Large Scale)	Chapter 173-240 WAC
On-Site Sewage Systems (< 14,500 gal/day)	Chapter 246-272 WAC, Local Health Ordinances
Pesticide Storage and Use	Chapter 15.54 RCW, Chapter 17.21 RCW
Sawmills	Chapter 173-303 WAC, Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (Washington State Department of Ecology, 95-53)
Solid Waste Handling and Recycling Facilities	Chapter 173-304 WAC
Surface Mining	WAC 332-18-015
Wastewater Application to Land Surface	Chapter 173-216 WAC, Chapter 173-200 WAC, Washington State Department of Ecology Land Application Guidelines, Best Management Practices for Irrigated Agriculture

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