

Article 3: Zoning Districts & Land Uses

Draft, September 1, 2011

NOTE: This is the first full draft of the code – intended for review by city council, planning commission, city staff, and interested citizens. The provisions herein are intended to replace applicable land use regulations now found in ECC Titles 12 and 13. For clarification, we have indicated in (parentheses) whether each chapter is new or updates or replaces a current ECC chapter or section.

Also, text in CAPS are special notes to reviewers. **Highlighted text** warrants special review.

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15.30 Zones, Maps and Designations

15.30.010 Purpose. (NEW)

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.

15.30.020 Zoning map and boundaries. *(Replacing 13.06 and 13.08)*

- 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).

15.30.030 Zone and map designation purpose. *(Revised from 13.10.020)*

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.

15.30.040 Residential zones and map designations. *(Revised from Chapter 13.10 sections)*

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 15.33.020) 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. Dedicated parkland or other open space;
 - e. Investment in desirable public facilities;
 - f. Purchase of transferable development rights (subject to the city adopting a TDR program) that help to preserve valuable resource lands outside of the city;
 - g. Preservation of historic buildings; and/or
 - h. Affordable housing.
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 15.33.020) 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. Dedicated parkland or other open space;
 - e. Investment in desirable public facilities;
 - f. Purchase of transferable development rights (subject to the city adopting a TDR program) that help to preserve valuable resource lands outside of the city;
 - g. Preservation of historic buildings; and/or
 - h. 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 15.33.030) 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.

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 15.33.030) 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.

15.30.050 Commercial and mixed-use zones. *(Revised from Chapter 13.10 sections)*

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 (10 acres for areas divided by a public street) 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 Chapter 15.35 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;
3. Providing standards and guidelines that enhance the appearance and function of commercial-tourist uses and their compatibility with surrounding uses; and
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.

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. Providing standards and guidelines that enhance the appearance and function of commercial highway uses and their compatibility with surrounding uses; and
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 15.33.030) 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 and office uses; and/or
 - 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;
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;
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.

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);
4. Providing design standards and guidelines that enhance the appearance and function of uses in the zone and their compatibility with surrounding uses; and
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;
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; and
3. Use of this zone is appropriate for areas designated heavy industrial in the comprehensive plan.

15.30.060 Special districts. (Revised from Chapter 13.10 sections)

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 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 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 15.30.060 below is designated an Ellensburg landmark district, hereafter to be known as the Downtown Historic District. The requirements of this chapter and ECC Chapter 15.28 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 15.28 ECC).

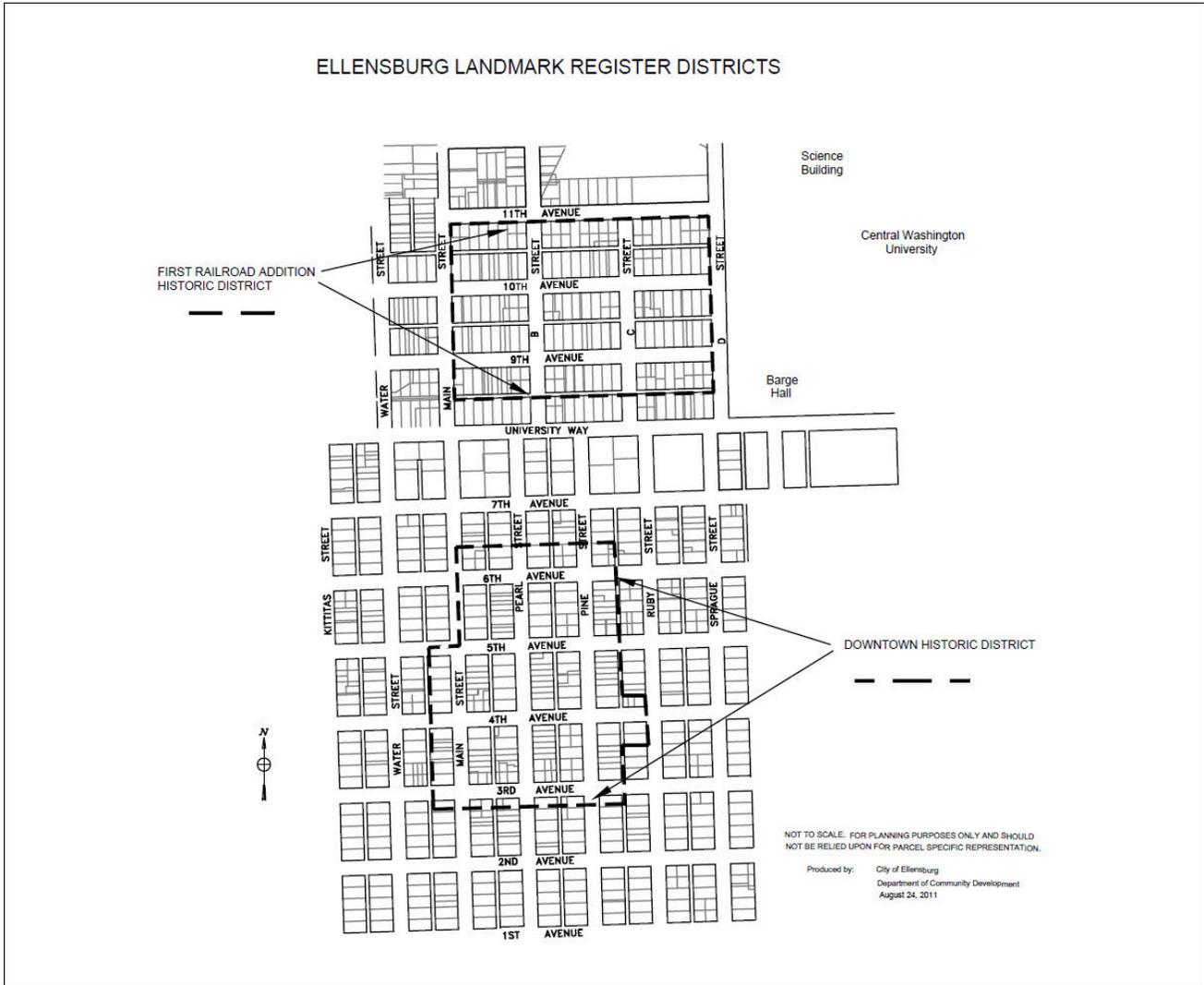


Figure 15.30.060. Downtown and First Railroad Addition Historic District boundaries.

C. First Railroad Addition Historic District.

1. Designated. The geographic area identified in Figure 15.30.060 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 15.28 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 15.28 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 are subject to the standards in ECC Chapter 15.36, 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.

15.31 Permitted Uses *(current Chapters 13.10 – 13.37)*

15.31.010 Purpose. *(NEW)*

- 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.
Exception: 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 15.25.010).
- D. All applicable requirements of this code, or other applicable state or Federal requirements, shall govern a use located in the city.

15.31.020 Interpretation of land use tables. *(NEW)*

- 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 15.21 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 15.21.
- 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 15.25.040 and the general requirements of the code.
- E. Clarification of uses and special conditions.
 - 1. If a * appears after the use, then the use is defined in ECC Chapter 15.13;
 - 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;
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; and
5. All applicable requirements shall govern a use whether or not they are cross-referenced in a section.

15.31.030 Accessory uses. (NEW)

An accessory use, as defined in ECC 15.13.010, 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.

15.31.040 Use tables. (NEW)

NOTE TO REVIEWERS – THE TABLES BELOW ILLUSTRATE CHANGES IN PERMITTED USES FROM CURRENT CODE IN [TRACK CHANGES FORMAT](#) WITH [ADDITIONS](#) AND [DELETIONS](#) SHOWN AS SUCH.

Table 15.31.040 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
RESIDENTIAL, GENERAL													
Dwelling, single family* (ECC 15.54.020)	P	P	P		P				P	P			C ⁶
<u>Dwelling, cottage*</u> (ECC 15.54.050)	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>								<u>C⁶</u>
Dwelling, duplex* (ECC 15.54.030)	<u>P¹</u>	<u>P^{1,2}</u>	P		P				P	P			<u>C⁶</u>
<u>Dwelling, townhouse*</u> (ECC 15.54.060)	<u>P^{1,5}</u>	<u>P¹</u>	P	P	P	<u>P³</u>			P	P			<u>C⁶</u>
Dwelling, multifamily* (ECC Article 5)	<u>P^{1,5}</u>		P	P	<u>P</u>	<u>P³</u>			P	P			<u>C⁶</u>
<u>Dwelling, live-work*</u>	<u>P^{1,4}</u>		<u>P⁴</u>	<u>P⁴</u>	<u>P⁴</u>	<u>P</u>			<u>P</u>	<u>P</u>			<u>C⁶</u>
Manufactured home park* (ECC 15.34.050)			<u>C</u>	<u>P</u>	<u>C</u>								

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
GROUP RESIDENCES													
Boarding houses, lodging houses, sororities, fraternities*		<u>C</u>	<u>CP</u>	<u>CP</u>	<u>C</u>				P	P			<u>C⁶</u>
<u>Community residential facility I*</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			P	P			<u>C⁶</u>
<u>Community residential facility II*</u>			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>			P	P			<u>C⁶</u>
<u>Senior citizen assisted housing*</u>			<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			P	<u>P</u>			<u>C⁶</u>
RESIDENTIAL ACCESSORY USES													
Accessory dwelling unit* (ECC 15.54.040)	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>				P	P			<u>P</u>
Home occupations* (ECC 15.34.030)	P	P	P	P	P	P	P	P	P	P	P	P	<u>P</u>
TEMPORARY LODGING													
<u>Bed & breakfast</u> (ECC 15.34.020)			<u>P</u>	<u>P</u>	<u>P</u>				<u>P</u>	<u>P</u>			<u>C⁶</u>
Hotels/Motels*							P	P	P	P			<u>C⁶</u>

Development conditions:

1. Subject use may be permitted subject to density bonus incentives set forth in Table 15.32.030 and ECC Chapter 15.33.
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 15.31.040 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. Subject use may be conditionally permitted in existing structures on sites featuring surplus public facilities provided the anticipated impacts from the subject use(s) on surrounding streets and uses can be mitigated.

Table 15.31.040 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	<u>p²</u>	P			<u>C¹⁰</u>
Commercial use providing drive-through service							P	P		P			<u>C¹⁰</u>
Farmers markets*						<u>P</u>			<u>P</u>	<u>P</u>			P
Fruit stands*	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	P	P	P	<u>P</u>	<u>P</u>		P
Heavy retail*								P	p ²	P		P	<u>C¹⁰</u>
Nurseries & greenhouses (commercial)*	P							<u>P</u>	<u>p²</u>	<u>P</u>	<u>P</u>	<u>CP</u>	<u>C¹⁰</u>
Restaurants, bars, and brewpubs*			<u>p³</u>	<u>p³</u>	<u>p³</u>	<u>P</u>	P	P	P	P	P		<u>C¹⁰</u>
Coffee house, espresso bar	<u>p⁹</u>		<u>p³</u>	<u>p³</u>	<u>p³</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>C¹⁰</u>
Retail, small scale (<2,000sf floor area)	<u>p⁹</u>		<u>p³</u>	<u>p³</u>	<u>p³</u>	P	P	P	P	P			<u>C¹⁰</u>
Retail, medium scale (2,000-20,000sf floor area)						P		P	P	P			<u>C¹⁰</u>
Retail, large scale (20,001-60,000sf floor area)						p ⁵		P	P	P			<u>C¹⁰</u>
Retail, super scale (>60,000sf floor area)						<u>P</u>	<u>C</u>		C	C			<u>C¹⁰</u>
Regional retail commercial projects* (ECC Chapter 15.35)							C	C		C	C		
PERSONAL AND GENERAL SERVICE													
Day care I facilities* family day care homes	P	P	P	P	<u>P</u>	<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>	P		<u>C¹⁰</u>

City of Ellensburg
Land Development Code Update

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
Day care II facilities* child day care center	C	C	C	C	<u>P</u>	<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>			<u>C¹⁰</u>
General service establishments*						p ⁶	p ⁷	P	p ²	P	P		<u>C¹⁰</u>
Heavy services (see Heavy retail and services definition)*								p ¹¹	p ²	P		P	<u>C¹⁰</u>
Hospitals*	C	C	C		P				C	P			P
Offices, medical*	<u>P⁹</u>				P	P		P	P	P			P
Kennels *								<u>P</u>		<u>P</u>	<u>P</u>		<u>C¹⁰</u>
Nursing homes*	C	C	C	<u>EP</u>	<u>EP</u>				<u>P</u>	<u>P</u>			<u>C¹⁰</u>
Personal service establishments*	<u>P⁹</u>		<u>P³</u>	<u>P³</u>	<u>P³</u>	P	p ⁴	P	P	P			<u>C¹⁰</u>
Religious institutions*	C	C	C	C	P	P			P	P			<u>C¹⁰</u>
Radio station (commercial)		C						<u>C</u>			<u>C</u>	<u>C</u>	<u>C¹⁰</u>
BUSINESS SERVICE													
Conference center*									<u>P</u>	<u>P</u>			<u>C¹⁰</u>
Offices, business or professional*, small scale (<2,000sf floor area)	<u>P⁹</u>					P	P	P	P	P	p ⁸		<u>C¹⁰</u>
Offices, business or professional*, medium scale (2,000-20,000sf floor area)	<u>P⁹</u>					P	P	P	P	P	p ⁸		<u>C¹⁰</u>
Offices, business or professional*, large scale (20,001-60,000sf floor area)						P	P	<u>P</u>	P	P	p ⁸		<u>C¹⁰</u>
Miniwarehouse facility*			C					C			P	P	<u>C¹⁰</u>
INDUSTRIAL													
Light industry*									<u>P^{2,12}</u>	<u>P^{2,12}</u>	P	P	<u>C¹⁰</u>

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
Hazardous waste treatment (off-site)(see definition of "off-site" in ECC 15.13.150)											C	C	
Hazardous waste treatment (on-site) (see definition of "on-site" in ECC 15.13.150)							C	C	C	C	C	C	C¹⁰
Heavy industry*												C	C¹⁰

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.
4. Includes hair care/beautician uses only, provided it is subordinate to another permitted use. No other personal service establishments are permitted.
5. Grocery stores shall be the only retail uses permitted with more than 20,000 square feet of gross floor area.
6. Except for gas service stations, the use must be enclosed entirely within a building.
7. Includes gas service stations with truck stop facilities only. No other general service uses are permitted.
8. 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.
9. 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 final plat.
 - 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 final 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 15.51).

10. Subject use may be conditionally permitted in existing structures on sites featuring surplus public facilities provided the anticipated impacts from the subject use(s) on surrounding streets and uses can be mitigated.
11. Home improvement centers are limited to 60,000 square feet of floor area.
12. 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 noise or other feature of their operation would negatively impact the surrounding area by reason of noise, light, 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.

Table 15.31.040 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											<u>C⁸</u>
Gun clubs and rifle ranges													
Golf course	P												<u>P</u>
Golf driving range (not associated with a golf course)	<u>C</u>						<u>C</u>	C					<u>P</u>
Recreation - outdoor (commercial)*	<u>E</u>						P	P			C		
Recreation - indoor (commercial)*							P	P	<u>P</u>	<u>P</u>	C		<u>C⁸</u>
Recreational vehicle parks (ECC 15.34.060)							P	P					
Parks, Playgrounds (public or private)	<u>P¹</u>		P										
CULTURAL & ENTERTAINMENT													
Adult entertainment *							P ²						
Art, performing arts, and recording studios							P	<u>P</u>	<u>P</u>	<u>P</u>			<u>P⁹</u>

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
Museums							P		<u>P</u>	<u>P</u>			p ⁹
EDUCATIONAL													
Schools	C	C	C	C	<u>C</u>			<u>C</u>	<u>C</u>	<u>C</u>			p ⁶
GOVERNMENTAL													
Court								P	<u>P</u>	<u>P</u>			P
Fire facility								P					P
Interim recycling facility	<u>P³</u>	<u>P</u>	P										
Police facility						p ⁴	<u>P</u>	P	p ⁴	P	P		P
Public agency or utility office*						<u>P</u>	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	P
Public agency or utility yard	<u>P⁵</u>	<u>P⁵</u>	<u>P⁵</u>	<u>P⁵</u>	<u>P⁵</u>	<u>P</u>	<u>P</u>	P	<u>C⁵</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>PC</u>
Utility facility* ¹⁰	P	P	P		P	P	P	P	P	P	P	P	P
Fairgrounds													P
Public transportation passenger terminals													C
RESOURCE													
Gardening or fruit raising (accessory use or non-commercial)	P	P	<u>P</u>	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Agriculture*	P												
Small wind energy systems (ECC 15.34.070)	<u>P</u>	<u>P</u>	<u>P</u>										
REGIONAL													
Airport													p ⁷

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 facility standards:
 - a. 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);
 - b. All such establishments must comply with ECC 15.34.010.
3. Interim recycling facility conditions:

- a. Interim recycling facilities in the residential zones shall be limited to drop box facilities accessory to a public or community use such as a school, fire station or community center.
 - b. In C-N, C-T, C-C, and C-CII zones all processing and storage of material shall be within enclosed buildings, except of drop box facilities for the collection and temporary storage of recyclable materials. Yard waste processing is not permitted.
4. 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.
5. 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.
6. Excluding private or nonprofit commercial schools, for which the principal course work is business, vocational, or technical.
7. The following uses may be permitted within the P-R zone through granting a conditional use permit according to the procedures set out in ECC 15.25.040.
- 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.
8. Subject use may be conditionally permitted in existing structures on sites featuring surplus public facilities provided the anticipated impacts from the subject use(s) on surrounding streets and uses can be mitigated.
9. Subject uses must be managed by a public agency.
10. Wireless communication facilities, including wireless communication support towers and antenna arrays, are subject to the provisions of ECC 15.34.080.

15.31.050 Supplemental P-R zone provisions.

1. Permitted accessory uses.

- a. 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;
- b. 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);

- c. Retail services, such as concessions and rental facilities usually associated with public parks, fairgrounds, other public recreation facilities, and public educational institutions;
 - d. Helipads operated in conjunction with a public hospital;
 - e. Human medical offices, such as doctor or dentist facilities, operated in conjunction with a public hospital.
- 2. 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 15.25.040.
- 3. 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. The intent 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. The master plan components shall include at a minimum: boundaries, land uses, circulation within and adjacent to the area, parking, utilities, open spaces, landscaping, and development standards.

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

15.32 Form and Intensity Standards *(Replacing Chapters 13.10 – 13.37)*

15.32.010 Purpose. *(NEW)*

- A. To promote forms of development that reinforce and/or enhance the desired character of Ellensburg neighborhoods.
- B. To promote compatibility between developments.

15.32.020 Interpretation of tables. *(NEW)*

- 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 1532.050-140 provide clarification and exceptions to the form and intensity standards herein.

15.32.030 Form and intensity standards table – Residential zones. *(NEW)*

NOTE – LIKE THE USE LISTS, WE’VE REWORKED THE FORM AND INTENSITY STANDARDS IN INDIVIDUAL ZONING CHAPTERS INTO TABLES COMBINING FOR RESIDENTIAL AND COMMERCIAL ZONES.

SIMILARLY – WE’VE SET THIS UP IN [TRACK CHANGES FORMAT](#) TO INDICATE CHANGES FROM THE CURRENT CODE.

Table 15.32.030 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	<u>7,000sf</u> <u>None¹</u>	<u>7,000sf</u> <u>None¹</u>	<u>7,000sf</u> <u>None¹</u>	<u>10,000sf</u> <u>None¹</u>	<u>7,000sf</u> <u>None¹</u>
Minimum frontage	<u>60 ft</u> <u>None^{1,2}</u>	<u>60 ft</u> <u>None^{1,2}</u>	<u>50 ft</u> <u>None^{1,2}</u>	<u>60 ft</u> <u>None^{1,2}</u>	<u>50 ft</u> <u>None^{1,2}</u>

Topic	R-S	R-L	R-M	R-H	R-O
Density, minimum (ECC 15.32.050)	NA <u>6/du/acre³</u>	NA <u>6/du/acre³</u>	NA <u>8/du/acre³</u>	8-15 du/acre	NA <u>8/du/acre³</u>
Density, maximum (base) ¹⁰ (ECC 15.32.050)	6 du/acre	8 du/acre	12 du/acre <u>No limit</u>	12 du/acre <u>No limit</u>	12 du/acre <u>No limit</u>
<u>Density, maximum with bonus (see ECC Chapter 15.33)</u>	<u>12 du/acre⁴</u>	<u>16 du/acre⁴</u>	<u>No limit</u>	<u>No limit</u>	<u>No limit</u>
Maximum Lot Coverage	40%	40%	50%	85% of non setback area	50%
<u>Maximum floor area ratio (FAR) (ECC 15.32.050)</u>	<u>0.5⁵</u>	<u>0.5⁵</u>	<u>1.0⁶</u>	<u>1.5⁶</u>	<u>1.0⁶</u>
<u>Maximum impervious area</u>	<u>Variable—see ECC 15.32.070</u>				
Maximum building height	35 ft	35 ft	35 ft ⁷	<u>40-45 ft⁷</u>	35 ft ⁷
BUILDING PLACEMENT (see ECC 15.32.080-140)⁹					
Minimum front yard	15 ft ⁸	15 ft ⁸	15 ft ⁸	15 ft ⁸	15 ft ⁸
<u>Garage front yard setback</u>	<u>25 ft</u>	<u>25 ft</u>	<u>25 ft</u>	<u>25 ft</u>	<u>25 ft</u>
Minimum rear yard	20ft	20ft	20ft	20ft	20ft
Minimum rear yard, accessory structures 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	5 ft/10 ft	5 ft/10 ft	5 ft/10 ft	5 ft/10 ft
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 direct access to a public right-of-way or may obtain access from a courtyard access consistent with ECC 15.41.050(C).
3. The density minimum shall apply only to lots created by new subdivisions that result in the lots being 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 15.33.020(A).
5. The maximum FAR standards for townhouses and multifamily uses, where permitted through density bonus provisions, may be increased, as set forth on the final plat.
6. See ECC 15.33.030 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. Reduced or eliminated setbacks may be permitted through the design review process (see ECC 15.25.030) for non-residential or mixed-use buildings (where permitted) provided the design meets the purpose of the district and applicable standards and guidelines.
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.
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.

15.32.040 Form and intensity standards – Non-residential zones. (NEW)

Table 15.32.040 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	5,000sf <u>None</u> ¹	None ¹	None ¹	None ¹				
Density, minimum (ECC 15.32.050)	NA	NA	NA	NA	NA	NA	NA	NA
Density, maximum (ECC 15.32.050)	None	None	None	None	None	NA	NA	NA
<u>Maximum Lot Coverage</u>	<u>50%</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>None</u>
Maximum floor area ratio (FAR) [ECC 15.32.050(D)]	<u>1.0</u>	<u>0.5</u>	<u>0.5</u>	NA	NA	<u>0.5</u> ⁸	NA	NA
Maximum impervious area [ECC 15.32.070(B)]	<u>85%</u>	<u>85%</u>	<u>85%</u>	NA	NA	<u>85%</u>	NA	<u>85%</u>

Standard	C-N	C-T	C-H	C-C	C-CII	I-L	I-H	P-R
Maximum building height	35 ft	35 ft ²	35 ft ²	None 35 ft ³	None 70 feet	None 35 feet ^{2,4}	None	None ⁵
BUILDING PLACEMENT (see ECC 15.32.080-140)								
Minimum front yard	15 ft 10 ft ⁴	10 ft 15 ft ⁴	10 ft 15 ft ⁴	None ⁴	None ⁵	None 10 ft ⁴	None 10 ft	10 ft ⁶
<u>Garage front yard setback</u>	<u>25 ft</u>	<u>25 ft</u>	<u>25 ft</u>	<u>25 ft</u>	<u>25 ft</u>	<u>25 ft</u>	<u>25 ft</u>	<u>25 ft</u>
Minimum rear yard <u>(see ECC 15.52.020 for supplemental standards)</u>	None ⁷	None ⁷ 10 ft	None ⁷ 10 ft	None ⁷	None ⁷	None ⁷	None ⁷	None ⁶
Minimum side yard <u>(see ECC 15.52.020 for supplemental standards)</u>	None ⁷	None ⁷	None ⁷	None ⁷	None ⁷	None ⁷	None ⁷	None ⁶

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 sites outside of the historic district, the height limit shall be 6-stories or 70 feet, whichever is more.
4. For exceptions and detailed standards, see ECC Chapter 15.51, Site Orientation Standards.
5. For areas within 200 feet of a residential zone, the maximum building height shall be 35 feet.
6. 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.
7. Where the subject property borders a residential zone, the minimum side or rear setbacks shall be the same as the adjacent residential zone.
8. See ECC 15.33.030 for FAR bonus provisions.

15.32.050 Density and floor area ratio calculations. (NEW)

A. Calculations – Gross developable acreage.

1. All site areas may be used in the calculation of allocated and 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 allocated and maximum density or floor area calculations. Property used for new roadways, trails, storm water facilities, or other features used by residents or the general public shall 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.

B. 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.

C. 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.

D. Floor area ratio (FAR) calculations. Floor area ratio is defined as the floor area (see 15.13.060) of all buildings on a lot 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.

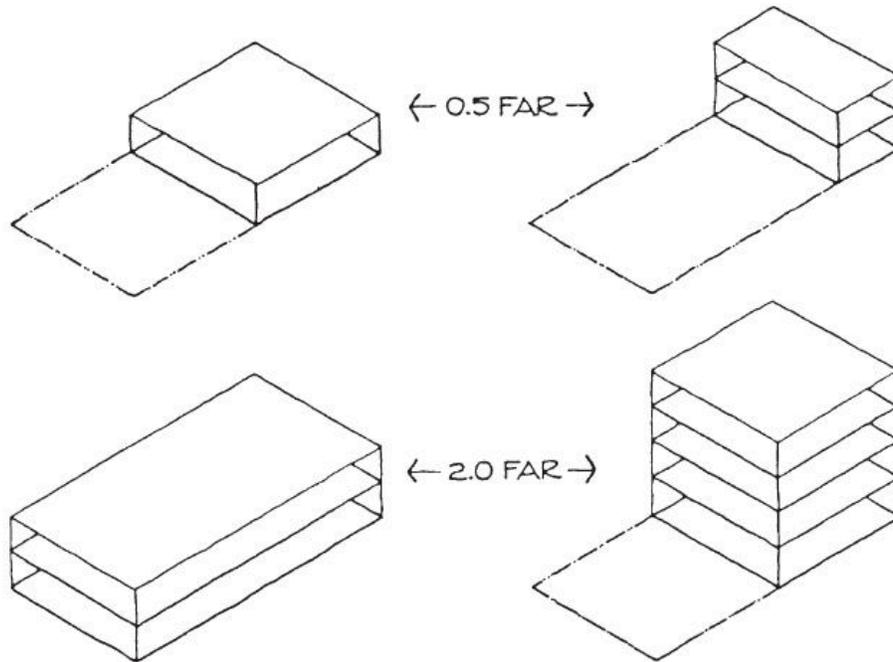


Figure 15.32.050(D). Floor area ratio examples.

15.32.060 Height exceptions. (NEW)

The following structures may be erected above the height limits set forth in ECC 15.32.030 and ECC 15.32.040:

- 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 15.52.060.
- 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.

15.32.070 Impervious area standards. (NEW)

- A. **Impervious area standards for residential zones.** Table 15.32.060 below sets forth impervious standards for residential zones on a sliding scale based on the density of development on a lot. For example, a single family home on a 7,000 square foot lot equates to a density of 6.2 dwelling units/acre, thus providing for a maximum impervious area standard of 45 percent. A duplex on the same 7,000 square foot lot equates to 12.4 dwelling units/acre, thus providing a maximum impervious area standard of 60 percent. For townhouses and multifamily buildings, the impervious area standards will be applied to whole development (rather than individual units in the building).

Table 15.32.060 Impervious area standards for residential zones.

	Lot Density (dwelling units/acre)						
	0-2 du/acre	2.1-3.5 du/acre	3.6-5 du/acre	5.1-7 du/acre	7.1-10 du/acre	10.1-15 du/acre	>15 du/acre
Maximum impervious area	20%	30%	40%	45%	50%	60%	70%

B. Exceptions to impervious area calculations. Green roofs and permeable pavements, and wooden decks built over unpaved surfaces may be discounted at a 50 percent rate, in terms of impervious area calculations. For example, 2,000 square feet of pervious pavement driveways shall be counted as 1,000 square feet of impervious area. The applicant shall demonstrate how the proposed pavement meets 50 percent infiltration rates. The Yakima County Regional LID Manual (SUBJECT TO ADOPTION – TO ADD LINK) may be used as a guide for the development of such features and resource for the reviewing authority in determining compliance with this standard.

15.32.080 Setback measurements. (NEW)

- A. Front yard setback.** The front yard is measured from the street right-of-way or the edge of a surface improvement 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 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.

15.32.090 Permitted projections into yards. (13.40.080)

Structures may extend into or be located in required setbacks, subject to conformance with any required site vision standards set forth in ECC 15.32.140 applicable to the lot, as follows:

- 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 15.32.140 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
 5. Monument signs per ECC 15.56.050;
- 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, but excluding electrical and cellular equipment cabinets, and similar utility boxes and vaults;
 8. Surface and stormwater water management facilities;
 9. Fences per ECC 15.32.130;
 10. Uncovered porches and decks not exceeding 18 inches above the finished grade; and
 11. 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.

15.32.100 Setbacks from alleys. (NEW)

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.

15.32.110 Setback modifications. (NEW)

- 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.

15.32.120 Lot or site divided by zone boundary. (NEW)

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 15.31.

15.32.130 Fences, walls, and hedges. (current Chapter 13.44)

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. Also see ECC 15.32.140 below for site distance requirements along streets and site access points;



Figure 15.32.130(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. Also see ECC 15.32.140 below for site distance requirements along streets and site access points;
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 15.32.130(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 5 feet from an alley are limited to 42 inches in height. Fences or walls set back 5 feet or more from the alley may be up to 60 inches in height, provided the portion of the fence taller than 42 inches is at least 30 percent transparent. Fences or walls at least 10 feet from an alley may be up to 8 feet in height.

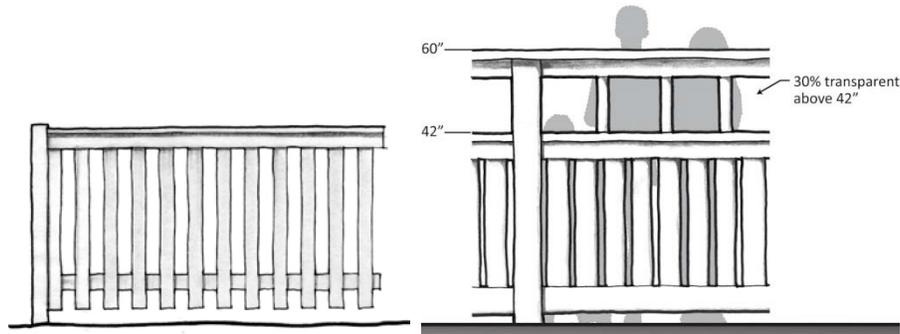


Figure 15.32.130(A)(2). Acceptable fences along an alley. The 42" fence on the left is allowed along the edge of an alley. The taller fence in the middle is allowed with a 5-foot minimum setback from the alley.

5. Residential developments are subject to Edges and Fences provisions as set forth in ECC 15.41.030, 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 15.52.020; and
 - b. Blank wall treatment provisions as set forth in ECC 15.53.060.

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 15.32.140 below for site distance requirements along streets and site access points;
2. Properties adjacent to designated Storefront Streets as set forth in ECC 15.51.040 are subject to fence restrictions in ECC 15.51.050;
3. Non-residential uses are subject to side/rear yard design provisions set forth in ECC 15.52.020; and
4. Non-residential uses are subject to blank wall treatment provisions as set forth in ECC 15.53.060.

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 15.53.060. 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. [Ord. 2810 § 19.04, 1970.]

15.32.140 Sight distance requirements. (NEW)

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

- A. A sight distance triangle area as determined by subsection (2) of this section shall contain no fence, berm, vegetation, on-site vehicle parking area, signs or other physical obstruction between 42 inches and 8 feet above the existing street grade;
- B. The sight distance triangle at:
 1. A street intersection shall be determined by measuring 15 feet along both street property lines beginning at their point of intersection. The third side of the triangle shall be a line connecting the endpoints of the first 2 sides of the triangle; or
 2. A site access point shall be determined by measuring 15 feet along the street lines and 15 feet along the edges of the driveway beginning at the respective points of intersection. The third side of each triangle shall be a line connecting the endpoints of the first 2 sides of each triangle; and
- C. The director may require modification or removal of structures or landscaping located in required street setbacks, if:
 1. Such improvements prevent adequate sight distance to drivers entering or leaving a driveway; and
 2. No reasonable driveway relocation alternative for an adjoining lot is feasible.

15.33 Density Bonus Incentives

15.33.010 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 parks, open spaces, trails, natural area preservation, and public facilities into the design of new developments; and
- E. To encourage the preservation of valuable resource lands outside of the city.

15.33.020 Density bonus system for the R-S and R-L zones. (NEW)

Table 15.33.020 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 15.32.030. 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 15.33.020. 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.
Dedicated parkland and/or other permanent open space	Up to 25%	See (D) below for details.
Investment in public facilities	Up to 25%	See (E) below for details.
Transfer of development rights (TDR)	Up to 50%	See (E) below for details.
Historic preservation	15 to 50%	See (F) below for details.
Affordable housing	15 to 50%	See (G) below for details.

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 final 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 15.33.020(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.

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 15.33.020(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 standards set forth in ECC 15.54.040. 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 standards set forth in ECC 15.54.020;
- c. Cottage dwelling units, complying with design standards set forth in ECC 15.54.050. 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 standards set forth in ECC 15.54.030;
- e. Townhouses, complying with design standards set forth in ECC Article 5 and notably ECC 15.54.060; and
- f. Multifamily buildings, where permitted in the applicable zoning district, complying with design standards set forth in ECC Article 5.

3. The specific location, mixture, and amount of housing shall be indicated on the final plat to ensure compliance with the density bonus provisions herein.

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 15.33.020(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>.

- 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 as determined by the city. 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 final plat. Fences adjacent to mid-block trails that run along side yards are exempt from this standard.

D. Parkland and open space.

- 1. Density bonus. The density bonus percentage is based on the amount of additional dedicated parkland and/or permanently protected open space on-site as set forth below.

Table 15.33.020(D). Parkland and open space density bonuses.

Increase in the amount of park/open space	Density bonus %
10-19% increase over base requirements.	5%
20-34% increase over base requirements.	10%
35-49% increase over base requirements.	15%
50% or more increase over base requirements.	20%

- 2. Parkland and open space standards.
 - a. Parks and open space integrated into new subdivisions shall meet the design criteria set forth in ECC 15.41.040.
 - b. For parks and open space that are not dedicated to the public, provisions for long term maintenance shall be required and set forth on the final plat.

E. Transfer of development rights.

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.

F. Historic preservation.

1. Density bonus. For each structure that is preserved, the development shall qualify for a 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 15.28.080. 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 structure/site meet applicable standards set forth in this Title.

G. 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): The size of the affordable housing units, if smaller than the other units with the same number of bedrooms in the development, must be approved by the director. If there is a proposal that the affordable units be smaller than the market rate units, 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 standards specified in 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 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.

5. Administrative official. The director shall be responsible for administration of this section. The director may adopt administrative procedures for implementation of this section.

15.33.030 Floor area ratio (FAR) bonus system for the R-M, R-H, R-O, and I-L zones (NEW)

Projects may qualify for FAR bonuses in the R-M, R-H, R-O, and I-L zones per the following:

- A. Projects obtaining minimum Built Green 4-star or LEED-silver may increase the allowable FAR by 0.25 FAR in the R-M, R-O, and I-L zones and by 0.5 in the R-H zones.
- B. Projects may increase the allowable FAR by 0.25 FAR in the R-M, R-O, and I-L zones and by 0.5 in the R-H zones through a purchase of transferable development rights (subject to the city adopting a TDR program).

15.34 Index of Supplemental Use Criteria

15.34.010 Adult entertainment establishments. (Chapter 14.49)

A. Purpose. The purpose and intent of the Ellensburg city council in enacting the ordinance codified in this section is to maintain and protect the health, safety and welfare of its citizens through the regulation of the operations of adult entertainment uses and adult arcade premises. The regulations set forth herein are intended to prevent health and safety problems and dangerous and unlawful conduct in and around such uses and premises. [Ord. 4212, 1999.]

- B. Findings of fact.** Based upon a wide range of evidence presented to the Ellensburg planning commission and city council and to other jurisdictions, including but not limited to the testimony of members of the public, and on other evidence, information, publications, articles, studies, documents, case law and material submitted to and reviewed and considered by the city council and staff, the councils of other cities and in other jurisdictions, nonprofit organizations and other legislative bodies, the city council makes the following findings:
1. Certain conduct occurring on premises offering adult entertainment creates secondary impacts that are detrimental to the public health, safety and general welfare of the citizens of the city, and therefore such conduct must be regulated as provided herein.
 2. Regulation of the adult entertainment industry is necessary because, in the absence of such regulation, significant criminal activity has historically and regularly occurred.
 3. It is necessary to license entertainers in the adult entertainment industry to prevent the exploitation of minors; to ensure that each such entertainer is an adult; and to ensure that such entertainers have not assumed a false name, which would make regulation of the entertainer difficult or impossible.
 4. It is necessary to have a licensed manager on the premises of establishments offering adult entertainment at such times as such establishments are offering adult entertainment so that there will at all necessary times be an individual responsible for the overall operation of the establishment, including the actions of patrons, entertainers and other employees.
 5. The license fees required herein are nominal fees imposed as necessary cost measures designed to help defray the substantial expenses incurred by the city in regulating the adult entertainment industry.
 6. Businesses providing adult entertainment are increasingly associated with ongoing prostitution, disruptive conduct and other criminal activity. Such businesses are currently not subject to effective regulation and constitute an immediate threat to the public peace, health and safety. The hours of operation of such businesses have a significant impact on the occurrence of criminal activity.
 7. Due to the information presented regarding the connection of prostitution with adult entertainment, there is concern over sexually transmitted diseases, which is a legitimate health concern of the city and thus requires regulation of adult entertainment businesses in order to protect the health, safety and well-being of the public.
 8. Many cities, including Seattle and Tacoma, have experienced negative secondary impacts from adult entertainment land uses. The skid row effect is one of these secondary impacts and is evident in certain parts of Seattle. Such an effect would be significantly magnified in Ellensburg due to the difference in size and characteristics of the city.
 9. The city of Ellensburg may rely on the experiences and studies of other cities and organizations in assessing the need for regulation of adult entertainment uses, operations and licensing.

10. Regulation of adult entertainment should be developed to prevent deterioration and/or degradation of the vitality of the community before the problem exists, rather than in response to an existing problem.
11. Increased levels of criminal activities occur in the vicinity of adult entertainment.
12. The city council therefore finds that the protection and the preservation of the public health, safety and welfare requires establishment of this section. [Ord. 4212, 1999.]

C. Application of other provisions. The licenses provided for in this section are also subject to the general provisions of the city’s business licenses and regulations code, set forth in ECC Title 6 as now or hereafter amended. In the event of a conflict between the provisions of ECC Title 6 and this section, the provisions of this section shall control. [Ord. 4212, 1999.]

D. Applicability. This section shall constitute the exclusive means of licensing “adult entertainment premises,” “adult entertainers,” “adult entertainment premises managers,” “adult arcade premises,” or “adult arcade devices” and, except for the city’s business licenses and regulations code, no other city of Ellensburg licensing provisions shall apply to the subject matter licensed under this section. [Ord. 4212, 1999.]

E. Exemptions. This section shall not be construed to prohibit:

1. Plays, operas, musicals, or other dramatic works that are not obscene;
2. Classes, seminars and lectures held for serious scientific or educational purposes that are not obscene;
3. Exhibitions, performances, expression or dances that are not obscene. [Ord. 4212, 1999.]

F. License required – Adult entertainment premises, adult entertainer, adult entertainment premises manager(s), adult arcade device, adult arcade premises, and adult arcade manager.

1. Adult entertainment premises and adult arcade premises.
 - a. It is unlawful for any person to operate or maintain an adult entertainment premises or adult arcade in the city of Ellensburg unless the owner, operator or lessee thereof has obtained an adult entertainment premises license or adult arcade premises license from the city clerk to do so.
 - b. It is unlawful for any entertainer, employee or manager to knowingly work in or about, or to knowingly perform any service or entertainment directly related to the operation of, an unlicensed adult entertainment premises or adult arcade premises.
2. Adult arcade premises and devices.
 - a. It is unlawful to display, exhibit, expose or maintain upon any premises to which members of the public are admitted any adult arcade device without a valid and current license for both the device and the premises, to be designated an “adult arcade device license,” and an “adult arcade premises license,” respectively.
 - b. It is unlawful to own and exhibit or display for public use, or to place with another, by lease or otherwise, for public use, exhibit or display, any adult arcade device without a valid and current license, which license shall be an “adult arcade device license.”

3. License for adult entertainment premises or adult arcade premises manager and entertainer. It is unlawful for any person to work as an entertainer or manager at an adult entertainment premises or adult arcade without having first obtained from the city clerk a license to do so, which license shall be designated as an “adult entertainer’s license,” an “adult entertainment manager’s license,” or an “adult arcade manager’s license.” [Ord. 4212, 1999.]

G. License applications.

1. Adult entertainment premises and adult arcade premises license. All applications for an adult entertainment premises or adult arcade premises license shall be submitted in the name of the person proposing to conduct the operations on the premises and shall be signed by such person and notarized or certified as true and correct under penalty of perjury. All applications shall be submitted on a form supplied by the city clerk, and shall require the following information:
 - a. The name, residence address, home telephone number, date of birth, and Social Security number of the applicant;
 - b. The business name, address and telephone number of the establishment;
 - c. The names, residence addresses, residence telephone numbers, Social Security numbers and dates of birth of any partners, corporate officers or director of any entity holding an ownership, or leasehold interest in the adult entertainment premises, the adult arcade premises and/or any adult arcade devices on the premises;
 - d. Such additional information as the city clerk may require concerning the identity of corporate shareholders identified in subsection (1)(c) of this section;
 - e. A description of the adult entertainment, arcade or similar business history of the applicant, including whether such person or entity, in previously operating in this or another city, county or state, has had a business license revoked or suspended, the reason therefore, and the activity or occupation subjected to such action, suspension or revocation;
 - f. The name, address, telephone number, date of birth and Social Security number of the manager or other persons responsible for the operation of the premises and/or arcade devices;
 - g. A complete statement of all convictions of the applicant (or the owners listed in subsection (1)(c) of this section) in any domestic or foreign jurisdiction for or equivalent to promoting prostitution; sexual violations with minors; perjury; sales of controlled substances; violations involving organized crime or crimes connected with another adult entertainment premises;
 - h. The number of and description of each adult arcade device to be located on the premises including make, model and serial number of all adult arcade devices;
 - i. A sketch or drawing sufficient to show the layout of the premises containing any adult arcade devices, including all information necessary to determine whether the premises comply with the provisions of this section and any state, local or federal regulations.
2. Adult arcade device license. Complete application for an adult arcade device license shall be submitted in the name of the device’s owner, and shall contain all of the information contained in subsection (1) of this section.

3. Manager's or entertainer's license. All complete applications for an adult entertainment manager's license or adult arcade manager's license or adult entertainer's license shall be signed by the applicant and notarized or certified as true under penalty of perjury. All applications shall be complete and submitted on a form supplied by the city clerk, and shall require the following information:
 - a. The applicant's name, home address, home telephone number, date and place of birth, Social Security number, and any stage names or nicknames used in entertaining or aliases;
 - b. The name and address of each business at which the applicant intends to work as a manager or entertainer;
 - c. The name and address of each employer or individual or business for whom the applicant was an employee or independent contractor for the 3-year period immediately prior to the date of the complete application, including the period of such employment;
 - d. A complete statement of all convictions of the applicant (or the owners) for promoting prostitution; sexual violations with minors, sexual abuse, rape, distribution of obscenity or material harmful to minors; perjury; sales of controlled substances; violations involving organized crime or crimes connected with another adult entertainment premises;
 - e. Supplemental information and/or identification deemed necessary by the city to confirm any statements set forth in the application.
4. Additional requirements. In addition to the above, each applicant for licenses described in this section shall provide authorization for the city, its agents and employees, to verify and confirm any statements set forth in the application.
5. Failure to provide information. Failure to provide information required by this section will constitute an incomplete application and will not be processed. The applicant shall be responsible for verifying any information in the application to the city's reasonable satisfaction.
6. Proof of age. All applicants for any license required herein shall be at least 18 years of age and shall present appropriate documentation of the same. Any of the following shall be accepted as documentation of age:
 - a. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;
 - b. A state-issued identification card bearing the applicant's photograph and date of birth;
 - c. An official passport issued by the United States of America;
 - d. An immigration card issued by the United States of America;
 - e. Any other picture identification issued by a governmental entity bearing the applicant's photograph and date of birth. [Ord. 4212, 1999.]

H. License – Applicant investigation.

1. The original complete application shall be filed with the city clerk. In order to confirm identity, all applicants shall also at that time provide, through the Ellensburg police department, a complete set of fingerprints. The cost of obtaining such fingerprints shall be the responsibility

of the applicant, but should be included in the application fee. The name, location and type of business conducted shall be published in the local paper and/or the city's official paper and copies shall be referred to the planning, building, fire marshal, or other appropriate departments. The departments shall review the completed application and inspect the premises proposed to be operated as an adult entertainment premises or adult arcade premises and shall make written verification to the city clerk that such applicant and premises comply with the codes of the city. No license may be issued without such verification. The completed application shall also be referred to the police department for criminal records check and verification of the information provided by the applicant.

2. The investigation by the Ellensburg police department, building department and any other staff necessary to assure compliance shall include a review of all criminal records of the applicant. Further, the investigation shall consist of investigation of the truth of the statements in the completed application, a review of location and surroundings, and all other matters which might tend to aid in the determination of compliance with the code and whether to grant the license. The departments shall then inform the city clerk as to the results of the investigation and the recommendation as to the disposition of said application.
3. The devices licensed under this section and those areas upon the premises which are accessible to the public shall be held open for routine regulatory inspections by the city during normal business hours. [Ord. 4566 § 29, 2010; Ord. 4212, 1999.]

I. Issuance of licenses.

1. After review and approval of the completed application by all of the appropriate city departments, the city clerk shall issue the applicable license or licenses authorized by this section if the city finds:
 - a. That the business for which a license is required herein will be conducted in a building, structure and location which complies with the requirements and meets the standards of the applicable health, zoning, building, fire and safety laws of the state, the ordinances of the city, as well as the requirements of this section and any other applicable codes;
 - b. That the applicant, his or her employee, agent, partner, director, officer, stockholder or manager has not knowingly made any false, misleading or fraudulent statement of material fact in the application for a license, or in any report or record required to be filed with the city;
 - c. That the applicant, his or her employees, agents, partners, directors, officers or managers of the applicant have satisfactorily met all of the requirements in this section to obtain such a license.
2. If the requirements of this section are met for the particular license, the city clerk shall issue such license applied for in accordance with the provisions of this section; provided, however, that the applicable license fee, together with any delinquent fees that may then be due, shall first be paid to the city.
3. No license shall be issued pursuant to the provisions of this title to the following persons:
 - a. Applicant, his or her employees, agent, partner, director, officer or manager who knowingly made any false, misleading or fraudulent statement of material fact in the application for a license, or in any report or record required for a license, or in any report required to be filed with the city;

- b. Any person who is not 18 years of age at the time of the application;
- c. Any person who has had a similar license revoked within a period of one year prior to the date of making application for a license hereunder;
- d. Any applicant, his/her employees, agent, partner, director, officer, manager, or person holding an ownership interest in the business convicted of any of the crimes listed in this section or crimes connected with organized crime;
- e. Any person who at the time of application is in default in the payment of any sum due the city of Ellensburg for any license, tax or assessment as a result of the adult entertainment business;
- f. Any person whose adult entertainment license is under suspension or revocation at the time of application for a license;
- g. Any partner, corporate officer or director who does not meet the qualifications of this section.

No license shall be issued unless the premises where the activity is to be conducted, as well as the individuals and devices therein, each comply with the requirement standards of operation and conduct of this code and any related state, city and federal regulations.

4. The mere filing of an application for a license shall not give the applicant any right to engage in the activity covered thereby.
5. Issuance of any license shall be rendered within 45 days of the date of filing of the completed application, unless an extension is requested by the applicant or the city for good cause. [Ord. 4212, 1999.]

J. License fees – Term – Assignment – Renewals.

1. The license year shall be from January 1st to December 31st of each year and shall not be prorated. All licenses shall expire on the 31st of December each year. Except as hereinafter provided, all license fees shall be established by resolution of the Ellensburg city council and be payable on an annual basis.
2. Complete application for renewal of licenses issued under this section shall be filed and paid to the city clerk on or before January 31st of the license year in the same manner and accompanied by payment of the same fees as are in effect for an original application for that license for the license year applied for. There shall be assessed and collected by the city clerk an additional charge, computed as a percentage of the license fee, on renewal applications not made on or before the license expiration date, as follows:
 - a. One to 10 days inclusive: no penalty;
 - b. 11 days to 30 days inclusive: a penalty of 10 percent of the license fee;
 - c. Over 30 days: canceled. [Ord. 4212, 1999.]

K. License – Posting and displaying.

1. Every adult entertainer shall post his or her license in his or her work area so it is readily available for inspection by city authorities responsible for enforcement of this section.

2. Every person, corporation, partnership, or association licensed under this section as an adult entertainment premises, adult arcade premises, adult entertainment manager or adult arcade manager shall post such license in a conspicuous place and manner on the licensed premises.
3. A separate license is required for each adult arcade device and the device license shall be attached to the device in a conspicuous place. [Ord. 4212, 1999.]

L. License nontransferable. No license shall be transferable. [Ord. 4212, 1999.]

M. Suspension or revocation of licenses – Notice – Summary suspension.

1. After investigation and upon the recommendation of the Ellensburg police department, director of community development, Ellensburg fire marshal, and/or the Kittitas County health official or other law enforcement or government agencies, the city may, upon 30 days notice, suspend or revoke any license issued pursuant to this section where one or more of the following conditions exists:
 - a. The license was procured by fraud or misrepresentation or that the applicant, his or her agent, partner, director, officer or manager has knowingly made any false, misleading or fraudulent statement of material fact in the application for a license, or in any report or records required to be filed with the city; or
 - b. The licensee, his/her employee, agent, partner, director, officer or manager has violated any provision of this title or knowingly allowed or permitted in or upon the premises any violations of this section or acts made unlawful under the same; or
 - c. The building, structure, equipment or location of the business for which the license was issued does not comply with the requirements or fails to meet the standards of this section; or
 - d. Any reason set forth in subsection (l) of this section as now or hereafter amended.
2. If the city finds that any condition set forth above exists, and that such condition constitutes a threat of imminent serious injury or damage to person or property, the city shall immediately suspend any license issued under the section pending an investigation. The notice of immediate suspension of license given pursuant to this subsection shall set forth the basis for the city's action and the facts supporting the city's finding regarding the condition found to exist that constitutes a threat of imminent serious injury or damage to person or property. Notice shall be by personal service or registered mail and shall be effective immediately upon receipt or 3 days after mailing, whichever occurs first. [Ord. 4566 § 30, 2010; Ord. 4212, 1999.]

N. Appeal and hearing.

1. Any person aggrieved by the action of the city in issuing, refusing to issue or renew any license under this section or in suspending or revoking any license issued under this section shall have the right to appeal such action to the hearing examiner, or to such other hearing body as may hereafter be established by the city council for the hearing of such appeals, by filing a notice of appeal with the city clerk within 10 calendar days after receiving notice of the action from which appeal is taken.
2. The hearing examiner, or other hearing body as may hereafter be established by the city council, upon receipt of a timely appeal, shall set a date for a hearing of such appeal within 30

calendar days from receipt, except emergency suspension shall be within 5 days of receipt. The hearing examiner, or other body, shall hear testimony, take evidence, and may hear oral argument and receive written briefs. Except in cases of summary suspension of licenses because of the threat of imminent serious injury or damage to person or property pursuant to this title, the filing of such appeal shall stay the action of the city, pending the decision of the hearing examiner or other hearing body. In cases of summary suspension of license because of the threat of imminent serious injury or damage to persons or property, the hearing examiner shall render a decision within 5 days of the conclusion of the hearing. The filing of an appeal of emergency suspension shall not stay the city's decision.

3. The decision of the hearing examiner or other hearing body on an appeal from a decision of the city shall be based upon a preponderance of the evidence. The burden of proof shall be on the city.
4. The decision of the hearing examiner or other hearing body shall be final unless appealed by the filing of an appropriate action to the superior court within 20 days of the date the decision is entered. The appellant shall pay the cost of reproduction of the record transcript. [Ord. 4212, 1999.]

O. Adult entertainment premises – Standards of conduct and operation.

1. A licensed manager shall be on duty at each adult entertainment premises at all times adult entertainment is being provided and the same shall not be an entertainer. The name of the manager on duty shall be prominently posted during business hours.
2. It shall be the responsibility of the manager to verify that any person who provides adult entertainment within the premises possesses a current and valid adult entertainer's license posted in a manner required by this section.
3. The following standards of conduct must be adhered to by employees and entertainers of any adult entertainment or adult arcade premises:
 - a. No employee or entertainer shall be unclothed or in less than opaque and complete attire, costume or clothing so as to expose to view any of the "specified anatomical areas" as defined herein, except upon stage at least 18 inches above the immediate floor level and removed at least 6 feet from the nearest patron.
 - b. No employee or entertainer shall perform acts of or acts which simulate:
 - i. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any "specified sexual activities" which are prohibited by law;
 - ii. The touching, caressing, or fondling of the breasts, buttocks, or genitals; or
 - iii. The displaying of the "specified anatomical areas," except as provided for in subsection (C)(1) of this section.
 - c. No entertainer or employee shall mingle with the patrons, and be unclothed or in less than opaque and complete attire, costume or clothing except as described in subsection (C)(1) of this section. No entertainer or employee shall fondle or caress a patron or another person while on the premises.

- d. No employee or entertainer shall knowingly permit any person upon the premises to touch, caress or fondle the breasts, pubic region, buttocks, anus, vulva or genitals of themselves or of any other person.
- e. No employee or entertainer shall wear or use any device or covering exposed to view which simulates the "specified anatomical areas."
- f. No employee or entertainer shall use artificial devices or inanimate objects to depict any of the prohibited activities described in this section.
- g. The conduct of any employee or entertainer (as described in subsection (C)(1) of this section) of any adult entertainment premises shall not be visible from any public place outside the adult entertainment premises during hours of its operation. No employee or entertainer of an adult entertainment premises in a state of dress or undress as described in subsection (C)(1) of this section shall be visible from any public place outside the adult entertainment premises during the hours of operation.
- h. No entertainer or employee shall solicit, demand or receive any payment or gratuity from any patron, customer or member of the public other than an admission charge taken at the entrance of the premises.
- i. A sign with letters in 36-point type shall be conspicuously displayed in the common area of the premises, and shall read as follows:

THIS ADULT ENTERTAINMENT ESTABLISHMENT IS REGULATED BY THE CITY OF ELLENSBURG.
ENTERTAINERS AND EMPLOYEES ARE:

- Not permitted to engage in any type of sexual conduct, including fondling or caressing;
 - Not permitted to be unclothed or in less than opaque and complete attire, costume or clothing so as to expose to view the nipple or areola of the female breast, any portion of the pubic region, genitals or vulva and/or anus except upon stage at least 18 inches from the immediate floor level and removed at least 6 feet from the nearest patron; and
 - Not permitted to solicit, demand or receive any payment or gratuity from any patron, customer, or member of the public.
- j. No manager, employee or entertainer shall perform or allow performance to take place on the premises unless it is in the "public area of the premises."
4. At any adult entertainment premises, the following standards of operation must be adhered to:
- a. Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying the nipple or areola of the female breast, or any portion of the pubic region, genitals, vulva or anus may be visible outside of the adult entertainment business.
 - b. With the exception of exit illumination, sufficient lighting shall be provided in and about all parts of the premises which are open to and used by the public and shall have an intensity of not less than one foot-candle at floor level.
 - c. No person may operate or maintain any warning system or device, of any kind, for the purpose of warning, aiding or abetting the warning of patrons, members, customers, employees or any other

persons located on the premises that police officers or health, fire, building or other government officials are approaching or have entered the premises.

- d. All such premises are required to have theater-style seating consisting only of 10 or more upright seats in a row with no tables in between each, with each row of seating directly behind or in front of the next row, with no more than 48 inches between the back of one seat and the back of the seat directly behind and/or in front of it. The front row of seating closest to the performance area shall not violate the 6-foot setback requirement. This seating shall resemble the standard seating found in a movie theater or symphony hall. There shall be no couches, lounge chairs, or other similar type of seating located in any area open to the public; there shall only be theater-style seating. "Couch dances" or the equivalent are prohibited. [Ord. 4212, 1999.]

P. Adult arcade – Standards of conduct and operational requirements. It is the continuing duty of the owner, manager, operator, agent, or employee present in the premises to ensure compliance with this section at all times.

1. There must be at least one employee on duty and situated in the public room adjacent to the adult arcade stations or booths at all times that any patron, member, or customer is present inside the premises.
2. There must be permanently posted and maintained in at least 2 conspicuous locations on the interior of every adult arcade premises a sign stating substantially the following:
Occupancy of any station or booth is at all times limited to one person. There may be no acts of lewd or obscene conduct in the stations or booths or on the premises. Violators are subject to criminal prosecution.
3. While patrons, members or customers are permitted within the premises, the premises must be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons, members, or customers are permitted access so that there is intensity of not less than one foot-candle at floor level.
4. Doors to areas on the premises which are available for use by persons other than the owner, manager, operator or their agents or employees may not be locked during business hours.
5. The unobstructed view into the adult arcade booths or stations from the adjacent public room by direct line of sight must remain unobstructed by any doors, walls, merchandise, display racks or other materials at all times.
6. No patron, member, or customer is permitted access to any area of the premises which has been designated as an area in which patrons, members or customers will not be permitted.
7. No adult arcade booth or station may be occupied by more than one person at a time.
8. The conduct between entertainers, employees and patrons prohibited in adult entertainment premises in this section is also prohibited in adult arcade premises.
9. No person may operate or maintain any warning system or device, of any nature or kind, for the purpose of warning or aiding and abetting the warning of patrons, members, customers or any other persons occupying adult arcade stations or booths located on the premises that police officers or city health, fire or building inspectors are approaching or have entered the premises. [Ord. 4212, 1999.]

- Q. Interior configurations and operation of adult arcade premises.** The city shall not issue an adult arcade premises or device license unless the premises conform to the requirements of this section. In addition, owners of adult arcade premises shall ensure that the premises comply with the criteria set out in this section on a continuing basis.
1. Premises. Restrooms may not contain video reproduction equipment. There shall be separate restrooms for customers and employees.
 2. Steps/Risers. No steps or risers are allowed in any adult arcade booth or station.
 3. Seating. No adult arcade station or booth shall have more than one stool-type seat. In order to prevent obscuring the occupant of an adult arcade station or booth from view, no stool for seating within an adult arcade station or booth shall have any seat backs or sides. The seat cannot be positioned behind the doorway so that the occupant sits with his or her back to the door.
 4. Ventilation and other holes. All ventilation devices between the adult arcade booths must be covered by a permanently affixed ventilation cover. Ventilation holes may only be located one foot from the top of the booth walls or one foot from the bottom of the booth walls. There may not be any other holes or openings between the booths.
 5. Adult arcade booth or station. All adult arcade booths or stations must be open to an adjacent public room so that the area inside is visible by direct line of sight to persons in the adjacent public room. No adult arcade booth, station or viewing area may be obscured by any curtain, door, wall, or other nontransparent enclosure.
 6. The viewing area within the adult arcade premises shall be visible from a continuous main aisle and shall not be obscured by any curtain, door, wall or other enclosure. As used in this section, "viewing area" means the area where a patron or customer would ordinarily be positioned while watching a film, video or other viewing device.
 7. The licensee shall not permit any doors to public area on the premises to be locked during business hours, in violation of the applicable provisions of the Ellensburg building code, Uniform Building and Fire Codes, and National Fire Protection Association Code.
 8. An adult arcade device manager must, at all times when the premises are open or when any member of the public is permitted to enter and remain there, maintain illumination to such a degree that the intensity is not less than one foot-candle at floor level, and evenly distributed in all parts of the premises available for use by the public.
 9. The licensee or manager shall not permit more than one person to occupy an adult arcade station or booth at any time and public notices to this effect shall at all times be conspicuously posted and maintained on the adult arcade premises. [Ord. 4212, 1999.]
- R. Hours of operation.** It is unlawful for any adult entertainment or adult arcade premises to be conducted, operated, or otherwise open to the public between the hours of 12:00 a.m. and 10:00 a.m. [Ord. 4212, 1999.]
- S. Persons under 18 years of age prohibited.**

1. It is unlawful for any person under the age of 18 years of age to be in or upon any adult entertainment or adult arcade premises while the same is being operated as a business for which an adult entertainment or adult arcade premises license is required.
2. It is unlawful for any owner, operator, manager or other person in charge of a premises for which an adult entertainment or adult arcade license is required, or employee of same, to knowingly permit or allow any person under the age of 18 years to be in or upon such premises while it is being operated as an adult entertainment or adult arcade business. [Ord. 4212, 1999.]

T. Inspections.

1. All books and records required to be kept pursuant to this section shall be open to inspection by the police chief or designee of the city of Ellensburg during hours when the licensed premises is open for business. The purpose of such inspection shall be to determine if the books and records meet the requirements of this section.
2. The licensed premises shall be (as an implied condition of receiving an adult entertainment license) open to inspection by the police chief or designee during the hours when the adult entertainment premises is open for business. The purpose of such inspection shall be to determine if the licensed premises is operated in accordance with the requirements of this section. It is hereby expressly declared that unannounced inspections are necessary to ensure compliance with this section. [Ord. 4212, 1999.]

U. Alcoholic beverages and controlled substances prohibited. No adult entertainment premises or adult arcade premises shall serve, sell, distribute, or allow the consumption or use of any alcoholic beverage or controlled substance upon the premises, including the premises parking areas. [Ord. 4212, 1999.]

V. Record keeping requirements.

1. No later than May 1st of each year, each adult entertainment premises licensee shall file with the police chief of the city of Ellensburg a verified report showing the licensee's gross receipts and amounts paid to entertainers for the preceding calendar year.
2. Each adult entertainment premises licensee shall maintain, constantly update and retain for a period of at least 2 years after termination of employment the names, addresses, and ages of all persons employed as entertainers by the licensee. [Ord. 4212, 1999.]

W. Public and moral nuisance.

1. Public nuisance. Any adult entertainment business operated, conducted, or maintained contrary to the provisions of this section or any law of the city or state of Washington shall be, and the same is, declared to be unlawful and a public nuisance and the city attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions for the abatement, removal, and enjoinder thereof, in the manner provided by law; and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such adult entertainment business, and restrain and enjoin any person from operating, conducting, or maintaining an adult entertainment business contrary to the provisions of this section. [Ord. 4212, 1999.]

2. Moral nuisance. Any adult entertainment business operated, conducted, or maintained contrary to the provisions of Chapter [7.48A](#) RCW, Moral Nuisance, shall be, and the same is declared to be, unlawful and a moral nuisance and the city attorney may, in addition to or in lieu of any other remedies set forth herein, commence an action or actions for the abatement, removal, and enjoinder therefor, or civil penalty, in the manner provided by the moral nuisance statute. [Ord. 4212, 1999.]

X. Violation – Penalty. Every person, including members of the public, owners, operators, employees or agents, or independent contractors for the owner, employee or operator, or acting as a participant or worker who in any way directly or indirectly works in or operates an adult entertainment business, of any of the services defined in this section without first obtaining a license or permit, and paying a fee to do so, from the city, or violates any provisions of this section shall be guilty of a misdemeanor. Upon conviction, such person shall be punished by a fine not to exceed \$1,000, or by imprisonment for a period not to exceed 90 days, or by both such fine and imprisonment. Each separate day or any portion thereof during which any violation of any provision of this section occurs or continues shall be deemed a separate and distinct offense. [Ord. 4212, 1999.]

Y. Additional enforcement. Notwithstanding the existence or use of any other remedy, the city may seek legal or equitable relief to enjoin any acts or practices which constitute or will constitute a violation of other regulations herein adopted. [Ord. 4212, 1999.]

Z. Ordinance not intended towards particular group or class.

1. It is the purpose of this section to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this section.
2. No provision nor any term used in this section is intended to impose any duty whatsoever upon the city or any of its officers or employees, for whom the implementation or enforcement of this section is discretionary and not mandatory.
3. Nothing contained in this section is intended to be nor shall it be construed to create or form the basis for any liability on the part of the city, or its officers, employees or agents, for any injury or damage resulting from the failure of any owner, operator, manager, or other person in charge of said premises to comply with the provisions of this section, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement pursuant to this section, or by reason of any action or inaction on the part of the city related in any manner to the enforcement of this section by its officers, employees or agents. [Ord. 4212, 1999.]

15.34.020 Bed and breakfasts. (NEW)

Bed and breakfasts shall be permitted in accordance with the use tables in ECC 15.31.040, subject to the following:

- A. An approved floor plan shall be kept on file with the inspections department;
- B. An owner shall reside on site;

- C. 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;
- D. Breakfast shall be available on the premises only for guests and employees of the inn. Rooms may not be equipped with cooking facilities. No other meals shall be provided on the premises; and
- E. Parking shall not be allowed between the building and the street.

15.34.030 Home occupations. (13.04.490)

Home occupations shall be permitted in accordance with the use tables in ECC 15.31.040, 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;
- 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 non-resident employee shall provide off-street parking for the employee on site; (NOTE – CURRENTLY NO NON-RESIDENTS MAY BE EMPLOYED)
- 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;
- F. If materials or commodities delivered to or from the residence require delivery by a commercial vehicle or a trailer, or if the parking of customers' automobiles in a manner or frequency causing 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 property; and
- J. Only one sign is permitted for a home occupation in a residential zone, consistent with the provisions of ECC 15.56.150(B).

15.34.040 Manufactured homes. (NEW)

A manufactured home is allowed in all zoning districts that allow single family residences, if the home is a new or designated manufactured home (see ECC 15.13.130, 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 of 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 commonly used on conventional site-built single family residences that are built pursuant to the applicable building code.

15.34.050 Manufactured home park. (Chapter 13.34)

Manufactured home parks shall be permitted in accordance with the use tables in ECC 15.31.040, subject to the following property development standards:

- A. Minimum area shall be 3 acres;
- B. Developments are subject to form and intensity standards for the applicable zoning district as set forth in ECC Chapter 15.32 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 15.32;
 - 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 15.32; 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. Developments are subject to maximum impervious area standards per unit density per ECC 15.32.070;
- E. Development shall include common open space that meets the design criteria of ECC 15.32.030(E)(1) and equals no less than 5 percent of the net project area;
- F. Internal access roads must conform to one of the 3 local access street design options as referenced in ECC 15.40.070, 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 meet applicable public street standards;

- G. Developments shall comply with block and connectivity standards set forth in ECC 15.41.020. Depending on the size of development, through streets may be needed to comply with the standards;
- H. 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 15.52.020;
- I. 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;
- J. 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;
- K. 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. Television antenna service shall be made available to all mobile homes, and individual antennas shall be prohibited;
- L. 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 pass a fire safety inspection performed by the Washington State Department of Labor and Industries Mobile Home Division before an installation permit will be issued;
- M. All mobile homes supported by piers shall be fully skirted; and
- N. 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.

15.34.060 Recreational vehicle park. (NEW)

Recreational vehicle parks shall be permitted in accordance with the use tables in ECC 15.31.040, 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 this title. 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;
- I. Pedestrian walkways. Pedestrian walkways having a width of not less than 3 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 15.57 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.

15.34.070 Small wind energy systems. (NEW)

- 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 80.60, 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 outright permitted as a Type I project per ECC Chapter 15.21 in all zones subject to satisfying all requirements as set forth in this chapter.
2. Multiple SWES per parcel are permitted in all zoning districts subject to the issuance of a conditional use permit per ECC 15.25.040.

D. General requirements for small wind energy systems.

1. Only new SWES shall be permitted in the city. 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.

2. 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 SWES 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.
 - 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.
3. Setbacks and height limits. The following setback requirements shall apply to all SWES towers:
 - a. SWES structures up to 40 feet shall be allowed with administrative review in all zones as a Type I review project (see ECC Chapter 15.21). 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.
 - 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.
4. 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.
5. 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 SWES 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 SWES 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.
6. Federal, state and local requirements.
- a. SWES 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. SWES must comply with regulations of the Federal Aviation Administration (FAA).
 - c. All SWES 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 SWES 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. If the owner fails to physically remove the SWES after the notice of abandonment procedure, the city shall have the authority to enter the subject property and physically remove the SWES and to recover the costs associated with that removal from the property owner.

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.

15.34.080 Commercial wireless communication support towers, antenna arrays and facilities. (15.34.400-700)

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. [Ord. 4180, 1998.]

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 within 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 15.13.160). Self-supporting towers and associated facilities must adhere to all the conditions set forth in this section. [Ord. 4255, 2000; Ord. 4238, 2000; Ord. 4180, 1998.]

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. [Ord. 4180, 1998.]

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 15.28.090.

15.35 Master Site Plans for Regional Retail Commercial Projects

(Chapter 13.25)

15.35.010 Purpose. (13.25.010)

The intent of this chapter is to promote a unified design concept for regional retail commercial development.

15.35.020 Where regional retail commercial master site plans are permitted. (13.25.020)

- A. Table 15.31.020 sets forth the zones that regional retail commercial master site plans are permitted, as long as the property is specifically designated for general commercial land uses in the city's comprehensive land use map.
- 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. [Ord. 4497 § 13, 2007.]
- C. The designated boundaries of the regional retail commercial areas are shown in Figures 15.32.020 (A) and (B).

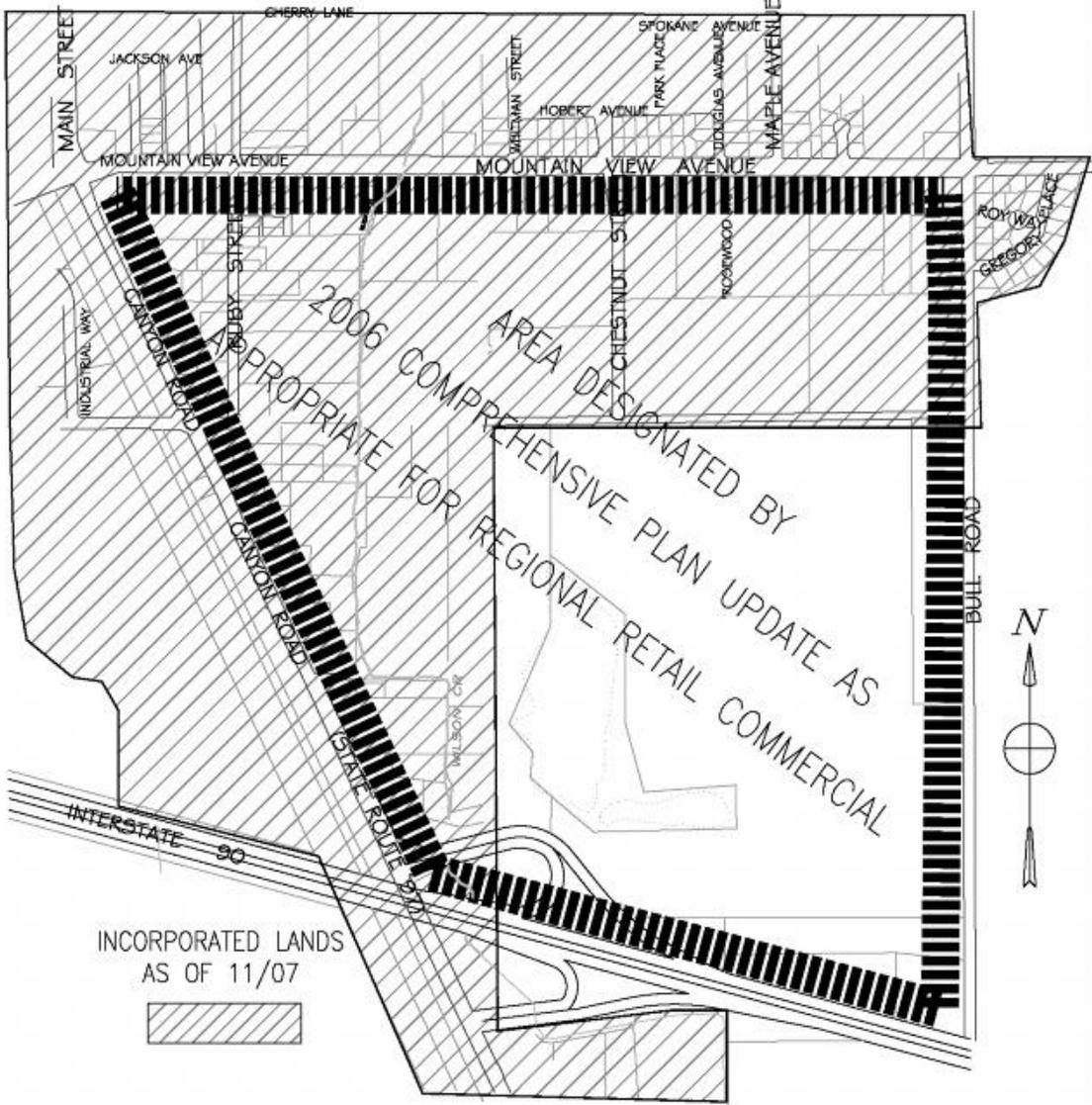


Figure 15.35.020(A). South interchange area.

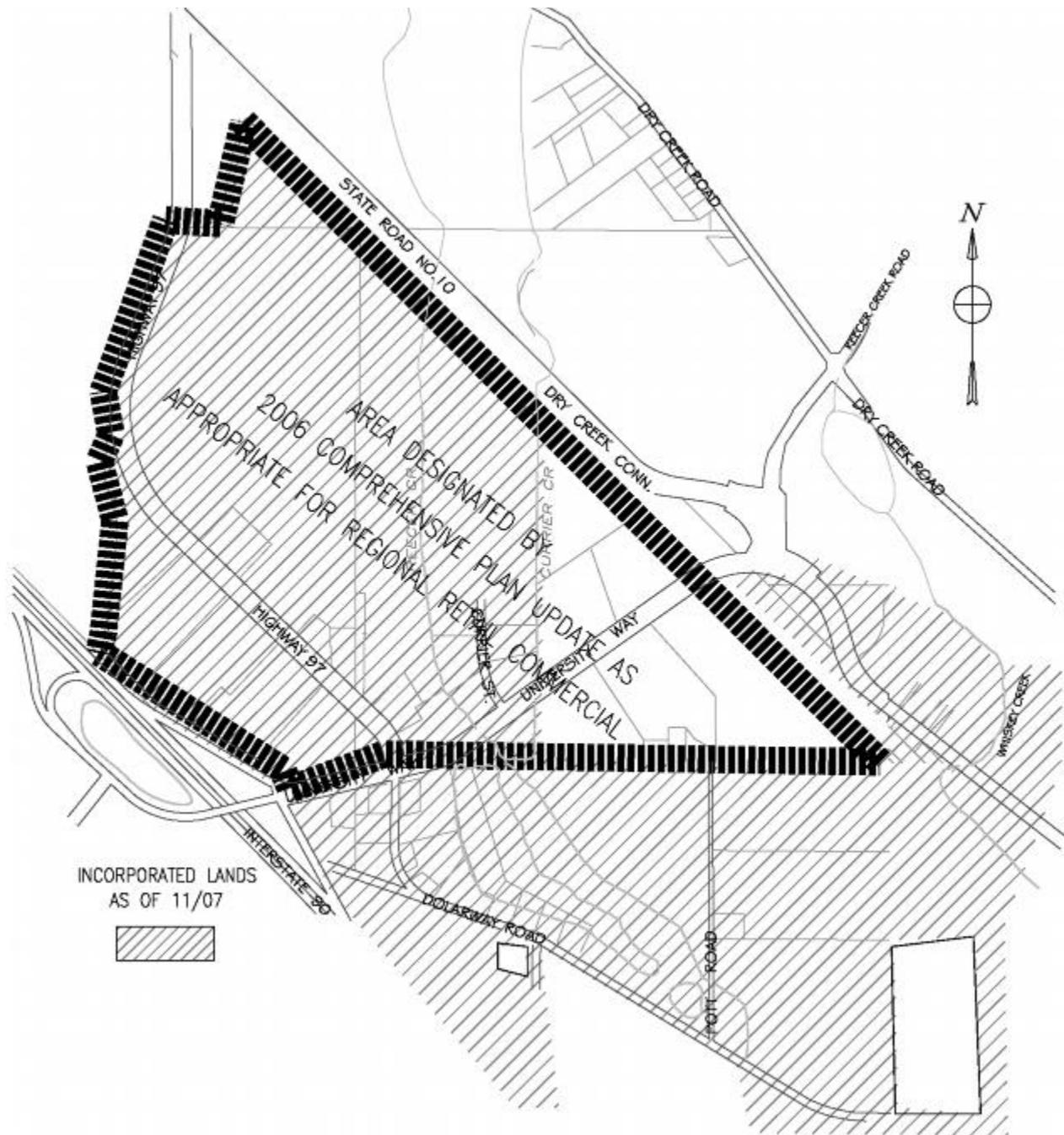


Figure 15.35.020(B). West interchange area.

[Ord. 4497 § 13, 2007.]

15.35.030 Phasing of master site plan. (13.25.030)

An applicant may request that development of the regional retail commercial master site plan be phased over a 10-year period. Approval of any phased regional retail commercial master site plan shall include, but not be limited to, the following conditions:

- A. 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;
- B. 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;
- C. 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
- D. There is no minimum size requirement for subsequent phases of development. [Ord. 4497 § 13, 2007.]

15.35.040 Designation of regional retail commercial master site plans. (13.25.040)

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. [Ord. 4497 § 13, 2007.]

15.35.050 Application of development regulations. (13.25.050)

All land within an approved regional retail commercial master site plan is subject to the regulations of the underlying zone, except as specifically modified by the provisions of this chapter. In the event of any irreconcilable differences between the provisions of this chapter and the underlying zone, the provisions of this chapter shall apply. [Ord. 4497 § 13, 2007.]

15.35.060 Permit application procedures and plan amendments. (13.25.070)

See ECC 15.25.060.

15.35.070 Types of uses and development permitted. (13.25.090)

The following uses and development are permitted in the regional retail commercial master site plan:

- A. Uses defined as “regional retail commercial” development in ECC 15.13.180. In addition, the uses allowed outright in the T-C zone are allowed in a regional retail commercial development located in the T-C zone. The uses allowed outright in the C-H zone are allowed in a regional retail commercial development located in the C-H zone.
- B. The development property shall consist of one parcel, or separate and contiguous parcels (separated only by a public right-of-way), which total area is a minimum of 40 acres in size. [Ord. 4497 § 13, 2007.]

15.35.080 Criteria for approval of regional retail commercial master site plan application.
(13.25.100)

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:

- A. The site access, proposed on-site circulation and off-street parking meets all public works development standards, regional retail commercial design standards, 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;
- B. 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;
- C. The regional retail commercial master site plan is consistent with the city's comprehensive plan;
- D. The fire marshal and the building official have provided a recommendation demonstrating compliance with the applicable fire and building codes of the city;
- E. 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;
- F. 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;
- G. The landmarks and design commission has supplied a timely recommendation on the proposed regional retail commercial master site plan to the city council.

15.36 Airport Overlay Zone Standards (Chapter 13.11)

15.36.010 Statutory authority. (13.11.020)

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. [Ord. 4296, 2001.]

15.36.020 Airport overlay zone. (13.11.040)

In order to carry out the provisions 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 "A," "Part 77" and Map "B," "Safety Zones," 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. 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 $\frac{3}{4}$ -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 $\frac{3}{4}$ -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 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. [Ord. 4296, 2001.]

15.36.030 Uses, development requirements and restrictions. (13.11.050)

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 15.36.030 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 15.36.020(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 15.27 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.
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 15.36.030 below.

Table 15.36.030 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 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 15.36.030, 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 15.36.030. For those excepted properties, new local residential streets shall only be required to provide for sidewalk improvements on one side of a 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.

[Ord. 4296, 2001.]

15.36.040 Permits. (13.11.060)

A. Future uses. Except as specifically provided in subsections (A)(1), (2) and (3) of this section, 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 community development director, or her or his designee. 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. 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.

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.

- B. 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.
- C. Nonconforming uses abandoned or destroyed.** Whenever the city of Ellensburg community development director, or her or his designee, 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.
- D. 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 to the board of adjustment for a variance from such regulations. The application for variance shall be made in accordance with the provisions set forth in ECC 15.25.050, and 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. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and any relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this chapter. Prior to considering an application for variance to the requirements of this chapter, the board of adjustment 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 may act on its own to grant or deny said application.
- E. Obstruction marking and lighting.** Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. [Ord. 4296, 2001.]

15.36.050 Nonconforming use. (13.11.070)

The regulations prescribed in this chapter are not retroactive and shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations at the effective date of the ordinance codified in this chapter, nor shall such be construed to require any change in the construction or alteration of any structure or tree which was begun prior to the effective date of the ordinance codified in this chapter and which is diligently being prosecuted. [Ord. 4296, 2001.]

15.36.060 Violations and enforcement. (13.11.080)

Violations of any of the provisions of this chapter shall be enforced in accordance with the provisions set forth in Chapter 15.29 ECC. [Ord. 4296, 2001.]

15.36.070 Appeals. (13.11.090)

Any person aggrieved by any order, requirement, decision or determination made by an administrative official in the processing of any application made under this chapter or in the actual decision made as required by this chapter may appeal such action in accordance with the provisions of ECC 15.23.070.

15.36.080 Judicial review. (13.11.100)

Any person aggrieved by any decision of the board of adjustment may appeal to the superior court. [Ord. 4296, 2001.]

15.36.090 Conflicting regulations. (13.11.110)

Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail. [Ord. 4296, 2001.]

15.37 Annexations (13.40.140)

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 15.21, to the zone that best suits the site based on the zoning designation criteria set forth in Chapter 15.30 and the context of the site. Annexations shall be governed by the requirements of RCW Chapter 35.13.