

Chapter 18.85

LANDSCAPE REQUIREMENTS

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18.85.010 Definitions.

“BIMC” means Bainbridge Island Municipal Code.

“Caliper” means a measurement used for deciduous trees. Caliper of a tree trunk shall be taken six inches above the ground up to and including four-inch caliper size, and 12 inches above the ground for larger tree sizes.

“Diameter/diameter – breast – height” means the diameter of a tree trunk measured at four feet above average grade.

“Drought resistant plants” means plant material once established can survive with little or no water other than that from annual rainfall.

“Native species” means tree, shrub or ground cover species which occur or live naturally in the Puget Sound region.

“Landscape perimeter averaging” means a method that allows required landscape perimeters to be reduced to a minimum dimension and cluster plants to areas within the perimeter that provides denser screening adjacent to structures and parking areas, and allows lesser screening in areas where there are no structures and parking areas. Landscape perimeter averaging is also allowed to retain significant

trees and tree stands located within the perimeters. The total required landscape perimeter dimension square footage must be achieved.

“Protection zone” means the zone at grade level located directly below the canopy and within the dripline.

“Screen” means a system of vegetation located within the perimeter landscape to provide varying degrees of visual separation between land uses and site development.

“Significant tree” means:

A. Evergreen tree 10 inches in diameter or greater, measured four feet above existing grade; or

B. Deciduous tree 12 inches in diameter or greater, measured four feet above existing grade; or

C. All trees located within a required critical area buffer as defined in Chapter 16.20 BIMC.

“Tree canopy” means the total area of the tree or trees where the leaves and outermost branches extend, also known as the “dripline”.

“Tree stand” means at least five or more existing trees forming a continuous canopy, each having a six-inch diameter or greater, measured four feet above existing grade. Trees may be evergreen or deciduous varieties. (Ord. 96-09 § 2, 1996)

18.85.020 Purpose.

The purpose of this chapter is to preserve the landscape character of the community, link the Island’s natural amenities with landscape greenbelts along scenic roads, improve the aesthetic quality of the built environment, promote retention and protection of existing vegetation, reduce the impacts of development on wetlands, streams and the natural environment, enhance the value of current and future development and increase privacy for residential zones by:

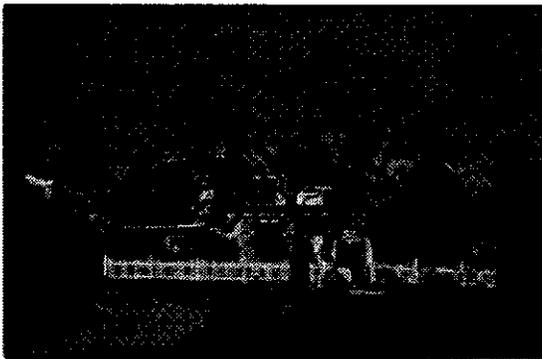
A. Retaining existing vegetation, tree stands and significant trees by incorporating them into the site design.

B. Incorporating native vegetation and drought resistant plant material into new landscape developments.

C. Providing vegetated screening between different intensities of residential uses.

D. Providing visual relief of parking areas in the neighborhood service centers, the Winslow mixed use town center, and the light manufacturing, (water dependent) industrial, high school road and urban multifamily districts.

E. Providing vegetated screening between residential and nonresidential areas. (Ord. 96-09 § 2, 1996)



18.85.030 Applicability.

A. All new development, except single-family residential building permits, shall be subject to the requirements of this chapter, except as required by subsections B and C of this section.

B. Projects subject to the conditional use permit process may be required to exceed the requirements of this chapter.

C. For landscape requirements pertaining to short subdivisions, long subdivisions, large lot subdivisions, and planned unit develop-

ments as part of the flexible lot design process, refer to Chapters 17.04, 17.12, 17.16 and 18.120 BIMC. (Ord. 96-09 § 2, 1996)

18.85.040 Submittal requirements.

A. Intent. All new development, as identified in BIMC 18.85.030(A), shall submit the following information at the time of permit application.

B. General.

1. The applicant is encouraged to contact the department for a preapplication conference prior to submitting an application.

2. All required planting and significant tree and tree stand retention plans shall be clearly legible with a title that includes the project name, owner's name, designer's name, date and scale. All items shall be labeled, and north shall be oriented towards the top or left of the plan.

3. All plans must be prepared or approved, by a landscape architect licensed by the state of Washington, a Washington certified nursery professional or a Washington certified landscaper.

4. Planting Plan. A planting plan at a scale of no less than one inch equals 30 feet. The proposed landscape planting plan shall show the following:

a. Property lines, easements, rights-of-way, and setbacks, streets and utilities within the subject property; and

b. Existing and proposed grades of at least five-foot intervals; and

c. All new proposed construction and planting and any future construction and planting that is not included in the application; and

d. Location of all existing and proposed buildings, structures and improvements within the property; and

e. A plant list for all proposed new planting delineating quantities, scientific and common names and sizes. Names of plants are to follow current edition of the Hortus Third, A Concise Dictionary of Plants Cultivated in the U.S. and Canada; and sizes of plants are to follow the current edition of the American Standard for Nursery Stock, American Association

of Nurseryman (AAN). The planting plan shall specify the following:

- i. Tree protection strategies; and
- ii. Vegetation clearing strategies; and
- iii. Topsoil protection and reuse strategies; and
- iv. Native soil amendment strategies; and
- v. Planting times and physical limits of construction; and
- vi. Areas that require temporary or permanent irrigation.

5. Significant Tree and Tree Stand Retention Plan. The applicant shall submit a tree retention plan, concurrent with applicable permit application, whichever is reviewed and approved first. The tree retention plan may be combined with the planting plan and shall consist of:

- a. A tree survey or aerial photograph that represents current site conditions and identifies the location of all significant trees, tree stands and their associated canopies. For detailed site plans and grading applications, the tree survey may be conducted by a method that locates individual significant trees and tree stands, their size(s) and species. These trees shall be marked in the field at the time of permit or approval application and maintained through the construction period; and
- b. A development site plan identifying the significant trees and tree stands, as defined in BIMC 18.85.060, that are proposed to be retained. (Ord. 96-09 § 2, 1996)

18.85.050 Land use districts.

The land use districts identified in this section are consistent with the city of Bainbridge Island's Comprehensive Plan land use element, September 1, 1994.

Land Use Districts	Landscape Requirements					
	Submittal Requirements (BIMC 18.85.040)	Significant Tree & Tree Stand Ret. (BIMC 18.85.060)	Perimeter Landscape (BIMC 18.85.070)	Planting Requirements (BIMC 18.85.090)	Irrigation (BIMC 18.85.100)	Maintenance (BIMC 18.85.110)
Neighborhood Service Centers (NSCs)	✓	✓	✓	✓	✓	✓
Light Manufacturing (LM) District	✓	✓	✓	✓	✓	✓
(Water Dependent) Industrial District	✓	✓	✓	✓	✓	✓
Single-Family Residential Development						
Other than Building Permits (Flexible Lot Design Process) ¹						
Nonresidential Uses in Areas Outside Winslow, NSCs and LM	✓	✓	✓	✓	✓	✓
Winslow Mixed Use Town Center ²						
• Central Core Overlay District	✓		✓	✓	✓	✓

• Ericksen Avenue Overlay District	✓	✓	✓	✓	✓	✓
• Madison Avenue Overlay District	✓	✓	✓	✓	✓	✓
• Gateway Overlay District	✓	✓	✓	✓	✓	✓
• Ferry Terminal Overlay District	✓		✓	✓	✓	✓
Urban Multifamily District	✓	✓	✓	✓	✓	✓
High School Road District	✓	✓	✓	✓	✓	✓
Notes:						
1. For landscape requirements pertaining to short subdivisions, long subdivisions, large lot subdivisions and planned unit developments as part of the flexible lot design process, refer to Chapters 17.04, 17.12, 17.16 and 18.120 BIMC.						
2. Refer to Chapter 18.41 BIMC for additional landscape requirements specific to the Winslow town center districts.						

A. Neighborhood Service Centers (NSCs).

1. The city of Bainbridge Island's Comprehensive Plan identifies neighborhood service centers as small scale centers, providing Island-wide commercial and service activity outside Winslow.

- Island Center
- Lynwood Center
- Rolling Bay

2. Intent. To incorporate landscape standards that support pedestrian scale neighborhood uses compatible with the intensity of the surrounding residential neighborhood; to minimize the impact of lighting, noise and views of surface parking areas; and to provide a buffer between higher and lower intensity uses.

3. Landscape Requirements Applicable to NSC Districts.

- a. Submittal Requirements (BIMC 18.85.040);
- b. Significant Tree and Tree Stand Requirements (BIMC 18.85.060);
- c. Perimeter Landscape Requirements (BIMC 18.85.070);
- d. Planting Requirements (BIMC 18.85.090);
- e. Irrigation (BIMC 18.85.100);

f. Maintenance (BIMC 18.85.110).



B. Light Manufacturing (LM).

1. The city of Bainbridge Island's Comprehensive Plan states the light manufacturing district (LM) is intended to provide opportunities for expansion of existing Island businesses where low-impact, industrial activities can be concentrated and visual impacts on the surrounding neighborhood can be minimized.

2. Intent. To provide a year-round vegetated screen, and a noise and site lighting buffer of industrial development from adjacent nonindustrial properties and roadways.

3. Landscape Requirements Applicable to LM Districts.

- a. Submittal Requirements (BIMC 18.85.040);
- b. Significant Tree and Tree Stand Requirements (BIMC 18.85.060);
- c. Perimeter Landscape Requirements (BIMC 18.85.070);

d. Planting Requirements (BIMC 18.85.090);

e. Irrigation (BIMC 18.85.100);

f. Maintenance (BIMC 18.85.110).

C. (Water Dependent) Industrial.

1. The city of Bainbridge Island's Comprehensive Plan identifies (water dependent) industrial as a district intended primarily to provide for ship and boat repair yards.

2. Intent. To provide landscape development that screens parking lots and large structures, but allows visual access to the shoreline and small scale active industrial facilities.

3. Landscape Requirements Applicable to (Water Dependent) Industrial Districts.

a. Submittal Requirements (BIMC 18.85.040);

b. Significant Tree and Tree Stand Requirements (BIMC 18.85.060);

c. Perimeter Landscape Requirements (BIMC 18.85.070);

d. Planting Requirements (BIMC 18.85.090);

e. Irrigation (BIMC 18.85.100);

f. Maintenance (BIMC 18.85.110).

D. Areas Outside Winslow, NSCs, and LM – Nonresidential Uses.

1. The city of Bainbridge Island's Comprehensive Plan identifies this land use district as the area located outside Winslow, the neighborhood service centers and the light manufacturing areas which are designated residential open space district.

2. Intent. Nonresidential uses are intended to be developed to retain the natural landscape qualities of the Island. This is accomplished by retaining existing vegetated buffers to screen views of structures and parking areas. Vegetated screens are provided to buffer between areas of high and low intensity uses.

3. Landscape Requirements Applicable to Nonresidential Uses.

a. Submittal Requirements (BIMC 18.85.040);

b. Significant Tree and Tree Stand Requirements (BIMC 18.85.060);

c. Perimeter Landscape Requirements (BIMC 18.85.070);

d. Planting Requirements (BIMC 18.85.090);

e. Irrigation (BIMC 18.85.100);

f. Maintenance (BIMC 18.85.110).

E. Areas Outside Winslow, NSCs, and LM – Residential Open Space (Flexible Lot Design Process).

1. The city of Bainbridge Island's Comprehensive Plan encourages a pattern of development to preserve and protect residential open space.

2. Intent. To preserve, protect and enhance critical areas, protect the natural forested areas and preserve the greenbelts along designated scenic roadway corridors.

3. Landscape Requirements Applicable to Residential Open Space.

a. Submittal Requirements (BIMC 18.85.040);

b. Significant Tree and Tree Stand Requirements (BIMC 18.85.060);

c. Planting Requirements (BIMC 18.85.090);

d. Maintenance (BIMC 18.85.110).

F. Winslow Mixed Use Town Center – Central Core and Ferry Terminal Overlay Districts.

1. The city of Bainbridge Island's Comprehensive Plan identifies the mixed use town center as a vibrant, pedestrian-oriented core. The central core is the commercial center and the ferry terminal district, the location of ferry services with associated transportation oriented uses.

2. Intent. To provide an urban character by incorporating landscape standards; and to provide landscape development to screen uses from single-family residential properties and to soften the appearance of surface parking areas.

3. Landscape Requirements Applicable to Winslow Mixed Use Town Center – Central Core and Ferry Terminal Overlay Districts.

a. Submittal Requirements (BIMC 18.85.040);

- b. Perimeter Landscape Requirements (BIMC 18.85.070);
- c. Planting Requirements (BIMC 18.85.090);
- d. Irrigation (BIMC 18.85.100);
- e. Maintenance (BIMC 18.85.110).

G. Winslow Mixed Use Town Center – Ericksen Avenue and Madison Overlay Districts.

1. The city of Bainbridge Island’s Comprehensive Plan identifies these land use districts as providing a mix of office, retail and residential development.

2. Intent. To retain the character of landscape front yards; and to provide landscape development to screen uses from single-family residential properties; and to soften the appearance of surface parking areas.

3. Landscape Requirements Applicable to Winslow Mixed Use Town Center – Ericksen Avenue and Madison Overlay Districts.

- a. Submittal Requirements (BIMC 18.85.040);
- b. Significant Tree and Tree Stand Requirements (BIMC 18.85.060);
- c. Perimeter Landscape Requirements (BIMC 18.85.070);
- d. Planting Requirements (BIMC 18.85.090);
- e. Irrigation (BIMC 18.85.100);
- f. Maintenance (BIMC 18.85.110).

H. Winslow Mixed Use Town Center – Gateway Overlay District.

1. The city of Bainbridge Island’s Comprehensive Plan identifies this land use district to protect the ravine and provide low-intensity commercial, multifamily and agricultural uses.

2. Intent. To retain the greenbelt located adjacent to SR 305 consistent with the greenways plan. To provide landscape development to screen uses from single-family residential properties.

3. Landscape Requirements Applicable to Winslow Mixed Use Town Center – Gateway Overlay District.

- a. Submittal Requirements (BIMC 18.85.040);
- b. Significant Tree and Tree Stand Requirements (BIMC 18.85.060);
- c. Perimeter Landscape Requirements (BIMC 18.85.070);
- d. Planting Requirements (BIMC 18.85.090);
- e. Irrigation (BIMC 18.85.100);
- f. Maintenance (BIMC 18.85.110).

I. Urban Multifamily.

1. The city of Bainbridge Island’s Comprehensive Plan identifies this land use district as existing residential districts with the potential of increasing density.

2. Intent. To screen urban multifamily projects from adjacent lower density residential properties and to soften the appearance of surface parking areas.

3. Landscape Requirements Applicable to Urban Multifamily.

- a. Submittal Requirements (BIMC 18.85.040);
- b. Significant Tree and Tree Stand Requirements (BIMC 18.85.060);
- c. Perimeter Landscape Requirements (BIMC 18.85.070);
- d. Planting Requirements (BIMC 18.85.090);
- e. Irrigation (BIMC 18.85.100);
- f. Maintenance (BIMC 18.85.110).

J. High School Road.

1. The city of Bainbridge Island’s Comprehensive Plan identifies this land use district as a providing commercial uses to complement the town center.

2. Intent. To provide landscape development to screen uses from adjacent single-family residential properties and to soften the appearance of surface parking areas.

3. Landscape Requirements Applicable to High School Road.

- a. Submittal Requirements (BIMC 18.85.040);
- b. Significant Tree and Tree Stand Requirements (BIMC 18.85.060);
- c. Perimeter Landscape Requirements (BIMC 18.85.070);

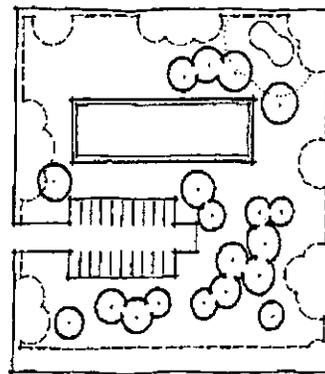
- d. Planting Requirements (BIMC 18.85.090);
- e. Irrigation (BIMC 18.85.100);
- f. Maintenance (BIMC 18.85.110). (Ord. 96-09 § 2, 1996).

18.85.060 Significant tree and tree stand requirements.

A. Significant Tree and Tree Stand Retention.

1. Intent. To preserve the forested character of the Island in all land use districts excluding the central core and ferry terminal districts.

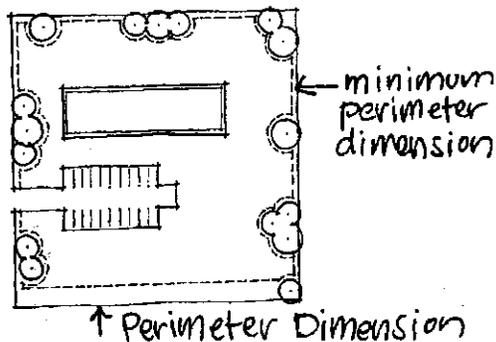
2. Requirement. Preserve significant trees and tree stands located in perimeter landscape areas and within a site's interior.



Site Interior

Either:

- Retain 30 percent of the significant tree canopy on the site (which may include the perimeter landscape areas, critical areas and critical area buffers); or
- Retain 15 percent of the total number of significant trees, excluding significant trees within the perimeter landscape areas, critical areas, and critical area buffers.



Perimeter Landscape Areas

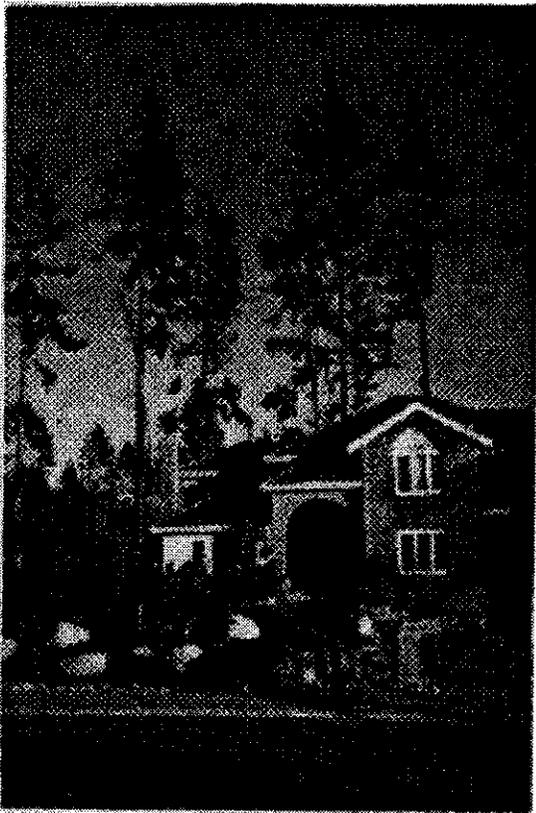
- Retain all significant trees and tree stands located in the perimeter landscape areas.
- Perimeter landscape widths may be averaged to save significant trees, but shall not be reduced less than the allowed minimum perimeter dimension.

a. Areas devoted to driveways, curb cuts, and sight distance requirements, utilities and storm drainage facilities may be exempt from this requirement.

b. Significant trees and tree stands may be exempt from this requirement if it is determined by a consulting arborist certified by the International Society of Arboriculture the vegetation is:

- i. Damaged, diseased or standing dead trees; or
- ii. Safety hazards due to potential root, trunk or primary limb failure, or exposure of mature trees which have grown in a closed, forested situation; or
- iii. Notwithstanding subsections (A)(2)(a) and (A)(2)(b) of this section, at the discretion of the department, damaged, diseased or standing dead trees may be retained and counted toward the significant tree

requirement if demonstrated that such trees will provide fish or wildlife habitat and are not classified as a danger.



c. If significant trees have been removed from a closed, forested situation, an adequate buffer of smaller trees shall be retained or planted on the fringe of such significant trees as determined by a consulting arborist certified by the International Society of Arboriculture.

d. The arborist shall be selected from a list of current arborists, certified by the International Society of Arboriculture and paid for by the applicant.

B. Protecting Significant Trees and Tree Stands During Construction.

1. Intent. To provide the best protection for significant trees and tree stands.

2. Requirements:

a. No cutting of significant trees shall be allowed on a site until the planting and significant tree and tree stand retention plans have been approved by the department.

b. An area of prohibited disturbance, generally corresponding to the dripline of the significant trees and/or tree canopy of tree stands shall be identified by the applicant and approved by the department before commencement of site plan preparation. A temporary four-foot high chain link or four-foot high plastic net fence shall delineate the area.

c. No impervious surfaces, fill, excavation, vehicle operations, compaction, removal of native soil or storage of construction materials shall be permitted within the area defined by such fencing.

d. A rock well shall be constructed if the grade level around the tree is to be raised more than one foot. The inside diameter of the well shall be equal to the diameter of the dripline of the tree or tree canopy of tree stands.

e. The grade level shall not be lowered within the larger of the two areas defined as follows:

i. The dripline of the tree, or the tree canopy of tree stands;

ii. As recommended by a consulting arborist certified by the International Society of Arboriculture.

f. Alternative protection methods may be used if determined by the department to provide equal or greater tree protection. Alternative protection methods must be recommended by a consulting arborist certified by the International Society of Arboriculture.

g. The arborist shall be selected from a list of current arborists, certified by the International Society of Arboriculture and paid for by the applicant.

C. Significant Trees and Tree Stand Replacement.

1. Intent. To discourage the unauthorized removal of significant tree(s) and tree stands; and to establish a replacement or fine if such activity occurs. When the required number of significant trees or tree stands are not retained, they shall be replaced as determined by the department with:

a. An equal number of transplanted significant trees or tree canopy; or

b. New trees measuring 1.5-inch caliper if deciduous and four feet high if evergreen, at a replacement rate of 1.5 inches diam-

eter for every one-inch diameter (measured diameter – breast – height) of the removed significant tree or trees within a tree stand. The replacement rate determines the number of replacement trees. The trees removed shall be replaced with trees of the same type, evergreen or deciduous. The replacement trees shall also be replaced in the same location as the trees removed.

Failure to replace or transplant trees will be enforced as provided in this code; provided, that any fine shall be no less than three times the value of the trees, as determined by the current standards of the International Society of Arboriculture.

i. If unauthorized tree(s) or vegetation removal occurs within the public right-of-way, all permits in force on the subject property shall be suspended and no new permits issued until the tree(s) or vegetation has been replaced or all penalties have been satisfied.

c. Native shrubs and ground cover shall also be replaced when replacing tree stands due to unauthorized removal. Shrubs shall be one gallon size planted four feet on center spacing, ground cover shall be one gallon size planted three feet on center spacing. The shrubs and ground cover shall be planted within the limits of the previous tree stand canopy.

d. If the significant tree and tree stand retention requirements of this section create an unnecessary hardship, the applicant may request a modification.

2. The director may administratively approve a modification of the significant tree and tree stand requirements of this section if:

a. The modification is necessary because of special circumstances relating to the location of existing significant trees and tree stands which prevents compliance with this section; and

b. The special circumstances of the subject property make the strict enforcement of the provisions of this section an unnecessary hardship to the property owner; and

c. The special circumstances of the subject property are not the result of the actions of the applicant; and

d. The approving of the modification will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and land use district in which the subject property is located; and

e. The modification is consistent with the purpose and intent of this chapter; and

f. The site design incorporates the retention of other natural vegetation in consolidated locations which promotes the natural vegetated character of the site.

3. When the number of significant trees or tree stands are not retained, they shall be replaced as determined by the department with new trees measuring 1.5-inch caliper if deciduous and four feet high if evergreen, at a replacement rate of 1.5 inches diameter (measured diameter – breast – height) of the removed significant tree or trees within a tree stand. The replacement rate determines the number of replacement trees. The trees removed shall be replaced with trees of the same type, evergreen or deciduous. (Ord. 96-09 § 2, 1996)

18.85.070 Perimeter landscape requirements.

A. Intent. To provide a vegetated screen between uses or land use districts, to screen parking areas and structures located adjacent to public rights-of-way, and to allow visual and physical access to pedestrian and other nonmotorized oriented uses, such as a multi-purpose trail or bikeway if those trails could be accommodated without compromising significant vegetation or hazardous slopes.

Three types of landscape screens may apply:

1. A full screen provides a dense vegetated separation between uses and land use districts; and

2. A partial screen provides a moderate vegetated separation between uses and land use districts; and

3. A filtered screen provides a light vegetated separation between uses and land use districts and allows visual access to developments.

As stated in the city's comprehensive plan:

Whenever new development adjoins a park site, a vegetative buffer shall be required which shall include the preservation and protection of existing vegetation, to visually screen the development year-round from the park.

B. Requirements.

1. Full Screen. Provide:

a. Minimum 70 percent evergreen trees ranging in height from four feet to six feet at the time of planting with at least 50 percent being six feet high; and

b. Deciduous trees with a caliper of at least two inches at the time of planting; and

c. At least 20 percent of the trees shall be native species and drought resistant; and

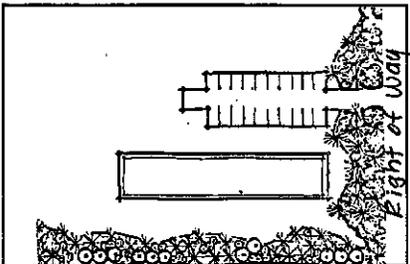
d. The number of trees is determined by dividing the length of the landscape perimeter by 10 feet; and

e. Evergreen shrubs at least 21 inches in height at the time of planting, spaced no more than three feet on center, to achieve minimum four feet height at maturity; and

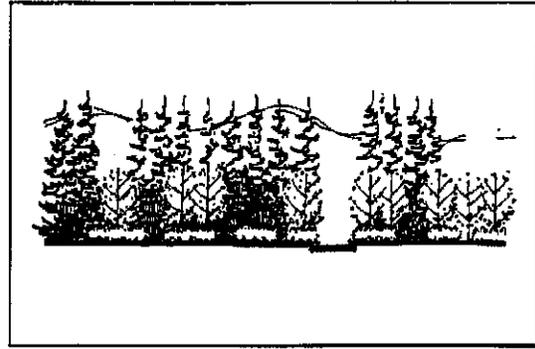
f. The number of shrubs is determined by dividing the length of the perimeter by four feet; and

g. Living ground cover shall be planted and spaced to achieve total coverage within three years; and

h. Plants may be clustered within the perimeter to screen structures and parking areas.



Residential
Full Screen Plan



Full Screen Section

2. Partial Screen. Provide:

a. Minimum 50 percent evergreen trees ranging in height from four feet to six feet at the time of planting with at least 50 percent being six feet high; and

b. Deciduous trees with a caliper of at least two inches at the time of planting; and

c. At least 20 percent of the trees shall be native species and drought resistant; and

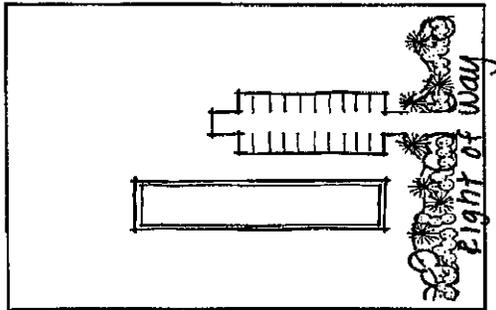
d. The number of trees is determined by dividing the length of the landscape perimeter by 20 feet; and

e. Evergreen shrubs at least 21 inches in height at the time of planting, spaced no more than three feet on center, to achieve minimum four feet height at maturity; and

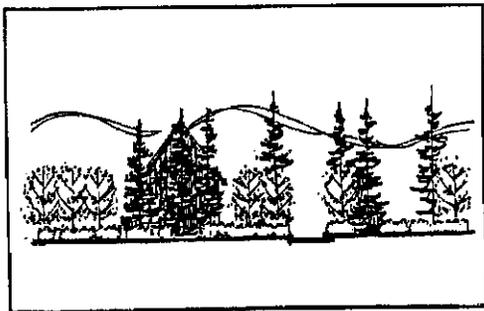
f. The number of shrubs is determined by dividing the length of the landscape perimeter by five feet; and

g. Living ground cover shall be planted and spaced to achieve total coverage within three years; and

h. Plants may be clustered within the landscape perimeter to screen structures and parking areas.



Partial Screen plan



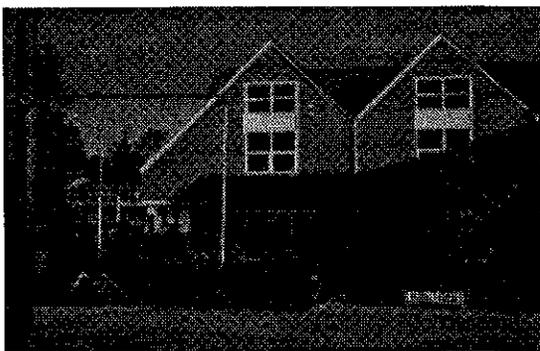
Partial Screen section

3. Filtered Screen. Provide:

a. One hundred percent deciduous trees two-inch caliper spaced no more than 30 feet on center; and

b. Evergreen shrubs minimum 21 inches in height at the time of planting spaced no more than three feet on center to provide a continuous hedge achieving a maximum height of three feet at maturity; and

c. Living ground cover shall be planted and spaced to achieve total coverage within three years.



Filtered Screen

C. Standards. The following standards apply to the full screen, partial screen and filtered screen perimeter landscape requirements contained in this section.

1. Existing vegetation may be used in lieu of new plant material if not already being used to meet another requirement, except as otherwise provided in BIMC 18.85.060 (site interior retention of 30 percent of significant tree canopy).

2. A full screen will be required to screen utilities located above ground from adjacent uses.

3. Perimeter landscaping shall be clustered in areas to screen structures, utility structures, loading areas, parking lots, trash enclosures, storage areas and mechanical equipment.

4. The department may approve the averaging of perimeter landscape widths to provide adequate screening if it meets the criteria contained in this section.

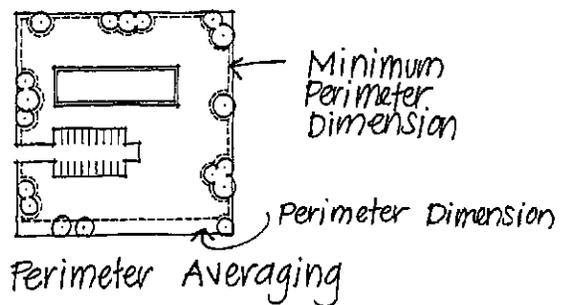
5. Earth berms in combination with shrubs and trees may be used to achieve the initial planting height requirement.

6. Minimum landscape perimeter dimensions are allowed when perimeter averaging is applied. The landscape perimeter can be averaged only if the total required perimeter dimension square footage is achieved. The director may allow landscape perimeter averaging if the following criteria is met:

a. Plant material may be clustered to more effectively screen parking areas and structures; and

b. Does not diminish the quality of the perimeter landscape;

c. When significant trees are being retained.



18.85.070

D. Perimeter Landscape Requirements by District. Perimeter landscape requirements are in addition to required parking lot landscape requirements.

The following charts indicate the type of perimeter landscaping required when the subject property directly abuts various zoning districts and land uses:

1. Neighborhood Service Centers (NSCs).

Abutting zoning or land use	Perimeter Landscape Type	Perimeter Dimensions (Width)	Minimum Perimeter Dimensions (Width)
Rights-of-way/roads	Filtered Screen	10'	5'
Residential including multifamily	Full Screen	15'	10'
NSCs	Filtered Screen	10'	10'

2. Light Manufacturing (LM) Districts.

Abutting zoning or land use	Perimeter Landscape Type	Perimeter Dimensions (Width)	Minimum Perimeter Dimensions (Width)
Rights-of-way/roads	Full Screen*	50'	35'
Non-light industrial	Full Screen*	50'	35'
Light manufacturing uses	Partial Screen	15'	10'

*Notwithstanding subsection B.1 of this section, all native shrubs and significant trees shall be retained within all landscape buffers, except that limited removal may be allowed for permitted activities located within the buffer area. If necessary, the existing vegetation shall be supplemented to attain the required screening density.

3. (Water Dependent) Industrial Districts.

Abutting zoning or land use	Perimeter Landscape Type	Perimeter Dimensions (Width)	Minimum Perimeter Dimensions (Width)
Rights-of-way/roads	Partial Screen	10'	5'
Residential including multifamily	Full Screen	40'	20'
Industrial uses	Partial Screen	10'	0'
Nonindustrial uses	Full Screen	10'	5'

4. Areas Outside Winslow, NSCs, and LM Districts – Nonresidential Uses.

Abutting zoning or land use	Perimeter Landscape Type	Perimeter Dimensions (Width)	Minimum Perimeter Dimensions (Width)
Rights-of-way/roads	Partial Screen	25'	15'
Residential including multifamily	Full Screen	25'	15'
Nonindustrial uses	Full Screen	20'	10'

5. Winslow Mixed Use Town Center – Central Core, Ferry Terminal, Gateway, Ericksen and Madison Overlay Districts.**

Abutting zoning or land use	Perimeter Landscape Type	Perimeter Dimensions (Width)	Minimum Perimeter Dimensions (Width)
State highway*	Full Screen	50'	35'
Single-family residential (UR)	Full Screen	20'	15'

*Beginning 100 feet north of Winslow Way. This landscaping requirement shall not apply to the interior renovation of existing buildings.

**For perimeter landscaping requirements in the ferry terminal district transition area, north of Winslow Way, reference BIMC 18.40.031.

6. Urban Multifamily Districts.

Abutting zoning or land use	Perimeter Landscape Type	Perimeter Dimensions (Width)	Minimum Perimeter Dimensions (Width)
Rights-of-way/roads	Partial Screen	20'	15'
Single-family residential (UR)	Partial Screen	20'	15'
Urban multifamily	Filtered Screen	15'	10'

7. High School Road Districts.

Abutting zoning or land use	Perimeter Landscape Type	Perimeter Dimensions (Width)	Minimum Perimeter Dimensions (Width)
State highway*	Full Screen	50'	35'
Single-family residential (UR, SUR)	Full Screen	20'	15'

*This landscaping requirement shall not apply to the interior renovation of existing buildings.

E. Parking Lot Landscaping.

1. Parking Lot Landscaping for NSCs, LM, (Water Dependent) Industrial and Non-residential Uses Outside Winslow Mixed Use Town Center. Parking lot landscaping is in addition to required perimeter landscaping.

a. Intent. To screen views of parking lots. To provide shade and visual relief within parking lots, to limit impacts of impervious surfaces and to reinforce safe pedestrian access to buildings.

b. Requirements.

i. Parking Lots Located Adjacent to Public Rights-of-Way. Provide:

(A) One tree for every four parking stalls; and

(B) Minimum 30 percent evergreen trees; and

(C) Deciduous trees minimum two-inch caliper, evergreen trees minimum six feet high at the time of planting; and

(D) Evergreen shrubs minimum 18-inch height at the time of planting

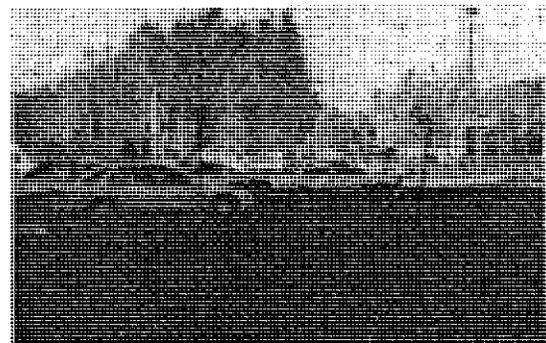
spaced no more than three feet on center, to provide a continuous hedge achieving a maximum height of three feet at maturity located adjacent to the rights-of-way (this may be achieved with the perimeter landscape); and

(E) Evergreen ground cover planted and spaced to achieve total coverage within two years; and

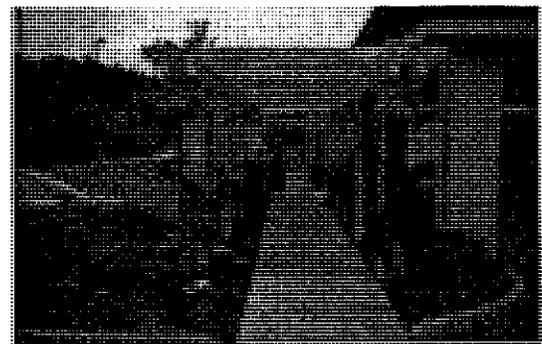
(F) Parking lots shall meet the requirements of Chapter 18.81 BIMC; and

(G) A landscaped area at the end of parking aisles; and

(H) Refer to the standards contained in this section for optional planting locations within parking areas.



Parking Adjacent to Right-of-Way



Safe Pedestrian Access

ii. Parking Lots Not Located Adjacent to Public Rights-of-Way. Provide:

(A) One tree for every eight parking stalls; and

(B) One hundred percent of the trees may be deciduous; and

(C) Deciduous trees minimum two-inch caliper, evergreen trees mini-

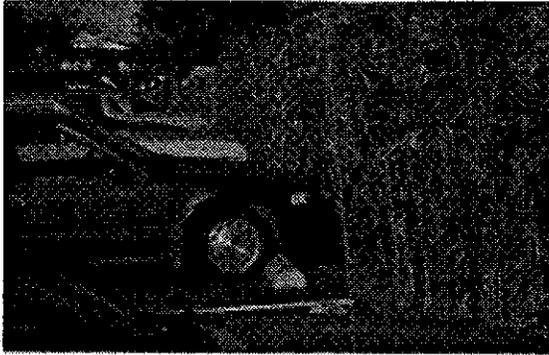
mum four feet height at the time of planting; and

(D) Evergreen ground cover and/or shrubs planted and spaced to achieve total coverage within two years; and

(E) A landscaped area at the end of parking aisles; and

(F) Parking lots shall meet the requirements of Chapter 18.81 BIMC; and

(G) Refer to the standards contained in this section for optional planting locations within parking areas.



Parking Area Screen

c. Standards. The following standards apply to parking lot landscaping located in NSCs, LM, (water dependent) industrial and nonresidential uses outside Winslow Mixed Use Town Center.

i. Maintain shrubs at a maximum three feet height within parking lots so views between vehicles and pedestrians will not be blocked.

ii. Landscape in planting islands or strips shall have an area of at least 100 square feet and with a narrow dimension of not less than five feet if wheel stops are provided to prevent vehicle overhang. A narrow dimension of not less than eight feet may be provided if the vehicle overhang area is included in the planting area.

iii. Provide permanent curbs or wheel stops to protect the plantings.

iv. Significant trees and tree stands may be used in lieu of new landscape requirements if they are in addition to the significant tree and tree stand retention requirements.

v. Clustering of new plant material within parking lots may be approved or required by the department if the intent of this section is met.

vi. Refer to the suggested landscape materials matrix for tree species appropriate for parking lots.

2. Parking Lot Landscaping for Winslow Mixed Use Town Center Overlay Districts, High School Road and Urban Multifamily Districts.

a. Intent. To soften the appearance of surface parking lots. To provide more intensive landscaping when surface parking lots are exposed to public view.

b. Requirements.

i. Parking Lots Located in the Front of Buildings and Adjacent to Public Rights-of-Way. Provide:

(A) One tree for every two parking stalls; and

(B) One hundred percent of the trees may be deciduous; and

(C) Deciduous trees minimum two-inch caliper; and

(D) Evergreen shrubs planted to form a hedge, minimum 18-inch height at the time of planting, spaced no more than three feet on center, not to exceed a mature height of three feet located adjacent to the public rights-of-way (this may be achieved with the perimeter landscape); and

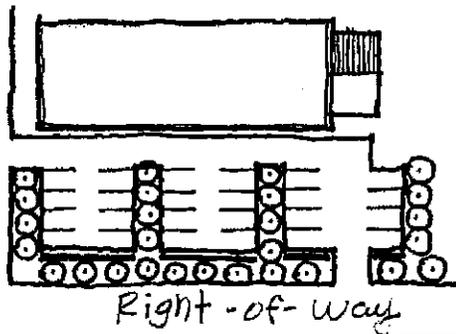
(E) Deciduous trees minimum two-inch caliper spaced no more than 30 feet on center located along the public rights-of-way (this may be achieved with the perimeter landscape); and

(F) Evergreen ground cover and/or shrubs planted and spaced to achieve total coverage within two years; and

(G) A landscaped area at the end of parking aisles; and

(H) Parking lots shall meet the requirements of Chapter 18.81 BIMC; and

(I) Refer to the standards contained in this section for optional planting locations within parking areas.



ii. Parking Lots Located to the Side of Buildings and Adjacent to Public Rights-of-Way. Provide:

(A) One tree for every four parking stalls; and

(B) One hundred percent of the trees may be deciduous; and

(C) Deciduous trees minimum two-inch caliper; and

(D) Evergreen shrubs planted to form a hedge, minimum 18-inch height at the time of planting, spaced no more than three feet on center, not to exceed a mature height of three feet located adjacent to the public rights-of-way (this may be achieved with the perimeter landscape); and

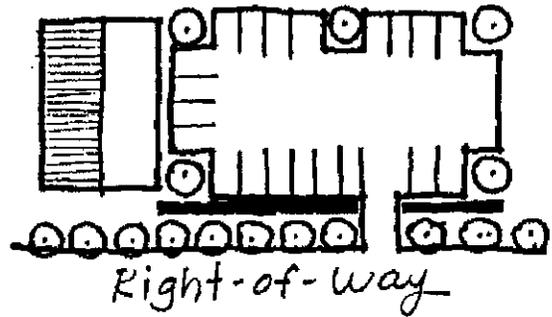
(E) A landscaped area at the end of aisles; and

(F) Parking lots shall meet the requirements of Chapter 18.81 BIMC; and

(G) Deciduous trees minimum two-inch caliper spaced no more than 30 feet on center located along the public rights-of-way (this may be achieved with the perimeter landscape); and

(H) Evergreen ground cover and/or shrubs planted and spaced to achieve total coverage within two years; and

(I) Refer to the standards contained in this section for optional planting locations within parking areas.



iii. Parking Lots Located Behind Buildings and Not Adjacent to Public Rights-of-Way. Provide:

(A) One tree for every eight parking stalls; and

(B) One hundred percent of the trees may be deciduous; and

(C) Deciduous trees minimum two-inch caliper, evergreen trees minimum four feet height at the time of planting; and

(D) Evergreen ground cover and/or shrubs planted and spaced to achieve total coverage within two years; and

(E) A landscaped area at the end of aisles; and

(F) Parking lots shall meet the requirements of Chapter 18.81 BIMC; and

(G) Refer to the standards contained in this section for optional planting locations within parking areas.

c. Standards. The following standards apply to parking lot landscaping located in the Winslow Mixed Use Town Center overlay districts, High School Road, and urban multifamily districts.

i. Maintain shrubs at a maximum three feet height within parking lots so views between vehicles and pedestrians will not be blocked.

ii. Landscape in planting islands or strips shall have an area of at least 100 square feet and with a narrow dimension of not less than five feet if wheel stops are provided to prevent vehicle overhang. A narrow dimension of not less than eight feet may be provided if the vehicle overhang area is included in the planting area.

18.85.090

iii. Provide permanent curbs or wheel stops to protect the plantings from vehicle overhang.

iv. Significant trees and tree stands may be used in lieu of new landscape requirements if they are in addition to the significant tree and tree stand retention requirements.

v. Clustering of new plant material within parking lots may be approved or required by the department if the intent of this section is met.

vi. Refer to the suggested landscape materials matrix for tree species appropriate for parking lots. (Ord. 2006-16 § 2, 2006; Ord. 2005-11 § 7, 2005; Ord. 99-64 § 10, 1999; Ord. 99-30 § 3, 1999; Ord. 99-17 §§ 13, 14, 1999; Ord. 96-09 § 2, 1996)

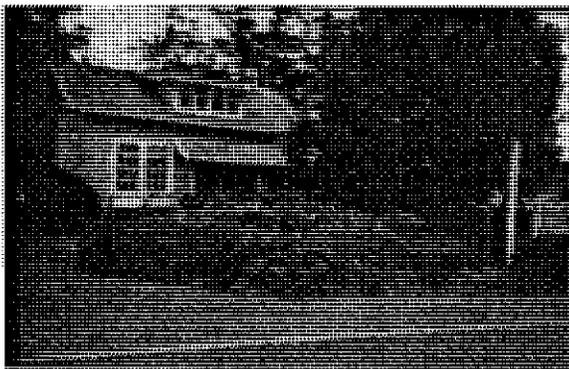
18.85.090 Planting requirements.

A. Intent. To encourage the use of native species and recommend planting conditions adaptive to Bainbridge Island.

B. Requirements. Landscape designs shall conform to the following provisions:

1. Areas not devoted to landscape required by this chapter, parking, structures and other site improvements are encouraged to be planted or remain in existing vegetation.

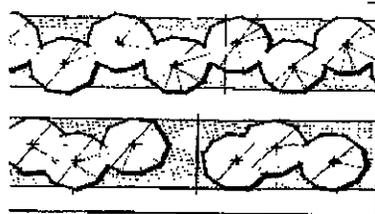
2. New plant materials shall include native species or nonnative species that have adapted to the climatic conditions of the coastal region of the Puget Sound Region.



Use of Native Plants

3. New plant materials shall consist of drought resistant species, except where site conditions within the required landscape areas assure adequate moisture for growth.

4. When the width of any landscape strip is 20 feet or greater, the required trees shall be staggered in two or more rows as illustrated.



5. Existing vegetation may be used to augment new plantings to meet the standards of this chapter.

6. Grass may be used as a ground cover where existing or amended soil conditions assure adequate moisture for growth.

7. Ground cover areas shall contain at least two inches of composted organic mulch at finish grade to minimize evaporation. Mulch shall consist of materials such as composted yard waste, composted sawdust, and/or manure that is fully composted.

8. Existing soils may need to be augmented with fully composted organic material.

C. Performance Assurance.

1. Performance assurance is required to assure the city that the landscape, required by this section, is properly installed, will become established and be adequately maintained.

2. The required landscape shall be installed prior to the issuance of a temporary certificate of occupancy for the project. The Washington landscape architect, Washington certified nursery professional or Washington certified landscaper shall submit a landscaping declaration to the department to verify installation in accordance with the approved plans.

3. The time limit for compliance may be extended to allow installation of landscaping during the next appropriate planting season as approved by the department if the director determines that a performance assurance

device, for a period of not more than one year, will adequately protect the interests of the city. The performance assurance device shall be for 150 percent of the cost of the work or improvements covered by the assurance device. In no case may the property owner delay performance for more than one year.

4. The form and type of the performance assurance device shall be determined by the director.

D. Maintenance Assurance.

1. The property owner shall replace any unhealthy or dead plant materials in conformance with the approved planting plan.

2. A maintenance assurance device shall be required for a period of three years after acceptance by the city of the new planting or transplanting of vegetation to insure proper installation, establishment, and maintenance.

3. The maintenance assurance device amount shall not be less than 20 percent of the cost of replacing materials covered by the assurance device.

4. The form and type of the maintenance assurance device shall be determined by the director. (Ord. 96-09 § 2, 1996)

18.85.100 Irrigation.

A. Intent. To provide temporary or permanent irrigation within new planting areas that do not have high soil moisture conditions.

B. Requirements.

1. Except for areas of undisturbed existing vegetation, all landscape areas that do not have high soil moisture conditions shall have temporary or permanent irrigation systems. Temporary systems may be removed after 24 months or two growing seasons, whichever occurs first; provided, that the plantings are established.

2. Areas where existing site conditions assure adequate soil moisture for growth within the required landscape area shall have temporary irrigation systems only as required to sustain new plantings.

3. Landscape areas consisting of drought resistant vegetation may require temporary irrigation systems. Permanent irrigation systems located within required landscape areas should include the following features:

- a. Moisture or precipitation sensors; and
- b. Automatic timers set for operation to assure adequate moisture levels; and
- c. Head-to-head spacing, if sprinkler heads are proposed; and
- d. Pressure regulating devices; and
- e. Backflow prevention devices; and
- f. Separate irrigation zones for grass and planting beds; and
- g. Other applicable state and city codes.

4. Irrigation water shall be applied with goals of avoiding runoff, low head drainage, overspray, or other similar conditions where water flows onto adjacent property, nonirrigated areas and impervious surfaces by:

- a. Considering soil type and infiltration rates; and
- b. Using proper irrigation equipment and schedules, including features such as repeat cycles, to closely match application rates with infiltration rates; and
- c. Considering special problems posed by irrigation on slopes and in median strips.

5. Irrigation systems shall be subject to the following additional provisions:

- a. Systems in landscape strips less than five feet in width shall be designed to ensure that overspray and/or runoff does not occur by use of system design options such as low volume emitters; and
- b. Sprinkler heads with consistent application rates shall be selected for proper area coverage, operating pressure, and adjustment capability; and
- c. Separate control valves shall be used to irrigate plants with differing water needs. (Ord. 96-09 § 2, 1996)

18.85.110 Maintenance of landscaping and significant trees.

A. Intent. All new landscape plantings and significant trees and tree stands to be retained shall be maintained to preserve the Island's Forested Character.

B. Requirements.

18.85.120

1. All landscaping, significant trees and tree stands shall be maintained for the life of the project.

2. All landscaped areas required by this chapter, significant trees and tree stands, except within critical areas or their protective buffers (defined in Chapter 16.20 BIMC), should be maintained in a healthy growing condition.

3. Landscape areas shall be kept free of trash.

4. All plant material shall be managed by pruning so that plant growth does not conflict with public utilities, restrict pedestrian or vehicular access, or create a traffic hazard. (Ord. 96-09 § 2, 1996)

18.85.120 Suggested landscape materials matrix.

Suggested Landscape Materials Matrix									
NOTE: This matrix provides a list of suggested plant materials recommended for use on Bainbridge Island.					Parking lot trees				
Additional plants may be added to this list as deemed appropriate by the department. Plants shall be selected based upon site-specific conditions which may affect plant growth such as sun exposure, soil types, shoreline conditions, adjacent site improvements, etc. Plant material selection shall be coordinated with utility company requirements to avoid conflicts.					Landscape buffer areas				
					Critical areas – Uplands				
					Critical areas – Wetlands/streams				
					Native species				
					Drought resistant				
					Shoreline				
					Trees near util. lines				
Large deciduous trees									
Acer macrophyllum	Bigleaf Maple			X	X	X			
Acer rubrum species	Red Maple variety	X	X					X	
Acer saccharum	Sugar Maple	X	X						
Acer platanoides species	Norway Maple variety	X	X					X	
Alnus oregona	Red Alder			X	X	X	X		
Fagus sylvatica	European Beech		X				X	X	
Fraxinus latifolia	Oregon Ash			X	X	X			
Ginkgo biloba 'Sentry'	Columnar Maidenhair		X				X		
Liquidambar styraciflua	American Sweet Gum	X	X				X	X	
Liriodendron tulipifera	Tulip Tree		X						
Platanus x acerifolia	London Plane		X						
Populus trichocarpa	Black Cottonwood				X	X			
Quercus species	Oak variety	X	X				X		
Quercus robur 'Fastigiata'	Upright English Oak	X	X				X	X	
Quercus rubra species	Eastern Red Oak	X	X				X		
Salix species	Willow variety				X	X		X	
Tilia cordata	Littleleaf Linden	X	X					X	
Medium deciduous trees									
Acer campestre	Hedge Maple	X					X		X
Betula species	Birch variety		X						

		Parking lot trees								
		Landscape buffer areas								
		Critical areas - Uplands								
		Critical areas - Wetlands/streams								
		Native species								
		Drought resistant								
		Shoreline								
		Trees near util. lines								
Carpinus betulus	European Hornbeam	X	X					X	X	
Cercidiphyllum japonicum	Katsura Tree		X							
Cornus species	Dogwood variety			X		X	X			
Fraxinus pennsylvanica 'Marshall'	Marshall's Seedless Ash	X	X					X		
Populus tremuloides	Quaking Aspen				X	X				
Prunus species	Flowering Cherry variety	X	X					X	X	
Pyrus calleryana species	Flowering Pear variety	X	X					X		
Zelkova serrata 'Village Green'	Sawleaf Zelkova	X	X							
Small deciduous trees										
Acer circinatum	Vine Maple		X	X	X	X				X
Acer davidii	David Maple		X							
Acer ginnala	Amur Maple	X	X					X	X	
Acer palmatum	Japanese Maple		X							X
Amelanchier species	Serviceberry variety		X	X	X	X				X
Carpinus species	Hornbeam variety	X	X					X	X	
Cornus florida	Eastern Dogwood		X							X
Cornus kousa	Kousa Dogwood	X	X							X
Corylus cornuta californica	Western Hazelnut		X	X		X	X			X
Crataegus species	Hawthorn variety		X	X		X	X	X	X	
Magnolia species	Magnolia variety	X	X					X	X	
Malus species	Flowering Crabapple		X							X
Prunus species	Flowering Cherry Plum		X					X	X	X
Rhus typhina	Staghorn Sumac		X	X		X	X			X
Styrax japonica	Japanese Snowball		X							X
Evergreen trees										
Abies grandis	Grand Fir		X	X		X				
Cedrus deodara	Deodar Cedar		X					X	X	
Chamaecyparis lawsoniana	Port Orford Cedar		X	X		X	X	X		
Chamaecyparis nootkatensis	Alaska Cedar		X	X		X	X	X		
Calocedrus decurrens	Incense Cedar		X							
Picea sitchensis	Sitka Spruce		X		X	X		X		

		Parking lot trees										
		Landscape buffer areas										
		Critical areas - Uplands										
		Critical areas - Wetlands/streams										
		Native species										
		Drought resistant										
		Shoreline										
		Trees near util. lines										
Pinus contorta	Shore Pine	X	X	X		X	X	X				
Pinus contorta latifolia	Lodgepole Pine		X				X	X				
Pinus densiflora	Japanese Red Pine		X				X					
Pinus monticola	Western White Pine		X	X		X	X					
Pinus nigra	Austrian Black Pine	X	X				X	X				
Pinus ponderosa	Ponderosa Pine		X				X					
Pinus sylvestris	Scotch Pine	X	X				X	X				
Pinus thunbergii	Japanese Black Pine		X				X	X				
Pseudotsuga menziesii	Douglas Fir		X	X		X	X	X				
Sequoiadendron sempervirens	Coastal Sequoia		X					X				
Taxus brevifolia	Western Yew		X		X	X		X				
Thuja plicata	Western Red Cedar		X		X	X						
Tsuga heterophylla	Western Hemlock		X		X	X	X					
Deciduous shrubs												
Amelanchier alnifolia	Western Serviceberry		X	X	X	X		X				
Berberis species	Barberry variety		X					X				
Callicarpa japonica	Japanese Beautyberry		X									
Cornus stolonifera	Red-Osier Dogwood		X	X	X	X		X				
Enkianthus campanulatus	Red-Veined Enkianthus		X									
Elaeagnus species	Elaeagnus variety		X					X	X			
Euonymus alata 'Compacta'	Winged Eonymus		X						X			
Hamamelis mollis	Chinese Witch Hazel		X									
Holodiscus discolor	Ocean Spray			X	X	X	X	X				
Hydrangea lacecap varieties	Lacecap Hydrangea		X									
Potentilla fruticosa	Potentilla		X					X	X			
Physocarpus capitatus	Pacific Ninebark				X	X						
Rhamnus purshiana	Cascara Sagrada			X	X	X						
Ribes sanguineum	Red-Flowering Currant			X	X	X						
Rosa nutkana	Nootka Rose			X	X	X			X			
Rosa rugosa	Rugosa Rose		X					X	X			
Rubus parviflorus	Thimbleberry		X	X	X	X						
Rubus spectabilis	Salmonberry		X	X	X	X			X			

		Parking lot trees							
		Landscape buffer areas							
		Critical areas – Uplands							
		Critical areas – Wetlands/streams							
		Native species							
		Drought resistant							
		Shoreline							
		Trees near util. lines							
Salix species	Willow variety			X	X		X		
Sambucus racemosa	Red Elderberry		X	X	X		X		
Spiraea species	Spiraea variety			X	X	X	X		
Symphoricarpos albus	Snowberry		X		X	X			
Syringa vulgaris cultivars	Lilacs	X					X		
Vaccinium parvifolium	Red Huckleberry			X	X				
Viburnum x burkwoodii	Burkwood Viburnum	X					X		
Evergreen shrubs									
Arbutus unedo	Strawberry Tree	X				X	X	X	
Cotoneaster species	Cotoneaster variety	X				X	X		
Ilex crenata	Japanese Holly	X							
Kalmia latifolia	Mountain Laurel	X							
Ligustrum japonicum	Japanese Privet	X							
Myrica californica	Pacific Wax Myrtle	X	X	X	X	X	X		
Umbellularia californica	California Bay Laurel	X	X			X	X	X	
Osmarea x burkwoodii	Burkwood Osmarea	X				X			
Osmanthus delavayi	Delavay Osmanthus	X				X	X		
Photinia frazeri	Japanese Photinia	X				X	X		
Pieris floribunda	Mountain Pieris	X					X		
Pieris japonica	Japanese Pieris	X					X		
Prunus lusitanica	Portuguese Laurel	X				X			
Pinus mugo	Mugho Pine	X				X	X		
Rhododendron species and hybrids	Rhododendrons and Azaleas	X	X		X		X		
Vaccinium ovatum	Evergreen Huckleberry	X	X	X	X		X		
Viburnum sinus species	Laurustinus variety	X				X	X		
Cornus alba 'Sibirica'	Siberian Dogwood								
Groundcovers									
Arctostaphylos uva-ursi	Kinnikinnick	X	X		X	X	X		
Berberis nervosa	Cascade Mahonia	X	X		X	X			
Calluna vulgaris	Scotch Heather	X					X		
Ceanothus gloriosus	Point Reyes Ceanothus	X				X	X		

		Parking lot trees								
		Landscape buffer areas								
		Critical areas - Uplands								
		Critical areas - Wetlands/streams								
		Native species								
		Drought resistant								
		Shoreline								
		Trees near util. lines								
Cotoneaster microphyllus 'Cochleatus'	Rockspray Cotoneaster	X					X	X		
Erica carnea	Winter Heath	X						X		
Erica x darleyensis	Mediterranean Heather	X								
Euonymus fortunei	Winter Creeper Euonymus	X						X		
Gaultheria shallon	Salal	X	X	X	X	X	X	X		
Hypericum calycinum	St Johnswart	X						X		
Ilex crenata varieties and cultivars	Japanese Holly	X								
Mahonia species	Mahonia variety	X						X		
Pachysandra terminalis	Japanese Spurge	X					X			
Sarcococca hookerana	Sarcococca	X								
Vinca minor	Periwinkle	X					X	X		
Source: Hough, Beck & Baird Inc.										

(Ord. 98-20 § 13, 1998; Ord. 96-09 § 2, 1996)

18.85.130 Landscaping declaration and checklist.

LANDSCAPING DECLARATION

I, _____, declare as follows:

- 1. a) I am the owner or authorized agent of the owner of the property, or (*circle a or b*)
 b) I am the landscape expert, responsible for the approved landscape plan for the property located at _____, Bainbridge Island, Washington.
- 2. This property has been developed pursuant to:
 Grading Permit Number _____
 Building Permit Number _____
- 3. The landscaping shown on the approved landscaping plan and areas identified to be irrigated for this property has been installed in conformance with the approved landscape plan as documented on Attachment A, which is incorporated into this Declaration.
- 4. I understand that changes to any of the following aspects of the approved landscape plan require a revision to the plans and approval by the Department of Planning and Community Development.
 - a) Minimum number of trees or shrubs and ground cover.
 - b) Location of required plantings or planting area.
 - c) Substitution of species required by permit conditions to mitigate environmental impacts.
 - d) Compliance with significant tree retention plan.

A Street Use Permit has been obtained from the Engineering Department for any required street trees, and these trees have been planted according to city standards.

NOTE: If any of these features have been changed, DO NOT SIGN this Declaration until a revised landscape plan has been approved by the Department of Planning and Community Development.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including Attachment A, is true and correct.

Dated _____, 19____ at _____, Washington.

Signature of owner or authorized agent

or

Signature of landscape expert

NOTE: If you provide false information in this statement, you will subject yourself to criminal liability. You may also be subject to a penalty of \$75.00 per day for each day that the landscaping is out of compliance with the requirements of the approved plan.

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ATTACHMENT A

Checklist for property owner or landscape expert to accompany Declaration.

- _____ # trees required
- _____ # trees provided
- _____ # ground cover required
- _____ # ground cover provided
- _____ # shrubs required
- _____ # shrubs provided
- _____ # compliance with the tree retention plan

Yes () No () Size* of installed plants is per approved plan.

Yes () No () Approximate location of trees, shrubs and ground cover is per approved plan.

*If the size of the nursery pots of ground cover are increased and there are correspondingly fewer pots, attach a description showing how the proposed changes meet the standards.

Substitutions: The following species have been substituted, as permitted by the Department of Planning and Community Development.

Approved species:	Number of plants:	Installed species:	Is approved species drought resistant?
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

NOTE: Changes in approved plant species require approval by the Department of Planning and Community Development prior to installation.

(Ord. 96-09 § 2, 1996)

Chapter 18.87

NONCONFORMING LOTS, USES AND STRUCTURES

Sections:

- 18.87.010 Applicability.
- 18.87.020 Nonconforming use of land.
- 18.87.030 Nonconforming structures.
- 18.87.040 Conditions of continuance of nonconforming use of structure.
- 18.87.050 Nonconforming lots.

18.87.010 Applicability.

This chapter shall apply to structures, uses and lots that become nonconforming as a result of the passage of this title, or any subsequent amendments. (Ord. 92-08 § 2, 1992)

18.87.020 Nonconforming use of land.

A nonconforming use of land may be continued; provided, that:

- A. The use is not enlarged, increased, or extended to occupy a greater area of land or structure than was occupied on the date of adoption of this code;
- B. The use is not moved in whole or in part to any other portion of the lot or parcel; and
- C. If the use ceases for a period of more than 180 days, the subsequent use of the land shall be conforming. (Ord. 92-08 § 2, 1992)

18.87.030 Nonconforming structures.

A nonconforming structure may remain and be used; provided, that:

- A. The structure is not enlarged or altered so as to increase its nonconformity;
- B. If moved, the structure shall be made to conform to regulations of this code;
- C. If a building is harmed or destroyed by more than 50 percent of its replacement value, as determined by the building official, the building must be reconstructed in compliance with the requirements for the zone in which it is located; and
- D. Any structure other than a building that is damaged or removed to an extent that exceeds 50 percent of its replacement value, as

determined by the building official, may be replaced or reconstructed in substantially the same location and of substantially the same design as the predamaged or preremoved structure, if a complete application is submitted for any and all required construction permits within 180 days of the damage or removal. (Ord. 2004-12 § 25, 2004; Ord. 92-08 § 2, 1992)

18.87.040 Conditions of continuance of nonconforming use of structure.

A nonconforming use of a structure may be continued; provided, that:

- A. The structure is not enlarged or moved;
- B. It may be changed to another nonconforming use by the hearing examiner;
- C. If it is superseded by a conforming use, the nonconforming use may not thereafter be resumed; and
- D. If it is discontinued for a period of six consecutive months or for a total of 18 months in any three-year period, it may not thereafter be resumed. (Ord. 92-08 § 2, 1992)

18.87.050 Nonconforming lots.

A. Nonconforming Single Lots. Any nonconforming single lot, tract or parcel of land that was lawfully created and recorded with the county auditor's office may be used for the purposes permitted by this title notwithstanding the minimum lot area, lot width and lot depth required. (Ord. 99-05 § 1, 1999; Ord. 98-10 § 1, 1998; Ord. 95-36 § 1, 1995; Ord. 95-19 § 1, 1995; Ord. 94-10 § 1, 1994; Ord. 92-08 § 2, 1992)

Chapter 18.88

WIRELESS COMMUNICATIONS FACILITIES

Sections:

- 18.88.000 Purpose.**
- 18.88.010 Development standards for a Facility I.**
- 18.88.020 Development standards for a Facility II.**
- 18.88.030 Development standards for a Facility III.**
- 18.88.040 Development standards for monopoles and lattice tower support structures.**
- 18.88.050 Additional criteria for monopoles and lattice towers.**
- 18.88.060 Exemption.**
- 18.88.070 Electromagnetic frequency emissions.**
- 18.88.080 Obsolescence.**
- 18.88.090 Definitions.**
- 18.88.100 Effect on other code provisions.**
- 18.88.110 Repealed.**

18.88.000 Purpose.

The purpose of this chapter is to balance the effectiveness of wireless communications service to customers, the needs of wireless communications providers, the regulatory functions of the city, the rights guaranteed and standards established by the federal government, and the potential impacts upon adjacent and surrounding land uses. (Ord. 97-14 § 1, 1997)

18.88.010 Development standards for a Facility I.

- A. A Facility I is permitted in all zones.
- B. The Facility I shall be located on buildings or other structures. The Facility I may be located on buildings and structures which contain mixed uses.
- C. Antennas equal to or less than four feet in height and with an area of not more than 580 square inches in the aggregate (e.g., 14-inch diameter parabola or 2.6-foot by 1.5-foot panel) are exempt from the height limitation of

the zone in which they are located. (For example, in some zones the maximum height of a building is 35 feet. A Facility I can go up to 39 feet and still be within the height limit). Placement of a Facility I antenna or related components on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

D. The shelter or cabinet used to house radio electronics equipment must be concealed from view and/or camouflaged. This can be accomplished through landscaping or other screening and through the use of compatible building materials.

E. In single-family residential areas, a Facility I shall be separated from any other Facility I by a distance equal to or greater than 500 linear feet.

F. The Facility I antenna and components shall be the same color as the existing building, pole or support structure on which it is to be located.

G. A building permit shall be required to construct a Facility I.

H. Roof-mounted facilities must be set back a minimum of 10 feet from the edge of the roof. (Ord. 97-14 § 1, 1997)

18.88.020 Development standards for a Facility II.

A. A Facility II is permitted in the Mixed Use Town Center, neighborhood service center, R-0.4, High School Road commercial districts, light manufacturing, and water-dependent industrial zones.

B. The Facility II may be located on buildings and other structures.

C. The shelter or cabinet used to house radio electronics equipment must be concealed from view and/or camouflaged. This can be accomplished through landscaping, fencing or other architectural screening by using compatible building materials.

D. A Facility II shall comply with the height limitation specified for all zones, except omni-directional antennas may exceed the height limitation by 12 feet. The permitted antenna height includes the wireless communication support structure. Placement of a Facility II antenna or related components on a

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nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

E. The Facility II antenna and components shall be the same color as the existing building, pole or support structure on which it is to be located.

F. A building permit shall be required to construct a Facility II.

G. Roof-mounted facilities must be set back a minimum of 10 feet from the edge of the roof.

H. In the R-0.4 zone, a Facility II must be set back at least 100 feet from each lot line. The planning director may grant a waiver of up to 25 percent of the setback requirement for monopoles and lattice towers if it is determined that significant trees and other vegetation will be retained by reducing the setback. (Ord. 97-14 § 1, 1997)

18.88.030 Development standards for a Facility III.

A. A Facility III is only permitted in the light manufacturing, water-dependent industrial and R-0.4 zones.

B. The shelter or cabinet used to house radio electronics equipment must be concealed and/or camouflaged.

C. A Facility III shall comply with the height limitation specified for all zones, except as follows: Omni-directional antennas may exceed the height limitation by 15 feet. Placement of a Facility III antenna or related components on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

D. The Facility III antenna and components shall be the same color as the existing building, pole or support structure on which it is to be located.

E. A building permit shall be required to construct a Facility III.

F. Roof-mounted facilities must be set back a minimum of 10 feet from the edge of the roof.

G. In the R-0.4 zone, a Facility III must be set back at least 100 feet from each lot line. The planning director may grant a waiver of up to 25 percent of the setback requirement for

monopoles and lattice towers if it is determined that significant trees and other vegetation will be retained by reducing the setback. (Ord. 97-14 § 1, 1997)

18.88.040 Development standards for monopoles and lattice tower support structures.

A. Monopoles and lattice towers are permitted in light manufacturing zones and in the R-0.4 zone through the site plan and design review process, pursuant to BIMC 18.105.020.A.4.

B. Monopoles and lattice towers located in the R-0.4 zone must be set back from each lot line one foot for every foot of height of the monopole or lattice tower. A monopole or lattice tower must be set back a minimum of 100 feet from SR 305. The planning director may grant a waiver of up to 25 percent of the setback requirement for monopoles and lattice towers if it is determined that significant trees and other vegetation will be retained by reducing the setback. The planning director may waive the setback requirement for public safety communications towers.

C. The maximum height of a monopole or lattice tower is 60 feet for one carrier or 120 feet if two or more carriers are located on the monopole or lattice tower. A permitted collocation monopole or lattice tower that does not have two or more carriers located on it for a period of one year or more shall be modified to conform to the single carrier height of 60 feet.

D. Public safety communications tower height shall be less than 200 feet. Where public safety communications towers exceed 120 feet in height, applications for site plan review or building permits shall include documentation that the proposed height is the minimum necessary to provide adequate facility for public safety communications. The application shall also include an acceptable plan for reducing the height of the tower in the future if technological advances make deployment at a lower level feasible.

E. The lot on which the monopole or lattice tower is to be constructed must be legally conforming.

F. The facility must be screened in accordance with BIMC 18.88.050.

G. Monopoles and lattice towers located in the light manufacturing zone must be set back a minimum of 100 feet from any residentially zoned property. The minimum setback along SR 305 is 100 feet.

H. Antennas which extend above the wireless communications support structure shall not be calculated as part of the height of a monopole or lattice tower.

I. Co-location on an existing support structure is to be permitted. A Facility III is the largest wireless communication facility allowed on a monopole or lattice tower.

J. The shelter or cabinet used to house radio electronics equipment and the associated cabling connecting the equipment shelter or cabinet to the monopole or lattice tower must be concealed and/or camouflaged through landscaping, fencing, or other screening using compatible building materials and colors.

K. A building permit shall be required to construct a monopole or lattice tower. (Ord. 2003-11 § 4, 2003; Ord. 97-14 § 1, 1997)

18.88.050 Additional criteria for monopoles and lattice towers.

In addition to the criteria specified in BIMC 18.88.040, the following specific criteria must be met before a building permit can be granted:

A. Visual Impact. Antennas may not extend more than 15 feet above their supporting structure, monopole, lattice tower, building or other structure. Site location and development shall preserve the pre-existing character of the site as much as possible. Wireless communication towers and accessory equipment (equipment shelters and cabinets) shall be integrated through location, design, and color to blend in with the existing site characteristics to the extent practical. Existing vegetation around the facility shall be preserved or improved upon to provide vegetative screening. A minimum of two-thirds of the height of the monopole or lattice tower must be screened by existing vegetation when possible. Additional screening may be required by the planning director to mitigate visual impacts to

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adjacent properties or public rights-of-way as determined by site specific conditions. Screening requirements shall include a slatted chain-link fence, with full screen landscaping, as required in BIMC 18.85.070.B, around the outer perimeter of the fence, except as necessary for egress.

B. Noise. No equipment shall be operated above 45 dB as measured from the nearest property line on which the attached wireless communication facility is located. (Ord. 2003-11 § 5, 2003; Ord. 97-14 § 1, 1997)

18.88.060 Exemption.

The following is exempt from the requirements of site plan review process, and shall be considered a permitted use in all zones where wireless and attached wireless communications facilities are permitted. Building permits shall be required for these uses:

A. Minor modifications to existing wireless communications facilities and attached wireless communications facilities, whether emergency or routine, provided there is little or no change in the visual appearance. Minor modifications are those modifications, including the addition of antennas to wireless and attached wireless communications facilities, that meet the provisions of this chapter.

B. Additions to the height of public safety communications towers. (Ord. 2003-11 § 6, 2003; Ord. 97-14 § 1, 1997)

18.88.070 Electromagnetic frequency emissions.

The city recognizes that the Federal Telecommunications Act of 1996 gives the Federal Communications Commission (FCC) sole jurisdiction in the regulation of radio frequency (RF) emissions and wireless communications facilities which meet FCC standards shall not be conditioned or denied on the basis of RF emissions. Applicants for wireless communications facilities shall be required to provide the city information on the projected power density of the facility and compliance with FCC requirements. (Ord. 97-14 § 1, 1997)

18.88.080 Obsolescence.

A wireless communications facility or attached wireless communications facility shall be removed by the facility owner within six months of the date it ceases to be used. (Ord. 97-14 § 1, 1997)

18.88.090 Definitions.

A. "Antenna" is any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio frequency signals.

1. "Omni-directional antenna" (also known as a "whip" antenna) transmits and receives radio frequency signals in a 360-degree radial pattern. For the purpose of this chapter, an omni-directional antenna is up to 15 feet in height and up to four inches in diameter.

2. "Directional antenna" (also known as a "panel" antenna) transmits and receives radio frequency signals in a specific directional pattern of less than 360 degrees.

3. "Parabolic antenna" (also known as a "dish" antenna) is a bowl-shaped device for the reception and/or transmission of radio frequency communications signals in a specific directional pattern.

B. "Accessory antenna device" means an antenna including, but not limited to, test mobile antennas and global positioning (GPS) antennas which are less than 12 inches in height or width, excluding the support structure.

C. "Attached wireless communication facility" is a wireless communication facility that is affixed to an existing structure. The existing structure is not considered a component of the attached wireless communications facility.

D. "Co-location" exists when more than one wireless communications provider mounts equipment on a single support structure.

E. "Equipment shelter" or "cabinet" means a room, cabinet or building used to house equipment for utility or service providers.

F. "Facility I" is an attached wireless communications facility which consists of antennas equal to or less than four feet in height with

an area of not more than 580 square inches in the aggregate (e.g., 14-inch diameter parabola or 2.6-foot by 1.5-foot panel).

G. "Facility II" is an attached wireless communication facility which consists of antenna equal to or less than 10 feet in height or up to one meter (39.37 inches) in diameter and with an area not more than 30 square feet in the aggregate.

H. "Facility III" is an attached wireless communication facility which consists of antennas equal to or less than 15 feet in height or up to one meter (39.37 inches) in diameter and with an area not more than 100 square feet in the aggregate.

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

J. "Monopole" is a wireless communication facility which consists of a support structure, the height of which shall not exceed 120 feet in height not including antennas.

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

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

M. "Wireless communication support structure" is the structure erected to support wireless communication antennas and connecting appurtenances. Support structure types include, but are not limited to, stanchions, monopoles, lattice towers, wood poles or guyed towers. (Ord. 97-14 § 1, 1997)

18.88.100 Effect on other code provisions.

To the extent any provisions of this chapter conflict with any provisions in other chapters or ordinances or any provisions of the code, the provisions of this chapter shall control. (Ord. 97-14 § 1, 1997)

18.88.110 Severability.

Repealed by Ord. 2003-44. (Ord. 97-14 § 1, 1997)

Chapter 18.89

ACCESSORY DWELLING UNITS

Sections:

18.89.010 Purpose.

18.89.020 Monitoring.

18.89.030 General requirements.

18.89.010 Purpose.

The purpose of this chapter is to provide a potential source of affordable housing units in single-family neighborhoods and to expedite the review and approval process for accessory dwelling units which conform to zoning and other provisions of the Bainbridge Island Municipal Code. (Ord. 95-07 § 25, 1995)

18.89.020 Monitoring.

The department will prepare a yearly report that details the number of accessory dwelling units created as a result of the provisions in this chapter. Additional information may be provided as necessary. (Ord. 95-07 § 25, 1995)

18.89.030 General requirements.

A. An accessory dwelling unit may be created within, or detached from, any single-family dwelling, whether existing or new, as a subordinate use, where permitted by this chapter.

B. Only one accessory dwelling unit may be created per parcel.

C. No variances shall be granted for an accessory dwelling unit.

D. Only the property owner, which shall include title holders and contract purchasers, may apply for an accessory dwelling unit.

E. One off-street parking space shall be provided in addition to off-street parking that is required for the primary dwelling pursuant to BIMC 18.81.030.

F. Accessory dwelling units shall be designed to maintain the appearance of the primary dwelling as a single-family dwelling containing 800 square feet of floor space or less. If a separate outside entrance is necessary for an accessory dwelling unit located within

the primary dwelling, that entrance must be located either on the rear or side of the building.

G. Detached accessory dwelling units in the R-4.3, R-3.5, and R-2.9 zones shall have minimum 10-foot side setbacks for single-story and 15-foot side setbacks for two-story.

H. School impact fees and qualified exemptions from those fees as provided in Chapter 15.28 BIMC shall apply.

I. All other applicable standards including, but not limited to, lot coverage, setbacks, parking requirements, and health district requirements for water and sewage must be met. (Ord. 2005-20 § 1, 2005: Ord. 2004-02 § 1, 2004; Ord. 95-07 § 25, 1995)

Chapter 18.90

AFFORDABLE HOUSING

Sections:

18.90.010 Purpose.

18.90.020 General provisions relating to optional affordable housing.

18.90.030 Optional residential density bonus for affordable housing.

18.90.040 Review process.

18.90.060 Repealed.

18.90.010 Purpose.

The purpose of this chapter is to implement the policies contained in the housing element of the comprehensive plan by providing an optional program for the construction of affordable housing in new single-family and multifamily residential developments. The Growth Management Act (GMA) requires the city to make adequate provisions for existing and projected housing needs of all economic segments of the community as determined by the housing needs assessment, contained in the housing element. The housing element reflects the city's goal of dispersing affordable housing throughout all geographic and economic segments of the community, and providing a mixture of housing types to discourage the development of economic enclaves. The city recognizes that the marketplace is the primary supplier of adequate housing for those in the upper economic groups, but that some combination of appropriately zoned land, regulatory incentives and innovative planning techniques will be necessary to make adequate provisions for the needs of households whose incomes are at or below middle income (as those terms are defined in BIMC 18.06.565). (Ord. 2005-08 § 3, 2005: Ord. 2001-03 § 1, 2001: Ord. 97-15 § 4, 1997)

18.90.020 General provisions relating to optional affordable housing.

A. Rounding of Fractions in Affordable Housing Calculations. In calculating the number of dwelling units or residential building lots that are permitted to be constructed pursu-

ant to BIMC 18.90.030, fractions of one-half or greater shall be rounded up to the nearest whole number.

B. Siting of Affordable Dwelling Units or Residential Building Lots. The affordable units constructed under the provisions of this chapter shall be included within the parcel of land for which the density bonus is granted. Segregation of affordable housing units within the development from market rate housing units shall be avoided whenever practical.

C. Duration of Affordability.

1. Rental Units. Affordable rental housing units created as a result of the provisions of this chapter shall remain affordable for a period of 30 years from the time of first occupancy and shall be secured by recorded agreement and covenant running with the land, binding all the assigns, heirs and successors of the applicant.

2. Home Ownership Units. All affordable homeownership units created as a result of the provisions of this chapter shall be initially sold to income-qualified households and thereafter subject to a mechanism that is specified in an appropriate administrative procedure adopted by resolution by city council allowing the city to capture a share of the appreciation when the unit is sold at market rate. The city's share of the proceeds shall be placed in its housing trust fund.

3. A unit that is owned or sponsored by a public or private nonprofit agency that already restricts benefit and resale is exempt from the provisions of subsections C.1 and C.2 of this section.

D. Required Documentation. Prior to the final approval of any land use application to which BIMC 18.90.030 is applicable, the owner of the affected parcels shall deliver to the city a duly executed covenant running with the land, in a form approved by the city attorney, identifying the units or parcels and acknowledging their obligation under this section. The applicant shall be responsible for the cost and recording of the covenant.

E. Construction of Affordable Units. When dwelling units subject to this chapter will be constructed in phases, or over a period of more than 12 months, a proportional amount

of affordable housing units must be completed at or prior to completion of the related market rate dwellings, or as approved by the director.

F. Phased Development. If a project is to be phased, the proportion of affordable units or residential building lots to be completed with each phase shall be determined as part of the phasing plan approved by the director.

G. Unimproved Lots to Be Sold. In subdivisions where the applicant intends to sell the individual unimproved lots, it is the responsibility of the applicant to arrange for the affordable units to be built.

H. Attached Housing. In single-family developments where there are two or more affordable units, side yard setbacks may be waived to allow for attached housing units for affordable units only. The placement and exterior design of the attached units must be such that the units together resemble as closely as possible a single-family dwelling.

I. Definition of Benefit. Where the code limits benefits to households whose incomes are at or below a specified income, the purpose is to include all categories of income, as defined in BIMC 18.06.565, below the category specified. For example, if the benefit limit is, "to those households whose incomes are at or below low-income," households who are extremely low-income, very-low income and low-income may benefit. (Ord. 2005-08 § 4, 2005; Ord. 2001-03 § 2, 2001; Ord. 97-15 § 4, 1997)

18.90.030 Optional residential density bonus for affordable housing.

A. Applicability. This section applies to all land use applications, except the following: (1) the construction of one single-family dwelling on one lot that can accommodate only one dwelling based upon the underlying zoning designation, (2) the Mixed Use Town Center and the High School Road districts (provisions for these zones are contained in BIMC 18.40.040), (3) neighborhood service centers (NSCs) (affordable housing provisions for NSCs are contained in Chapter 18.66 BIMC), and (4) the critical areas overlay districts identified in the comprehensive plan, which are not eligible for density bonuses.

18.90.040

B. Residential Density Bonus for the Development of Rental Affordable Housing. Density for land subject to the provisions of this section may be increased by up to a maximum of 50 percent above the underlying base density when each of the additional units is provided for households whose incomes are at or below low-income.

C. Residential Density Bonus for the Development of For-Purchase Affordable Housing. Density for land subject to the provisions of this section may be increased above the base density by the following amounts:

1. Up to a maximum of 50 percent above the underlying base density when each

of the additional units or residential building lots are provided for households whose incomes are at or below low-income.

2. Up to a maximum of 40 percent above the underlying base density when each of the additional units or residential building lots are provided for households whose incomes are at or below moderate-income.

3. Up to a maximum of 20 percent above the underlying base density when the first 10 percent of the housing units are affordable to households with incomes at or below moderate-income. The remaining 10 percent may be affordable to households whose incomes are at or below middle-income.

Affordable Housing – Optional

Affordable Housing – Optional	For Purchase	For Rent
	Up to 50% density bonus if each of the bonus units are affordable to households whose incomes are at or below low-income.	Up to 50% density bonus when each of the bonus units are affordable to households with incomes at or below low-income.
	Up to a 40% density bonus if each of the bonus units are affordable to households whose incomes are at or below moderate-income.	
	Up to a maximum of 20% above the underlying base density when the first 10% of the housing units are affordable to households with incomes at or below moderate-income. The remaining 10% may be affordable to households whose incomes are at or below middle-income.	

(Ord. 2005-08 § 6, 2005: Ord. 2001-03 § 3, 2001: Ord. 97-15 § 4, 1997. Formerly 18.90.040)

18.90.040 Review process.

A. A preapplication conference will be required for any land use application that includes a proposal for density bonus.

B. Residential density bonus proposals will be reviewed concurrently with the primary land use application.

All land use applications for which the applicant is seeking to include the area of a wetland in the density calculation shall satisfy the requirements of BIMC 16.20.090. (Ord. 2005-08 § 6, 2005: Ord. 2001-03 § 5, 2001: Ord. 97-15 § 4, 1997. Formerly 18.90.050)

18.90.060 Alternative mechanism.

Repealed by Ord. 2005-08. (Ord. 2000-40 § 1, 2000)

18.90.040 Optional residential density bonus for affordable housing (all zones).

A. Applicability. This section applies to all land use applications, except the following: (1) the construction of one single-family dwelling on one lot that can accommodate only one dwelling based upon the underlying zoning designation, (2) the Mixed Use Town Center and the High School Road districts (provisions for these zones are contained in BIMC 18.40.040 and 18.40.050), (3) neighborhood service centers (NSCs) (affordable housing provisions for NSCs are contained in Chapter 18.66 BIMC), and (4) the critical areas overlay districts identified in the comprehensive plan, which are not eligible for density bonuses.

B. Residential Density Bonus for the Development of Rental Affordable Housing. Density for land subject to the provisions of this section may be increased by up to a maximum of 50 percent above the underlying base density when each of the additional units is provided for households whose incomes are at

or below low-income (fractions of .5 or greater are rounded up to the nearest whole number).

C. Residential Density Bonus for the Development of For-Purchase Affordable Housing. Density for land subject to the provisions of this section may be increased above the base density by the following amounts: (fractions of .5 or greater are rounded up to the nearest whole number):

1. Up to a maximum of 50 percent above the underlying base density when each of the additional units or residential building lots are provided for households whose incomes are at or below low-income.

2. Up to a maximum of 40 percent above the underlying base density when each of the additional units or residential building lots are provided for households whose incomes are at or below moderate-income.

3. Up to a maximum of 20 percent above the underlying base density when the first 10 percent of the housing units are affordable to households with incomes at or below moderate-income. The remaining 10 percent may be affordable to households whose incomes are at or below middle-income.

Affordable Housing – Optional

Affordable Housing -- Optional	For Purchase	For Rent
	Up to 50% density bonus if each of the bonus units are affordable to households whose incomes are at or below low-income.	Up to 50% density bonus when each of the bonus units are affordable to households with incomes at or below low-income.
	Up to a 40% density bonus if each of the bonus units are affordable to households whose incomes are at or below moderate-income.	
	Up to a maximum of 20% above the underlying base density when the first 10% of the housing units are affordable to households with incomes at or below moderate-income. The remaining 10% may be affordable to households whose incomes are at or below middle-income.	

(Ord. 2001-03 § 3, 2001: Ord. 97-15 § 4, 1997. Formerly 18.90.030)

18.90.050 Review process.

A. A preapplication conference will be required for any land use application that includes a proposal for density bonus.

B. Residential density bonus proposals will be reviewed concurrently with the primary land use application.

All land use applications for which the applicant is seeking to include the area of a wetland in the density calculation shall satisfy the requirements of BIMC 16.20.090.C. (Ord. 2001-03 § 5, 2001: Ord. 97-15 § 4, 1997)

18.90.060 Alternative mechanism.

All affordable home ownership units constructed or required to be constructed by this chapter as part of a land use application that was complete on or before September 25, 2000, shall, at the option of the developer, first owner or applicant, be subject to (1) this chapter, as in effect on the date of passage of the ordinance codified in this section, or (2) this chapter, as in effect on the date of passage of the ordinance codified in this section, as amended or supplemented by the following requirements:

A. All affordable homeownership units ("units") shall be initially sold to income qualified households.

B. The sale shall be subject to a note secured by a deed of trust, allowing the city to capture, at the time of resale, the difference between the initial appraised value and the initial actual sales price (the "subsidy"). In addition, the city shall capture a prorated share of the appreciation attributable to the subsidy, provided the purchaser retains ownership for five years from the date of initial closing.

C. If the initial purchaser sells prior to the end of the five years, the city shall capture an additional portion of the seller's share of the appreciation based on the following sliding scale, exclusive of any out-of-pocket expenses, including actual cash down payments and the portion of the payments credited to principal:

1. Within the first year, 80 percent;
2. Within the second year, 60 percent;
3. Within the third year, 20 percent;
4. Within the fourth year, 15 percent;
5. Within the fifth year, 10 percent.

D. The deed of trust shall be generally subordinate to the primary financing and may be subordinate to other financing upon the review and approval of the city.

E. The note shall become due at the time of a change in ownership.

F. The note shall become due at the time the unit is no longer the primary residence of the qualified owner during the first five years. The unit may not be rented to others within the first five years.

G. The owner of a unit shall not be required to pay to the city any shortfall resulting from resale of the unit.

H. Any proceeds resulting from the sale of a unit shall be placed in the city's housing trust fund.

I. A unit shall not be required to remain affordable for 30 years.

J. A unit that is owned, or sponsored, by a public or private nonprofit agency that already restricts benefit and resale is exempt from the above provisions. (Ord. 2000-40 § 1, 2000)

Chapter 18.91

MANUFACTURED HOME PROVISIONS

Sections:

18.91.010 Inspection of manufactured homes.

18.91.020 Nonconforming manufactured homes.

18.91.030 Repealed.

18.91.010 Inspection of manufactured homes.

A. The building official shall inspect and approve the installation of manufactured homes prior to occupancy.

B. If a manufactured home is replaced by another manufactured home, a new installation inspection shall be required. (Ord. 95-07 § 26, 1995; Ord. 92-08 § 2, 1992)

18.91.020 Nonconforming manufactured homes.

A manufactured home that was built before June 15, 1976, and was legally placed and maintained prior to the date of adoption of the ordinance codified in this chapter and does not meet the requirements of this chapter, shall be deemed to be a legal nonconforming building, i.e., nonconforming as to date of construction. (Ord. 95-07 § 27, 1995; Ord. 92-08 § 2, 1992)

18.91.030 Manufactured home developments.

Repealed by Ord. 95-07. (Ord. 92-08 § 2, 1992)

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Chapter 18.93

DAY CARE FACILITIES

Sections:

- 18.93.010 Purpose.**
- 18.93.020 Family day care home.**
- 18.93.030 Child day care center.**
- 18.93.040 Decision criteria.**
- 18.93.050 Registration.**

18.93.010 Purpose.

It is the purpose of this chapter to facilitate siting of child day care facilities in a manner that simplifies review and approval processes while ensuring conformance with surrounding land uses. (Ord. 92-08 § 2, 1992)

18.93.020 Family day care home.

A family day care home shall be permitted in all residential zoning districts. Permit approval shall be through an administrative site plan review process and shall be subject to the following conditions in addition to BIMC 18.93.040:

A. One off-street parking space is required for each on-shift, nonresidential employee in addition to the residential parking requirements found in Chapter 18.81 BIMC, Parking and access requirements. Residential driveways are acceptable accessways.

B. Access streets, parking and/or loading areas shall be sufficient to safely accommodate the number of estimated vehicle trips generated by the use.

C. No structured area for active play or play structures may be located in the front setback. In the event of double frontage or similar situations, the director or designee shall determine which setback would have the least visual impact to the neighborhood.

D. Family child day care homes located within multifamily residential uses shall not be operated from a combination of dwelling units. (Ord. 2004-02 § 1, 2004; Ord. 92-08 § 2, 1992)

18.93.030 Child day care center.

A child day care center shall meet the following requirements in addition to BIMC 18.93.040:

A. Residential Zoning Districts.

1. A child day care center may be allowed in residential zoning districts only upon issuance of a conditional use permit.

2. A sight-obscuring fence of at least four feet in height as approved by the hearing examiner shall be provided, separating any play area from adjoining lots.

3. Child day care centers located in residential zones shall conform to all standards required in subsection B of this section and BIMC 18.93.040, as well as any additional requirements placed by the hearing examiner after public comments are considered.

B. Commercial Zoning Districts. A child day care center is permitted in all commercial districts subject to site plan review using the following criteria in addition to BIMC 18.93.040:

1. Structure(s) shall meet building, sanitation, health, traffic safety and fire code requirements.

2. A minimum of one off-street parking space shall be provided for each on-shift employee plus one space per 12 persons served.

3. An on-site vehicle turn-around or separate entrance and exit points, and passenger loading area must be provided. The city shall specifically consider the location and appearance of the proposed turn-around or access in determining compatibility with surrounding uses.

4. A child day care center shall not be located within 300 feet of another day care center, except for any child day care center that is an accessory use in a community service facility, as described in subsection D.

5. Child day care centers shall conform to Chapters 18.78, general regulations, 18.81, parking and access requirements, and 18.84, open space and planting requirements.

C. Limitations of Use of a Family Residence. No child day care center shall be located in a private family residence unless the portion of the residence where the children have access is used exclusively for the children during the hours the center is in operation, or is separate from the usual living quarters of the family.

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D. Accessory Use. A child day care center, if sited on the premises of an operating community service facility, such as a private or public school, place of worship, community center or library, and is associated with that activity, shall be considered accessory to the principal use of the property concerned. (Ord. 92-08 § 2, 1992)

18.93.040 Decision criteria.

All facilities providing child day care shall meet the following provisions:

A. Meet state child care licensing requirements;

B. Comply with all building, fire safety and health code requirements;

C. Conform to the lot size, building size, setback and lot coverage requirements of the underlying zones;

D. Provide an off-street drop-off/pick-up area;

E. File a child care registration form with the city as provided in BIMC 18.93.050, registration;

F. Comply with all business licensing requirements;

G. No structural or decorative alteration is permitted in a residential zone if that alteration changes the residential character of an existing residential structure or be incompatible with surrounding residences;

H. Day care services shall not be conducted before 5:00 a.m. or after 9:00 p.m. in residential zones;

I. An on-site vehicle turn-around, or separate entrance and exit points, and passenger loading area must be developed according to plans approved by the city engineer;

J. No structured area for active play or play structures may be located in front setbacks in residential zones; and

K. The site must be landscaped in a manner compatible with adjacent residences in residential zone according to a plan approved by the department. (Ord. 2004-02 § 1, 2004; Ord. 92-08 § 2, 1992)

18.93.050 Registration.

Each child care service provider must register with the city by filing a child care registration form as provided by the city prior to the initiation of use. The child care provider must demonstrate compliance with the applicable conditions of this title as listed on the registration form. No fee will be required for this registration. (Ord. 92-08 § 2, 1992)

Chapter 18.96

HOME OCCUPATIONS

Sections:

- 18.96.010 Purpose.**
- 18.96.020 Permit procedures.**
- 18.96.030 Criteria for minor home occupations.**
- 18.96.040 Criteria for major home occupations.**
- 18.96.050 Prohibited home occupations.**
- 18.96.060 Time limitation.**
- 18.96.070 Revocation of permits.**

18.96.010 Purpose.

The purpose of this chapter is to (1) allow home occupations that are compatible with the neighborhoods in which they are located and (2) regulate other home occupations in accordance with the impact on the neighborhoods in which they are located. (Ord. 92-08 § 2, 1992)

18.96.020 Permit procedures.

A. Home occupations complying with the criteria established in BIMC 18.96.030 shall be considered minor and permitted in all zones in which residences are permitted. Administrative review by the planning department will commence upon the city's receipt of a business license application to determine compliance with this chapter.

B. Home occupations complying with the criteria established in BIMC 18.96.040, criteria for major home occupations, shall commence only after the issuance of a conditional use permit as outlined in Chapter 18.108 BIMC. (Ord. 92-08 § 2, 1992)

18.96.030 Criteria for minor home occupations.

Minor home occupations shall meet all of the following criteria:

A. The business shall be conducted wholly within a residence or an accessory building and is clearly subordinate to the residence;

B. No more than one person who is not a resident of the dwelling shall be employed in the home occupation;

C. The property shall not be altered. No expansion of the parking area is allowed beyond that required for the residence. No parking in the setbacks or buffers is allowed;

D. The use shall not generate additional vehicular traffic beyond that typical for the residence and one employee, except that home-based teaching businesses shall be allowed up to 24 student-related trips per day unless the home-based teaching business is located immediately adjacent to and has direct access to a secondary and/or primary arterial street as designated on the adopted street classification map, in which case the business is allowed unlimited student-related trips;

E. Only products produced on-site or incidental to items produced on-site shall be sold, but arranged sales incidental to the home occupation are allowed;

F. No outdoor storage or other exterior indication of the business shall be visible beyond the subject property;

G. Commercial vehicles shall not be used, other than that normally used by the applicant or an employee;

H. A business license from the city shall be obtained as required in BIMC Title 5;

I. No noise, vibration, emissions, dust, odor, heat or glare that would exceed what is normally associated with a dwelling shall be produced by the business beyond the subject property;

J. No structural or decorative alteration is permitted related to the home occupation;

K. Delivery service shall neither restrict traffic circulation nor overload public or private roads; and

L. Except for a two-square-foot wooden sign, no display shall be visible from the exterior of the residence. (Ord. 99-41 § 1, 1999; Ord. 92-08 § 2, 1992)

18.96.040 Criteria for major home occupations.

A. Major home occupations shall be allowed subject to a conditional use permit, and shall meet the requirements set forth in BIMC 18.96.030(E) through (L) and the following requirements:

1. The business, including operations and storage, shall occupy no more than half of the residential gross floor area, which includes all accessory buildings. If the business occupies an accessory building, the square footage of that building shall not be larger than the primary residential building;

2. The building official shall determine the maximum occupancy load of the structure(s) in which the home occupation is proposed; the hearing examiner shall consider this number along with all other pertinent facts and comments in determining the maximum number of employees allowed on the premises to work in the home occupation at any one time;

3. The subject property shall not be altered except to install screening or buffers or to provide parking for no more than four vehicles. No parking in setbacks and buffers shall be allowed;

4. No more than three vehicles shall be parked on or in the vicinity of the property as a result of the business at any one time;

5. On-site sales shall be limited to items produced on the premises or incidental to the major home occupation; and

6. Accessways shall be accessible to emergency vehicles.

B. Major home occupations include, but are not limited to the following:

1. Home occupations that do not meet all of the criteria in BIMC 18.96.030, criteria for minor home occupations;

2. Auto repairing, vehicle detailing, and vehicle, boat or trailer painting and major appliance repair;

3. Commercial welding and machine shops. (Ord. 2004-02 § 1, 2004; Ord. 92-08 § 2, 1992)

18.96.050 Prohibited home occupations.

Because the following uses have a pronounced tendency to expand beyond the limits permitted for home occupations, and to impair the use and value of residential structures, the uses are better suited to commercial zones and are not considered home occupations:

A. General retail sales, such as eating and drinking establishments;

B. Funeral chapel or mortuary;

C. Heavy machinery storage not part of an agricultural use. (Ord. 92-08 § 2, 1992)

18.96.060 Time limitation.

Minor home occupations shall be permitted to continue as long as the use continues to comply with the criteria that were in effect at the time of original approval and as long as the business complies with local and state regulations, such as renewing business licenses as required by ordinance. (Ord. 92-08 § 2, 1992)

18.96.070 Revocation of permits.

A. Upon determination that a violation of a decision criteria or condition of approval may have occurred, the director shall notify the owner of a home occupation of the alleged violation and of the revocation procedures if the business is not brought into conformance within 30 days.

B. If the business is not brought into conformance, a public hearing shall be conducted before the hearing examiner according to BIMC 5.04.080 for revocation of a business license or Chapter 18.108 BIMC for revocation of a conditional use permit.

C. When a permit or business license is revoked, the director shall notify the owner by certified mail of the revocation and the findings upon which revocation is based. (Ord. 92-08 § 2, 1992)

Chapter 18.99**AGRICULTURE****Sections:**

- 18.99.010 Purpose.**
- 18.99.020 Permitted uses.**
- 18.99.030 Accessory uses to agriculture.**
- 18.99.040 Agricultural accessory use with review.**
- 18.99.050 Criteria for minor agricultural retail sales.**
- 18.99.060 Major agricultural retail.**
- 18.99.070 Fees.**
- 18.99.080 Time limitation.**
- 18.99.090 Enforcement.**

18.99.010 Purpose.

The purpose of this chapter is to provide for all forms of the keeping of livestock and crop related activities, e.g., crop growing and processing, for commercial and noncommercial agricultural ventures. To the extent possible, agriculture shall be treated as a preferred use in zones in which it is a permitted use. (Ord. 92-08 § 2, 1992)

18.99.020 Permitted uses.

When permitted as a use in a zone, agriculture shall be subject to the following conditions:

A. Annual and perennial crops from plants, bushes and trees are permitted subject to compliance with soil erosion considerations and impact on the water resources. General standards established by the U.S. Department of Agriculture as best management practices shall be a guide to permitted activities.

B. Ranching, grazing of livestock and free-range poultry are limited by density constraints established by the U.S. Department of Agriculture best management practices, as well as local laws. Best management practices limit the density of grazing animals in proportion to their demands for pasturage.

C. Confined feed lots and confined poultry yards must provide treatment of barnyard wastes to standards established by the U.S. Department of Agriculture as best management practices.

As long as agriculture is practiced within the provisions of "best management practices" defined by the U.S. Department of Agriculture and Chapter 16.20 BIMC, agricultural uses cannot be treated as nuisances. (Ord. 92-08 § 2, 1992)

18.99.030 Accessory uses to agriculture.

The following are accessory uses to agriculture:

A. Processing agricultural products produced on the Island. Certain zones may permit agriculture but only allow processing as a conditional use.

B. Storage of heavy equipment used for agricultural purposes.

C. A produce stand and consequent seasonal agricultural retail sales of products grown or livestock raised primarily on the Island is allowed.

D. Retail sales, in R-0.4, R-1 and R-2 zoning districts, of crops grown, or livestock raised primarily on the Island, or value added products made from those crops or livestock or agricultural-tourism associated with the growing of crops or raising of livestock, or incidental associated agricultural products, that meets the criteria found in BIMC 18.99.040, are allowed year-round. (Ord. 2004-11 § 1, 2004; Ord. 92-08 § 2, 1992)

18.99.040 Agricultural accessory use with review.

A. Purpose. To provide for the economic viability of Bainbridge Island farmers by allowing certain year-round on-site retail activities as an accessory or administrative conditional use in zoning districts where agriculture is an allowed and preferred use.

B. Procedure.

1. Agricultural retail complying with the criteria established in BIMC 18.99.050 shall be considered minor and permitted in zones R-0.4, R-1 and R-2, in which agriculture is a permitted and preferred use. An administrative review by the planning department will be conducted within 30 days of the city's receipt of an agricultural retail plan application to determine compliance with this chapter.

2. Agricultural retail plans that meet the established criteria shall be kept on file at

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the city and the applicant shall be notified about review of the plan, and the criteria required by this chapter for the agricultural retail activity.

3. The agricultural retail plan shall be updated by the applicant as necessary to reflect current and accurate retail operation conditions.

4. Agricultural retail activity complying with the criteria established in BIMC 18.99.060, thresholds for major agricultural retail operations, shall follow an administrative conditional use permit process as outlined in Chapter 18.108 BIMC. (Ord. 2004-11 § 3, 2004)

18.99.050 Criteria for minor agricultural retail sales.

Agricultural retail in zones R-0.4, R-1 and R-2 shall meet all of the following criteria:

A. The retail activity shall be on site(s) where crops are grown or livestock is raised, and joint use of farmstands by multiple producers is allowed, including use of retail sites for pick-up of community supported agricultural (CSA) deliveries.

B. The retail activity shall be subordinate to the agricultural activity on-site.

C. Products sold shall be primarily Island grown crops, value added products if the defining ingredient was Island grown, and associated products that are incidental to the agricultural activity on the site.

D. Parking shall be provided on-site that does not adversely impact sensitive areas or water quality and accommodates the anticipated traffic volumes.

E. Noise thresholds as established in Chapter 16.16 BIMC shall not be violated.

F. Lighting shall meet the city's standards as established in Chapter 15.34 BIMC.

G. Shall be allowed up to four special events per year.

H. No more than 24 (round-trip) retail-related automobile trips per day (on average, annually) shall be generated except that:

1. An agricultural retail operation activity within an R-0.4, R-1 or R-2 zoning district that is located on a road classified as a secondary arterial or above, and has the capac-

ity on-site to accommodate the required parking may generate an unlimited number of automobile trips per day for agricultural retail activities.

I. Agricultural-tourism activities are allowed as defined in Chapter 18.06 BIMC.

J. All applicable local, county, state and/or federal requirements must be met. (Ord. 2004-11 § 3, 2004)

18.99.060 Major agricultural retail.

A. Major agricultural retail shall be determined as follows:

1. Agricultural retail in zones R-0.4, R-1 and R-2 with volumes, that are located on a roadway classified as a collector or lower, that are expected to exceed the allowed thresholds of 36 (round-trip) trips per day average; or

2. Agricultural retail in zones R-0.4, R-1 and R-2 offering more than four special events on-site per year.

B. All agricultural retail activity that exceeds the thresholds set in this section shall be considered major agricultural retail operation and shall be processed according to BIMC 18.108.020.C, Administrative Conditional Use. (Ord. 2004-11 § 3, 2004)

18.99.070 Fees.

Fees shall be established by resolution as set forth in BIMC 2.16.060 except that property with an existing conservation easement or a property that is currently enrolled in the Kitsap County current use assessment program or property that has had the development rights removed shall be exempt from fees for the agricultural retail sales review. (Ord. 2004-11 § 3, 2004)

18.99.080 Time limitation.

Agricultural retail operations shall continue as long as the use continues to comply with the criteria that were in effect at the time of original approval and as long as the business complies with the conditions established in the agricultural retail plan for the site and with any other applicable city, county, state or federal regulations.

A. Any on-site agricultural retail activity that ceases operation for more than one year

(four consecutive seasons) shall be required to reapply.

B. Agricultural retail plans, for ongoing operations, may be updated at any time, without a review fee, to reflect changes in agricultural retail operations, as long as the proposed changes continue to meet the criteria established in BIMC 18.99.040. (Ord. 2004-11 § 3, 2004)

18.99.090 Enforcement.

A. Upon notification that a violation of the required criteria may have occurred, the director shall notify the property owner of the alleged violation and a code enforcement investigation shall be conducted.

B. If it is determined that there was a violation of the criteria found in BIMC 18.99.040, the code enforcement officer shall notify the owner of the property by certified mail of the findings and required actions for compliance. (Ord. 2004-11 § 3, 2004)

Chapter 18.100

DEVELOPMENT IMPACT ON PUBLIC SCHOOL FACILITIES¹

(Repealed by Ord. 93-05)

1. Code reviser's note: For provisions on development impacts and fees for public school facilities, see Chapter 15.28 BIMC.

Chapter 18.102

PERMIT AND APPEAL PROCEDURES

Sections:

18.102.010 Required – Issuance.

18.102.020 Applications generally.

18.102.030 Repealed.

18.102.010 Required – Issuance.

In addition to all other permits and city approval required by this title, a use and occupancy permit shall be required before occupancy, for each principal structure erected on each lot, parcel or property. Such permit shall be issued by the building official upon determination of compliance with the requirements of this title and the Uniform Building Code. (Ord. 92-08 § 2, 1992)

18.102.020 Applications generally.

Applications under this title shall be made by the property owner, contract purchaser, or an agent who has been designated as such in writing. The address indicated on the application shall be, for the purposes of this title, the address of the applicant, and all correspondence relating to the application shall be directed to that address. The applicant or designated representative must be present at any public meeting that has been publicly advertised to hear the application or when the applicant has been personally notified of such a meeting. (Ord. 92-08 § 2, 1992)

18.102.030 Hearings, final action and appeals.

Repealed by Ord. 96-20. (Ord. 92-08 § 2, 1992)

Chapter 18.105

SITE PLAN AND DESIGN REVIEW

Sections:

- 18.105.010 Purpose.**
- 18.105.020 Applicability.**
- 18.105.030 Approval required.**
- 18.105.035 Development review committee.**
- 18.105.040 Overview of design process and application procedure.**
- 18.105.045 Design process.**
- 18.105.050 Repealed.**
- 18.105.055 Submittal requirements.**
- 18.105.060 Decision criteria.**
- 18.105.065 Action of director.**
- 18.105.070 Repealed.**
- 18.105.080 Effect of approved site plan and design review.**
- 18.105.090 Repealed.**
- 18.105.100 Expiration and extension.**
- 18.105.110 Repealed.**
- 18.105.120 Appeal.**
- 18.105.130 Site plan and design review process.**

18.105.010 Purpose.

A. The purpose of this chapter is to establish a comprehensive site plan and design review process which ensures compliance with the adopted plans, policies and ordinances of the city.

B. The overall goal of this chapter is to minimize land alteration, provide greater site development flexibility and consequently provide more creative and imaginative design than generally is possible under conventional zoning regulations.

C. It is further intended to provide for the review of development proposals with respect to overall site design and to provide a means for guiding development in a logical, safe, attractive and expedient manner, while allowing multiple phased development.

D. Site design for the light manufacturing zoning district is intended to mitigate impacts to nearby residential areas, roadways, parks, schools, and churches, retain natural vegetation and existing neighborhood character, to

protect critical areas and natural systems, promote the connectivity and enhancement of watersheds and other natural systems, limit impervious surfaces, and promote the re-use of on-site, storm water run-off.

E. This chapter provides two methods of site plan and design review:

1. Administrative review for a minor project which can clearly meet the decision criteria in BIMC 18.105.060, as determined by the director, such as:

- a. A fourplex multifamily development;
- b. A minor commercial remodel or the addition of a small room; and
- c. A minor change in use, such as from a church to a preschool; and

2. Planning commission review and recommendation is required for a project which:

a. Is determined by the director to be more complicated than those in subsection E.1 of this section, due to site constraints or due to the complexity of the project; or

b. Which receives written public comment(s) during the public comment period concerning the effect on the land use application of the comprehensive plan, shoreline master program or matters not addressed by specific provisions of this code; or

c. Is located on property zoned light manufacturing subsequent to the adoption of the ordinance codified in this chapter. (Ord. 2006-16 § 3, 2006: Ord. 99-30 § 4, 1999: Ord. 96-14 § 2, 1996; Ord. 92-08 § 2, 1992)

18.105.020 Applicability.

A. Site plan and design review shall be required prior to the issuance of final construction permits in any of the following circumstances:

1. The new construction of a building or other structure, excluding permits authorizing residential construction for detached single-family residential use, and accessory dwelling units.

2. The expansion, remodel, or exterior alteration of any building or other structure by more than five percent of its existing floor area, or overall size in cases where floor area is

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not applicable; or expansion which creates a new dwelling unit; excluding permits for expansion or alterations of buildings or other structures that are used for single-family residential purposes.

3. A change of use, where traffic, noise and other impacts are greater than the impacts for the previously existing use.

4. The construction of wireless communications support structures.

B. For properties zoned light manufacturing or business park subsequent to the adoption of the ordinance codified in this chapter, the development standards of BIMC 18.72.050 shall apply in addition to any other applicable standards of this chapter.

C. Exemptions.

1. Any activity which does not require a building permit and is not considered a change in use.

2. Any activity on the exterior of a building which does not exceed five percent of the structure's total cost or fair market value, whichever is higher, as determined by the building official.

3. Interior work which does not alter the exterior of the structure or affect parking standards by increasing floor area.

4. Normal building maintenance including the repair or maintenance of structural members.

5. Maintenance or expansion of existing parks where the proposed activities are exempt from SEPA review in accordance with WAC 197-11-800. (Ord. 2005-29 § 32, 2005; Ord. 2003-11 § 7, 2003; Ord. 99-30 § 4, 1999; Ord. 96-14 § 3, 1996; Ord. 92-08 § 2, 1992)

18.105.030 Approval required.

No person, firm or corporation shall locate or expand a use for which a site plan and design review is required without first obtaining site plan and design review approval and paying the appropriate fee as established by the city by resolution. (Ord. 99-30 § 4, 1999; Ord. 96-14 § 4, 1996; Ord. 92-36 § 3, 1992; Ord. 92-08 § 2, 1992)

18.105.035 Development review committee.

The development review committee shall consist of a staff planner, the building official or designee, the city engineer or designee, and, if appropriate, a representative from the police department, Bainbridge Island park district, Bainbridge Island School District, Bainbridge Island Fire District #23, and Bremerton-Kitsap County health district. Two additional members, an architect and landscape architect, shall be appointed by the mayor, and may be included if determined to be appropriate by the director. (Ord. 99-30 § 4, 1999; Ord. 96-14 § 5, 1996)

18.105.040 Overview of design process and application procedure.

The city shall process a site plan and design review application in accordance with BIMC 2.16.095 and the following process and procedures:

A. Design Process Overview. An applicant shall first conduct a site analysis. The site analysis and preliminary site plan(s) are submitted for review and comment to the development review committee (DRC) at a preapplication conference.

B. Application Procedure Overview. After review, comment and recommendation on the site analysis and preliminary site plan by the development review committee following the preapplication conference, the applicant may submit a site plan and design review application. The development review committee shall review the application, considering the previous preapplication comments and decision criteria of BIMC 18.105.060.

The development review committee shall make a recommendation to the director. After review of the development review committee recommendation, the director shall forward the application to the planning commission, as required. At a public meeting, the planning commission shall consider the application together with the development review committee recommendation and the decision criteria, and shall make a recommendation on the application to the director. The director shall make the final decision on the application, based on the decision criteria and the recom-

mendations of the development review committee and planning commission. (Ord. 99-30 § 4, 1999)

18.105.045 Design process.

The city shall process a site plan and design review application in accordance with BIMC 2.16.095 and the following procedures:

A. Preapplication Conference with the Development Review Committee.

1. To assist in review processing, an applicant for a site plan and design review shall meet with the development review committee at a required preapplication conference in accordance with the purpose and procedures of BIMC 2.16.035.

a. An applicant shall first conduct a site analysis identifying existing water-courses/wetlands, significant trees and vegetation, critical areas and other natural features, open space in accordance with the design process, and development standards of BIMC 18.72.050, if applicable.

b. A prospective applicant for a site plan and design review proposal shall prepare maps, site plan(s) and studies (as specified in BIMC 18.105.055) that show how the proposal promotes the purpose of this chapter and meets the standards of the zoning district and this chapter.

2. A preapplication conference may not be necessary for some minor site plan and design review proposals, in which case the conference may be waived by the director in accordance with BIMC 2.16.035.B.

3. An applicant for a nonadministrative site plan and design review permit is required to participate in a community meeting through the city's public participation program outlined in Resolution No. 2010-32. The meeting will be held after the design review board meeting during the preapplication conference phase of the project.

4. Within 14 days of a preapplication conference, the development review committee shall notify the applicant in writing whether the proposal will likely require planning commission review.

B. An applicant may submit an application for site plan and design review at any time after completion of a required preapplication conference. The applicant shall submit a complete application as specified in BIMC 18.105.055. Upon receipt of a complete application, the director shall provide notice to the applicant and public in accordance with BIMC 2.16.085, and commence the application review process. A notice of application with public comment period, and a notice of decision shall be required in accordance with BIMC 2.16.085.C and E, for all site plan and design review applications.

C. Application Review.

1. A site plan and design review application for minor projects may be reviewed by the development review committee (DRC), as determined by the director. The final decision on an application is made by the director.

a. Upon receipt of a complete application, the director may determine, based on the complexity of the proposal, that it is appropriate that the DRC review the application. The DRC shall consider the application at a meeting and make a recommendation to the director.

b. The director will make the final decision based on the following:

i. The recommendation of the DRC, if applicable;

ii. Consideration of any public comments received; and

iii. The decision criteria, BIMC 18.105.060.

2. A site plan and design review application requiring planning commission review and recommendation shall be reviewed by the development review committee (DRC) and the planning commission prior to the final decision by the director.

a. The director shall forward a completed application to the DRC.

b. The development review committee shall consider the application at a meeting and make recommendation to the director.

c. The director shall review the DRC recommendation and determine the major issues and specific aspects of the project which the planning commission should

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review. The director will forward this review directive along with the DRC recommendation to the planning commission.

d. The planning commission shall review the application in relationship to the director's review directive and the decision criteria. The planning commission shall consider the application at a public meeting and shall forward the recommendation to the director in accordance with BIMC 2.16.095.D.

e. The director will make the final decision based on the following:

i. The recommendation of the development review committee;

ii. Consideration of any public comments received;

iii. The recommendation of the planning commission; and

iv. The decision criteria, BIMC 18.105.060.

D. Relationship to Other Land Development Applications – Consolidated Project Review.

1. If requested by the applicant, a site plan and design review application which is part of a proposal requiring multiple land use permits may be combined in a consolidated project review. Related applications requiring a public hearing shall be considered at one public hearing in accordance with BIMC 2.16.120.

2. If a site plan and design review application is part of a consolidated project, the director will review the site plan and design review application as prescribed under subsection C.1 or C.2 of this section, as appropriate, and forward the findings and decision to the appropriate hearing body for any required public hearing. (Ord. 2010-25 § 4, 2010; Ord. 2001-41 § 12, 2001; Ord. 99-30 § 4, 1999; Ord. 96-14 § 6, 1996; Ord. 92-36 § 4, 1992; Ord. 92-08 § 2, 1992)

18.105.050 Site design development standards for light manufacturing and business park.

Repealed by Ord. 2006-16. (Ord. 2005-01 § 12, 2005; Ord. 2004-02 § 23, 2004; Ord. 99-30 § 4, 1999)

18.105.055 Submittal requirements.

A. Preapplication Conference Submittal Requirements. An applicant of a proposed project subject to site plan and design review shall provide the following for a required pre-application conference:

1. Base map. A scaled drawing including the following information:

- a. North arrow and graphic scale;
- b. Property boundaries;
- c. Existing vegetation;
- d. Existing watercourses or other natural features;
- e. Topography;
- f. Existing access;
- g. Easements;
- h. Existing roads; and
- i. Existing structures.

2. Aerial photograph.

3. Site inventory map. A copy of the base map, or as an overlay attachment to the base map (provided that the overlay is prepared on a transparent material), including the following information:

- a. Critical areas protected by Chapter 16.20 BIMC;
- b. Existing pasture and farmland;
- c. Wooded and forested areas;
- d. Water features not protected by Chapter 16.20 BIMC;
- e. Unique natural land or rock features; and
- f. Adjacent areas designated as park, open space or natural preserve.

4. Preliminary site plan. The preliminary site plan shall be a graphic composite prepared consistent with applicable zoning development standards and road and access-way standards. The plan may be on a copy of the base map, or on an overlay attachment to the base map. Elements of the plan must be consistent with the following requirements:

a. For light manufacturing developments, open space areas shall be established as required pursuant to BIMC 18.72.050.

b. The location of any proposed individual or community well(s) and/or water system(s) for the subject property, and associated wellhead protection areas as required by the health district shall be graphically indi-

cated on a copy of the base map, or on an overlay attachment to the base map if the overlay is prepared on a transparent material. Maintenance access to the proposed wellhead or water system and all areas to be cleared for a wellhead shall also be identified.

c. The location of any proposed individual or community drainfields for the subject property and associated reserve drainfields as required by the health district shall be

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graphically indicated on a copy of the base map, or as an overlay attachment to the base map (providing that the overlay is prepared on a transparent material). Maintenance access to proposed drainfields shall also be identified.

d. Roads and access consistent with the requirements of the city of Bainbridge Island public works design and construction standards and shall be graphically indicated on a copy of the base map or as an overlay attachment to the base map (providing that the overlay is prepared on a transparent material).

e. The preparation of alternative configurations for all the above elements of the proposed site plan is encouraged.

B. Application Submittal Requirements. An application for site plan and design review shall be filed with the department of planning and community development on forms provided by that department. All applications shall be accompanied by the fees as required by resolution, and shall include, but not be limited to, the following documents:

1. The legal description of the property, tax lot number and vicinity map;

2. A complete and detailed written statement of the intended use of the land and the sequence and timing of the proposed development and the applicant's intentions with regard to the proposed ownership of land areas, dwelling units, if any, and commercial buildings within the development, both during and after construction. The statement shall include the following:

a. The acreage contained within the proposed site plan and design review;

b. The total number of residential units, the proposed square footage of residential and/or commercial construction for each building and the maximum total square footage of construction;

c. The acreage of open space to be contained in the site plan and design review;

d. The height, setbacks, building and development lot area coverage;

e. The phasing of street improvements, including road construction, acreage of road area and percentage it represents of the total land area;

f. The availability and phasing of water system extensions;

g. The method of sewage disposal to include the availability and phasing of system extensions; and

h. Phasing of on- and off-site requirements such as sidewalks, bike paths, or improvements of adjacent streets;

3. Affidavit of the ownership or of substantial beneficial interest in the subject property;

4. Vicinity map;

5. Scale drawings of the property depicting:

a. North point and graphic scale;

b. Boundaries, easements, and ownerships as set forth in the legal description, and easements on adjacent properties;

c. Topography at appropriate contour intervals;

d. Existing vegetation and significant trees as required by the landscape regulations, Chapter 18.85 BIMC;

e. Watercourses, other natural features, and critical areas as required by Chapter 16.20 BIMC;

f. Proposed open space area and type of open space as required by BIMC 18.72.050;

g. Existing structures and improvements, including existing parking areas and the number of parking spaces;

h. All proposed improvements including general building footprints and parking areas and the number of auto and bicycle parking spaces as required by Chapter 18.81 BIMC;

i. Sewage disposal system;

j. Storm drainage design;

k. Utilities plans, including existing and proposed hydrant locations;

l. Existing and proposed circulation systems on and off the site, including all adjacent streets and rights-of-way and auto, truck, emergency, pedestrian, bicycle and transit access;

m. Landscaping plans, including street trees;

n. Proposed land uses and densities on the subject property; and

o. Other plans and drawings deemed necessary for evaluation;

6. Architectural drawings, including floor plan, building elevation and building sections based on the determination made at the preapplication conference;

7. Any other graphic materials required to adequately describe how the proposal meets specific regulations and guidelines, such as material description boards, scaled models or photo montages;

8. The terms, conditions, covenants, and agreements under which the subject property is bound, if any;

9. An environmental checklist when required by the State Environmental Policy Act and Chapter 16.04 BIMC; and

10. The proposed method of ensuring permanent retention and maintenance of circulation system, storm drainage system, sewage disposal system, parks, open space or other common private or public facilities.

C. An application shall not be considered complete until the application, fee and all supporting materials are submitted to the department.

D. The director or designee may waive specific submittal requirements determined to be unnecessary for review of a preapplication and/or an application. (Ord. 2006-16 § 5, 2006; Ord. 2005-11 § 3, 2005; Ord. 2001-41 § 13, 2001; Ord. 99-30 § 4, 1999; Ord. 98-20 § 13, 1998; Ord. 96-14 § 7, 1996; Ord. 92-08 § 2, 1992)

18.105.060 Decision criteria.

The development review committee (DRC), director, and planning commission shall base their respective recommendation or decision on site plan and design review on the following criteria:

A. The site plan and design is in conformance with applicable code provisions and development standards of the applicable zoning district, unless a standard has been modified as a housing design demonstration project pursuant to Chapter 18.38 BIMC;

B. The site design review for light manufacturing and business park zoning districts is in conformance with the following:

1. The site design review standards of BIMC 18.72.050;

2. The site design review has been prepared consistent with the purpose of the site design review process and open space goals; and

3. In addition to the applicable storm water management requirements of Chapter 15.20 BIMC, the development proposal shall include means to integrate and re-use on-site storm water as site amenities;

C. The locations of the buildings and structures, open spaces, landscaping, pedestrian, bicycle and vehicular circulation systems are adequate, safe, efficient and in conformance with the nonmotorized transportation plan;

D. The proposal will be served by adequate public facilities including roads, transit, water, fire protection, sewage disposal facilities and storm drainage facilities;

E. The site plan and design is consistent with the design guidelines of Chapter 18.41 BIMC, or other applicable design guidelines of the zoning district, unless strict adherence to a guideline has been modified as a housing design demonstration project pursuant to Chapter 18.38 BIMC;

F. No harmful or unhealthful conditions are likely to result from the proposed site plan;

G. The site plan and design is in conformance with the comprehensive plan and other applicable adopted community plans; and

H. Property subject to site plan and design review which contains a critical area, as defined in Chapter 16.20 BIMC, conforms to all requirements of that chapter. (Ord. 2009-06 § 6, 2009; Ord. 2005-11 § 4, 2005; Ord. 99-30 § 4, 1999; Ord. 96-14 § 8, 1996; Ord. 92-08 § 2, 1992)

18.105.065 Action of director.

The director may approve, approve with conditions, or disapprove the application for site plan and design review. Conditions may be imposed to enable the proposal to meet the standards of the decision criteria. (Ord. 99-30 § 4, 1999; Ord. 96-14 § 9, 1996)

18.105.070 Imposition of conditions.

Repealed by Ord. 96-14. (Ord. 99-30 § 4, 1999; Ord. 92-08 § 2, 1992)

18.105.080 Effect of approved site plan and design review.

No building or development of any sort shall occur contrary to the approved site plan and design review except as follows:

A. Minor adjustments to an approved site plan and design review may be made after review and approval by the director. Minor adjustments are those that entail minor changes in dimensions or siting of structures, location of public amenities, but do not entail changes to the intensity or character of the use.

B. Adjustments other than minor adjustments to an approved site plan and design review require a new or amended application as determined by the director. Major adjustments are those that change the basic design, intensity, density, use and the like. (Ord. 99-30 § 4, 1999; Ord. 96-14 § 11, 1996; Ord. 92-08 § 2, 1992)

18.105.090 Time limits.

Repealed by Ord. 96-14. (Ord. 99-30 § 4, 1999; Ord. 92-08 § 2, 1992)

18.105.100 Expiration and extension.

A. A site plan and design review is valid for a period of three years from the written notice of the final decision, or the decision on an appeal, whichever is later. A site plan and design review involving a preliminary subdivision or a planned unit development is valid for a period of five years from the written notice of the final decision, or the decision on appeal, whichever is later.

B. A single one-year extension may be granted by the director prior to the expiration date if the applicant can demonstrate that circumstance or conditions not known, or foreseeable, at the time of original application warrant an extension of the approval. The extension request must be received by the department no later than 30 days prior to the expiration of the approval. (Ord. 99-30 § 4, 1999; Ord. 97-01 § 15, 1997; Ord. 96-14 § 13, 1996; Ord. 92-08 § 2, 1992)

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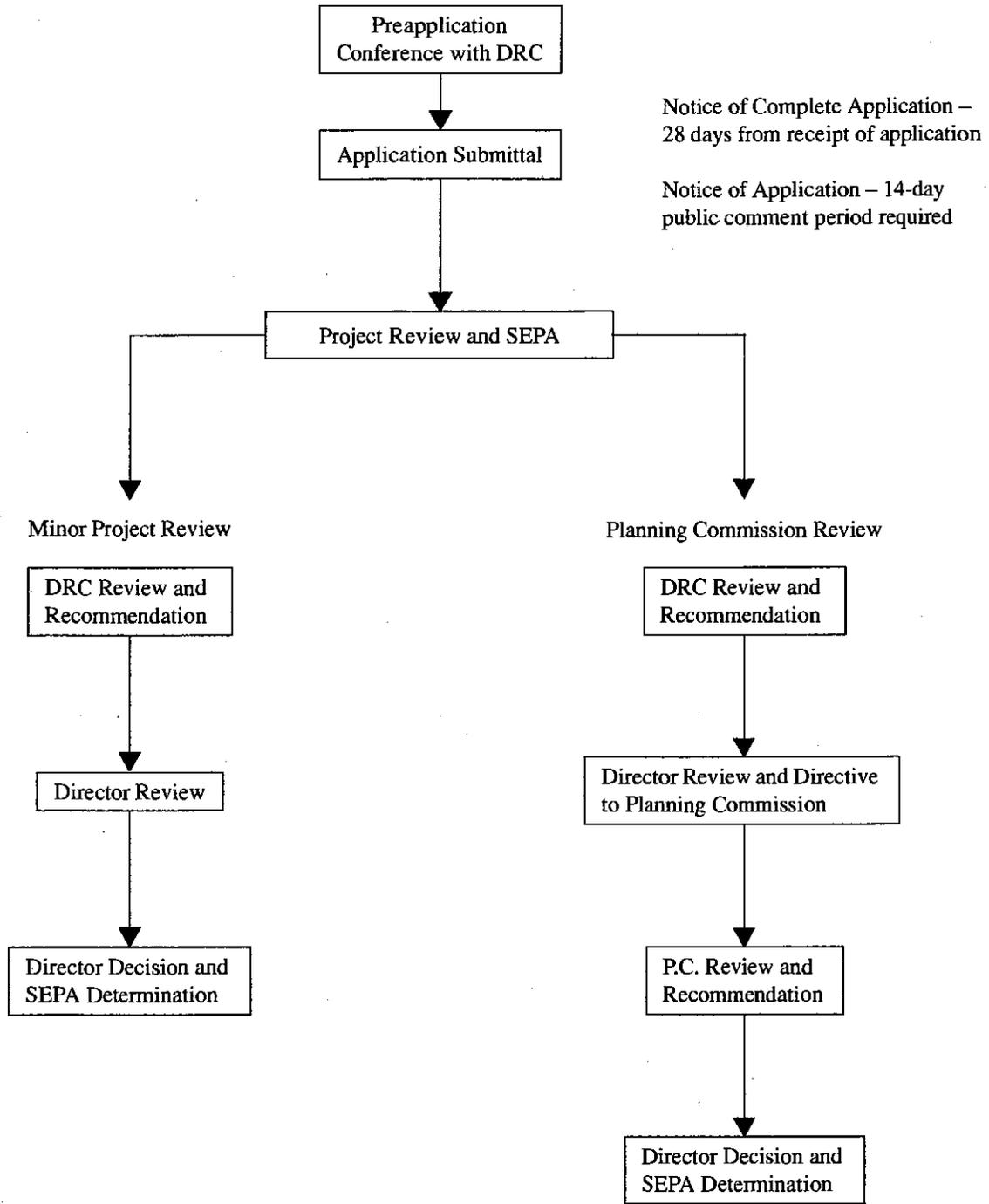
18.105.110 Revocation of an approved site plan.

Repealed by Ord. 96-14. (Ord. 99-30 § 4, 1999; Ord. 92-08 § 2, 1992)

18.105.120 Appeal.

The applicant or any aggrieved party may appeal a final decision of the director to the hearing examiner, in accordance with BIMC 2.16.130. (Ord. 99-30 § 4, 1999; Ord. 96-14 § 15, 1996)

18.105.130 Site plan and design review process.



Notice of Decision and SEPA Determination
Combined Public Notice with 15-day comment period
and 21-day appeal period – Appeal to Hearing
Examiner

(Ord. 99-30 § 4, 1999; Ord. 96-14 § 16, 1996)

Chapter 18.108

CONDITIONAL USE PERMIT
PROCEDURES¹

Sections:

- 18.108.010 Purpose.**
- 18.108.015 Applicability.**
- 18.108.020 Applicable procedure.**
- 18.108.030 Submittal requirements.**
- 18.108.040 Decision criteria.**
- 18.108.050 Effect of conditional use permit.**
- 18.108.060 Time limits.**
- 18.108.070 Extension.**
- 18.108.080 Adjustments to a conditional use permit.**
- 18.108.090 Revocation of permit.**
- 18.108.100 Appeals.**
- 18.108.110 Conditional use permit – Administrative and regular.**

18.108.010 Purpose.

The purpose of this chapter is to provide for certain conditionally allowed uses at the neighborhood level. A conditional use permit is a mechanism by which the city may require specific conditions on development or the use of land to ensure that designated uses or activities are compatible with other uses in the same zone and in the vicinity of the subject property. If imposition of conditions will not make a specific proposal compatible the proposal shall be denied. (Ord. 2003-03 § 1, 2003: Ord. 94-03 § 2, 1994)

18.108.015 Applicability.

A. A conditional use permit shall be secured from the city prior to establishing or expanding a use that is located on property situated within a zoning district that lists the specific use as conditional.

B. Exemptions.

1. Any activity which does not require a building permit and is not considered a change of use.

2. Any activity that does not expand the square footage of an existing use by more than 25 percent.

3. Notwithstanding subsection B.2 of this section, a use that was lawfully established prior to March 1, 1992, without a conditional or special use permit may increase its square footage up to an accumulative 100 percent without securing a conditional use permit.

4. Interior work which does not alter the exterior of the structure or affect parking standards by increasing floor area.

5. Normal building maintenance including the repair or maintenance of structural members.

6. Maintenance or expansion of existing parks where the proposed activities are exempt from SEPA review in accordance with WAC 197-11-800. (Ord. 2005-29 § 33, 2005)

18.108.020 Applicable procedure.

The city shall process conditional use applications in accordance with Chapter 2.16 BIMC and the following procedures:

A. Preapplication Conference. Prior to submittal of a conditional use permit application, the applicant or applicant's representative shall attend a preapplication conference in accordance with the purpose and procedures of BIMC 2.16.035. A preapplication conference for a minor conditional use permit proposal may be waived by the director in accordance with BIMC 2.16.035.B.

1. An applicant for a regular conditional use permit is required to participate in a community meeting through the city's public participation program outlined in Resolution No. 2010-32. The meeting will be held after the design review board meeting, if one is required, during the preapplication conference phase of the project.

B. Application. An applicant may submit an application for a conditional use permit at any time after completion of a required preapplication conference. The applicant shall submit a complete application as specified in BIMC 18.108.030. Upon receipt of a complete application, the director shall provide notice to the applicant and public in accordance with BIMC 2.16.085 and commence the application

1. Prior legislation: Ords. 92-08 and 92-36.

18.108.030

review process. A notice of application with public comment period and a notice of decision shall be required in accordance with BIMC 2.16.085.C and E for all conditional use permit applications.

C. Administrative Conditional Use. An administrative conditional use process may be used for minor projects as determined by the director. An administrative conditional use process shall follow the review procedures set forth in BIMC 2.16.095. Minor projects may include but are not limited to:

1. Projects that are exempt from review under the State Environmental Policy Act (SEPA); or

2. Uses that are clearly consistent and compatible with other uses in the same zone and vicinity; or

3. Uses specifically listed as a conditional use in the zone in which it is proposed.

D. Regular Conditional Use. All other conditional use applications shall be processed using the procedures set forth in BIMC 2.16.100, Hearing examiner decision procedures.

E. Written Comments. An administrative conditional use application that has received written public comments during the notice of application comment period (as set forth in BIMC 2.16.085), concerning the effect on the land use application of the comprehensive plan, shoreline master program or matters not addressed by specific provisions of this code may be processed as a regular conditional use permit, as determined by the director.

F. Review by the Planning Commission. Prior to the final decision on an application, the director or the hearing examiner may remand a proposal to the planning commission for review and recommendation using the procedures set forth in BIMC 2.16.095.D or 2.16.100.C. (Ord. 2010-25 § 5, 2010: Ord. 96-20 § 4, 1996; Ord. 94-03 § 2, 1994)

18.108.030 Submittal requirements.

A. A conditional use permit application and fee as established by city council resolution shall be filed with the department by the owner of land for which the permit is sought, or by the owner's authorized agent.

B. Required information shall include but shall not be limited to:

1. The legal description of the property, tax lot number and vicinity map; and

2. A complete and detailed written statement of the intended use of the land and the sequence and timing of the proposed development; and

3. A graphic scale drawing of the property indicating:

a. North point; and

b. Boundaries, easements, and ownerships as set forth in the legal description; and

c. Topography at appropriate contour intervals; and

d. Existing structures and improvements; and

e. Location of existing vegetation including all trees over 10 inches in diameter that might be impacted by the proposal, watercourses, other natural features and critical areas; and

f. All proposed improvements, including general building footprints and parking areas and the number of auto and bicycle parking spaces as required by Chapter 18.81 BIMC; and

g. Utilities and/or septic design, if appropriate; and

h. Existing and proposed circulation systems on and off the site, including all adjacent streets and rights-of-way and auto, truck, emergency, pedestrian, bicycle and transit access; and

i. All adjacent streets and rights-of-way; and

j. Landscaping plans in accordance with Chapter 18.85 BIMC, Landscaping and Open Space Requirements; and

4. The terms, conditions, covenants, and agreements under which the subject property is bound, if any; and

5. An environmental checklist, when required; and

6. A statement regarding proposed dedication of trails and parks if required by Chapter 17.08 BIMC; and

7. Other plans and information deemed necessary by the director for evaluation of the merits of the proposal.

C. The director may waive specific submittal requirements determined to be unnecessary for review of an application. (Ord. 2005-11 § 5, 2005; Ord. 98-20 § 13, 1998; Ord. 96-20 § 5, 1996; Ord. 94-03 § 2, 1994)

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18.108.040 Decision criteria.

A. A conditional use may be approved or approved with modifications if:

1. The conditional use is harmonious and appropriate in design, character and appearance with the existing or intended character and quality of development in the immediate vicinity of the subject property and with the physical characteristics of the subject property; provided, however, that in the case of a project being processed under Chapter 18.38 BIMC, any differences in design, character or appearance that are in furtherance of the purpose and decision criteria of that chapter shall not result in denial of a conditional use permit for the project;

2. The conditional use will be served by adequate public facilities including roads, water, fire protection, sewage disposal facilities and storm drainage facilities;

3. The conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject property;

4. The conditional use is in accord with the comprehensive plan and other applicable adopted community plans, including the nonmotorized transportation plan;

5. The conditional use complies with all other provisions of this code, unless a provision has been modified as a housing design demonstration project pursuant to Chapter 18.38 BIMC;

6. The conditional use will not adversely affect the area or alter the area's predominantly residential nature;

7. All necessary measures have been taken to eliminate the impacts that the proposed use may have on the surrounding area; and

8. If a conditional use is processed as a housing design demonstration project pursuant to Chapter 18.38 BIMC, the above criteria will be considered in conjunction with the purpose and decision criteria of Chapter 18.38 BIMC, and in light of the goals and policies of that chapter.

B. A conditional use may be approved with conditions. If no reasonable conditions can be imposed that ensure the application meets the decision criteria of this chapter, then the application shall be denied.

C. 1. Educational, cultural, governmental, religious or health care facilities in residential zones must be processed as regular conditional use permits and meet the following criteria, in addition to those listed above:

a. Applicants are required to submit a traffic report, showing the effects on level of service on affected roads. Proposed mitigations for degradation of the LOS must be submitted as part of the application.

b. All sites must front on roads classified as residential suburban or above on the Bainbridge Island Functional Road Classification Map.

c. Noise levels shall be in compliance with BIMC 16.16.020 and 16.16.040.A.

d. The appropriate approvals of sewer and water supply must be submitted at the time of application.

e. A fencing plan or alternative methods to protect the public health, safety and welfare must be submitted at the time of application.

f. The applicant shall provide perimeter buffers of vegetation either retaining existing or planting a new one in compliance with BIMC 18.85.070.D.4 (this only applies to residential districts outside Winslow).

g. These conditional uses are limited in lot coverage to only 50 percent of the allowable lot coverage in the zone in which they are located.

i. Except that public schools, defined as the common schools referred to in Article IX of the State Constitution, established by law and maintained at public expense, and those private learning institutions established by law and maintained at private expense, offering kindergarten, primary and secondary education through the high school level shall be allowed the lot coverage established in the underlying zoning district in which it is located unless conditions are required to limit the lot coverage to mitigate

impacts of the use in accordance with this chapter.

h. Vehicular, pedestrian, and bicycle access and site circulation must be submitted at the time of application and approved by the city. The city engineer may modify the requirements of BIMC 18.81.020.D and allow alternate driveway and parking area surfaces; provided, that the allowed surface(s) meets city requirements for handling surface water and pollutants.

i. The applicant shall submit a site and building design proposal that meets the design principles and guidelines found in BIMC 18.41.070, Light manufacturing design guidelines, and incorporates conditions deemed applicable by the director in accordance with this chapter. Each proposal will be evaluated for adequate vegetated roadside views, landscaping buffers for parking and service areas, scale of proposed construction including bulk and height and harmonious architectural design features compatible with the surrounding neighborhood.

2. All of the above facilities which have attendees and employees numbering fewer than 50 or an assembly seating area of less than 50 may have any or all the above requirements waived by the director, except those required elsewhere in the city code.

3. Educational programs in residential zones that are temporary or of short duration, as determined by the director, may be exempt from conditional use permit requirements. (Ord. 2009-06 § 7, 2009; Ord. 2005-11 § 6, 2005; Ord. 2003-03 §§ 2, 3, 2003; Ord. 98-35 § 5, 1999; Ord. 94-03 § 2, 1994)

18.108.050 Effect of conditional use permit.

A. Once a conditional use permit is approved, no building or development shall occur contrary to that specified in the conditional use permit.

B. The owner shall record a declaration with the Kitsap County auditor showing the land to be bound by a conditional use permit.

1. The declaration shall reference the official files of the city through which the permit was granted.

2. The declaration shall be a covenant running with the land.

3. No building permit shall be issued unless such declaration is recorded.

4. No building permit shall be issued for structures other than those specified in the permit. (Ord. 94-03 § 2, 1994)

18.108.060 Time limits.

The conditional use permit automatically expires and is void if the applicant fails to file for a building permit or other necessary development permit within three years of the effective date of the conditional use permit unless:

A. The applicant has received an extension for the conditional use permit in accordance with BIMC 18.108.070; or

B. The conditional use permit approval provides for a greater time period. (Ord. 94-03 § 2, 1994)

18.108.070 Extension.

The department may extend a conditional use permit once for a period not to exceed one year if:

A. The extension request is received by the department no later than 30 days prior to the expiration of the permit;

B. Unforeseen circumstances or conditions necessitate the extension of the permit;

C. Termination of the permit would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and

D. An extension of the permit will not cause substantial detriment to existing uses in the immediate vicinity of the subject property. (Ord. 94-03 § 2, 1994)

18.108.080 Adjustments to a conditional use permit.

A. Minor adjustments to an approved conditional use permit may be made after review and approval by the director. Minor adjust-

ments are those that entail minor changes in dimensions or siting of structures, location of public amenities, but do not entail changes to the intensity or character of the use.

B. For both administrative and regular conditional use permits, adjustments other than minor adjustments to an approved conditional use permit require an amended application and shall be processed in the same manner as a new conditional use permit application. Major adjustments are those which change the basic design, intensity, density, and/or use. (Ord. 94-03 § 2, 1994)

18.108.090 Revocation of permit.

A. The administrative conditional use permit may be revoked by the director and a regular conditional use permit may be revoked by the hearing examiner following the procedures in Chapter 2.16 BIMC upon the finding of any one or more of the following:

1. That the approval was obtained by deception, fraud or other intentional or misleading representation;

2. That the use for which approval was granted has been changed or has at any time been discontinued for a year or more;

3. That the permit granted is being exercised contrary to the terms or conditions of such approval or in violation of the zoning code; or

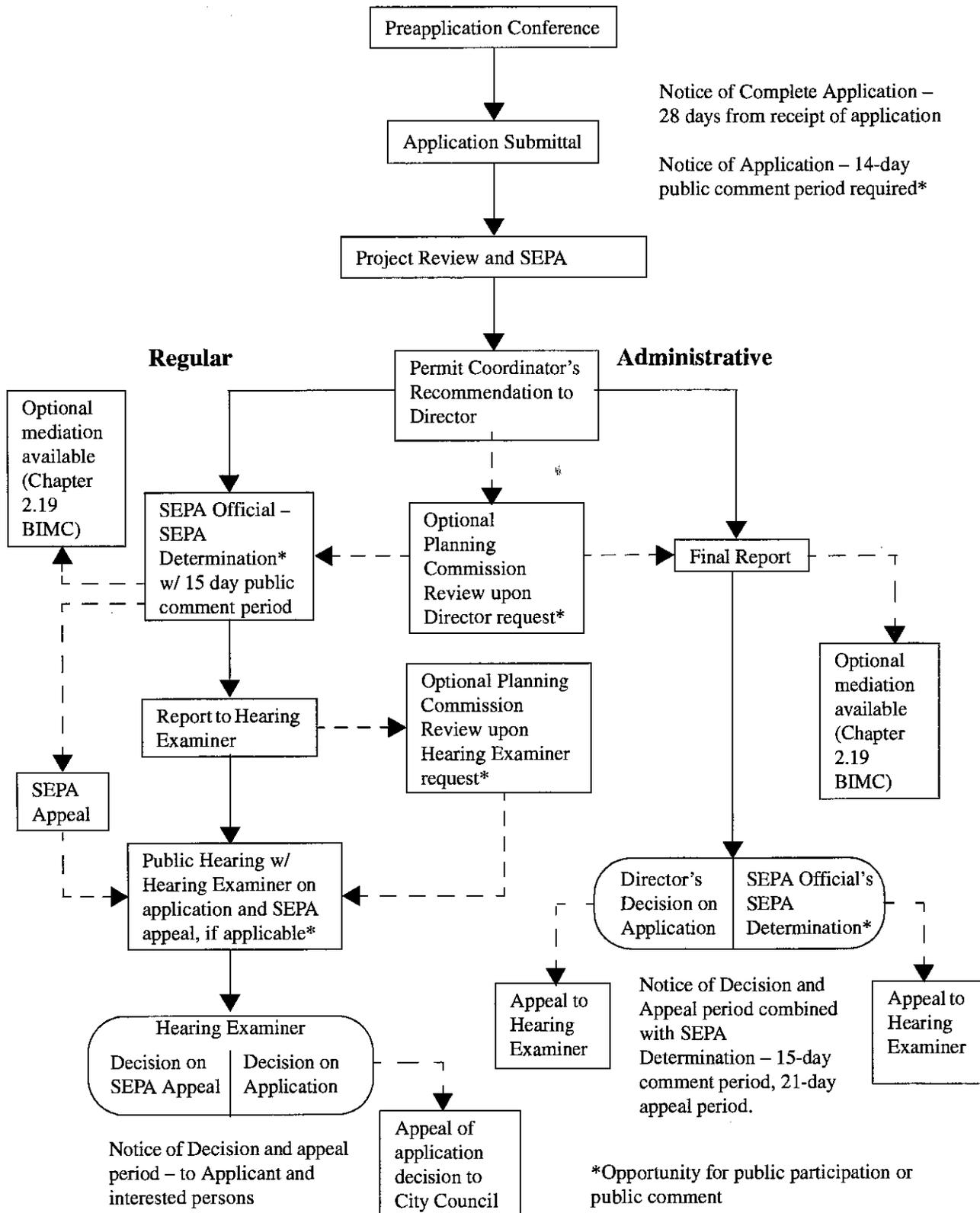
4. That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety. (Ord. 94-03 § 2, 1994)

18.108.100 Appeals.

A. Appeal of an Administrative Decision. A decision on an administrative conditional use may be appealed to the hearing examiner in accordance with the provisions of BIMC 2.16.130.

B. Appeal of a Hearing Examiner Decision. A decision on a regular conditional use shall be final unless, within 21 days of issuance, it is appealed in accordance with Chapter 36.70C RCW. (Ord. 2003-25 § 12, 2003; Ord. 96-20 § 6, 1996; Ord. 94-03 § 2, 1994)

18.108.110 Conditional use permit – Administrative and regular.



(Ord. 96-20 § 7, 1996)

Note: If a conflict exists between the text and this chart, the text prevails.

Chapter 18.111**VARIANCES¹****Sections:**

- 18.111.010 Purpose.**
- 18.111.020 Applicable procedure.**
- 18.111.030 Submittal requirements.**
- 18.111.040 Decision criteria.**
- 18.111.050 Time limits.**
- 18.111.060 Extension.**
- 18.111.070 Repealed.**
- 18.111.080 Appeals.**
- 18.111.090 Variance – Administrative and regular.**

18.111.010 Purpose.

Variations are the mechanism by which the city may grant relief from the provisions of the zoning ordinance where practical difficulty renders compliance with certain provisions of the code an unnecessary hardship, where the hardship is a result of the physical characteristics of the subject property and where the purpose of the comprehensive plan is fulfilled. A variance is authorized only for lot coverage, size of structure or size of setbacks and open spaces. Variations are not authorized for changes in density requirements, building or structure height requirements or expanding a use otherwise prohibited. A variance shall not be granted because of the presence of nonconformities in the zoning district, uses in an adjoining zoning district, or to allow the siting for an accessory dwelling unit. (Ord. 2004-02 § 1, 2004; Ord 95-13 § 24, 1995; Ord. 95-07 § 28, 1995; Ord. 94-03 § 1, 1994)

18.111.020 Applicable procedure.

The city shall process variance applications in accordance with Chapter 2.16 BIMC and the following procedures:

A. Preapplication Conference. Prior to submittal of a variance application, the applicant or applicant's representative shall attend a preapplication conference in accordance with the purpose and procedures of BIMC 2.16.035.

A preapplication conference for a minor variance proposal may be waived by the director in accordance with BIMC 2.16.035.B.

B. Application. An applicant may submit an application for a variance at any time after completion of a required preapplication conference. The applicant shall submit a complete application as specified in BIMC 18.108.030. Upon receipt of a complete application, the director shall provide notice to the applicant and public in accordance with BIMC 2.16.085 and commence the application review process. A notice of application with public comment period and a notice of decision shall be required in accordance with BIMC 2.16.085.C and E for all variance applications.

C. Administrative Variance. An administrative variance process may be used for minor projects as determined by the director. Administrative variances shall follow the review procedures set forth in BIMC 2.16.095. Minor projects should be limited to:

1. Projects that are exempt from review under the State Environmental Policy Act (SEPA); or
2. Proposals for less than a 25 percent encroachment in required yards; or
3. Proposals of less than a 25 percent increase in lot coverage.

D. Regular Variance. All other variances shall be processed using the procedures set forth in BIMC 2.16.100, hearing examiner decision procedures.

E. Written Comments. An administrative variance that has received written public comments during the notice of application comment period (as set forth in BIMC 2.16.085), concerning the effect on the land use application of the comprehensive plan, shoreline master program or matters not addressed by specific provisions of this code, may be processed as a regular variance, as determined by the director.

F. Review by the Planning Commission. Prior to a final decision on an application, the director or hearing examiner may request that a variance application be reviewed by the planning commission for recommendation to the director or the hearing examiner using the procedures set forth in BIMC 2.16.095.D or

1. Prior legislation: Ords. 92-08 and 92-36.

18.111.030

2.16.100.C. Recommendations on administrative variances shall be forwarded to the director. The director or the hearing examiner may remand a project to the planning commission for review and recommendation. (Ord. 96-20 § 8, 1996; Ord. 94-03 § 1, 1994)

18.111.030 Submittal requirements.

A. A variance application and fee as established by city council resolution shall be filed with the department by the owner of land for which the permit is sought, or by the owner's authorized agent.

B. Required information shall include but shall not be limited to:

1. The legal description of the property, tax lot number and vicinity map; and
2. A complete and detailed written statement of the reason(s) for requesting the variance and the sequence and timing of any proposed development; and
3. A graphic scale drawing of the property indicating:
 - a. North point; and
 - b. Boundaries, easements, and ownerships as set forth in the legal description; and
 - c. Existing structures and improvements; and
 - d. Topography at appropriate contour intervals; and
 - e. Location of existing vegetation, including all trees over 10 inches in diameter that might be impacted by the proposal, watercourses, other natural features and critical areas; and
 - f. Proposed improvements, if any; and
 - g. Utilities and/or septic designs and circulation plans, if appropriate; and
 - h. All adjacent streets and rights-of-way; and
4. The terms, conditions, covenants, and agreements under which the subject property is bound, if any; and
5. An environmental checklist when required; and
6. Other plans and drawings deemed necessary by the director for evaluation of the merits of the proposal.

C. The director may waive specific submittal requirements determined to be unnecessary for review of an application. (Ord. 98-20 § 13, 1998; Ord. 96-20 § 9, 1996; Ord. 94-03 § 1, 1994)

18.111.040 Decision criteria.

A. A variance may be approved or approved with modifications if:

1. The variance will not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the vicinity and zone in which the property is located;

2. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is located;

3. The variance is requested because of special circumstances related to the size, shape, topography, location or surroundings of the subject property and will provide an applicant with use rights and privileges permitted to other properties in the vicinity and zone in which the property is located;

4. The need for a variance has not arisen from actions taken or proposed by the applicant;

5. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone, but which is denied to the property in question because of special circumstances on the property in question;

6. The variance is the minimum necessary to fulfill the need of the applicant; and

7. The variance is consistent with all other provisions of this code and is in accord with the comprehensive plan.

B. A variance may be approved with conditions. If no reasonable conditions can be imposed that ensure the application meets the decision criteria of this chapter, then the application shall be denied. (Ord. 94-03 § 1, 1994)

18.111.050 Time limits.

A variance automatically expires and is void if the applicant fails to file for a building permit or other necessary development permit within three years of the effective date of the variance unless:

- A. The applicant has received an extension for the variance; or
- B. The variance approval provides for an extended time period. (Ord. 94-03 § 1, 1994)

18.111.060 Extension.

The director may grant one extension to the variance for a period not to exceed one year if:

- A. Unforeseen circumstances or conditions necessitate the extension of the variance; or
- B. Termination of the variance would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and
- C. The extension of the variance will not cause substantial detriment to existing uses in the immediate vicinity of the subject property; and
- D. The extension request is received by the department no later than 30 days prior to the expiration of the permit. (Ord. 94-03 § 1, 1994)

18.111.070 Revocation of permit.

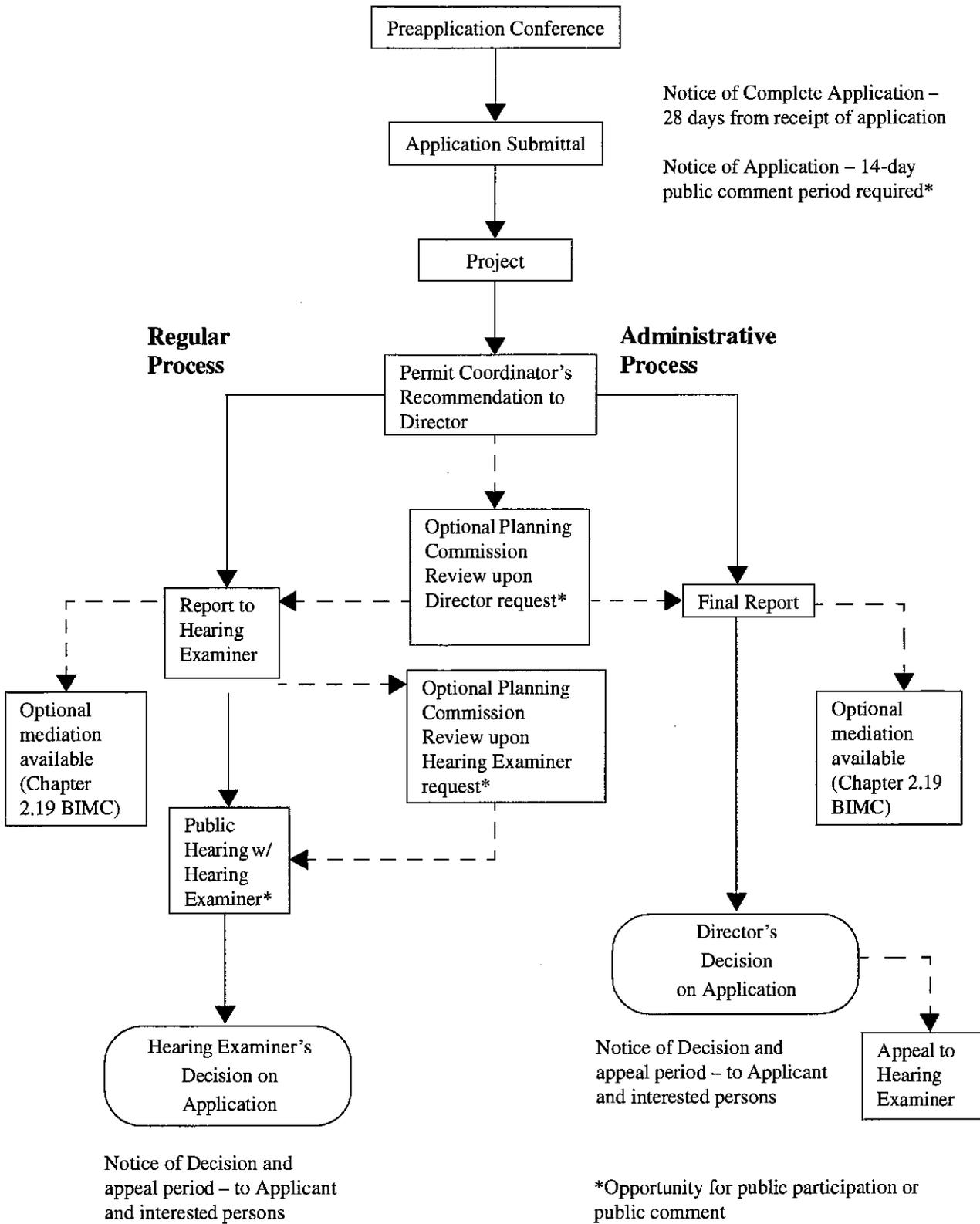
Repealed by Ord. 96-20. (Ord. 94-03 § 1, 1994)

18.111.080 Appeals.

A. Appeal of an Administrative Decision. A decision on an administrative variance may be appealed to the hearing examiner in accordance with the provisions of BIMC 2.16.130.

B. Appeal of a Hearing Examiner Decision. A decision on a regular variance shall be final unless, within 21 days of issuance, it is appealed in accordance with Chapter 36.70C RCW. (Ord. 2003-25 § 13, 2003; Ord. 96-20 § 11, 1996; Ord. 94-03 § 1, 1994)

18.111.090 Variance – Administrative and regular.



Note: If a conflict exists between the text and this chart, the text prevails.

(Ord. 2003-25 § 14, 2003; Ord. 96-20 § 12, 1996)

(Revised 11/03)

Chapter 18.114

REZONES

Sections:

- 18.114.010 Purpose.**
- 18.114.020 Who may apply.**
- 18.114.030 Application – Requirements.**
- 18.114.040 Decision criteria.**
- 18.114.050 Public hearing – Quasi-judicial.**
- 18.114.060 Council action – Quasi-judicial.**
- 18.114.070 Repealed.**
- 18.114.080 Repealed.**
- 18.114.090 Zoning map revisions – Recording – Revocation.**
- 18.114.100 Concomitant rezones/contract rezone agreements.**
- 18.114.110 Construction deadlines for contract rezone agreements.**

18.114.010 Purpose.

This chapter establishes the process and criteria for changing the zoning classification of specific property from one zoning designation to another, or to change conditions imposed in a contract rezone agreement.

A property rezone may reflect changed circumstances or new land use needs and shall be consistent with the city's current comprehensive plan. (Ord. 96-20 § 13, 1996; Ord. 92-08 § 2, 1992)

18.114.020 Who may apply.

Any owner or authorized agent, or group of owners of contiguous property acting jointly and representing at least 75 percent of the assessed valuation of the subject property, or their authorized agent, may apply for a rezone. (Ord. 96-20 § 14, 1996; Ord. 92-08 § 2, 1992)

18.114.030 Application – Requirements.

A. An application for a rezone may be filed only if the proposal is consistent with the Bainbridge Island Comprehensive Plan. If it is not consistent with the comprehensive plan, it shall be filed as a comprehensive plan amendment.

B. An application for a rezone shall be made on forms prescribed by the department and shall be accompanied by a filing fee as required by city resolution. The application shall contain the following:

1. A legal description of the property and tax lot number;
2. A vicinity map showing zoning designations on properties within 300 feet of subject parcel;
3. The names, addresses and telephone numbers of all property owners together with proof of ownership;
4. A detailed description of the proposed use for which the rezone is sought and how such action meets the decision criteria in this chapter;
5. A statement explaining how the subject property is suitable for the proposed rezone and why the rezone would not be detrimental to surrounding land uses. The statement should address topography, streets, adjacent land uses, and other pertinent factors that would justify the proposed rezone; and
6. Any other materials the department or the reviewing body determines are required to adequately describe the proposal.

C. The city may defer review of a rezone proposal if that area is scheduled for comprehensive plan review or review of the comprehensive plan is reasonably likely to occur within the following year. (Ord. 2003-44 § 4, 2004; Ord. 96-20 § 15, 1996; Ord. 92-08 § 2, 1992)

C. The city may defer review of a rezone proposal if that area is scheduled for comprehensive plan review or review of the comprehensive plan is reasonably likely to occur within the following year. (Ord. 2003-44 § 4, 2004; Ord. 96-20 § 15, 1996; Ord. 92-08 § 2, 1992)

18.114.040 Decision criteria.

The city may defer review of a rezone proposal if that area is scheduled for comprehensive plan review or review of the comprehensive plan is reasonably likely to occur within the following year. The following criteria shall be considered in any review for a rezone in order to establish a recommendation to approve, disapprove or approve with conditions:

- A. The rezone will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is located;

18.114.050

B. The rezone is warranted because of changed circumstances and the proposed designation is appropriate for reasonable development of the subject property or because of a need for additional property in the proposed zone and the proposed designation is appropriate for reasonable development of the subject property;

C. The subject property is suitable for development in general conformance with zoning standards under the proposed zoning designation;

D. The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject property;

E. The property will be served by adequate public facilities including roads, water, fire protection, sewage disposal facilities and storm drainage facilities for the intensity to which it is being rezoned;

F. The rezone is in accord with the comprehensive plan;

G. The rezone complies with all other applicable criteria and standards of the city;

H. The rezone would not devalue surrounding or nearby property; and

I. The rezone will not result in an adverse environmental consequence. (Ord. 92-08 § 2, 1992)

18.114.050 Public hearing – Quasi-judicial.

Within 30 days after receipt of a staff analysis and completed application for a site-specific rezone, the department shall forward its findings and recommendations to the hearing examiner, who shall conduct a public hearing in accordance with the hearings procedures set forth in BIMC 2.16.110, city council decision procedures. (Ord. 96-20 § 16, 1996; Ord. 92-08 § 2, 1992)

18.114.060 Council action – Quasi-judicial.

Within 30 days after receipt of the recommendation of the hearing examiner on a site-specific rezone, the council, in accordance with the procedures set forth in BIMC 2.16.110, shall, in a public meeting, make a decision on the rezone or remand the application to the hearing examiner. (Ord. 96-20 § 17, 1996; Ord. 92-08 § 2, 1992)

18.114.070 Public hearing – Legislative.

Repealed by Ord. 96-20. (Ord. 92-08 § 2, 1992)

18.114.080 Council action – Legislative.

Repealed by Ord. 96-20. (Ord. 92-08 § 2, 1992)

18.114.090 Zoning map revisions – Recording – Revocation.

A. If the council approves a rezone, the council shall adopt an ordinance that makes the appropriate changes on the official zoning map as required in Chapter 18.03 BIMC.

B. A rezone approval with any conditions shall be recorded with the Kitsap County auditor.

C. The council may revoke its earlier approval of a rezone only through the quasi-judicial advisory hearings process. (Ord. 92-08 § 2, 1992)

18.114.100 Concomitant rezones/contract rezone agreements.

Any applicant for a rezone of any property may be subject to the signing of a concomitant rezone agreement as a condition to the council's granting the rezone when the council finds that such an agreement is necessary to protect the public health, safety or general community welfare. Whenever such a rezone contract is signed, it shall be recorded with the Kitsap County auditor and officially entered as a covenant upon the land. Any purchaser of such property is subject to the rezone agreement. The applicant may be required to pay the cost of the preparation of the agreement. (Ord. 92-08 § 2, 1992)

18.114.110 Construction deadlines for contract rezone agreements.

A. A time limit of 24 months is placed on all contract rezones granted as provided by this chapter. Upon the expiration of that time, if construction is not underway, the director shall institute proceedings to rezone the property to its prior classification; provided, however, that if the landowner within that period of 24 months demonstrates to the satisfaction of the director that he has in good faith attempted to

begin construction as contemplated by the rezone, the director may defer instituting the proceedings for up to one year. If the latest rezone classification is found to be the most appropriate for the property, the director may elect not to institute the rezone proceedings. The time period prescribed in this section shall not commence until the completion of any court challenges to the rezone.

B. To proceed with development after the property has been returned to its prior classification or otherwise rezoned pursuant to this section is a violation of this title. (Ord. 92-08 § 2, 1992)

Chapter 18.115

SPECIAL PLANNING AREA PROCESS

Sections:

18.115.010 Purpose.

18.115.020 Commencement of the special planning area process.

18.115.030 Creation and duties of interdepartmental staff team.

18.115.040 Creation and role of special planning area steering committee.

18.115.050 Initial public meeting.

18.115.060 Development of the special planning area plan.

18.115.070 Incorporation of SEPA review.

18.115.080 Final report and proposed comprehensive plan amendment.

18.115.010 Purpose.

The purpose of this chapter is to provide a special planning area process which enhances the livability of the city by recognizing the unique characteristics of the city's special planning areas and by providing opportunities to accomplish the goals of the city's comprehensive plan in a way unique to each special planning area. This chapter only applies to a special planning area which has been designated in the adopted comprehensive plan. (Ord. 95-15 § 1, 1995)

18.115.020 Commencement of the special planning area process.

Upon the written request of at least one owner of property located within a special planning area, the city council by motion or resolution, as determined by the city council, may approve the commencement of the special planning area process for that special planning area. (Ord. 95-15 § 1, 1995)

18.115.030 Creation and duties of interdepartmental staff team.

A. Upon the city council's approval to commence the special planning area process for a special planning area, the director of planning and community development shall establish an interdepartmental staff team for that special planning area.

B. At the director of planning and community development's request, the director of each city department shall assign a representative to the interdepartmental staff team. The Bainbridge Island fire district, the Bainbridge Island school district, the Bainbridge Island park and recreation district, and the Bremer-ton-Kitsap County health district shall each be invited to designate a representative to partici-pate on the interdepartmental staff team.

C. Throughout the special planning area process, the interdepartmental staff team shall provide expertise and guidance to the special planning area steering committee.

D. The interdepartmental staff team shall:

1. Compile the city's existing data and materials relating to the special planning area (including comprehensive plan text and map);

2. Identify in writing issues raised by the public during the comprehensive planning process and issues identified by staff relating to the special planning area; and

3. Identify interested persons and groups, including all property owners within the special planning area according to the Kit-sap County auditor's records, and notify the interested persons and groups in writing by regular mail of the commencement of the spe-cial planning area process for the special planning area. (Ord. 95-15 § 1, 1995)

18.115.040 Creation and role of special planning area steering committee.

A. Upon the city council's approval to commence the special planning area process for a special planning area, the mayor, with confirmation by the city council, shall appoint a special planning area steering committee for that special planning area. The steering com-mittee shall be comprised of an odd number of members, totaling no more than nine, with the

total number of members to be determined by the city council. The majority of the committee shall be comprised of representatives from cat-egories 1 and 2 listed below in subsection B. The term of the steering committee members shall be until the completion of the special planning area process under this chapter.

B. The steering committee shall represent a wide spectrum of interests and expertise and shall include at least one representative from each of the following groups:

1. Residents living within and/or own-ers of property or businesses within the special planning area;

2. Residents and owners of property located adjacent to the special planning area; and

3. Residents of the city, not residing within or adjacent to the special planning area.

C. The steering committee shall:

1. With the advice and assistance of the interdepartmental staff team, develop a special planning area plan consisting of a report and a proposed comprehensive plan amendment, if appropriate, for the special planning area;

2. Establish a planning process consis-tent with this chapter for developing the special planning area plan, which shall include a workplan, timeline, and budget, and which shall be submitted to the city council for approval;

3. As a part of the workplan, establish a public participation process that includes public meetings in addition to the initial public meeting conducted under BIMC 18.115.050, and work with city staff to ensure outreach to the community during the planning process; and

4. Ensure that the planning process provides adequate opportunity for participa-tion by property owners and residents who live in or near the special planning area. (Ord. 95-15 § 1, 1995)

18.115.050 Initial public meeting.

A. After approval of the planning process by the city council, the steering committee shall conduct an initial public meeting. The

interdepartmental staff team shall provide notice to the public of the initial public meeting by:

1. Mailing notice, by regular mail, at least 10 days prior to the date of the meeting, to all interested persons and groups identified by the interdepartmental staff team under BIMC 18.115.030(D)(3), and to all persons requesting such notice; and

2. Publishing notice in the city's official newspaper at least 10 days prior to the date of the meeting.

B. At the initial public meeting, the following shall occur:

1. The interdepartmental staff team shall provide an overview of the comprehensive plan and review city-wide goals and policies which must be addressed in the special planning area process.

2. The steering committee, with input from the interdepartmental staff team, shall discuss the purpose of the special planning area and the city's existing data and materials for the area.

3. The steering committee shall provide opportunity for the public to comment on:

a. The vision and goals for the special planning area;

b. The boundaries of the special planning area; and

c. Issues relevant to the special planning area, including mix and type of land uses, density of development, surface water, greenways, open space, fish and wildlife habitat, drinking water, sewage disposal, transportation, pedestrian and bicycle access, and equestrian trails.

C. The interdepartmental staff team shall prepare a report setting forth the results of the meeting. Upon the steering committee's approval of the report, the interdepartmental staff team shall transmit the report to the planning commission for review and comment. (Ord. 95-15 § 1, 1995)

18.115.060 Development of the special planning area plan.

Upon receiving the planning commission's comments on the report prepared under BIMC 18.115.050(C), the steering committee shall

develop the special planning area plan in accordance with the steering committee's workplan. In developing the special planning area plan, the steering committee shall:

A. Develop a profile of characteristics or attributes of the special planning area (including boundaries) and of issues to be addressed during the special planning area process;

B. Develop goals for the special planning area;

C. Consider and utilize the following criteria, and any other criteria developed by the steering committee, in preparing and selecting alternatives for the special planning area:

1. The city-wide goals and policies of the city's comprehensive plan;

2. The goals and policies for the special planning area developed by the steering committee; and

3. Relevant criteria specified in the Washington State Environmental Policy Act, Chapter 43.21C RCW, and the applicable Washington Administrative Code, Chapter 197-11 WAC;

D. Prepare a report setting forth the profiles, goals, and criteria developed by the steering committee pursuant to subsections A through C above, and transmit the report to the planning commission for review and comment;

E. After receiving the planning commission's comments on the report prepared under subsection D above, develop alternatives for the special planning area that include policies, strategies and programs to implement the vision and goals for the special planning area; and

F. Review the alternatives for the special planning area against the criteria developed for the area, and select an alternative for the special planning area. (Ord. 95-15 § 1, 1995)

18.115.070 Incorporation of SEPA review.

An owner of property in a special planning area may elect, at the owners' expense, to have a SEPA review sufficient in scope and depth of inquiry to be legally adequate for a specific project incorporated into the city's SEPA process for the special planning area. The SEPA official for the city shall establish the scope,

depth and method of the SEPA review pursuant to Chapter 16.04 BIMC. (Ord. 95-15 § 1, 1995)

18.115.080 Final report and proposed comprehensive plan amendment.

A. The steering committee shall prepare a final report containing the special planning area plan for the special planning area. The final report shall include the profile and characteristics of the special planning area, the goals of the special planning area, the policies, strategies, or programs recommended by the steering committee for the special planning area, and a proposed comprehensive plan amendment for the special planning area, if appropriate.

B. The steering committee shall forward its final report and proposed comprehensive plan amendment, if any, to the planning commission for action. (Ord. 95-15 § 1, 1995)

Chapter 18.117

**COMPREHENSIVE PLAN
AMENDMENT ADMINISTRATIVE
PROCEDURE**

Sections:

- 18.117.010 Purpose.**
- 18.117.020 Applicability.**
- 18.117.030 Review process.**
- 18.117.040 Submittal requirements.**
- 18.117.050 Decision criteria.**
- 18.117.060 Public involvement.**
- 18.117.070 Revocation.**
- 18.117.080 Appeals.**

18.117.010 Purpose.

The purpose of this chapter is to establish the process and criteria for changing the comprehensive plan and/or land use map. Amendments may include additions, deletions, corrections, updates, modifications or revisions to maps, goals and policies in the comprehensive plan. The comprehensive plan amendment process provides for simultaneous review of proposals to allow for cumulative impact analysis of all applications on a city-wide basis, in conjunction with budget decisions and honors the community's long-term investment in the comprehensive plan, through public participation and neighborhood planning processes. (Ord. 2006-13 § 4, 2006)

18.117.020 Applicability.

Any person or entity may apply for an amendment to the comprehensive plan.

A. Except in the event of an emergency as determined by the city council, plan amendments will be considered together so that the cumulative effects of all proposed amendments can be analyzed for consistency and the overall effect on the comprehensive plan. Starting in 2010, and thereafter no more often than every three years, the planning commission may recommend and the city council may adopt amendments to the land use map, or the text of the comprehensive plan, upon finding that each proposal meets all of the applicable conditions and requirements of this chapter.

B. Amendment applications submitted by the city will be processed every year or within the context of a comprehensive plan update, or more frequently than once per year under the circumstances authorized under RCW 36.70A.130(2)(a).

C. An amendment may be considered if the applicant can demonstrate that the request is consistent with the adopted comprehensive plan, and that policy adjustments or map amendments are needed to further the vision, goals or policies of the plan. An amendment may also be considered if the applicant can demonstrate that community values, priorities, needs and trends have sufficiently changed to justify a fundamental shift in the comprehensive plan. The burden of proof rests entirely with the applicant to demonstrate or document the need to depart from the current version of the comprehensive plan. There are two types of amendments, policy adjustments or map changes. An amendment may include both of these types of amendment requests.

1. Policy Adjustments. Proposed policy adjustments that are intended to be consistent with the comprehensive plan should be designed to provide correction or additional guidance so the community's original visions and values can better be achieved. The need for this type of adjustment might be supported by findings related to monitoring and evaluating the implementation of the comprehensive plan. Examples of such findings could include:

- a. Growth and development as envisioned in the plan is occurring faster, slower or is failing to materialize;
- b. The capacity to provide adequate services is diminished or increased;
- c. Land availability to meet demand is reduced;
- d. Population or employment growth is significantly different than the plan's assumptions;
- e. Plan objectives are not being met as specified;
- f. The effect of the plan on land values and affordable housing is contrary to plan goals;

g. Transportation and/or other capital improvements are not being made as expected;

h. A question of consistency exists between the comprehensive plan and its elements and Chapter 36.70A RCW, the Kitsap Countywide Planning Policies, or development regulations;

i. Assumptions upon which the plan is based are found to be invalid; or

j. Substantial change or lack of change in circumstances dictates the need for such consideration or conditions have changed substantially in the area within which the subject property lies and/or citywide.

2. Map Changes. Changes to the land use map may only be approved if the proponent has demonstrated that all of the following are true:

a. The designation is in conformance with the appropriate land use designation purpose statement identified in the comprehensive plan;

b. The map amendment or site is suitable for the proposed designation; and

c. The map amendment implements applicable comprehensive plan policies better than the current map designation.

D. The city council may determine, by resolution, that a proposed amendment be processed as an emergency amendment to the comprehensive plan. (Ord. 2010-10 § 1, 2010; Ord. 2006-13 § 4, 2006)

18.117.030 Review process.

The city shall process comprehensive plan amendment applications in accordance with Chapter 2.18 BIMC and the following procedures:

A. Preapplication Conference. Prior to submittal of a comprehensive plan amendment application, the applicant or applicant's representative shall attend a preapplication conference in accordance with the procedures of BIMC 2.16.035. Interested citizens may attend the preapplication meeting.

B. Application. An applicant may submit an application for a comprehensive plan amendment after completion of a required pre-application conference. Proposed amendments

shall be submitted between January 1st and the end of February, 2013, and subsequently every third year.

C. SEPA Review. Environmental review shall be completed prior to planning commission review. The applicant is responsible for conducting any further environmental analysis, including the preparation of an environmental impact statement, if necessary.

D. Written Analysis. For each proposed amendment, staff (or the lead department, as determined by the city manager) will prepare a written analysis for the planning commission. The analysis will be accompanied by a recommendation that the proposed amendment be approved, denied, or approved with modification. Proposals may be grouped and evaluated by geographic sector and/or subject matter to be assessed for cumulative impact.

E. Planning Commission Review. Subsequent to completion of the analysis prepared by the lead department and the SEPA review, the planning commission shall conduct one or more public hearings as defined in BIMC 2.18.020. The planning commission shall also solicit comments regarding the proposed amendment from the public or from government agencies in any other manner it determines necessary and appropriate to the nature of the proposed amendment and consistent with RCW 36.70A.140. The notice and public hearing for proposed comprehensive plan amendments may be combined with any notice or public hearing for proposed amendments to the land use code or for other actions of the planning commission; provided, that all appropriate noticing is conducted as required by law.

F. Planning Commission Recommendation.

1. The planning commission shall base its recommendation on whether the application meets the required decision criteria contained in BIMC 18.117.050 and consider public input, conclusions from any required studies, the staff recommendation, and findings from the SEPA analysis.

2. The planning commission may recommend to approve, deny, or approve with modification the proposed amendment. The planning commission must make findings sup-

porting their recommendation. If the planning commission recommends denial of a proposed amendment, the findings shall include that:

a. The proposal does not comply with the decision criteria contained in BIMC 18.117.050; or

b. A majority of the planning commission finds that the proposal would be more appropriately and effectively addressed through another aspect of the city's work program.

3. The planning commission's findings and conclusions regarding its recommendation shall be forwarded to the city council within 30 days of their hearing.

G. City Council Review and Decision.

1. The city council considers whether the application meets the required decision criteria contained in BIMC 18.117.050 and also considers staff's recommendation and the planning commission's recommendations within the context of its budget discussions, and may act on the amendment proposals prior to or at the same time as it adopts the city budget.

2. The council may decide to approve, deny, or approve with modification the proposed amendment.

3. The council shall base its decision on consideration of the record and the required decision criteria contained in BIMC 18.117.050, and shall cite these in their findings and conclusions.

H. Denied Amendments. Denied amendments will not be accepted for the next comprehensive plan amendment cycle, unless the proposed amendment is substantially modified or circumstances related to the amendment request have significantly changed. The planning director shall make this determination. (Ord. 2010-10 § 2, 2010: Ord. 2009-21 § 42, 2009; Ord. 2006-13 § 4, 2006)

18.117.040 Submittal requirements.

To apply for a comprehensive plan amendment, an applicant must submit the following:

A. Preapplication Submittal. Prior to submitting an amendment proposal, an applicant is required to schedule a preapplication conference, pursuant to Chapter 2.18 BIMC, by sub-

mitting a preapplication form, including a general summary of the nature of the desired change and any required fee.

B. Application Submittal. An applicant for a comprehensive plan amendment must submit the following:

1. An application for a comprehensive plan text or map amendment proposal, containing the following information:

a. Nature of and reason for the amendment request, including any specific suggested changes to the plan or appendices.

b. Statement of how the amendment request is consistent with all of the decision criteria specified in BIMC 18.117.050.

c. A completed SEPA checklist including supplemental sheet for nonproject actions.

d. The appropriate application fee as established by city resolution shall be paid by the applicant.

e. Any other reports or studies identified during the preapplication conference. (Ord. 2010-10 § 3, 2010: Ord. 2006-13 § 4, 2006)

18.117.050 Decision criteria.

The planning commission and city council shall base their respective recommendation or decision on a proposed comprehensive plan amendment on the following criteria:

A. Regulatory Changes. Amendments to the comprehensive plan shall comply with the Growth Management Act and other state and federal laws.

B. Resources.

1. The city must have the resources, including staff and budget, necessary to implement the proposal.

2. The amendment will not result in development that has significant adverse effects on community resources, including but not limited to: water resources, utilities, transportation, parks or schools.

3. The amendment must not adversely affect the city's ability to provide the full range of public facilities and services at the planned level of service, or consume public resources otherwise needed to support comprehensive plan implementation strategies.

C. Internal Consistency. Amendments shall be consistent with the comprehensive plan including:

1. Land uses and growth projections that are the basis of the comprehensive plan; and

2. The overall intent of the comprehensive plan, including the community vision, overriding principles, and overall goals that guide the plan.

D. Cumulative Effect. All amendments must be considered concurrently in order to evaluate their cumulative effect on the comprehensive plan text and map, development regulations, capital facilities program, adopted environmental policies and other relevant implementation measures.

E. Land Use Impacts. Amendments shall not adversely affect public health, safety or welfare. An amendment must be compatible with neighboring land uses and surrounding neighborhoods, if appropriate. In addition, applications should be reviewed for their cumulative land use impacts. (Ord. 2006-13 § 4, 2006)

18.117.060 Public involvement.

This section identifies the various public involvement opportunities included as part of the comprehensive plan amendment process.

A. All complete applications for amendment to the comprehensive plan are considered and reviewed by the planning commission and city council. Depending on the content, scope or potential impact of a proposed modification, additional review by other citizen committees and opportunities for public comment may occur.

1. Various public meetings, forums, presentations and outreach may be conducted in order to ensure:

a. Broad dissemination of proposals and alternatives;

b. Opportunity for written comments;

c. Provision for open discussion;

d. Information services; and

e. Consideration of and response to public comments.

B. Neighborhood Meetings. Since all proposals are required to be compatible with neighboring land uses and surrounding neighborhoods, persons proposing site-specific amendments may address issues of compatibility by participating in a neighborhood meeting organized by the city, with notifications as specified by the city.

C. Emergencies. Amendments outside the regular annual amendment cycle, such as emergency amendments, still carry a requirement for appropriate public participation. (Ord. 2006-13 § 4, 2006)

18.117.070 Revocation.

The comprehensive plan amendment may be reversed by the city council outside the regular amendment period following the procedures in BIMC 2.18.030 upon the finding of any of the following:

A. The approval was obtained by fraud or other intentional or misleading representations; or

B. The amendment is being implemented contrary to the intended purpose of the amendment or other provisions of the comprehensive plan and city ordinances; or

C. The amendment is being implemented in a manner that is detrimental to the public health or safety. (Ord. 2006-13 § 4, 2006)

18.117.080 Appeals.

Appeal of a city council decision on a comprehensive plan amendment is governed by and shall be in accordance with state law. (Ord. 2006-13 § 4, 2006)

Chapter 18.120

PLANNED UNIT DEVELOPMENT PROCEDURES

Sections:

- 18.120.010 Purpose.**
- 18.120.020 PUD-process overview.**
- 18.120.030 Definitions.**
- 18.120.040 PUD-flexible lot assistance.**
- 18.120.050 PUD-flexible lot design process – Preparation of maps, site plans and studies.**
- 18.120.060 Flexible lot – Standards.**
- 18.120.070 Permitted uses.**
- 18.120.080 Permitted density.**
- 18.120.090 PUD – Development standards.**
- 18.120.110 Decision criteria.**
- 18.120.120 Time limits.**
- 18.120.130 Adjustments to a PUD permit.**
- 18.120.140 Extension.**
- 18.120.150 Revocation of permit.**
- 18.120.160 Merger with subdivision.**
- 18.120.170 PUD permit process.**

18.120.010 Purpose.

The purpose of a planned unit development is to encourage the development of land as a single unit. A PUD should provide for creative, flexible and quality design. The PUD should be used in order to preserve critical and resources areas; trees and other natural features of a site; provide for active, usable open spaces; employ creative and superior site design and minimize impacts on existing infrastructure.

This chapter promotes the public health, safety and general welfare of the citizens of the city in accordance with state law and city's comprehensive plan by establishing a flexible lot process, which will facilitate the fair and predictable development of land, maintain the current character of the city, and provide for greater flexibility in the development of residential lots. A further purpose of this chapter is to prevent the overcrowding of land, to lessen congestion in the streets and highways; to provide for adequate light and air, to facilitate

adequate provision for water, sewage, storm water drainage, parks and recreation areas, sites for schools and school grounds and other public requirements; to provide for proper ingress and egress; to provide a variety of housing opportunities and commercial uses; and to maintain the quality of life of the city. (Ord. 96-06A § 7, 1996)

18.120.020 PUD-process overview.

A. All residential PUDs shall be designed consistent with the flexible lot design process and the flexible lot standards described herein. The PUD process as established by this chapter and the flexible lot design process for residential PUDs as incorporated herein provides opportunities for the identification and preservation of areas of aesthetic, environmental and/or cultural significance located within the community and helps to maintain visual quality and the character of the Island. The flexible lot design methodology described herein allows for greater flexibility in the location and establishment of residential lots and associated infrastructure and is intended to provide a fair and predictable process for the development of land.

B. For the purposes of this chapter, PUDs proposed to exclusively accommodate commercial and industrial uses shall be exempt from the requirements of the flexible lot design process; provided, that they are established in strict compliance with all applicable provisions of this code. The PUD process for commercial and industrial PUDs shall be consistent with the procedures and standards established by this chapter and follow the steps described in subsection C of this section.

C. All PUD application shall follow the following steps:

1. Proposed site plan(s) and additional information for the project, as required by BIMC and Appendix A of this chapter, are submitted for a preapplication consultation with the city staff members. Specific guidance on how to refine the proposed site plan to meet the requirements of the BIMC is received by the applicant from the staff members at this conference. The applicant is required to participate in a community meeting through the

city's public participation program outlined in Resolution No. 2010-32. The meeting will be held after the design review board meeting, if one is required, during the preapplication conference phase of the project.

2. A refined proposed site plan consistent with the submittal requirements of this chapter and additional materials as required by the director are submitted for the PUD application review process.

3. An application for PUD is considered complete and is filed by the city if it satisfies the submittal requirements set forth in Appendix A of this chapter.

4. A staff report is prepared and delivered for review by the planning commission.

5. The planning commission makes recommendations to the hearing examiner.

6. The hearing examiner conducts a public hearing and files findings of fact, conclusions of law, and recommendations with the city clerk's office.

7. The city council, at its next available meeting, reviews the application and affirms, modifies or denies the application or remands the application to the hearing examiner for further review.

8. Any person aggrieved by the decision of the council may file an appeal to the Kitsap superior court in accordance with state law.

D. A PUD application shall be reviewed under the laws in effect at the time the application is approved or disapproved. (Ord. 2010-25 § 6, 2010; Ord. 96-06A § 7, 1996)

18.120.030 Definitions.

The definitions in Chapter 17.04 BIMC shall apply to this chapter. (Ord. 96-06A § 7, 1996)

18.120.040 PUD-flexible lot assistance.

A. The PUD process shall provide opportunities for owners of land and their representatives to receive design assistance from the city's staff members prior to formal submittal of an application.

B. Flexible Lot Design Handbook. A Flexible Lot Design Handbook shall be prepared by the director to assist applicants in the

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preparation of flexible PUD designs and application for residential PUDs. The Flexible Lot Design Handbook shall not be part of the ordinance codified in this chapter and shall contain no requirements separate from the text of this chapter. The applicant for a residential PUD is encouraged to prepare a proposed or "first draft" site plan following the steps described in the Flexible Lot Design Handbook.

C. Preapplication Consultation. A preapplication consultation shall be required prior to PUD review for all PUDs. In order to facilitate the preapplication consultation for residential PUDs, a prospective applicant shall arrange for the proposal to be reviewed by submitting copies of at least one proposed or "first draft" site plan prepared in accordance with flexible lot design methodology to the department prior to submission of an official PUD application. There shall be a fee for preapplication consultation which includes design and administrative assistance. The amount of the fee shall be established by city resolution. This fee will be credited to the applicant upon submission of a PUD application. Preapplication consultation shall not include extensive field inspection or correspondence. (Ord. 96-06A § 7, 1996)

18.120.050 PUD-flexible lot design process -- Preparation of maps, site plans and studies.

The following maps, site plans and studies shall be prepared for proposed residential PUDs and shall be submitted to the city at the time of the preapplication consultation:

- A. Base Map. Prepared consistent with Appendix A of this chapter;
- B. Aerial Photograph. Consistent with Appendix A of this chapter;
- C. Site Inventory Map. Prepared consistent with Appendix A of this chapter;
- D. Proposed Site Plan. Elements of the plan consistent with the following requirements:

1. Identification of Open Space Location(s). Open space areas shall be established as required pursuant to BIMC 18.120.060. The location of open space areas on a proposed site plan shall meet the open space performance standards contained within BIMC

18.120.060(B), open space size requirements within BIMC 18.120.060(B) and the prioritization of open space features contained within BIMC 18.120.060(D).

2. Identification of Residential Homesite Locations. The location of residential homesites on a proposed site plan shall be facilitated through the use of a homesite template as a planning tool. This design methodology contributes to the timely development of alternative site configurations; reduces the potential for adverse environmental impacts; enhances opportunities for integrating meaningful open space into a project; and contributes to efficient infrastructure design. Homesite templates do not mandate lot configuration, but allow the applicant during the design phase to ensure that an adequate area has been designated to permit residential development.

a. Minimum Homesite Template – Area. To assist in preliminary planning of a residential PUD, the minimum dimension for a homesite template contained in Table I shall be used. These dimensions represent a typical minimum area required to establish a residence and or associated outbuildings exclusive of provisions for access, utilities, wastewater disposal, and storm water management. No maximum dimension has been established for homesite template size as applicable land use density regulations in conjunction with the open space requirements contained within this section will provide site-specific limitations for development coverage on a case-by-case basis. The homesite template does not include other uses of the resulting lot such as, but limited to gardens, pastures, orchards, etc.

Table I

Homesite Template Minimum Diameter	Homesite Template Minimum Area
50 feet	1,962 square feet

Note I: The above-referenced minimum does not include area for septic systems.

Note II: Homesite template is a planning tool and its minimum dimensions are not conditions of approval.

b. Homesite Templates – Location. Homesite templates shall be located in such a manner as to avoid placement of any portion of a template within those areas identified and graphically portrayed as “no-build” zones or areas in which development may not occur, such as but not limited to critical areas and their associated buffers, wellhead protection areas, dedicated open space. Portions of a template may include areas containing “restricted building zones” or areas in which development may occur with restrictions, such as but limited to those containing significant trees and established vegetation. Homesite templates shall not be located within any proposed individual or community wellhead protection area, drainfield, and/or reserve drainfield unless specifically approved by the health district.

c. Homesite Templates – Maximum Number. The number of homesite templates permitted for a subject property shall not exceed the maximum density provisions of the city’s comprehensive plan or the city’s zoning code. Furthermore, for those properties for which the applicant is seeking to include the area of a wetland in the density calculation, the requirements of BIMC 16.20.090 shall be satisfied. The applicant shall enter in a third party contract with the consultant and the city to retain a wetland biologist to address the requirements of BIMC 16.20.090.

d. Homesite Templates – Changed Conditions. The PUD process requires that all development shall legally conform to bulk and dimensional requirements of the code at the time of approval. Should conditions change, the location of a homesite template on a plat does not guarantee that the resulting homesite or lot will permit development, and does not waive, modify, or negate other applicable land use processes and/or building permit requirements.

Reasonable Economic Use Exception. In the case where no homesite template can be located on a subject property, the PUD shall not be permitted. Development of the subject property shall be facilitated consistent with the requirements of BIMC 16.20.090(J), reasonable economic use exception.

3. Location of Individual or Community Water Supply Systems. The location of any proposed individual or community well(s) and/or water system(s) for the subject prop-

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erty, and associated wellhead protection areas as required by the health district, shall be graphically indicated on a copy of the base map, or as an overlay attachment to the base map (providing that the overlay is prepared on a transparent material). Maintenance access to the proposed wellhead or water system and all areas to be cleared for a wellhead shall also be identified.

4. Location of Individual or Community Septic Systems. The location of any proposed individual or community drainfields for the subject property and associated reserve drainfields as required by the health district shall be graphically indicated on a copy of the base map, or an overlay attachment to the base map (providing that the overlay is prepared on a transparent material). Maintenance access to proposed drainfields shall also be identified.

5. Provision of Roads and Access. Roads and access consistent with the requirements of the City of Bainbridge Island Public Works Design and Procedures Manual, Appendix A of BIMC Title 17 and the requirements of this code shall be provided to all proposed lots consistent with the standards contained within this subsection. Roads and access proposed consistent with the requirements of this subsection shall be graphically indicated on a copy of the base map, or as an overlay attachment to the base map (providing that overlay is prepared on a transparent material).

The preparation of alternative configurations for all the above elements of the proposed site plan for the subject property shall be encouraged. Alternative configurations shall be graphically indicated on a copy of the base map, or as an overlay attachment to the base map (providing that the overlay is prepared on a transparent material).

E. Composite Site Plan. A composite site plan shall be prepared. Composite site plans are comprised of the assembly or printing of multiple overlay layers on the base map. The purpose of preparing a composite site plan is to help the applicant and the city determine which portions of a subject property are best suited to accommodate homesites, infrastructure, and open space areas.

1. Composite site plan(s) shall be prepared consistent with the requirements of this section for homesite placement, community water of septic location (if applicable), open space provisions, and road and accessway location.

2. The composite site plan shall be graphically indicated on a copy of the base map or as an overlay attachment to the base map (providing that the overlay is prepared on a transparent material).

F. Establishment of Lot Lines. Preliminary lot lines shall be established on the composite site plan to illustrate potential division of the subject property. Homesite template shall be clearly indicated within each lot. Lot lines shall not cross any homesite template. Preliminary lot lines are intended for review and discussion at the preapplication consultation. Subsequent to the preapplication consultation, all proposed revisions shall be made prior to application submittal for PUD. (Ord. 96-06A § 7, 1996)

18.120.060 Flexible lot – Standards.

A. Development Standards. A PUD established pursuant to the flexible lot design process shall be subject to the following development standards.

1. Minimum lot size requirements:

5,000 square feet if septic located outside of the lot (subject to Note i below).

12,500 square feet or as specified by the health district if septic located within the lot (subject to Note i and ii below).

Notes:

i. Larger minimum size may be required to accommodate development in critical areas.

ii. Larger minimum lot size may be required by the health district in order to accommodate on-site septic systems.

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2. Lot setback and dimensional requirements.*

Building to Building (on-site)	Minimum 10 feet separation
Building to Exterior Property Line	Minimum 15 feet
	Minimum 25 feet (R-0.4 only)
Building to Right-of-Way:	
Arterial (SR 305)	Not less than 75 feet setback
Arterial (other)	Not less than 40 feet setback
Collector	Not less than 35 feet setback
All others	Minimum 15 feet setback
Building to Trail, Open Space	Minimum 10 feet setback
Minimum Lot Width	50 feet measured at the minimum lot width measurement line (for properties subject to review pursuant to the Shoreline Management Master Plan, the minimum lot width shall be 50 feet measured as required by the Shoreline Management Master Program)
Maximum Lot Coverage	The maximum lot coverage for the entire lot subject to the PUD application, as specified in BIMC Title 18.

**Excepting those buffers established pursuant to critical area review, the requirements of the Shoreline Management Act, conditioned by SEPA review, or required for public health or safety reasons.*

3. All building sites shall require storm water management provisions.

B. Open space shall be established consistent with the following performance standards:

1. Open space shall be established to preserve the natural character of the city.

2. Where practical, open space shall be concentrated in large usable areas.

3. Where possible, open space shall connect to adjacent off-site open space areas and designated greenways.

4. Where possible, open space shall be designed to preserve views from off-site of the subject property, mature vegetation on ridgelines.

5. Where possible, the island character of the roadways shall be maintained through the reduction of roadway width and the minimization of disturbance of roadside vegetation.

6. All areas identified for protection by Chapter 16.20 BIMC shall be located within designated open space.

7. The PUD shall include a buffer of existing vegetation along a property line where the land adjacent to the property line is a park or a future park in a municipal plan. The purpose of this buffer is to visually screen views of the PUD land from the park area. The buffer shall be designed to provide visual screening at all times of the year.

8. A vegetative buffer shall be established adjacent to all scenic roads.

C. Open Space Requirements. Table II contains the minimum requirements for open space areas which shall be included in all PUDs.

Table II

Zoning District	Required Percentage of Open Space
R-0.4	80%
R-1	60%
R-2; R-2.9; R-3.5; R-4.3	40%

D. Prioritization of Open Space Features. Table III ranks the relative desirability of different types of open space, and should be used as the basis for determining the optimum location for open space areas within a proposed project.

Table III

Priority (Ranking)	Open Space Feature	Notes
1	Critical Areas (as defined in Chapter 16.20 BIMC)	All critical areas and their associated buffers shall be preserved.
2	Existing Roadway Buffer Areas	Roadway buffer areas comprised of established mature native vegetation shall be preserved.
3	Pastures and Farmland	Pastures and farmland currently or traditionally used in agriculture should be preserved.
4	Significant Trees	Significant trees identified consistent with the standards of the landscaping ordinance should be preserved.
5	Mature Vegetation on Ridgelines	Mature vegetation found on ridgelines of community significance (as viewed from off-site) should be preserved.
6	Trails and Greenways	Trails and greenways should be preserved.
7	Native Forest and Clearings	Where possible, native forests and naturally occurring clearings should be preserved.

E. Calculation of Open Space Area. For the purposes of this chapter, the calculation of open space area shall include all common public or privately held open space areas, all provisions for the right-of-way for public roads and the easement width for private roads, storm water facilities, recreational areas, trails and greenways and areas protected consistent with Chapter 16.20 BIMC. Homesites shall not be included in determining open space area. Open space areas located on private lots and subject to open space easements and restrictions shall be included in the calculation of open space area.

F. Open Space Ownership. Ownership of regulated open space shall be established consistent with one of the following forms of ownership:

1. Private Ownership. Open space shall be established by easements, restrictive covenants, or other similar legal means; or

2. Common Ownership. Open space shall be held in common by a home or property owners association or other similar organization. For the purposes of this chapter, ownership of open space by a land trust, or other similar conservancy organization shall be considered common ownership. Should this ownership pattern be selected, appropriate covenant, conditions, and/or restriction shall be required; or

3. Public Ownership. In certain circumstances the city may choose to accept ownership of open space. Upon approval and acceptance by the city, open space shall be dedicated to the public.

G. Open Space Management Plan. An open space management plan (OSMP) shall be prepared by the applicant for review and approval by the city at the time of the application for plat approval. The OSMP shall include provisions for the periodic inspection of the subject open space by the city. The OSMP shall include the following:

1. A list of all approved uses for the open space areas. Where a variety of uses are permitted, the specific location of each use shall be depicted graphically;

2. A management plan which clearly describes the frequency and scope of maintenance activities;

3. An identification of the management entity responsible for the maintenance of the open space areas.

H. Maintenance of Open Space Areas. Open space areas shall be maintained permanently by the property owner or the property owner's association, or the city for properties owned by the city. In the event that open space is not maintained consistent with the OSMP, the city shall have the right to provide the maintenance thereof, and bill the owner accordingly. Such bill shall become delinquent 20 days after the date of mailing, and the interest shall accrue on and after the date of delinquency at 12 percent or the rate authorized by statute, whichever is lower.

I. Landscape Standards. Landscaping shall be established consistent with the requirements of the Chapter 18.85 BIMC.

J. Roads and Access Performance Standards.

1. Roads and access shall be consistent with the following performance standards:

a. Connections to existing off-site roads which abut the subject property shall be required where practicable, except through critical areas and/or their buffers.

b. Pedestrian access onto the site shall be maximized in all proposed projects. This may be accommodated through the provision of on-site walkways, trails, paths or sidewalks which originate at the property boundary.

c. Internal pedestrian circulation shall be facilitated through appropriately sealed walkways, paths, trails or sidewalks. Special emphasis shall be placed on providing pedestrian access to proposed recreational and/or open space areas.

d. All roadways (and building sites) shall require storm water management provisions.

e. Where practical, existing roadway character shall be maintained. This may be accomplished through the reduction of roadway width (provided it is consistent with the code), the minimization of curb cuts, and the preservation of roadside vegetation.

f. "City of Bainbridge Island Engineering, Design, and Development Standards Manual" and Appendix A of BIMC Title 17.

2. Variation from Road Requirements.

A variation from the road requirements and standards contained within the "City of Bainbridge Island Engineering, Design, and Development Standards Manual" and Appendix A of BIMC Title 17, and PUD standards contained within applicable chapters of the code shall be permitted if such a reduction meets the purposes of this chapter, and is approved by the city or the director, after recommendation by the city engineer and the fire marshal. (Ord. 98-20 § 13, 1998; Ord. 96-06A § 7, 1996)

18.120.070 Permitted uses.

The permitted uses shall be any permitted or conditional use in the underlying zone. In planned unit developments that include areas that encompass more than one zone, the uses

permitted shall be allowed in the same proportion as the area in each zone. (Ord. 96-06A § 7, 1996)

18.120.080 Permitted density.

A. The number of dwelling units permitted in a planned unit development shall not exceed the allowed density of the underlying zone.

B. In all commercial or mixed use zones PUDs may include residential uses not to exceed the number of dwelling units permitted in the underlying zone. (Ord. 96-06A § 7, 1996)

18.120.090 PUD – Development standards.

A. The maximum lot coverage for residential projects shall not exceed the maximum lot coverage in the underlying zone. For commercial projects, the lot coverage may be increased by five percent of the lot area over the underlying zone.

B. For an application for commercial development, there shall be no minimum setbacks internal to a PUD. Setbacks along the PUD property line shall be no less than the minimum setbacks required in the underlying zone. For residential development, the setback requirements are set out in BIMC 18.120.060(A)(2). (Ord. 2004-02 § 1, 2004; Ord. 96-06A § 7, 1996)

18.120.110 Decision criteria.

A. An application for a PUD permit may be approved or approved with modifications if:

1. The PUD clearly demonstrates superior site design by incorporating as many of the following as feasible:

- a. Provisions for public facilities and/or amenities;
- b. Energy efficient site design;
- c. Provision of affordable housing;
- d. Other innovative site design exceeding code requirements;
- e. Preservation of natural features;
- f. Placement of structures, circulation systems and utilities that minimize the alteration of the land;

g. Provisions for a variety of building types and scale, and design to reduce the bulk of structures;

h. Site design that reduces dependency on automobiles by providing for pedestrian, bicycle and transit uses;

i. Site design that minimizes impervious surfaces; and

j. Planting and buffers that exceed required minimums;

2. The PUD provides for the protection of critical and resource areas;

3. The PUD is compatible in size, scale, mass and design with uses on adjacent properties;

4. For all PUDs containing dwelling units, at least 15 percent of the gross land area must be set aside as active open space and designed as an integrated part of the project rather than an isolated element;

5. The PUD is compatible with the physical characteristics of the subject property;

6. Roads, streets, and access drives within and adjacent to the PUD meet all the requirements of the development standards. Appendix A of BIMC Title 17, except as provided for in BIMC 18.120.060.J.2;

7. Adequate public services are available including water, sewer/septic, roads, including access roads, fire and storm drainage. Approval of the PUD should not adversely impact existing public service levels for surrounding properties;

8. The PUD is consistent with the goals and policies of the comprehensive plan;

9. The PUD complies with all other codes and policies of the city, unless a provision has been modified as a housing design demonstration project pursuant to Chapter 18.38 BIMC;

10. All significant trees within required buffer areas and outside building footprints are retained whenever feasible;

11. A perimeter buffer appropriate to the project may be required;

12. If a PUD will be phased, each phase of a proposed PUD must contain adequate infrastructure, open space, recreational facilities, landscaping and all other conditions

of the PUD to stand alone if no other subsequent phases are developed.

B. If no reasonable conditions or modifications can be imposed to ensure the application meets the criteria set forth above, then the application shall be denied. (Ord. 2009-06 § 8, 2009; Ord. 96-06A § 7, 1996)

18.120.120 Time limits.

The PUD automatically expires and is void if the applicant fails to file for a building permit or other necessary development permits within five years of the effective date of the PUD unless:

A. The applicant has received an extension for the PUD permit pursuant to BIMC 18.120.140; or

B. The PUD approval provides for a longer time period. (Ord. 96-06A § 7, 1996)

18.120.130 Adjustments to a PUD permit.

A. Minor adjustments to an approved PUD permit may be made by the director. Minor adjustments are those that entail minor changes in dimensions or siting of structures and location of public amenities, but do not entail changes to the intensity or character of the development.

B. Adjustments other than minor adjustments to an approved PUD require an amended permit and shall be processed in the same manner as a new PUD permit application. (Ord. 96-06A § 7, 1996)

18.120.140 Extension.

The director may extend a PUD permit once for a period not to exceed one year if:

A. The extension request is received no later than 30 days prior to the expiration of the permit;

B. Unforeseen circumstances or conditions necessitate the extension of the permit;

C. Termination of the permit would result in unreasonable hardship to the applicant;

D. The applicant is not responsible for the delay; and

E. An extension of the permit will not cause substantial detriment to existing uses in the immediate vicinity of the subject property. (Ord. 96-06A § 7, 1996)

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18.120.150 Revocation of permit.

A PUD permit may be revoked by final decision of the hearing examiner in accordance with BIMC 2.16.100 upon the finding of any one or more of the following:

A. That the approval was obtained by deception, fraud or other intentional or misleading representation; or

B. That the development of the subject property has not been consistent with the PUD permit. (Ord. 96-06A § 7, 1996)

18.120.160 Merger with subdivision.

The applicant may request that the city process a preliminary plat in conjunction with a PUD. Platting is required for all projects which intend to subdivide land for the sale of individual lots.

A. Procedure. The city may review and decide on a subdivision or short subdivision at the same hearing as the PUD to the extent allowed by the city and state subdivision regulations.

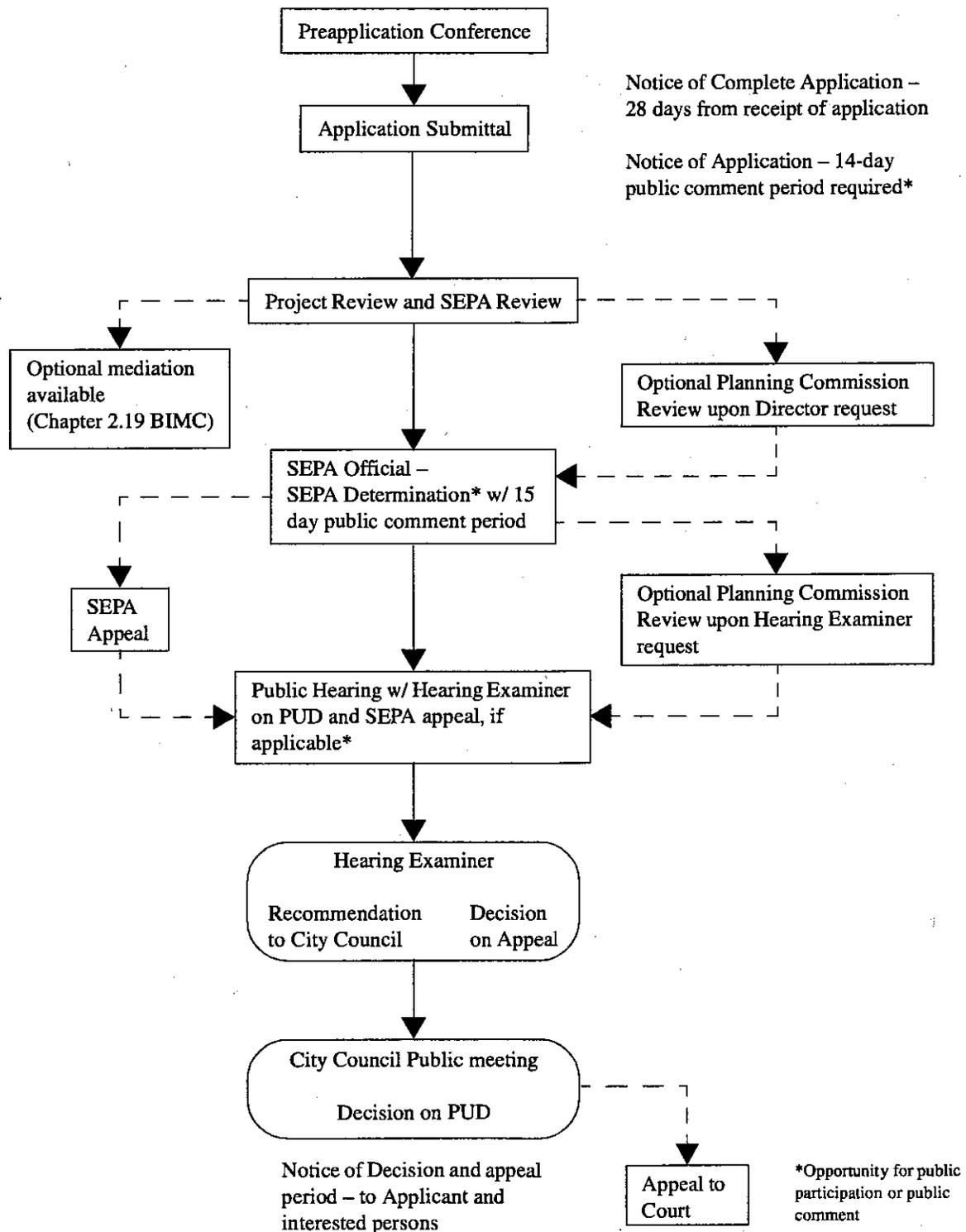
B. Requirements:

1. The preliminary plat must comply with the standards and criteria of Chapters 17.04 BIMC, Subdivisions, Chapter 17.12 BIMC, Short Subdivisions, and Chapter 17.16 BIMC, Large Lot Subdivisions, as appropriate, and conform to the conditions of the approved PUD.

2. There is no minimum lot size for commercial PUDs. The minimum lot size for residential PUDS is established by BIMC 18.120.060. (Ord. 96-06A § 7, 1996)
(Ord. 96-06A § 8, 1996)

18.120.170PUD permit process.

Planned Unit Development (PUD)



(Ord. 96-20 § 23, 1996)

Note: If a conflict exists between the text and this chart, the text prevails.

**Appendix A
SUBMITTAL REQUIREMENTS**

Process Step	Required	Purpose	Form	Contents
Proposed Site Plan.	A. Base Map.	The purpose of the base map is to consolidate existing characteristics of the site and existing on-site conditions.	Drawn or printed on durable material (mechanically reproducible).	<ol style="list-style-type: none"> 1. North arrow and scale; 2. Name, address and phone number of the owner of the subject property or the authorized representative; 3. Subject property boundaries; 4. Total acreage; 5. Topography with a contour interval of no less than 10 feet (slopes which exceed 15 percent shall be identified); 6. The location of all easements (such as access, utility and/or conservation easements) located on the subject property; 7. The location and names of roads and rights-of-way, easements, bicycleways, greenways, and trails located on-site, or in close proximity to the subject property; 8. The location of all utilities (water lines or wells, sewer lines or septic systems, power and/or telephone lines) located on the subject property; 9. The location of all bodies of water (including streams, drainage course, and/or wetlands) located on the subject property, or within 150 feet of the subject property; 10. The approximate location and size of existing structures located within 100 feet of the subject property; 11. City of Bainbridge Island zoning and comprehensive plan designation for the subject property (shoreline designations shall be included if applicable); 12. Existing land uses on both the subject property (if applicable) and all adjacent properties; 13. All areas of identified historical importance located on the subject property or adjacent properties, such as structures listed on the National Register for Historic Places and the 1987 Bainbridge Island Historic Survey, as prepared by the Washington State Office of Archeology and Historic Preservation; 14. Wellhead protection areas on or affecting the subject property.

Appendix A SUBMITTAL REQUIREMENTS	
<p>B. Aerial Photograph.</p>	<p>The purpose of the aerial photograph is to assist in the preparation of the base map and site inventory, and to provide guidance on existing natural and manmade conditions found on both the subject and surrounding properties.</p> <p>An aerial photograph which is approximately the same scale as the base map may be obtained by the applicant from the Department of Natural Resources.</p> <p>An aerial photo showing the site in a present condition.</p>
<p>C. Site Inventory Maps.</p>	<p>The purpose of the site inventory is to gather and evaluate information about the subject property and the surrounding area, and provide a graphic portrayal of areas in which development may not occur ("no-build zones") or may occur with restrictions ("restricted building zones").</p> <p>Information identified during the site inventory shall be graphically indicated as an overlay attachment to the base map (providing that the overlay is prepared on a transparent material).</p> <p>1. "No-build zones": a. All critical areas and their associated buffers (as defined in BIMC Title 16) located on the subject property, and, if possible, those located within 100 feet of the subject property (aerial photographs or studies prepared for adjacent properties may be used to preliminary assess off-site critical areas); b. Wellhead protection areas on or affecting the subject property and all other easements, setbacks, or buffer areas which limit development; c. Dedicated open space or greenway areas located on the subject property. 2. "Restricted building zones" (depicted in such a manner as to be graphically distinct from "no-build zones"): a. Areas of significant trees and vegetation located on the subject property, or on any adjacent properties located within 100 feet of the subject property.</p>

Appendix A
SUBMITTAL REQUIREMENTS

	<p>D. Proposed Design Elements established as required pursuant to BIMC 17.04.080, Flexible Lot Standards.</p>	<p>To illustrate the design proposals during the preapplication consultation with the department staff members.</p>	<p>Alternative configurations shall be graphically indicated on a copy of the base map, or as an overlay attachment to the base map (providing that the overlay is prepared on a transparent material).</p>	<p>1. Open space location(s) (prepared consistent with the process contained in BIMC 18.120.050). 2. Residential homestead location(s) and lot lines (prepared consistent with the process contained in BIMC 18.120.050). 3. Location of individual or community water supply and septic systems (prepared consistent with the process contained in BIMC 18.120.050). 4. Provision of roads and access (prepared consistent with the process contained in BIMC 18.120.050).</p>
<p>E. Composite Site Plan.</p>	<p>To help the applicant and the city determine which portions of a subject property are best suited to accommodate homesites, infrastructure, and open space areas, and to serve as the basis for preapplication consultation consistent with the requirements of BIMC 18.120.050.</p>	<p>Composite site plans are comprised of the assembly or printing of multiple overlay layers on the base map. The composite site plan shall be graphically indicated on a copy of the base map, or as an overlay attachment to the base map (providing that the overlay is prepared on a transparent material).</p>	<p>Consistent with the BIMC 18.120.050 consolidated information of the above.</p>	

Appendix A SUBMITTAL REQUIREMENTS			
PUD Application.	Composite Site Plan and Additional Documents.	To submit the PUD application for the city review.	Map drawn on a minimum 11-inch by 17-inch paper to scale no less than one inch to 100 feet and additional documents.
Same as composite site plan and the following: 1. The legal description of the property and tax account number; 2. A complete and detailed written statement of the intended use of the land and the sequence and timing of the proposed development; 3. The terms, conditions, covenants, and agreements regarding the intended development and terms, conditions, covenants, and agreements under which the property is bound; 4. An environmental checklist when required by the State Environmental Policy Act, codified at Chapter 16.04 BIMC; and 5. A statement regarding proposed dedication of trails and parks if required by Chapter 17.08 BIMC.			

(Ord. 96-06A § 8, 1996)

Chapter 18.123

ENFORCEMENT AND PENALTY

Sections:

- 18.123.010 Violations.**
- 18.123.020 Penalties and enforcement.**
- 18.123.030 Repealed.**
- 18.123.040 Repealed.**
- 18.123.050 Performance bond procedure.**

18.123.010 Violations.

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

B. It is a violation of this title for any person to use, construct, locate, demolish or cause to be used, constructed, located or demolished any structure, land or property within the city in any manner that is not permitted by the terms of any permit or authorization issued.

C. It is a violation of this title for any person to remove or deface any sign, notice, complaint or order required by or posted in accordance with this title.

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

E. It is a violation of this title for any person to fail to comply with the requirements of this title. (Ord. 95-02 § 15, 1995; Ord. 92-08 § 2, 1992)

18.123.020 Penalties and enforcement.

Enforcement of this title and the imposition of penalties for violations of this title shall be as provided in Chapter 1.26 BIMC. (Ord. 95-02 § 16, 1995; Ord. 92-08 § 2, 1992)

18.123.030 Violation – Penalty – Civil and criminal proceedings.

Repealed by Ord. 95-02. (Ord. 92-08 § 2, 1992)

18.123.040 Permit revocation procedure.

Repealed by Ord. 95-02. (Ord. 92-08 § 2, 1992)

18.123.050 Performance bond procedure.

After reviewing any application for a land use or a zoning matter, the reviewing official or body may provide for the posting of bonds to ensure continued compliance with any conditions imposed, including the construction of improvements, the adherence to city standards, and/or maintenance, repair or replacement of such improvements. The bond shall be in a form acceptable to the city attorney. In the event a condition occurs warranting the use of bond, the appropriate administrator may act under such bond or may perform the work required at city expense, which expense shall be a lien against the property, enforceable as would be a judgment thereon. (Ord. 92-08 § 2, 1992)

Bainbridge Island Municipal Code

Chapter 18.125

MASTER PLANNED DEVELOPMENT

(Repealed by Ord. 2010-18)