

**CITY OF FIRCREST  
ORDINANCE NO. 1611**

**AN ORDINANCE OF THE CITY OF FIRCREST, WASHINGTON, WASHINGTON, AMENDING ORDINANCE 1575 SECTION 1 AND FMC 22.05.003, AMENDING ORDINANCE 1512 SECTION 2 AND FMC 22.07.005, ADDING A NEW SECTION FMC 22.08.004, ADDING A NEW CHAPTER 22.23, AMENDING ORDINANCE 1562 SECTION 6 AND FMC 22.32.005, AMENDING ORDINANCE 1562 SECTION 8 AND FMC 22.34.005, AMENDING ORDINANCE 1562 SECTION 10 AND FMC 22.36.005, AMENDING ORDINANCE 1562 SECTION 12 AND FMC 22.38.005, AMENDING ORDINANCE 1311 SECTION 6 AND FMC 22.40.005, AMENDING ORDINANCE 1562 SECTION 16 AND FMC 22.42.005, AMENDING ORDINANCE 1562 SECTION 17 AND FMC 22.43.005, AMENDING ORDINANCE 1562 SECTION 28 AND FMC 22.50.002, AMENDING ORDINANCE 1562 SECTION 30 AND FMC 22.50.004, AMENDING ORDINANCE 1562 SECTION 32 AND FMC 22.50.006, AMENDING ORDINANCE 1562 SECTION 33 AND FMC 22.50.007, AMENDING ORDINANCE 1562 SECTION 34 AND FMC 22.50.008, AMENDING ORDINANCE 1246 SECTION 15 AND FMC 22.58.023, AMENDING ORDINANCE 1568 SECTION 4 AND FMC 22.58.029, AMENDING ORDINANCE 1246 SECTION 16 AND FMC 22.60.012, ADDING A NEW SECTION FMC 22.64.043, ADDING A NEW SECTION FMC 22.98.445, ADDING A NEW SECTION FMC 22.98.445.1, ADDING A NEW SECTION FMC 22.98.445.2, ADDING A NEW SECTION FMC 22.98.445.3**

**WHEREAS**, the City has identified amendments that will clarify and improve code administration, improve internal code consistency, establish procedures for considering binding site plans and administrative interpretations, refine existing development standards to better achieve their original intent, allow additional land uses in certain zoning districts, prohibit several types of uses from being established in certain zoning districts, streamline the review process for specific uses by requiring administrative use permits instead of conditional use permits in some instances, and establish design guidelines that would govern the design of drive through facilities; and

**WHEREAS**, the City submitted a *Notice of Intent to Adopt Amendment* with a request for *Expedited Review* to the Washington State Department of Commerce on September 15, 2017, which was issued to state agencies for a comment period that ended on October 2, 2017 as required pursuant to RCW 36A.70 RCW, and no comments were received; and

**WHEREAS**, the City issued a *Determination of Nonsignificance* on September 19, 2017 with a 14-day comment period ending October 2, 2017, and no adverse comments were received; and

**WHEREAS**, the Planning Commission conducted a public hearing on October 3, 2017 to accept public testimony and comment on the proposed amendments; and

1  
2 **WHEREAS**, the Planning Commission adopted the following findings in support of  
3 approval of the proposed amendments, in consideration of the criteria listed in FMC  
22.78.004, prior to final action:

4 (a) The proposed amendment is consistent with the goals, objectives and policies of  
5 the comprehensive plan, in particular:

6 **GOAL LU12**

7 Fircrest should continue to refine its permit process for development and other local  
8 government approvals, as needed, to ensure that it is timely and fair to all affected  
9 parties.

10 **Policy LU12.1**

11 Development regulations shall be periodically reviewed and revised to ensure that  
12 they are consistent with and relate directly to implementation of the Comprehensive  
13 Plan and other state and federal mandates. Duplicate and unnecessary regulations  
14 should be eliminated.

15 **Policy LU12.2**

16 In the event of conflict between development regulations and this Comprehensive  
17 Plan, the provisions of this Comprehensive Plan take precedence. This policy applies  
18 immediately upon adoption of this Comprehensive Plan and amendments thereto.  
19 Development regulations that are significantly inconsistent with this Comprehensive  
20 Plan shall be given high priority for rapid revision.

21 (b) The proposed amendment will promote, rather than detract from, the public  
22 health, safety, morals and general welfare by establishing a binding site plan review  
23 process as well as drive through facility design standards and guidelines that will lead  
24 to the construction of safer streets, driveways and pedestrian facilities, and result in  
25 commercial developments that are aesthetically pleasing, functional at serving all  
26 users, and sensitively designed and constructed so as to minimize impacts on  
27 adjoining uses.

28 **WHEREAS**, the City Council conducted a public hearing on November 28, 2017 to  
29 accept public testimony and comment on the proposed amendments; Now, Therefore,

30 **THE CITY COUNCIL OF THE CITY OF FIRCREST DO ORDAIN AS**  
31 **FOLLOWS:**

32 **Section 1.** Ordinance 1575 §1 and FMC 22.05.003 are hereby amended to read as  
follows:

## 22.05.003 Project permit application framework.

**Table A – Classifications**

| Type I  | Type II-A                         | Type II-B                                    | Type III-A   | Type III-B  | Type IV     | Type V                            |
|---|-----------------------------------|--|--|---|-------------|-----------------------------------|
| Permitted uses not requiring site plan or design review alterations | Minor variances, minor site plans | Short plats, short plat vacations            | Major preliminary site plans   | Preliminary plats   | Final plats | Comprehensive plan amendments     |
| Boundary line adjustments   | Administrative use permits        | Final site plans and final development plans | Conditional use permits, major variances   | Plat vacations and alterations  |             | Development regulation amendments |
| Minor amendments to development plans and site plans                |                                   | Design review                                | Major amendments to site plans and conditional use permits                             | Preliminary development plans and major amendments to preliminary development plans |             | Annexations                       |
| Temporary accessory structures and uses                             |                                   | Land clearing/grading permits                | Home occupations requiring CUP approval  | Zoning map amendments   |             | Area-wide rezones                 |
| Home occupation permits   |                                   | Administrative interpretation                | Critical areas reasonable use exceptions   |   |             |                                   |
| Accessory dwelling units  |                                   | Critical areas determinations                | Detached accessory dwelling units; critical areas public agency and utility exceptions |   |             |                                   |
| De minimis variance   |                                   | Binding site plan                            |  |   |             |                                   |

**Table B – Procedures**

| Action   | Type I       | Type II-A                       | Type II-B  | Type III-A   | Type III-B  | Type IV   | Type V  |
|--|--------------|---------------------------------|--|--|---|---|---|
| Recommendation made by:                            | N/A          | N/A                             | N/A  | N/A  | Planning Commission   | Planning Commission   | Planning Commission                                     |
| Final decision made by:                            | Director     | Director                        | Director   | Planning Commission  | City Council  | City Council  | City Council  |
| Notice of complete application/<br>comment period: | Not required | Not required; see FMC 22.07.004 | Not required   | Required   | Required  | Required  | Not required  |
| Open record public hearing/public review           | Not required | Not required; see FMC 22.07.005 | Hearing required only if director decision appealed, then hearing before planning commission | Hearing required before the planning commission, which will render final decision unless appealed to council | Hearing required before planning commission, which will forward recommendation to council | Public review required before planning commission, which will forward recommendation to council | Hearing required before planning commission and council |
| Closed record review/appeal hearing/decision       | Not required | Not required                    | Not required   | Closed record appeal hearing required before council only upon appeal  | Closed record review required before council, which will render final decision            | Closed record review required before council, which will render final decision                  | N/A   |
| Judicial appeal                                    | Yes          | Yes                             | Yes  | Yes  | Yes   | No  | Yes   |

**Section 2.** Ordinance 1512 §2 and FMC 22.07.005 are hereby amended to read as follows:

**22.07.005 Notice of decision for administrative use permit, minor site plan review, minor variance, and administrative interpretation.**

Upon issuance of a decision on a proposed administrative use permit, minor site plan review, minor variance, or administrative interpretation, the director shall provide a written notice of this decision to the applicant and any parties who have provided written comment during the 10-day comment period, if applicable. The director shall also provide written notice of this decision to the planning commission.

**Section 3.** A new section is hereby adopted to read as follows:

**22.08.004 Administrative Interpretations.**

(a) Purpose. The primary objective of administrative interpretation is to ascertain the intent of the code provision at issue and to give effect to that intent. Administrative interpretation shall not be used to amend or change the code. The City's development regulations (the Land Development Code) shall be interpreted whenever any of its

provisions, or the application of such provisions to any specific set of circumstances, is ambiguous, *i.e.*, where the code is subject to two or more reasonable interpretations.

(b) Administration. The Director is authorized and directed to administer the provisions of this Section and shall have the authority to approve or deny administrative interpretations without a hearing in accordance with this Section.

(c). Procedure. The following steps shall be followed in the processing of an administrative interpretation:

1. FMC 22.06.004. Determination of Completeness;
2. FMC 22.08.001. Determination of Consistency;
3. FMC 22.07.005. Notice of Decision; and
4. FMC 22.10.004. Closed Record Decisions and Appeals (if any).

(d). Requirements for a Complete Application. The following materials shall be submitted to the City in order to constitute a complete application for an administrative interpretation;

(1) The name, address, telephone number and e-mail address of the applicant, the completed application form with the date of submission to the City and the applicable fee;

(2) An identification of the code provision that is the subject of the applicant's administrative interpretation, and a description of the applicant's perception of the ambiguity in the code;

(3) A description of the set of circumstances, the address of the property or identification of the development that the applicant believes has created the ambiguity or two or more reasonable interpretations of the code provision identified in Subsection D(2) above; and

(4) If the applicant is requesting an administrative interpretation relating to the applicability of a code provision to a particular piece of property, the applicant shall submit a verified statement that this property is in the exclusive ownership of the applicant, or that the applicant has submitted the request for the interpretation with the consent of all owners of the affected property.

(e) Criteria for Approval. Administrative interpretation shall utilize generally recognized principles of statutory and ordinance interpretation adopted by the courts of this state. In addition:

(1) The provisions of the Land Development Code shall be considered to include the minimum requirements adopted for the promotion and protection of the public health, safety and general welfare, and all administrative interpretations shall be made in this context.

(2) The provisions of the Land Development Code is not intended to interfere with, abrogate or annul any easements, covenants, or other agreements between parties, except

where the agreements may conflict with the enforcement of the Land Development Code.

(3) In the case of conflicts between the portions of the Land Development Code and other rules, regulations, resolutions, ordinances or statutes lawfully adopted by other authority having jurisdiction within the City, the most restrictive shall govern. In the case of conflicts between the text, maps and charts of the Land Development Code, the text shall govern unless otherwise stated.

(4) Zoning Map Interpretation. Where uncertainty exists as to the location of any boundaries of the zones shown on the City's Official Zoning Map, the rules of interpretation listed in FMC 22.30.004 shall apply.

(f) No Limitation for Final Decision. An administrative interpretation is not a project permit application, and is not subject to a deadline for issuance of a final decision.

**Section 4.** A new chapter is hereby adopted to read as follows:

#### **Chapter 22.23 BINDING SITE PLAN**

Sections:

- 22.23.001 Purpose.
- 22.23.002 Applicability.
- 22.23.003 Type of Application.
- 22.23.004 Optional Pre-application conference.
- 22.23.005 Review criteria.
- 22.23.006 Decisions.
- 22.23.007 Recording and binding effect.

##### **22.23.001 Purpose.**

The purpose of this chapter is to create a permit for dividing commercially zoned property, as authorized by RCW [58.17.035](#). On sites that are fully developed, the binding site plan merely creates or alters interior lot lines. In all cases the binding site plan ensures, through written agreements among all lot owners, that the collective lots continue to function as one site concerning but not limited to: lot access; interior circulation; open space; landscaping and drainage; facility maintenance; and coordinated parking.

##### **22.23.002 Applicability.**

(a) Any person seeking the use of a binding site plan to divide the person's property for the purpose of sale, lease, or transfer of ownership of commercially zoned property is required to apply for, complete, and have approved a binding site plan prior to any property division, as provided in Chapter [58.17](#) RCW and as required by this chapter.

(b) The site that is subject to the binding site plan shall consist of one or more contiguous lots legally created.

(c) The site that is subject to the binding site plan may be reviewed independently for fully developed sites, or concurrently with a development permit application for undeveloped land.

(d) The binding site plan process merely creates or alters lot lines and does not authorize substantial improvements or changes to the property or the uses thereon.

**22.23.003 Type of application.**

A binding site plan is a Type II application and the director shall make the final decision. The application shall be processed as set forth in Chapter [22.06](#) FMC.

**22.23.004 Optional pre-application conference.**

Prior to submittal of an application for a binding site plan, an applicant may request a pre-application conference in accordance with FMC [22.06.001](#). The pre-application conference is intended to enable the applicant and city staff to review a conceptual plan prior to a formal survey being conducted and documentation being submitted for the binding site plan.

**22.23.005 Review criteria.**

(a) The Director shall review the application for consistency with the Comprehensive Plan, development regulations, Chapter [58.17](#) RCW, and review comments provided by other governmental agencies, utilities, and interested parties, and require appropriate modifications or conditions.

(b) The Director shall review newly created lots to ensure the lots:

(1) Will continue to function and operate as one site, for fully developed sites; or

(2) Conform to an approved development plan including any adopted rules and regulations or required conditions as represented in an approved development plan or associated approval document, if the binding site plan is being considered with a development plan.

(c) If applicable, the Director shall review the environmental checklist and other available information and issue an appropriate threshold decision. The threshold decision may require measures to mitigate any significant adverse environmental impact.

(d) The Director shall contact the appropriate sewer purveyor to review the binding site plan for potential sewer adequacy.

(e) The Director shall review proposed lot sites that are known or suspected to be poor building sites because of geological hazard, flooding, wetland, or other environmental or critical area constraint or limitation, and such may be noted on the face of the site plan.

(f) The City Engineer shall review the site plan for compliance with public works codes, including but not limited to the adequacy of the proposed street and storm drainage systems.

(g) The Fire Code Official shall review the proposed site plan for fire protection issues, including but not limited to fire hydrant location and emergency vehicle access.

(h) In addition to other standards required by this title, the Director may require additional standards and conditions or it may modify the standards and conditions in such a manner as is necessary to:

- (1) Maintain the intent and purpose of this title;
  - (2) Assure that a degree of compatibility shall be maintained with respect to properties and existing or potential uses within the general area; and
  - (3) Preserve the public health, safety, morals, and general welfare.
- (i). The recommendations of the Director, City Engineer, and the Fire Code Official shall become part of the record.

**22.23.006 Decisions.**

- (a) The Director may approve, approve with conditions, or deny a binding site plan.
- (b) If the site plan meets the requirements of FMC 22.23.005 (A) through (H), the Director shall approve the binding site plan by signing the Department certificate on the face of the binding site plan.
- (c) The binding site plan shall contain applicable descriptions or attachments setting forth limitations and conditions to which the plan is subject, including any applicable irrevocable dedications of property and containing a provision requiring that any development of the site shall be in conformity with the approved site plan.
- (d) The Director may authorize sharing of open space, parking, access, and other improvements among contiguous properties subject to the binding site plan. Conditions of use, maintenance, and restrictions on redevelopment of shared open space, parking, access, and other improvements shall be identified on the binding site plan and enforced by covenants, easements, or other similar mechanisms.
- (e) Effect of Approval. The approval of a binding site plan shall not be a guarantee that future permits will be granted for any structures or development within said area, and a notation to this effect shall be stated on the face of the binding site plan.
- (f) If the binding site plan is unable to comply with the requirements of FMC [22.23.005](#) (A) through (H), the binding site plan shall be denied.

**22.23.007 Recording and binding effect.**

- (a) Prior to recording, the approved binding site plan shall be surveyed and the final recording forms shall be prepared by a professional land surveyor, licensed in the state of Washington. Surveys shall include those items prescribed by RCW [58.09.060](#), Records of survey, contents – Record of corner, information.
- (b) The approved binding site plan recording forms shall include the following, in the format prescribed by the Director:
- (1) Lots designated by number on the binding site plan within the area of the lot. Tracts shall be similarly designated and each tract shall be clearly identified with the ownership and purpose;
  - (2) Signature and stamp of the land surveyor who prepared the binding site plan;
  - (3) Reference to the recording number of the completed survey as required by this section if the boundaries have been previously surveyed;
  - (4) Reference to all agreements or covenants required as a condition of approval;



(5) Notarized signatures of all persons having an ownership or security interest in the land being divided;

(6) Approval of the City Engineer; and

(7) Approval of the Director.

(c) Binding site plans shall be recorded with the Pierce County Auditor with a record of survey.

(d) Lots, parcels, or tracts created through the binding site plan procedure shall be legal lots of record. All provisions, conditions, and requirements of the binding site plan shall be legally enforceable on the purchaser or any other person acquiring a lease or other ownership interest of any lot, parcel, or tract created pursuant to the binding site plan.

(e) Any sale, transfer, or lease of any lot, tract, or parcel created pursuant to the binding site plan, that does not conform to the requirements of the binding site plan or without binding site plan approval, shall be considered a violation of Chapter [58.17](#) RCW and shall be restrained by injunctive action and be illegal as provided in Chapter [58.17](#) RCW.

**Section 5.** Ordinance 1562 §6 and FMC 22.32.005 are hereby amended to read as follows:

**22.32.005 Development standards. (R4 Zone)**

|                                       |   |
|---------------------------------------|---|
| Maximum density                       | 4 dwelling units per gross acre.  |
| Minimum lot area                      | 8,000 square feet.  |
| Maximum height                        | 30 feet. See FMC <a href="#">22.58.007</a> for exceptions.  |
| Maximum floor area ratio              | 0.35. See FMC <a href="#">22.58.026</a> for FAR standards.  |
| Minimum front yard setback            | 25 feet. See FMC <a href="#">22.58.002</a> for setback reduction and allowable encroachments.   |
| Minimum interior side yard setback    | 8 feet. See FMC <a href="#">22.58.002</a> for allowable encroachments.  |
| Minimum side street side yard setback | 15 feet. See FMC <a href="#">22.58.002</a> for allowable encroachments.   |
| Minimum rear yard setback             | 20 feet. See FMC <a href="#">22.58.002</a> for allowable encroachments.   |
| Exterior wall modulation              | Building elevations greater than 40 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 4 feet for front and side street side yard elevations of single-family dwellings, and 6 feet for all elevations of all other |

|   |  |
|---|--|
|   | buildings. The projections or recesses shall extend at least 20% of the length of the facade. No uninterrupted length of any elevation shall exceed 40 horizontal feet. See FMC <a href="#">22.64.009</a> for an illustration of this requirement.   |
| Articulation  | Building elevations exceeding 20 feet in length, measured horizontally, shall incorporate a minimum of two articulation components, such as a stoop, porch, chimney or other substantial projections, windows, multiple contrasting siding materials, or substantial trim including a belt course, to visually and/or functionally break up flat, blank or undifferentiated elevations. Building elevations greater than 30 feet in length, measured horizontally, and exceeding 12 feet in height, measured from finished grade to top of wall where it connects to roof structure, shall incorporate a minimum of three articulation components. |
| Accessory building standards  | See FMC <a href="#">22.58.003</a> .  |
| Maximum lot coverage for structures   | 40% for all structures combined.   |
| Maximum impervious surface coverage   | 50% for structures and other impervious surfaces combined.   |
| Minimum lot width   | 60 feet.   |
| Minimum frontage on a public street   | 60 feet. 45 feet if located on a cul-de-sac or facing the inside curve of a street.  |
| Additional specific use and structure regulations   | See Chapter <a href="#">22.58</a> FMC.   |
| Parking and circulation   | See Chapter <a href="#">22.60</a> FMC.   |
| Landscape regulations   | See Chapter <a href="#">22.62</a> FMC.   |
| Design standards  | See Chapter <a href="#">22.64</a> FMC.   |
| <i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i> |  |

**Section 6.** Ordinance 1562 §8 and FMC 22.34.005 are hereby amended to read as follows:

**22.34.005 Development standards. (R-4-C zone)**

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| Maximum density  | 4 dwelling units per gross acre for small lot development.<br>8 dwelling units per gross acre for cottage housing.  |
| Density bonus  | The following density bonuses, not to exceed 30% combined, may be permitted for small lot development:<br>a. A 5% increase in density if $\geq 30\%$ of the development site is retained as common open space, and which must be contiguous or larger than 1 acre in area.<br>b. A 10% increase in density if a pedestrian trail system is provided within the common open space area, consistent with a trails plan.<br>c. A 10% percent increase in density if a minimum 35% of the required common open space is improved as an active recreational area. Active recreational areas include, but are not limited to:<br>i. Clearly defined athletic fields and/or activity courts.<br>ii. Recreation centers or community facilities.<br>d. A 1% increase in density for each 5% additional increase in common open space provided beyond the minimum percentage required. |
| Minimum and maximum lot area   | Small lot development: See Chapter <a href="#">22.63</a> FMC<br>Cottage housing: See FMC <a href="#">22.58.027</a>  |
| Maximum height   | Other uses: 35 feet.<br>Small lot development: See Chapter <a href="#">22.63</a> FMC.<br>Cottage housing: See FMC <a href="#">22.58.027</a> .<br>Exceptions may be authorized per FMC <a href="#">22.58.007</a> .   |
| Minimum and maximum front yard, interior side yard, side street side yard, and rear yard setback | Small lot development: See Chapter <a href="#">22.63</a> FMC.<br>Cottage housing: See FMC <a href="#">22.58.027</a> .<br>Other uses: To be determined through the administrative design review process.<br>If not specified, FMC <a href="#">22.58.002</a> encroachment standards will apply.   |
| Exterior wall modulation   | Small lot development: See Chapter <a href="#">22.63</a> FMC.<br>Cottage housing: See FMC <a href="#">22.58.027</a> .<br>For other uses, elevations greater than 40 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 6 feet. The projections or recesses shall extend at least 20% of the length of the facade. No uninterrupted length of any elevation shall exceed 40 horizontal feet. See FMC <a href="#">22.64.009</a> for an illustration of this requirement.  |
| Articulation   | Small lot development: See Chapter <a href="#">22.63</a> FMC.<br>Cottage housing: See FMC <a href="#">22.58.027</a> .   |

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|  | For other uses, building elevations exceeding 20 feet in length, measured horizontally, shall incorporate a minimum of two articulation components, such as a stoop, porch, chimney or other substantial projections, windows, multiple contrasting siding materials, or substantial trim including a belt course, to visually and/or functionally break up flat, blank or undifferentiated elevations. Building elevations greater than 30 feet in length, measured horizontally, and exceeding 12 feet in height, measured from finished grade to top of wall where it connects to roof structure, shall incorporate a minimum of three articulation components. |
| Accessory building standards   | Small lot development: See Chapter <a href="#">22.63</a> FMC.<br>Cottage housing: See FMC <a href="#">22.58.027</a> .<br>If not specified, FMC <a href="#">22.58.003</a> standards will apply.   |
| Maximum impervious surface coverage  | Small lot development: See Chapter <a href="#">22.63</a> FMC.<br>Cottage housing: See FMC <a href="#">22.58.027</a> .<br>For other uses, 50% for all structures and other impervious surfaces combined.  |
| Maximum developable slope  | Subject to the requirements of Chapter <a href="#">22.100</a> FMC.   |
| Additional specific use and structure regulations  | See Chapter <a href="#">22.58</a> FMC.   |
| Parking and circulation  | Small lot development: See Chapter <a href="#">22.63</a> FMC.<br>Cottage housing: See FMC <a href="#">22.58.027</a> .<br>For other uses, see Chapter <a href="#">22.60</a> FMC.  |
| Landscape regulations  | Small lot development: See Chapter <a href="#">22.63</a> FMC.<br>Cottage housing: See FMC <a href="#">22.58.027</a> .<br>For other uses: See Chapter <a href="#">22.62</a> FMC.  |
| Design standards   | Small lot development: See Chapter <a href="#">22.63</a> FMC.<br>Cottage housing: See FMC <a href="#">22.58.027</a> .<br>For other uses: See Chapter <a href="#">22.64</a> FMC.  |
| Critical areas   | See Chapter <a href="#">22.92</a> FMC.   |
| <i>Calculations resulting in a fraction shall be rounded to the nearest whole number, with .50 being rounded up.</i> |  |

**Section 7.** Ordinance 1562 §10 and FMC 22.36.005 are hereby amended to read as follows:

**22.36.005 Development standards. (R6 Zone)**

|                  |                                  |
|------------------|----------------------------------|
| Maximum density  | 6 dwelling units per gross acre. |
| Minimum lot area | 5,000 square feet.               |

|                                       |   |
|---------------------------------------|---|
| Maximum height                        | 27 feet (where minimum roof slope of 6:12 for all parts of the roof above 18 feet is provided). Otherwise, 18 feet. See FMC <a href="#">22.58.007</a> for exceptions.   |
| Maximum floor area ratio              | 0.35. See FMC <a href="#">22.58.026</a> for FAR standards.  |
| Minimum front yard setback            | 20 feet. See FMC <a href="#">22.58.002</a> for setback reduction and allowable encroachments.   |
| Minimum interior yard setback         | 5 feet for first story. 8 feet for side second story. See FMC <a href="#">22.58.002</a> for allowable encroachments.  |
| Minimum side street side yard setback | 15 feet. See FMC <a href="#">22.58.002</a> for allowable encroachments.   |
| Exterior wall modulation              | Building elevations greater than 40 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 4 feet for front and side street side yard elevations of single-family dwellings, and 6 feet for all elevations of all other buildings. The projections or recesses shall extend at least 20% of the length of the elevation. No uninterrupted length of any elevation shall exceed 40 horizontal feet. See FMC <a href="#">22.64.009</a> for an illustration of this requirement.   |
| Articulation                          | Building elevations exceeding 20 feet in length, measured horizontally, shall incorporate a minimum two articulation components, such as a stoop, porch, chimney or other substantial projections, windows, multiple contrasting siding materials, or substantial trim including a belt course, to visually and/or functionally break up flat, blank or undifferentiated elevations. Building elevations greater than 30 feet in length, measured horizontally, and exceeding 12 feet in height, measured from finished grade to top of wall where it connects to roof structure, shall incorporate a minimum of three articulation components. |
| Minimum rear yard setback             | 20 feet. See FMC <a href="#">22.58.002</a> for allowable encroachments.   |
| Accessory building standards          | See FMC <a href="#">22.58.003</a> .   |
| Maximum lot coverage for structures   | 40% for all structures combined, except that up to 200 square feet of a covered, unenclosed front porch having a 6-foot minimum depth may be excluded from total.   |

|   |   |
|---|---|
| Maximum impervious surface coverage   | 50% for all structures and other impervious surfaces combined, except that porches excluded above, and driveway strips less than or equal to 2 feet wide leading to a detached garage in rear 50% of a lot, may be excluded from total. |
| Minimum lot width   | 50 feet.  |
| Minimum frontage on a public street   | 50 feet. 35 feet if located on a cul-de-sac or facing the inside curve of a street.   |
| Additional specific use and structure regulations   | See Chapter <a href="#">22.58</a> FMC.  |
| Parking and circulation   | See Chapter <a href="#">22.60</a> FMC.  |
| Landscaping regulations   | See Chapter <a href="#">22.62</a> FMC.  |
| Design standards  | See Chapter <a href="#">22.64</a> FMC.  |
| <i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i> |   |

**Section 8.** Ordinance 1562 §12 and FMC 22.38.005 are hereby amended to read as follows:

**22.38.005 Development standards. (R8 Zone)**

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|--|--|
| Maximum density  | 8 dwelling units per gross acre.   |
| Minimum lot area   | To be determined through the PD review process – see Chapter <a href="#">22.76</a> FMC.  |
| Maximum height   | 35 feet. Exceptions may be authorized per FMC <a href="#">22.58.007</a> and through the PD review process – see Chapter <a href="#">22.76</a> FMC.   |
| Minimum and maximum front yard, interior side yard, side street side yard, and rear yard setback | Setbacks and allowable encroachments to be determined through the PD review process – see Chapter <a href="#">22.76</a> FMC. If not specified, FMC <a href="#">22.58.002</a> encroachment standards will apply.  |
| Exterior wall modulation   | Building elevations greater than 40 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 4 feet for front and side street side yard elevations of single-family dwellings, and 6 feet for all elevations of all other buildings. The projections or recesses shall extend at least 20% of the length of the elevation. No uninterrupted length of any elevation shall exceed 40 horizontal feet. |

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|   | See FMC <a href="#">22.64.009</a> for an illustration of this requirement.  |
| Articulation  | Building elevations exceeding 20 feet in length, measured horizontally, shall incorporate minimum two articulation components, such as a stoop, porch, chimney or other substantial projections, windows, multiple contrasting siding materials, or substantial trim including a belt course, to visually and/or functionally break up flat, blank or undifferentiated elevations. Building elevations greater than 30 feet in length, measured horizontally, and exceeding 12 feet in height, measured from finished grade to top of wall where it connects to roof structure, shall incorporate a minimum of three articulation components. |
| Accessory building standards  | To be determined through the PD process – see Chapter <a href="#">22.76</a> FMC. If not specified, FMC <a href="#">22.58.003</a> standards will apply.  |
| Maximum lot coverage for structures   | To be determined through the PD review process – see Chapter <a href="#">22.76</a> FMC.   |
| Maximum impervious surface coverage   | 65% of the developable site area for all structures and other impervious surfaces combined.   |
| Development not subject to planned development approval   | For development that is not subject to planned development approval, or for modifications to existing development constructed prior to adoption of planned development requirements, lot size, setbacks, lot coverage and impervious surface area coverage shall comply with the development standards in FMC <a href="#">22.36.005</a> (R-6 zone).   |
| Additional specific use and structure regulations   | See Chapter <a href="#">22.58</a> FMC.  |
| Parking and circulation   | See Chapter <a href="#">22.60</a> FMC.  |
| Landscaping regulations   | See Chapter <a href="#">22.62</a> FMC.  |
| Design standards  | See Chapter <a href="#">22.64</a> FMC. Site-specific design guidelines may be required as part of planned development approval. See also multifamily design standards and guidelines adopted by reference in Chapter 22.63 FMC.   |
| Critical areas  | See Chapter <a href="#">22.92</a> FMC.  |
| <i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i> |   |



**Section 9.** Ordinance 1311 §6 and FMC 22.40.005 are hereby amended to read as follows:

**22.40.005 Development standards. (R-10-TCD Zone)**

|  |   |
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| Maximum density  | 10 dwelling units per gross acre.   |
| Minimum and maximum lot area   | To be determined through the PD review process – see Chapter <a href="#">22.76</a> FMC.   |
| Maximum height   | 35 feet. Exceptions may be authorized per FMC <a href="#">22.58.007</a> and through the PD review process – see Chapter <a href="#">22.76</a> FMC.  |
| Minimum and maximum front yard, interior side yard, side street side yard, and rear yard setback | Setbacks and allowable encroachments to be determined through the PD review process – see Chapter <a href="#">22.76</a> FMC. If not specified, FMC <a href="#">22.58.002</a> encroachment standards will apply.   |
| Accessory structure standards  | To be determined through the PD review process – see Chapter <a href="#">22.76</a> FMC. If not specified, FMC <a href="#">22.58.003</a> standards will apply.   |
| Maximum lot coverage for structures  | To be determined through the PD review process – see Chapter <a href="#">22.76</a> FMC.   |
| Maximum impervious surface coverage  | 65% of the developable site area for all structures and other impervious surfaces combined.   |
| Exterior wall modulation   | Facades greater than 40 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 4 feet for front and side street side yard elevations of single-family dwellings and duplexes, and 6 feet for all elevations of all other buildings. The projections or recesses shall extend at least 20% of the length of the facade. No uninterrupted length of any facade shall exceed 40 horizontal feet. See FMC <a href="#">22.64.009</a> for an illustration of this requirement.  |
| Articulation   | Building elevations exceeding 20 feet in length, measured horizontally, shall incorporate minimum two articulation components, such as a stoop, porch, chimney or other substantial projections, windows, multiple contrasting siding materials, or substantial trim including a belt course, to visually and/or functionally break up flat, blank or undifferentiated elevations. Building elevations greater than 30 feet in length, measured horizontally, and exceeding 12 feet in height, measured from finished grade to top of wall where it connects to roof structure, shall incorporate a minimum of three articulation components. |



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| Maximum % of multifamily dwelling units allowed   | 50% of the total number of units within a development.   |
| Additional specific use and structure regulations   | See Chapter <a href="#">22.58</a> FMC.   |
| Parking and circulation   | See Chapter <a href="#">22.60</a> FMC.   |
| Landscaping regulations   | See Chapter <a href="#">22.62</a> FMC.   |
| Design standards  | See Chapter <a href="#">22.64</a> FMC. See also multifamily design standards and guidelines adopted by reference in Chapter 22.63 FMC. |
| Critical areas  | See Chapter <a href="#">22.92</a> FMC.   |
| <i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i> |  |

**Section 10.** Ordinance 1562 §16 and FMC 22.42.005 are hereby amended to read as follows:

**22.42.005 Development standards. (R20 Zone)**

|                                       |  |
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| Maximum density                       | 20 dwelling units per gross acre.  |
| Minimum or maximum lot area           | To be determined through the conditional use permit or site plan review process – see Chapter <a href="#">22.68</a> or <a href="#">22.72</a> FMC.  |
| Maximum height                        | 35 feet. A maximum 45-foot height may be authorized if one or more levels of structured parking is provided at or below grade level within the building footprint. For other exceptions, see FMC <a href="#">22.58.007</a> . |
| Minimum front yard setback            | 25 feet for first 35 feet of building height. Portions of a building above 35 feet shall be stepped back an additional 10 feet from the underlying story wall plane.   |
| Minimum interior side yard setback    | 8 feet for first 35 feet of building height. Portions of a building above 35 feet shall be stepped back an additional 10 feet from the underlying story wall plane.  |
| Minimum side street side yard setback | 15 feet for first 35 feet of building height. Portions of a building above 35 feet shall be stepped back an additional 10 feet from the underlying story wall plane.   |
| Minimum rear yard setback             | 20 feet for first 35 feet of building height. Portions of a building above 35 feet shall be stepped back an additional 10 feet from the underlying story wall plane.   |

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| Minimum dwelling structure separation   | 10 feet for first 35 feet of building height. Portions of a building above 35 feet shall be stepped back an additional 10 feet from the underlying story wall plane.  |
| Exterior wall modulation  | Building elevations greater than 40 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 4 feet for front and side street side yard elevations of duplexes, and 6 feet for all elevations of all other buildings. The projections or recesses shall extend at least 20% of the length of the elevation. No uninterrupted length of any elevation shall exceed 40 horizontal feet. See FMC <a href="#">22.64.009</a> for an illustration of this requirement.  |
| Articulation  | Building elevations exceeding 20 feet in length, measured horizontally, shall incorporate minimum two articulation components, such as a stoop, porch, chimney or other substantial projections, windows, multiple contrasting siding materials, or substantial trim including a belt course, to visually and/or functionally break up flat, blank or undifferentiated elevations. Building elevations greater than 30 feet in length, measured horizontally, and exceeding 12 feet in height, measured from finished grade to top of wall where it connects to roof structure, shall incorporate a minimum of three articulation components. |
| Maximum lot coverage for structures   | 55% for all structures combined. 65% for all structures combined if at least 50% of required parking is provided at or below grade level within the building footprint.   |
| Maximum impervious surface coverage   | 75% for all structures and other impervious surfaces combined.  |
| Additional specific use and structure regulations.  | See Chapter <a href="#">22.58</a> FMC.  |
| Parking and circulation   | See Chapter <a href="#">22.60</a> FMC.  |
| Landscaping regulations   | See Chapter <a href="#">22.62</a> FMC.  |
| Design standards  | See Chapter <a href="#">22.64</a> FMC. See also multifamily design standards and guidelines adopted by reference in Chapter 22.63 FMC.  |
| <i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i> |   |

**Section 11.** Ordinance 1562 §17 and FMC 22.43.005 are hereby amended to read as follows:

**22.43.005 Development standards. (R30 Zone)**

|   |   |
|---|---|
| Maximum density                                 | 30 dwelling units per gross acre.   |
| Minimum or maximum lot area                     | To be determined through the conditional use permit or site plan review process – see Chapter <a href="#">22.68</a> or <a href="#">22.72</a> FMC.   |
| Maximum height                                  | 40 feet. A maximum 50-foot height may be authorized if one or more level of structured parking is provided at or below grade level within the building footprint. For other exceptions, see FMC <a href="#">22.58.007</a> .   |
| Minimum front yard setback                      | 25 feet for first 40 feet of building height. Portions of a building above 40 feet shall be stepped back an additional 10 feet from the underlying story wall plane.  |
| Minimum interior side yard setback              | 8 feet for first 40 feet of building height. Portions of a building above 40 feet shall be stepped back an additional 10 feet from the underlying story wall plane.   |
| Minimum side street side yard setback           | 15 feet for first 40 feet of building height. Portions of a building above 40 feet shall be stepped back an additional 10 feet from the underlying story wall plane.  |
| Minimum setback abutting an R-6 or R-8 district | 30 feet for first 40 feet of building height. Portions of a building above 40 feet shall be stepped back an additional 10 feet from the underlying story wall plane.  |
| Additional setbacks                             | Per International Building Code.  |
| Minimum dwelling structure separation           | 10 feet for first 40 feet of building height. Portions of a building above 40 feet shall be stepped back an additional 10 feet from the underlying story wall plane.  |
| Exterior wall modulation                        | Building elevations greater than 40 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 6 feet for all building elevations. The projections or recesses shall extend at least 20% of the length of the elevation. No uninterrupted length of any elevation shall exceed 40 horizontal feet. See FMC <a href="#">22.64.009</a> for an illustration of this requirement. |
| Articulation                                    | Building elevations exceeding 20 feet in length, measured horizontally, shall incorporate minimum two articulation components, such as a stoop, porch, chimney or other substantial projections, windows, multiple contrasting siding materials, or substantial trim including  |

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|   | a belt course, to visually and/or functionally break up flat, blank or undifferentiated elevations. Building elevations greater than 30 feet in length, measured horizontally, and exceeding 12 feet in height, measured from finished grade to top of wall where it connects to roof structure, shall incorporate a minimum of 3 articulation components. |
| Maximum lot coverage for structures   | 65% for all structures combined. 75% for all structures combined if at least 50% of required parking is provided at or below grade level within the building footprint.  |
| Maximum impervious surface coverage   | 85% for all structures and other impervious surfaces combined.   |
| Additional specific use and structure regulations.  | See Chapter <a href="#">22.58</a> FMC.   |
| Parking and circulation   | See Chapter <a href="#">22.60</a> FMC.   |
| Landscaping regulations   | See Chapter <a href="#">22.62</a> FMC.   |
| Design standards and guidelines   | See Chapter <a href="#">22.64</a> FMC. See also multifamily design standards and guidelines adopted by reference in Chapter 22.63 FMC.   |
| <i>Calculations resulting in a fraction shall be rounded to the nearest whole number with .50 being rounded up.</i> |  |

**Section 12.** Ordinance 1562 §28 and FMC 22.50.002 are hereby amended to read as follows:

**22.50.002 Permitted uses. (CMU Zone)**

Uses permitted subject to site plan approval in accordance with Chapter [22.72](#) FMC and administrative design review approval in accordance with Chapter [22.66](#) FMC:

(a) Retail sales store including, but not limited to, the sale or rental of the following items: antiques, appliances (new), art and art supplies, bicycles, books, building materials, clothing, fabrics, floor coverings, flowers, food, gifts, groceries, hardware, hobby and craft supplies, home furnishings, jewelry, lawn and garden equipment and supplies, newspapers, office equipment and supplies, paint, music, pets and pet supplies, pharmaceuticals, photography supplies and processing, sporting goods, stationery, toys, vehicle parts (new/remanufactured), videos and wallpaper.

(b) Commercial service including, but not limited to: beauty and hair care, consulting, copying, dry cleaning, fitness/health studios, funeral services, laundry and cleaning (self-service), locksmithing, optical, pet grooming, post office or substation, printing, studio photography, real estate sales, repair of products listed in subsection (a) of this section, security, signs, tailoring, telecommunication sales, title, travel agency service, upholstery and vehicle detailing.

- (c) Food-serving establishment including, but not limited to, bakery, cafeteria, coffee shop, confectionery, delicatessen, espresso stand, ice cream or yogurt shop, restaurant and other sit-down, self-service, or take-out establishments.
- (d) Microbeverage production facility, including microbreweries, microdistilleries and microwineries.
- (e) Commercial office including, but not limited to: medical, dental, optometric, business and professional offices.
- (f) Culturally enriching use including, but not limited to: art gallery, dance studio, library, museum, live theater venue and senior center.
- (g) Laboratory, including but not limited to: medical, dental and optical.
- (h) Civic, labor, social and fraternal organization.
- (i) Veterinary clinic, with treatment and storage of animals within an enclosed building.
- (j) Entertainment facility, including but not limited to: arcade, bowling alley, indoor miniature golf course, indoor movie theater, indoor skating rink, racquetball court and tennis court.
- (k) Hotel and motel.
- (l) Financial institution, including but not limited to: bank, savings and loan, and credit union.
- (m) Religious institution.
- (n) Family group home, including adult family home.
- (o) Multifamily dwelling.
- (p) Assisted living facility, including congregate care facility, convalescent home, hospice care center, residential care facility, and residential treatment facility.
- (q) Necessary public or quasi-public utility building, structure or equipment, unstaffed and less than or equal to 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter [22.62](#) FMC). Excludes substation.

**Section 13.** Ordinance 1562 §30 and FMC 22.50.004 are hereby amended to read as follows:

**22.50.004 Conditional uses. (CMU Zone)**

Uses permitted subject to conditional use permit approval in accordance with Chapter [22.68](#) FMC and administrative design review in accordance with Chapter [22.66](#) FMC:

- (a) Child day-care center.
- (b) Preschool, accredited, public or private.
- (c) Home occupation – Type II (subject to compliance with FMC [22.58.013](#)).
- (d) Automobile and boat sales or rental, new or used.
- (e) Vehicle repair established prior to effective date of the ordinance codified in this section.
- (f) Service station established prior to effective date of the ordinance codified in this section.
- (g) Entertainment facility, outdoor.
- (h) Adult entertainment establishments (subject to compliance with FMC [22.58.014](#)).
- (i) Essential public facilities, as determined by FMC [22.58.022](#). Excludes family and general group homes and includes correctional group homes.
- (j) Necessary public or quasi-public structure or equipment greater than 500 square feet in gross floor area (subject to compliance with landscape standards in Chapter [22.62](#) FMC). Excludes substation.

(k) Personal wireless service facility for which a variance is required (subject to compliance with Chapter [22.24](#) FMC).

(l) A use not listed above which: is not listed in another zoning district as a permitted or conditional use; is similar in nature to the above list of permitted and conditional uses; is consistent with the purpose and intent of this zoning district; and is compatible with the uses on adjoining properties.

**Section 14.** Ordinance 1562 §32 and FMC 22.50.006 are hereby amended to read as follows:

**22.50.006 Administrative uses.**

Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:

(a) Outdoor sidewalk cafe or other food or beverage-serving facility or establishment, when located on a public sidewalk or other public right-of-way area (subject to compliance with FMC 22.58.017).

(b) Establishment licensed by the Washington State Liquor and Cannabis Board to serve liquor for on-premises consumption in an outdoor customer seating area (subject to compliance with FMC 22.58.029).

(c) Drive-up or drive-through facility (subject to compliance with FMC 22.60.012 and FMC 22.64.043).

(d) Light industrial uses including: engineering-oriented pursuits such as electronics, robotics, 3-D printing, and the use of computer numerical control (CNC) tools; metalworking, woodworking, and traditional arts and crafts; small-scale assembly and manufacturing of products using processed materials that do not have the potential to create a nuisance for adjoining land uses; wholesale sale of products manufactured on site; and technological and biotechnological uses, including scientific research, testing and experimental development laboratories.

(e) Outdoor seasonal sales, such as Christmas tree or pumpkin patch lots, or other outdoor special event sales.

(f) Personal wireless service facility (subject to compliance with Chapter 22.24 FMC).

**Section 15.** Ordinance 1562 §33 and FMC 22.50.007 are hereby amended to read as follows:

**22.50.007 Prohibited uses.**

The following uses are prohibited:

(a) Automobile wrecking yard.

(b) Impound yard.

(c) Junk or salvage yard.

(d) Mini-storage or mini-warehouse.

**Section 16.** Ordinance 1562 §34 and FMC 22.50.008 are hereby amended to read as follows:

**22.50.008 Development standards. (CMU Zone)**

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| Maximum density | 30 dwelling units per acre.   |
| Maximum height  | 45 feet. A maximum 55-foot height may be authorized if one or more levels of structured parking is provided at or |

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|  | below grade level within the building footprint. For other exceptions, see FMC <a href="#">22.58.007</a> .  |
| Front yard and side street side yard setback | Zero feet minimum/20 feet maximum for first two stories. Additional stories shall be stepped back at least 10 feet from the wall plane established for the first two stories.   |
| Minimum interior side yard setback           | 10 feet for first two stories. Additional stories shall be stepped back at least 5 feet from the wall plane established for the first two stories.  |
| Minimum rear yard setback                    | 10 feet, except when abutting an R district (see below).  |
| Minimum setback when abutting an R district  | 20 feet for first two stories. Additional stories shall be stepped back at least 10 feet from the wall plane established for the first two stories.   |
| Maximum lot coverage for structures          | 65% for all structures combined. 75% for all structures combined if at least 50% of required parking is provided at or below grade level within the building footprint.   |
| Maximum impervious surface coverage          | 85% for structures and other impervious surfaces combined.  |
| Exterior wall modulation                     | Building elevations greater than 80 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 4% of the length of the facade, but no less than 6 feet. The projections or recesses shall extend at least 20% of the length of the facade. No uninterrupted length of any facade shall exceed 80 horizontal feet. See FMC <a href="#">22.64.009</a> for an illustration of this requirement. Alternative designs that: incorporate recessed or projecting balconies; use base, middle and top treatments with different forms; include roof modulation; and/or provide strong articulation of the facade through the use of multiple siding materials and textures, various building forms, awnings and variation in colors – in conjunction with appropriate landscaping, may be approved in lieu of compliance with the wall modulation standard specified above. |
| Business hours                               | Limitations may be imposed through the site plan review or conditional use permit review processes in order to mitigate impacts on nearby land uses. See Chapters <a href="#">22.68</a> and <a href="#">22.72</a> FMC.  |
| Limitation on nonretail use                  | For a lot or a group of lots having a gross lot area greater than 0.5 acres, the ground floor of buildings within 250   |



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|  | feet of the Mildred Street ROW on such lots shall be designed to accommodate retail use per FMC <a href="#">22.64.016</a> and FMC <a href="#">22.64.020</a> . Not more than 20% of building floor within this ground floor may be leased or otherwise made available for nonretail use. A lot with an area that exceeds 0.5 acres prior to the effective date of the ordinance codified in this section, and that is subsequently subdivided or otherwise reduced in area to less than 0.5 acres, shall remain subject to these requirements. |
| Additional specific use and structure regulations  | See Chapter <a href="#">22.58</a> FMC.  |
| Pedestrian plaza requirements  | See FMC <a href="#">22.58.016</a> .   |
| Parking and circulation  | See Chapter <a href="#">22.60</a> FMC.  |
| Landscaping regulations  | See Chapter <a href="#">22.62</a> FMC.  |
| Design standards and guidelines  | See Chapter <a href="#">22.64</a> FMC. See also multifamily design standards and guidelines adopted by reference in Chapter 22.63 FMC.  |
| Ground floor use of a commercial or mixed use building   | See FMC <a href="#">22.64.016</a> (a).  |
| Continuous storefront requirement for parking structures   | See FMC <a href="#">22.64.016</a> (b).  |
| Minimum floor to ceiling height for ground floor commercial space  | See FMC <a href="#">22.64.016</a> (c).  |
| Minimum storefront window area for ground floor commercial space   | See FMC <a href="#">22.64.020</a> (a).  |
| Large retail establishment requirements.   | See FMC <a href="#">22.64.042</a> .   |
| <i>Calculations resulting in a fraction shall be rounded to the nearest whole number with 0.50 being rounded up.</i> |   |

**Section 17.** Ordinance 1246 §15 and FMC 22.58.023 are hereby amended to read as follows:



**22.58.023 Nonconforming lots, uses and structures.**

(a) Application. The provisions of this section shall apply to uses and structures which become nonconforming as a result of the application of this title to them, or from classification or reclassification of a property under this title or any subsequent amendments thereto.

(b) Continuation of Nonconforming Uses and Structures. Any lawful use of land and/or building or structure existing, under construction, or for which a building or use permit has been granted and was still in force at the time this title became effective may be continued, even though the use does not conform to the provisions of the district in which it is located, subject to the following conditions:

(1) Enlargement. No building, structure or land that is nonconforming by reason of use shall be enlarged or expanded; provided, that normal upkeep, repairing and maintenance of nonconforming buildings and structures is permitted outright, provided the activities do not increase the nonconformity of the buildings or structures.

(2) Replacement. Any building or structure nonconforming by reason of use which has been damaged or destroyed by fire, earthquake, flood, wind or other disaster may be restored and the occupancy or use of the building, structure or part thereof which existed at the time of damage or destruction may be continued subject to all provisions of this title, but the restoration of the nonconforming building or structure shall not serve to extend or increase the nonconformance of the original building, structure or use. Any reconstruction authorized by this section shall commence within one year of the damage and shall be substantially completed within 18 months of the date the damage occurred.

(3) Vacation. If any nonconforming use of land and/or building or structure is vacated for a period of one year, nonconforming rights shall automatically terminate and any future use of the land and/or building or structure shall conform to the zoning district in which it is located. Notwithstanding this one-year automatic termination, vacation may also be deemed to be an act or failure to act on the part of the property owner which indicates an intention that the property owner does not claim or retain any interest in the right to the nonconforming use.

(4) Structural Alteration – Enlargement of Nonconforming Building or Structure. A building or structure which is nonconforming only by reason of substandard yard or height may be structurally enlarged, provided the enlargement does not increase the nonconformance, and further provided the enlarged building or structure conforms with bulk regulations relating to lot coverage or impervious surface coverage.

(5) Structural Alteration – Replacement of Nonconforming Building or Structure. A building or structure which is nonconforming by reason of substandard yard, height, lot coverage, impervious surface coverage, or other bulk regulation, may be restored or rebuilt as it originally existed upon the original foundation and perimeter, if it is damaged or destroyed by fire, earthquake, flood, wind or other natural disaster. Enlargement of the building or structure from the original design may occur in accordance with subsection (b)(4) of this section.

(6) Structural Alteration – Repair of Nonconforming Building or Structure. A building or structure which is nonconforming by reason of substandard yard, height, lot coverage, impervious surface coverage, or other bulk regulation, may be repaired or restored to its original or comparable condition and design. Modifications to the original design of the building or structure may occur in accordance with subsection (b)(4) of this section.

(7) Change of Conforming Use. Whenever a nonconforming use has been changed to a conforming use, it shall not revert to the same or different nonconforming use.

(8) Change of Ownership. Change of ownership, tenancy or management of a nonconforming use shall not affect its legal, nonconforming status.

(9) Annexation Resulting in Nonconformity. Any lawfully existing use of land or building or structure located in an unincorporated area which, through annexation, becomes nonconforming, shall be deemed a legal, nonconforming use, building or structure.

**Section 18.** Ordinance 1568 §4 and FMC 22.58.029 are hereby amended to read as follows:

**22.58.029 Establishments serving liquor for on-premises consumption.**

(a) Establishments licensed by the State of Washington Liquor and Cannabis Board to serve beer, beer and wine, or spirits, beer and wine for on-premises consumption are permitted in specified zoning districts. Such establishments providing outdoor customer seating are subject to administrative use permit approval in accordance with Chapter 22.70 FMC.

(b) At a minimum, the following performance standards shall apply to establishments serving beer, beer and wine, or spirits, beer and wine for on-premises consumption within the NC District. Additional requirements may be imposed in accordance with Chapter 22.70 FMC for those establishments providing outdoor customer seating in the NC district. Establishments operating out of compliance with the following provisions are subject to enforcement action under Chapter 22.95 FMC:

(1) Hours of Operation. The sale, service, and consumption of alcohol is prohibited after 10:00 p.m.

(2) Outdoor Customer Seating. Outdoor seating may be provided for customer use no later than 8:00 p.m. on Sundays through Thursdays, and no later than 9:00 p.m. on Fridays and Saturdays. Outdoor seating areas shall be closed to customers during other times. A 30-minute grace period is allowed for staff to clean the outdoor premises after customer seating hours have ended. The city may limit the amount of outdoor customer seating to minimize potential impacts on residentially zoned properties.

(3) Speakers. Music or other programming emanating from any outdoor speakers on the premises shall only be allowed during approved outdoor customer seating hours. Sounds coming from speakers on the premises, whether located inside or outside the building, shall not be audible from residentially zoned properties.

(4) Bottle Handling. Bottles and other trash and recyclable materials shall not be deposited in any exterior refuse or recycling totes, dumpsters or other receptacles during the hours of 9:00 p.m. to 7:00 a.m.

(5) Exterior Appearance. The business establishment shall maintain the exterior of its premises in a neat and clean condition at all times. All refuse collection containers, including recycling containers, shall be screened in accordance with FMC 22.58.008(d). This provision shall apply to new establishments as well as establishments existing on the effective date of the ordinance codified in this section that expand business operations to include the sale of liquor by the drink for on-premises consumption.

(6) Exterior Lighting. Exterior lighting shall comply with the outdoor lighting regulations in FMC 22.58.018 to ensure that it does not impact nearby properties.

(7) Sidewalk Cafes. A business establishment intending to establish outdoor business seating on a public sidewalk or other public right-of-way area shall comply with the sidewalk cafe regulations in FMC 22.58.017.

(c) The performance standards listed in subsection (b) shall apply to establishments in the CMU District serving beer, beer and wine, or spirits, beer and wine for on-premises consumption, except that for items (1), (2), and (4), alternative hours of operation, outdoor customer seating hours, and bottle handling hours may be authorized through the administrative use permit approval process in accordance with Chapter 22.70 FMC. Additional requirements may be imposed in accordance with Chapter 22.70 FMC for those establishments providing outdoor customer seating.

**Section 19.** Ordinance 1246 §16 and FMC 22.60.012 are hereby amended to read as follows:

**22.60.012 Stacking spaces for drive-through facilities.**

(a) A stacking space shall be an area measuring eight feet by 20 feet with direct forward access to a service window of a drive-through facility. A stacking space shall be located to prevent any vehicle from extending onto the public right-of-way, or interfering with any pedestrian circulation, traffic maneuvering, or other parking space areas. Stacking spaces for drive-through or drive-in uses may not be counted as required parking spaces.

(b) Uses providing drive-up or drive-through services shall provide vehicle stacking spaces as follows:

(1) For each drive-up window of a bank or financial institution, business service, or other drive-through use not listed, a minimum of five stacking spaces shall be provided; and

(2) For each service window of a drive-through restaurant, a minimum of seven stacking spaces shall be provided.

(c) Generally, to reduce congestion and turning lane conflicts, drive-through facilities shall not take access from a principal arterial street. Drive-through facilities must be provided access from a secondary street or road unless a traffic and circulation study, which includes a vehicle stacking analysis, clearly demonstrates that the proposed use and site design will not result in vehicles encroaching onto the public right-of-way, or interfering with any pedestrian circulation, traffic maneuvering, or other parking space areas.

**Section 20.** A new section is hereby adopted to read as follows:

**22.64.043 Drive Though Facilities**

Intent -- Assess, promote and achieve appropriate development of drive-through facilities.

Objectives --

- To promote compatible development that fits well with, and improves, its existing or planned context;
- To protect and enhance the character and quality of the neighborhoods where drive-through facilities are located;
- To enhance public streets and contribute to a high quality public space;
- To create efficient stacking movements on site;
- To create a safe and comfortable pedestrian environment on site; and
- To minimize impacts on adjacent land uses that could be caused by on-site activities.

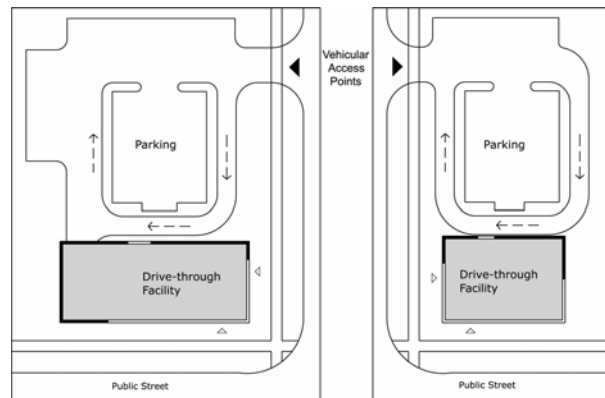
Context and Challenges -- Drive-through facilities have proven to be successful as they target the mobile and car-oriented market. They may operate 24 hours a day, provide convenience for the traveling public and offer a sense of security for users at night. Drive-through service has been adopted by fast food businesses, financial institutions,

dry cleaners, pharmacies and other businesses. Meanwhile, walk-in service is still an important component for many businesses with drive-through facilities for customers who arrive on foot, bicycles and by vehicles but do not use the drive-through services.

While successful and popular, drive-through facilities present many urban design challenges, including respecting the urban context while designing prototypical drive-through facility sites and buildings; supporting a pedestrian friendly environment along public streets; using landscape areas effectively to improve the overall environmental and visual quality of the area; and designing efficient stacking movements on site.

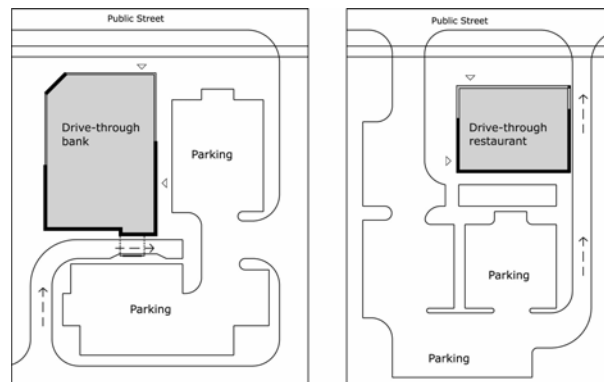
(a) Locate vehicular access points to the site as far as possible from street intersections. Locate vehicle access points to corner sites on the secondary street (Figure 1).

(b) Locate surface parking areas and stacking lanes at the side or rear of buildings. (Figures 1 and 2).



*Figure 1:*

*Locating vehicular access points far from the intersection helps reduce potential impacts on the traffic at the intersection.*



*Figure 2:*

*Locating parking and driveway areas at the rear of the site provides opportunities to frame the street edge with built structures.*

(c) Minimize the number and width of driveways from the public street (Figure 3). However, avoid placing entrance or exit lanes between the building and street or sidewalk as shown in the example on the right, below.

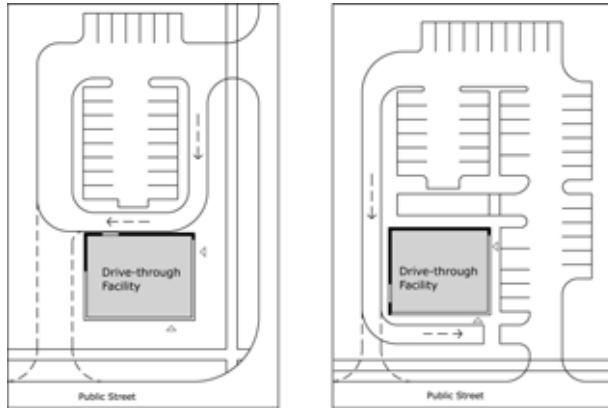


Figure 3:

*Minimizing the number and width of driveways helps reduce interruptions to the public sidewalk.*

(d) Locate the start point to the stacking lane at the rear of the site so that queued vehicles do not block traffic along the public streets or the movement of other vehicles on site (Figure 4).

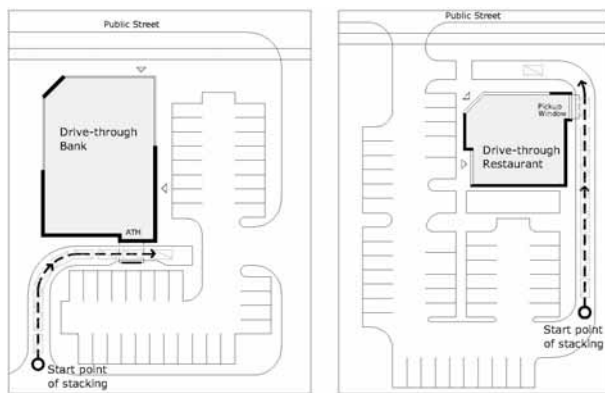


Figure 4:

*In these two drive-through sites, start points are located at the rear of the site to minimize the potential impacts on other traffic that could be caused by stacking cars. However, avoid placing entrance or exit lanes between the building and street or sidewalk as shown on the right*

(e) Locate stacking lanes away from adjacent sensitive uses, such as residential and outdoor amenity areas, to reduce the impacts of noise and pollution that could be caused by stacking cars on such uses. Use landscaping and fencing to help buffer potential impacts.

(f) Avoid locating the stacking lane, and entrance or exit lane, between the building and the public street, as noted in the examples in Figures 3 and 4.

(g) Provide escape lanes and the appropriate number of queuing spaces as required in FMC 22.60.012 to create efficient stacking lanes and to minimize on-site conflicts (Figure 5).

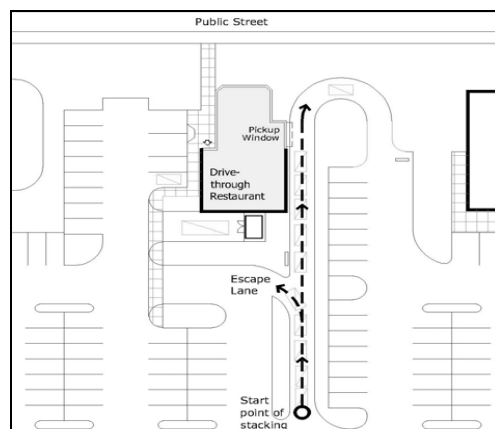


Figure 5:

*In this drive-through site, sufficient queuing spaces are provided. The escape lane allows cars to exit from the stacking lane without having to drive by the pickup window.*

- (h) Separate stacking lanes from parking areas and driveways using landscaped islands, decorative pavement, pervious islands and painted lines.
- (i) Design the on-site circulation to minimize conflicts between pedestrians and vehicles.
- (j) Provide separate stacking lanes when two drive-through uses exist on the same site.
- (k) Locate noise-generating areas, including ordering board speakers, outdoor loading areas and garbage/recyclables storage, away from sensitive uses such as residential areas, day care facilities and schools.
- (l) Buffer potential noise impacts on properties where noise may be detrimental to occupants with solid attenuations such as building structures, landscaped berms or attenuation fencing (minimum 6 feet in height) complemented with landscaping.
- (m) Limit sound emanating from ordering board speakers or other speaker systems to a level that is not audible from residentially used properties or detrimental to occupants of other nearby properties. At no time should any speaker system be audible above ambient noise levels beyond the property lines of the site.
- (n) Provide a minimum 8 foot wide landscape area, which may include a solid wall or fence in addition to planting, at the edges of sites between property lines and nearby entrance lanes, exit lanes, stacking lanes and other drive through facilities, in order to provide screening and enhance site environmental benefits.

**Section 21.** A new section is hereby adopted to read as follows:

**22.98.445 Microbeverage production facility**

“Microbeverage production facility” means an establishment that manufactures alcoholic and nonalcoholic beverages for distribution on or off site. Examples include microbreweries, microdistilleries and microwineries. Microbeverage production facilities may operate in conjunction with a tasting room, retail outlet, and/or food-serving establishment.

**Section 22.** A new section is hereby adopted to read as follows:

**22.98.445.1 Microbrewery**

“Microbrewery” means a business known as a craft brewery that produces 5,000 barrels or less of beer per calendar year. A microbrewery may sell beer of its own production directly to a customer for off-premises consumption and by all other legal means. A microbrewery may operate a tasting room or in conjunction with a food-serving establishment. A microbrewery must be licensed by the Washington State Liquor Cannabis Board and the Federal Alcohol and Tobacco Tax and Trade Bureau.

**Section 23.** A new section is hereby adopted to read as follows:

**22.98.445.2 Microdistillery**

“Microdistillery” means a business known as a craft distillery that produces 5,000 proof gallons or less of spirits per calendar year. A microdistillery may sell spirits of its own production directly to a customer for off-premises consumption and by all other legal means. A microdistillery may operate a tasting room or in conjunction with a food-serving establishment. A microdistillery must be licensed by the Washington State Liquor Cannabis Board and the Federal Alcohol and Tobacco Tax and Trade Bureau.

