CITY OF FIRCREST
ORDINANCE NO. 1638

AN ORDINANCE OF THE CITY OF FIRCREST, WASHINGTON, AMENDING ORDINANCE NO. 1120 SECTION 1 AND FMC 22.05.002; AMENDING ORDINANCE NO. 1611 SECTION 1 AND FMC 22.05.003; AMENDING ORDINANCE NO. 1120 SECTION 1 AND FMC 22.06.001; AMENDING ORDINANCE NO. 1468 SECTION 3 AND FMC 22.07.003; AMENDING ORDINANCE NO. 1651 SECTION 1 AND FMC 22.07.004; AMENDING ORDINANCE NO. 1615 SECTION 2 AND FMC 22.07.005; AMENDING ORDINANCE NO. 1275 SECTION 1 AND FMC 22.12.002; AMENDING ORDINANCE NO. 1275 SECTION 1 AND FMC 22.12.006; AMENDING ORDINANCE NO. 1122 SECTION 2 AND FMC 22.15.002; AMENDING ORDINANCE NO. 1122 SECTION 2 AND FMC 22.18.002; AMENDING ORDINANCE NO. 1122 SECTION 2 AND FMC 22.18.003; AMENDING ORDINANCE NO. 1122 SECTION 2 AND FMC 22.18.004; AMENDING ORDINANCE NO. 1122 SECTION 2 AND FMC 22.19.002; AMENDING ORDINANCE NO. 1122 SECTION 2 AND FMC 22.19.004; AMENDING ORDINANCE NO. 1122 SECTION 2 AND FMC 22.20.002; AMENDING ORDINANCE NO. 1301 SECTION 7 AND FMC 22.20.004; AMENDING ORDINANCE NO. 1153 SECTION 2 AND FMC 22.24.008; AMENDING ORDINANCE NO. 1153 SECTION 2 AND FMC 22.24.011; AMENDING ORDINANCE NO. 1153 SECTION 2 AND FMC 22.24.013; AMENDING ORDINANCE NO. 1568 SECTION 2 AND FMC 22.46.005; AMENDING ORDINANCE NO. 1246 SECTION 9 AND FMC 22.46.006; AMENDING ORDINANCE NO. 1246 SECTION 13 AND FMC 22.54.005; AMENDING ORDINANCE NO. 1246 SECTION 14 AND FMC 22.56.004; AMENDING ORDINANCE NO. 1246 SECTION 14 AND FMC 22.56.005; AMENDING ORDINANCE NO. 16.04 SECTION 1 AND FMC 22.58.011; AMENDING ORDINANCE NO. 1246 SECTION 15 AND FMC 22.58.020; AMENDING ORDINANCE NO. 1562 SECTION 46 AND FMC 22.60.003; AMENDING ORDINANCE NO. 1246 SECTION 16 AND FMC 22.60.004; AMENDING ORDINANCE NO. 1246 SECTION 16 AND FMC 22.60.005; AMENDING ORDINANCE NO. 1562 SECTION 47 AND FMC 22.60.006; AMENDING ORDINANCE NO. 1246 SECTION 16 AND FMC 22.60.008; AMENDING ORDINANCE NO. 1246 SECTION 16 AND FMC 22.60.010; AMENDING ORDINANCE NO. 1246 SECTION 16 AND FMC 22.60.011; AMENDING ORDINANCE NO. 1246 SECTION 16 AND FMC 22.60.013; AMENDING ORDINANCE NO. 1246 SECTION 16 AND FMC 22.60.015; AMENDING ORDINANCE NO. 1272 SECTION 8 AND FMC 22.64.005; AMENDING ORDINANCE NO. 1246 SECTION 20 AND FMC 22.68.001; AMENDING ORDINANCE NO. 1246 SECTION 20 AND FMC 22.68.002; AMENDING ORDINANCE NO. 1246 SECTION 20 AND FMC 22.68.003; AMENDING ORDINANCE NO. 1246 SECTION 20 AND FMC 22.68.006; AMENDING ORDINANCE NO. 1246 SECTION 20 AND FMC 22.68.007; AMENDING ORDINANCE NO. 1246 SECTION 20 AND FMC 22.68.008; AMENDING ORDINANCE NO. 1246 SECTION 22 AND FMC 22.72.001; AMENDING ORDINANCE NO. 1246 SECTION 22 AND FMC 22.72.002; AMENDING ORDINANCE NO. 1246 SECTION 22 AND FMC 22.72.004; AMENDING ORDINANCE NO. 1246 SECTION 22 AND FMC 22.72.008; AMENDING ORDINANCE NO. 1246 SECTION 22 AND FMC 22.72.012; AMENDING ORDINANCE NO. 1246 SECTION 22 AND FMC 22.72.014; AMENDING

ORDINANCE NO. 1246 SECTION 23 AND FMC 22.74.002; AMENDING ORDINANCE NO. 1246 SECTION 24 AND FMC 22.76.001; AMENDING ORDINANCE NO. 1246 SECTION 24 AND FMC 22.76.006; AMENDING ORDINANCE NO. 1246 SECTION 24 AND FMC 22.76.007; AMENDING ORDINANCE NO. 1246 SECTION 24 AND FMC 22.76.008; AMENDING ORDINANCE NO. 1246 SECTION 24 AND FMC 22.76.011; AMENDING ORDINANCE NO. 1488 SECTION 1 AND FMC 22.78.004; AMENDING ORDINANCE NO. 1246 SECTION 25 AND FMC 22.78.005; ADDING A NEW SECTION FMC 22.78.011; AMENDING ORDINANCE 1535 SECTION 1 AND FMC 22.81.060; AMENDING ORDINANCE NO. 1206 SECTION 8 AND FMC 22.86.030; AMENDING ORDINANCE NO. 1375 SECTION 1 AND FMC 22.92.090; AMENDING ORDINANCE NO. 1375 SECTION 1 AND FMC 22.92.100; AMENDING ORDINANCE NO. 1375 SECTION 1 AND FMC 22.92.280; AMENDING ORDINANCE NO. 1246 SECTION 26 AND FMC 22.96.002; AMENDING ORDINANCE NO. 1246 SECTION 26 AND FMC 22.96.003; AMENDING ORDINANCE NO. 1246 SECTION 27 AND FMC 22.98.060; AMENDING ORDINANCE NO. 1246 SECTION 27 AND FMC 22.98.165; AMENDING ORDINANCE NO. 1246 SECTION 27 AND FMC 22.98.729; AMENDING ORDINANCE NO. 1375 SECTION 4 AND FMC 22.99.080; AMENDING ORDINANCE NO. 1350 SECTION 08 AND FMC 12.04.080; AMENDING ORDINANCE NO. 477 SECTION 5 AND FMC 12.26.020; AND AMENDING ORDINANCE NO. 968 SECTION 17 AND FMC 12.28.160.

WHEREAS, the City has identified the desire to use a hearing examiner for quasi-judicial planning decisions and other actions; and

WHEREAS, the City submitted a *Notice of Proposed Amendment* to the Washington State Department of Commerce on October 1, 2018, which was issued to state agencies for a comment period ending November 30, 2018 as required pursuant to RCW 36A.70 RCW, and no comments were received prior to Planning Commission action on the proposed amendments; and

WHEREAS, the City issued a SEPA *Determination of Nonsignificance* on October 1, 2018 with a 14-day comment period ending October 15, 2018, and no adverse comments were received; and

WHEREAS, the Planning Commission conducted a public hearing on October 16, 2018 to accept public testimony and comment on the proposed amendments; and

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

(a) The proposed amendment is consistent with the goals, objectives and policies of the comprehensive plan;
(b) The proposed amendment will promote, rather than detract from, the public health, safety, morals and general welfare by providing greater public input for projects that may have more impact on the adjacent properties.

WHEREAS, the City Council conducted a public hearing on November 7, 2018 to accept public testimony on the proposed amendments and no comments were received. Now, Therefore,

THE CITY COUNCIL OF THE CITY OF FIRCREST DO ORDAIN AS FOLLOWS:

Section 1. Ordinance 1120 §1 and FMC 22.05.002 are hereby amended to read as follows:

22.05.002 Determination of classification.

(a) Determination by Director. The director of the planning/building department or his designee (hereinafter the "director") shall determine the proper classification for each project permit application. If there is a question as to the appropriate classification, the director shall resolve the question in favor of the higher classification type.

(b) Optional Consolidated Permit Processing. An application that involves two or more classification types may be processed collectively under the highest numbered type required for any part of the application or processed individually under each of the procedures identified by the code. The applicant may determine whether the application shall be processed collectively or individually. If the application is processed individually, the highest numbered type shall be processed prior to the subsequent lower numbered type (RCW 36.70B.060(3), RCW 36.70B.120).

(c) Hearing Bodies. Applications processed in accordance with subsection (b) of this section which involve different hearing bodies shall be heard collectively by the highest-ranking hearing body. The City Council is the highest rank, followed by the planning commission and hearing examiner, and then the director. Joint public hearings with other agencies shall be processed according to FMC 22.05.004 (RCW 36.70B.060(3), RCW 36.70B.120).

Section 2. Ordinance 1611 §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-A	**Type II-A**	**Type II-B**	**Type III-A**	**Type III-B**	**Type IV**	**Type V**
Permitted Use Not Requiring Site Plan or Design Review	Minor Variance	Short Plat, Short Plat Vacation or Alteration	Major Variance	Zoning Map Amendment	Final Plat	Comprehensive Plan Amendment
Boundary Line Adjustment	Minor Site Plan	Final Site Plan	Conditional Use Permit			Development Regulation Amendment
Minor Amendment to Type III-A Project Permit	Administrative Use Permit	Final Development Plan	Preliminary Plat, Plat Vacation or Alteration			Area-Wide Rezone
Temporary Accessory Structure and Use		Design Review	Preliminary Site Plan (Major)			Annexation
Home Occupation Permit, not Requiring CUP		Land Clearing/ Grading Permit	Preliminary Development Plan			
Short-term Rental Permit, not Requiring CUP		Administrative Interpretation	Major Amendment to Type III-A Project Permit			
De Minimis Variance		Critical Areas Determination	Critical Areas Reasonable Use Exception and Public Agency and Utility Exception			
		Binding Site Plan	Development Agreement Associated with Project Permit			

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	Hearing Examiner	Hearing Examiner	Planning Commission
Final decision made by:	Director	Director	Director	Hearing Examiner	City Council	City Council	City Council
Notice of complete application/ 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 Hearing Examiner	Hearing required before Hearing Examiner	Hearing required before Hearing Examiner, which will forward recommendation to City Council	Public review required before Hearing Examiner, which will forward recommendation to City Council	Hearing required before Planning Commission and City Council
Closed record review/ appeal hearing/ decision	Not required	Not required	Not required	Not required	Closed record review required before City Council, which will render final decision	Closed record review required before City Council, which will render final decision	N/A
Judicial appeal	Yes	Yes	Yes	Yes	Yes	No	Yes

Section 3. Ordinance 1120 §1 and FMC 22.06.001 are hereby amended to read as follows:

22.06.001 Pre-application conference.

(a) Pre-application Conference. A pre-application conference may be held with city staff and a potential applicant for a Type II-A, Type II-B, Type III-A, Type III-B or Type IV permit to discuss application submittal requirements and pertinent fees. The purpose of the pre-application conference is to acquaint the applicant with the requirements of this code.

(b) The applicant may request that the following be provided:

(1) A form which lists the requirements for a completed application;

(2) A general summary of the procedures to be used to process the application;

(3) The references to the relevant code provisions or development standards which may apply to the approval of the application;

(4) The city's design guidelines.

(c) The conference is not intended to be an exhaustive review of all potential issues. The discussions at the conference or information provided by the city to the applicant under subsection (b) of this section shall not bind or prohibit the city's future application or enforcement of all applicable law.

Section 4. Ordinance 1468 §3 and FMC 22.07.003 are hereby amended to read as follows:

22.07.003 Notice of public hearing.

(a) Content of Notice of Public Hearing for All Types of Applications. The notice given of a public hearing required in this chapter shall contain:

(1) The name and address of the applicant or the applicant's representative;

(2) Description of the affected property, which may be in the form of either a vicinity location or written description, other than a legal description;

(3) The date, time and place of the hearing;

(4) A description of the subject property reasonably sufficient to inform the public of its location, including but not limited to the use of a map or postal address and a subdivision lot and block designation;

(5) The nature of the proposed use or development;

(6) A statement that all interested persons may appear and provide testimony;

(7) The sections of the code that are pertinent to the hearing procedure;

(8) When information may be examined, and when and how written comments addressing findings required for a decision by the hearing body may be admitted;

(9) The name of a local government representative to contact and the telephone number where additional information may be obtained;

(10) Advice that a copy of the application, all documents and evidence relied upon by the application and applicable criteria are available for inspection at no cost and will be provided at the city's cost;

(11) Advice that a copy of the staff report will be available for inspection at no cost at least five days prior to the hearing and copies will be provided at the city's cost.

(b) Distribution of Notice of Public Hearing. Notice of the public hearing shall be provided as follows:

(1) Type I, Type II-A and II-B, and Type IV Actions. No public hearing notice is required because no public hearing is held, except on an appeal of a Type II-B action where the notice set forth under subsection (b)(2) of this section is required.

(2) Type III-A and Type III-B Actions and Appeals of Type II-B Actions. The notice of public hearing shall be mailed to:

(A) The applicant;

(B) All owners of property within 300 feet of the subject property, when the project permit application is for a residential proposal;

(C) All owners of property within 500 feet of the subject property, when the project permit application is for a nonresidential proposal;

(D) Any person who submits written or oral comments on an application;

(E) The appellant, if applicable.

(3) Type III-A Preliminary Plat Actions. In addition to the notice for Type III-A actions above for preliminary plats, additional notice shall be provided as follows:

(A) Notice of the filing of a preliminary plat of a proposed subdivision adjoining the municipal boundaries shall be given to the appropriate city and county officials of the neighboring jurisdiction.

(B) Special notice of the hearing shall be given to adjacent landowners by any method the city deems reasonable. Adjacent landowners are the owners of real property, as shown by the records of the county assessor, located within 300 feet of any portion of the boundary of the proposed subdivision. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, notice required by RCW 58.17.090(1)(b) shall be given

to owners of real property located within 300 feet of any portion of the boundaries of such adjacently located parcels of real property owned by the owner of the real property proposed to be subdivided (Chapter 58.17 RCW).

(4) Type V Actions. For Type V legislative actions, the city shall publish notice as described in subsection (d)(2) of this section, and provide any other notice required by RCW 35A.12.160.

(c) General Procedure for Mailed Notice of Public Hearing.

(1) The records of the Pierce County assessor's office shall be used for determining the property owner of record. Addresses for a mailed notice required by this code shall be obtained from Pierce County's real property tax records. The director shall issue a sworn certificate of mailing to all persons entitled to notice under this chapter. The director may provide notice to other persons than those required to receive notice under the code.

(2) All public notice shall be deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first.

(d) Procedure for Posted or Published Notice of Public Hearing.

(1) Posted notice of the public hearing is required for all Type III-A and III-B project permit applications. The posted notice shall be posted as required by FMC 22.07.001.

(2) Published notice is required for all Type III-A, III-B, and V procedures. The published notice shall be published in the city's official newspaper.

(e) Time and Cost of Notice of Public Hearing.

(1) Notice shall be mailed, posted and first published not less than 10 nor more than 30 days prior to the hearing date. Any posted notice shall be removed by the applicant within 15 days following the public hearing.

(2) All costs associated with the public notice shall be borne by the applicant.

Section 5. Ordinance 1615 §1 and FMC 22.07.004 are hereby amended to read as follows:

22.07.004 Notice of comment period for Type II-A permits.

Upon receipt of a complete application for a Type II-A permit, the director shall send written notice to the owners of property within 100 feet of the subject property for a residential proposal, and within 300 feet of the subject property for a commercial proposal, notifying them of the application and the opportunity to comment on the proposal. Public comments must be received by the director within 14 calendar days of the issuance date of the notice. No public hearing will be conducted for these applications. However, public comments received within the comment period will be considered by the director prior to issuance of a written decision.

Section 6. Ordinance 1615 §2 and FMC 22.07.005 are hereby amended to read as follows:

22.07.005 Notice of decision for Type II-A permits.

Upon issuance of a decision on a proposed Type II-A permit, the director shall provide a written notice of this decision to the applicant and any parties who have provided written comment during the comment period, if applicable.

Section 7. Ordinance 1275 §1 and FMC 22.12.002 are hereby amended to read as follows:

22.12.002 Concurrency test.

(a) Application. The city review of all applications for preliminary development permits, unless exempted by FMC 22.12.004, shall include a concurrency test. Any final

development permits that did not have preceding preliminary development permit approval shall also be subject to this concurrency test, unless exempted by FMC 22.12.004.

(b) Procedures. The concurrency test will be performed in the processing of the development permit and conducted by the planning/building department in conjunction with the public works department and other facility and service providers.

(1) The planning/building department shall provide the overall coordination of the concurrency test by notifying the facility and service providers of all applications requiring a concurrency test as set forth in subsection (a) of this section; notifying applicants of the test results; notifying the facility and service providers of the final outcome (approval or denial) of the development permit; and notifying the facility and service providers of any expired development permits or discontinued certificates of capacity.

(2) The facility and service providers shall be responsible for maintaining and monitoring their available and planned capacity by conducting the concurrency test for their individual facility or service for all applications requiring a concurrency test as set forth in subsection (a) of this section; reserving the capacity needed for each application; accounting for the capacity for each exempted application which uses capacity; notifying the planning/building department of the results of the test; and reinstating any capacity for an expired development permit, discontinued certificate of capacity, or other action resulting in an applicant no longer needing capacity which has been reserved.

(c) Test. Development permits that result in a reduction of a level of service below the minimum level of service standard cannot be approved. For arterial roads, transit, fire/EMS, law enforcement, schools and parks, available and planned capacity will be used in conducting the concurrency test. For water, power, sanitary sewer, fire flow and stormwater management, only available capacity will be used in conducting the concurrency test.

(1) If the capacity of public facilities is equal to or greater than the capacity required to maintain the level of service standard for the impact from the development permit, the concurrency test is passed. A certificate of capacity will be issued according to the provisions of FMC 22.12.003.

(2) If the capacity of public facilities is less than the capacity required to maintain the level of service standard for the impact from the development permit, the concurrency test is not passed. The applicant may:

(A) Modify the application to reduce the need for public facilities that do not exist;

(B) Demonstrate to the director's satisfaction that the development will have a lower need for capacity than usual and, therefore, capacity is adequate;

(C) Arrange with the appropriate facility and service provider capacity for the provision of the additional concurrency facilities required; or

(D) Appeal the results of the concurrency test to the hearing examiner in accordance with the provisions of FMC 22.12.006.

(d) SEPA. Nothing in this chapter is intended to limit the application of the State Environmental Policy Act (SEPA) to specific proposals. Each proposal not exempt under SEPA shall be reviewed and may be conditioned or denied under the authority of the State Environmental Policy Act.

Section 8. Ordinance 1275 §1 and FMC 22.12.006 are hereby amended to read as follows:

22.12.006 Appeals.

Determinations by the director with respect to the applicability of concurrency management to a given development activity or any other determination which the director is authorized to make pursuant to this chapter may be appealed to the hearing examiner as provided for

in Chapter 22.05 FMC. Upon receiving an appeal, the director shall notify the appropriate facility or service provider(s) of the appeal. After conducting a public hearing, the hearing examiner shall issue a determination either upholding the original determination or amending it.

Section 9. Ordinance 1122 §2 and FMC 22.15.002 are hereby amended to read as follows:

22.15.002 Authority.
The Fircrest City Council delegates the responsibility for making final determinations on boundary line adjustments and short plats to the planning/building director (hereinafter the "director") or his designee. The hearing examiner shall have the authority to make recommendations to council on final plats and the responsibility for making final determinations on preliminary plats, plat alterations, and plat vacations. The City Council shall make the final decision on all final plats.

Section 10. Ordinance 1122 §2 and FMC 22.18.002 are hereby amended to read as follows:

22.18.002 Type of application.
A preliminary plat is a Type III-A application. The hearing examiner shall make the final decision on all preliminary plats.

Section 11. Ordinance 1122 §2 and FMC 22.18.003 are hereby amended to read as follows:

22.18.003 Criteria for approval.
The hearing examiner shall make inquiries into the public use and interest proposed to be served by the establishment of the subdivision and/or dedication, and shall consider:
(a) Whether the preliminary plat conforms to Chapter 22.21 FMC, General Requirements for Subdivision Approval;
(b) If appropriate provisions are made for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, power, parks and recreation, playgrounds, schools and school grounds, and for sidewalks and other planning features that assure safe walking conditions for students who walk to and from school; and
(c) Whether the public interest will be served by the subdivision and dedication.

Section 12. Ordinance 1122 §2 and FMC 22.18.004 are hereby amended to read as follows:

22.18.004 Findings and conclusions.
The hearing examiner shall not approve the preliminary plat unless written findings are made that each of the criteria listed in FMC 22.17.004 has been satisfied.

Section 13. Ordinance 1122 §2 and FMC 22.19.002 are hereby amended to read as follows:

22.19.002 Type of application.
A final plat is a Type IV application. The hearing examiner shall make a recommendation to the City Council, which shall make a closed record final decision. Applications shall be processed as set forth in Chapter 22.06 FMC.

Section 14. Ordinance 1122 §2 and FMC 22.19.004 are hereby amended to read as follows:

22.19.004 Recommendations and certificates as prerequisites for final plat approval.

Each final plat submitted for approval shall be accompanied by the following written statements:
(a) A certification from the local health department or other agency furnishing sewage disposal and supplying water as to the adequacy of the proposed means of sewage disposal and water supply;
(b) A recommendation from the hearing examiner as to compliance with all of the terms of preliminary approval of the proposed plat or dedication;
(c) A signed and certified statement from the responsible professional engineer as to compliance with all of the preliminary approval requirements for infrastructure improvements or guarantees thereof and conformance of the final plat with the general requirements for subdivision approval set forth in Chapter 22.21 FMC, Chapter 58.17 RCW and other applicable state laws;
(d) A certification from the city engineer that based on evidence presented, required subdivision improvements appear to be constructed to city standards.

Section 15. Ordinance 1122 §2 and FMC 22.20.002 are hereby amended to read as follows:

22.20.002 Type of approval and criteria for approval of a plat vacation.
(a) Type of Application. A plat vacation is a Type III-A application. The hearing examiner shall make the final decision on all plat vacations. A short plat vacation is Type II application and shall be processed in accordance with Chapter 22.17 FMC.
(b) Criteria for Approval. The plat vacation may be approved or denied after a written determination is made whether the public use and interest will be served by the vacation of the subdivision. If any portion of the land contained in the subdivision was dedicated to the public for public use or benefit, such land, if not deeded to the city, shall be deeded to the city unless the City Council sets forth findings that the public use and interest would not be served in retaining title to those lands.
(c) Vacation of Streets. When the vacation application is specifically for a city street vacation, the city's street vacation procedures shall be utilized. When the application is for the vacation of a plat together with the streets, the procedure for vacation in this section shall be used, but vacations of streets may not be made that are prohibited under Chapter 35.70 RCW or the city's street vacation ordinance. Private rights or potential rights need to be respected in any vacation of existing street dedications.

Section 16. Ordinance 1301 §7 and FMC 22.20.004 are hereby amended to read as follows:

22.20.004 Type of application and criteria for approval of a plat alteration**.**
(a) Type of Application. A plat alteration is a Type III-A application. The hearing examiner shall make the final decision on all plat vacations. A short plat alteration is a Type II application and shall be processed in accordance with Chapter 22.17 FMC.
(b) Criteria for Approval. The plat alteration may be approved or denied after a written determination is made whether the public use and interest will be served by the alteration of the subdivision. If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties. A plat alteration must also be consistent with FMC 22.20.002(c).
(c) Revised Plat. After hearing examiner or director approval of the alteration, the hearing examiner or director shall direct the applicant to produce a revised drawing of the approved

alteration of the final plat which, after city signature, shall be filed with the county auditor to become the lawful plat of the property.

Section 17. Ordinance 1153 §2 and FMC 22.24.008 are hereby amended to read as follows:

22.24.008 Siting priority on public property.
(a) Where public property is sought to be utilized by an applicant, priority for the use of city-owned land for wireless antennas and towers will be given to the following entities in descending order:
(1) City of Fircrest;
(2) Public safety agencies, including law enforcement, fire and ambulance services, which are not part of the City of Fircrest, and private entities with a public safety agreement with the City of Fircrest;
(3) Other governmental agencies, for uses which are not related to public safety; and
(4) Entities providing licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), data, internet, paging, and similar services that are marketed to the general public.
(b) Minimum Requirements. The placement of personal wireless service facilities on city-owned property must comply with the following requirements:
(1) The facilities will not interfere with the purpose for which the city-owned property is intended;
(2) The facilities will have no significant adverse impact on surrounding private property;
(3) The applicant shall obtain liability insurance deemed adequate by the city, provide proof of such insurance upon request by the city, and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The city shall establish fees after considering comparable rates in other cities, potential expenses, risks to the city, and other appropriate factors;
(4) The applicant will submit a letter of credit, performance bond, or other security acceptable to the city to cover the costs of removing the facilities;
(5) The antennas or tower will not interfere with other users who have a higher priority as discussed in subsection (a) of this section;
(6) The lease shall provide that the applicant must agree that in the case of a declared emergency or documented threat to public health, safety or welfare and following reasonable notice, the city may require the applicant to remove the facilities at the applicant's expense;
(7) The applicant must reimburse the city for any related costs which the city incurs because of the presence of the applicant's facilities;
(8) The applicant must obtain all necessary land use approvals; and
(9) The applicant must cooperate with the city's objective to encourage co-locations and thus limit the number of cell sites requested, or camouflage the site.
(c) Special Requirements for Parks. The use of city-owned parks for personal wireless service facilities brings with it special concerns due to the unique nature of these sites. The placement of personal wireless service facilities in a park will be allowed only when the following additional requirements are met:
(1) The Parks and Recreation Director has reviewed and made a recommendation regarding proposed personal wireless service facilities to be located in the park and this recommendation must be forwarded to the hearing examiner and/or City Council, as appropriate, for consideration;

(2) In no case shall personal wireless service facilities be allowed in designated critical areas (except aquifer recharge areas) unless they are co-located on existing facilities;
(3) Before personal wireless service facilities may be located in public parks, consideration shall be given to visual impacts and disruption of normal public use; and
(4) Personal wireless service facilities should be camouflaged and have a ground mount or structure mount design, if possible.

Section 18. Ordinance 1153 §2 and FMC 22.24.011 are hereby amended to read as follows:

22.24.011 Design criteria.
(a) As provided above, new facilities shall be designed to accommodate co-location, unless the applicant demonstrates why such design is not feasible for economic, technical, or physical reasons.
(b) Facilities shall be architecturally compatible with the surrounding buildings and land uses and screened or otherwise integrated, through location and design, to blend in with the existing characteristics of the site.
(1) Setback. Antennas and associated support structures shall comply with the minimum setback requirements specified in the underlying zone district and shall not be located within the area between the front setback line and the front of the main building(s) on a lot; provided, however, that the city may reduce such requirements if:
(A) There are unusual geographical limitations which preclude the placement of the facilities in full compliance with the specified setback requirement;
(B) The placement of the facilities within the required setback will allow for more effective screening and camouflaging of the facilities; and
(C) There will be no significant adverse impact on adjoining properties resulting from the reduced setback.
The city may, on a case-by-case basis, increase the required setbacks for antennas and associated support facilities if necessary, to ensure that potential impacts on adjoining properties are effectively mitigated.
(2) Right-of-Way Setback Exception. The setback requirement may be waived if the antenna and antenna support structure are located in the city right-of-way.
(3) View Corridors. Due consideration shall be given so that placement of towers, antenna, and personal wireless service facilities do not obstruct or significantly diminish views of Mt. Rainier or the Olympic Mountains.
(4) Color. Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA.
(5) Lights, Signals and Signs. No signals, lights, or signs shall be permitted on towers unless required by the FCC or FAA. Should lighting be required, in cases where there are residents located within a distance which is 300 percent of the height of the tower, then dual mode lighting shall be requested from the FAA.
(6) Equipment Structures. Ground level equipment, buildings, and the tower base shall be screened from public view. The standards for the equipment buildings are as follows:
(A) The maximum floor area is 300 square feet and the maximum height is 12 feet. Except in unusual circumstances or for other public policy considerations the equipment building may be located no more than 250 feet from the tower or antenna. Depending upon the aesthetics and other issues, the city, in its sole discretion, may approve multiple equipment structures or one or more larger structures.
(B) Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in the city's design guidelines or other

applicable standards, unless it can be demonstrated that such screening will create a greater negative visual impact than an unscreened building.

(C) Equipment buildings mounted on a roof shall have a finish similar to the exterior building walls. Equipment for roof-mounted antenna may also be located within the building on which the antenna is mounted.

(D) Equipment buildings shall comply with setback requirements specified in the underlying zone district and shall be designed so as to conform in appearance with nearby residential structures if located within a residential land use designation area.

(E) Equipment buildings, antenna, and related equipment shall occupy no more than 25 percent of the total roof area of the building the facility is mounted on, which may vary in the city's sole discretion if co-location and an adequate screening structure is used.

(7) Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If those standards and regulations are changed, then personal wireless service providers governed by this chapter shall bring their towers and antennas into compliance with the revised standards and regulations within three months of their effective date or the timelines provided by the revised standards and regulations, whichever time period is longer. The revised standards and regulations are not retroactively applicable to existing providers, unless otherwise provided or permitted by federal law. Failure to bring towers and antennas into compliance with the revised standards and regulations shall constitute grounds for the city to remove a provider's facilities at the provider's expense.

(8) Building Codes, Safety Standards. To ensure the structural integrity of towers, the provider/owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable city building codes and the applicable standards for towers that are published by the EIA, as amended from time to time. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the provider/owner of the tower, the owner shall have 30 days to bring the tower into compliance with such standards. If the provider/owner fails to bring its tower into compliance within 30 days, the city may remove the tower at the provider's/owner's expense.

(9) Structural Design. Towers shall be constructed to the EIA standards, which may be amended from time to time, and to all applicable construction/building codes. Further, any improvements or additions to existing towers shall require submission of plans stamped by a licensed structural engineer which demonstrate compliance with the EIA standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested.

(10) Fencing. A well-constructed wall or wooden fence not less than six feet in height from the finished grade shall be provided around each personal wireless service facility. Access to the tower shall be through a locked gate. The use of chain link, plastic, vinyl, or wire fencing is prohibited unless it is fully screened from public view by a minimum eight-foot-wide landscaping strip. All landscaping shall comply with the city's design guidelines and other applicable standards.

(11) Landscaping/Screening.

(A) Landscaping, as described herein, shall be required to screen personal wireless service facilities as much as possible, to soften the appearance of the cell site. The city may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required

landscaping. If the antenna is mounted flush on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

(B) The visual impacts of a personal wireless service facility shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. The following landscaping and buffering shall be required around the perimeter of the tower and accessory structures, except that the city may waive the standards for those sides of the facility that are not in public view. Landscaping and any irrigation deemed necessary by the city shall be installed on the outside of fences. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for, or as a supplement to, landscaping requirements.

(i) A row of evergreen trees a minimum of six feet tall at planting and a maximum of six feet apart shall be planted around the perimeter of the fence;

(ii) A continuous hedge at least 36 inches high at planting capable of growing to at least 48 inches in height within 18 months shall be planted in front of the tree line referenced above;

(iii) In the event that landscaping is not maintained at the required level, the city after giving 30 days' advance written notice may maintain or establish the landscaping and bill both the owner and lessee for such costs until such costs are paid in full.

(12) Tower and Antenna Height.

(A) The applicant shall demonstrate that the tower and antenna are the minimum height required to function satisfactorily. No tower or antenna that is taller than this minimum height shall be approved. No tower or mount shall exceed 60 feet in low density residential, medium density residential, high density residential and neighborhood commercial land use designation areas or 110 feet in the community commercial or industrial land use designation areas. Towers or mounts shall not exceed 60 feet in areas designated parks, recreation, and open space, and public and quasi-public facilities, if located within 250 feet of a land use designation area with a 60-foot height limit. Otherwise, towers or mounts located in these two land use designation areas shall not exceed 110 feet.

(B) A variance from the height limit may be granted if the applicant can show by clear and convincing evidence that the additional height is necessary to provide adequate service to the residents of the city and no other alternative is available. When granting a variance, the hearing examiner shall require that a significant portion of the tower and related facilities be screened by existing trees or existing structures. Generally, this means that all but the top 15 feet of the tower and related facilities shall be screened by existing trees or existing structures. Variance criteria are listed in FMC 22.24.013.

(13) Antenna Support Structure Safety. The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris or interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.

(14) Required Parking. If the cell site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, arrangements for adequate off-street parking shall be made and documentation thereof provided to the city, unless it can be demonstrated that the use of on-street parking spaces will create less impact on the immediate neighborhood. Security fencing should be colored or of a design which blends into the character of the existing environment consistent with the provisions listed in subsection (b)(10) of this section.

(15) Antenna Criteria. Antenna on or above a structure shall be subject to the following:

(A) The antenna shall be architecturally compatible with the building and wall on which it is mounted, and shall be designed and located so as to minimize any adverse aesthetic impact.

(B) The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless it must be for technical reasons. In no event shall an antenna project more than 16 feet above the roof line including parapets. An antenna may project into a required building setback a distance not to exceed that allowed for architectural projections in the underlying zoning district; provided, that such encroachment is required for technical reasons.

(C) The antenna shall be constructed, painted, or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.

(D) The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building, but may not project more than 16 feet above the roof line of the building including parapets but excluding the enclosure.

(E) If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color.

(F) The structure must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures, vegetation, and uses. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facility.

(G) Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated in advance by the city, relative to its design guidelines and other applicable standards.

(H) For installations on buildings 30 feet or less in height, the antenna may be mounted on the roof if the following additional criteria are satisfied:

(i) The city finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall.

(ii) No portion of the antenna or base station causes the height of the building to exceed the limitations set forth herein.

(iii) The antenna or antennas and related base stations cover no more than an aggregate total of 25 percent of the roof area of a building, which may vary in the city's sole discretion, if co-locating and an adequate screening structure are used.

(iv) Roof-mounted antenna and related base stations are completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.

(v) No portion of the antenna exceeds 16 feet above the roof line of the existing building including parapets but excluding mechanical equipment enclosures and other projecting features.

(I) Antennas attached to the roof or sides of a building at least 30 feet in height, an existing tower, a water tank, or a similar structure must be either:

(i) An omnidirectional or whip antenna no more than seven inches in diameter and extending no more than 16 feet above the structure to which they are attached; or

(ii) A panel antenna no more than two feet wide and six feet long, extending above the structure to which they are attached by no more than 10 feet.

(J) Except as set forth herein, no signs, banners or similar devices or materials may be attached to the tower, antenna support structures or antennas.
(K) Antenna, antenna arrays, and support structures not on publicly-owned property shall not extend more than 16 feet above the highest point of the structure on which they are mounted. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to withstand a wind force of 100 miles per hour without the use of supporting guy wires. The antenna, antenna array, and their support structure shall be a color that blends with the structure on which they are mounted.
(L) Guy Wires Restricted. No guy or other support wires shall be used in connection with such antenna, antenna array, or its support structure except when used to anchor the antenna, antenna array, or support structure to an existing building to which such antenna, antenna array, or support structure is attached.
(M) To the extent that antenna are attached to electric, phone or light poles and such antenna are no more than two feet in height, administrative use and building permit review will be required, but such antenna shall not be subject to setbacks and screening requirements.
(N) If a proposed antenna is located on a building or a lot subject to a site review, approval is required prior to the issuance of a building permit.
(O) No antenna shall be permitted on property designated as an individual landmark or as a part of a historic district, unless such antenna is camouflaged in accordance with applicable design guidelines.
(P) All personal wireless service providers or lessees or agents thereof shall cooperate in good faith to accommodate co-location with competitors. If a dispute arises about the feasibility of co-locating, the planning/building director may require a third party technical study, at the expense of either or both parties, to resolve the dispute.
(Q) All personal wireless service providers or lessees shall assure that their antenna complies at all times with the current applicable FCC standards. After installation, but prior to putting the antenna in service, each provider shall submit a certification by an independent professional radio frequency (RF) engineer to that effect. In the event that an antenna is co-located with another antenna, the certification must provide assurances that FCC-approved levels of electromagnetic radiation will not be exceeded by the co-location.
(R) No antenna shall cause localized interference with the reception of any other communications signals including, but not limited to, public safety, television, and radio broadcast signals.
(S) No person shall locate an antenna or tower for wireless communications services upon any lot or parcel except as provided in this chapter.
(16) Noise. No equipment shall be operated so as to produce noise in violation of the maximum noise levels set forth in Chapter 173-60 WAC.

Section 19. Ordinance 1153 §2 and FMC 22.24.013 are hereby amended to read as follows:

22.24.013 Variances.
Variances from the provisions of this chapter shall be processed in accordance with this title and may be granted by the hearing examiner upon making the following findings:

(a) The granting of the variance will facilitate the installation of facilities which represent a positive design improvement over what would otherwise be permitted by this chapter.

(b) The granting of the variance is necessary for adequate service to be provided to residents of the city, and no alternative locations or designs are available to provide an adequate level of service to the city.
(c) Such variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property.
(d) The granting of the variance will not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity in which the subject facilities would be located.

Section 20. Ordinance 1568 §2 and FMC 22.46.005 are hereby amended to read as follows:

22.46.005 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) Uses otherwise subject to site plan or conditional use permit approval which have been authorized by the hearing examiner as part of a master plan pursuant to FMC 22.46.006.

Section 21. Ordinance 1246 §9 and FMC 22.46.006 are hereby amended to read as follows:

22.46.006 Master plans.
Approval of a master plan by the hearing examiner is required for substantial redevelopment or substantial new development within areas designated "special planning areas" on the comprehensive plan's land use designation map. Each master plan shall contain a pedestrian plaza with landscaping, seating, tables and complementary uses that render the site a pleasant, safe and comfortable resting, socializing and picnicking area for employees and shoppers in accordance with FMC 22.58.016. The master plan shall be processed as a major site plan in accordance with Chapter 22.72 FMC. Upon approval of a master plan, specific uses that would otherwise be subject to site plan or conditional use permit approval in Chapter 22.68 FMC and determined by the director to be consistent with the approved master plan may be approved in accordance with the administrative use permit review process contained in Chapter 22.70 FMC. No additional hearing examiner approval is required for these previously authorized uses. If a proposed individual use represents a substantial modification to, or departure from, the approved master plan, the proposal shall be processed as a site plan amendment in accordance with FMC 22.72.012.

Section 22. Ordinance 1246 §13 and FMC 22.54.005 are hereby amended to read as follows:

22.54.005 Administrative uses.
Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:
(a) Personal wireless service facility (subject to compliance with Chapter 22.24 FMC).
(b) Uses otherwise subject to site plan or conditional use permit approval which have been authorized by the hearing examiner as part of a master plan pursuant to FMC 22.54.006.

Section 23. Ordinance 1246 §14 and FMC 22.56.004 are hereby amended to read as follows:

22.56.004 Conditional uses.
Uses permitted subject to conditional use permit approval in accordance with Chapter 22.68 FMC and administrative design review approval in accordance with Chapter 22.66 FMC:
(a) Personal wireless telecommunications facility which exceeds one or more standards set forth in Chapter 22.24 FMC.
(b) 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). Includes substations existing on the effective date of this section.
(c) 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 24. Ordinance 1246 §14 and FMC 22.56.005 are hereby amended to read as follows:

22.56.005 Administrative uses.
Uses permitted subject to administrative use permit approval in accordance with Chapter 22.70 FMC:
(a) Personal wireless service facility (subject to compliance with Chapter 22.24 FMC).
(b) Nonresidential uses otherwise subject to site plan or conditional use permit approval which have been authorized by the hearing examiner as part of a master plan pursuant to FMC 22.56.006.

Section 25. Ordinance 1604 §1 and FMC 22.58.011 are hereby amended to read as follows:

22.58.011 Short-term rental establishments.
(a) Purpose and Intent. The purpose of this section is to:
(1) Provide property owners and residents with an opportunity to use their homes to engage in small-scale business activities.
(2) Protect neighborhood character and stability.
(3) Establish criteria and standards for the use of residential structures as short-term rentals.
(b) Permit Requirements. A short-term rental establishment may be carried on upon the issuance of a business license pursuant to Chapter 5.04 FMC and the issuance of a short-term rental permit by the director.
(c) Submittal Requirements. Application for a short-term rental permit shall be made upon forms provided by the director, accompanied by a filing fee in accordance with the planning services fee schedule established by council resolution. The application shall be signed by the owner of the property on which the short-term rental activity will occur. The application shall also be signed by the business operator if that person is different from the property owner. The director may require the submittal of a site plan of the premises, floor plans of the residence or accessory building in which the use or activity will take place, and other documentation deemed necessary to process the application. The plans shall clearly indicate the area where the use or activity will take place and any structural alterations intended to accommodate the use or activity.
(d) Short-Term Rental Types Defined. The following definitions apply to the short-term rental types allowed through the provisions of this section:
(1) "Room rental establishment" means a lodging use, where individual rooms within a single dwelling unit are provided for less than 30 consecutive days for a fee by prearrangement. This shall include bed and breakfast establishments.

(2) “Dwelling unit rental” means a dwelling unit, typically rented in its entirety, for less than 30 consecutive days for a fee by prearrangement.

(e) Processing Requirements.

(1) The director shall approve a proposed short-term rental establishment, which complies with all the performance standards set forth in this section, except as provided in subsection (e)(2) of this section. The director may impose conditions of approval to ensure that the activity is conducted in a manner consistent with the standards and purpose and intent of this section.

(2) A proposed room rental establishment providing more than two bedrooms available for rent is subject to conditional use permit approval in accordance with Chapter 22.68 FMC.

(f) Room Rental Establishment Standards.

(1) Room rentals shall be an incidental or secondary use to the primary use, which is considered to be the principal residential dwelling unit.

(2) The owner/lessee of the structure shall operate the establishment and reside on site.

(3) Service shall be limited to the rental of bedrooms. Meal service shall be limited to the provision of breakfast or light snacks for registered guests.

(4) A maximum of four bedrooms or suites may be made available for rent. There shall be no expansion in the number of guest rooms beyond the number approved.

(5) No separate or additional kitchens for guests are permitted. Limited cooking facilities shall be allowed inside guestrooms, or inside other rooms that are used solely by guests, such as small microwaves, and refrigerators.

(6) Receptions, private parties or similar activities, for which a fee is paid or which are allowable as a condition of room rental, may be permitted upon a determination by the hearing examiner that such activities will not significantly impact the adjoining neighborhood.

(7) One off-street parking space shall be provided on site for each rental bedroom. The number of required off-street spaces may be reduced by the number of spaces available on the street frontage adjoining the parcel upon which the room rental is to be established, if the decision-maker determines that sufficient on-street parking will exist to satisfy parking demand in the neighborhood once the room rental has been established. Any additional off-street parking provided in conjunction with the room rental shall, to the extent possible, be located to the side or rear of the structure housing the room rental in order to minimize visual impacts on the streetscape. Off-street parking shall be designed to reduce impacts on adjoining properties through the installation of vegetative screening and/or fencing. The parking surface and additional driveway surface required to provide access to the parking area shall be constructed of permeable, porous or pervious pavers to achieve low impact development objectives and a superior appearance when compared with conventional asphalt or concrete pavement. For additional off-street parking standards, see Chapter 22.60 FMC.

(8) Certification by the building official that the residence complies with fire and life safety aspects is required. Inspection fee may apply.

(g) Dwelling Unit Rental.

(1) The number of persons per sleeping area shall comply with the International Building Code.

(2) Two off-street parking spaces shall be provided on site.

(h) Other Regulations.

(1) Proof of ownership or approval of property owner is required.

(2) The room rental shall be exempt from the home occupation requirements of FMC 22.58.013.
(3) The exterior appearance of the structure shall maintain its original character.
(4) Signage shall comply with Chapter 22.26 FMC, Sign Regulations.
(5) Permits shall lapse and become void if the establishment ceases operation for 12 consecutive months, applicant named on the permit moves from or sells the site, or the applicant fails to maintain a valid business license.

Section 26. Ordinance 1246 §15 and FMC 22.58.020 are hereby amended to read as follows:

22.58.020 Development agreement.
(a) Hearing Examiner and City Council Authority. The hearing examiner is hereby authorized to conduct a public hearing for the consideration of a development agreement subject to RCW 36.70B.170 through 36.70B.200. The hearing examiner shall transmit its recommendations on the proposed agreement to the City Council. The City Council is hereby authorized to approve, approve with conditions, or deny, a proposed development agreement after considering the hearing examiner's recommendations at a closed record hearing.
(b) Application. Development agreement applications must be submitted on forms provided by the director. The director may require any additional information necessary in order for the City to adequately review the proposed agreement.
(c) Required Findings. In addition to any required findings for the underlying action, the City Council must be able to find that a development agreement:
(1) Bears a substantial relationship to the public health, safety, morals and welfare;
(2) Is consistent with the City's development regulations; and
(3) Is consistent with the City's comprehensive plan.

Section 27. Ordinance 1562 §46 and FMC 22.60.003 are hereby amended to read as follows:

22.60.003 Parking space requirements per activity.
The following tables identify the minimum number of parking spaces required to be provided for each activity unless a reduction is authorized in accordance with this chapter. The director or hearing examiner, as specified in this chapter, shall determine the actual required spaces for a proposed activity based on the tables below, the requirements of this chapter and on actual field experience. If the formula for determining the number of off-street parking spaces results in a fraction, the number of spaces shall be rounded to the nearest whole number with fractions greater than or equal to one-half rounding up and fractions less than one-half rounding down. In the following tables, "sf" means square feet of gross floor area, and "du" means dwelling unit, unless otherwise noted.

(a) Residential and Lodging Activities.

Use	Required Spaces
Single-family	2 per du.
Duplex and townhouse	1.5 per du.
Cottage housing	1 per du ≤ 800 sf; 1.5 per du > 800 sf. Shared guest parking not to exceed .5 per du.
Multifamily	1.25 per du.
Multifamily – Affordable senior housing*	.6 per du.
Congregate care facility	.5 per du.
Group residences, including hospice care center, residential care facility, and residential treatment facility	.5 per bedroom.
Accessory dwelling unit (ADU)	None, unless additional spaces are determined to be necessary.
Home occupation – Type II	To be determined during processing of CUP application.
Bed and breakfast establishment	1 per guest room, + 1 per facility, unless a lower number is determined to be adequate during processing of CUP application.
Hotel/motel	1 per guest room + 2 per 3 employees.

* "Affordable" means dwelling units priced, rented or leased only to those households earning 80 percent or less of the median household income for Pierce County, Washington. "Senior" means dwelling units specifically designed for and occupied by elderly persons under a federal, state or local government program or occupied solely by persons who are 62 or older or houses at least one person who is 55 or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates intent to house persons who are 55 or older.

(b) Commercial Activities.

Use	Required Spaces
Financial institution, including bank, savings and loan, and credit union	1 per 400 sf.
Administrative or professional office	1 per 400 sf.
Medical or dental office	1 per 350 sf.
Commercial mixed use, including a combination of retail, office, service, recreational and/or residential uses	See subsection (j) of this section, Joint Use.
Laboratory, including medical, dental and optical	1 per 400 sf.
Food-serving establishment	1 per 150 sf of dining/lounge area.
High intensity retail or service shop. See subsection (h) of this section for examples.	Minimum 1 per 400 sf. Maximum 1 per 300 sf.
Low intensity retail or service shop. See subsection (h) of this section for examples.	Minimum 1 per 600 sf. Maximum 1 per 400 sf.
Shopping center which includes a mix of high and low intensity retail or service shops	Minimum 1 per 500 sf. Maximum 1 per 350 sf.
Bulk retail sales/wholesale sales	1 per 350 sf.
Uncovered commercial area, including vehicle lots and plant nursery	1 per 5,000 sf of retail sales + any parking requirements for buildings.
Motor vehicle repair and services	1 per 400 sf (indoor maintenance bays shall not be considered parking spaces).
Child day-care	2 per facility + 1 per 20 children.
Veterinary clinic	1 per 400 sf.
Mortuary or funeral home	1 per 100 sf of floor area used for services.

(c) Educational Activities.

Use	Required Spaces
Elementary, intermediate, middle or junior high school	1 per classroom + 1 per 50 students.
High school	1 per classroom + 1 per 10 students.
Vocational school	1 per classroom + 1 per 5 students.
Preschool	1 per 6 children.

(d) Industrial Activities.

Use	Required Spaces
Manufacturing	1 per 1,000 sf (less office and display space) + 1 per 400 sf of office space + 1 per 500 sf of display space.
Technological or biotechnological laboratory or testing facility	1 per 1,000 sf (less office space) + 1 per 400 sf of office space.
Speculative light industrial building with multiple use or tenant potential	1 per 1,500 sf for initial 100,000 sf + 1 per 2,000 sf for remainder of building (less office space). 1 per 400 sf of office space.
NOTE: For each new use or tenant the property owner shall submit a scaled parking plan indicating the assigned parking for the applicable building.	NOTE: This is a minimum requirement valid for construction purposes only. Parking requirements shall be based upon actual occupancy.
Outdoor storage area	1 per 5,000 sf of storage area.

(e) Recreational, Amusement and Assembly Activities.

Use	Required Spaces
Auditorium, theater, place of public assembly, stadium or outdoor sports arena	1 per 4 fixed seats or 1 per 175 sf of main auditorium or of principal place of assembly not containing fixed seats + 1 per 300 sf of office.
Bowling alley	3 per lane.
Skating rink	1 per 200 sf.
Golf course	4 per hole, plus as required for associated uses including clubhouse, pro shop and maintenance facility.
Golf driving range	1 per driving station.
Miniature golf course	1 per hole.
Health club, dance studio	1 per 300 sf.

(f) Public, Institutional, Medical and Religious Activities.

Use	Required Spaces
Government facility	1 per 300 sf of office space; 1 per 1,000 sf of indoor storage or repair area associated with public agency yard. Other use areas shall be calculated based on the above requirements and, if applicable, the shared parking facilities provisions in FMC 22.60.005.
Library, museum, or gallery	1 per 500 sf.
Civic, labor, social or fraternal organization	1 per 300 sf.
Convalescent, nursing or rest home	1 per 3 beds + 5 per employee.
Religious institution	1 per 8 seats in the main sanctuary including balconies and choir lofts. Other use areas shall be calculated based on the above requirements and, if applicable, the shared parking facilities provisions in FMC 22.60.005.

(g) Other Uses. For uses not specifically identified in this chapter, the amount of parking required shall be based on the requirements for similar uses as determined by the director or hearing examiner, as appropriate.

(h) Retail Sales and Service Uses. For the purpose of determining the parking requirements for retail sales and service uses, the following distinctions are made:

(1) High intensity retail sales and service uses include, but are not limited to: barber/beauty shop, laundromat, mini-mart, drugstore, service (fuel) station with retail sales, and supermarket.

(2) Low intensity retail sales and service use include, but are not limited to: antique store, appliance sales, auto sales (building only), equipment repair shop, furniture store, hardware store, photography sales and shoe repair.

(i) Speculative Use. When the City has received an application for a site plan approval or other permits for a building shell without tenant uses being specified, off-street parking requirements shall be based on the possible tenant improvements or uses authorized by the zone designation and compatible with the limitations of the site plan or other permit. When the range of possible uses results in different parking requirements, the director or hearing examiner, as appropriate, will establish the amount of parking based on a likely range of uses.

(j) Joint Use. In the case of two or more uses in the same building or on the same lot, for example within a commercial mixed use development that includes retail, residential and other uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use. However, an applicant may request a parking demand reduction credit per FMC 22.60.004 and/or a shared parking facilities credit per FMC 22.60.005 to reduce the overall parking requirement. The director or hearing examiner, as appropriate, shall be responsible for determining the various uses within a building or on a lot and the resulting parking requirements for each use.

Section 28. Ordinance 1246 §16 and FMC 22.60.004 are hereby amended to read as follows:

22.60.004 Parking demand reduction credit.

A property owner may request a reduction from the minimum required off-street parking by substantiating that parking demand will be reduced for the life of the project. This request shall be reviewed in conjunction with a site plan, conditional use permit, or preliminary development plan application. In such cases, the hearing examiner may approve a reduction of up to 50 percent of the minimum required number of spaces if a parking demand study prepared by a professional traffic engineer substantiates that:

(a) Because of the unique nature of the use, the characteristics of the site and surrounding neighborhood, the availability of alternative means of transportation, or other relevant local factors, parking demand can be met with a reduced number of spaces; or

(b) A shared parking facility designed in accordance with FMC 22.60.005 will effectively reduce parking demand to a level below the minimum required parking; or

(c) A combined parking facility for two or more complementary uses which have similar hours of operation will reduce parking demand to a level below the minimum required parking. The hearing examiner may authorize a five percent reduction for two complementary uses, a 10 percent reduction for three uses, and a 15 percent reduction for four or more uses; or

(d) An employee-sponsored commute trip reduction program designed in accordance with state law will effectively reduce parking demand below the minimum required parking.

Section 29. Ordinance 1246 §16 and FMC 22.60.005 are hereby amended to read as follows:

22.60.005 Shared parking facilities.

A property owner may submit a request for a shared parking facility as part of a site plan, conditional use permit, or preliminary development plan application. In such case, the hearing examiner may reduce the number of required off-street parking spaces when shared parking facilities for two or more uses are proposed, provided:

(a) The total parking area exceeds 5,000 square feet;

(b) The parking facilities are designed and developed as a single on-site common parking facility, or as a system of on-site and off-site facilities, if all parking facilities are connected with improved pedestrian walkways, and no building or use involved is more than 600 feet from the most remote shared facility unless transportation is provided between the parking generator and parking facility;

(c) The amount of the reduction shall not exceed 10 percent for each use, unless:

(1) The normal hours of operation for each use are separated by at least one hour; or

(2) A parking demand study prepared by a professional traffic engineer documents that the hours of actual parking demand for the proposed uses will not conflict and that uses will be served by adequate parking if shared parking reductions are authorized;

(d) The total number of parking spaces in the common parking facility is not less than the minimum required spaces for any single use;

(e) A covenant or other contract for shared parking between the cooperating property owners is approved by the hearing examiner and city attorney. This covenant or other contract must be recorded with the Pierce County auditor as a deed restriction on both properties and cannot be modified or revoked without the consent of the hearing examiner and city attorney; and

(f) If any requirements for shared parking are violated, the affected property owners must provide a remedy satisfactory to the hearing examiner and city attorney or provide the full

amount of required off-street parking for each use, in accordance with the requirements of this chapter.

Section 30. Ordinance 1562 §47 and FMC 22.60.006 are hereby amended to read as follows:

22.60.006 Maximum parking space provisions.

For multifamily residential, commercial and industrial uses, the number of off-street parking spaces provided shall not exceed 120 percent of the minimum required number of spaces specified in FMC 22.60.003. A property owner may submit a request as part of a site plan, conditional use permit, or preliminary development plan application to provide parking spaces in excess of the maximum allowable number. The hearing examiner may approve an increase of up to 50 percent of the minimum required number of spaces if:

(a) A parking demand study prepared by a professional traffic engineer supports the need for increased parking and demonstrates that:

(1) Shared and combined parking opportunities in FMC 22.60.005 have been fully explored and will be utilized to the extent practicable;

(2) On-site park and ride facilities have been fully explored and will be provided to the extent practicable;

(3) Commute trip reduction measures will be implemented, if required by state law, to the extent practicable.

(b) The project has been designed to include the following design elements, facilities and programs to the satisfaction of the hearing examiner. In those instances where site constraints impede compliance with the design requirements, written findings of fact shall be made identifying site and project constraints and included in the final notice of decision. In its findings, the hearing examiner shall determine if a good faith effort has been made in building and site design in order to accommodate the following design elements, facilities and programs.

(1) The excess parking spaces shall be located within an enclosed parking structure or constructed of a permeable surface such as interlocking paving blocks (cement or plastic) or other porous pavement which minimizes impervious surface and achieves a superior appearance when compared with a large expanse of asphalt or concrete paving.

(2) Alternative parking lot designs shall be utilized in order to reduce impervious surface, e.g., one-way instead of two-way access aisles.

(3) The amount of required landscaping within the area of additional parking shall be doubled. This additional landscape area may be dispersed throughout the parking lot.

(4) A minimum of 75 percent of the parking spaces shall be located behind the building, and the remainder shall not be located within the minimum and maximum yard setback areas adjoining a street. Parking lots located along flanking streets shall have added landscape and a superior design to strengthen pedestrian qualities; e.g., low walls, street furniture, seating areas, public art, etc.

(5) Preferential parking shall be located near primary building entrances for employees who rideshare and for high occupancy vehicles, if applicable.

(6) The developer shall create a transit/rideshare information center and place it in a conspicuous location on the premises.

(7) For sites located adjacent to or within 600 feet of a Pierce Transit bus or van route, the developer shall fund the purchase and installation of a transit shelter package, including seating, trash receptacle and related facilities for each side of the street which has a transit route, consistent with Pierce Transit operational needs in accordance with FMC 22.60.014.

Section 31. Ordinance 1246 §16 and FMC 22.60.008 are hereby amended to read as follows:

22.60.008 Parking and driveway design standards.

(a) Parking space and driveway/aisle dimensions. The minimum parking space and aisle dimensions for the most common parking angles are shown in the accompanying table. For parking angles other than those shown on the table, the minimum parking space and aisle dimensions shall be determined by the director or hearing examiner, as appropriate. Regardless of the parking angle, one-way aisles shall be at least 12 feet wide, and two-way aisles shall be at least 19 feet wide.

Minimum Space and Driveway/Aisle Dimensions

	Space Angle (degrees)				
	0°(parallel)	30°	45°	60°	90°
Space Width (ft)					
Regular space	8.5	8.5	8.5	8.5	8.5
Compact space	8	8	8	8	8
Space Depth (ft)					
Regular space	22	18	18	18	18
Compact space	19	15	15	15	15
Driveway/Aisle (ft)					
One-way	12	13	13	17	22
Two-way	19	20	20	20	22
* See FMC 22.60.009 for information on the accessible parking space dimensions.					

(b) Compact Car Space Requirements. The installation of compact spaces is required so that impervious surface coverage associated with parking facilities is minimized and the appearance of sites is enhanced by increasing the proportion of landscaping relative to pavement. No less than 40 percent and no more than 50 percent of the total number of spaces provided for a multifamily residential or nonresidential development shall be sized to accommodate compact cars. Each space shall be clearly identified as a compact car space by painting the word "COMPACT" in capital letters, a minimum of eight inches high, on the pavement at the base of the parking space and centered between the striping. Aisle widths shall conform to the standards set for standard size cars.

(c) Extra Width Adjoining Landscaped Areas. Parking spaces abutting a landscaped area or raised walkway on the drive or passenger side of the vehicle shall provide an additional 18 inches above the minimum space width requirement. This additional space will provide a place to step other than in the landscaped area or allow for easier ingress and egress next to a vehicle. The additional width shall be separated from the adjacent landscaped area by a parking space division stripe.

(d) Parking Space Depth Reduction.

(1) Where parking spaces abut a walkway, parking space depth may be reduced by up to 18 inches and a portion of the walkway utilized for vehicle overhang; provided, that wheelstops or curbs are installed and the remaining walkway provides a minimum of five feet of unimpeded passageway for pedestrians.

(2) To minimize impervious surface and enhance landscaping, parking space pavement depth may be reduced by up to 18 inches when the pavement at the front end of a space is replaced by a landscaped area containing groundcovers which do not exceed a maximum

height of six inches above parking space grade. Wheel stops or curbs shall be installed to protect this area from vehicular damage.

(e) Driveway Widths and Locations. Driveways for single-family detached dwellings shall not exceed 20 feet in width unless the director approves an alternative design which uses a permeable surface such as interlocking paving blocks or other porous pavement which minimizes impervious surface. In no case shall the driveway exceed 20 feet within the public right-of-way or exceed the minimum width necessary to provide reasonable access to the dwelling. No more than one driveway is permitted to provide access to a single-family detached dwelling. Driveways for all other developments may cross required setbacks or landscaped areas in order to provide access between the off-street parking areas and the street; provided, that driveway width does not exceed the minimum necessary to provide safe vehicular and pedestrian circulation. Driveways oriented parallel to a street shall not be located within the minimum and maximum yard setback areas adjoining the street, unless there is no other practicable alternative to provide access to the interior of a site.

(f) Lighting. Lighting shall be provided in accordance with FMC 22.58.018.

(g) Tandem Parking. Tandem or end-to-end parking is allowed in single-family detached residential developments. Duplex and multifamily developments may have tandem parking areas for each dwelling unit but shall not combine parking for separate dwelling units in tandem parking areas.

(h) Parking Surface. All required vehicle parking and storage must be in a garage, carport or on an approved, dust-free, all-weather surface. Use of a permeable surface such as interlocking paving blocks or other porous pavement that minimizes impervious surface is encouraged for spaces which are used infrequently. Any surface used for vehicle parking or storage must have direct and unobstructed driveway access.

Section 32. Ordinance 1246 §16 and FMC 22.60.010 are hereby amended to read as follows:

22.60.010 Bicycle parking facilities.

(a) In any development required to provide 12 or more parking spaces, bicycle parking shall be provided. Bicycle parking shall be bike rack or locker-type parking facilities unless otherwise specified.

(b) Off-street parking areas shall contain at least one bicycle parking space for every 12 spaces required for motor vehicles except as follows:

(1) The hearing examiner may reduce bike rack or locker-type parking facilities for patrons when it is demonstrated that bicycle activity will not occur at that location.

(2) The hearing examiner may require additional spaces when it is determined that the use or its location will generate a high volume of bicycle activity. Such a determination will include but not be limited to the following uses:

(A) Park and playfield;

(B) Library, museum, and arboretum;

(C) Elementary or secondary school; or

(D) Recreational or amusement facility.

(c) Bicycle facilities for patrons shall be located on site, designed to allow either a bicycle frame or wheels to be locked to a structure attached to the pavement, or allow for the entire bicycle to be enclosed within a locker.

(d) All bicycle parking and storage shall be located in safe, visible areas that do not impede pedestrian or vehicle traffic flow, well lighted for nighttime use, and located in covered areas or otherwise be protected from the elements where practicable.

Section 33. Ordinance 1246 §16 and FMC 22.60.011 are hereby amended to read as follows:

22.60.011 Loading space requirements.

(a) Applicability. For all new development or uses, adequate permanent off-street loading space and associated maneuvering area shall be provided if the use requires deliveries or shipment of people, materials, and/or merchandise. Structures and uses which require loading space and associated maneuvering area include but are not limited to the following: warehouses, supermarkets, department stores, office buildings greater than or equal to 20,000 square feet, industrial or manufacturing uses, mortuary and other commercial and industrial buildings or uses which, in the judgement of the director or the hearing examiner as specified in this chapter, are similar in nature in regard to loading space and maneuvering area requirements.

(b) Quantity. One loading space shall be provided for each 12,000 square feet of floor area or fraction thereof within a building intended to be used for merchandising, manufacturing, warehousing, or processing purposes. If the building contains more than 24,000 square feet of floor area used for these purposes, then one additional space shall be provided for each additional 24,000 square feet of floor area so used. The hearing examiner may authorize a reduction or waiver based on the quantity of pick-up and delivery vehicles associated with the given structure or use.

(c) Dimensions and Location. Each loading space required by this section shall be a minimum of 10 feet wide and 30 feet long, shall have an unobstructed vertical clearance of 14 feet, six inches, and shall be surfaced, improved, and maintained as required by this chapter. Loading spaces shall be located so that trucks will not obstruct pedestrian or vehicle traffic movement or project into any public right-of-way. All loading space and maneuvering areas shall be separated from required parking areas and shall be designated as truck loading spaces. For developments with buffer yards, the loading space and maneuvering area shall be:

(1) Located at the farthest distance from the buffer yard as practicable; and

(2) If possible, located in such a manner that the primary building is between the buffer yard and the loading and maneuvering area.

(d) Impact Mitigations. Any loading space located within 100 feet of areas zoned for residential use shall be screened and operated as necessary to reduce noise and visual impacts. Noise mitigation measures may include architectural or structural barriers, berms, walls, or restrictions on the hours of operation.

(e) Self-Service Storage Facilities. Multi-story self-service storage facilities shall provide two loading spaces, and single-story facilities, one loading space, adjacent to each building entrance that provides common access to interior storage units.

Section 34. Ordinance 1246 §16 and FMC 22.60.013 are hereby amended to read as follows:

22.60.013 Pedestrian circulation and access.

The following general pedestrian design standards shall apply to all developments throughout the City in addition to those outlined elsewhere within special planning areas and design overlay districts:

(a) All uses, except detached single-family dwellings, shall provide pedestrian access onto the site. Pedestrian access points shall be provided at all pedestrian arrival points to the development including the property edges, adjacent lots, abutting street intersections, crosswalks, and at transit stops. Pedestrian access shall be located as follows:

(1) Access points at property edges and to adjacent lots shall be coordinated with existing development to provide circulation connections between developments; and
(2) Residential developments shall provide links between cul-de-sacs or groups of buildings and nearby streets to allow pedestrian access from within the development and from adjacent developments to activity centers, parks, common tracts, open spaces, schools, or other public facilities, transit stops, and public streets.
(b) Pedestrian walkways shall form an on-site circulation system that minimizes the conflict between pedestrians and vehicular traffic at all points of pedestrian access to on-site parking and building entrances. Pedestrian walkways shall be provided when the pedestrian access point or any parking space is more than 75 feet from the building entrance or principal on-site destination and as follows:
(1) All developments which contain more than one building shall provide walkways between the principle entrances of the buildings;
(2) All nonresidential buildings set back more than 100 feet from the public right-of-way shall provide for reasonably direct pedestrian access from the building to buildings on adjacent lots; and
(3) Pedestrian walkways across parking areas shall be located as follows:
(A) Walkways running parallel to the parking rows shall be provided at a minimum of every four rows; and
(B) Walkways running perpendicular to the parking rows shall be no further than 20 parking spaces.
(c) Pedestrian access and walkways shall meet the following minimum design standards:
(1) Access and walkways shall be physically separated from driveways and parking spaces by landscaping, berms, barriers, grade separation or other means to protect pedestrians from vehicular traffic;
(2) Access and walkways shall be a minimum of five feet of unobstructed width and meet the City's surfacing standards for walkways or sidewalks;
(3) Access shall be usable by mobility-impaired persons and shall be designed and constructed to be easily located by the sight-impaired pedestrian by either grade change, texture or other equivalent means;
(4) Wherever walkways are provided, raised crosswalks or speed bumps shall be located at all points where a walkway crosses the lane of vehicle travel; and
(5) Lighting shall be provided to an intensity where the access and walkways can be used at night by the employees, residents, and customers. Lighting shall be height appropriate to a pedestrian pathway system.
(d) Blocks in excess of 900 feet in length shall be provided with a crosswalk at the approximate midpoint of the block, or as the hearing examiner determines to be appropriate.

Section 35. Ordinance 1246 §16 and FMC 22.60.015 are hereby amended to read as follows:

22.60.015 Parking reductions for temporary outdoor sales events.
(a) A property owner or business owner may submit a request for a temporary reduction in the number of off-street parking spaces provided on a commercial site when a proposed outdoor sales event will be located within the off-street parking facility associated with the business and the number of parking spaces will be reduced below the minimum required in FMC 22.60.003.
(b) The request shall be processed in accordance with the conditional use permit procedures in Chapter 22.68 FMC or the major site plan review procedures in Chapter 22.72 FMC, consistent with the applicable processing requirements for the principal use on the site. The

hearing examiner shall consider the potential impacts of the sales event on adjoining uses and may limit the number of sales events or their duration, or impose other restrictions, in order to mitigate these impacts.

(c) The hearing examiner may authorize a parking reduction for one or more temporary sales events if the following standards are met:

(1) At least 50 percent of the off-street parking spaces required in FMC 22.60.003 for the commercial use is maintained during the sales event.

(2) If less than 50 percent of the off-street parking spaces required in FMC 22.60.003 for the commercial use will remain available for customer or employee use during the sales event, the number of spaces needed to meet the 50 percent threshold will be provided at a nearby off-site parking facility. In such case, the applicant shall provide a written statement from the owner/operator of the off-site parking facility agreeing to make available the necessary number of spaces to the operator of the sales event for the duration of the event.

(3) If off-site parking is required in subsection (c)(2) of this section, directional signs will be installed by the applicant, to the satisfaction of the City, to inform the public of the availability of the off-site parking facility.

(d) If a property owner or business owner intends to conduct a series of outdoor sales events, the hearing examiner may authorize the director to approve individual sales events once the initial proposal has been approved by the hearing examiner.

(e) Temporary outdoor sales events authorized prior to the effective date of this section shall comply with the 50 percent parking threshold and directional signage requirement to the extent possible.

Section 36. Ordinance 1272 §8 and FMC 22.64.005 are hereby amended to read as follows:

22.64.005 Street layouts.

Intent – Create an efficient, expandable, safe, and predictable system of minor and major streets.

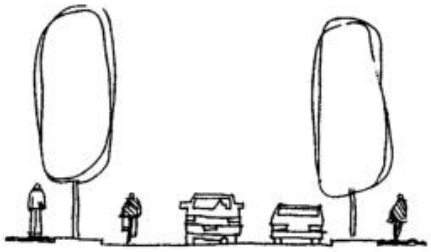
(a) The street within and adjacent to a site plan or subdivision shall be designed to comply with the street and sidewalk standards in Chapter 22.22 FMC according to the roadway system functional classification in the comprehensive plan. Major streets shall refer to designated arterial and collector streets and minor streets shall refer to local streets and cul-de-sacs.

(b) Proposed streets and sidewalks should extend to the boundary lines of the proposed site plan or subdivision in order to provide for the future development of adjacent tracts unless prevented by natural or manmade conditions or unless such extension is determined to be unnecessary or undesirable by the hearing examiner.

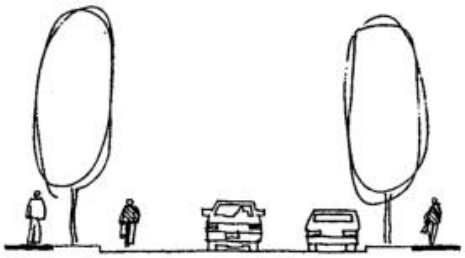
(c) The street pattern for commercial and industrial site plans and subdivisions should be designed to expedite traffic movement, reduce conflicts between various types of land uses and pedestrians, and coordinate the location of proposed buildings with vehicular loading and parking facilities. Commercial and industrial site plans shall provide integral access through or between the property and adjacent properties and surrounding residential neighborhoods.

(d) Generally, street patterns should be based on a grid or interconnected network of streets rather than long irregular loops with dead-ends and cul-de-sacs. Grid street networks should provide regular and frequent intersections typically at 400-foot intervals. Grid layouts may be distorted to account for existing topography, natural features, landscape, and building improvements – and for visual interest.

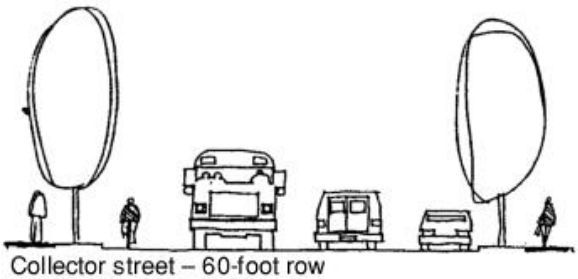
(e) Within residential neighborhoods, street improvements should be designed to minimize the amount of land and paving necessary while maintaining safe and efficient vehicular and pedestrian circulation. Roadway improvements should provide bicycle routes, landscaped edges, and walkways appropriate to the amount of traffic and parking to be provided within each residential neighborhood.



Access street – 44 foot-row



Sub-collector street – 50-foot row



Collector street – 60-foot row
Typical dimensions – vary

Within residential neighborhoods, street improvements should be designed to minimize the amount of land and paving necessary while maintaining safe and efficient vehicular and pedestrian circulation. Roadway improvements should provide bicycle routes, landscaped edges, and walkways appropriate to the amount of traffic and parking to be provided within each residential neighborhood.

Section 37. Ordinance 1246 §20 and FMC 22.68.001 are hereby amended to read as follows:

22.68.001 Purpose.

The purpose of this chapter is to establish decision criteria and procedures for special uses, called conditional uses, which possess unique characteristics. Conditional uses are deemed unique due to factors such as size, technological processes, equipment, type or duration of activity, or location with respect to surroundings, streets, existing improvements, or effects or demands upon public facilities. These uses require a special degree of control to ensure consistency with the comprehensive plan and compatibility with adjacent uses and the character of the surrounding neighborhood or community.

Conditional uses will be subject to review by the hearing examiner and the issuance of a conditional use permit. This process allows the hearing examiner to:

(a) Determine that the location and characteristics of these uses will be compatible with uses permitted in the surrounding area; and

(b) Make further stipulations and conditions that may reasonably ensure that the intent of this title will be served.

Section 38. Ordinance 1246 §20 and FMC 22.68.002 are hereby amended to read as follows:

22.68.002 Authority.

The hearing examiner may approve, approve with conditions, modify and approve with conditions, or deny, a conditional use permit. The hearing examiner shall grant a conditional use permit when it has determined that the criteria listed in FMC 22.68.003 are met by the proposal. The hearing examiner may impose specific conditions upon the use, including an increase in the standards of this title, which will enable the hearing examiner to make the required findings in FMC 22.68.003. These conditions may include, but are not limited to restrictions in hours of operations; restrictions on locations of structures and uses; structural restrictions which address safety, noise, light and glare, vibration, odor, views, aesthetics, and other impacts; and increased buffering requirements, including open space, berms, fencing and landscaping.

Section 39. Ordinance 1246 §20 and FMC 22.68.003 are hereby amended to read as follows:

22.68.003 Criteria for conditional use permit approval**.**

Before any conditional use permit may be granted, the hearing examiner shall adopt written findings showing that the following criteria are met by the proposal:

(a) The proposed use will not be detrimental to the public health, safety, and welfare; injurious to property or improvements in the vicinity; or adversely affect the established character of the surrounding vicinity.

(b) The proposed use will meet or exceed all applicable development, design and performance standards and guidelines required for the specific use, location, or zoning classification.

(c) The proposed use will be consistent and compatible with the goals, objectives and policies of the comprehensive plan.

(d) All conditions necessary to lessen any impacts of the proposed use are measurable and can be monitored and enforced.

Section 40. Ordinance 1246 §20 and FMC 22.68.006 are hereby amended to read as follows:

22.68.006 Amendment of conditional use permit.

An applicant may request an amendment to an approved conditional use permit by submitting to the department a description of the proposed amendment and accurate plans which clearly identify the proposed changes to the approved design, if applicable. The director may determine that:

(a) The proposed amendment is exempt from further hearing examiner review because it represents a minor change from the terms of the original approval or the originally approved plans and the criteria listed in FMC 22.68.003 continue to be met; or

(b) The proposed amendment is subject to additional hearing examiner review because it represents a major change from the terms of the original approval or to the originally approved plans.

A request to amend an approved conditional use permit which has been determined to be subject to additional review shall be processed using the same procedures applicable to the original conditional use permit process. The hearing examiner may impose conditions on the proposed amendment to ensure that the intent and conditions of the original approval are met. Deviations from an approved conditional use permit are not permitted unless an applicant first obtains approval in accordance with this section.

Section 41. Ordinance 1246 §20 and FMC 22.68.007 are hereby amended to read as follows:

22.68.007 Performance bond.
The hearing examiner may require as a condition of conditional use permit approval that the applicant furnish the City with a performance bond, or other form of guarantee deemed acceptable by the city attorney, to secure the applicant's obligation to complete the provisions and conditions of the permit as approved.

Section 42. Ordinance 1246 §20 and FMC 22.68.008 are hereby amended to read as follows:

22.68.008 Duration of a conditional use permit approval.
In the event that a conditional use permit is not exercised within one year from the effective date of approval, it shall automatically become null and void; provided, however, that for good cause, the hearing examiner may grant a one-time extension of one year if an extension request is filed with the department no less than 45 days prior to the date of expiration for the conditional use permit. A properly filed application for a time extension shall stay the effective date of expiration until action on the request has become final. The process for taking action on the request shall be the same used for the original conditional use permit application. Before taking action to grant an extension, the hearing examiner shall adopt written findings showing that the following circumstances exist:
(a) The proposal approved under the terms of the conditional use permit originally granted remains in conformance with current development standards contained in this title. (If the proposal would no longer conform to this title as a result of more restrictive standards being adopted subsequent to the original approval, the hearing examiner may consider a modified proposal which would comply with the more restrictive standards.)
(b) The findings adopted in support of the original conditional use permit request remain valid and supportive of the time extension request.

Section 43. Ordinance 1246 §22 and FMC 22.72.001 are hereby amended to read as follows:

22.72.001 Purpose.
The purpose of this chapter is to establish procedures for the review of commercial, industrial, residential, public and quasi-public developments for which site plan review is required. The site plan review process is intended to enable the appropriate review authority (hearing examiner or director) to evaluate development proposals with respect to architectural design, landscape design, urban form, pedestrian and vehicular circulation, utility design, and site characteristics. The process allows the review authority to condition development proposals to ensure their compatibility with adjoining uses, compliance with development regulations, and consistency with comprehensive plan goals, objectives and policies. The process is intended to run concurrently with the administrative design review process to ensure that all critical design issues are addressed early in the site planning and review stages of project development.

Section 44. Ordinance 1246 §22 and FMC 22.72.002 are hereby amended to read as follows:

22.72.002 Authority.
Two types of site plan review are established in this chapter, a "minor," or administrative review, and a "major," or hearing examiner review. The director is authorized to review development proposals subject to minor site plan review as listed in FMC 22.72.003. The hearing examiner is authorized to review development proposals subject to major site plan review as listed in FMC 22.72.004. The review authority may approve, approve with

conditions, modify and approve with conditions, or deny, the application for site plan review. The review authority shall grant site plan approval when it has determined that the criteria listed in FMC 22.72.006 have been met by the proposal. The review authority may impose specific conditions upon the use, including an increase in the standards of this title, which will enable the review authority to make the required findings in FMC 22.72.006. These conditions may include, but are not limited to restrictions in hours of operations; restrictions on locations of structures and uses; structural restrictions which address safety, noise, light and glare, vibration, odor, views, aesthetics, and other impacts; and increased buffering requirements, including open space, berms, fencing and landscaping.

Section 45. Ordinance 1246 §22 and FMC 22.72.004 are hereby amended to read as follows:

22.72.004 Development subject to major site plan review.
The hearing examiner shall review the following public and private development proposals which are subject to site plan review:
(a) New commercial, industrial, residential, public and quasi-public buildings greater than 2,000 square feet of gross floor area; and
(b) Commercial, industrial, residential, public and quasi-public building additions which are greater than 2,000 square feet of gross floor area; and
(c) Parking lot improvements associated with development proposals listed in subsections (a) and (b) of this section.

Section 46. Ordinance 1246 §22 and FMC 22.72.008 are hereby amended to read as follows:

22.72.008 Major and minor site plan review.
(a) Minor Site Plan Review. Minor site plan review typically consists of a single review of detailed plans by the director. However, an applicant may elect to submit conceptual plans for a preliminary review to obtain the advice of the director as to the applicability of the intent, standards and provisions of this chapter to the plan. Once the director has provided this advice, the applicant will be directed to prepare and submit detailed plans to the director for a final review.
(b) Major Site Plan Review. Major site plan review consists of two separate reviews. The initial review is conducted by the hearing examiner and the second review is conducted by the director. The plans submitted for the initial review may be conceptual in detail. However, the greater the level of detail in the plans submitted for hearing examiner review, the greater the level of certainty the applicant will have in preparing detailed plans for final review. When the hearing examiner determines that a site plan meets the criteria listed in FMC 22.72.006, it will grant a preliminary approval and direct the applicant to prepare and submit detailed plans to the director for final site plan review. This second review is intended to ensure that all site planning issues identified during the hearing examiner's initial review are fully addressed prior to issuance of a building permit or other construction permit.

Section 47. Ordinance 1246 §22 and FMC 22.72.012 are hereby amended to read as follows:

22.72.012 Amendment of site plan.
An applicant may request an amendment to a previously approved site plan by submitting to the department accurate plans which clearly identify the proposed changes to the approved design. The director may determine that:

(a) The proposed amendment is exempt from further review because it represents a minor change from the originally approved plans and the criteria listed in FMC 22.72.006 continue to be met;
(b) The proposed amendment is subject to additional administrative review because it represents a substantial change to plans which the director previously granted approval of through the minor design review process or the final major design review process; or
(c) The proposed amendment is subject to additional hearing examiner review because it represents a major change to plans which the hearing examiner previously granted approval of through the preliminary major design review process.
A request to amend an approved site plan which has been determined to be subject to additional review shall be processed using the same procedures applicable to the original site plan review process. The review authority may impose conditions on the proposed amendment to ensure that the intent and conditions of the original approval are met. Deviations from an approved site plan are not permitted unless an applicant first obtains approval in accordance with this section.

Section 48. Ordinance 1246 §22 and FMC 22.72.014 are hereby amended to read as follows:

22.72.014 Duration of a site plan review approval.
In the event that a site plan approval is not exercised within one year from the effective date of approval, it shall automatically become null and void; provided, however, that for good cause, the review authority may grant a one-time extension of one year if an extension request is filed with the department no less than 15 days prior to the date of expiration for a minor site plan review approval or 45 days prior to the date of expiration for a major site plan approval. A properly filed application for a time extension shall stay the effective date of expiration until action on the request has become final. The process for taking action on the request shall be the same used for the original site plan review application. Before taking action to grant an extension, the review authority shall adopt written findings showing that the following circumstances exist:
(a) The proposal approved under the terms of the site plan review application originally granted remains in conformance with current development standards or design guidelines contained or referenced in this title. (If the proposal would no longer conform to this title as a result of more restrictive standards or guidelines being adopted subsequent to the original approval, the director or hearing examiner may consider a modified proposal which would comply with the more restrictive standards or guidelines.)
(b) The findings adopted in support of the original site plan review application approval remain valid and supportive of the time extension request.

Section 49. Ordinance 1246 §23 and FMC 22.74.002 are hereby amended to read as follows:

22.74.002 Authority – Major and minor variances.
Two types of variances are established in this chapter, a minor, or administrative variance, and a major, or hearing examiner variance. A minor variance is one that is within 10 percent of the standard contained in this title and which may be approved by the director. A major variance is one that is greater than 10 percent of the standard contained in this title and which may be approved by the hearing examiner.
The appropriate review authority (director or hearing examiner) shall grant a variance from the provisions of this title when it has determined that the criteria listed in FMC 22.74.003 have been met by the proposal. When granting a variance, the review authority may attach specific conditions to the variance to ensure that the variance will conform to the criteria

listed in FMC 22.74.003 and all other applicable codes, design guidelines, and comprehensive plan goals and policies. The review authority shall not grant a variance which establishes a use otherwise prohibited within a zoning district.

Section 50. Ordinance 1246 §24 and FMC 22.76.001 are hereby amended to read as follows:

22.76.001 Purpose.
The purpose of this chapter is to establish procedures for the review of residential planned developments. The planned development review process is intended to enable the review authority to evaluate development plans with respect to neighborhood compatibility, environmental sensitivity, architectural design, landscape design, urban form, pedestrian and vehicular circulation, utility design, recreation and open space needs, site characteristics and the extent to which the community's housing needs are met by the proposal. The process allows the appropriate review authority (City Council, hearing examiner, or director) to condition development proposals to ensure their compatibility with adjoining uses, compliance with development regulations, and conformance with comprehensive plan goals, objectives and policies. The process is intended to run concurrently with the administrative design review process to ensure that all critical design issues are addressed early in the site planning and review stages of project development. The process is also intended to run concurrently with the short plat or preliminary and final plat review processes.

Section 51. Ordinance 1246 §24 and FMC 22.76.006 are hereby amended to read as follows:

22.76.006 Application procedures.
The processing of an application for a planned development requires a three-step review. The hearing examiner shall conduct an open record public hearing and forward its recommendations to the City Council on a preliminary development plan, which is classified as a Type III-B application. The City Council shall conduct a closed record public hearing and consider the recommendations of the hearing examiner before taking action on a preliminary development plan. The director shall conduct an administrative review of a final development plan, which is classified as a Type II application. The processing procedures for these applications are described in Chapters 22.05, 22.06, 22.07, 22.08, 22.09 and 22.10 FMC.

Section 52. Ordinance 1246 §24 and FMC 22.76.007 are hereby amended to read as follows:

22.76.007 Submittal requirements.
(a) Application for preliminary development plan review shall be submitted on forms provided by the department. A minimum of two sets of plans, materials and other applicable information specified below and in FMC 22.06.002 shall be submitted with the application in clear and intelligible form:
(1) Documentation listed in FMC 22.72.009 (site plan submittal requirements);
(2) Description of proposed phasing;
(3) Design guidelines generated by the applicant for the project;
(4) Critical area analyses and reports;
(5) Preliminary or short plat submittals; and
(6) Description of specific development standards to be applied to the project, including building heights, building setbacks and build-to lines, individual lot sizes and lot dimensions, and similar provisions.

(b) The director may waive the submittal requirement for any of the items listed in subsection (a) of this section when, in the discretion of the director, the item is inapplicable or unnecessary for the review authority to complete the preliminary development plan review. In such case, the director shall provide the hearing examiner with a list of the items waived for submittal. The director may also require the applicant to submit additional information or material which it finds is necessary for the proper review and hearing of the application.
(c) Application for final development plan review shall be on forms provided by the department. The applicant shall submit the documentation identified by the director as being necessary for the proper review of the application based on the conditions imposed by the review authority during the preliminary development plan review process and issues identified subsequent to the approval of the preliminary development plan.

Section 53. Ordinance 1246 §24 and FMC 22.76.008 are hereby amended to read as follows:

22.76.008 Amendment of development plan.
(a) An applicant may request an amendment to a previously approved preliminary or final development plan by submitting to the department accurate plans which clearly identify the proposed changes to the approved design. The director may determine that:
(1) The proposed amendment is exempt from further review because it represents a minor change from the previously approved preliminary or final development plan and the criteria listed in FMC 22.76.005 continue to be met;
(2) The proposed amendment is subject to additional administrative review because it represents a major change to the final development plan previously approved by the director; or
(3) The proposed amendment is subject to additional hearing examiner and City Council review because it represents a major change to the preliminary development plan previously reviewed by the hearing examiner and approved by the City Council.
(b) Major amendments are those which substantially change the character, basic design, density, open space or other requirements or conditions of the development plan. Minor amendments are those which may affect the precise dimensions or siting of buildings (i.e., lot coverage, building height, setbacks, etc.), but which do not affect the basic character or arrangement and number of buildings approved in the preliminary or final development plan, nor the density of the development or the amount and quality of open space and landscaping. Such dimensional adjustments shall not vary more than 10 percent from the original plan approved by the City. Minor amendments also include on-site adjustments which may affect the design and placement of circulation and utility facilities and other improvements, provided they do not substantially change the character, basic design, density, open space or other requirements or conditions of the development plan.
(c) An amendment request which has been determined to be subject to additional review shall be processed using the same procedures applicable to the initial development plan review process. The review authority may impose conditions on the proposed amendment to ensure that the intent and conditions of the original approval are met. Deviations from an approved development plan are not permitted unless an applicant first obtains approval in accordance with this section.

Section 54. Ordinance 1246 §24 and FMC 22.76.011 are hereby amended to read as follows:

22.76.011 Duration of a preliminary development plan approval.

In the event that a complete final development plan application has not been submitted within three years from the effective date of preliminary development plan approval, the preliminary approval shall automatically become null and void; provided, however, that for good cause, the hearing examiner may grant a one-time extension of one year if an extension request is filed with the department no less than 45 days prior to the date of expiration for the preliminary development plan approval. A properly filed application for a time extension shall stay the effective date of expiration until action on the request has become final. The process for taking action on the request shall be the same used for the original preliminary development plan application at the hearing examiner level of review. Before taking action to grant an extension, the hearing examiner shall adopt written findings showing that the following circumstances exist:

(a) The proposal approved under the terms of the preliminary development plan approval originally granted remains in conformance with current development standards contained in this title. (If the proposal would no longer conform to this title as a result of more restrictive standards being adopted subsequent to the original approval, the hearing examiner may consider a modified proposal which would comply with the more restrictive standards.)

(b) The findings adopted in support of the original preliminary development plan remain valid and supportive of the time extension request.

Section 55. Ordinance 1488 §1 and FMC 22.78.004 are hereby amended to read as follows:

22.78.004 Criteria for amendment approval.

Before the hearing examiner may recommend approval of an amendment request, and before the City Council may approve the amendment, each review authority shall adopt written findings showing that the following criteria are met by the proposal:

(a) The proposed amendment is consistent with the goals, objectives and policies of the comprehensive plan.

(b) The proposed amendment will promote, rather than detract from, the public health, safety, morals and general welfare.

(c) The proposed zoning is compatible with the uses and zoning of surrounding property (required only for zoning map amendments).

(d) The property is suited for the uses allowed in the proposed zoning classification (required only for zoning map amendments).

(e) A change of conditions has occurred within the neighborhood or community since adoption of the comprehensive plan, this title, and amendments thereto, to warrant a determination that the proposed amendment is in the public interest (required only for zoning map amendments and amendments to this title which require a comprehensive plan amendment to ensure consistency under subsection (a) of this section).

(f) Except for the extension of existing district boundaries, no change in any use district, classification or official zoning map shall be considered if it contains fewer than one acre, excluding public streets or alley rights-of-way.

Section 56. Ordinance 1246 §25 and FMC 22.78.005 are hereby amended to read as follows:

22.78.005 Application procedures.

A quasi-judicial zoning map amendment is classified as a Type III-B application. An area-wide zoning map amendment and a development regulation amendment are classified as Type V (legislative) applications. The processing procedures for these applications are described in Chapters 22.05, 22.06, 22.07, 22.08, 22.09 and 22.10 FMC.

Section 57. A new section is hereby adopted to read as follows:

22.78.011 Timing for processing zoning map, area-wide zoning map, and comprehensive plan map amendments.
(a) A legislative comprehensive plan map amendment and quasi-judicial zoning map amendment may be conducted in phases, or they may be conducted concurrently provided final action is first taken on the plan map amendment and further provided the applicant submits a written waiver of the deadline for issuance of a final decision of the zoning map amendment, which is 120 days from the City making a determination that a Type III-B project permit application is complete.(b) A legislative comprehensive plan map amendment and a legislative area-wide zoning map amendment may be conducted in phases or concurrently, provided final action is first taken on the plan map amendment.

Section 58. Ordinance 1535 §1 and FMC 22.81.060 are hereby amended to read as follows:

22.81.060 Additional timing considerations.
(a) For nonexempt proposals, the DNS or final EIS for the proposal shall accompany the City's staff recommendation to any appropriate advisory body, such as the hearing examiner or planning commission.
(b) If the City's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the City conduct environmental review prior to submission of the detailed plans and specifications. (Statutory authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), WAC 173-806-058, filed 6/15/84. Formerly Chapter 173-805 WAC.)

Section 59. Ordinance 1206 §8 and FMC 22.86.030 are hereby amended to read as follows:

22.86.030 Appeals.
(a) SEPA appeals shall be limited to review of final threshold determinations, the adequacy of final environmental impact statements, mitigation or failure to mitigate environmental impacts, and project denials. Appeals of declarations of nonsignificance, EIS adequacy, mitigation and project denial and open record public hearings for the underlying permit(s), as described in Chapter 22.05 FMC, shall be consolidated and heard together. Declarations of significance, issued before a decision on the underlying permit(s), may be appealed and heard before the consolidated open record public hearing on the permit and other SEPA issues.
(b) All SEPA appeals must be filed in writing with the responsible official within 14 calendar days after a notice of decision is issued pursuant to FMC 22.09.008 or after other notice that the decision has been made and is appealable; provided, that in order to allow public comment on a DNS prior to requiring an appeal to be filed, this appeal period shall be extended for an additional seven days. The hearing date for appeals of declarations of significance issued before a decision on the permit shall be not more than 45 days from the date the appeal is filed.
(c) On receipt of a written notice of appeal, the responsible official shall determine if the notice is timely. If the notice is untimely, the responsible official shall advise the person(s) who filed the notice that no appeal hearing will be scheduled because the notice was untimely. If the appeal is timely, the responsible official shall set a hearing date and transmit the appeal notice to the hearing examiner.

(d) Hearing examiner SEPA appeals, and any consolidated public hearings on the underlying permit, shall be open record hearings, as described in Chapter 22.09 FMC. The hearing examiner shall take sworn testimony, consider all relevant evidence and decide the issues de novo; provided, however, that the responsible official's decision(s) shall be given substantial weight. The hearing examiner shall issue a written decision, which shall include specific findings of fact and conclusions of law, within 10 working days of the close of the hearing, unless a longer period is agreed to in writing by the applicant and the hearing examiner.
(e) The hearing examiner's decision on threshold determinations and EIS adequacy shall be the final decision of the City. Appeals of the hearing examiner's decision on these issues shall be filed in the Pierce County superior court. Appeals of the hearing examiner's decision on SEPA mitigation and project denial shall be filed with the City Council.
(f) Appeals to the City Council of SEPA mitigation and project denial appeals shall be consolidated with decisions subject to City Council review by Chapter 22.05 FMC. Decisions not subject to City Council review may not be appealed to the City Council as part of a SEPA mitigation or project denial appeal. In the appeal, the City Council shall review the hearing examiner's open record hearing decision in a closed record appeal as described in Chapter 22.10 FMC. The record on appeal shall consist of the hearing examiner's findings of fact, conclusions of law, and decision; a taped or written transcript of the hearing; and any exhibits accepted into evidence at the hearing. No other evidence shall be considered unless it can be shown that the hearing examiner erred in excluding such evidence.
(g) The City Council's decision on project mitigation or denial, and the underlying permits, shall be the final decision of the City. Appeals of the City Council's decision shall be filed in the Pierce County superior court.
(h) If a time limit is established by statute or ordinance for commencing a judicial appeal of the project permit, the responsible official shall give official notice of the date and place for commencing the appeal. The notice shall include:
(1) Notice that any SEPA issues must be appealed within the time limit set by statute or ordinance for appealing the underlying governmental action;
(2) The time limit for commencing the appeal of the underlying governmental action and SEPA issues, and the statute or ordinance establishing the time limit; and
(3) Where the appeal may be filed.
Written notice shall be provided to the applicant, all parties to any administrative appeal, and all persons who have requested notice of decisions concerning the project. Such notice may be appended to the permit, the decision documents, the SEPA compliance documents, or may be printed separately.
(i) The time limitations and procedures for judicial appeals of decisions in this section shall be as set forth in WAC 197-11-680(4) and this title. Only a party to the proceeding appealed from may appeal the decisions set forth above. (Statutory authority: RCW 43.21C.130. 84-13-036 (Order DE 84-25), WAC 173-806-170, filed 6/15/84. Formerly Chapter 173-805 WAC.)

Section 60. Ordinance 1375 §1 and FMC 22.92.090 are hereby amended to read as follows:

22.92.090 Exception – Public agency and utility.
(a) If the application of a critical areas chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this section.

(b) Exception Request and Review Process. An application for a public agency and utility exception shall be made to the City and shall include a critical area identification form; critical area report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW). The director shall prepare a recommendation to the hearing examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with public agency and utility exception review criteria in subsection (d) of this section.
(c) Hearing Examiner Review. The hearing examiner shall review the application and director's recommendation, and conduct a public hearing pursuant to the provisions of Chapter 22.09 FMC. The hearing examiner shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the public agency and utility exception criteria in subsection (d) of this section.
(d) Public Agency and Utility Review Criteria. The criteria for review and approval of public agency and utility exceptions follow:
(1) There is no other practical alternative to the proposed development with less impact on the critical areas;
(2) The application of the critical areas chapter would unreasonably restrict the ability to provide utility services to the public;
(3) The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
(4) The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and
(5) The proposal is consistent with other applicable regulations and standards.
(6) All proposed activities will be conducted using the best management practices adopted by the City, as described in FMC 22.92.110(b).
(e) Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

Section 61. Ordinance 1375 §1 and FMC 22.92.100 are hereby amended to read as follows:

22.92.100 Exception – Reasonable use.
(a) If the application of a critical areas chapter would deny all reasonable economic use of the subject property, the City shall determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this section.
(b) Exception Request and Review Process. An application for a reasonable use exception shall be made to the City and shall include a critical area identification form; critical area report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW) (SEPA documents). The director shall prepare a recommendation to the hearing examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria in subsection (d) of this section.
(c) Hearing Examiner Review. The hearing examiner shall review the application and conduct a public hearing pursuant to the provisions of Chapter 22.09 FMC. The hearing examiner shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the reasonable use exception review criteria in subsection (d) of this section.

(d) Reasonable Use Review Criteria. Criteria for review and approval of reasonable use exceptions follow; one or more may apply:
(1) The application of the critical areas chapters would deny all reasonable economic use of the property;
(2) No other reasonable economic use of the property has less impact on the critical area;
(3) The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;
(4) The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant, or its predecessor, after the effective date of the critical area chapters;
(5) The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site; and
(6) The proposal will result in no net loss of critical area functions and values consistent with the best available science.
(7) All proposed activities will be conducted using best available management practices adopted by the City, as described in FMC 22.92.110(b).
(e) Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

Section 62. Ordinance 1375 §1 and FMC 22.92.280 are hereby amended to read as follows:

22.92.280 Variances.
(a) Variances from the standards of a critical areas chapter may be authorized by the City in accordance with the procedures set forth in Chapter 22.74 FMC. The director or hearing examiner, as authorized, shall review the request and make a written finding that the request meets or fails to meet the variance criteria.
(b) Variance Criteria. A variance may be granted only if the applicant demonstrates that the requested action conforms to all of the criteria set forth in FMC 22.74.003 and as follows:
(1) A literal interpretation of the provisions of this chapter would deprive the applicant of all reasonable economic uses and privileges permitted to other properties in the vicinity and zone of the subject property under the terms of this chapter, and the variance requested is the minimum necessary to provide the applicant with such rights;
(2) The granting of the variance is consistent with the general purpose and intent of this chapter, and will not further degrade the functions or values of the associated critical areas; and
(3) The decision to grant the variance includes the best available science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat.
(c) Conditions May Be Required. In granting any variance, the City may prescribe such conditions and safeguards as are necessary to secure adequate protection of critical areas from adverse impacts, and to ensure conformity with this chapter.
(d) Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application.

Section 63. Ordinance 1246 §26 and FMC 22.96.002 are hereby amended to read as follows:

22.96.002 Authority.
The City Council may revoke or modify a Type III-B or Type IV permit approval when it has determined that one or more of the grounds listed in FMC 22.96.004 exists. The hearing

examiner may revoke or modify a Type III-A permit approval when it has determined that one or more of the grounds listed in FMC 22.96.004 exists. The director may revoke or modify a Type II approval when it has determined that one or more of the grounds listed in FMC 22.96.004 exists.

Section 64. Ordinance 1246 §26 and FMC 22.96.003 are hereby amended to read as follows:

22.96.003 Initiation of a revocation.
Revocation may be initiated by a request from an adversely affected property owner or other aggrieved party or a motion by either the hearing examiner or City Council.

Section 65. Ordinance 1246 §27 and FMC 22.98.060 are hereby amended to read as follows:

22.98.060 Amendment.
"Amendment" means a change in the wording, context or substance of this title or the comprehensive plan; a change in the official zoning map or comprehensive plan map; or a change to a condition of approval or modification of a permit or plans reviewed or approved by the director, hearing examiner, planning commission, or City Council.

Section 66. Ordinance 1246 §27 and FMC 22.98.165 are hereby amended to read as follows:

22.98.165 Conditional use permit.
"Conditional use permit" means the documented evidence of authority granted by the hearing examiner in accordance with Chapter 22.68 FMC to establish a conditional use at a specific location.

Section 67. Ordinance 1246 §27 and FMC 22.98.729 are hereby amended to read as follows:

22.98.729 Variance.
"Variance" means a means, approved by the hearing examiner or director, of altering the requirements of this title in specific instances where the strict application of these regulations would deprive a property of privileges enjoyed by other properties which are similarly situated, due to special features or constraints unique to the property involved.

Section 68. Ordinance 1375 §4 and FMC 22.99.080 are hereby amended to read as follows:

22.99.080 Variances – Additional considerations for frequently flooded areas.
(a) Additional Variance Considerations. In review of variance requests for activities within frequently flooded areas, the hearing examiner shall consider all technical evaluations, relevant factors, standards specified in this chapter, and:
(1) The danger to life and property due to flooding, erosion damage, or materials swept onto other lands during flood events;
(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the proposed use;
(3) The importance of the services provided by the proposed use to the community;
(4) The necessity to the proposed use of a waterfront location, where applicable, and the availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
(5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
(6) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(7) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

(b) Variances shall only be issued upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing laws or ordinances. Unavoidable impacts to floodplain functions and values shall be mitigated in accordance with the mitigation sequencing order specified in FMC 22.92.190.

(c) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

Section 69. Ordinance 1350 §08 and FMC 12.04.080 are hereby amended to read as follows:

12.04.080 Appeals.

All appeals authorized by the International Codes as to suitability of alternate materials and methods of construction and from other rulings, interpretations or enforcement actions of those officials charged with enforcing the codes shall be made to the hearing examiner, which will act as the board of appeals in accordance with Chapter 1, Section 113 of the International Building Code.

Section 70. Ordinance 477 §5 and FMC 12.26.020 are hereby amended to read as follows:

12.26.020 Application of chapter – Subdivision plats – Specific changes.

This chapter shall be the basis for naming roadways and numbering houses in future additions and annexations to the City of Fircrest. Roadway names shown on subdivision plats will be subject to approval of the hearing examiner. Specific changes in roadway names deemed necessary to change those now existing will be in accordance with this policy and upon recommendation of the hearing examiner and approval by the Council of the City of Fircrest.

Section 71. Ordinance 968 §17 and FMC 12.28.160 are hereby amended to read as follows:

12.28.160 Variances.

(a) The hearing examiner shall hear and decide all requests to vary the conditions that have heretofore been established by this chapter.

(b) A written request for variance shall be made to the hearing examiner. It shall specifically state the section of this chapter to which the request applies, the hardship the variance is needed to correct, and the nature of the proposed project. Supporting documents, such as plot plans, geologic or hydraulic reports, and topographic details, may also be required.

(c) The hearing examiner, in making any favorable decision, shall state the facts and conclusions upon which it relied and shall make its decision upon the following criteria:

(1) The variance is necessary to overcome a particular hardship caused by special circumstances relating to the size, shape, topography or location of the subject property;

(2) The variance is in harmony with the intent and purposes of this chapter and with other relevant City ordinances;

(3) The variance shall not constitute a grant of special privilege that is inconsistent with the limitations placed upon other properties;

(4) The variance, if granted, will not result in harm or damage to other properties, waterways, or drainage facilities and will not otherwise be materially detrimental to the public welfare.

(d) Conditions may be imposed upon the granting of any variance. Unless otherwise specified, the granting of a variance shall be subject to all plans, specifications and conditions set forth in the application.

Section 72. Severability. If any section, sentence, clause or phrase of this title shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this title.

Section 73. Publication and Effective Date. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall be effective five (5) days after such publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF FIRCREST, WASHINGTON, at a regular meeting thereof this 11th day of June, 2019.

APPROVED:

Hunter T. George, Mayor

ATTEST:

Jessica Nappi, City Clerk

APPROVED AS TO FORM:

Michael B. Smith, City Attorney

DATE OF PUBLICATION:
EFFECTIVE DATE: