

## **18.21 AFFORDABLE HOUSING<sup>188</sup>**

This section sets forth optional provisions for density bonuses in return for the construction of new affordable housing units. Residential density bonus proposals will be reviewed concurrently with the primary land use application. A preapplication conference will be required for any land use application that includes a proposal for density bonus. (Ord. 2005-08 § 6, 2005: Ord. 2001-03 § 5, 2001: Ord. 97-15 § 4, 1997. Formerly 18.90.050)<sup>189</sup>

### **18.21.010 PURPOSE**

The purpose of this chapter is to implement the policies contained in the housing element of the comprehensive plan by providing an optional program for the construction of affordable housing in new single-family and multifamily residential developments. The Growth Management Act (GMA) requires the city to make adequate provisions for existing and projected housing needs of all economic segments of the community as determined by the housing needs assessment, contained in the housing element. The housing element reflects the city's goal of dispersing affordable housing throughout all geographic and economic segments of the community, and providing a mixture of housing types to discourage the development of economic enclaves. The city recognizes that the marketplace is the primary supplier of adequate housing for those in the upper economic groups, but that some combination of appropriately zoned land, regulatory incentives and innovative planning techniques will be necessary to make adequate provisions for the needs of households whose incomes are at or below middle income (as those terms are defined in BIMC 18.36. (Ord. 2005-08 § 3, 2005: Ord. 2001-03 § 1, 2001: Ord. 97-15 § 4, 1997)

### **18.21.020 GENERAL PROVISIONS FOR OPTIONAL AFFORDABLE HOUSING**

#### **A. Siting of Affordable Dwelling Units or Residential Building Lots**

The affordable units constructed under the provisions of this chapter shall be included within the parcel of land for which the density bonus is granted. Segregation of affordable housing units within the development from market rate housing units shall be avoided whenever practical.

#### **B. Duration of Affordability**

1. Rental Units. Affordable rental housing units created as a result of the provisions of this chapter shall remain affordable for a period of 30 years from the time of first occupancy and shall be secured by recorded agreement and covenant running with the land, binding all the assigns, heirs and successors of the applicant.
2. Home Ownership Units. All affordable homeownership units created as a result of the provisions of this chapter shall be initially sold to income-qualified households and thereafter subject to a mechanism that is specified in an appropriate administrative procedure adopted by resolution by city council allowing the city to capture a share of the appreciation when the unit is sold at

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<sup>188</sup> These provisions are carried over from current code section 18.90. The city is in the process of revising these provisions, and if that effort is completed before the revised Title 18 is adopted, the new provisions will replace this material.

<sup>189</sup> Revised by staff to delete obsolete provision regarding wetlands.

market rate. The city's share of the proceeds shall be placed in its housing trust fund.

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

### **C. Required Documentation**

Prior to the final approval of any land use application to which BIMC 18.21.030 is applicable, the owner of the affected parcels shall deliver to the city a duly executed covenant running with the land, in a form approved by the city attorney, identifying the units or parcels and acknowledging their obligation under this section. The applicant shall be responsible for the cost and recording of the covenant.

### **D. Construction of Affordable Units**

When dwelling units subject to this chapter will be constructed in phases, or over a period of more than 12 months, a proportional amount of affordable housing units must be completed at or prior to completion of the related market rate dwellings, or as approved by the director.

### **E. Phased Development**

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

### **F. Unimproved Lots to Be Sold**

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

### **G. Attached Housing**

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

### **H. Definition of Benefit**

Where the code limits benefits to households whose incomes are at or below a specified income, the purpose is to include all categories of income, as defined in BIMC 18.36, below the category specified. For example, if the benefit limit is, "to those households whose incomes are at or below low-income," households who are extremely low-income, very-low income and low-income may benefit. (Ord. 2005-08 § 4, 2005; Ord. 2001-03 § 2, 2001; Ord. 97-15 § 4, 1997)

## **18.21.030 OPTIONAL RESIDENTIAL DENSITY BONUS FOR AFFORDABLE HOUSING**

**A. Applicability**

This section applies to all land use applications, except the following: (1) the construction of one single-family dwelling on one lot that can accommodate only one dwelling based upon the underlying zoning designation, (2) the Mixed Use Town Center and the High School Road districts (provisions for these zones are contained in BIMC 18.12.030.E (3) neighborhood service centers (NSCs) (provisions for this zone are contained in BIMC 18.12.030.D, and (4) the critical areas overlay districts identified in the comprehensive plan, which are not eligible for density bonuses.

**B. Rental Affordable Housing**

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

**C. For-Purchase Affordable Housing**

Density for land subject to the provisions of this section may be increased above the base density by the following amounts:

1. Up to a maximum of 50 percent above the underlying base density when each of the additional units or residential building lots is provided for households whose incomes are at or below low-income.
2. Up to a maximum of 40 percent above the underlying base density when each of the additional units or residential building lots is provided for households whose incomes are at or below moderate-income.
3. Up to a maximum of 20 percent above the underlying base density when the first 10 percent of the housing units are affordable to households with incomes at or below moderate-income. The remaining 10 percent may be affordable to households whose incomes are at or below middle-income.

**D. Summary Table**

The provisions of subsections 3 and 4 above are summarized in Table 18.21 below.

Table 18.21: Affordable Housing Density Bonus Provision Summary	
Affordable Housing – Optional For Purchase	For Rent
Up to 50% density bonus if each of the bonus units are affordable to households whose incomes are at or below low-income. Up to a 40% density bonus if each of the bonus units are affordable to households whose incomes are at or below moderate-income. Up to a maximum of 20% above the underlying base density when the first 10% of the housing units are affordable to households with incomes at or below moderate-income. The remaining 10% may be affordable to households whose incomes are at or below middle-income.	Up to 50% density bonus when each of the bonus units are affordable to households with incomes at or below low-income.

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

## **18.24 HISTORIC PRESERVATION PROGRAM<sup>190</sup>**

### **18.24.010 PURPOSE AND RELATIONSHIP TO ZONING AND BUILDING CODES**

#### **A. Purpose**

The purpose of this chapter is to provide the process and standards for identifying, evaluating and protecting historic resources within the city, and for preserving and rehabilitating eligible historic properties within the city for future generations through a special valuation tax incentive in order to:

1. Safeguard the heritage represented by those buildings, objects, sites and structures that reflect significant elements of the city's history;
2. Foster civic and neighborhood pride in the beauty and accomplishments of the past;
3. Stabilize or improve the aesthetic and economic vitality and values of such buildings, objects, sites and structures;
4. Assist, encourage and provide incentives to private owners for the preservation, restoration, redevelopment and use of historic buildings, objects, sites and structures;
5. Promote and facilitate the early identification and resolution of conflicts between preservation of historic resources and alternative land uses; and
6. Conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment. (Ord. 2003-37 § 1, 2004)

This section also sets forth the provisions of the Fort Ward Historic Overlay District.

#### **B. Relationship to Zoning and Building Codes**

Nothing contained in this BIMC 18.24 shall be construed to repeal, modify or waive any zoning, land use or building codes, laws, ordinances or regulations that are otherwise applicable to property listed on the local register. (Ord. 2003-37 § 1, 2004)

### **18.24.020 HISTORIC COMMISSION<sup>191</sup>**

#### **A. Creation**

The Bainbridge Island historic preservation commission is hereby established, to operate and act in accordance with the provisions of this section 18.24.

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<sup>190</sup> This section carries forward the provisions of current code sections 18.76 and 18.41.  
Provisions on staff support have been deleted to reflect current practice.

## **B. Composition of the Commission**

1. The commission shall consist of seven members, who shall be appointed by the mayor and approved by the city council in accordance with this chapter. The commission shall include at least three members who have experience in identifying, evaluating and protecting historic resources and who are selected from among the disciplines of history, architecture, landscape architecture, architectural history, historic preservation, planning, cultural anthropology, archaeology, biology, geography, cultural geography, American studies, law, and real estate, referred to in this BIMC 18.24 as the “professional positions.” An action taken by the commission shall not be invalid due to the temporary vacancy of any or all of the professional positions, unless the certification agreement between the city and the SHPO provides otherwise.
2. All members of the commission must have a demonstrated interest and competence in historic preservation and possess qualities of impartiality and broad judgment.
3. All members of the commission shall serve without compensation.
4. In making appointments to the commission, the mayor may consider names submitted from any source; provided, that the mayor shall notify the Bainbridge Island Historical Society and other appropriate community organizations of any vacancies on the commission, so that these organizations may submit the names of qualified individuals for consideration along with names from any other source. The mayor also shall publish notice of such vacancies and the procedure for submitting nominations.
5. The commission shall select from among its members a chairperson and such other officers as may be necessary to conduct the commission’s business.

## **C. Term of Commission Members**

The initial appointment of members to the commission shall be as follows: three members shall be appointed for two years; two members shall be appointed for three years; and two members shall be appointed for four years. Thereafter, appointments shall be made for three-year terms. Vacancies to the commission shall be filled by the mayor for the unexpired term of that position.

## **D. Powers and Duties**

The commission shall:

1. Establish, maintain and periodically update a local historic inventory, which inventory shall be maintained in a form compatible with the state inventory, and may cooperate with, and advise the city council as requested on contracting with, the Bainbridge Island Historical Society or others, in connection with the establishment and maintenance of the inventory;
2. Establish and maintain the local register of historic places, as provided in BIMC 18.24.030;
3. Review nominations to the local register and designate properties for listing on the register, in accordance with BIMC 18.24.030;
4. Participate in the review process for nominations to the National Register of properties within the city’s boundaries, in accordance with the procedures established by the SHPO;

5. Review proposals to construct or reconstruct upon, change the use of, alter, restore, remodel, repair, move or demolish properties on the local register as provided in BIMC 18.24.040;
6. Conduct all commission meetings in compliance with Chapter 42.30 RCW;
7. Provide resources and advocacy for historic preservation consistent with comprehensive plan policy HP 1.2, which may include but are not limited to:
  - a. Participation in or promotion of public educational programs;
  - b. Fostering historic preservation through recognition of excellence in restoration of historic buildings, structures or sites;
  - c. Advising the city council or the planning commission as requested on matters of city history and historic preservation or actions affecting the historic resources of the city, and
  - d. Maintaining information on federal or state historic preservation programs, funding sources or incentives; and
8. Serve as the local review board for the special valuation of historic property, and in that capacity determine and monitor the eligibility of historic property for special valuation in accordance with BIMC 18.24.060.

#### **E. Rules and Standards of Commission<sup>192</sup>**

The commission shall establish and adopt rules prescribing forms, standards and procedures consistent with applicable law, as necessary to carry out its duties. Standards for review under subsection 18.24.020.D above and BIMC 18.24.040 shall be based in part, and to the extent applicable, on the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, 48 FR 44716, as updated and supplemented by the National Park Service, and the Secretary of the Interior's Standards for Rehabilitation, 37 CFR 67, as amended. All actions of the commission shall be carried out in accordance with its rules.

### **18.24.030 REGISTER OF HISTORIC PLACES**

#### **A. Criteria for Designating Properties for Listing on the Register.**

Any building, structure, site or object, whether publicly or privately owned, may be designated for listing on the local register if it is significantly associated with the history, architecture, archaeology, engineering or cultural heritage of the community; it has physical integrity; it is at least 50 years old or is of lesser age but has exceptional importance; and it qualifies as at least one of the following:

1. Is associated with events that have made a significant contribution to the broad patterns of national, state, or local history;
2. Embodies the distinctive architectural characteristics of a type, period, style, or method of design or construction, or represents a significant and distinguishable entity whose components may lack individual distinction;
3. Is an outstanding work of a designer, builder, or architect who has made a substantial contribution to the art;

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<sup>192</sup> We will consider adding a cross-reference to similar provisions in Washington state law.

4. Exemplifies or reflects special elements of the city's cultural, special, economic, political, aesthetic, engineering, or architectural history;
5. Is associated with the lives of persons significant in national, state, or local history;
6. Has yielded or may be likely to yield important archaeological information related to history or prehistory;
7. Is a building or structure removed from its original location but that is significant primarily for architectural value, or that is the only surviving structure significantly associated with an historic person or event;
8. Is a birthplace or grave of an historical figure of outstanding importance;
9. Is a cemetery that derives its primary significance from age, from distinctive design features, or from association with historic events, or cultural patterns;
10. Is a reconstructed building that has been executed in an historically accurate manner on the original site;
11. Is a creative and unique example of folk architecture and design created by persons not formally trained in the architectural or design professions, and that does not fit into formal architectural or historical categories; or
12. Is listed on the National Register or the State Register.

#### **B. Process for Designating Properties for Listing on the Register.**

1. Any person, including the commission or any commission member, may nominate a building, structure, site, or object for listing on the local register; provided, that no property shall be nominated without the prior written consent of the owner.
2. The nomination shall include, when possible, the tax parcel number (and the UTM reference, if required for compatibility with the State Register) and a description of all interior and exterior features and outbuildings that contribute to its designation.
3. In reviewing the nomination, the commission shall consider the local inventory and the city's comprehensive plan, and the merits of the nomination, according to the criteria in subsection A of this section, and shall proceed according to the nomination review standards established in the commission's rules.
4. The commission shall provide public notice of the date, time and location of the meeting during which it will consider the designation nomination. Written notice of the date, time and location of the meeting shall be provided no later than ten days prior to the meeting to the nominator, the owner(s) of public record and the lessees, if any, of the subject property. The commission shall further publish at least one notice of the meeting in a newspaper of general circulation in the city. The commission shall also post a notice on a conspicuous location on the subject property.
5. If the commission finds that the nominated property is eligible for listing on the local register, the commission shall list the property on the register, with the consent of the owner of the property. The commenters, property owner,

nominator and lessees, if any, shall be notified in writing of the listing no later than 30 days after the listing.<sup>193</sup>

6. Properties listed on the local register shall be identified in the planning database maintained by the city and the listing shall be forwarded to the Kitsap County assessor for identification of the historical property in the Kitsap County zoning records.

### **C. Removal of Properties from the Register**

Properties listed on the local register may be removed from the register only by the commission in accordance with this section. The commission may remove any property from the local register, with or without the owner's consent, if the commission deems the property no longer appropriate for designation to the local register because it no longer satisfies the original criteria in support of its designation. The procedure for removal shall be established by the commission and shall include the procedures for notification to the public and interested parties set forth in subsection B.4 of this section. (Ord. 2003-37 § 1, 2004)

## **18.24.040 CHANGES OR ALTERATIONS TO PROPERTIES LOCATED ON LOCAL REGISTER**

### **A. Review Required**

No person shall perform any work to a property listed on the local register, other than ordinary repair or maintenance, emergency repair measures, or total or partial demolition, without a review by, and issuance of a certificate of appropriateness from, the commission. In the case of a total or partial demolition of the property, a waiver of the certificate of appropriateness must be obtained from the commission prior to the demolition, in accordance with subsection B of this section. Failure to obtain the required certificate of appropriateness or waiver from the commission shall be grounds for removal of the property from the local register.

### **B. Review Process**

1. The building official shall notify the commission of any application for a permit to perform work on or to demolish a property listed on the local register. If the activity is not exempt from review, the commission shall notify the applicant of the review requirements. The building official shall not issue any permit until the required certificate of appropriateness or waiver is received from the commission.
2. The applicant shall apply to the commission for a review of the proposed work to the property listed on the local register, and request a certificate of appropriateness or, in the case of demolition, a waiver. Each application for review of proposed changes shall be accompanied by all information required by the commission pursuant to its established rules for review.
3. The commission shall meet with the applicant and review the proposed work in accordance with the standards established in the commission's rules. Unless required by another ordinance or law, the commission shall not be required to provide public notice of the application. In the case of an application to perform work to the property, the commission shall complete its review and make its

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<sup>193</sup> Wording clarified by staff to match current practice.

decision within 45<sup>194</sup> days after the date of receipt of the application. If the commission is unable to process the request within this time period, the commission may reasonably extend its review period for another 15 days upon written notice to the applicant. If the commission fails to issue a decision within 60<sup>195</sup> days of receiving the application, the application shall be deemed approved and the commission shall issue a certificate of appropriateness.

4. As part of the review process for an application to demolish or partly demolish the property, the applicant shall meet with the commission in an attempt to find alternatives to demolition. These negotiations may last no longer than 45 days from the initial meeting with the commission, unless either party requests an extension, in which case the negotiations may be extended for up to an additional 30 days. If no alternative to demolition has been agreed to within 45 days from the initial meeting with the commission, plus any extension, the commission shall approve or deny the application for a waiver and advise the official in charge of issuing a demolition permit of the decision. If the commission fails to issue a decision within 45 days from the initial meeting with the commission, plus any extensions, the application shall be deemed approved and the commission shall issue an unconditional waiver. When issuing a waiver, the commission may reasonably impose conditions designed to mitigate the loss of the property from the register. Property that is wholly demolished shall be removed from the register. Property that is partially demolished may be removed from the register, if deemed appropriate by the commission.
5. The commission's decision on any application shall be in writing and shall state the findings of fact and the basis for its decision. Any conditions to the certificate of appropriateness or waiver recommended by the commission and accepted by the applicant in this review process shall become conditions of approval of the permits issued. If the owner accepts the commission's recommendations and conditions, a certificate of appropriateness or a waiver shall be issued by the commission according to standards established in the commission's rules.
6. The commission's determination, recommendations and, if awarded, the certificate of appropriateness or a waiver shall be transmitted to the building official. If a certificate of appropriateness or waiver is awarded, the building official may then issue the permit.
7. If a certificate of appropriateness or waiver is denied, the building official shall not issue the permit. (Ord. 2003-37 § 1, 2004)
  - a. If a property is added to the Historic Register a notice of that status shall be added on the property title records.
  - b. Removal From Historic Register. If a property is removed from the Historic Register a notice of that change in status shall be added to the title records.

### **18.24.040 APPEAL OF DENIAL OF A WAIVER OR A CERTIFICATE OF APPROPRIATENESS**

The commission's denial of any application for a certificate of appropriateness or waiver may be appealed by the applicant to the city council within 10 days of the date of the commission's decision. The appeal shall be filed with the city clerk and shall clearly state the grounds upon which the appeal is based. The appeal shall be reviewed by the council only upon the records of the commission. The council's decision on the appeal may be appealed by the applicant to the

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<sup>194</sup> This was changed from 30 days.

<sup>195</sup> This was changed from 45 days.

Kitsap County superior court within 21 days after the date of the decision issued by the council. (Ord. 2003-37 § 1, 2004)

## **18.24.050 REVIEW AND MONITORING OF PROPERTIES FOR SPECIAL PROPERTY TAX VALUATION**

### **A. Special Valuation Program Established**

Pursuant to Chapter 84.26 RCW, a local option program is hereby established that shall make available to owners of historic property a special tax valuation for the rehabilitation of the historic property, as set forth in Chapter 84.26 RCW and this section.

### **B. Application Process for Special Property Tax Valuation**

1. An applicant desiring to obtain special property tax valuation for historic property shall file a complete application with the Kitsap County assessor no later than October 1st of the year immediately preceding the first assessment year for which special valuation classification is requested. Applications filed after the October 1st deadline shall not be considered for special property tax valuation until the following year.
2. Complete applications shall include the following information and documentation:
  - a. A legal description of the historic property;
  - b. Comprehensive exterior and interior photographs of the historic property before and after rehabilitation;
  - c. Architectural plans or other legible drawings depicting the completed rehabilitation work;
  - d. A notarized affidavit attesting to the actual cost of the rehabilitation work completed prior to the date of application and the period of time during which the work was performed, with documentation of both to be made available to the commission upon request; and
  - e. For properties located within National Register historic districts, a statement from the Secretary of the Interior, indicating the property is a certified historic structure as defined in WAC 254-20-030(2).
3. The Kitsap County assessor shall forward to the commission all complete applications for special property tax valuation for historic property within 10 days after receiving such applications.

### **C. Review Process**

1. The commission shall review each application for special tax valuation and determine: if the application is complete; if the subject property meets the criteria set forth in RCW 84.26.030 and WAC 254-20-070(1); and if the subject property meets the criteria set forth in subsection D of this section. The commission shall review all timely applications, and shall enter a determination on the application no later than December 31st of the calendar year in which the application is made.

2. If the commission finds that a subject property is eligible and meets all criteria set forth in this section, the commission shall enter into an historic preservation special valuation agreement with the owner of the subject property, which agreement shall contain all terms required by WAC 254-20-120. Upon mutual execution of such an agreement, the commission shall approve the application.
3. If the commission determines that the subject property does not meet all the requirements of this section, the commission shall deny the application.
4. Commission decisions to approve or deny applications for special tax valuation shall be in writing, shall describe the facts upon which the determination is based, and shall be filed with the Kitsap County assessor within 10 days after the date of the decision.
5. For those applications approved by the commission, the commission shall forward a copy of the applicable historic preservation special valuation agreement, the application and all supporting documentation to the Kitsap County assessor. The commission shall also notify the State Review Board that the subject property has been approved for special valuation and shall monitor the subject property for continued compliance with the historic preservation special valuation agreement throughout the 10-year special valuation period.
6. The commission shall determine whether a property is disqualified from special valuation either because of the owner's failure to comply with the terms of the historic preservation special valuation agreement or because of a loss of historic value resulting from physical changes to the building or site. In the event that the commission concludes that a property is no longer qualified for special valuation, the commission shall notify the owner, the Kitsap County assessor and the State Review Board in writing and state the facts supporting its findings.

## **D. Criteria**

### **1. Historic Property Criteria**

Until the city becomes a certified local government, the class of historic property eligible for special valuation in the city includes all properties listed on the National Register or certified as contributing to a National Register historic district that have been substantially rehabilitated at a cost and within a time period that meets the requirements set forth in Chapter 84.26 RCW. After the city becomes a certified local government, the class of historic property eligible for special valuation in the city includes all properties listed on the local register that have been substantially rehabilitated at a cost and within a time period that meets the requirements set forth in Chapter 84.26 RCW.

### **2. Property Review Criteria**

In its review of an application for special valuation of an historic property, the commission shall determine if the subject property meets each of the following criteria:

- a. The property is an historic property;
- b. The property is included within a class of historic property determined eligible for special valuation pursuant to subsection D.1 of this section;

- c. The property has been rehabilitated at a cost that meets the definition set forth in RCW 84.26.020(2) within 24 months prior to the date of application; and
- d. The property has not been altered in any way that adversely affects those elements that qualify it as historically significant, as determined by applying the standards set forth in WAC 254-20-100(1).

### **3. Rehabilitation and Maintenance Criteria**

The commission shall use the Washington State Advisory Council's Standards for the Rehabilitation and Maintenance of Historic Properties set forth in WAC 254-20-100 as the minimum requirements for determining whether an historic property is eligible for special valuation and whether the property continues to be eligible for special valuation once it has been so classified.

### **E. Agreement**

The commission shall use the historic preservation special valuation agreement set forth in WAC 254-20-120 as the minimum agreement required by this section.

### **F. Appeals**

A decision of the commission on an application for classification as historic property eligible for special valuation may be appealed to the Kitsap County superior court under RCW 34.04.510 through 34.05.598 in addition to any other legal remedy. Any decision of the commission on the disqualification of historic property as being eligible for special valuation, or any other dispute, may be appealed to the Kitsap County board of equalization in accordance with RCW 84.40.038. (Ord. 2003-37 § 1, 2004)

## **18.24.070 FORT WARD HISTORIC OVERLAY DISTRICT<sup>196</sup>**

The following regulations apply to the Fort Ward Historic Overlay District and supplement those general standards contained in subsections 18.24.010 through 060 above. In the case of conflict between the provisions of this subsection 18.24.070 and the provisions of previous subsections of this BIMC 18.24, the provisions of this BIMC 18.24.070 shall apply. Any applications for development within the Fort Ward Historic Overlay district not subject to the provisions of this subsection 18.24,070 shall comply with the regulations for the underlying zone (R-2). (Ord. 2000-19 § 4, 2000)

### **A. Establishment of Boundaries**

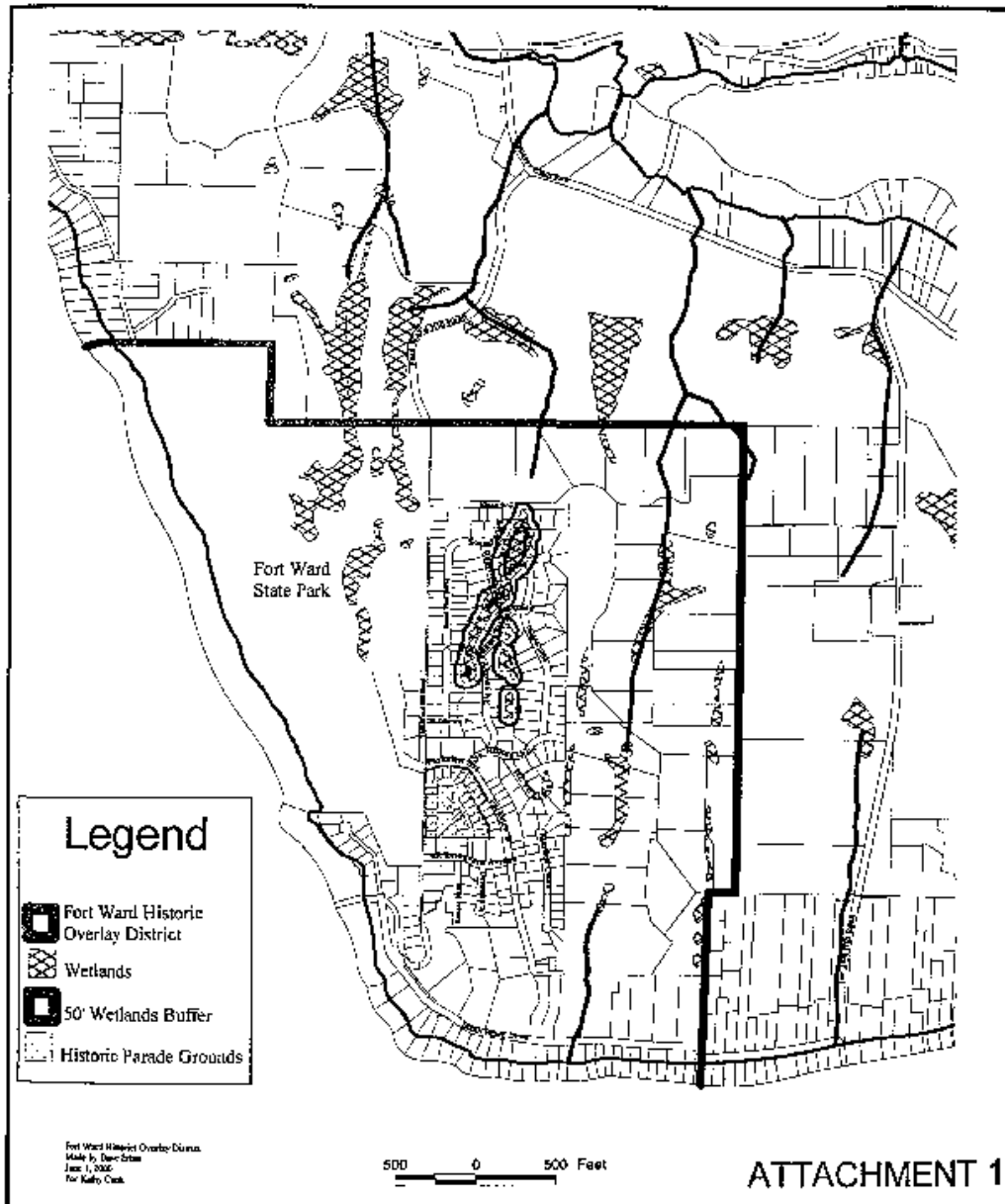
The provisions of this chapter shall apply to the Fort Ward study area as shown on the following page, referred to as the Fort Ward Historic Overlay District. (Ord. 2000-19 § 4, 2000)<sup>197</sup>

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<sup>196</sup> These provisions are carried over from current code section 18.31.

<sup>197</sup> These provisions are carried over from current code section 18.31.040.

# Fort Ward Historic Overlay District



## B. Fort Ward Historic Review Committee

### 1. Creation and Size

The Fort Ward historic review committee (committee) shall consist of no fewer than five members as provided in subsection B.2 below. The mayor, with the approval of the city council, shall appoint members of the committee.

## **2. Intent**

The Fort Ward Historic Review Committee shall supplement the expertise of the Bainbridge Island Historic Commission with specific expertise related to the Fort Ward Historic Overlay District, and shall address only the redevelopment of specific properties within the Overlay District.<sup>198</sup>

## **3. Composition of the Committee**

All members of the committee must have a demonstrated experience in architecture, architectural history, historic rehabilitation and/or local history. In making appointments, the mayor may consider names submitted from any source, but the mayor shall notify the Bainbridge Island historical society, the Fort Ward neighborhood association and other community organizations of vacancies so that names of interested and qualified individuals may be submitted by such organizations for consideration along with names from any other source.

## **4. Terms**

The initial appointment of members to the committee shall be as follows: three members shall be appointed for two years; two members shall be appointed for three years; and two members shall be appointed for four years. Thereafter, appointments shall be made for three-year terms. Vacancies to the committee shall be filled by the mayor for the unexpired term of that position.<sup>199</sup>

## **5. Powers and Duties**

The committee shall serve as the review authority on matters of historic rehabilitation and maintenance. As required by this chapter, the committee shall review such proposals for compliance with the standards for maintenance or rehabilitation of the exteriors of buildings of historic interest contained in BIMC 18.24.070.E and shall issue a certificate of review in a form to be approved by the city. The committee shall further provide review and advice to property owners voluntarily seeking to rehabilitate and/or maintain the character of buildings of historic interest.

## **6. Rules and Procedures**

The committee shall establish and adopt its own rules of procedure, and shall select from among its membership a chairperson.

## **C. Increases in Density<sup>200</sup>**

### **1. Availability**

Residential density bonuses may be available for providing affordable housing pursuant to BIMC 18.21.

### **2. Building 16**

The property tax identified as tax parcel number 112402-3-004-2003 containing a building of historical interest, identified as Building 16 on Attachment 2, shall

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<sup>198</sup> New intent statement.

<sup>199</sup> Revised to match current practice.

<sup>200</sup> These provisions are carried over from current code section 18.31.050.

be permitted an increase in density up to a total of eight units; provided, that the majority of the dwelling units are located inside Building 16; and provided, that the following development standards are met:

- a. The exterior of the building is rehabilitated and maintained in accordance with the standards established in BIMC 18.24.070.E
- b. The proposed work is reviewed by the Fort Ward historic review committee, and a certificate of review is issued, in accordance with BIMC 18.23.070.F.
- c. A minimum of five feet of partial screen perimeter landscaping shall be provided alongside and rear property lines. This requirement may be met by retaining existing vegetation on the property, or planting new vegetation. The perimeter landscaping requirement may be waived as part of the final decision on the permit, upon written agreement from adjoining property owners.
- d. Surface parking is encouraged to be located behind the building. Any surface parking that is adjacent to residential uses shall be fully screened so as to prevent headlights from shining on the adjacent residential uses.
- e. Parking may be located along the south property line; provided, that it is enclosed within a structure.
- f. The applicant shall provide community meeting space of not less than 500 square feet. This community meeting space may be provided within Building 16, or, upon approval by the city, this requirement may be met by the applicant making a financial contribution equal to the cost of constructing a 500-square-foot meeting space and one unisex bathroom stall within Building 16. If the financial contribution option is used:
  - i. The applicant shall submit current cost estimates to the city building official for the construction of the meeting space, as described in subsection B.6.b of this section, meeting all code requirements and the same level of finishes and quality of construction as used elsewhere in the interior of the building;
  - ii. The payment shall be held in a reserve account and may only be expended in support of the construction of a community meeting space in the Fort Ward Historic Overlay district;
  - iii. The payment shall be expended in all cases within five years of collection; and
  - iv. Any payment not so expended shall be refunded with interest to the property owners of record at the time of the refund; however, if the payment is not expended within five years due to delay attributable to the developer, the payment shall be refunded without interest.
- g. The applicant complies with the requirements of BIMC 18.24.070.G prior to issuance of an occupancy permit.

### **3. Other Properties**

Certain properties within the Fort Ward Historic Overlay District that contain a structure of historic interest, as identified on Attachment 2, shall be permitted to develop to the historic density as shown in Table 18.23.070-1 below; provided, that:

- a. The exterior of the building is rehabilitated and maintained in accordance with the standards established in BIMC 18.24.070.E.

- b. The proposed work is reviewed by the Fort Ward historic review committee, and a certificate of review is issued, in accordance with BIMC 18.24.070.F.
- c. The applicant complies with the requirements of BIMC 18.24.070.G.

Table 18.24.070-1: Fort Ward Historic District Overlay District Additional Densities		
Building Number	Tax Parcel Number	Density
Building 13	11240230022005	Up to 3 units
Building 18	41470050010004	2 units
Building 19	41470050020102	2 units
Building 20	41470050030002	2 units
Building 21	41470050040001	2 units

(Ord. 2006-01 § 1, 2006: Ord. 2000-19 § 4, 2000)

## D. Maintenance and Rehabilitation of Buildings of Historic Interest<sup>201</sup>

### 1. Buildings B and C

Buildings B and C, (tax parcel number 80970000000007, a total of 10 units), as identified on Attachment 2, are buildings of historic interest that contribute to the character of the Fort Ward Historic Overlay District. Any project to alter, reconstruct, remodel, or restore the exterior of the subject buildings that requires permits from the city shall require review by the Fort Ward historic design review committee for compliance with the standards established in BIMC 18.24.070.E and issuance of a certificate of review in accordance with the procedures established in BIMC 18.24.070.F

### 2. Other Buildings

The buildings shown in Table 18.24.070-2 below, and identified on Attachment 2, are buildings of historic interest that contribute to the character of the Fort Ward historic overlay district. The rehabilitation and maintenance of these buildings is to be encouraged. Any owner who wishes to alter, reconstruct, remodel, or restore the exterior of the subject buildings in a manner that maintains its historic character may request the review services of the Fort Ward historic review committee. The committee shall be available to review the proposed changes, and to advise the applicant as to design elements, construction techniques and materials that would be compatible with the historic character of the specific building.

Table 18.24.070-2: Fort Ward Historic District Overlay District Other Buildings of Historic Interest			
Building Number	Tax Parcel Number	Building Number	Tax Parcel Number

<sup>201</sup> These provisions are carried over from current code section 18.31.060.

Building E	11240220032006	Building 49	41460030050006
Building 46	41470050050000	Building 50	41460030030008
Building 47	41460010030002	Building 51	41460030010000
Building 48	41460010010103	Building 60	41460010050000

The rehabilitation and maintenance of any other buildings of historic interest within the Fort Ward Historic Overlay District is to be encouraged. Any owner who wishes to alter, reconstruct, remodel, or restore the exterior of these buildings in a manner that maintains its historic character may also request the review services of the Fort Ward historic review committee. (Ord. 2000-19 § 4, 2000)

### **E. Standards for Maintenance or Rehabilitation of the Exteriors of Buildings of Historic Interest<sup>202</sup>**

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its context.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Many properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated architectural features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities, and where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of buildings, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alternations or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.

<sup>202</sup> These provisions are carried over from current code section 18.31.070.

10. New additions and related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired. (Ord. 2000-19 § 4, 2000)

## **F. Application and Review by the Fort Ward Historic Review Committee<sup>203</sup>**

### **1. Certificate of Review Required**

No applicant shall alter, reconstruct, remodel, or restore the exterior of the subject buildings pursuant to BIMC 18.24.070.C2 or C3 or BIMC 18.24.070.D.1, and no city permit or approval of such activity shall be issued without review by the Fort Ward historic review committee and without issuance of a certificate of review by the committee.

### **2. Preliminary Review**

Upon submittal of application for site plan and design review permit or building permit, the applicant shall schedule a preliminary review meeting with the committee. A staff planner shall also attend the preliminary design review meeting. Prior to the review meeting, the applicant shall provide committee members with “as is” photographs of the subject building and site; a site plan showing the location of the building or buildings; the proposed method of cleaning and treating masonry and other surfaces; exterior elevations of the front and side with a description of the proposed type and finished color of exterior siding, proposed windows and roofing to be used; and proposed architectural features and trim. All diagrams shall be drawn to scale. The committee may request additional information and/or a site visit as necessary for their review and recommendation. Any conditions agreed to in this meeting shall become conditions of approval of the permits granted.

### **3. Final Review**

Prior to issuance of permits, the applicant shall schedule a final review meeting with the committee. A staff planner shall also attend the final review meeting. Upon determination that conditions specified in the preliminary design review and the requirements of this chapter are met, the committee shall issue a final certificate of review in a form to be approved by the city. The final certificate of review shall be attached to the building permit.

### **4. Exemptions**

Emergency repairs, ordinary repair and maintenance and interior remodeling shall not require a certificate of review. (Ord. 2000-19 § 4, 2000)

## **G. Notice on Title<sup>204</sup>**

Prior to issuance of building permit, the owner of any property seeking an increase in density pursuant to BIMC 18.24.070.C shall record with the Kitsap County auditor a restrictive covenant in a form approved by the city. Such document shall provide notice in the public record of the requirement that any alteration, reconstruction,

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<sup>203</sup> These provisions are carried over from current code section 18.31.080.

<sup>204</sup> These provisions are carried over from current code section 18.31.090.

remodel, repair, or restoration of the exterior of the subject buildings must comply with the provisions of this chapter. The applicant shall submit proof to the city that the restrictive covenant has been filed. The covenant shall run with the land and failure to provide such notice to any purchaser prior to transferring any interest in the property shall be in violation of this chapter. (Ord. 2000-19 § 4, 2000)

#### **H. Design Guidelines**<sup>205</sup>

In addition to complying with all other applicable provisions of this subsection 18.24, permitted development, redevelopment, and exterior renovation in the Fort Ward shall comply with those regulations contained in The Fort Ward Design Guidelines [Link to PDF file.] (Ord. 2004-02 § 1, 2004; Ord. 97-08 § 2, 1997).<sup>206</sup>

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<sup>205</sup> These provisions are carried over from current code section 18.41.010 and 18.41.040. The city is in the process of revising these provisions, and if that effort is completed before the revised Title 18 is adopted, the new provisions will replace this material.

<sup>206</sup> This provision has been carried over from current code 18.41.040.

## **18.27 TRANSFER OF DEVELOPMENT RIGHTS<sup>207</sup>**

### **18.27.010 PURPOSE**

The purpose of this chapter is to establish a simple, flexible transfer and sale of development rights program that successfully preserves wetlands, high vulnerability recharge areas, agricultural land and open space. (Ord. 99-19 § 1, 1999; Ord. 96-07 § 2, 1996)

### **18.27.020 DEVELOPMENT RIGHTS SENDING AREAS**

#### **A. Critical Areas Overlay District**

All properties within the Critical Areas Overlay District (CAOD) as designated on the land use map of the city comprehensive plan are established as development rights sending areas. A copy of the Critical Areas Overlay District is available from the department.

#### **B. Agricultural Land**

Any owner of agricultural land as defined by BIMC 16.26.020, whether located in or outside of the CAOD, may elect to have the agricultural land designated as a development rights sending area through the sale or transfer of the development rights of the property.

#### **C. Donation of Development Rights**

Any owner of real property may donate all or a portion of their development rights to the city.

#### **D. Property Already Restricted from Development Not Eligible**

Development rights are not available for real property in the CAOD or agricultural land outside of CAOD that is subject to easements or covenants preventing further development of the real property. (Ord. 99-19 § 2, 1999; Ord. 96-07 § 2, 1996)

### **18.27.030 CALCULATION OF DEVELOPMENT RIGHTS**

#### **A. General**

Subject to the building setbacks and height limitations applicable to the R-0.4 zone district, as shown in Tables 18.12.020-1, and 18.12.020-2, an owner of real property in the development rights sending area is entitled to sell or transfer one development right for every unused development right associated with the property located within the development rights sending area.

#### **B. Optional Bonus for Owners of Agricultural Land**

If an owner of agricultural land as defined by BIMC 16.26.020 grants an easement to conserve and forever maintain the agricultural productivity of the agricultural land to

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<sup>207</sup> These provisions have been carried over from current code section 18.37.

the American Farmland Trust, Inc. or other appropriate trustee, as approved by the city of Bainbridge Island, then for every unused development right, the owner of agricultural land may sell three development rights. For example, if agricultural land has three unused development rights, the property owner could transfer or sell nine development rights.

### **C. Calculation**

In calculating available development rights, the area of land divided by the density defined by the underlying zone shall be used. The resulting figure shall be rounded down for any fraction of a development right. (Ord. 2004-12 § 21, 2004; Ord. 99-19 § 3, 1999; Ord. 96-07 § 2, 1996)

## **18.27.040 PHASED DEVELOPMENT RIGHTS PROGRAM**

### **A. Two Year Initial Period**

For two years from the date the ordinance codified in this chapter is adopted, only owners of agricultural land as defined in BIMC 16.26.020 are eligible to transfer or sell development rights pursuant to this chapter. Any owner of agricultural land using this program during this two-year period may use the provisions of either BIMC 18.27.030.A or B. At the end of the two-year period, the chapter will be reviewed to determine whether to expand the program to the other areas designated in the comprehensive plan as development rights sending areas.

### **B. Donation of Development Rights**

Any owner of real property may donate all or a portion of their development rights to the city. The donation of development rights is exempt from the phasing requirement contained in subsection A of this section. (Ord. 99-19 § 4, 1999; Ord. 96-07 § 2, 1996)

## **18.27.050 RECEIVING AREAS FOR DEVELOPMENT RIGHTS**

### **A. Winslow Mixed Use Town Center and High School Road Districts**

Developments in the Mixed Use Town Center (MUTC) and the High School Road districts are eligible for increases in floor area ratio as provided for in BIMC 18.12.030.E.2.

### **B. NSC Districts**

The neighborhood service centers (NSC) are eligible for increased density through the purchase or transfer of development rights in accordance with BIMC 18.12.030.D.1 and D.3, as amended.

### **C. R-8 Districts**

The urban single-family overlay district (R-8SF) is eligible for increased density through the purchase or transfer of development rights in accordance with BIMC

18.21, 18.24, and 18.27.<sup>208</sup> (Ord. 2001-44 § 4, 2001: Ord. 99-19 § 5, 1999: Ord. 96-07 § 2, 1996)

### **18.27.060 DETERMINATION OF DEVELOPMENT RIGHTS FROM A SENDING AREA**

- A. An owner of real property desiring to sell or transfer development rights shall submit an application for severance of development rights to the city administrator. The city administrator or designee shall determine the form of the application and the information required for a complete application. All, or a portion of, the development rights may be included in the application.
- B. The city administrator or designee shall determine the number of development rights available for severance, subject to BIMC 18.27.030.C.
- C. The city shall issue a certificate documenting the number of available development rights. (Ord. 99-19 § 6, 1999: Ord. 96-07 § 2, 1996)

### **18.27.070 SEVERANCE OF DEVELOPMENT RIGHTS FROM A SENDING AREA**

In order to sell or transfer development rights for the purpose of increasing floor area ratio or density in a designated receiving area, the following procedure must be followed:

- A. To sever development rights approved by the city, the property owner shall execute a restrictive easement between the owner and the city or a tax exempt organization or other governmental agency, in a form approved by the city.
- B. The certificate of development rights and the restrictive easement shall be recorded by the owner with the Kitsap County auditor. The owner shall provide a copy of the recorded documents to the city. When the documents have been recorded and the recorded documents have been received by the city, the severance is complete.
- C. The severance of development right is permanent. (Ord. 99-19 § 7, 1999: Ord. 96-07 § 2, 1996)

### **18.27.080 SALE OR TRANSFER OF DEVELOPMENT RIGHTS**

Once development rights have been severed from a sending area property in accordance with BIMC 18.27.070, the property owner may sell or transfer the development rights by executing and recording with the Kitsap County auditor a deed of development rights using a deed form provided by the city. The deed shall describe the number of development rights being sold or transferred. (Ord. 99-19 § 8, 1999: Ord. 96-07 § 2, 1996)

### **18.27.090 USE OF DEVELOPMENT RIGHTS IN MIXED USE AND HIGH SCHOOL ROAD DISTRICTS**

- A. In order to use development rights to increase floor area ratio within the Mixed Use Town Center or High School Road districts as provided in BIMC 18.12.030.E, an applicant must fill out an application in a form approved by the city. The application shall include the amount of the requested increase in floor area ratio, and the fee, if any, of the increased floor area ratio. The fee for development rights to increase floor area ratio shall be established by resolution of the city council.

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<sup>208</sup> It is unclear whether this cross-reference or provision is still accurate, and we will correct it if necessary in the final draft document.

- B. The approved application to utilize development rights to increase floor area ratio within the receiving area must be part of a site plan and design review application under BIMC Title 2. The site plan must indicate the increase in floor area ratio (FAR).
- C. The use of development rights shall be reviewed for conformance with the design review provisions of BIMC 18.18.030. (Ord. 99-19 § 9, 1999; Ord. 96-07 § 2, 1996)

### **18.27.100 USE OF DEVELOPMENT RIGHTS WITHIN NSC DISTRICTS**

- A. A request to utilize development rights within the receiving area must be part of a site plan and design review application under BIMC Title 2. The site plan must include the number of development rights to be used. The application must contain a copy of either a deed of development rights or a contract for the purchase of development rights.
- B. The use of development rights shall be reviewed under the provisions of site plan review in BIMC Title 2.
- C. Prior to final approval of the site plan, the applicant must provide the department with a deed of development rights.
- D. The approval site plan, referencing the number of development rights used, and the deed of development rights shall be recorded by the owner with the Kitsap County auditor. (Ord. 99-19 § 10, 1999)

## **18.30 NONCONFORMING LOTS, USES, AND STRUCTURES<sup>209</sup>**

These regulations address the treatment of lots, uses, and structures that predate some portions of Title 18 and do not conform with at least some provisions of Title 18. The following sections of BIMC also address nonconformities, and in the case of conflict between any two or more development standards or criteria, the more specific shall apply.

- A. BIMC 16.12.390 Shoreline Master Program – Nonconforming Development
- B. BIMC 16.20.D Critical Areas – Standards for Existing Development

### **18.30.010 APPLICABILITY**

This chapter shall apply to structures, uses and lots that become nonconforming as a result of the passage of this Title 18, or any subsequent amendments. (Ord. 92-08 § 2, 1992)

### **18.30.020 NONCONFORMING USE OF LAND**

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

- A. The use is not enlarged, increased, or extended to occupy a greater area of land or structure than was occupied on the date of adoption of this Code;
- B. The use is not moved in whole or in part to any other portion of the lot or parcel; and
- C. If the use ceases for a period of more than 180 days, the subsequent use of the land shall be conforming (this provisions shall not apply to any dwelling unit constructed as an affordable housing unit under BIMC 18.21)<sup>210</sup>. (Ord. 92-08 § 2, 1992)

### **18.30.030 NONCONFORMING STRUCTURES<sup>211</sup>**

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

- A. Changes to the structure that would alter or increase the nonconformity are not permitted.
  - 1. Extending a nonconforming wall vertically or horizontally is not permitted. Any vertical or horizontal extension of a nonconforming wall must meet the applicable standards<sup>212</sup>.
  - 2. Adding to the footprint of a nonconforming structure is permitted as long as the addition meets the requirement of this Title 18.<sup>213</sup>
- B. If moved, the structure shall be made to conform to regulations of this Code;

<sup>209</sup> These provisions are carried over from current code section 18.87.

<sup>210</sup> This provision has been modified to allow restarting of an affordable housing use of land.

<sup>211</sup> We will discuss with the Ad Hoc Committee how these provisions should be applied to proposed additions of second stories on homes where the first floor is non-conforming.

<sup>212</sup> This section was added to reflect current staff interpretation of non-conforming structures. Adding another story to a structure is an example of extending a wall vertically. Adding a room extension or addition is an example of adding a wall horizontally.

<sup>213</sup> This is a new standard to confirm that an addition that does not create a new non-conformity or extend an existing non-conformity is permitted.

- C. If a building is harmed or destroyed by more than 50 percent of its replacement value, as determined by the building official, the building must be reconstructed in compliance with the requirements for the zone in which it is located (this provision shall not apply to any dwelling unit constructed as an affordable housing unit under BIMC 18.21)<sup>214</sup>; and
- D. Any structure other than a building that is damaged or removed to an extent that exceeds 50 percent of its replacement value, as determined by the building official, may be replaced or reconstructed in substantially the same location and of substantially the same design as the pre-damaged or pre-removed structure, if a complete application is submitted for any and all required construction permits within 180 days of the damage or removal. (Ord. 2004-12 § 25, 2004: Ord. 92-08 § 2, 1992)<sup>215</sup>

### **18.30.040 CONDITIONS OF CONTINUANCE OF NONCONFORMING USE OF STRUCTURE**

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

- A. The structure is not enlarged or moved;
- B. It may be changed to another nonconforming use by the hearing examiner;
- C. If it is superseded by a conforming use, the nonconforming use may not thereafter be resumed; and
- D. If it is discontinued for a period of six consecutive months or for a total of 18 months in any three-year period, it may not thereafter be resumed (this provision shall not apply to any dwelling unit constructed as an affordable housing unit under BIMC 18.21)<sup>216</sup>. (Ord. 92-08 § 2, 1992)

### **18.30.050 NONCONFORMING LOTS**

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

### **18.30.060 NONCONFORMING AGRICULTURE**

Where a property with a permitted or approved conditional agricultural use is not in conformity with the requirements of BIMC, the city shall not require that the entire property and existing structures be brought into compliance with BIMC as a condition of approval to expand or change the property or its structures. However, expansions or changes to the agricultural uses or structures will not be approved if they would create a new nonconformity or increase an existing nonconformity. Where an existing agricultural structure or area does not meet a required setback from a property line, the structure or area can be expanded on the side opposite that property line, but only if that expansion does not lengthen any wall of a structure or side of an area that is already nonconforming with the required setback.

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<sup>214</sup> Per the diagnosis, this provision has been modified to allow reconstruction of affordable housing units after damage.

<sup>215</sup> We will discuss with staff whether there is a good alternative to this provision. Although commonly used, the determination of replacement value is difficult in many jurisdictions.

<sup>216</sup> This provision has been modified to allow restarting of a discontinued affordable housing unit.

### **18.30.070 NONCONFORMING MANUFACTURED HOMES**

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

## **18.33 VIOLATIONS, ENFORCEMENT, AND PENALTIES<sup>217</sup>**

### **18.33.010 GENERAL**

#### **A. Site Investigations**

The director is authorized to make site inspections and take such actions as are necessary to enforce this title in accordance with BIMC Chapters 1.16 and 1.26.

#### **B. Violations -- General**

It is unlawful for any person to initiate or maintain, or cause to be initiated or maintained, the use, construction, placement, removal, alteration, or demolition of any structure, land, vegetation or property within the city contrary to the provisions of this title.

#### **C. Violations -- Specific**

It is unlawful for any person to:

1. Initiate or maintain, or cause to be initiated or maintained, the use, construction, placement, removal, alteration, or demolition of any structure, land, vegetation or property within the city without first obtaining permits or authorizations required by this title, or in a manner that violates the terms or conditions of such permits or authorizations;
2. Misrepresent any material fact in any application, plans or other information submitted to obtain permits or authorizations under this title; or
3. Remove or deface any sign, notice, complaint, or order required by or posted in accordance with this title.

#### **D. Stop Work Order**

The city shall have the authority to issue a stop work order to cease all development work, and order restoration, rehabilitation, or replacement measures, including applicable sureties, at the owner's or other responsible party's expense to compensate for the use, construction, placement, removal, alteration, or demolition of any structure, land, vegetation or property within the city contrary to the provisions of this title.

#### **E. Restoration Plan**

Any restoration plan shall be approved by the director. Such a plan shall be prepared by a qualified professional using the best available science. The director may, at the violator's expense, seek expert advice, including an independent third party review, in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and re-submittal.

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<sup>217</sup> These provisions of 18.33.010 are taken from a new draft ordinance on violations and enforcement developed separately by city staff. The provisions of 18.33.020 are carried over from BIMC 15.34.

#### **F. Civil Infraction**

Except as provided in subsection G of this section, conduct made unlawful by the city under this chapter shall constitute a civil infraction and is subject to enforcement and fines as provided in BIMC 1.26.035. A civil infraction under this section shall be processed in the manner set forth in BIMC Chapter 1.26.

#### **G. Misdemeanor**

Any person who again violates this title within 12 months after having been found by the Bainbridge Island Municipal Court to be in violation of this Title, commits a misdemeanor and any person who is convicted of that violation shall be punished as provided in BIMC 1.24.010.A.

#### **H. Civil Penalty**

In addition to any civil infraction fine, criminal penalty, and/ or other available sanction or remedial procedure, any person engaging in conduct made unlawful by this title shall be subject to a cumulative civil penalty in the amount of \$1,000 per day for each violation from the date set for compliance until the date of compliance. Any such civil penalty shall be collected in accordance with BIMC 1.26.090.

#### **I. Additional Remedies**

In addition to any other remedy provided by this chapter or under the Bainbridge Island Municipal Code, the city may initiate injunction or abatement proceedings or any other appropriate action in courts against any person who violates or fails to comply with any provision of this chapter to prevent, enjoin, abate, and/or terminate violations of this title and/or to restore a condition that existed prior to the violation. In any such proceeding, the person violating and/or failing to comply with any provisions of this title shall be liable for the costs and reasonable attorneys' fees incurred by the city in bringing, maintaining and/or prosecuting such action.

#### **J. Conflicts**

In the event and to the extent the language of this section conflicts with language of the codes and/or appendices adopted by reference in BIMC Title 18, the language of this section shall prevail over the language it conflicts with in any said code and/or appendix."

### **18.33.020 PERFORMANCE BOND PROCEDURE**

After reviewing any application for a land use or a zoning matter, the reviewing official or body may provide for the posting of bonds to ensure continued compliance with any conditions imposed, including the construction of improvements, the adherence to city standards, and/or maintenance, repair or replacement of such improvements. The bond shall be in a form acceptable to the city attorney. In the event a condition occurs warranting the use of bond, the appropriate administrator may act under such bond or may perform the work required at city expense, which expense shall be a lien against the property, enforceable as would be a judgment thereon. (Ord. 92-08 § 2, 1992)

## 18.36 DEFINITIONS<sup>218</sup>

### **18.36.010 RULES OF CONSTRUCTION**

In the interpretation of this Code the rules and definitions of this Section shall be observed and applied, except when the context clearly indicates otherwise.

- A. Words used or defined in one tense or form shall include other tenses and derivative forms.
- B. Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
- C. The masculine gender shall include the feminine and the feminine gender shall include the masculine.
- D. The word “shall” is mandatory.
- E. The words “may” or “should” are permissive.
- F. The words “Municipal Code” means the Municipal Code of the City of Bainbridge Island, Washington.
- G. The word “person” includes individuals, firms, corporations, associations, and any other similar entities.
- H. The word “county” means the County of Kitsap, Washington.
- I. The word “city” means the City of Bainbridge Island, Washington.
- J. The words “City Council” mean the City Council of the City of Bainbridge Island, Washington.
- K. The word “state” means the State of Washington.
- L. In case of any difference of meaning or implication between the text of this Code and any caption or illustration, the text shall control.
- M. The terms “standards” and “guidelines” have different meanings, as follows. Standards mandate the specific course of planning and design action that the applicant must incorporate in its project application. Compliance with standards is mandatory. Statements of standards are indicated by use of the word “shall” in the rule or directive. A failure to meet a mandatory standard may be used as a basis for the City’s denial of a project application. In comparison, “guidelines,” if any, follow the standards and are indicated by the words “may” or “should.” Guidelines are voluntary and not mandatory; however, compliance is strongly encouraged to fulfill the intent of the section. A failure to meet a voluntary guideline cannot be used by the city as a basis for a project denial.

### **18.36.020 RULES OF MEASUREMENT**

Rules of measurement for the following terms are defined in BIMC 18.12.050.

- A. Base Density
- B. Building Footprint

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<sup>218</sup> These definitions are consolidated from current code 18.06 and several other portions of Title 18 where definitions were included in substantive provisions of the code outside the definitions chapter.

- C. Building Height
- D. Density
- E. Fence Height
- F. Floor Area
- G. Floor Area Ratio
- H. Front Setbacks
- I. Grade
- J. Lot Area
- K. Lot Coverage
- L. Lot Depth
- M. Lot Width
- N. Rear Setback
- O. Setback
- P. Side Setback
- Q. Shoreline Setback Line
- R. Structure Height

### **18.36.030 DEFINITIONS**

#### **18.36.030.1. Abutting**

“Abutting” means bordering or touching, such as sharing a common lot line. Lots that are separated by a street or right-of-way are not abutting.

#### **18.36.030.2. Accent Lighting**

“Accent lighting” means any luminary that emphasizes a particular object or draws attention to a particular area for aesthetic purposes.

#### **18.36.030.3. Accessory Agricultural Processing**

“Agricultural processing” means the preparing and manufacturing of commodities primarily from island farms as an accessory and subordinate use to Crop Agriculture or Animal Agriculture.

#### **18.36.030.4. Accessory Agricultural Retail<sup>219</sup>**

“Agricultural retail” means the sale of crops grown or livestock raised by a farmer or value added products made from crops grown or livestock raised by the farmer, and incidental associated agricultural products sold on-site where agricultural crops or livestock are grown or raised that is subordinate to the actual agriculture on-site. Products sold shall be primarily Island grown crops, value added products if the defining ingredient was Island grown, and associated products that are incidental to the agricultural activity on the site.

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<sup>219</sup> Revised definitions based on discussions within the Agriculture Working Group.

- A. “Accessory Agricultural Retail, Minor” means Agricultural Retail that (a) generates less than 36 round trips per day on average, and (b) does not conduct more than 4 non-agricultural special events each year, and (c) is conducted with primary access directly from a collector road, arterial road or highway. This category includes Farm Stands and joint use of farm stands by multiple producers and the use of retail sites for pick-up of community supported agricultural deliveries. See Farm Stand.
- B. “Accessory Agricultural Retail, Major” means Agricultural Retail that is more intensive than Minor Agricultural Retail

**18.36.030.5. Accessory Agricultural Tourism**

“Agricultural-tourism” means agriculturally related accessory uses that are subordinate to the growing of crops or the raising of livestock, designed to bring the public to the farm on a temporary or continuous basis, such as U-pick farm sales, retail sales of farm products, farm mazes, pumpkin patches, farm animal viewing and petting, wagon rides, farmland and facility tours, horticulture nurseries and associated display gardens, cider pressing, classes or workshops, wine or cheese tasting, etc.

**18.36.030.6. Accessory Antenna Device**

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

**18.36.030.7. Accessory Day Care Facility**

“Accessory day care facility” means a child day care center for children sited on the premises of an operating community service facility, such as a private or public school, place of worship, community center or library, and associated with that activity.

**18.36.030.8. Accessory Composting Bins**

“Composting Bin” means a structure built to facilitate the decomposition of organic matter. Composting Bins must have odor control mechanisms and shall not produce excessive odors that may harm nearby uses.

**18.36.030.9. Accessory Dwelling Units**

“Accessory dwelling unit” means separate living quarters contained within or detached from a single-family dwelling on a single lot, containing 800 sq. ft. of floor area or less, excluding any garage area or accessory buildings and sharing a single driveway with the primary dwelling; provided that no recreational vehicle or similar moveable vehicle or moveable storage container shall be an accessory dwelling unit. For purposes of this definition, “living quarters” means a “dwelling,” except that eating facilities may include a kitchenette instead of a kitchen. No living quarters that contains more than 800 sq. ft. of floor area, that does not meet this definition, or that does not meet any other applicable standards shall be considered an accessory dwelling regardless of the description of the unit (i.e. guest cottage, summer cottage) assigned by the owner.

**18.36.030.10. Accessory Livestock or Poultry Slaughtering<sup>220</sup>**

“Accessory livestock or poultry slaughtering means the killing or butchering of Large or Small Livestock or poultry.

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<sup>220</sup> New definition based on discussions with Agriculture Working Group.

**18.36.030.11. Accessory Structure**

“Accessory structure” means a subordinate building or structure that is incidental to the principal structure on the same lot. Accessory structures include solar panels, small wind devices, barns, sheds, and confined feed lots holding less than 5 chickens (no roosters). Accessory dwelling units are not considered accessory buildings or structures.

**18.36.030.12. Accessory Use**

“Accessory use” means a use customarily incidental and related to the principal use on the same lot. Accessory dwelling units are not considered accessory uses.

**18.36.030.13. Accessory Uses to Agriculture (not listed otherwise)<sup>221</sup>**

“Accessory use to Agriculture” means a use customarily incidental and related to Animal Agriculture or Crop Agriculture and not defined separately. Other accessory uses to Agriculture include without limitation: storage of heavy equipment or vehicles used for agricultural purposes, incidental structures used in support of permitted uses, the repair of agricultural equipment used on the property or nearby properties, and mixing of feeds to be used in Animal Agriculture or soil treatments to be used in Crop Agriculture.

**18.36.030.14. Adjoining**

“Adjoining” means immediately abutting or separated only by a street right-of-way. (Ord. 92-08 § 2, 1992)

**18.36.030.15. Adult Entertainment Facility**

“Adult Entertainment Facility” means a facility where the principal use of the property or a significant or substantial adjunct to another use of the property is the sale, rental, display or other offering of live entertainment, dancing, or the making or selling of material that is distinguished or characterized by its emphases on depicting, exhibiting, describing or relating to sexual activities. This includes, but is not limited to, an adult bookstore, massage parlor, adult motion picture booth or theater, adult dancing establishment, adult cabaret, or adult arcade.

**18.36.030.16. Adult Family Home**

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

**18.36.030.17. Affordable Housing**

“Affordable housing” or “affordable dwelling unit” (formerly “HUD-defined affordable housing”) means a dwelling unit for use as primary residence by a household in any of the income groups described below, which may be rented or purchased (including utilities other than telephone and cable TV) without spending more than 30 percent of monthly household income. Income level eligibility threshold levels shall be set using HUD levels for the Seattle Metropolitan Statistical Area. The department of planning and community development shall calculate and publish annually the maximum purchase prices and maximum rents applicable to each of the following income groups:

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<sup>221</sup> Revised definition based on discussions with Agriculture Working Group.

- A. Extremely low < 30% of median income household income
- B. Very low income 31% – 50% of median household income
- C. Low income 51% – 80% of median household income
- D. Moderate income 81% – 95% of median household income
- E. Middle income 96% – 120% of median household income

**18.36.030.18. Agricultural Land**

“Agricultural land” is defined in BIMC 16.26.

**18.36.030.19. Agricultural Operations**

“Agricultural operation” is defined in BIMC 16.26.

**18.36.030.20. Agricultural Processing**

“Agricultural processing” means the preparing and manufacturing of commodities primarily from island farms.

**18.36.030.21. Agricultural Retail Plan**

“Agricultural retail plan” means a document, filed with the city, which contains information on agricultural activity occurring at a specific location. Different from, but may be supplemented by, Trust for Working Landscapes or Kitsap County conservation district farm plans.

**18.36.030.22. Agricultural Special Event**

“Agricultural Special event” means activities that are held on farmland and that are desirable but unrelated to agriculture, such as weddings or parties unrelated to a resident of the property.

**18.36.030.23. Agriculture, Crop<sup>222</sup>**

All forms of crop-related activities, such as growing crops and processing island-grown crops as part of a farm. Examples include grain and vegetable farms, horticulture, greenhouses, orchards, and tree nurseries. Crop Agriculture does not include Accessory Major or Minor Agricultural Retail or Accessory Agricultural Tourism. Incidental vegetable gardening and landscaping are accessory uses to residential land use and are not defined as agriculture.

**18.36.030.24. Agriculture, Animal<sup>223</sup>**

All forms of activities involving the breeding, care, and/or sheltering of large or small livestock or poultry for sale or use, or for the sale or use of their products or byproducts, and/or the processing of those products or byproducts as part of a farm. Animal Agriculture does not include a commercial feedlot. For purposes of this definition, a Commercial Feedlot is a primary use of land in which more than 20 Large Livestock or more than 40 Small Livestock (1) are regularly confined for more than 12 hours each day, on average, in an enclosed structure or an area that is not normally used as a grazing area or for growing crops, and (2) are generally fed within that structure or area by mechanical means or by hand (rather than by grazing) for purposes of fattening for sale or slaughter. Occasional confinement of Large or Small Livestock for more than 12 hours each day or periodic hand or mechanical feeding during bad weather

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<sup>222</sup> New definition based on discussions in the Agriculture Working Group, but agreement within that group has not been achieved.

<sup>223</sup> New definition based on discussions in the Agriculture Working Group, but agreement within that group has not been achieved.

does not establish a Commercial Feedlot. Incidental keeping of common pets is an accessory use to residential land use and is not defined as Animal Agriculture.

**18.36.030.25. Animal Care Service**

“Animal Care Business” means an enterprise that provides care and services for livestock or other farm animals, such as an animal grooming parlor or animal training facility, but that is not a kennel, a veterinary service, or an animal hospital.

**18.36.030.26. Animal Foster Home**

“Animal foster home” means a temporary home with a permit approved by the animal control authority to house lost, abandoned, or unwanted dogs and cats until an adoptive home is located.

**18.36.030.27. Animal Shelter**

See BIMC 6.04.010

**18.36.030.28. Antenna**

“Antenna” means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio frequency signals.

- A. “Omni-directional antenna” (also known as a “whip” antenna) transmits and receives radio frequency signals in a 360-degree radial pattern. For the purpose of this chapter, an omni-directional antenna is up to 15 feet in height and up to four inches in diameter.
- B. “Directional antenna” (also known as a “panel” antenna) transmits and receives radio frequency signals in a specific directional pattern of less than 360 degrees.
- C. “Parabolic antenna” (also known as a “dish” antenna) is a bowl-shaped device for the reception and/or transmission of radio frequency communications signals in a specific directional pattern.

**18.36.030.29. Artist Studio**

“Artist studio” means the workshop of an artist, writer, craftsperson, or photographer, but not a place where members of the public come to receive instruction on a more than incidental basis or to sit for portraits. An artist’s studio does not include a residence or living unit.

**18.36.030.30. Assembly Area**

Assembly area means a portion of a facility in which the public or membership gathers for public presentations, events, education, worship, or civic activities. For purposes of determining parking requirements, assembly area does not include portions of a facility with fixed seating – such as an auditorium.

**18.36.030.31. Associated Products and/or Activity**

“Associated products and/or activity” for the purpose of Agricultural retail and as applied to agricultural uses means a required agricultural input, product or activity related to the primary crop, product or activity.

**18.36.030.32. Attached Wireless Communication Facility**

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

**18.36.030.33. Auto repair Services**

“Auto repair services” means the servicing of automobiles, including mechanical servicing and body work, within a building.

**18.36.030.34. Bed and Breakfast**

“Bed and breakfast” means a detached single-family residence in which (1) three or more guest rooms are provided within the residence or within accessory buildings, for compensation, as overnight accommodations for transient visitors who remain no longer than two weeks in any one visit, and (2) breakfast is customarily included in the charge for the room. Similar facilities containing only one or two bedrooms for rental to guests shall be considered a Minor Home Occupation.

**18.36.030.35. Bed and Breakfast, 1-2 bedrooms**

“Bed and Breakfast, 1-2 bedrooms” means an accessory use in an owner-occupied residential structure that contains no more than two guest bedrooms.

**18.36.030.36. Best Management Practices**

When used in the context of critical area regulations, “best management practices” are as defined in BIMC 16.20. (Ord. 92-08 § 2, 1992)When used in the context of agricultural practices, “best management practices” are those practices defined in BIMC \_\_\_\_ (Use Specific Standards for Agricultural Uses).

**18.36.030.37. BIMC**

“BIMC” means Bainbridge Island Municipal Code.

**18.36.030.38. Boarding Kennel/Cattery**

“Boarding kennel/cattery” means a kennel or cattery where dogs or cats are boarded or trained for compensation, but does not include a pet shop, animal shelter, or veterinary hospital where the boarding is incidental to the primary purpose of the facility.

**18.36.030.39. Buffer**

“Buffer” means space, either landscaped or existing or natural vegetation, intended to reduce the impact of undesirable sights, sounds, odors; provided, that an area that was cleared within five years of submittal may not be acceptable as a buffer. Buffers protecting critical areas shall be as defined in BIMC 16.20. (Ord. 98-20 § 13, 1998; Ord. 92-08 § 2, 1992)

**18.36.030.40. Building**

“Building” means any structure having a roof, designated for shelter of persons, animals, or property. (Ord. 2004-12 § 4, 2004: Ord. 2001-41 § 10, 2001: Ord. 92-08 § 2, 1992)

**18.36.030.41. Building Area**

“Building area” means the ground area encompassed within the walls of a building. (Ord. 92-08 § 2, 1992)

**18.36.030.42. Caliper**

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

**18.36.030.43. Carport**

“Carport” means a covered shelter for one or more vehicles that is open on at least two sides

**18.36.030.44. Car Wash, Manual or Automatic**

“Car Wash, Manual or Automatic” means a facility or area for the cleaning or steam cleaning, washing, polishing, or waxing of passenger vehicles by machine or hand-operated facilities. A car wash may be: a single unit type that has a single bay or a group of single bays with each bay to accommodate one vehicle only; or a tunnel type that allows washing of multiple vehicles in a tandem arrangement while moving through the structure.<sup>224</sup>

**18.36.030.45. Cemetery**

“Cemetery” means any one of the following in a place actually used for the placement of human remains and dedicated for that purpose:

- A. A tract of land actually used for the burial of human remains in the ground;
- B. A mausoleum building or structure for the entombment of human remains in crypts, which are spaces in which human remains are placed; and
- C. A columbarium structure, room, or other space in a building or structure containing niches in which cremated human remains are placed.

**18.36.030.46. Certificate of Appropriateness**

“Certificate of appropriateness” means the certificate issued by the Historic Commission pursuant to BIMC 18.24 upon approval of proposed changes that do not adversely affect the historic characteristics of a property listed on the local register.

**18.36.030.47. Certificate of Review**

“Certificate of review” means a certificate representing that the Fort Ward historic review committee has reviewed the proposed changes to a building of historic interest and certified the changes as not adversely affecting the historic characteristics of the property.

**18.36.030.48. Certified Local Government**

“Certified local government” means a local government that has been certified by the State Historic Preservation Officer and the National Park Service as having established its own historic preservation commission and program that meets federal and state standards.

**18.36.030.49. Circle Template**

“Circle Template” means the template used to measure lot width. Lot width is determined by the diameter of the biggest circle that can fit entirely inside the lot boundary line.<sup>225</sup>

**18.36.030.50. Club**

“Club” means a meeting place for an incorporated or unincorporated association of persons organized for some common purpose, including social, educational, literary, political, or charitable purpose, operated by a private nonprofit or noncommercial organization.

**18.36.030.51. Co-location**

“Co-location” means the location of more than one wireless communications provider mounts equipment on a single support structure.

**18.36.030.52. Commercial Amusements**

“Commercial amusements” means a video arcade, electronic game center, pool hall, dance hall, paintball center, a virtual reality arcade and similar uses.

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<sup>224</sup> New Definition

<sup>225</sup> New Definition

**18.36.030.53. Commercial Moving and Freight Terminal**

A facility in which freight or goods are assembled for loading onto a vehicle for transfer to another location in return for a fee.

**18.36.030.54. Commercial Parking, Surface**

“Commercial parking, surface” means the ownership, lease, operation, or management of a commercial surface parking lot in which fees are charged.

**18.36.030.55. Commercial Parking, Structure**

“Commercial parking, structure” means the ownership, lease, operation, or management of an above-ground or below-ground commercial parking structure in which fees are charged.

**18.36.030.56. Commercial Use**

“Commercial use” means the providing of goods or services for compensation.

**18.36.030.57. Community Gardens**

“Community Garden” means a public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family.<sup>226</sup>

**18.36.030.58. Commuter-Oriented Retail Sales**

“Commuter-oriented retail sales” means retail services and certain personal and professional services, offered primarily to ferry commuters, open during peak commute hours, not exceeding 2,000 sq. ft., and requiring no customer parking, for example, coffee bar, newspaper stand, florist, drop-off dry cleaners, shoe repair, automatic teller machines and other uses that require a short visit.

**18.36.030.59. Comprehensive Plan**

“Comprehensive plan” means the policies approved by the city council as a guide to the development of the city. (Ord. 92-08 § 2, 1992)

**18.36.030.60. Conditional Use**

“Conditional use” means a use listed among those classified in any given zone but permitted to locate only after review by the city’s hearing examiner and in accordance with standards and criteria set forth in this title. (Ord. 92-08 § 2, 1992)

**18.36.030.61. Consent**

When used in connection with historic preservation, “consent” means informed consent, and in the case of nominations or designations for listing on the register shall mean consent given after receipt of information prescribed in the commission’s rules that will inform the property owner of the practical and legal effect of nominating or designating the property for listing on the register.

**18.36.030.62. Cultural Facility**

“Cultural facility” means a library, museum, art gallery, cultural center, community center, convention center, exhibition hall, or meditation facility. Cultural facility does not include an artist studio.

**18.36.030.63. Custom Operators**

“Custom Operators” means an enterprise in which a contractor or other operator agrees to perform all or some machine operations, providing equipment and labor, for production and related activities on agricultural sites in exchange for a payment or a payment along with a

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<sup>226</sup> New Definition

percentage of profits. Field operations performed by a custom operator may include field preparation, planting, cultivating, harvesting, tilling, haymaking, bush hogging, crop storage, hauling, fencing, and barn construction.

**18.36.030.64. Cut-off Angle**

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

**18.36.030.65. Day Care Center**

“Day Care Center” means a building or structure in which an agency, person, or persons regularly provide child care for 13 or more children through the age of 12 in any 24-hour period and could include a public or private school.

**18.36.030.66. Defining Ingredient**

“Defining ingredient” means the part or component that describes the distinguishing characteristic of a product. (Ord. 2004-11 § 2, 2004)

**18.36.030.67. Department**

“Department” means the city’s department of planning and community development. (Ord. 92-08 § 2, 1992)

**18.36.030.68. Development Rights**

“Development rights” means the potential for the improvement of real property, measured in dwelling units or units of commercial or industrial space, existing because of the zoning classification of real property. (Ord. 96-07 § 1, 1996)

**18.36.030.69. Diameter/Diameter-Breast-Height**

When used in connection with trees, “Diameter/diameter – breast – height” means the diameter of a tree trunk measured at four and a half feet above average grade.

**18.36.030.70. Director**

“Director” means the director of the planning and community development department or his or her designee. (Ord. 2005-13 § 1, 2005; Ord. 2003-44 § 3, 2004; Ord. 92-08 § 2, 1992)

**18.36.030.71. Disabled Person or Handicapped Person**

A “disabled” or “handicapped” person is one who meets the definition of a handicapped person in the federal Fair Housing Act Amendments of 1988, as amended.<sup>227</sup>

**18.36.030.72. Domestic Animal**

“Domestic animal” means cats, dogs, rabbits and other small animals commonly kept as pets in the city.

**18.36.030.73. Drive-Through Business**

“Drive-through business” means a business or portion of a business where customers may carry on business while seated in a motor vehicle. This definition shall include but not be limited to gas stations, car washes, and drive-in restaurants or banks.

**18.36.030.74. Drought Resistant Plants**

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

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<sup>227</sup> New definition.

**18.36.030.75. Dwelling**

“Dwelling or dwelling unit” means a building or portion of a building that provides independent living facilities with provisions for sleeping, eating and sanitation; provided a recreational vehicle or bus is not a dwelling or dwelling unit. A facility for sleeping is a habitable room large enough for a couch, bed or cot. A closet in the room is not necessary for the room to be considered a bedroom. Provisions for sanitation mean that bathing facilities are provided, e.g., a shower or a tub. A toilet and sink in a room is not considered bathing facilities. A kitchen is necessary to provide facilities for eating (see definition of kitchen).

**18.36.030.76. Dwelling, Multi-Family**

“Multi-family dwelling” means a building or portion of a building containing two or more dwelling units or more than one dwelling unit on one lot, including multiple living units on a single parcel sharing kitchen facilities, not including accessory dwelling units.<sup>228</sup>

**18.36.030.77. Dwelling, Single-Family**

“Single-family dwelling” means a detached structure containing one dwelling unit and having a permanent foundation, and includes Factory-Built Homes and Manufactured Homes.

**18.36.030.78. Educational Facilities**

“Educational Facilities” means a public or private school or educational or training institution that offers a program of college, professional, environmental, preparatory, high school, middle school, junior high school, elementary, kindergarten instruction, or any combination of those facilities, or any other program of trade, technical or artistic instruction (excluding single day programs of instruction), together with associated staff housing and/or conference facilities and other typical educational accessory uses.

**18.36.030.79. Educational or Research Facilities Related to Agriculture**

“Educational or research facilities related to agriculture” means a facility for the investigation, testing, or demonstration of, or for training or educating persons in, products and processes related to agriculture, horticulture, or animal husbandry, including biotechnical agriculture, veterinary, soil, plant and animal sciences.

**18.36.030.80. Egg Laying Facility<sup>229</sup>**

A form of Animal Agriculture in which more than 200 poultry are confined indoors or outdoors for feeding purposes and where the space per animal is less than 2 square feet.

**18.36.030.81. Emergency Repair**

“Emergency repair” means work necessary to prevent the destruction or dilapidation of buildings, objects, sites and structures that are immediately threatened or have been damaged by fire, flood, earthquake or other disaster.

**18.36.030.82. Emergency Repair for Historic Buildings**

“Emergency repair for historic buildings” means work necessary to prevent destruction or dilapidation of a building of historic interest immediately threatened or damaged by fire, flood, earthquake or other disaster.

**18.36.030.83. Entertainment Facility**

“Entertainment facility” means a performing arts theater, or cinema, concert venue, or circus/festival; venue not included in the definition of Recreation Activities, Outdoor, and

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<sup>228</sup> Definition now includes multiple living units sharing kitchen facilities.

<sup>229</sup> New definition based on discussions in the Agriculture Working Group.

Recreation Activities, Indoor, “Entertainment facility” does not include adult-oriented entertainment facilities.

**18.36.030.84. Equestrian Facilities**

“Equestrian facility” means a facility designed and intended for the display of equestrian skills and the hosting of events including, but not limited to, show jumping, dressage, and similar events of other equestrian disciplines.

**18.36.030.85. Equipment Shelter**

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

**18.36.030.86. Factory-Built Home**

“Factory-built home” means any building designed to be used as a dwelling that is constructed primarily in a factory in compliance with the standards of the Uniform Building Code, does not contain a permanent chassis, and is transported to the site for assembly and installation on a permanent foundation. Such dwellings must have the insignia of approval of the Washington State Department of Labor and Industries, in accordance with Chapter 43.22 RCW.

**18.36.030.87. Family**

“Family” means one or more persons (but not more than five unrelated persons) living together as a single housekeeping unit. For purposes of this definition and notwithstanding any other provision of this Code, persons with familial status within the meaning of Title 42 United States Code, Section 3602(k) and persons with handicaps with the meaning of Title 42 United States Code, Section 3602(h) and RCW 35A.63.240 will not be counted as unrelated persons. “Adult family homes” as defined by RCW 70.128.175 shall be included within this definition of “family.” Facilities housing individuals who are incarcerated as the result of a conviction or other court order shall not be included within this definition of “family.”<sup>230</sup>

**18.36.030.88. Family Day Care Home, Family**

“Family day care home” means a family abode in which child day care is provided on the premises during part of the 24-hour day to 12 or fewer children, including the provider’s own and foster children under 11 years of age. Education functions that are secondary to the day care operation are allowable for the number of children specified and will not be considered a school.

**18.36.030.89. Farm Stand<sup>231</sup>**

“Farm stand” means is a form of agricultural retail use that includes an accessory structure or land used for the sale, by the owner or his family or tenant, of agricultural or horticultural produce, livestock or merchandise principally produced on that farm, but may include produce grown on other farms and accessory products, and that is clearly a secondary use of the premises and does not change the character of the premises. It also may include a central place where farmers can deliver products for pick-up by consumers but not a wholesale distribution center. See Agricultural Retail

**18.36.030.90. Fixture**

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

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<sup>230</sup> New definition.

<sup>231</sup> Revised to clarify that this is an accessory use and that pick-up operations for other farmers are permitted.

**18.36.030.91. Flag Lot**

“Flag lot” means a lot of a panhandle configuration where the panhandle connects the main body of the lot to a road or street. (Ord. 92-08 § 2, 1992)

**18.36.030.92. Foot-Candle**

“Foot-candle” means a measure of illuminance or a measure of how bright a light appears to the eye. One foot-candle is equal to one lumen/ft<sup>2</sup>. As an example, a typical 60-watt incandescent lamp (840 lumens) produces an illuminance of 0.1 foot-candles at a distance of about 25 feet.

**18.36.030.93. Formula Take-Out Food Restaurant**

“Formula take-out food restaurant” means a restaurant or establishment that (1) is contractually required to offer standardized menus, ingredients and interior or exterior design; and (2) serves or delivers its food or beverages primarily in disposable containers.

**18.36.030.94. Forestry**

“Forestry” means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to: Road and trail construction; harvesting, final and intermediate; precommercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. “Forestry” shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products that cannot normally be expected to result in damage to forest soils, timber or public resources.

**18.36.030.95. Fossil Fuel Light**

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

**18.36.030.96. Foster Care**

“Foster care” means twenty-four-hour per day temporary substitute care for the child placed away from the child's parents or guardians and for whom the department or a licensed or certified child placing agency has placement and care responsibility. This includes but is not limited to placements in foster family homes, foster homes of relatives, licensed group homes, emergency shelters, staffed residential facilities, and preadoptive homes, regardless of whether the department licenses the home or facility and/or makes payments for care of the child.

**18.36.030.97. Foster Home**

“Foster home” means person(s) regularly providing foster care on a twenty-four-hour basis to one or more children in the person's home.

**18.36.030.98. Garage**

“Garage” means a building or portion of a building designed or used for the shelter of vehicles and enclosed on at least three sides.

**18.36.030.99. Gasoline Service Station**

“Gasoline service station” means a retail business where gasoline or other automotive fuel is sold.

**18.36.030.100. Geological Hazard**

“Geological Hazard” shall have the meaning defined in BIMC 16.20.030.A.20.<sup>232</sup>

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<sup>232</sup> Inconsistent existing definition deleted

**18.36.030.101.        Grazing Area<sup>233</sup>**

Any open land area used to pasture livestock in which suitable forage is maintained over 80% of the area at all times of the year.

**18.36.030.102.        Greenhouse**

“Greenhouse” means an establishment where flowers, shrubs, vegetable, trees, and other horticultural floricultural products are grown both in open and enclosed buildings.

**18.36.030.103.        Greenway**

“Greenway” means a system of land areas and connector links. Land areas include but are not limited to: large open areas, public lands, farm lands, critical areas, forests, shoreline areas, and parks. The features of the connector links include: trail systems, riparian areas, visual or scenic views of ridgelines, wildlife corridors or any combination of these.<sup>234</sup>

**18.36.030.104.        Group Care Facility**

“Group care facility” means a facility licensed by the state, that provides training, care, supervision, treatment and/or rehabilitation to the aged, disabled, those convicted of crimes or those suffering from the effects of drugs or alcohol; provided group care facilities shall not include day care centers, family day care homes, foster homes, schools, hospitals, jails, prisons, or Assisted Living Facilities. This use also includes facilities that would meet the definition of a Group Living Facility except that they house more than six residents (not including caregivers).

**18.36.030.105.        Group Living Facility**

“Group living facility” means a facility providing personal care services, occasional nursing services, and medication administration services to a resident housed in a private apartment-like or dwelling-like unit containing not more than six residents (not including caregivers). Residents in a Group Living Facility may include persons from any group protected by the federal Fair Housing Act Amendments, and the Group Living Facility use is intended to serve as one form of reasonable accommodation under those Amendments. A Group Living Facility does not include a facility for treatment of any person actively using drugs or alcohol, but does include facilities for those in a recovery program who are no longer actively using those substances. A Group Living Facility does not include a facility or half-way house for convicted felons or for those persons under the jurisdiction of the criminal justice system.

**18.36.030.106.        Governmental Institution Facility**

“Governmental institution facility” means an institution operated by a federal, state, county, or city government, or special purpose districts.

**18.36.030.107.        Hazardous Substance**

“Hazardous substance” means any liquid, solid, gas, sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste specified in RCW 70.105.010.

**18.36.030.108.        Hazardous Substance Handling**

“Hazardous substance handling” means the use, storage, manufacture, production, or other land use activity involving hazardous substances; except for individually packaged household consumer products or quantities of hazardous substances of less than five gallons in volume per container.

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<sup>233</sup> New definition based on discussions with Agriculture Working Group.

<sup>234</sup> New definition

**18.36.030.109. Hazardous Waste**

“Hazardous waste” means and includes all dangerous and extremely hazardous waste as specified in RCW 70.105.010.

**18.36.030.110. Hazardous Waste Storage**

“Hazardous waste storage” means the holding of dangerous waste for a temporary period. Accumulation of dangerous waste is not storage as long as the accumulation is in compliance with applicable requirements of WAC 173-303-200 and 173-303-201.

**18.36.030.111. Hazardous Waste Treatment**

“Hazardous waste treatment” means the physical, chemical, or biological processing of dangerous waste to make such wastes non-dangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage or reduced in volume.

**18.36.030.112. Hazardous Waste Treatment and Storage, Off-site**

“Off-site hazardous waste treatment and storage” means hazardous waste treatment and storage facilities that treat and store waste generated on properties other than those on which the off-site facilities are located.

**18.36.030.113. Hazardous Waste Treatment and Storage, On-site**

“On-site hazardous waste treatment and storage” means storing or treating hazardous wastes on the lot on which the wastes are generated.

**18.36.030.114. Health Care Facility**

“Health care facility” means a building or buildings used for human or animal health care.

**18.36.030.115. Heavy Equipment**

“Heavy equipment” means self-powered, self-propelled or towed mechanical devices, equipment and vehicles of the nature customarily used for commercial purposes such as tandem axle trucks, graders, backhoes, tractor trailers, cranes and lifts but excluding automobiles, recreational vehicles and boats and their trailers.

**18.36.030.116. Heavy Equipment Storage Area**

“Heavy equipment storage area” means a place where two or more items of heavy equipment are stored.

**18.36.030.117. Heavy Use Area<sup>235</sup>**

Any portion of a property (a) where frequent concentrations and passage of Large Livestock or Small Livestock or the accumulation of animal waste prevents the growth of grass and the prevailing ground is generally one of bare ground or mud, or (b) where more than 10 Large Livestock or more than 20 Small Livestock are regularly concentrated for feeding or other purposes in an area that is not normally used as a grazing area for growing crops.

**18.36.030.118. Historic District**

“Historic district” means a geographically definable area containing a significant concentration, linkage, or continuity of sites, buildings, structures, and/or objects united by past events or aesthetically by plan or physical development, and that has been designated as a Historic District by the City.

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<sup>235</sup> New definition based on discussions within the Agriculture Working Group, but agreement within that group has not been achieved on the size thresholds.

**18.36.030.119. Historic Preservation Commission**

“Historic preservation commission” or “commission” means the commission created pursuant to BIMC 18.24 and governed by that chapter.

**18.36.030.120. Historic Property**

“Historic property” means real property together with improvements on the property (except property listed in a register primarily for objects buried below ground) that is listed in a local or national register.

**18.36.030.121. Historic Significance**

“Historical significance” means something that is important or helpful in the understanding of the history of the local area, state or nation by illuminating the local, statewide, or nationwide impact of the events or persons associated with the property, or the property’s architectural type or style.

**18.36.030.122. Home Occupation**

“Home occupation” means an accessory use of a dwelling unit for gainful employment involving the manufacture, provision, or sale of goods and/or services. Home occupation does not include personal services, daycare centers, general retail sales, restaurants or other eating and drinking establishments, adult entertainment facilities, funeral chapels or mortuaries, storage of flammable liquids or hazardous materials beyond that normally associated with residential use, sale or rental of adult materials, or heavy machinery storage not part of an agricultural use.<sup>236</sup>

- A. “Minor Home Occupations” are compatible with the neighborhoods in which they are located and cause no impact greater than that generally associated with a single residence. Bed and breakfast establishments that rent no more than two rooms to transient visitors shall be considered a minor home occupation.
- B. “Major Home Occupations” cause some effect greater than that generally associated with a single residence and require some action or conditions to reduce those effects. Major home occupations include, but are not limited to the following: Home occupations that do not meet all the criteria for minor home occupations; auto repairing, vehicle detailing, and vehicle, boat, or trailer painting and major appliance repair; and commercial welding and machine shops.

**18.36.030.123. Hotel**

“Hotel” means any building that is held out to the public to be an inn, motel, hotel or public lodging house or place where sleeping accommodations, whether with or without meals, or the facilities for preparing the same, are furnished for hire to transient guests, in which three or more rooms are used for the accommodation of such guests. A hotel or motel is not a bed-and-breakfast lodging as defined and regulated elsewhere in this Code. Short-term rental (less than 30 days at a time) of a single-family residence does not constitute a hotel.

**18.36.030.124. Industrial Wastewater**

“Industrial wastewater” includes wastewater resulting from (a) any process of industry, manufacture, trade or business; (b) the development of any natural resource; or (c) the washing of equipment and vehicles, or similar activities. Storm water runoff and runoff from the watering of landscaping is not included.

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<sup>236</sup> Personal Services and Day Care Centers have been added to the list of prohibited home occupations. Family Day Care Homes are still a permitted primary use in almost all districts.

**18.36.030.125. Kennel<sup>237</sup>**

“Kennel” means a place where three or more adult domestic animals are kept commercially, generally overnight. A commercial kennel is considered a professional service under this title and is maintained to board, breed or treat the animals for profit and shall exclude pet shops and agriculture. This use includes a boarding kennel/cattery, animal shelter, or animal foster home.

**18.36.030.126. Kitchen**

A kitchen is a place where food is cooked or prepared and contains the facilities and equipment use in preparing and serving food, such as: A gas or electric range or oven. (A free-standing burner, warming oven or microwave is not considered a range or oven); A kitchen sink. (A bar or hand sink is not considered a kitchen sink); A refrigerator/freezer. (An upright refrigerator or freezer that fits under a counter, such as the type often found in offices, is not sufficient for a kitchen in a dwelling); Kitchen cabinets. (A small base cabinet use to support the bar or hand sink and provide minimum storage is not sufficient for a kitchen in a dwelling); OR Electric outlet for 220 voltage and/or plumbing or standpipes for equipment and facilities normally found in a kitchen.

**18.36.030.127. Lamp**

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

**18.36.030.128. Landscaping**

“Landscaping” means the placement, preservation, and the replacement of trees, shrubs, plants and other vegetative materials in accordance with an approved landscaping plan meeting the requirements set forth in this Title or the Administrative Manual. (Ord. 92-08 § 2, 1992)

**18.36.030.129. Landscape Perimeter Averaging**

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

**18.36.030.130. Lattice Tower**

“Lattice tower” means a wireless communication support structure that consists of metal crossed strips or bars to support antennas and related equipment.

**18.36.030.131. Light Pollution**

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

**18.36.030.132. Light Trespass**

“Light trespass” means any light emitted by an outdoor luminaire that shines directly beyond the property on which the luminaire is installed, or indirectly shines beyond the property on which the luminaire is installed at a brightness (illuminance) that exceeds 0.1 foot-candles at the property line.

**18.36.030.133. Livestock**

“Livestock” means horses, camelids, bovine animals, sheep, goats, swine, reindeer, donkeys, mules and any hoofed animal.

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<sup>237</sup> Revised to clarify coverage.

**18.36.030.134. Livestock, Large<sup>238</sup>**

Livestock generally weighing over 500 pounds, such as cattle and horses.

**18.36.030.135. Livestock, Small<sup>239</sup>**

Livestock weighing under 500 pounds, such as poultry, sheep, goats, miniature horses, llamas, alpacas, reindeer, donkeys, mules, and hogs, but excluding pigs weighing under 120 pounds and standing 20 inches or less at the shoulder that are kept as household pets.

**18.36.030.136. Live-Work Unit**

“Live-work unit” means a dwelling unit containing an integrated living and working space that is intended to function predominately as business workspace with incidental residential use. The unit typically has a store-front, with the workspace, public display area, or show-room on the ground floor of the unit and the majority of the residence located either on the upper floor if there are two floors, or the back of the unit if there is only one floor.

**18.36.030.137. Local Historic Inventory**

“Local historic inventory” or “inventory” means the comprehensive inventory of the historic resources located within the city’s boundaries, which is established and maintained by the commission.

**18.36.030.138. Local Register of Historic Places**

“Local register of historic places” or “local register” or “register” means the list of historic properties within the city established pursuant to BIMC 18.24.030.

**18.36.030.139. Lot**

“Lot” means a platted or unplatted parcel or tract of land. (Ord. 92-08 § 2, 1992)

**18.36.030.140. Lot, Corner**

“Corner lot” means a lot bounded on adjacent sides by streets. (Ord. 92-08 § 2, 1992)

**18.36.030.141. Lot Line, Front**

“Front lot line” means the lot line abutting any street. (Ord. 92-08 § 2, 1992)

**18.36.030.142. Lot Line, Rear**

“Rear lot line” means the lot line opposite and most distant from the front lot line; when the lot extends to tidal water, the rear lot line is the ordinary high water mark. (Ord. 92-08 § 2, 1992)

**18.36.030.143. Lot Line, Side**

“Side lot line” means any lot line that is neither a front or rear lot line. (Ord. 92-08 § 2, 1992)

**18.36.030.144. Lot, Standard**

“Standard Lot” means a conforming or nonconforming lot created through some means other than the flex-lot process.

**18.36.030.145. Lot, Through**

“Through lot” means a lot having frontage on two streets that do not intersect at a lot line. (Ord. 92-08 § 2, 1992)

**18.36.030.146. Luminaire**

See “Fixture”

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<sup>238</sup> New definition based on discussions with Agriculture Working Group.

<sup>239</sup> New definition based on discussions with Agriculture Working Group.

**18.36.030.147. Manufactured Home**

“Manufactured home” means any building designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, that is constructed primarily in a factory in compliance with the National Manufactured Home Construction and Safety Standards (adopted June 15, 1976), contains a permanent chassis, and is transported to the site in one or more sections for assembly and installation according to the manufacturer’s specifications. Such dwellings must have the insignia of approval of the U.S. Department of Housing and Urban Development, in accordance with Chapter 43.22 RCW.

**18.36.030.148. Manufacturing, Light**

“Manufacturing, General” means businesses located within a building and involving assembling, distributing fabricating, manufacturing, packaging, printing, processing, publishing, recycling, repairing, servicing, storing, or wholesaling of goods or products.

**18.36.030.149. Manufacturing, General**

“Manufacturing, heavy” means any principally permitted use whose operations is predominantly out of doors rather than completely enclosed within a building. These uses include, but are not limited to, outdoor assembly businesses, equipment and vehicle yards, and outdoor recycling facilities.

**18.36.030.150. Manufacturing, Small-Scale**

“Manufacturing, small-scale” means a business that includes small-scale assembly, small-scale processing or other activities such as food processing, machine shops, wood shops, and electronic parts assembly; provided that the use does not adversely impact the neighborhood through noise, odor, lighting, fire safety and transportation.

**18.36.030.151. Mature Trees and Shrubs**

“Mature trees and shrubs” means Significant Trees as defined in BIMC 18.36 and/or native shrubs, ferns and forbs established at a density that provides a predominately continuous cover.<sup>240</sup>

**18.36.030.152. Mature Vegetation on Ridgelines**

“Mature vegetation on ridgelines” means existing Significant Trees as defined in BIMC 18.36 located on those dominant natural topographic features that are prominently visible from off-site public rights-of-way and lands.

**18.36.030.153. Maximum Extent Feasible**

“Maximum extent feasible” means no feasible and prudent alternative exists and that all possible efforts to comply with the regulation or minimize potential harm or adverse impacts have been undertaken. Economic consideration may be taken into account but shall not be the overriding factor in determining “maximum extent feasible.”

**18.36.030.154. Median Household Income**

“Median household income” means the amount calculated and published by the United States Department of Housing and Urban Development (“HUD”) each year for the Seattle Metropolitan Statistical Area (MSA) as the median household or family income, adjusted by HUD for household size. (Ord. 99-14 § 1, 1999; Ord. 97-15 § 1, 1997; Ord. 96-08 § 3, 1996)

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<sup>240</sup> This definition and the following one were previously in Title 17.

**18.36.030.155. Mining and Quarrying<sup>241</sup>**

“Mining and Quarrying” means operations and extracting activities, and generally include the screening, sorting, and piling of rock, sand, stone, gravel, or ore. For example, an operation that extracts rock, then screens, sorts, and with no further processing places the rock into piles for sale, is an extracting operation. This definition is intended to be consistent with the definitions in RCW 78.44.031(17), and in case of an inconsistency the provisions of RCW 78.44.031(17) shall govern.

- A. The crushing and/or blending of rock, sand, stone, gravel, or ore are manufacturing activities. These are manufacturing activities whether or not the materials were previously screened or sorted.
- B. Screening, sorting, piling, or washing of the material, when the activity takes place in conjunction with crushing or blending at the site where the materials are taken or produced, is considered a part of the manufacturing operation if it takes place after the first screen. If there is no separate first screen, only those activities subsequent to the materials being deposited into the screen are considered a part of the manufacturing operation.

**18.36.030.156. Monopole**

“Monopole” means a wireless communication facility that consists of a support structure, the height of which shall not exceed 120 feet in height not including antennas.

**18.36.030.157. National Register of Historic Places**

“National Register of Historic Places” or “National Register” means the national listing of historically significant properties, established pursuant to 16 USC Section 470a.

**18.36.030.158. Native Vegetation**

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

**18.36.030.159. Non-commuter ferry parking**

“Non-commuter ferry parking” means parking in the ferry terminal overlay district, intended for ferry passengers traveling occasionally for purposes other than commute to employment (for example, traveling after 9:00 a.m. or requiring parking at the ferry terminal for less than eight hours).

**18.36.030.160. Nonconforming Lot**

“Nonconforming lot” means a lot that was lawfully created but does not conform to the lot requirements of the zone in which it is located. (Ord. 92-08 § 2, 1992)

**18.36.030.161. Nonconforming Structure**

“Nonconforming structure” means a structure that was lawfully constructed prior to adoption of the ordinance codified in this title, or applicable amendments thereto and that does not conform to present regulations of the code. (Ord. 92-08 § 2, 1992)

**18.36.030.162. Nonconforming Use**

“Nonconforming use” means a use of land that was lawfully established and has been lawfully continued, but does not conform to the regulations of the zone in which it is located as established by this title or amendments to this title. (Ord. 92-08 § 2, 1992)

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<sup>241</sup> This is a new definition and clarifies the city’s intent to be consistent with definitions in state regulations.

**18.36.030.163. Nursery**

“Nursery” means an agricultural/commercial enterprise where plants and accessory products are sold on a retail basis. Twenty-five percent (25%) of the gross sales receipts of the commercial nursery must be derived from plants produced on site; or twenty-five (25%) of the area designated as a commercial nursery shall be dedicated to the cultivation of plants to be sold on-site.

**18.36.030.164. Object**

When used in connection with historic preservation, “object” means a thing of functional, aesthetic, cultural, historical, or scientific value that may, by nature or design, be movable yet related to a specific setting or environment.

**18.36.030.165. Off-Site Views**

“Off-site views” or “views from off-site” mean existing scenic views of forests, mountains, farms, meadows or marine waters into and across a parcel of land where a subdivision is proposed or such views from a public roadway.

**18.36.030.166. Open-Air Sales for Garden Supplies**

“Open-air sales for garden supplies” means any person, firm or corporation offering the sale of garden tools, equipment, and supplies operated in conjunction with a nursery and/or tree farm where the plant materials sold are limited to those grown on the premises at a non-permanent location by exhibiting, displaying, selling, or offering for sale such products.

**18.36.030.167. Open Space**

“Open space” means land and/or water area that is predominantly undeveloped, and is set aside to serve the purposes of protecting and conserving critical areas and natural systems, protecting potable water and waterways that flow into Puget Sound, and providing park and recreation opportunities, and enhancing aquifer recharge. Open space excludes tidelands, shorelands, areas occupied by dwellings, impervious surfaces that are not incidental to open space purposes, such as a parking lot, and areas that were clear cut or extensively logged within five years of submittal.

**18.36.030.168. Orchard**

“Orchard” means an area of land devoted to the cultivation of fruit or nut trees.

**18.36.030.169. Ordinary High Water Mark**

“Ordinary high water mark” means the mark on all lakes, streams and tidal water that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation. If the ordinary high water line cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water. (Ord. 92-08 § 2, 1992)

**18.36.030.170. Ordinary Repair and Maintenance**

“Ordinary repair and maintenance” means work the purpose of which is to correct the deterioration of real property or an improvement located on real property.

**18.36.030.171. Ordinary Repair and Maintenance for Historic Buildings**

“Ordinary repair and maintenance for historic buildings” means work for which a permit issued by the city is not required by law, and where the work does not alter the exterior of a building of historic interest.

**18.36.030.172. Outdoor Storage**

“Outdoor storage” means the outdoor storage of goods for more than 72 hours. Outdoor storage includes, but is not limited to, sales or storage yards for automobiles, trailers, moving equipment, boats, construction equipment and materials, items used for manufacture, and auto wrecking yards. Temporary outdoor sales displays less than 100 sq. ft. in ground area per business establishment, moorage areas in marinas, parking, and outdoor sales and storage areas of commercial nurseries and lumber yards are not defined as outdoor storage.

**18.36.030.173. Overlay District**

“Overlay district” means a geographic area that constitutes a mapped district superimposed over the underlying zone on the official zoning map. (Ord. 96-08 § 4, 1996)

**18.36.030.174. Parfitt-Waterfront Area**

“Parfitt-Waterfront Area” is defined as that area south of the boundary created by the following parcels and streets; starting at the northern property line of 272502-4-1130-2000; proceeding eastward along Blue Drive to its western intersection with Brien Drive; proceeding eastward along Brien Drive to its intersection with Bjune and Shannon Drives; and proceeding southward along Shannon Drive to the south property line of 4114-005-001-0003; and proceeding eastward to Winslow Ravine.

**18.36.030.175. Park, Active Recreation**

“Active recreation park” means a park where the primary uses are athletic fields, playgrounds, swimming facilities, sports courts, or other activities that require specialized fields or equipment.

**18.36.030.176. Park, Passive Recreation**

“Passive recreation park” means a park where the primary uses are hiking, bird watching, picnicking, and other low impact activities.

**18.36.030.177. Park and Ride Facility/Lot**

“Park and ride facility/lot” means an area or structure intended to accommodate parked vehicles during normal commuting hours, usually 5:00 a.m. to 8:00 p.m., Monday through Friday, where commuters park their vehicles and continue travel to another destination via public transit, carpool, vanpool, or bicycle. Park and ride facilities shall be developed in accordance with Chapter 18.81 BIMC, Parking and Access Requirements, and Chapter 18.85 BIMC, Landscape Requirements.

**18.36.030.178. Park and Ride Lot, Shared-use**

“Shared-use park and ride lot” means a parking lot or structure that was originally developed for a limited, nonresidential use, such as a church or theater, and serves the same function as a park and ride facility, BIMC 18.06.807, but is restricted for use by commuters Monday through Friday only, usually from 5:00 a.m. to 8:00 p.m. A shared-use park and ride facility requires no expansion of existing parking area or number of stalls or any other development beyond maintenance, signage and striping normally conducted by Kitsap Transit for this purpose.

**18.36.030.179. Parking Lot**

“Parking lot” means an area intended to accommodate parked vehicles for a fee or not accessory to single-family residences.

**18.36.030.180. Parking Space**

“Parking space” means a space on a lot, exclusive of access drives, used to park a vehicle and having access to a public street.

**18.36.030.181. Pedestrian Orientation**

“Pedestrian orientation” means that the location and access to structures, site configuration and elements, types of uses permitted at street level, building front design, and location of signs are based on the needs of persons on foot. (Ord. 92-08 § 2, 1992)

**18.36.030.182. Perimeter Landscaping**

“Landscape perimeter” means a landscape buffer located along a subdivision boundary. The landscape perimeter may contain established native vegetation or additional landscaping.<sup>242</sup>

**18.36.030.183. Permanent Foundation**

“Permanent foundation” means a foundation constructed in compliance with the standards of the International Building Code, except foundations for manufactured homes shall be in compliance with the printed installation instructions provided by the manufacturer of the manufactured home. (Ord. 92-08 § 2, 1992)

**18.36.030.184. Personal Service**

“Personal service” means an establishment that provides service(s) in a non-office environment including, but not limited to, beauty shops, shoe repair, laundry, dry cleaning services, animal care services, and tanning salons. Auto repair and body shops are not included under this definition.

**18.36.030.185. Planning Commission**

“Planning commission” means the Bainbridge Island Planning Commission, as described in BIMC 2.14.020.

**18.36.030.186. Preferred Use**

“Preferred use” means favored choice, promoted or advanced in some way. An activity identified as a priority among the possible uses. (Ord. 2004-11 § 2, 2004)

**18.36.030.187. Primarily Island grown**

“Primarily Island grown,” for the purposes of on-site, year-round agricultural retail, shall mean that the majority (75 percent, based on the value) of the crops and value added products being sold are grown on the Island.

**18.36.030.188. Principal Building**

“Principal building” means the building that houses a principal use on a lot, and to which all other buildings on the same lot are accessory. (Ord. 2004-12 § 6, 2004)

**18.36.030.189. Principal Building, Adjacent**

“Adjacent principal building” means a principal building located on a lot abutting the applicant’s lot. (Ord. 92-08 § 2, 1992)

**18.36.030.190. Principal Building, Shoreline**

“Shoreline principal building” means that building on a lot closest to the ordinary high water mark excluding accessory structures. (Ord. 92-08 § 2, 1992)

**18.36.030.191. Principal Use**

“Principal use” means the primary or predominant use to which the lot or building is or may be devoted and to which all other uses are accessory. (Ord. 92-08 § 2, 1992) A lot or building may have only one principal use.

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<sup>242</sup> This definition was previously in Title 17.

**18.36.030.192. Professional Service**

“Professional service” means a business or agency that provides services in an office environment and includes, but is not limited to, legal services, counseling services, real estate offices, financial services, insurance services, and government offices. Professional service does not include a healthcare clinic.

**18.36.030.193. Proposed Site Plan**

“Proposed site plan” means a drawing of a site plan submitted for review city staff members.

**18.36.030.194. Protection Zone**

When used in connection with trees, “Protection zone” means the zone at grade level located directly below the canopy and within the dripline

**18.36.030.195. Public Benefit, Agricultural**

“Public benefit, agricultural” means an economic, social, nutritional, environmental or aesthetic effect gained by individuals and/or the community from the existence of agricultural activity in the community.

**18.36.030.196. Public Safety Communications Tower**

“Public safety communications tower” means a wireless communications support structure owned and operated by a public agency and used exclusively for police, fire, emergency medical services, 9-1-1 or other public emergency communications.

**18.36.030.197. Raingarden/Swale**

“Raingarden/Swale” means a ground level sited design feature designed to detain rainwater for infiltration and reuse consistent with water rights laws.<sup>243</sup>

**18.36.030.198. Rainwater Harvesting Barrels**

“Rainwater Harvesting Barrels” means a barrel designed for the on-site harvest and storage of rainwater used to offset the potable water needs for a building and/or landscape.<sup>244</sup>

**18.36.030.199. Recreation Activities, Indoor**

“Indoor recreation activities” means indoor skating rinks, bowling alleys, gymnasiums not accessory to an education institution, racket clubs, sports arenas, and similar uses.

**18.36.030.200. Recreation Activities, Outdoor**

“Outdoor recreation activities” means golf courses, marinas, tennis courts, yacht clubs, athletic fields, swimming beaches, outdoor pools, and similar uses.

**18.36.030.201. Recreational Vehicle**

“Recreational vehicle” means a vehicle, such as a motor home, travel trailer, truck/ camper combination or camper trailer that is designed for human habitation for recreational or emergency purposes and that may be moved on public highways without any special permit for long, wide or heavy loads.

**18.36.030.202. Recycling Center**

“Recycling center” means a neighborhood or city-wide collection point for small refuse items, such as bottles and newspapers, located either in a container or a small structure.

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<sup>243</sup> New Definition

<sup>244</sup> New Definition

**18.36.030.203. Rehabilitation**

“Rehabilitation” is the process of returning a property to a state that makes contemporary use possible, while still preserving those portions of the property that are significant to its historical, architectural and cultural values.

**18.36.030.204. Related Equipment**

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

**18.36.030.205. Religious Facility**

“Religious Facility” means a facility that operates for the advancement of a theological philosophy and the practices and rituals associated with the beliefs, faith, or creed of a church, religious society, congregation, or religious denomination, when such practices or rituals are legal.

**18.36.030.206. Research and Development**

“Research and development” means businesses that include, but are not limited to laboratories for scientific research testing and experimental development that can be performed with minimal adverse impact on, and pose no special hazard to, the environment and the community

**18.36.030.207. Restaurant**

“Restaurant” means a restaurant or cafe (excluding formula take-out food restaurant) that sells prepared food or beverages and also offers accommodations for consuming the food or beverage on premises.

**18.36.030.208. Retail sales**

“Retail sales” means selling goods or commodities to final consumers. Retail sales do not include a “restaurant” or “formula take-out food restaurant.”

**18.36.030.209. Rezone**

“Rezone” means changing the designated zoning of a particular lot or area. (Ord. 92-08 § 2, 1992)

**18.36.030.210. Screen**

When used in connection with landscaping, “screen” means a system of vegetation to provide varying degrees of visual separation between land uses and site development.

**18.36.030.211. Seasonal Agricultural Sales**

“Seasonal agricultural sales” means agricultural retail sales of farm products occurring during a time in a calendar year when the crop being sold is actually being harvested and lasting 12 weeks or less.

**18.36.030.212. Self-service Storage Facility**

“Self-service storage facility” means an establishment containing separate storage spaces that are leased or rented as individual units for the storage of household or business goods. The facility may contain manager living quarters and an office.

**18.36.030.213. Setback**

“Setback” means space that is required to be left open and unoccupied between the nearest projection of a structure and the property line of the lot on which the structure is located, and that are required to remain unobstructed from the ground to the sky except for modifications to setbacks and height listed in Table 18.12.040.A.

**18.36.030.214. Shared Car**

“Shared Car” means a car provided through a formal shared car membership program for use by members of the program in return for a fee.<sup>245</sup>

**18.36.030.215. Shielding**

When used in connection with lighting, “shielding” means that no light rays are emitted by a fixture above the horizontal plane running through the lowest point of the fixture.

**18.36.030.216. SHPO**

“SHPO” means the State Historic Preservation Officer appointed pursuant to 16 USC Section 470a(b)(1)(A).

**18.36.030.217. Significant Tree**

“Significant tree” means: (a) an evergreen tree 10 inches in diameter or greater, measured four and a half feet above existing grade; or (b) a deciduous tree 12 inches in diameter or greater, measured four and a half feet above existing grade; or (c) all trees located within a required critical area buffer as defined in BIMC 16.20, or (d) all trees within the native vegetation zone or buffer.

**18.36.030.218. Site**

When used in connection with historic preservation, “site” means a place where a significant event or pattern of events occurred. It may be a location of prehistoric or historic occupation or activities that may be marked by physical remains or it may be the symbolic focus of a significant event or pattern of events, although not actively occupied. A site may be the location of ruined or now nonexistent building or structure if the location itself possesses historic, cultural or archaeological significance.

**18.36.030.219. Small Engine Repair**

“Small engine repair” means an establishment that is involved with the maintenance and repair of low-power internal combustion engines (gasoline/petrol) or electric engines. This includes, but is not limited to, chain saws, string trimmers, leaf blowers, snow blowers, lawn mowers, wood chippers, go-karts and sometimes more powerful engines used in outboard motors, snowmobiles, and motorcycles.

**18.36.030.220. Small Group Living Facility**

“Small Group Living Facility” means a facility providing personal care services, occasional nursing services, and medication administration services to a resident housed in a private apartment-like or dwelling-like unit containing not more than six residents (not including caregivers). Residents in a Small Group Living Facility may include persons from any group protected by the federal Fair Housing Act Amendments, and the Small Group Living Facility use is intended to serve as one form of reasonable accommodation under those Amendments. A Small Group Living Facility does not include a facility for treatment of any person actively using drugs or alcohol, but does include facilities for those in a recovery program who are no longer actively using those substances. A Small Group Living Facility does not include a facility or half-way house for convicted felons or for those persons under the jurisdiction of the criminal justice system.<sup>246</sup>

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<sup>245</sup> New Definition.

<sup>246</sup> New Definition

**18.36.030.221. Small Engine Repair**

“Small engine repair” means an establishment that is involved with the maintenance and repair of low-power internal combustion engines (gasoline/petrol) or electric engines. This includes, but is not limited to, chain saws, string trimmers, leaf blowers, snow blowers, lawn mowers, wood chippers, go-karts and sometimes more powerful engines used in outboard motors, snowmobiles, and motorcycles.

**18.36.030.222. Small Wind Energy Generator**

“Small Wind Energy Generator” means a wind energy generator designed to generate no more than 10Kw of energy.<sup>247</sup>

**18.36.030.223. Solar Panel**

A single panel or combination of panels or elements that does or will use direct sunlight as a source of energy for such purposes as heating or cooling of a structure, heating or pumping of water, and generating electricity. Solar panels include both photovoltaic and hot water devices.<sup>248</sup>

**18.36.030.224. Special Valuation**

When used in connection with historic preservation, “Special valuation” means the local option program provided for in Chapter 84.26 RCW that, when implemented, makes available to property owners a special tax valuation for rehabilitation of an historic property.

**18.36.030.225. Spotlight**

“Spotlight” means any lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction. (Ord. 2003-22 § 25, 2003; Ord. 2002-15 § 1, 2002)

**18.36.030.226. Stable<sup>249</sup>**

A facility for the keeping of horses for persons other than the residents of the lot, although resident’s horses may also be kept in the same facility.

**18.36.030.227. State Register of Historic Places**

“State Register of Historic Places” or “State Register” means the state listing of properties significant to the community, state or nation but that do not meet the criteria of the national register.

**18.36.030.228. State Review Board**

When used in connection with historic preservation, “State Review Board” means the advisory council on historic preservation established pursuant to Chapter 27.34 RCW, or any successor agency designated by the state to act as the State Historic Preservation Review Board under federal law.

**18.36.030.229. Story**

When used in connection with building or structure dimensional standards, “story” shall be defined as it is in the International Building Code.

**18.36.030.230. Street**

“Street” means a public way of travel that affords the principal means of access to abutting properties or a private way of travel that affords the principal means of access to four or more

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<sup>247</sup> New Definition

<sup>248</sup> New Definition

<sup>249</sup> Revised definition.

lots or to property that is, under existing laws, capable of division into four or more lots. (Ord. 92-08 § 2, 1992)

**18.36.030.231. Structure**

“Structure” means any man-made assemblage of materials extending above or below the surface of the earth and affixed or attached thereto. “Structure” for the purposes of this title, except for BIMC 18.09.030.F.1, does not include wireless communications facilities in BIMC 18.36. (Ord. 97-14 § 2, 1997; Ord. 92-08 § 2, 1992)

**18.36.030.232. Structured Parking**

“Structured parking” means a covered structure or portion of a covered structure that provides parking area for motor vehicles. Structured parking may be below grade.

**18.36.030.233. Subordinate Retail Activity**

“Subordinate retail activity” with respect to agricultural use means secondary, to be less than, to utilize a smaller portion of land and/or less time than is devoted to the agricultural activity on-site.

**18.36.030.234. Tavern**

“Tavern” means an establishment that sells beer or wine for on-premises consumption under a B class license as defined by the Washington State Liquor Control Board.

**18.36.030.235. Temporary Construction Building**

“Temporary Construction Building” means a temporary trailer or structure used as a construction shed or tool house for contractors and construction workers on the site of the construction. This includes construction living quarters, which is a manufactured home or recreational vehicle for use by an owner or builder during construction of a dwelling unit on the site of construction.

**18.36.030.236. Temporary Container Storage**

“Temporary Container Storage” means transportable units designed and used primarily for temporary storage of building materials, household goods, personal items and other materials for use on a limited basis on residential property.

**18.36.030.237. Temporary Contractor Parking Lot<sup>250</sup>**

“Temporary Contractor Parking Lot” means a lot established to accommodate parking of vehicles for construction-related workers or for business employees displaced by on-site construction activities.

**18.36.030.238. Temporary Public Event or Gathering**

“Temporary Public Event or Gathering” means a public event gathering that is temporary because of its nature (e.g., related to a holiday, or dependent on good weather.) These uses include, but are not limited to, fairs, festivals, carnivals, or parades. This use does not include a “special event” as defined elsewhere in this chapter.

**18.36.030.239. Temporary Seasonal Sales**

“Temporary Seasonal Sales” means a use that is temporary because of the nature of the product or service (e.g., related to a holiday, or dependent on good weather.) Seasonal sales include, for example, the sale of Christmas trees during the winter holiday season and spring and summertime sale of plant and garden supplies/materials.

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<sup>250</sup> This definition comes from ordinance 2009-01

**18.36.030.240. Transport and Delivery Services**

“Transport and Delivery Services” means a use for the transport and delivery of goods, people, and services. These uses include, but are not limited to taxi services, Meals-on-Wheels-type food delivery services, cleaning services, visiting health care services, and similar uses that involve frequent trips by motor vehicles to provide services. This use does not include uses where the delivery is secondary and incidental to a primary service delivered on-site, such as restaurant delivery services.

**18.36.030.241. Tree Canopy**

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

**18.36.030.242. Tree Stand**

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

**18.36.030.243. Universal Transverse Mercator**

“Universal transverse mercator” or “UTM” means the grid zone in metric measurement providing for an exact point of numerical reference. (Ord. 2003-37 § 1, 2004)

**18.36.030.244. Use**

“Use” means the purpose land, buildings, or structures now serve or for which such is occupied, arranged, designed, or intended. (Ord. 92-08 § 2, 1992)

**18.36.030.245. Utility**

“Utility” means all lines, buildings, easements, passageways, or structures used or intended to be used by any public or private utility related to the provision, distribution, collection, transmission, or disposal of power, oil, gas, water, sanitary sewage, communication signals, or other similar services on a local level and other in-line facilities needed for the operation of such facilities, such as gas regulation stations, power or communication sub-stations, dams, reservoirs, and related power houses. Additionally, a utility facility means any energy device and/or system that generates energy from renewable energy resources including solar, hydro, wind, biofuels, wood, geothermal, or similar sources. Services may be publicly or privately provided. In the Mixed Use Town Center and High School Road Commercial Zones, utility or utilities does not include wireless communications facilities.

- A. “Utility, Primary” means facilities that produce, transmit, carry, store, distribute, or process electric power, gas, water, sewage, or information and do not meet the definition of an Accessory Utility. Primary Utilities include solid waste handling and disposal facilities, wastewater treatment facilities, utility lines, electrical power generating or transfer facilities, radio cellular telephone and microwave towers, and gas distribution and storage facilities.
- B. “Utility, Accessory” means small scale distribution systems directly serving a permitted (“P”) or conditional (“C”) use. Accessory Utilities include power, telephone, cable, water, sewer, septic, and stormwater lines, and do not include wind generators (turbines) or solar panels.

**18.36.030.246. Value added products**

“Valued added products” means goods produced from harvested crops with the defining or distinguishing ingredient being grown by the producer.

**18.36.030.247. Variance**

“Variance” provides the means for obtaining relief from the zoning regulations, through the procedures, and subject to the criteria, listed in BIMC Title 2.

**18.36.030.248. Veterinarian clinic**

“Veterinarian clinic” means a building or buildings used for animal or pet health care, including animal or pet boarding as part of that animal pet health care. A veterinary clinic may include the incidental boarding of animals or pets undergoing treatment.

**18.36.030.249. Vocational school**

“Vocational school” means an establishment offering training in a skill or trade.

**18.36.030.250. Yard**

“Yard” means the same as “setback” unless from the context a different meaning is intended. (Ord. 2004-02 § 6, 2004: Ord. 92-08 § 2, 1992)

**18.36.030.251. Warehouse**

“Warehouse” means an establishment involved in the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pick-ups. There is little on-site sales activity with the customer present. Accessory uses may include offices, truck fleet parking, and maintenance areas.

**18.36.030.252. Waste Transfer Facility**

“Waste Transfer facility” means establishments that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. This does not include the waste or salvage of hazardous materials. Accessory uses may include recycling of materials, offices, and repackaging and shipment of by-products.

**18.36.030.253. Wireless communication facility**

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

- A. “Facility I” means an attached wireless communications facility that consists of antennas equal to or less than four feet in height with an area of not more than 580 square inches in the aggregate (e.g., 14-inch diameter parabola or 2.6-foot by 1.5-foot panel).
- B. “Facility II” means an attached wireless communication facility that consists of antenna equal to or less than 10 feet in height or up to one meter (39.37 inches) in diameter and with an area not more than 30 sq. ft. in the aggregate.
- C. “Facility III” means an attached wireless communication facility that consists of antennas equal to or less than 15 feet in height or up to one meter (39.37 inches) in diameter and with an area not more than 100 sq. ft. in the aggregate.

**18.36.030.254. Wetlands Mitigation Bank**

“Wetlands mitigation bank” means a natural resource management technique authorized by Part 404 of the federal Clean Water Act, or other state or federal law, as applicable, using wetland preservation, restoration, creation and/or enhancement to offset or replace wetland functions that are lost due to development. Wetland mitigation banks are typically large areas of wetlands

operated by private or public entities, which may sell credits to other entities to compensate for wetland loss or impact at development sites or enter into other similar arrangements.

**18.36.030.255. Winery, Commercial**

“Winery, commercial” means is a form of agricultural processing that includes an establishment with facilities for making and bottling wine for sale on site and/or through wholesale or retail outlets. Uses at a commercial winery may also include the growing of fresh fruits or agricultural products for the production of wine. Accessory uses shall include wine tasting rooms at which wine tasting occurs, accessory food sales related to wine tasting occurs, and wines produced onsite are sold.

**18.36.030.256. Wireless communication support structure**

“Wireless communication support structure” means the structure erected to support wireless communication antennas and connecting appurtenances. Support structure types include, but are not limited to, stanchions, monopoles, lattice towers, wood poles or guyed towers.

**18.36.030.257. Year-round agricultural retail sales**

“Year-round agricultural retail sales” means any agricultural retail sales extending beyond seasonal agricultural sales.

**18.36.030.258. Zone**

“Zone” means one of the classifications of permitted uses into which the land area of the city is divided. (Ord. 92-08 § 2, 1992)

**18.36.030.259. Zoning Map**

“Zoning map” means the official map that identifies and delineates boundaries of the city’s zoning classifications. (Ord. 92-08 § 2, 1992)