

No proposed Amendments to this Chapter

Chapter 20.58 LAND USE PERMITS

Sections:

[20.58.010 GENERAL.](#)

[20.58.020 CONDITIONAL USE PERMITS.](#)

[20.58.030 VARIANCE.](#)

[20.58.040 SITE-SPECIFIC REZONE.](#)

[20.58.050 AREA-WIDE REZONES.](#)

[20.58.060 RESIDENTIAL CLUSTER DEVELOPMENT.](#)

[20.58.080 SITE PLAN REVIEW.](#)

[20.58.090 SITE DEVELOPMENT PERMIT.](#)

20.58.010 GENERAL.

- (a) Applicability. This chapter contains the provisions and approval criteria for land use permits applicable to BMC Title [20](#). The provisions of this chapter are applied in conjunction with Chapter [20.02](#) BMC, Project Permits, in establishing the appropriate review procedures and criteria by which land use permits are reviewed and a decision rendered.
- (b) Fees. The corresponding application fees prescribed in the fee schedules set forth in Chapter [3.01](#) BMC shall accompany applications.

20.58.020 CONDITIONAL USE PERMITS.

- (a) Authority. Uses listed as a conditional use may be permitted if a conditional use permit (CUP) is approved.
- (b) Applicant. The City, federal, state or local agencies, property owner(s), or their designated agents may initiate a request for a CUP.
- (c) Procedure. A CUP application may be processed as an administrative Type II Director decision or as a nonadministrative Type III Hearing Examiner decision pursuant to the provisions set forth in Chapter [20.02](#) BMC.
 - (1) The Director may require a nonadministrative CUP whenever the use has a significant impact beyond the immediate site, is of a neighborhood or community-wide interest, or is of a controversial nature.
 - (2) The Director may convert a Type II administrative CUP to a Type III nonadministrative CUP any time prior to the issuance of a decision on the application.
 - (3) In addition to the notification requirements prescribed in BMC [20.02.100](#), the notice of application shall be mailed to all property owners within three hundred (300) feet of the property.
- (d) Criteria for Approval. The City shall approve a CUP only if it is found that:
 - (1) The use is consistent with the Comprehensive Plan goals and policies;
 - (2) The use complies with all applicable zoning and development standards and requirements;
 - (3) The use satisfies all of the conditional use approval criteria specified in the zone in which the use is located;
 - (4) The design of the proposal and conditions of approval has mitigated all identifiable adverse impacts;
 - (5) The use is compatible with nearby land uses and the surrounding neighborhood in terms of the level of light and glare, noise and parking demand, hours of operation and air quality; and
 - (6) Stipulations are made for the availability of adequate water, sewer, storm water, utilities and urban governmental services.

- (e) Conditions of Approval. Conditions such as site orientation, fencing, buffering, parking location, lighting, access, hours of operation, and others may be imposed as a condition of approval if it is found they are necessary to mitigate identifiable adverse impacts and ensure compatibility with nearby uses.
- (f) Lapse of Approval. If the CUP is not acted on within one (1) year from the date the decision became final, it shall expire. Expiration is automatic and notice is not required. The Director may grant a single six (6) month extension if the applicant makes such a request in writing prior to the expiration date and can show good cause for granting the extension.

20.58.030 VARIANCE.

- (a) Authority. The variance is a mechanism that allows the provisions of BMC Title [20](#) to be varied on a case-by-case basis. Approval of a variance may only be granted when it is for relief from a dimensional standard when the requirement of such would result in an unusual or unreasonable hardship due to physical characteristics of the site, or due to existing improvements on or adjacent to the site.
- (b) Applicant. The City, federal, state or local agencies, property owner(s), or their designated agents may initiate a request for a variance.
- (c) Procedures. A variance application is processed as a Type III Hearing Examiner decision pursuant to the provisions set forth in Chapter [20.02](#) BMC. If the variation would not exceed ten (10) percent of the required dimensional standard from which relief is being sought, the Director may approve the variance as a Type II Director decision.
- (d) Criteria for Approval. The City may grant a variance only if it is found that:
 - (1) The variance will not be materially detrimental to the surrounding neighborhood and avoids adverse impacts on other properties and residences;
 - (2) The variance is necessary to overcome exceptional or extraordinary hardship circumstances related to the size, shape, topography, location, or surroundings of the subject property, or the location of a preexisting legal nonconformity that may exist on or adjacent to the site;
 - (3) The variance will not grant relief for a self-created hardship, or for a personal or financial hardship or inconvenience;
 - (4) The variance will only grant the subject property the same general rights enjoyed by other properties in the same area and zoned as the subject property;
 - (5) The variance is the minimum necessary to allow the subject property the same general rights enjoyed by other property in the same area and zone; and
 - (6) Other solutions, uses, or design options that might achieve a similar result without the need for a variance have been evaluated and rejected.
- (e) Prohibited. Under no circumstances shall a variance be granted for any of the following:
 - (1) To alter any definition or interpretation of this title;
 - (2) To alter any provision establishing a use within a zoning district;
 - (3) To alter any procedural provisions; or
 - (4) To alter residential density standards.
- (f) Conditions of Approval. Conditions may be imposed as a condition of approval if it is found they are necessary to mitigate identifiable adverse impacts and ensure compatibility with nearby uses.
- (g) Lapse of Approval. If the variance is not acted on within one (1) year from the date the decision became final, it shall expire. Expiration is automatic and notice is not required. The Director may grant a single six (6) month extension if the applicant makes such a request in writing prior to the expiration of the variance and can show good cause for granting the extension.

20.58.040 SITE-SPECIFIC REZONE.

- (a) Authority. A site-specific rezone is a change to the zoning classification of a specific property or properties. The new zone must be consistent with the Comprehensive Plan and results in a change to the City's official zoning map.

- (b) Procedures. A site-specific rezone application is processed as a Type IV City Council decision pursuant to the provisions set forth in Chapter [20.02](#) BMC. The City Council shall act on the proposal after the Administrative Hearing Examiner holds an open-record public hearing and makes a recommendation to the City Council.
- (c) Applicant. The City, federal, state or local agencies, property owner(s), or their designated agents may initiate a request for a site-specific rezone.
- (d) Criteria for Approval. The City may grant a site-specific rezone only if it is found that:
 - (1) The rezone is consistent with the Comprehensive Plan;
 - (2) The rezone will advance the public health, safety, or welfare, and will not have adverse impacts on adjacent properties;
 - (3) The rezone is necessary because either:
 - (i) Conditions in the immediate vicinity or neighborhood have so markedly changed that it is in the public interest to approve the rezone; or
 - (ii) The rezone will correct a zone classification or zone boundary that was inappropriate when established; and
 - (4) The rezone is in the public interest.
- (e) Comprehensive Plan Consistency. If a Comprehensive Plan amendment is required in order to satisfy subsection (d)(1) of this section, approval of the Comprehensive Plan amendment is required prior to or concurrently with the granting of an approval on the rezone.

20.58.050 AREA-WIDE REZONES.

- (a) Authority. An area-wide rezone is a change to zoning classifications that is not site-specific. New zoning designations must be consistent with the Comprehensive Plan and approval changes the City's official zoning map.
- (b) Applicant. Only the City may initiate an area-wide rezone.
- (c) Procedures. These are legislative actions exempt from the requirements of Chapter 20.02 BMC. Specific procedural requirements are prescribed in Chapter [36.70A](#) RCW. The Planning Commission conducts public hearings for area-wide rezones and makes a recommendation to the City Council. The City Council, following its own public hearing(s), may approve, approve with modifications, deny or remand the Planning Commission's recommendation for additional study.
- (d) Notice. Published notice shall be given prior to public hearing dates in the official newspaper in accordance with the following schedule:
 - (1) Ten (10) calendar days for the first Planning Commission public hearing; and
 - (2) Five (5) calendar days for the first City Council public hearing;
 - (3) Subsequent hearing dates on the same proposal do not require additional publication of notice;
 - (4) Consideration shall be given to WAC [365-195-600](#) (Public Participation) in determining if additional notice requirements are necessary.
- (e) Approval Criteria. The City Council may approve an area-wide rezone if it is found that:
 - (1) It is consistent with the Comprehensive Plan; and
 - (2) It does not conflict with other City, state and federal codes, regulations and ordinances.
- (f) Comprehensive Plan Consistency. If a Comprehensive Plan amendment is required in order to satisfy subsection (e)(1) of this section, approval of the Comprehensive Plan amendment is required prior to or concurrently with the granting of an approval on the rezone.

20.58.060 RESIDENTIAL CLUSTER DEVELOPMENT.

- (a) Intent. The intent of the residential cluster development (RCD) is to accommodate urban densities of the underlying zoning district while allowing residential development to utilize less land area. These provisions aim to allow greater flexibility in the design of subdivisions to ensure development is in

harmony with the natural characteristics onsite and to preserve features such as critical areas, open space, recreation areas, or scenic vistas.

(b) Applicability. A RCD may be applied to all subdivisions as permitted in Chapter [20.12](#) BMC, Land Division.

(c) Procedures.

(1) A RCD shall be processed in coordination with a subdivision application and will follow the permitting procedures established in Chapter [20.12](#) BMC, Land Division.

(2) The Director has the discretion to convert a Type II administrative subdivision application that is using the RCD provisions to a Type III nonadministrative conditional use permit any time prior to the issuance of a decision on the application should the Director find the project to have significant impacts beyond the immediate site, is of a neighborhood or community wide interest, or is of a controversial nature.

(3) In addition to the notification requirements prescribed in BMC [20.02.100](#), the notice of application shall be mailed to all property owners within three hundred (300) feet of the property.

(d) Development Standards. Modification may be allowed to the underlying zone for which a RCD applies as follows:

(1) Density. The minimum and maximum density of the underlying zone shall apply, however, unbuildable critical areas as defined in Chapter [20.14](#) BMC may be included in the area for calculating density; however, land used for right-of-way may not.

(2) Minimum Lot Size. Lot size may be reduced to two thousand five hundred (2,500) square feet, provided all lots are buildable.

(i) Reductions below two thousand five hundred (2,500) square feet will only be permitted if the applicant provides an additional ten (10) percent of permanently protected open space as required by subsection (d)(8) of this section.

(3) Setbacks.

(i) For the purposes of this section perimeter setbacks shall be defined as the exterior boundary of the entire property to be subdivided. Structures and parking areas shall be set back a minimum of ten (10) feet from all perimeter property lines.

(ii) All other setbacks may be modified to encourage innovative site design.

(4) Lot Width. Deviations are permitted.

(5) Development Coverage. The development coverage is limited to fifty (50) percent of the total site area including open space.

(6) Parking. Two parking spaces are required for each primary residence. All deviations from the standard parking requirements shall be accompanied by a detailed analysis showing how alternative parking will provide better site design and will provide clear benefits to the residents.

Deviations are permitted as follows:

(i) Setbacks may be modified;

(ii) Parking may be applied to the entire site rather than to individual lots;

(iii) Parking tracts shall be placed in easily accessible locations;

(iv) Designated parking spaces should be clearly marked.

(7) Housing Type. Attached and detached single-family homes and townhomes are allowed as primary residential structures. Accessory dwelling units are permitted pursuant to BMC [20.46.010](#).

(8) Open Space Designation and Preservation.

(i) Each RCD shall provide not less than twenty (20) percent of the gross site area for common open space which shall be primarily concentrated in large areas. When these areas are designated as critical areas they should be designed to provide connectivity for habitat functions;

- (ii) Open space areas shall be located on separate tract(s), and shall be developed for passive or active recreational uses or set aside to preserve critical areas as defined in the critical area regulations in Chapter [20.14](#) BMC;
- (iii) Parking areas, rights-of-way, driveways, and yards within individual lots shall not be included in common open space;
- (iv) Facilities and other improvements that enhance recreational use(s) may be located in an open space area (provided they are not prohibited by other sections of the BMC). Such facilities can include, but are not limited to, fields, picnic areas, playgrounds, and athletic courts.
- (v) Open space areas shall be restricted in perpetuity from further subdivision and/or land development. This restriction shall be noted on the face of the plat.
- (vi) Open Space Plan. For all designated open space areas the proposal shall include an open space plan. This plan is to ensure the open space is maintained and preserved in perpetuity. Open space requirements established in the critical areas regulations (Chapter [20.14](#) BMC) shall be met for all designated critical areas. All open space areas excluding critical areas shall comply with the following:
 - (A) Identify all proposed improvements such as public facilities, proposed vegetation, and existing vegetation to remain; and
 - (B) The plan must comply with the requirements of the landscaping chapter, found in Chapter [20.50](#) BMC; and
 - (C) The plan shall outline maintenance responsibilities in a format acceptable to the Director; and
 - (D) The plan shall include a notice to title approved by the City and recorded with the County Auditor. This notice shall include provisions for the designation and retention of open space, and provisions for permanent maintenance of the open space and/or commonly owned facilities.
- (e) Criteria for Approval. The decision-making authority may grant a RCD only if it is found that:
 - (1) A RCD shall be approved with the approval of a subdivision. The RCD shall follow the same approvals and timelines as the concurrent subdivision application pursuant to Chapter [20.12](#) BMC, Land Division.

20.58.080 SITE PLAN REVIEW.

- (a) Authority. Site plan review is an evaluation of development plans to identify environmental impacts and overall compliance with applicable development regulations including zoning and engineering standards. It is a preliminary review and does not constitute approval to develop the site.
- (b) Applicability. Site plan review is required for all new development, expansion of existing structures, or other exterior site improvements that will change the physical conditions of a site.
- (c) Applicant. The City, federal, state or local agencies, property owner(s), or their designated agents may initiate a request for site plan review.
- (d) Procedures. A request for a site plan review is processed as a Type I or Type II Director's decision pursuant to Chapter [20.02](#) BMC. Site plan review may be conducted independently or may be reviewed concurrently with a site development permit set forth in BMC [20.58.090](#). When a site development permit is not required, site plan review may be consolidated with the review of a building permit application.
- (e) Application Requirements. An application for a site plan review shall include the following components. The Director may modify these requirements based on the size, scope and complexity of the project.
 - (1) Vicinity Map. Showing the subject property in relation to all other properties and major structures within a two hundred fifty (250) foot radius of the property.
 - (2) Site Plan. Containing, but not limited to, the following information:

- (i) The location, size, bulk, height, number of stories, and use of all structures and areas on the subject parcel, both existing and proposed.
 - (ii) Existing and proposed pedestrian walkways, bikeways, parks, playgrounds, recreational areas, activity centers, landscaped areas, and other areas and facilities of a public or recreational nature.
 - (iii) Existing and proposed utility systems, drainage structures, fire hydrants, and other infrastructure improvements.
 - (iv) An environmental summary, including such features as shorelines, bulkheads, creeks, culverts, wetlands, steep slopes, unstable soils, rock outcroppings, significant trees, other "sensitive areas," etc.
 - (v) All property lines, easements, fences, walls, signs, and other points of reference.
 - (vi) Other information, maps or data that is helpful to better understand the nature and scope of the proposal and its impacts on surrounding properties, people, and land uses.
- (3) **Parking Plan.** A parking plan shall be included showing all of the parking spaces, aisles, handicapped stalls, loading spaces, motorcycle spaces, setbacks and other dimensional information necessary to evaluate the project. This information may be shown on the site plan or may be provided in a separate plan.
- (4) **Landscape Plan.** When required, a plan showing the areas of landscaping and street trees shall be provided. This information may be shown on the site plan or may be provided in a separate plan.
- (5) **Storm Water Plan.** When required, a storm drainage report and preliminary storm drainage plans shall accompany the application.
- (6) **Water and Sewer Availability.** A letter summarizing the utility service requirements per BMC Title [15](#) shall be obtained from the City Public Works Department and submitted with the application.
- (7) **Other Reports.** When required, studies such as traffic reports, geotechnical reports, wetland reports and other environmental studies shall accompany the application.
- (8) **Narrative.** A written explanation of the proposal including:
- (i) Calculations of gross residential density, size of the site in square feet, and square footage of structures, parking areas, landscaped and recreational open space areas;
 - (ii) Elevations and/or perspective drawings of proposed structures and other major improvements being proposed;
 - (iii) The specific nature of any agreements, covenants, or other provisions that govern or affect the proposal; and
 - (iv) Signatures, mailing addresses, and phone numbers of all owners of record or agents of the subject property.
- (9) **Plans.** All plans shall be drawn to scale, legible, in a reproducible black and white format and shall include a north arrow.
- (f) **Criteria for Approval.** A site plan that complies with all applicable development regulations shall be approved, or approved with conditions.

20.58.090 SITE DEVELOPMENT PERMIT.

- (a) **Authority.** A site development permit shall be required prior to constructing, enlarging, or demolishing a building or structure; grading, excavating or filling of earth; or other exterior site improvements that will change the physical conditions of a site. A site development permit constitutes approval for those activities to develop a site, not including buildings.
- (b) **Applicability.** A site development permit is required for the following activities:
- (1) The construction of five (5) or more residential dwelling units;

- (2) The construction or expansion of a structure or structures of more than four thousand (4,000) square foot gross floor area for a nonresidential use or uses;
 - (3) Any filling, grading, excavating, placing or dumping of soil, loam, peat, sand, gravel, rock, and similar materials in excess of one hundred (100) cubic yards;
 - (4) Any activity or use located within an environmentally sensitive area as designated in Chapter [20.14](#) BMC, Critical Areas;
 - (5) Any development or redevelopment of a site that requires street frontage improvements pursuant to BMC [11.12.110](#);
 - (6) Any proposal that requires an engineered storm drainage system pursuant to Chapter [15.04](#) BMC;
 - (7) Construction of a nonaccessory surface or structural parking lot; or
 - (8) Construction of an accessory off-street parking facility of more than twenty (20) automobile spaces.
- (c) Exemptions. The following are exempt from the requirement for a site development permit:
- (1) Forest practices other than Forest Practice IV regulated under WAC Title [222](#);
 - (2) Development that is undertaken by the Washington State Department of Transportation in state highway rights-of-way and is regulated by Chapter [173-270](#) WAC, the Puget Sound Highway Runoff Program; or
 - (3) Road and utility construction and related activities undertaken by the City's Public Works Department.
- (d) Applicant. The City, federal, state or local agencies, property owner(s), or their designated agents may initiate a request for a site development permit.
- (e) Procedures. A request for a site development permit is processed as a Type I Director's decision pursuant to Chapter [20.02](#) BMC. The review may be conducted independently or may be reviewed concurrently with a site plan review.
- (f) Application Requirements. An application for a site development permit shall include the following components:
- (1) Vicinity Map. Showing the subject property in relation to all other properties and major structures within a two hundred fifty (250) foot radius of the property.
 - (2) Site Plan. Containing the following information:
 - (i) The location, size, bulk, height, number of stories, and use of all structures and areas on the subject parcel, both existing and proposed;
 - (ii) Existing and proposed pedestrian walkways, bikeways, parks, playgrounds, recreational areas, activity centers, landscaped areas, and other areas and facilities of a public or recreational nature;
 - (iii) Existing and proposed utility systems, drainage structures, fire hydrants, and other infrastructure improvements;
 - (iv) An environmental summary, including such features as shorelines, bulkheads, creeks, culverts, wetlands, steep slopes, unstable soils, rock outcroppings, significant trees, other "sensitive areas," etc.;
 - (v) All property lines, easements, fences, walls, signs, and other points of reference;
 - (vi) Other information, maps or data that is helpful to better understand the nature and scope of the proposal and its impacts on surrounding properties, people, and land uses; and
 - (vii) Dimensional information or drawn to scale at not less than one (1) inch = fifty (50) feet.
 - (3) Parking Plan. Showing all existing and proposed off-street parking spaces. This may be integrated into the base site plan or shown on a separate plan. Parking plans should show all spaces, aisles, handicapped and motorcycle spaces, loading spaces, transit facilities, and parking lot access and internal circulation. It should also show dimensions of all parking areas, spaces, driveways, setbacks, and distances from curb cuts to intersection corners, and similar detail.

- (4) Landscape Plan. Showing details of existing vegetation to be preserved and the general planting pattern as well as the numbers and types of new plants being provided. This may be integrated into the base site plan or provided in a separate plan.
 - (5) Elevation and/or Perspective Drawings. Drawings showing proposed structures and other major improvements.
 - (6) Civil Engineering Drawings. "Final" plans for street frontage improvements, circulation and street lighting.
 - (7) Final Storm Drainage Report. Storm drainage system meeting City engineering standards.
 - (8) Erosion and Sediment Control Plan. Erosion control plans prepared pursuant to BMC 15.04.042.
 - (9) Phasing. If the project is designed to be permitted and/or constructed in phases, a site plan showing the phases of development and a written schedule of development is required.
 - (10) Narrative. A written explanation of the proposal, including:
 - (i) Calculations of gross residential density, size of the site in square feet, and square footage of structures, parking areas, landscaped and recreational open space areas;
 - (ii) Elevations and/or perspective drawings of proposed structures and other major improvements being proposed;
 - (iii) The specific nature of any agreements, covenants, or other provisions that govern or affect the proposal; and
 - (iv) Signatures, mailing addresses, and phone numbers of all owners of record or agents of the subject property.
 - (11) Other Reports. When required, studies such as traffic reports, geotechnical reports, wetland reports and other environmental studies shall accompany the application.
 - (12) Plans. All plans shall be drawn to scale, legible, in a reproducible black and white format and shall include a north arrow.
- (g) Criteria for Approval. A site development permit that complies with all applicable development regulations and requirements for construction shall be approved.
- (h) Time Limits on Approval. Approval of a site development permit shall become void if building permits are not applied for or construction has not begun within one (1) year. The expiration is automatic and notice is not given. Exterior site improvements and the exterior of all structures shall be completed within three (3) years of issuance of the site development permit. If the permit expires, a new site development permit is required that meets the development standards in effect at the time a new permit is applied for.
- (i) Compliance Required. No person shall violate or fail in complying with an approved site development permit or any conditions thereof. Nor shall a building permit be valid for any structure which violates or fails to comply with any approved site development permit for the parcel(s) on which such structure is to be located.