ORDINANCE NO. 2018-12-036

AN ORDINANCE RELATING TO LAND DIVISION, LAND USE PLANNING AND UTILITIES, AMENDING BELLINGHAM MUNICIPAL CODE (BMC) TITLES 2, 14, 15, 16, 20, 21 AND 22, REPEALING TITLE 18 AND ADOPTING A NEW TITLE 23 AS THE CITY OF BELLINGHAM’S LAND DIVISION ORDINANCE.

WHEREAS, in 1997, the Bellingham City Council (Council) approved Ordinance No. 10833 which adopted the City’s current subdivision ordinance; and

WHEREAS, in 2014, the City initiated an update of the subdivision ordinance intended to develop regulations compliant with the objectives of the comprehensive plan by: incorporating subdivision provisions specific to infill and green field development and redevelopment; bringing the regulations into compliance with state law (RCW 58.17) and the Bellingham municipal code; and exploring existing and new procedures for alternative means of developing land; and

WHEREAS, in September 2014, the city established three, 4-person technical groups in order to evaluate the subdivision ordinance’s development standards and processes and to identify specific opportunities that the regulations do not currently address; and

WHEREAS, in December 2014, the Planning Commission conducted a public hearing to introduce the update of the subdivision ordinance, including: the legislative history of land division regulations nationally and locally; a Key Issues Matrix that was derived from the information received from the technical groups; and proposed process goals and objectives. The Commission provided direction to staff by adopting process goals and objectives and forming a subcommittee of commissioners to review the Key Issues Matrix in greater detail; and

WHEREAS, from 2015 thru August 2016, staff worked independently with the Planning Commission subcommittee and a steering committee at public meetings to finalize a Key Issues Matrix for the full Commission’s review; and

WHEREAS, in October 2016, the full Planning Commission conducted a public meeting to review the updated Key Issues Matrix, including recommendations from both the Commission subcommittee and the steering committee. At the conclusion of the meeting, the Commission directed staff to prepare a draft ordinance based on the issues included in the updated matrix for consideration at future work sessions; and
WHEREAS, from January 2017 to May 2018, the Planning Commission held work sessions to discuss proposed chapters of the updated subdivision regulations; and

WHEREAS, on June 6, 2018, the City of Bellingham as lead agency under the procedures of the State Environmental Policy Act issued a determination of non-significance; and

WHEREAS, in accordance with the Growth Management Act, the State of Washington Department of Commerce was notified on June 6, 2018 of the City’s intent to adopt the amendments to the land use, utilities and land division regulations; and

WHEREAS, the Bellingham Planning Commission held a public hearing on June 21, 2018 on the amendments, with appropriate public notice provided; and

WHEREAS, the Planning Commission considered the staff report and comments received, and thereafter recommended approval of the proposed ordinance with some amendments; and

WHEREAS, the Planning Commission adopted Findings of Fact, Conclusions and Recommendations to the City Council on September 13, 2018; and

WHEREAS, the Bellingham City Council held a public hearing on September 24, 2018 on the proposed amendments and held follow-up work sessions on October 8 and 22 and November 19, 2018, with appropriate public notice provided; and

WHEREAS, the City Council finds that the amendments are consistent with, and will help implement, the goals and policies of the State Growth Management Act and the 2016 Bellingham Comprehensive Plan;

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. BMC Title 18 Subdivisions is repealed in its entirety.

Section 2. A new Title, attached as Exhibit A, is adopted and codified in the Bellingham Municipal Code as Title 23 – Land Division.

Section 3. BMC 2.56.050 shall be amended as follows:

The hearing examiner shall have the power to receive and examine available information, conduct public hearings and prepare a record thereof and enter decisions as provided by ordinance.

  A. The decision of the hearing examiner on the following matters which shall be within the jurisdiction of the hearing examiner notwithstanding any other
provision of the Bellingham Municipal Code shall be final unless such decision is appealed to the city council as provided in this chapter:

1. Applications for preliminary plat approval for subdivisions exceeding nine lots under Chapter 23.16 BMC;

2. Applications regarding five- to nine-lot cluster subdivisions and two- to four-lot cluster subdivisions with density bonus under Chapters 23.12 and 23.16 BMC-18.32.050;

3. Variances from the terms of BMC-Title 23 BMC-48 relating to preliminary plats, two- to four-lot cluster subdivisions with density bonus, and five- to nine-lot cluster subdivisions.

B. The decision of the hearing examiner on the following matters which shall be within the jurisdiction of the hearing examiner, notwithstanding any other provision in the Bellingham Municipal Code, shall be final, subject only to judicial challenge:

1-10. [No change].

11. The following matters as provided by BMC-Title 23 BMC-48:

a. Appeals from determinations of the planning director regarding lot line adjustments under Chapter 23.18.10 BMC, and short subdivisions under Chapter 23.18.12 BMC including two- to four-lot cluster subdivisions;

b. Appeals from decisions regarding general binding site plans under Chapter 23.24 BMC-18.24.040;

c. Applications for two- to four-lot cluster subdivisions with hearing under BMC 23.12.020 (A) (1) and 23.16.010 (A) (3)48.32.060(B);

d. Applications for minimum lot size exception under BMC 23.08.040 (D) (2)48.36.020(A)(4)(e);

e. Variances relating to lot line adjustments and short subdivisions including one- to four-lot cluster subdivisions;

12-16. [No change].

C-G. [No change].

Section 4. BMC 14.02.030 shall be amended as follows:
This chapter is intended to apply to all street system improvements and all utility system improvements where the construction of such improvements is the result of city ordinances that require such improvements as a prerequisite to property development. Street system improvements constructed in order to comply with the city of Bellingham Land Division Ordinances, subdivision code, zoning code, comprehensive plan and Chapter 13.08 BMC, are hereby declared to be prerequisites to further property development for the purpose of this chapter.

Section 5, BMC 15.08.080 shall be amended as follows:

A main extension is required whenever property within the water service zone is subdivided or developed and that property does not abut a water main, or when an existing abutting water main is not adequate to provide the required water pressure or flow characteristics. Minimum flow is that set by state law, which is currently 30 psi at normal peak flow.

Section 6, BMC 15.12.070 shall be amended as follows:

A main extension is required whenever property within the city limits is subdivided or developed and that property does not fully abut a sewer main, or when the existing abutting sewer main does not have adequate capacity. When the property is the last developable lot that can be served, the public works director is authorized to waive this requirement administratively. If an existing lot is more than 200 feet from an existing gravity sewer main, a septic tank may be used in lieu of a sewer main extension if the design is approved by the Whatcom County health department. However, all development in the Lake Whatcom watershed shall be required to connect to sewer regardless of the distance to the nearest main.

Section 7, BMC 16.30, Article II, Exhibit A, Section I shall be amended as follows:

A. City of Bellingham regulations containing mitigation measures include, but are not necessarily limited to, the following:

1-12. [No change]. BMC Title 11, Vehicles and Traffic.

13. BMC Title 18, Subdivision Ordinance, as modified by BMC 20.37.400.

134. BMC Title 19, Impact Fees.

145. BMC Title 20, Land Use and Development Ordinance.

156. BMC 20.25.080, Waterfront District Design Standards.


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178. BMC Title 21, Administration of Development Regulations.

179. BMC Title 22, Shoreline Master Program.

189. BMC Title 23, Land Division, as modified by BMC 20.37.430 (C).


B. [No change].

Section 8. BMC 16.55.400 (D) shall be amended as follows:

1. Chapter 2348.12 BMC, Short and Cluster Short Subdivisions.

2. Chapter 2348.16 BMC, Preliminary Plats and Cluster Preliminary Plats.

3. Chapter 2348.20 BMC, Final Plats.

4. Chapter 2348.24 BMC, Binding Site Plans.


Section 9. BMC 16.55.460 (A) (8) shall be amended as follows:

8. Subdivisions. The division of land in landslide hazard areas and associated buffers is subject to BMC 23.08.030 (C) and the following:

a. Land that is located wholly within a landslide hazard area or its buffer may not be subdivided. Land that is located or partially within a landslide hazard area or its buffer may be divided; provided, that each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer, as determined by a qualified professional.

b. Access roads and utilities may be permitted within the landslide hazard area and associated buffers if the city determines that no other feasible alternative exists.

Section 10. BMC 16.80.070 (A) shall be amended as follows:

1. [No change].

2. Development upon lots of record approved under Title 23 BMC—Title 18, Subdivisions.
Section 11. BMC 16.80.100 shall be amended as follows:

In addition to the provisions of Title 23 BMC Title 18, Subdivisions:

A. Each newly created lot shall include sufficient gross area to support any existing impervious areas within the lot as required by BMC 16.80.090. Subdivision proposals that are unable to meet this requirement shall be denied.

B. No part of any lot or parcel that has been previously approved as an impervious credit as recorded in a conservation easement prior to 2009 may be included in the gross area required in BMC 16.80.100(A).

Section 12. Subareas 26 and 28 of BMC 20.00.015 Barkley neighborhood table of zoning regulations shall be amended pursuant to Exhibit B.

Section 13. Subareas 6, 7, 11, 12 and 20 of BMC 20.00.045 Cordata neighborhood table of zoning regulations shall be amended pursuant to Exhibit C.

Section 14. Subareas 2, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 15 BMC 20.00.095 King Mountain neighborhood table of zoning regulations shall be amended pursuant to Exhibit D.

Section 15. Subarea 20 of BMC 20.00.110 Meridian neighborhood table of zoning regulations shall be amended pursuant to Exhibit E.

Section 16. Subarea of 13 of BMC 20.00.230 Whatcom Falls neighborhood table of zoning regulations shall be amended pursuant to Exhibit F.

Section 17. BMC 20.06.030 (B) (3), concerning only the Residential Single General Use Type, shall be amended as follows:

3. Each general use type has its own unique use qualifiers. Presently the system contains the use qualifiers listed below. More may be added, or some may be eliminated, through future amendments to this title if greater detail is necessary.

<table>
<thead>
<tr>
<th>General Use Type</th>
<th>Use Qualifiers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Single</td>
<td>detached, cluster</td>
</tr>
</tbody>
</table>
cluster detached
cluster attached
planned

**Section 18.** BMC 20.06.030 (C) (2) shall be amended as follows:

2. By including this indicator into the neighborhood plan format, any land division subdivision of land and development regulations can relate directly to the developed character of the individual area, rather than to a broad, citywide standard.

**Section 19.** BMC 20.06.030 (D) (4) shall be amended as follows:

4. As mentioned above, special concerns are site-specific in nature. These site-specific special conditions will be utilized for review of development projects which require discretionary approval (such as conditional use permits, variances, land divisions subdivisions and rezones) or are not exempt from SEPA. An example of a site-specific special condition might be: “this drainage course is important to the area’s natural drainage system and should be kept in its natural state.” Thus developers and decision makers will know that something site-specific needs to be addressed.

Again, special conditions serve as a flagging system which says... “there may be a problem.” Early consultation with a neighborhood and/or short range planner is encouraged.

**Section 20.** BMC 20.06.030 (E) (1) shall be amended as follows:

1. The fifth and last main indicator is called prerequisite considerations. Prerequisite considerations are items which have to be addressed for any development proposal which is discretionary or semi-discretionary in nature. An example of a discretionary or semi-discretionary permit is one which needs a Type II or higher decision (i.e., a rezone, land division, subdivision, planned proposal, building permit for any development which is not exempt from the State Environmental Policy Act, etc.).

**Section 21.** BMC 20.08.020 shall be amended as follows:

"Abut" - Clearing [No change].

Cluster (Lots). As used within the RS general use type, “cluster” shall refer to a lot or lots that may have less site area than that which is otherwise required, but which maintains the same overall density due to the provision of common open space.
Unless the area is designated cluster-detached or cluster-attached, buildings constructed upon cluster-lots must meet standard setback requirements unless abutting open space.

Cluster-Attached. When used in conjunction with the RS general-use type, this term shall refer to a cluster lot upon which is, or may be, constructed a single-family dwelling unit. This dwelling unit may be constructed such that it shares a common wall with a main structure on an abutting cluster lot under conditions specified herein. (See Figure 5 of this section.)

Cluster-Detached. When used in conjunction with the RS general-use type, this term shall refer to a cluster lot upon which is, or may be, constructed a single-family dwelling unit. This dwelling unit cannot be physically connected in any manner to another main building on an abutting lot, but may utilize a zero interior side yard under conditions specified herein. In no case shall the exterior wall of main buildings on cluster-detached lots be closer than 10 feet to each other. (See Figure 4 of this section.)

"Cluster short subdivision" means a subdivision into four or fewer lots in which standard requirements may be modified in order to provide desirable open space, recreational opportunity or achieve other significant public benefits without increasing the overall density of dwelling units per acre except as provided in this title and the applicable neighborhood plan.

"Cluster subdivision" means a subdivision into five or more lots in which standard requirements may be modified in order to provide desirable open space, recreational opportunity or achieve other significant public benefits without increasing the overall density of dwelling units per acre except as provided in this title and the applicable neighborhood plan.

"Co-housing" - "Live/work unit" [No change].

"Lot" means a parcel of land of at least sufficient size to meet minimum requirements for development of an allowed use pursuant to the applicable regulations for the area in which it is located. Such lot shall abut a street or cul-de-sac and may consist of either:

A. A single lot of record;
B. A portion of a lot of record; legally divided;
C. A parcel of land described by metes and bounds, legally divided;
D. A combination of adjacent and contiguous lots of record and/or parcels of land legally divided or consolidated.

"Lot" means the consolidation of all adjacent and contiguous lot(s) of record held under common ownership as of April 27, 1982 of at least sufficient size to meet
minimum requirements for development of an allowed use pursuant to the applicable regulations of the applicable zoning. Lot includes plot, parcel, tract or site.

"Lot, corner" - "Lot coverage" [No change].

"Lot, interior" means a lot having frontage on one street or cul-de-sac only. (See Figure 8 of this section.) or is created without street frontage in accordance with BMC 23.08.060 (E) (2).

"Lot line" means the outermost edge or boundary of a lot.

A. Front.  

1. For an interior lot, the front lot line shall be that lot line which abuts the street right-of-way or when a lot does not abut a street, the front lot line shall be that lot line or portion therefore, that abuts the designated access easement.

2. For a corner lot, the front lot line shall be that lot line(s) which abuts a designated arterial. If neither or both street is a designated arterial, the builder/owner shall have the option of selecting which lot line shall be the front lot line; the other lot line abutting the intersecting street shall become a flanking street side lot line. (See Figure 8 of this section.)

3. For a through lot, both lot lines which abut a street right-of-way shall be considered the front lot line.

4. For an interior lot without street frontage, the lot line which abut the access easement shall be considered the front lot line.

B. Rear. All lot lines which do not qualify as either front or side lot lines.

C. Side. Any lot line which intersects a front lot line.

"Lot Line; Zero. See "Zero lot line."

"Lot-of-record" means a lot as shown on an officially-approved and recorded plat, short plat, or subdivision, or a parcel of land recorded with the county auditor prior to August 47, 1964.

"Lot of record" means a parcel of land officially approved by the city of Bellingham or Whatcom County through the subdivision process or a parcel of land established by a recorded deed with the County Auditor prior to September 10, 1964.

"Lot, through" means a lot, other than a corner lot, which abuts upon two streets. (See Figure 8 of this section.) or one street and an access easement pursuant to BMC 23.08.060 (E) (2).
Section 22. Figures 3, 4, and 5 in BMC 20.08.020 are deleted in their entirety.

BMC-20.08.020—Figure 3

BMC-20.08.020—Figure 4

BMC-20.08.020—Figure 5

Section 23. BMC 20.10.050 (A) shall be amended as follows:

A. No building or structure shall hereafter be erected or located upon a lot unless in conformity with the minimum site area regulations of the general use type in which it is located or as may be otherwise provided herein or as approved through the subdivision procedures pursuant to Title 23 BMC.

Section 24. BMC 20.12.010 (D) and (E) shall be amended as follows:

D. Design Provisions.

1. The parking facility shall be located totally within property lines except for egress, ingress and maneuvering areas as permitted below.

2. a. Alley rights-of-way may be utilized toward meeting the maneuvering area required herein.

   b. Where required by special regulation in Chapter 20.00 BMC, Zoning Tables, or Title 23 BMC when access is available from a city maintained alley, no vehicular access shall be taken from the street frontage except when the planning director determines that alley access is impractical or environmentally constrained.

3. No portion of any parking area shall be permitted within any required front yard, side yard on a flanking street, vision clearance triangle, or other front yard setback established on the recorded plat (e.g., a lot frontage such as a pipe-stem that does not meet minimum lot width and is not buildable), with the exception that parking is outright permitted in the front yard of those lots created through a cluster subdivision. Driveway crossings and tandem parking within a driveway, when allowed by other city codes, are not prohibited by this provision. Single-family homes and duplexes that are required to provide on-site maneuvering due to driveway access onto an arterial street or location near an intersection under subsection (D)(7) of this section are not

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prohibited from providing a single backup area within the front yard or side yard on a flanking street.

4-5. [No change].

6. a. All required parking spaces shall be designed such that any vehicle parking in any space may enter and exit without interference or blocking any other vehicle parking in any other required space, except as allowed in subsection (D)(6)(b) and (c) of this section.

   b. Tandem parking (two cars maximum) as allowed when enclosed within a structure.

       i. Tandem parking garages shall be set back a minimum of four feet from the front face of a building.

   c. Tandem parking not enclosed within a structure on lots created through the cluster subdivision pursuant to Title 23 BMC.

7. Single-family homes and duplexes may utilize city rights-of-way and private driveways established through the land division process for maneuvering unless the right-of-way is a designated arterial, or when the driveway would be within 50 feet of a tangent of an intersection; provided, that if there is no curb, the distance shall be 80 feet measured from the edge of pavement of the intersecting street; in which case the maneuvering area shall be provided on site. The city engineer may approve an administrative variance from on-site maneuvering room requirement if it is determined that there will be no detrimental impact to public safety resulting from on-street maneuvering.

E. Improvement Standards.

1. Hard surfacing shall be required of all parking facilities including those portions within the right-of-way. Single-family homes, duplexes, churches, agricultural nurseries, industrial and manufacturing uses are exempt from this requirement, provided the facility is surfaced with no less than three inches of crushed gravel and is maintained in a dust free condition unless otherwise required as a condition of a land division or other land use decision.

2-11. [No change].

Section 25. BMC 20.14.010 (B) shall be amended as follows:

B. Any building or structure nonconforming as to lot coverage, yard, height, open space, density provisions or parking requirements may be enlarged, remodeled or
renovated, provided such alterations do not contribute to additional encroachment or infringement of this title. A lot containing nonconforming residential uses subdivided pursuant to BMC 23.08.050 (A) (7) shall not be considered an additional encroachment of this title.

Section 26. BMC 20.16.010 (C) shall be amended as follows:

C. Nonconforming uses may be allowed to expand, enlarge, or increase in intensity by a conditional use permit granted by the hearing examiner; provided, that the added impacts from the proposed modification are shown to be consistent with the standards set forth in BMC 20.14.020(E) and in subsections (B)(1) and (3) of this section. The division of land containing nonconforming residential uses does not constitute an expansion, enlargement, or increase in intensity if the division of land is found to comply with BMC 23.08.050 (A)(7).

Section 27. BMC 20.28.020 shall be amended as follows:

A. The housing types in this chapter are not permitted in residential single zones, except as permitted in cluster subdivision pursuant to Title 23 BMC, neighborhood commercial zones or property regulated by Chapter 16.80 BMC, Lake Whatcom Reservoir Regulatory Provisions, except in those areas that were annexed into the city after 1995 with a "mixed" qualifier that allows multifamily residential, and in Area 8 of the Sunnyland neighborhood. The housing types in this chapter are permitted in all other zones that allow residential, including specifically designated areas of urban villages. In the residential multi-duplex zone, only small house, smaller house, cottage, detached accessory dwelling unit, carriage house and duplex are permitted.

B. If the provisions of this chapter conflict with any other provision in BMC Titles 48, 20, or 21 or 23, the provisions of this chapter shall apply.

Section 28. BMC 20.28.050 (C) shall be amended as follows:

C. Subdivision. Infill housing units approved as part of a cluster subdivision in single family zoning subareas with a cluster, cluster detached, and cluster attached shall be located on separate, fee simple lots. All cluster subdivisions that include infill housing types shall comply with the lot transition provision pursuant to BMC 23.08.060 (F) (1). Sites with cottage, shared court, garden court, and townhouse types in all other zoning areas permitting infill housing types may be subdivided into lots that do not comply with development standards in BMC Title 2348 BMC individually, as long as the parent site as a whole complies with this chapter. The plat shall contain notice of any associated land use approvals. Subsequent alterations to buildings are subject to review and approval of plans such that they are consistent with the regulations in this chapter that were previously applied to this site.
Section 29. BMC 20.30.020 (B) (2) shall be amended as follows:

2. The residential single-family "cluster" designation is intended to accommodate individual dwelling units located upon a single or multiple lots. Generally the same overall density is maintained; however, cluster lots may be reduced in size and street frontage requirements in order to retain open space or preserve environmentally sensitive areas. These regulations have been adopted to provide for reduced or eliminated setbacks, and in some areas common wall construction, where desired in order to provide design flexibility and promote a more desirable living environment.

Section 30. BMC 20.30.030 (A) shall be amended as follows:

A. Uses Permitted Outright. No building or land shall be used within an area designated residential single, except as follows:

1-12. [No change].

13. Infill housing units subject to the provisions of Chapter 20.28 BMC when approved as part of a cluster short or cluster subdivision.

Section 31. BMC 20.30.040 (A) (1) shall be amended as follows:

1. The regulations of this section shall apply to the development of any main building in an area designated RS to be occupied by a principal use designated in BMC 20.30.030; unless the optional regulations of BMC 20.30.050 are utilized.

Section 32. BMC 20.30.040 (B) (1) (b) shall be amended as follows:

b. Development upon lots of record approved through the subdivision process under the Subdivision Ordinance 84192, as amended; in which case, the minimum site area shall be the lot size as approved and recorded.

Section 33. BMC 20.30.040 (B) (1) (d) shall be amended as follows:

d. Exception. Exceptions from the minimum site area requirements shall be summarily approved by the planning director, provided all of the criteria listed below are satisfied.

i. All adjacent property held by the subject owner is not capable of meeting the density provisions required for short subdivision.
ii. The property proposed for development is a legally recorded lot(s) or parcel(s).

iii. The proposed use is for a single-family residence.

iv. Fifty percent or more of the total number of parcels within or partially within 300 feet of the exterior boundary of the subject property shall have a site area which is less than or equal to that of the subject property. To be included in consideration, a surrounding parcel shall be a buildable lot and within the same land use area as the subject property.

v. The parcel does not drain into Basin 1 of the Lake Whatcom watershed as shown in BMC 16.80.040 is not located in the Lake Whatcom watershed as defined in the city's subdivision code, BMC Title 18, except for those parcels which have received a written exception from the planning director which has not been rescinded, on or before June 1, 1997.

Section 34. A new section, BMC 20.30.040 (G) is hereby adopted:

G. Minimum Yards – Cluster Subdivisions.

1. Unless more stringent setbacks have been delineated upon a cluster plat as part of an approval requirement, the following setbacks as shown on Table 20.30.045 – Cluster Residential Single Minimum Yards shall be required for main buildings on lots created through the subdivision process:

<table>
<thead>
<tr>
<th>Yards</th>
<th>Setbacks</th>
<th>Measurements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard Setback</td>
<td>15 feet PL</td>
<td>Setback measure from the front property line (PL).</td>
</tr>
<tr>
<td>Side Yard on a Flanking Street</td>
<td>10 feet PL</td>
<td>Setback measured from the property line (PL) abutting the side flanking street.</td>
</tr>
<tr>
<td>Side Yard Setback</td>
<td>Five feet PL</td>
<td>Setback measured from each side property line (PL).</td>
</tr>
</tbody>
</table>

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Title 23 Land Division Ordinance (14)
Table 20.30.045 – Cluster Residential Single Minimum Yards

<table>
<thead>
<tr>
<th>Yards</th>
<th>Setbacks</th>
<th>Measurements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Side Yard Setback</td>
<td>0 feet PL</td>
<td>Setback measured from the rear property line (PL).</td>
</tr>
<tr>
<td>(attached)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rear Yard Setback</td>
<td>10 feet PL</td>
<td>Setback measured from the rear property line (PL).</td>
</tr>
</tbody>
</table>

Note:

1. Exception. Permitted yard encroachments identified in BMC 20.10.080(B) may extend into a standard required yard; provided, that the encroachments meet the adopted building codes and minimum vision clearance triangle on a corner lot.

Section 35. BMC 20.30.050 Optional development regulations is repealed in its entirety.

Section 36. BMC 20.30.060 (C) shall be amended as follows:

C. Parking Design.

1-3. [No change].

4. No portion of any parking area shall be permitted within the front yard, side yard on a flanking street, vision clearance triangle or other front yard setback established on the recorded plat (e.g., a lot frontage such as a pipestem that does not meet minimum lot width and is not buildable), with the exception that parking is outright permitted in the front yard of those lots created through a cluster subdivision. Driveway crossings and tandem parking within a driveway, when allowed by other city codes, are not prohibited by this provision. Single-family homes and duplexes that are required to provide on-site maneuvering due to driveway access onto an arterial street or location near an intersection under BMC 20.12.010(D)(7) are not prohibited from providing a single backup area within the front yard or side yard on a flanking street.

5-6. [No Change].
7. a. All required parking spaces shall be designed such that any vehicle parking in any space may enter and exit without interference or blocking any other vehicle parking in any other required space, except as allowed in subsection (C)(7)(b) and (c) of this section.

   b. Tandem parking (two cars maximum) as allowed when enclosed within a structure.

      i. Tandem parking garages shall be set back a minimum of four feet from the front face of a building.

   c. Tandem parking not enclosed within a structure on lots created through the cluster subdivision pursuant to Title 23 BMC.

8-9. [No change].

Section 37. BMC 20.32.060 (D) shall be amended as follows:

D. Design Provisions.

1-5. [No change].

6. No portion of any parking area shall be permitted within any required front yard, in any required side yard on a flanking street, vision clearance triangle or other front yard setback established on the recorded plat (e.g., a lot frontage such as a pipestem that does not meet minimum lot width and is not buildable), with the exception that parking is outright permitted in the front yard of those lots created through a cluster subdivision. Driveway crossings and tandem parking within a driveway, when allowed by other city codes, are not prohibited by this provision. Single-family homes and duplexes that are required to provide on-site maneuvering due to driveway access onto an arterial street or location near an intersection under BMC 20.12.010(D)(7) are not prohibited from providing a single backup area within the front yard or side yard on a flanking street.

7. a. All required parking spaces shall be designed such that any vehicle parking in any space may enter and exit without interference or blocking any other vehicle parking in any other required space, except as allowed in subsection (D)(7)(b) of this section.

   b. Tandem parking (two cars maximum) as allowed when enclosed within a structure.

      i. Tandem parking garages shall be set back a minimum of four feet from the front face of a building.

   c. Tandem parking not enclosed within a structure on lots created through the cluster subdivision pursuant to Title 23 BMC.
Section 38. BMC 20.37.430 (C) (1) and (2) shall be amended as follows:

C. Subdivision. Except where the provisions of this section conflict with any other provisions, the subdivision of land within the district shall comply with Chapter 58.17 RCW and BMC-Title 2348 BMC, as applicable.

1. There shall be no minimum lot width, depth or street frontage requirements for lots created for the purposes of residential, commercial, mixed-use, industrial, or institutional uses.

2. Land divided through the binding site plan shall comply with Chapter 4823.24 BMC, except as modified herein.

   a. Land divided through the binding site plan may include residential uses provided such division of land is compliant with RCW 58.17.035.

   b. A separate general binding site plan contract is not required. The waterfront subarea plan and this section shall be considered the contract.

   c. All lots must abut appropriate utilities located in either right-of-way or adequate easements.

Section 39. BMC 20.38.010 (B) shall be amended as follows:

B. The regulations specified within this planned development chapter also apply to the planned development of property located within an area designed with a residential single, residential multi, commercial, or industrial general use type; provided, that such planned development must comply with the standards enumerated herein for the general use type with which such property is designated.

Section 40. BMC 20.38.030 shall be amended as follows:

A. Generally. No building or land shall be used within an area designated with a planned use qualifier without planning director commission approval which specifically regulates development upon the subject property pursuant to BMC 20.38.040 and 20.38.050 except as provided in subsection (B), (C), or (D) of this section.

B. Single-Family Development.

   1. Any property with a planned use qualifier designation in the applicable neighborhood plan may develop, upon approval of a building permit, any single principal use authorized in the residential single development chapter subject to the regulations therein.

   2. The division of land pursuant to the provisions of Title 23 BMC that includes only single-family and infill housing types.
C. 1. Nonconforming Buildings and Uses. Any existing building and/or existing use located upon property designated as planned without having gained approval of a planned ordinance shall be deemed nonconforming subject to the limitations found within Chapter 20.14 BMC; provided, however, that the following shall be permitted:

a. A change of occupancy to a use enumerated within the permitted uses listed in BMC 20.38.050 corresponding to the applicable general use type. For wireless communication facilities, see Chapter 20.13 BMC for additional regulations pertaining to properties designated as planned.

b. Interior renovations involving no exterior expansion, to a use enumerated within the permitted uses listed in BMC 20.38.050 corresponding to the applicable general use type.

c. A one time expansion not to exceed 50 percent of the existing floor area, or 5,000 square feet, whichever is less for an existing use which is enumerated within the permitted uses listed in BMC 20.38.050 corresponding to the applicable general use type.

2. Such expansion must be accomplished in conformance with the following regulations:

a. For property designated planned residential, all applicable regulations within the residential multi chapter related to a “multiple” use qualifier, unless the use is a single family residence in which all applicable regulations within the residential single chapter shall apply;

b. For property designated planned commercial, all applicable regulations within the commercial chapter related to a neighborhood use qualifier.

c. For property designed planned industrial, all applicable regulations within the industrial chapter related to a “light” use qualifier.

d. For wireless communication facilities, the provisions of Chapter 20.13 BMC shall apply.

D. Off-Premises Signs. No off-premises sign shall be permitted.

Section 41. BMC 21.10.040 shall be amended as follows:

A. [No change].

B. Type I. A Type I review process is an administrative review and decision by the director. It is exempt from notice requirements. If a Type I decision is not categorically exempt from SEPA and the SEPA review has not been completed with a prior permit, the Type II process shall be used. Appeals of Type I decisions are decided by the hearing examiner unless the rules for a specific permit or decision
specify that no administrative appeal is available. The following are Type I decisions when the application does not require a SEPA threshold decision:

1-5. [No change].

6. Final short-platsubdivision approval, including short plat, final plat, and general binding site plan;

7-23. [No change].

24. The extension of a temporary shelter permit, per BMC 20.15; and

25. Extensions of a short plat, preliminary plat and binding site plans;

26. Modifications to an approved short subdivision, preliminary plat, and general binding site plan that do not require a Type II process;

27. Binding site plan that does not require a Type II process;

28. Administrative departure pursuant to BMC 23.48.030; and

295. All other decisions that specify use of the Type I process.

C. Type II. A Type II review process is an administrative review and decision by the director. Public notice is required. Appeals of Type II decisions are decided by the hearing examiner. The following are Type II decisions:

1-14. [No change].

15. Temporary shelters, per BMC 20.15; and

16. Modifications to an approved preliminary plat pursuant to BMC 23.16.090 (B); and

176. Type I decisions that require a SEPA threshold decision and all other decisions specifying a Type II process.

D. – E. [No change].

F. Type IV. A Type IV review process is a city council quasi-judicial decision on a final plat, a final amended plat or final vacated plat. There is no opportunity for administrative appeal.

G – J. [No change].

Section 42. BMC 21.10.090 shall be amended as follows:
A. BMC 21.10.100 through 21.10.250 describe the process steps listed in Table 21.10.090 as set forth in Exhibit C attached to the ordinance codified in this chapter and included in this section.

Table 21.10.090 – Summary of Process Steps by Review Type

<table>
<thead>
<tr>
<th>Type I</th>
<th>Type II</th>
<th>Type III-A</th>
<th>Type III-B</th>
<th>Type IV</th>
<th>Type V-A</th>
<th>Type V-B</th>
<th>Type VI</th>
<th>Type VII</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preapplication conference required</td>
<td>See BMC 21.10.170</td>
<td>See BMC 21.10.170</td>
<td>See BMC 21.10.170</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>See BMC 21.10.170</td>
<td>No</td>
</tr>
<tr>
<td>Preapplication neighborhood meeting</td>
<td>No</td>
<td>Required for planned developments, institutional site plans, general binding site plans and design review</td>
<td>Required for co-housing, conditional use and nonconforming use or building decisions</td>
<td>Yes</td>
<td>Ne</td>
<td>Yes</td>
<td>No</td>
<td>Required for site-specific neighborhood plan or comprehensive plan amendments, including those with rezones, and for institutional master plans/amendments</td>
</tr>
<tr>
<td>Preapplication design guidance meeting</td>
<td>Optional for some permits; see BMC 21.10.100 (B) and (D)</td>
<td>Required or optional for some permits; see BMC 21.10.110 (C) and (E)</td>
<td>No</td>
<td>No</td>
<td>Ne</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Determination of complete application process</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Ne</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Notice of application</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Recommendation by board, commission or hearing examiner</td>
<td>Optional for some permits; see BMC 21.10.100 (B) and (D)</td>
<td>Required or optional for some permits; see BMC 21.10.110 (C) and (E)</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes, planning commission</td>
<td>No</td>
<td>Yes, planning commission</td>
</tr>
</tbody>
</table>

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Bellingham, Washington 98225
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<table>
<thead>
<tr>
<th>Open record predecision hearing</th>
<th>No</th>
<th>No</th>
<th>Yes, hearing examiner</th>
<th>Yes, hearing examiner</th>
<th>No</th>
<th>Yes, planning commission</th>
<th>Yes, historic preservation commission</th>
<th>Yes, planning commission</th>
<th>Yes, historic preservation commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decision</td>
<td>Director</td>
<td>Director; shoreline variance must also be approved by Department of Ecology</td>
<td>Hearing examiner; shoreline conditional use must also be approved by Department of Ecology</td>
<td>Hearing examiner</td>
<td>Council</td>
<td>Council at closed record hearing</td>
<td>Historic preservation commission</td>
<td>Council</td>
<td>Historic preservation commission</td>
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<tr>
<td>Notice of decision</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
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<td>Reconsideration</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
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<tr>
<td>Appeal to hearing examiner</td>
<td>Yes, except shoreline permit and shoreline variance appeals are heard by the Shoreline Hearings Board</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes, closed record</td>
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<tr>
<td>Closed record appeal to city council</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
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<td>No</td>
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<td>Judicial appeal</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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</tbody>
</table>

**Section 43.** BMC 21.10.070 (C) shall be amended as follows:

C. As authorized by RCW 36.70B.140(1), the following actions are exempt from the requirements of RCW 36.70B.060 through 36.70B.080 and 36.70B.110 through 36.70B.130:

1. Bellingham register of historic places (landmark) designations (Type V);
2. Street vacations;
3. Temporary right-of-way use permits;
4. Street tree permits;
5. Sidewalk cafe approvals;
6. Sidewalk vendor cart approvals; and

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7. Final plats (Type IV).

Section 44. BMC 21.10.080 (D) shall be amended as follows:

D. Final Plats (Type IV) and Short Plats. Pursuant to RCW 58.17.140, final subdivision approvalsplats and short plats shall be approved, disapproved, or returned to the applicant within 30 days from the date of filing a complete application, unless the applicant consents to an extension of such time period.

Section 45. Section 21.10.130 is hereby repealed in its entirety.

Section 46. BMC 22.05.040 (F) shall be amended as follows:

F. Nonconforming Lots. Any permitted use may be established on an undersized lot, which cannot satisfy the lot size or width requirements of Title 23 BMC-Title 18, Subdivisions; provided, that:

1. All other applicable standards of Title 23 BMC-Title 18, Subdivisions, are met; or a shoreline variance has been granted;

2-5. [No change].

Section 47. BMC 22.08.070 shall be amended as follows:

A. Policies.

1-5. [No change].

6. Flood hazard reduction measures should be integrated with other regulations and programs, including (if applicable):

a-h. [No change];

i. Title 23 BMC-Title 18, Subdivisions;

j-m. [No change].

Section 48. The Council agrees with, and hereby adopts the September 13, 2018 Findings of Fact, Conclusions and Recommendations of the Planning Commission, attached as Exhibit G.

Title 23 Land Division Ordinance (22)
PASSED by the Council this 10th day of December, 2018

Daniel Hammill, Council President

APPROVED by me this 10th day of January, 2019

Kelli Linville, Mayor

ATTEST: Andy Asbjornsen, Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

Published: December 14, 2018

Title 23 Land Division Ordinance (23)

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