

**ORDINANCE NO. 06-13**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON ADOPTING A NEW CHAPTER 18.114 OF THE COVINGTON MUNICIPAL CODE (CMC) ESTABLISHING DEVELOPMENT AGREEMENT PROCEDURES AND AMENDING CMC CHAPTERS 12.100, 14.30, 17.20, 18.31, 18.35 AND 18.110 TO REGULATE THE USE OF DEVELOPMENT AGREEMENTS IN THE CITY'S TOWN CENTER (TC), DOWNTOWN ZONING DISTRICT.**

WHEREAS the Local Project Review Act (Ch. 36.70B, RCW), enacted in 1995, provides specific authority and direction for development agreements; local jurisdictions can adopt an ordinance under this provision for the use of development agreements in all or specific areas of the city; and

WHEREAS, the City of Covington finds and determines that it is in the best interest of its citizens to be able to consider such agreements in the appropriate circumstances; and

WHEREAS, the Covington Planning Commission held a duly noticed public hearing during their regular meeting on June 6, 2013, wherein no members of the public provided written comments on the proposed development agreement process or spoke at the Planning Commission public hearing or during the regular meeting; and

WHEREAS, the Covington Planning Commission, during their regular meeting on June 6, 2013, reviewed the draft ordinance provided by staff based on the Commission's direction and voted to recommend approval of the new development agreement regulations and associated amendments to the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Adopting New Chapter 18.114 of the CMC. A new Chapter 18.114 of the Covington Municipal Code is hereby adopted in the form as set forth in the attached Exhibit A, fully incorporated herein by this reference.

Section 2. Adopting Amended CMC Chapters. The associated amendments in Chapters 12.100, 14.30, 17.20, 18.31, 18.35 and 18.110 of the Covington Municipal Code regulating development agreements in the Town Center Zone are hereby adopted in the form as set forth in the attached Exhibit A.

Section 3. This ordinance shall be in full force and effect five days after proper posting and publication. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

Section 4. If any provision of this ordinance, or ordinance modified by it, is determined to be invalid or unenforceable for any reason, the remaining provisions of this ordinance and ordinances and/or resolutions modified by it shall remain in force and effect.

Passed by the City Council on the 23th day of July 2013.

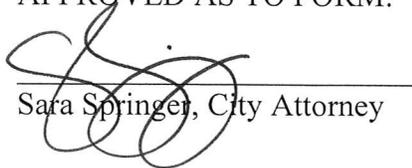
  
\_\_\_\_\_  
Mayor Margaret Harto

PUBLISHED: July 26, 2013  
EFFECTIVE: July 31, 2013

ATTESTED:

  
\_\_\_\_\_  
Sharon Scott, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Safa Springer, City Attorney

# ORDINANCE NO. 06-13

## EXHIBIT A

### Chapter 18.114

#### Development Agreements

Sections:

- 18.114.010 Purpose
- 18.114.020 Authority
- 18.114.030 General Provisions of Development Agreements
- 18.114.040 Processing Procedure for Development Agreements
- 18.114.050 No Deadline for Final Decision, Form of Agreement, Term, Recording
- 18.114.060 Judicial Appeal

#### **18.114.010 Purpose**

A development agreement provides the opportunity for the City and a developer to agree on the scope and timing of a project, applicable regulations and requirements, mitigation requirements, and other matters relating to the development process. A development agreement promotes the general welfare by balancing public and private interests, providing reasonable certainty for a development project, and addressing other matters, including reimbursement over time for the financing of public facilities. Development agreements may provide public benefits such as affordable housing, pedestrian-oriented communities, mixed use development, and creation of public amenities such as parks and open spaces.

#### **18.114.020 Authority**

(1) The execution of a development agreement is a proper exercise of the City's police power and contract authority. The City may consider, and enter into, a development agreement with a person having ownership or control of real property within the city limits. The City may consider a development agreement for real property outside of the city limits but within the urban growth area ("UGA,") as defined in RCW 36.70A.030(15), or as designated by the County pursuant to RCW 36.70A.110) as part of a proposed annexation or a service agreement.

(2) A development agreement may obligate a party to fund or provide services, infrastructure, or other facilities. A development agreement shall be consistent with applicable development regulations adopted by the City under Chapter 36.70A RCW.

(3) A development agreement shall reserve authority to impose new or different regulations to the extent required by serious threat to public health and safety.

#### **18.114.030 General Provisions of Development Agreements**

(1) Comprehensive Plan. A development agreement shall be consistent with the applicable policies and goals of the City of Covington's comprehensive plan.

(2) Development Standards. A development agreement shall be consistent with all applicable development regulations; provided, a development agreement may extend the durations of approval of project permits and allow phasing plans different from those otherwise imposed under the Covington Municipal Code.

(a) A development agreement related to property in the Covington downtown zone, Town Center district (TC), may allow further deviations from development regulations imposed under Chapter 18.31 CMC for the following reasons:

(i) To provide flexibility to achieve public benefits; or

(ii) To respond to changing community needs; or

(iii) To encourage deviations that provide the functional equivalent or adequately achieve the purposes of otherwise applicable city standards.

(b) A development agreement may not authorize deviations from development regulations governing the uses, minimum and maximum densities, maximum gross floor area, or maximum structure height.

(c) A development agreement may not authorize deviations from the requirements of CMC Title 15, Buildings and Construction. Building permit applications shall be subject to the building codes in effect when a complete building permit application is submitted.

(d) A development agreement may not authorize deviations from the minimum requirements of CMC Title 16, Environment and Chapter 18.65 CMC, Critical Areas.

(e) Any deviation from development standards in the Covington Municipal Code shall not require any further rezone, variance from city standards, or other City approval apart from development agreement approval by the city council. Deviations from development standards as approved through a development agreement shall apply to and govern the development and implementation of each covered property in lieu of any conflicting or different standards or requirements elsewhere in the Covington Municipal Code.

(f) Subsequent amendments to the development standards in the Covington Municipal Code that differ from those deviations approved by the city council in a development agreement shall apply to the covered property only where necessary to address imminent public health and safety hazards or where the development agreement specifies a time period or phase after which certain identified standards can be modified.

(3) As a minimum, the development agreement shall specify the following:

(a) Project components that define and describe the permitted uses, residential densities, nonresidential densities, and intensities or building sizes;

(b) The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;

(c) Mitigation measures, development conditions, and other requirements of Chapter 43.21C RCW State Environmental Policy Act;

(d) Design standards such as architectural treatment, maximum heights, setbacks, landscaping, drainage and water quality requirements, and other development features;

(e) Provisions for affordable housing, if applicable;

(f) Parks and common open space preservation;

(g) Signage;

(h) Parking;

(i) Phasing;

(j) Financial guarantees for performance and maintenance of public improvements;

(k) Maintenance and operation standards for public improvements;

(l) A build-out or vesting period for applicable standards;

(m) Duration of agreement; and

(n) Any other appropriate development requirement or procedure that is based upon a city policy, rule, regulation, or standard.

(4) As provided in RCW 36.70B.170, the development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

**18.114.040 Processing procedure for development agreements.**

A proposed development agreement shall accompany and be processed in conjunction with the associated underlying land use application, approval, or annexation request. The type of land use application or other approval shall control the type of application set forth in CMC 14.03.040.

(a) A proposed development agreement associated with a legislative action, such as a comprehensive plan amendment or area-wide rezone, shall be processed in accordance with the procedures established in this title and pursuant to the noticing requirements set forth in CMC 14.30.060. The planning commission shall make a recommendation to the city council on any proposed development agreement relating to legislative action. The city council shall hold a

public hearing on the proposed development agreement and if approved, shall authorize the city manager to execute the development agreement on behalf of the city.

(b) A proposed development agreement associated with a land use application shall be processed in accordance with the permit application procedures established in Chapter 14.35 CMC and as further provide in this title as follows:

(i) If the underlying land use application is a Type 2, final decision by the director, then the director shall consider both the land use application and the proposed development agreement together. The director shall make a recommendation to the city council on the proposed development agreement. The director's final decision on the underlying land use application shall not be made until the city council holds a public hearing on the proposed development agreement and subsequently approves or rejects the proposed development agreement. If the city council approves the development agreement, the city council shall authorize the city manager to execute the development agreement on behalf of the city. Nothing in this section obligates the director to forward a recommendation to the city council for further consideration of a proposed development agreement if the director denies the underlying land use application.

(ii) If the underlying land use application is a Type 3, final decision by the hearing examiner, then the hearing examiner shall consider both the land use application and the proposed development agreement together during the required public hearing for a Type 3 land use application. The hearing examiner shall make a recommendation to the city council on the proposed development agreement. The hearing examiner's final decision on the underlying land use application shall not be made until the city council holds a public hearing on the proposed development agreement and subsequently approves or rejects the proposed development agreement. If the city council approves the development agreement, the city council shall authorize the city manager to execute the development agreement on behalf of the city. Nothing in this section obligates the hearing examiner to forward a recommendation to the city council for further consideration of a proposed development agreement if the hearing examiner denies the underlying land use application.

(iii) If a final decision on an underlying land use application has been previously made by the hearing examiner, or director, and the application was approved, the director shall make a recommendation to the city council on the proposed development agreement. The city council shall hold a public hearing on the proposed development agreement. If the city council approves the development agreement, the city council shall authorize the city manager to execute the development agreement on behalf of the city.

(c) Public Notice. All public meetings and public hearings on a development agreement shall be noticed pursuant to underlying land use type as set forth in Chapter 14.34 CMC.

**18.114.050 No deadline for final decision, form of agreement, term, recording**

(1) Pursuant RCW 36.70B.020, development agreements are not land use applications and are not subject to processing deadlines. A signed written waiver of the deadline to issue a final decision on any land use application for the covered property shall accompany a request for a development agreement.

(2) No proposed development agreement shall be presented to the decision-making body unless in a form approved by the city attorney. Prior to any public hearing held for the purpose of authorizing execution of the development agreement, a development agreement shall be signed by the property owner and all other parties with a substantial beneficial interest in the property that is the subject of the development agreement.

(3) Term.

(a) A development agreement may be approved up to a maximum period of twenty (20) years.

(b) In determining the appropriate term for a development agreement, the city council should consider the type, size, and location of development and phasing, if proposed. The city council may consider shorter terms with extensions.

(c) Extensions. If extensions are authorized in a development agreement, an applicant must request the extension at least sixty (60) days prior to expiration of the development agreement. For a development agreement associated with a land use application, the director may grant an extension for up to five (5) years, not to exceed a total of twenty-five (25) years, if the applicant can satisfactorily show that at least fifty (50) percent of the gross floor area is constructed. All other requests for extensions shall be reviewed by the city council unless another process is expressly provided for in the development agreement.

(4) Recording. A development agreement shall be recorded against the property in the real property records of the King County assessor's office. Recording costs shall be paid by the applicant as provided for in the current fee schedule. During the term of the development agreement the agreement is binding on the parties and their successors, including the property owners in any area that is annexed to the city.

#### **18.114.060 Judicial Appeal**

If the development agreement relates to a land use application, the provisions of Chapter 36.70C RCW shall apply to the appeal of the decision on the development agreement and in accordance with the appeal procedures in Chapter 14.45 CMC for a Type 4 decision type.

**Chapter 14.30**  
**PERMIT DECISION TYPES**

Sections:

- 14.30.010 Purpose.
- 14.30.020 Classification of permit decision types.
- 14.30.030 Determination of proper decision type.
- 14.30.040 Decision types.
- 14.30.050 Requirements by decision type.
- 14.30.060 Legislative decisions.
- 14.30.070 Administrative interpretations.

**14.30.040 Decision types.1**

Type 1	Type 2	Type 3	Type 4
Building Permit (15.05)	Short Plat (Including Revisions and Alterations) (17.20)	Preliminary Plat (17.20)	Final Subdivision <sup>4</sup> (17.25)
Grading Permit (18.60)		Plat Alterations (17.25)	Shoreline Environment Redesignations (16.05)
Boundary Line Adjustment (17.40)	Design and Construction Standards Variance (12.60)	Preliminary Plat Revisions (17.20)	Plat or Short Plat Vacations (17.25)
Right-of-Way Use Permit (12.35)	Design Departure from the City of Covington Design Guidelines and Standards (18.31)	Zoning Variance (18.125)	Street Vacations (12.55)
Design and Construction Standards Deviation (12.60)	Downtown Permitted Use Determination (18.31)	Conditional Use Permits (18.125)	<u>Development Agreement (18.114)</u>
Shoreline Exemption (16.05)	Temporary Use (18.85)	New Wireless Communication Facility Towers and Height Modifications (18.70)	
Code Interpretation (14.30)	Shoreline Substantial Development Permit <sup>2</sup> (16.05)		
Miscellaneous Administrative Decisions	SEPA Threshold Determination <sup>3</sup>		
Minor Tree Removal (18.45)	Commercial Site Development Permit (18.31 and 18.110)		
WCF Collocation on a			

Transmission Structure or WCF Tower (18.70)	Re-use of Facilities (18.85) Critical Areas Reasonable Use Exceptions (18.65) Binding Site Plan (17.30) Major Tree Removal (18.45) Stormwater Manuals Variance (13.25) Wireless Communication Facilities Collocations (18.70)		
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1 If a conflict between this chart and the text of the CMC exists, the text of the CMC controls.

2 When applications for shoreline permits are combined with other permits requiring Type 3 or 4 land use decisions, the Examiner, not the Director, makes the decision. All shoreline permits, including shoreline variances and conditional uses, are appealable to the State Shorelines Hearings Board and not to the Hearing Examiner.

3 Appeal to Examiner is limited to the SEPA threshold determination. The decision on the Type 1 permit itself is appealable to Superior Court.

4 Final subdivisions are submitted directly to the City Council for final decision without a recommendation by the Hearing Examiner.

**Chapter 18.31**  
**DOWNTOWN DEVELOPMENT AND DESIGN STANDARDS**

Sections:

- 18.31.010 General.
- 18.31.015 City of Covington downtown design guidelines and standards.
- 18.31.020 Design review.
- 18.31.030 Nonconforming development.
- 18.31.040 Supplemental town center review criteria.
- 18.31.045 Development agreements – Town Center Development
- 18.31.050 Downtown zoning districts map.
- 18.31.060 Downtown zoning districts street types map.
- 18.31.070 Downtown zoning districts established.
- 18.31.080 Permitted land uses.
- 18.31.085 Permitted land use determination process.
- 18.31.090 Downtown zoning districts density and dimension standards.
- 18.31.100 Maximum floor area ratio (FAR) – Bonus features.
- 18.31.110 Parking, access and circulation standards.
- 18.31.120 Public space requirements.
- 18.31.130 Landscaping requirements.
- 18.31.140 Sign requirements.

**18.31.045 Development agreements- Town Center development**

(1) The purpose of this section is to establish a process for allowing deviations to the development standards within the downtown zoning, Town Center (TC) district only, through a development agreement process consistent with Chapter 36.70B RCW, Chapter 18.114 CMC, Development Agreements and as further outlined in this chapter.

(2) Unless otherwise provided herein, all development in the downtown zoning districts shall comply with all applicable codes. Deviations from the following development standards shall be authorized only within the Town Center (TC) district on single or contiguous combined parcels three acres or greater.

(a) Medical office uses greater than two stories shall have a minimum of sixty (60) percent ground floor retail trade and services and forty (40) percent business and professional services when fronting onto 171<sup>st</sup> Ave SE, as conditioned in CMC 18.31.080(3)(8)(b).

(b) Mixed use structures greater than one story shall provide sixty (60) percent of the ground floor as retail, restaurant, or professional services, as conditioned in CMC 18.31.080(3)(23).

(c) Multifamily residential dwelling units shall be located in a minimum three (3) story mixed-use structure. Sixty (60) percent or more of the ground floor abutting a street, public

space, public plaza, and/or public green space shall be occupied by one or more of the following permitted uses: retail, restaurant, or personal services as conditioned in CMC 18.31.080(3)(26)(b).

(d) All schools: compulsory, vocational, and higher education located on the upper floors of a mixed use building and including commercial uses, as conditioned in CMC 18.31.080(3)(13).

(e) Time limitation of permit approval if the proposed development combines two (2) or more distinct land use categories that are permitted in the Town Center district and is located on single or contiguous combined parcel of six (6) acres or more.

(3) A development agreement shall not eliminate the requirement to provide ground floor retail, restaurant, or personal services for structures greater than one (1) story as conditioned in CMC 18.31.080(3)(23).

(4) A development agreement shall not reduce the required retail, trade, services, and personal services uses to no less than thirty (30) percent along each street frontage. Required business and professional services shall not be reduced to less than twenty (20) percent. The director may recommend flexibility in the combination of the required retail, restaurant, business, and professional service space if the aggregate is located along SE 276<sup>th</sup> Street and 171<sup>st</sup> Ave SE and the total requirement is met through the combination.

(5) Deviations shall be supported by the goals and policies in the city's comprehensive plan. If goals and polices of the comprehensive plan required amendments to support an applicant's request for a deviation, then the goals and policies shall be amended and approved through the City's annual comprehensive plan amendment docketing process prior to submitting a development proposal and requesting a development agreement.

(6) A development agreement authorized under this section shall provide a level of public benefit or mitigation proportionate to the deviation and that exceeds those required under the standard regulations. A development agreement shall require completion, acquisition, contribution, or a combination thereof, as approved by the city as follows:

(a) Transportation, park, or other improvement projects, including non-motorized improvements identified in the city's Comprehensive Plan or six year Capital Improvement Program.

(b) Additional accessible public space equivalent to a minimum of two and one half percent (2.5%) of the gross floor area of all the structures.

(c) Exterior public art or a contribution to the art fund equivalent to a minimum of one percent (1%) of the total value of the project's construction cost.

(d) A project that the city finds will provide mitigation and/or public benefit, as identified in the city's Comprehensive Plan or six (6) year Capital Improvement Program.

**18.31.080 Permitted land uses.**

**(3) Permitted Use Table.**

Use Categories	Town Center (TC)23	Mixed Commercial (MC)	General Commercial (GC)	Mixed Housing Office (MHO)1
<b>Residential</b>				
Dwelling Unit, Accessory	NP	NP	NP	P2
Dwelling Unit, Multifamily	P26	P	P	P
Dwelling Unit, Single-Family Attached, Detached or Cottage Housing21	NP	NP	NP	P2
Senior Citizen Assisted Housing	P	P	P	C
<b>Commercial</b>				
Adult Entertainment	NP	P3	P3	NP
Business Services19	P5	P	P	P4,5
Drive Through Use	NP	P	P	NP
Farmers' Markets and Public Markets6	P	P	P	NP
Gambling and Card Rooms	NP	NP	NP	NP
Home Occupation and Live/Work	P	P	P	P
Outdoor Commercial	NP	NP	P	NP
Personal and Beauty Services20,21	P	P	P	P
Private Electric Vehicle Parking Facility (Primary Use)			P5,24	
Private Parking Facility (Primary Use)	NP	NP	NP	NP
Professional Office	P	P	P	P
Retail Trade and Services – 100,000 sq. ft. or less for all structures	P5	P	P10	P4,5
Retail Trade and Services – greater than 100,000 sq. ft. for all structures	C5,9,18	P	P10	NP
Shooting Ranges25	NP	NP	P	NP
Storage/Self Storage	NP	P5	P	NP
Temporary Lodging/Hotel	P	P	P	C22
<b>Cultural/Recreation</b>				

Cinema, Performing Arts and Museums	P	P	P	NP
Meeting Hall/Other Group Assembly	P	P	P	C
Recreation, Indoor or Outdoor	C	P	P	P
Religious	C7	P	P	C
Health Services				
Emergency Care Facility	C9,18	P	NP	NP
Hospital	NP	P	NP	NP
Medical Office/Outpatient Clinic	P8	P	NP	P
Nursing/Personal Care Facility	NP	P	NP	C
Industrial/Manufacturing				
Asphalt Plants	NP	NP	NP	NP
Light Industrial/Manufacturing	NP	NP	P10	NP
Government/Institutional <sup>11</sup>				
Essential Public Facilities	NP	NP	C	NP
Government Services	P	P	P	P12
Major Utility Facility	C14	C	P	C
Minor Utility Facility	P15	P	P	P
Schools: Compulsory, Vocational and Higher Education	C13	P	NP	C
Wireless Communication Facilities <sup>16</sup>				
Antenna, Collocation on an Existing Structure <sup>17</sup>	P	P	P	P
Wireless Communication Facility Tower	NP	NP	NP	NP

(4) Permitted Use Conditions.

8. a. Buildings greater than four stories shall provide 80 percent of required parking within a structure. Structured parking shall not front onto 171st Ave. SE.

b. Medical office uses greater than two stories shall have a minimum of 60 percent ground floor retail trade and services and 40 percent business and professional services when fronting onto 171st Ave. SE, unless otherwise allowed through the development agreement process in Chapter 18.114 CMC and further specified in CMC 18.31.045.

13. All schools for compulsory, vocational and higher education shall be located on the upper floors of a mixed-use building that includes ground-floor commercial uses, unless otherwise allowed through the development agreement process in Chapter 18.114 CMC and further specified in CMC 18.31.045.

23. Mixed-use structures greater than one story shall provide ground floor retail, restaurant, or personal services along 60 percent of the building façade, unless otherwise allowed through the development agreement process in Chapter 18.114 CMC and further specified in CMC 18.31.045. Permitted uses under the headings of cultural/recreation and governmental/institutional in subsection (3) of this section are exempt from this provision.

26. a. Multifamily residential dwellings in the TC zone shall be located in a minimum three-story, mixed-use structure; and

b. Sixty percent or more of the ground floor abutting a street, public space, public plaza and/or public green space shall be occupied by one or more of the following permitted uses: retail, restaurant or personal services, unless otherwise allowed through the development agreement process in Chapter 18.114 CMC and further specified in CMC 18.31.045. Driveways, service and truck loading areas, parking garage entrances and lobbies shall not be included in calculating the required percentages of ground floor use.

**18.31.100 Maximum floor area ratio (FAR) – Bonus features**

5. Affordable Housing	1.0	<p>(a) For all new development within the downtown districts, total square footage may be increased by 2.0 square feet for every 1.0 square foot of affordable housing (for a maximum of 1.0 FAR), provided an affordable housing plan (AHP) is developed and submitted to the Director for review and approval.</p> <p>(b) The developer shall commit to implementing the AHP as a part of a signed <del>comprehensive development</del> agreement with the City. This agreement shall be reviewed by ARCH, or similar housing authority, with recommendations made to the Director prior to implementation of an agreement.</p>
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**Chapter 18.35**  
**DEVELOPMENT STANDARDS – DESIGN REQUIREMENTS**

Sections:

- 18.35.005 Applicability.
- 18.35.010 Purpose.
- 18.35.020 General layout standards.
- 18.35.030 Lot segregations – Zero-lot-line development.
- 18.35.040 Lot segregations – Clustered development.
- 18.35.050 Townhouse development.
- 18.35.060 Attached dwellings and group residences – Applicability.
- 18.35.070 Attached dwellings and group residences – Vehicular access and parking location.
- 18.35.080 Attached dwellings and group residences – Building facade modulation.
- ~~18.35.090 Mixed-use development – Percentages of commercial uses.~~
- 18.35.100 Mixed-use development in the CC and NC zone as – Design features.
- ~~18.35.110 Mixed-use development – Phasing – Required plans, requirements, covenants, recordings – Review and approval.~~
- 18.35.120 Manufactured home parks – Standards for existing parks.
- 18.35.130 Manufactured home parks – Standards for new parks.
- 18.35.140 Manufactured home parks – Alternative design standards.
- 18.35.150 On-site recreation – Space required.
- 18.35.160 Recreation space – Fees in lieu of.
- 18.35.170 On-site recreation – Play areas required.
- 18.35.180 On-site recreation – Financial guarantees for construction.
- 18.35.190 On-site recreation – Maintenance of recreation space or dedication.
- 18.35.200 Storage space and collection points for recyclables.
- 18.35.210 Fences.
- 18.35.220 Hazardous liquid and gas transmission pipelines.
- 18.35.230 Trail corridors – Applicability.
- 18.35.240 Trail corridors – Design standards.
- 18.35.250 Trail corridors – Maintenance of trail corridors/improvements.
- 18.35.260 Wildlife habitat corridors – Applicability.
- 18.35.270 Wildlife habitat corridors – Design standards.
- 18.35.280 Short subdivisions or short subdivision alterations – Adequacy of access – Right-of-way use permits.
- 18.35.290 Proposed formal subdivisions, short subdivisions or binding site plans – Railroad buffer strips.
- 18.35.300 Preliminary subdivision and short subdivision approval – Maintenance of private streets, easements and utilities required.
- 18.35.310 Repealed.
- ~~18.35.090 Mixed-use development – Percentages of commercial uses.~~

~~Commercial uses in mixed-use developments shall be subject to the following limits:~~

~~(1) A minimum of 60 percent of the total ground floor area must be for commercial use. (Ord. 42-02 § 2 (21A.14.110))~~

**18.35.100 Mixed-use development in the CC and NC zone as – Design features.**

Mixed-use development permitted by Chapter 18.25 CMC shall incorporate the following design features:

(1) Residential and nonresidential uses proposed for mixed-use development shall be only those uses permitted in the CC and NC zone, as established by Chapter 18.25 CMC;

(2) If residential and nonresidential uses are proposed for the same structure, nonresidential uses shall occupy no less than 60 percent of the ground floor. The Director may waive this requirement under the following circumstances:

(a) If the structure is located on a sloping lot that provides access from upper levels or from multiple levels. In such cases, the nonresidential use may be located on the levels that exit onto the primary pedestrian streets; or

(b) If views from the upper levels are valuable amenities that would help assure success of the nonresidential uses, such as a restaurant;

(c) Senior housing developments need not include commercial uses.

(3) Mixed-use development shall provide off-street parking behind or to the side of buildings, or enclosed within buildings consistent with CMC 18.50.030. Relief from this requirement may be granted by the Director only if the applicant can demonstrate that there is no practical site design to meet this requirement. The Director may allow only the number of parking spaces that cannot be accommodated to the rear or sides of buildings, or enclosed within buildings, to be located to the front of buildings. A 20 percent reduction of required parking is allowed if a mixed-use development meets the criteria of CMC 18.50.040 for shared parking. (Ord. 42-02 § 2 (21A.14.135))

~~18.35.110 Mixed-use development – Phasing – Required plans, requirements, covenants, recordings – Review and approval.~~

~~When residential and commercial uses are proposed to be contained in separate structures and the structures containing residential uses are proposed to be built prior to those containing commercial uses, then a commercial site development permit shall be required and as well as the following:~~

~~(1) The applicant shall submit a site plan showing the entire mixed use development. The plan shall show project features including the location of the residential and commercial structures, parking areas, landscaping planters, sidewalks, and pedestrian linkages. The plan shall be drawn to scale and provide sufficient detail to ensure all zoning and development standards are met for the entire development.~~

~~(2) Infrastructure plans, including storm drainage facilities, shall be sized to accommodate the needs of the entire mixed use development. The infrastructure shall be installed with the first phase of the development up to or near the commercial building(s) unless the applicant demonstrates to the Department's satisfaction that there is potential for significant damage to the infrastructure during the construction of any later phase of construction.~~

~~(3) For the purpose of informing future property owners of limitations on future development because of the mixed use provisions of this title, the applicant shall record a covenant on the property that states the restrictions upon the remaining portions of the site that they shall only be used for commercial uses. The covenant shall be recorded prior to the issuance of the building permit for the residential structure(s). The covenant shall be subject to review and approval by the Department. (Ord. 42-02 § 2 (21A.14.145))~~

**Chapter 18.110**  
**COMMERCIAL SITE DEVELOPMENT PERMITS**

Sections:

- 18.110.010 Purpose.
- 18.110.020 Applicability.
- 18.110.030 Complete application.
- 18.110.040 Public comments.
- 18.110.050 Application of development standards.
- 18.110.060 Approval.
- 18.110.070 Financial guarantees.
- 18.110.080 Limitation of permit approval.
- 18.110.090 Modification to an approved permit.
- 18.110.100 Administrative rules.

**18.110.080 Limitation of permit approval.**

(1) A site development permit approved without a phasing plan shall be null and void if the applicant fails to file a complete building permit application(s) for all buildings within three years of the approval date, or by a date specified by the Director; and fails to have all valid building permits issued within three years of the site development permit approval date.

(2) A site development permit approved with a phasing plan shall be null and void if the applicant fails to meet the conditions and time schedules specified in the approved phasing plan, unless otherwise approved through a development agreement pursuant to Chapter 18.114 CMC.

(3) A site development permit approved without a building permit shall be null and void if the applicant fails to meet the conditions and time schedules specified in the approved plan. If no time schedule is specified in the approved plan, then the applicant has one year to obtain a valid business license.

(4) The Director may approve one two-year extension of the above stated limits if the applicant can show good faith progress, a justifiable basis for delay not occasioned by the applicant's own action or failure to act, and that the extension is reasonably necessary to complete the project. Requests for extension must be submitted in writing to the Director at least 14 days prior to the permit expiration date. Said request shall explain in detail the circumstances surrounding the request.

(5) Commercial site development permits associated with an approved and valid development agreement shall be subject to the terms and extension requirements in Chapter 18.114 CMC.

**18.110.090 Modification to an approved permit.**

(1) A subsequent building permit application may contain minor modifications to an approved commercial site development plan provided a modification does not:

(a) ~~increase~~ Increase the building floor area by more than 10 percent;

(b) ~~does not increase~~ Increase the number of dwelling units;

(c) ~~does not increase~~ Increase the total impervious surface area; provided, that relocatable facilities for schools shall be exempt from this restriction;

(d) ~~does not result~~ Result in an insufficient amount of parking and/or loading;

(e) ~~does not locate~~ Locate buildings outside an approved building envelope; provided, that relocatable facilities for schools shall be exempt from this restriction;

(f) ~~does not change~~ Change the number of ingress and egress points to the site;

(g) ~~does not significantly~~ Significantly increase the traffic impacts of peak hour trips to and from the site;

(h) ~~does not significantly~~ Significantly increase the quantity of imported or exported materials or increase the area of site disturbance.

(2) The Director has sole discretion to approve, deny or modify any request. Modifications, which exceed the conditions of approval as stated in this section and require a new review as determined by the Director shall only be accomplished by applying for a new commercial site development permit for the entire site. The new application shall be reviewed according to the laws and rules in effect at the time of application.

(3) Commercial site development permits associated with an approved and valid development agreement shall be subject to the development agreement procedures in Chapter 18.114 CMC.

**Chapter 17.20**  
**SUBDIVISION AND SHORT SUBDIVISIONS**

**17.20.020(4) Preliminary approval of subdivision.**

~~(4) An urban planned development permit, or development agreement approved pursuant to Chapter 18.100 CMC, may extend the preliminary approval period beyond 60 months for any preliminary subdivision approved simultaneous or subsequent to the urban planned development permit. Such extensions may be made contingent upon satisfying conditions set forth in the urban planned development permit or development agreement. In no case shall the extended preliminary approval period exceed the expected buildout time period of the urban planned development or as provided in the urban planned development permit or development agreement. (Ord. 20-07 § 99; Ord. 53-02 § 2 (19A.12.020)).~~

**Chapter 12.100**  
**Transportation Concurrency Management**

**12.100.110 Provision of needed transportation facilities.**

(1) The City shall determine that transportation facilities are available to support development at adopted TAM standards within six years of the impacts of such development. The City shall require at the time the certificate of concurrency is issued that:

(a) The necessary facilities and services are in place at the time a development approval is issued; or

(b) The necessary facilities will be complete within six years of development approval:

(i) The necessary facilities are under construction at the time a development approval is issued, and financial commitment is in place to complete the necessary facilities within six years of issuance of development approval; or

(ii) The necessary facilities are the subject of a binding executed contract of development agreement which provides for the actual construction or financial commitment of the required facilities, guarantees that the necessary facilities will be in place within six years of issuance of development approval, and provides that the capital project is included in, or will be added to, the committed network for the transportation adequacy measure, the transportation element of the comprehensive plan, and the six-year capital improvements program; or

(iii) The City has in place financial commitments to complete the necessary public facilities or strategies within six years of issuance of development approval; or

(c) Development approvals are issued subject to a binding executed contract, UPD development agreement or other binding condition which provides that any facilities and strategies necessary to meet concurrency requirements after issuance of development approval will be in place within six years of occupancy and use of the development.