

**ORDINANCE NO. 2018-974**

**AN ORDINANCE OF THE CITY OF DEER PARK, WASHINGTON, ADOPTING AMENDMENTS TO TITLE 18 OF THE DEER PARK MUNICIPAL CODE, THE CITY ZONING CODE, APPROVING AMENDMENTS TO THE CITY OFFICIAL ZONING MAP; CONTAINING A SEVERABILITY PROVISION; AND SETTING AN EFFECTIVE DATE.**

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**WHEREAS**, the City of Deer Park Planning Commission has spent multiple meetings in 2017 and 2018 considering amendments to the zoning code of the City as set forth in this Ordinance and amendments to the official zoning map of the City as set forth in this Ordinance; and

**WHEREAS**, the amendments to the City zoning code and official zoning map as set forth in this Ordinance were provided to the State of Washington Department of Commerce in January 2018 and no comments were received from the Department of Commerce; and

**WHEREAS**, the amendments to the zoning code and official zoning map of the City as set forth in this Ordinance are consistent with and implement provisions of the City's current comprehensive plan; and

**WHEREAS**, the State Environmental Policy Act ("SEPA") checklist and final Determination of Non-significant ("DNS") were circulated and published for comment in February 2018 and no comments have been received in response to the SEPA documentation; and

**WHEREAS**, following a public hearing before the Planning Commission on March 26, 2018, the Planning Commission of the City by unanimous vote adopting Findings of Fact, Conclusions, and a Recommendation as follows:

The proposed regulatory amendments and official zoning map amendments represent appropriate means of regulating land use and permitted uses, etc., for areas zoned within the City. Therefore, the Planning Commission of the City of Deer Park hereby recommends to the City Council that the proposed amendments to the Deer Park Municipal Code pertaining to multiple Title 18 zoning provisions, and amendments to the official zoning map of the City and the companion SEPA documentation, BE ADOPTED by the City Council;

and

**WHEREAS**, the City Council has reviewed the Findings of Fact, Conclusions, and Recommendation of the Planning Commission and agrees with the recommendation of the

Planning Commission that adoption of this Ordinance is in the best interest of the public health, safety, and welfare of the citizens of the City of Deer Park; and

**WHEREAS**, the City Council adopts the Findings of Fact, Conclusions, and Recommendation of the Planning Commission dated March 26,2018 as the Findings, Conclusions and Recommendation of the City Council; NOW THEREFORE,

**THE CITY COUNCIL OF THE CITY OF DEER PARK, WASHINGTON DO ORDAIN AS FOLLOWS:**

**Section 1.** The provisions of Title 18 of the Deer Park Municipal Code, the City zoning code, are amended as set forth in this Section of this Ordinance. The amendments to Title 18 are shown as “strikethrough” with respect to provisions that will be deleted and as colored, highlighted, underlined and/or in plain text with respect to new provisions that are added to Title 18. To the extent of any inconsistency between the provisions in Section 1 of this Ordinance and existing provisions in Title 18, the provisions of Section 1 of this Ordinance shall prevail and shall hereafter be the new provisions in Title 18 of the Deer Park Municipal Code. To the extent that any provision in Title 18 of the Deer Park Municipal Code does not appear in this Ordinance as revised, those provisions shall remain unchanged. In accordance with the foregoing, multiple provisions in Title 18 of the Deer Park Municipal Code are hereby amended as follows:

**18.08.010 General interpretation.**

A. For the purposes of this title, certain terms and words used herein shall be interpreted as follows:

1. A. “Lot” includes the words “plot” or “parcel.”

2. B. “Person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

3. C. “Shall” is mandatory; “may” is permissive.

4. D. “Used” or “occupied” includes the words “intended,” “designated” or “arranged to be used” or “occupied.”

5. E. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

6. F. Terms used in this title which are not defined in this chapter shall be as construed as defined in the Revised Code of Washington (RCW), the Washington Administrative Code (WAC), or Webster’s New Collegiate Dictionary. (~~Ord. 722 § 48, 1998; Ord. 394 § 2.8.02, 1981~~)

B. Conflicts between definitions in this title shall be resolved by applying the definitions set forth in a specific chapter of this title first as the primary, applicable definition. (Ord. 722 § 48, 1998; Ord. 394 § 2.8.02, 1981)

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**18.08.060 Board.**

“Board” means the hearing examiner ~~duly constituted board of adjustment~~ of the city appointed pursuant to Chapter 2.48. (Ord. 394 § 2.8.10, 1981)

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**~~18.08.155 Designated manufactured home or structure.~~**

~~A “designated manufactured home or structure” means a manufactured home or structure constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes or structures, which:~~

~~A. Is comprised of at least two fully enclosed parallel sections each of which is not less than 12 feet wide by 36 feet long;~~

~~B. Was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch; and~~

~~C. Has exterior siding similar in appearance to siding materials commonly used on conventional site-built Uniform Building Code single-family residences or nonresidential structures. (Ord. 722 § 52, 1998; Ord. 583 § 3, 1990)~~

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**18.08.325 Manufactured home or structure.**

A “manufactured home or structure” is a “designated manufactured home” as defined in RCW 35.63.160. ~~factory-assembled structure or structures, constructed after June 15, 1976, equipped with built-in utility and service connections, constructed with a permanent chassis which is an integral part of the house or structure, fixed on removable wheels, axles, and tongues. A manufactured home or structure is movable as a unit, requires an external source of power, and is designed to be used without a permanent foundation. A manufactured home or structure may consist of a single section, or of two or more sections, which are joined at the destination site.~~ (Ord. 722 § 56, 1998; Ord. 583 § 4, 1990)

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**18.08.326 Manufactured home, new.**

A “new manufactured home” is as defined in RCW 35.63.160.

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**18.08.330 Mobile home or structure.**

A “mobile home or structure” means a mobile home or structure or a manufactured home or structure that is at least eight feet wide and 28 feet long and is not a “designated manufactured home”. ~~structure exceeding eight feet in width and 28 feet in length and designed to be movable on its own running gear and which, when provided with and connected to power, water supply, and sewage disposal facilities, shall be considered a building suitable for residential or nonresidential occupancy. Upon manufacture for sale, such mobile home or structure is provided with axles, wheels, drawbars, or tongues.~~ (Ord. 722 § 57, 1998; Ord. 394 § 2.8.62, 1981)

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#### **18.08.365 Modular home or structure.**

A “modular home or structure” means any prefabricated unit (constructed off-site), intended to be a dwelling unit or intended to house a nonresidential use, designed to be used with a permanent foundation, has been equipped with built-in utility and service connections, which is movable in two or more parts by a separate mode of transportation. A “modular home or structure” shall be built to the federal standards identified in RCW 35A.21.312 and comply with all other requirements of this title applicable to the location of a site built home or structure as set forth in this title. (Ord. 722 § 58, 1998; Ord. 605 p.2 § 1, 1991)

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### **Chapter 18.16 ZONING CLASSIFICATIONS**

Sections:

[18.16.010](#) Classification.

~~[18.16.020](#) Special zone.~~

#### **18.16.010 Classification.**

In order to carry out the purpose of this title in the interest of the public health, safety and the general welfare, the city is divided into zones designated as follows:

<b>Zones</b>	<b>Previous Classification</b>	<b>Abbreviated Designator</b>
Residential 1A	(Residential suburban)	R-1A
Residential 2A	(Residential low density)	R-2A

Residential 2B	New zone	R-2B
Residential 3A	(Residential medium density)	R-3A
Residential 3B	<del>New zone</del>	R-3B
<del>Commercial recreation</del>	<del>New zone</del>	<del>C-R</del>
Central commercial		C-C
<del>Commercial shopping-center</del>		<del>C-S</del>
Diversified commercial		C-D
<del>Hospital use</del>	<del>New zone</del>	<del>H</del>
<del>Mixed Use</del>	<del>New zone</del>	<del>M-U</del>
Commercial neighborhood		C-N
Cemetery	<del>New zone</del>	CEM
Light industrial		L-I
Business park	Industrial park	BP
Mobile home park		MHP
Manufactured home subdivision		MHS
Multifamily		M-F
Public/quasi-public use	<del>New zone</del>	P/QP
Planned unit development		PUD
Airport overlay		A-O

**~~18.16.020 Special~~**

~~zone.~~

~~Any parcel upon which the Deer Park Community Fair is located shall be allowed to carry on common and normal fairground activities. (Ord. 394 § 2.12.04, 1981)~~

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**Chapter 18.18**  
**HOME OCCUPATION PERMIT**

Sections:

- [18.18.010](#) Purpose.
- [18.18.020](#) Home occupation permit standards.
- [18.18.030](#) Application filing.
- [18.18.040](#) Filing fees.
- [18.18.050](#) Decision by the planning director.
- [18.18.060](#) Permit not transferable.
- [18.18.070](#) Duration of home occupation permit.
- [18.18.080](#) Revocation.

**18.18.010 Purpose.**

The purpose of the home occupation permit is to allow an occupation incidental to and subordinate to a residential use [in any residential zoning district](#). In order to protect the residential neighborhood, the peace, health, safety, and general welfare will be promoted if such uses are authorized only by home occupation permit in accordance with the criteria hereinafter set forth. (Ord. 722 § 72, 1998)

**18.18.020 Home occupation permit standards.**

A home occupation permit shall be granted only if the proposed home occupation complies with the following standards:

- A. No more than 25 percent of the floor space of the main floor of a dwelling shall be used for home occupation purposes and in no event more than 300 square feet;
- B. Home occupations shall not be conducted in accessory buildings;
- C. No materials or mechanical equipment shall be used which will be detrimental to the residential use of the residence or adjoining residences because of vibration, dust, smoke, odor,

interference with radio or television reception or other factors. No hazardous or highly flammable material is allowed;

D. No signs shall be maintained on any part of the premises on which a home occupation is conducted except that one flat sign, flush against the dwelling, not exceeding two square feet in size and no side of which sign exceeds two linear feet, stating the name of the occupant and the type of home occupation, may be maintained on a dwelling used for a home occupation. Such sign shall be unlighted;

E. No materials or commodities shall be delivered to or from the dwelling in which a home occupation is carried on which are of such bulk or quantity as to require a delivery by commercial vehicle or a trailer;

F. The parking of customers' vehicles shall not be allowed in such a manner or frequency as to cause a disturbance to nearby residents or as to necessitate off-street parking;

G. There shall be no window display in a dwelling in which a home occupation is carried on and there shall be no display of a sample commodity outside such dwelling. (~~Ord. 722 § 72, 1998~~)

H. Only one home occupant and no other individuals may work in the home occupation.

#### **18.18.030 Application filing.**

Applications for home occupation permits shall be made on forms prescribed by the city and shall contain all required information, including the signature of the record owner or owners of the subject property or authorized agent thereof. Such applications shall be filed with the planning director. Home occupation permits shall be Type II (administrative) procedure processes with the permit issued by the planning director in accordance with DPMC Title 19. (Ord. 722 § 72, 1998)

#### **18.18.040 Filing fees.**

Filing fees in a amount specified by resolution of the city council shall be paid upon the filing of each application for home occupation permit. (Ord. 722 § 72, 1998)

#### **18.18.050 Decision by the planning director.**

The planning director shall consider the home occupation permit application based on the standards set forth in DPMC 18.18.020, and may inspect the premises, after which a decision to either grant the home occupation permit, conditionally grant such permit, or deny the permit

shall be issued in writing. The written notice of decision shall be mailed to the applicant and to other interested parties of record, in accord with DPMC Title [19](#). (Ord. 722 § 72, 1998)

**18.18.060 Permit not transferable.**

No permit issued under this chapter shall be transferred or assigned, nor shall the permit authorize any person other than named therein to commence or carry on the home occupation for which the permit was issued. (Ord. 722 § 72, 1998)

**18.18.070 Duration of home occupation permit.**

A home occupation permit shall remain in force as long as the authorized occupation is continuously maintained. (Ord. 722 § 72, 1998)

**18.18.080 Revocation.**

A home occupation permit shall be revocable at any time by the planning director if the planning director finds that there has been a violation of any one of the standards set forth in DPMC [18.18.020](#) or in the permit. Notice of a revocation of permit shall be given by registered mail directed to the permit holder at the dwelling for which the permit was issued. (Ord. 722 § 72, 1998)

**18.18.090 Appeals.**

The decision of the planning director on issuance of a permit or on revocation of a permit is appealable to Spokane County Superior Court in accordance with the time for appeal requirements and other requirements of Chapter 36.70C RCW

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**18.20.020 Permitted uses.**

In the R-1A zone, the following uses shall be permitted:

A. All agricultural uses, except for the raising of swine and goats; provided, that no nuisance such as noise, odors, air pollution, wastes, vibrations, traffic or physical hazards shall result therefrom; and provided, that fencing and housing adequate to contain livestock shall be provided where livestock are kept, and all livestock shall be kept and maintained in accordance with applicable laws and regulations;

B. Single-family dwellings including new manufactured homes that are also designated manufactured homes, or modular homes (mobile homes are not permitted);

C. Parks, playgrounds, golf courses and similar public or private uses;

D. Public utilities;

E. Commercial nurseries and greenhouses;

F. Home occupations;

G. Accessory buildings, such as are ordinarily appurtenances to single-family dwellings or necessary as described in subsection A of this section; provided, that any such building must be located on the lot in accordance with DPMC 18.24.010, and provided also that all such buildings shall have exteriors compatible with those of the primary dwellings in the R-1A zone. In addition, such exteriors must be completed and finished within 90 days following issuance of a building permit for such building, or within 90 days of the date of the beginning of construction of such building, whichever may be the earlier. One private garage structure shall also be specifically permitted; provided, that it meets the requirements of DPMC 18.20.050;

H. Gardening or fruit raising. (Ord. 605 p.5, 1991; Ord. 583 § 14, 1990; Ord. 394 § 2.14.04, 1981)

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#### **18.23.020 Permitted uses.**

In the R-2A zone the following uses shall be permitted:

A. Single-family dwellings including ~~mobile homes, manufactured homes,~~new manufactured homes that are also designated manufactured homes, and modular homes (mobile homes are not permitted);

B. Noncommercial gardens and orchards;

C. Accessory uses;

D. Public utilities;

E. Any single-family dwelling licensed by the state of Washington for the long-term care of six or less elderly persons. (Ord. 722 § 76, 1998; Ord. 605 p.5, 1991; Ord. 583 § 18, 1990)

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#### **18.23.030 Conditional uses.**

The following conditional uses may be permitted within the R-2A zone through the granting of a conditional use permit:

A. Houses of religious worship including, but not limited to, churches, mosques, synagogues, temples, convents, and related uses;

B. Schools of either a public or private nature;

C. Public uses;

~~D. Home occupations;~~

~~E. Small animals;~~

~~F. E~~ Hospitals and nursing homes;

~~G. F~~ Bed and breakfast inns. (Ord. 826 § 2, 2005; Ord. 722 § 77, 1998; Ord. 583 § 18, 1990)

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#### **18.24.020 Permitted uses.**

In the R-2B zone, the following uses shall be permitted:

A. Single-family dwellings ~~excluding mobile homes, manufactured homes, including new manufactured homes that are also~~ designated manufactured homes, and modular homes (mobile homes are not permitted);

B. Noncommercial gardens and orchards;

C. Accessory uses;

D. Public utilities;

E. Any single-family dwelling licensed by the state of Washington for the long-term care of six or less elderly persons. (Ord. 722 § 79, 1998; Ord. 605 pp.5, 6, 1991; Ord. 583 § 20, 1990; Ord. 394 § 2.16.04, 1981)

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#### **18.24.030 Conditional uses.**

The following conditional uses may be permitted within the R-2B zone through the granting of a conditional use permit:

A. Houses of religious worship including, but not limited to, churches, mosques, synagogues, temples, convents, and related uses;

B. Schools of either a public or private nature;

C. Public uses;

~~D. Home occupations;~~

~~E. Small animals;~~

~~F. E~~ Hospitals and nursing homes;

~~G-F~~ Bed and breakfast inns. (Ord. 826 § 3, 2005; Ord. 722 § 80, 1998; Ord. 583 § 21, 1990; Ord. 394 § 2.16.06, 1981)

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**18.27.020 Permitted uses.**

In the R-3A zone the following uses shall be permitted:

A. Single-family dwellings including ~~mobile homes, manufactured homes, new manufactured homes that are also~~ designated manufactured homes, and modular homes (mobile homes are not permitted);

B. Apartment buildings not to exceed two dwelling units per building;

C. Accessory uses;

D. Public utilities;

E. Any single-family dwelling licensed by the state of Washington for the long-term care of six or less elderly persons. (Ord. 722 § 82, 1998; Ord. 605 p.6, 1991; Ord. 583 § 24, 1990)

**18.27.030 Conditional uses.**

The following conditional uses may be permitted within the R-3A zone through the granting of a conditional use permit:

A. Houses of religious worship including, but not limited to, churches, mosques, synagogues, temples, convents, and related uses;

B. Schools of either a public or private nature;

C. Public uses;

~~D. Home occupations;~~

~~DD.~~ Hospitals and nursing homes;

~~FE.~~ Bed and breakfast inns. (Ord. 826 § 4, 2005; Ord. 722 § 83, 1998; Ord. 583 § 24, 1990)

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**18.28.020 Permitted uses.**

In the R-3B zone the following uses shall be permitted:

A. Single-family dwellings ~~excluding mobile homes, manufactured homes,~~including new manufactured homes that are also designated manufactured homes, and modular homes (mobile homes are not permitted);

B. Apartment buildings not to exceed two dwelling units per building;

C. Accessory uses;

D. Public utilities;

E. Any single-family dwelling licensed by the state of Washington for the long-term care of six or less elderly persons. (Ord. 722 § 85, 1998; Ord. 605 p.6, 1991; Ord. 583 § 26, 1990; Ord. 394 § 2.18.04, 1981)

#### **18.28.030 Conditional uses.**

The following conditional uses may be permitted within the R-3B zone through the granting of a conditional use permit:

A. Houses of religious worship including, but not limited to, churches, mosques, synagogues, temples, convents, and related uses;

B. Schools of either a public or private nature;

C. Public uses;

~~D. Home occupations;~~

~~E. Hospitals and nursing homes;~~

~~F. Bed and breakfast inns. (Ord. 826 § 5, 2005; Ord. 722 § 86, 1998; Ord. 583 § 27, 1990; Ord. 394 § 2.18.06, 1981)~~

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### **Chapter 18.30**

#### **COMMERCIAL RECREATION ZONE**

##### **Sections:**

~~18.30.010 Description and purpose.~~

~~18.30.020 Development plan review.~~

~~18.30.030 Permitted primary uses.~~

~~18.30.040 Permitted accessory uses.~~

~~18.30.050 Conditional uses.~~

**~~18.30.010 Description and purpose.~~**

~~The commercial recreation (C-R) zone is intended as a zone for commercial recreational uses and is intended to provide for and protect open space, natural physical features, and scenic resources in accordance with the comprehensive plan of the city. Individual review of all uses and development is provided due to the unique and special characteristics of the variety of recreational uses possible in order to foster compatibility between uses and to protect the public health, safety, and general welfare of the community. (Ord. 722 § 88, 1998)~~

**~~18.30.020 Development plan review.~~**

~~The following regulations shall apply to areas within the commercial recreation (C-R) zone:~~

~~A. The plans for any site development or for any building, construction, expansion, alteration, or for the increase or decrease of any existing area, or area to be acquired and developed for any permitted use, shall be submitted to the planning commission for review and recommendation to the city council. The city has the discretion to process a commercial recreation application as either a Type II (administrative) application or Type III (quasi-judicial) application in accordance with the procedures and processes set forth in DPMC Title 19.~~

~~B. Development plans shall be reviewed as to their conformance with the comprehensive plan, public access and circulation, effect of the design and construction of buildings, facilities, auxiliary uses, and general plan of development, upon the existing or planned uses and development of the surrounding private or public property, and the recreational objectives and services being offered to the public.~~

~~C. Development plans shall be approved, approved subject to conditions, or denied by the city council. Conditions of approval may include, but shall not be limited to, the following topics of consideration: setbacks, height, lighting, landscaping, access and circulation, parking, signage, architectural design, site design, layout and configuration, hours of operation, security, and buffering and screening techniques. (Ord. 722 § 88, 1998)~~

**~~18.30.030 Permitted primary uses.~~**

~~No building, structure, or land shall be used, and no building, structure, or use in the commercial recreation (C-R) zone shall be erected, structurally altered, enlarged, or established, except the following permitted uses:~~

**~~A. Auditoriums.~~**

~~B. Golf courses, driving ranges, and related facilities (public or private).~~

~~C. Libraries.~~

~~D. Museums.~~

~~E. Open space/conservation areas.~~

~~F. Parks, recreation areas, tennis courts, and/or playfields.~~

~~G. Swimming pools.~~

~~H. Fairgrounds and rodeo arena facilities. (Ord. 722 § 88, 1998)~~

**~~18.30.040 Permitted accessory uses.~~**

~~The following accessory uses, buildings, and structures shall be permitted in the commercial recreation (C-R) zone:~~

~~A. Customary auxiliary uses, services, facilities, structures, and concessions related to the primary use.~~

~~B. Living quarters or residence of gardeners, caretakers, managers, or security officers.~~

~~C. All open storage shall be enclosed by a fence or wall six feet in height which obscures the view of the open storage area from adjoining properties and streets. As an alternative to a fence or wall, the city may permit one of the following: planting of a solid evergreen hedge at least six feet in height (such as green arborvitae shrubs); installation of a landscaped berm with the berm being a minimum of six feet in height; or development of a combination landscaped earthen berm topped with a solid evergreen hedge having a combined total minimum height of at least six feet.~~

~~All outdoor trash, garbage, and refuse storage areas shall be screened on all sides from public view and, at a minimum, shall be enclosed on three sides with a six-foot high concrete block or masonry wall, or a solid fence, with a solid gate for access installed on the fourth side. (Ord. 831 § 2, 2006; Ord. 722 § 88, 1998)~~

**~~18.30.050 Conditional uses.~~**

~~The following uses may be permitted in the commercial recreation (C-R) zone, subject to the approval of a conditional use permit in compliance with the conditions and requirements of Chapter 18.80 DPMC:~~

~~A. Art galleries.~~

~~B. Bandstands.~~

~~C. Gymnasiums.~~

~~D. Privately operated public utility uses, structures, or transmission facilities.~~

~~E. Publicly operated transmission facilities.~~

~~F. Recreational camps with or without overnight accommodations.~~

~~G. Sale of alcoholic beverages.~~

~~H. Theatrical facilities. (Ord. 722 § 88, 1998)~~

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#### **18.32.050 Yards.**

There shall be no minimum yard requirements other than those required pursuant to Chapter 18.74 related to parking. ~~considered prudent for the purposes of landscaping and planting.~~ (Ord. 394 § 2.20.10, 1981)

#### **18.32.080 Parking.**

Parking and loading shall conform with the provisions of Chapter 18.74 DPMC and ~~;~~ parking for residential uses shall adhere to the standards of the M-F zone. However, no off street parking shall be required for commercial buildings with lot frontage on Main Street from A Street to Second and on Crawford Avenue from the railroad tracks East to VernonArnim Avenue. (Ord. 722 § 92, 1998)

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### **Chapter 18.36**

#### **COMMERCIAL SHOPPING CENTER ZONE**

##### **Sections:**

~~18.36.010 — Established — Purpose.~~

~~18.36.020 — Permitted uses.~~

~~18.36.030 — Conditional uses.~~

~~18.36.040 — Building site area requirements.~~

~~18.36.050 — Yard requirements.~~

- ~~18.36.060— Height limit.~~
- ~~18.36.070— Parking and loading.~~
- ~~18.36.090— Application procedure.~~
- ~~18.36.100— Sketch plan and market analysis.~~
- ~~18.36.110— Preliminary development plan.~~
- ~~18.36.120— Final development plan.~~
- ~~18.36.130— Construction schedule.~~
- ~~18.36.140— Penalties for noncompletion of project.~~

**~~18.36.010 Established— Purpose.~~**

~~A. There is established a zone and land use classification designated as “planned shopping center district,” the abbreviation for which designation shall be C-S.~~

~~B. A C-S district zone is intended for a shopping center which provides a wide variety of goods and services to a trade area. A C-S district zone provides not only for convenience goods such as food, drugs and personal services, but also for shopping goods such as apparel and furniture, as well as banking, professional services and recreation. A C-S district zone is designed and located so as to minimize traffic congestion on public highways and streets in its vicinity and to best fit the general land use pattern of the area to be served by the center. The protective standards contained herein are intended to minimize any adverse effect of the C-S district zone on nearby property values and to provide for safe and efficient use of the C-S district zone itself.~~

~~Submission of a market analysis is intended in order to establish evidence of compatibility with the comprehensive plan and a need for a change in the comprehensive zoning plan for the city and to substantiate a finding that such change will promote the general welfare of the city.  
(Ord. 394 § 2.22.02, 1981)~~

**~~18.36.020 Permitted uses.~~**

~~In the C-S zone the following uses shall be permitted:~~

~~A. A shopping center incorporating all retail uses permitted in the C-C district except auto sales and major repair service (such as repair garages) and residential uses.~~

~~B. Accessory uses and buildings customarily incidental to retail stores, shops and businesses, and permitting only such incidental processing, assembling, repairing or treatment of products as is necessary to prepare retail goods sold only on the premises.~~

~~C. All open storage that does not constitute a display for retail, wholesale or rental use shall be enclosed by a fence or wall six feet in height which obscures the view of the open storage area from adjoining properties and streets. As an alternative to a fence or wall, the city may permit one of the following: planting of a solid evergreen hedge at least six feet in height (such as green arborvitae shrubs); installation of a landscaped berm with the berm being a minimum of six feet in height; or development of a combination landscaped earthen berm topped with a solid evergreen hedge having a combined total minimum height of at least six feet.~~

~~All outdoor trash, garbage, and refuse storage areas shall be screened on all sides from public view and, at a minimum, shall be enclosed on three sides with a six-foot-high concrete block or masonry wall, or a solid fence, with a solid gate for access installed on the fourth side. (Ord. 831 § 4, 2006; Ord. 394 § 2.22.04, 1981)~~

#### ~~18.36.030 Conditional uses.~~

~~There are no conditional uses for the C-S zone. (Ord. 394 § 2.22.06, 1981)~~

#### ~~18.36.040 Building site area requirements.~~

~~A. Size of Site. The minimum area for a C-S district zone shall be no less than five acres.~~

~~B. Coverage. Building lot coverage shall not exceed 25 percent of total lot area.~~

~~C. Ownership of Land. A C-S district zone shall be established only upon land held in single ownership or unified control, and which land contains no dedication of public streets or alleys, except any rights-of-way for public utility purposes. In the event that a vacation of streets, alleys or plats is necessary in order to meet the requirements of this section, a proper petition for such vacation shall be filed with the city council on or before the date of filing of an application for a C-S district zone. In the event that such vacation is approved by the city council, the vacation ordinance shall be passed on the same date as the ordinance establishing the C-S district zone. (Ord. 394 § 2.22.08, 1981)~~

#### ~~18.36.050 Yard requirements.~~

~~A. Front yard; minimum setback of 50 feet;~~

~~B. Rear yard; minimum setback of 50 feet;~~

~~C. Side yard; minimum setback of 50 feet;~~

~~D. Uses of Land in Yard Areas. The area encompassed in such setbacks may be used for the following purposes:~~

- ~~1. Off-street parking, loading, traffic and pedestrian circulation, including lights for the illumination of such areas, except where required landscaping is mandated by this chapter,~~
- ~~2. Signs necessary to direct and control vehicular and pedestrian traffic within the C-S district zone,~~
- ~~3. The permitted signs identifying the C-S district zone. (Ord. 394 § 2.22.12, 1981)~~

#### **~~18.36.060 Height limit.~~**

~~Heights of buildings in C-S zones abutting residential zones shall be limited to 50 percent of the distance of the yard setback. Where a C-S district zone is separated from a residential zone by an arterial street or highway, building height shall not be restricted. (Ord. 394 § 2.22.14, 1981)~~

#### **~~18.36.070 Parking and loading.~~**

~~Parking and loading shall conform with the provisions of this chapter and with Chapter 18.74 DPMC. (Ord. 722 § 93, 1998)~~

#### **~~18.36.090 Application procedure.~~**

~~An application for a change of zone to the C-S zone shall comply with the provisions of Chapter 18.100 DPMC and with the Type III (quasi-judicial) application procedures set forth in DPMC Title 19. If the plans and materials called for in this section, and in DPMC 18.36.100 through 18.36.140, are not processed concurrently with the change of zone application, processing of such plans and materials shall comply with the Type II (administrative) application procedures set forth in DPMC Title 19.~~

~~A. Procedures for applying for a C-S zone shall be as follows:~~

- ~~1. The developer shall submit an application to the planning director with the following supporting data: a market analysis, a development time schedule, a traffic study, and a sketch plan;~~

- ~~2. The application with supporting data shall be submitted to the planning commission for review;~~
- ~~3. The planning commission shall hold a public hearing on the proposed zoning map amendment;~~
- ~~4. After the public hearing, the recommendations of the planning commission on the proposed rezoning shall be submitted to the city council;~~
- ~~5. The city council, acting on the recommendation of the planning commission, shall make a decision on the proposed zoning map amendment;~~
- ~~6. If the amendment to the zoning map is approved by ordinance of the city council, the applicant must then submit a preliminary development plan to the planning commission;~~
- ~~7. Upon approval of the preliminary development plan by the planning commission, the developer shall submit a final development plan, as defined herein, for all or any stage of the proposed development, which plan shall be submitted to the planning commission for approval. The developer shall also submit, at this time, a construction schedule indicating the time limits for commencing and completing the project incorporated in the final development plan;~~
- ~~8. Upon approval of the final development plan by the planning commission and approval of the construction schedule, the building inspector shall issue a building permit upon the presentation of a performance bond guaranteeing the development as approved by the commission, such bond to be approved by the city attorney prior to issuance of the building permit. (Ord. 722 § 94, 1998; Ord. 394 § 2.22.20, 1981)~~

**~~18.36.100 Sketch plan and market analysis.~~**

~~A. The developer of the proposed C-S district zone, as early as is possible, shall submit a sketch plan of the area, showing a unified and organized arrangement of buildings, landscaping, off-street parking, internal traffic circulation and service facilities which are feasible for the proposed C-S district zone and which demonstrates that the C-S district zone minimizes any adverse effect of the center on the properties surrounding the proposed development. The sketch plan must contain information showing compliance with the requirements of this chapter and all other applicable provisions of this code.~~

~~B. After reviewing the sketch plan, the planning commission may provide for the developer such recommendations for changes in the sketch plan as it deems suitable. Such recommendations, or any other action taken by the commission regarding the sketch plan, are for the purpose of providing guidance to the developer only, and shall not be construed as~~

being binding for the commission in its future consideration of the application for zoning the land for C-S zoning.

~~C. The developer of a proposed C-S district zone shall submit a market analysis with the sketch plan, suitable for the size and type of C-S district zone proposed, showing the need for a C-S district zone in the location requested and the inadequacy of the existing zoning to meet this need. The following information shall be required:~~

- ~~1. The trade area of the proposed C-S district zone;~~
- ~~2. Trade area population, present and future;~~
- ~~3. Effective buying power in the trade area;~~
- ~~4. Net potential customer buying power for stores in the proposed C-S district zone;~~
- ~~5. Residue of buying power to be expended in the already existing C-S district zones, if any, or commercial areas serving the planned trade area. (Ord. 394 § 2.22.22, 1981)~~

#### **~~18.36.110 Preliminary development plan.~~**

~~The preliminary plan for a proposed C-S district zone is a plan drawn to scale which shall show:~~

- ~~A. Location, arrangement and dimensions of automobile parking space, width of aisles, width of bays, angle of parking;~~
- ~~B. Location, arrangement and dimensions of truck loading and unloading spaces and docks;~~
- ~~C. Location and dimensions of vehicular entrances, exits and drives and their relationship to existing and proposed streets, alleys and other public ways or public property;~~
- ~~D. Location and dimensions of pedestrian entrances, exits, walks and walkways;~~
- ~~E. General drainage system;~~
- ~~F. Location of exterior storage areas;~~
- ~~G. Ground cover, topography at contour intervals no greater than five feet, slopes, banks and ditches;~~
- ~~H. The location and general exterior dimension of main and accessory buildings;~~
- ~~I. The location, size, height and orientation of all signs other than signs which are flat on building facades;~~

J. Location of year-round landscaping, ditches, walls and fences, screening and lighting;

K. Existing development of adjacent properties within 200 feet, including the location and type of building and structures thereon;

L. If the C-S district zone is proposed in an unplatted area, the preliminary plan shall be accompanied by a plat, giving the full legal description of the boundaries of the property to be included in the areas to be zoned as a C-S district zone;

M. A plan, drawn to scale, showing the general arrangement of streets within the remainder of this ownership, but not more than 1,000 feet from the boundaries of the area to be zoned as a C-S district zone;

N. If the developer desires to construct the shopping center in progressive stages, then he shall indicate on the preliminary plan the stages which will be followed in the construction of the C-S district zone;

O. Relation to Comprehensive Plan and Street Pattern. The location of any C-S district zone shall be on property which has direct access to major arterials as these are designated on the approved arterial street plan. The city planning commission must satisfy itself as to the adequacy of thoroughfares to carry the additional traffic engendered by the development, and may request a report and recommendation from the city engineer. (Ord. 394 § 2.22.24, 1981)

### **18.36.120 Final development plan.**

A. The proponent shall submit a final development plan bonded for completion to the city planning commission for its review and approval. The final development plan may be submitted in successive stages. The planning commission shall determine that each stage, or all of the final development plan, as appropriate, conforms to the intent of the preliminary development plan on which the zoning amendment was approved by the city council. The city planning commission, having reviewed the final development plan for any or all stages of the development, and finding that substantial compliance has been effected with the intent of the preliminary development plan, shall approve by motion the plan and report this fact to the building inspector who shall issue a building permit upon application by the developer. Substantial compliance shall permit slight differences to be authorized by the commission, in setbacks, yard and parking requirements, and ratio of building coverage to land area where conditions justify such changes.

B. Stage Development. A final development plan which is bonded for completion and prepared for each succeeding stage shall be reviewed by the city planning commission and

recommendations made to the building inspector before a building permit for a particular stage is issued.

~~C. Procedure for Making Changes in Final Development Plan.~~

~~1. After the final development plan has been approved by the city planning commission and when, in the course of carrying out this plan adjustments or rearrangements of buildings, parking areas, entrances, heights or yards are requested by the developer, and when such requests are compatible with the standards established in the approved final development plan, such adjustments may be approved, without fee, by the city planning commission;~~

~~2. No change shall be authorized which violates the spirit or intent of the originally approved final development plan or the provisions of this chapter;~~

~~3. Copies of the approved final development plan shall be kept on file in the building inspector's office and any changes which may be approved by the city planning commission shall be noted thereon. (Ord. 394 § 2.22.26, 1981)~~

**18.36.130 Construction schedule.**

~~A. The construction schedule submitted with the final development plan shall begin when footings for the major building or buildings are poured.~~

~~B. The development of the C-S district zone may be carried out in progressive stages provided that each stage is approved in advance by the city planning commission in accordance with the procedures herein. Each stage shall be so planned that the necessary parking areas and other supporting facilities are completed to serve that portion of the overall design which is to be completed in each stage. The primary buildings to accommodate the principal uses in any C-S district zone shall be included in the first stage of construction.~~

~~C. An occupancy permit may be issued on that portion of the completed project which is an entity in itself. Completion of construction shall mean an enclosed structure with basic roughing in of wiring, plumbing and installation of heating and/or air conditioning.~~

~~D. The following schedule covers maximum allowable construction time (minimum size of stage — five acres):~~

Acres	Time to Commence Construction (in months)	Time to Complete Construction (in months)	Time to Complete Landscaping (in growing seasons)
5-9.9	12	6	1
10-14.9	18	9	1
15-20	24	18	1

**E. Extensions:**

1. Upon application by the owner, extensions to commence construction may be granted by the city planning commission for the following reasons:

- a. Proven financial difficulties including general unavailability of capital,
- b. Actions of government bodies which materially affect the project planning or construction (including changes in street or utilities routing, in building code and fire zone changes, etc.);

2. Upon application by the owner, extensions to complete construction may be granted by the city planning commission for the following reasons:

- a. Weather conditions, including flooding,
- b. Labor disputes,
- c. Proven unavailability of materials for construction,
- d. "Act of God,"
- e. Actions of governmental bodies which materially affect construction of the project;

3. A sale or other transfer of title of land rezoned under this section shall not, of itself, be deemed sufficient reason for granting of an extension of time for the commencement of construction;

4. A maximum of 12 months between completion of a stage and submission of the final development plan for the succeeding stage is permitted, or zoning automatically reverts back to the original zoning; unless, 30 days prior to expiration, upon application by the

owner, and review by the planning commission, extensions may be granted if circumstances warrant an extension for the following reasons:

- a. ~~Proven financial difficulties including general unavailability of capital,~~
- b. ~~Actions of governmental bodies which materially affect the project planning or construction (including changes in street or utilities routing, in building code and fire zone changes, etc.);~~
- c. ~~Weather conditions, including flooding,~~
- d. ~~Labor disputes,~~
- e. ~~Proven unavailability of materials for construction,~~
- f. ~~“Act of God”;~~

~~5. A sale or other transfer of title of land rezoned under this section shall not, of itself, be deemed sufficient reason for granting of an extension of time for the commencement of construction. (Ord. 394 § 2.22.28, 1981)~~

~~**18.36.140 Penalties for noncompletion of project.**~~

~~A. In the event that construction is not started within the specified construction schedule time limits, the city planning commission shall review the zoning of the C-S district in default and the progress which has taken place, and if deemed necessary, initiate proceedings to restore the C-S district zone to its prior classification.~~

~~B. Rededication of such vacated streets or alleys and replatting of property to be done in the event that the proposed shopping center is not constructed shall be provided for in a contractual agreement between the developer and the city. (Ord. 394 § 2.22.30, 1981)~~

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**18.40.010 Intent.**

The C-D zone is intended to accommodate diversified commercial establishments having little interdependence and requiring maximum exposure to passing traffic characteristics which are generally incompatible with the intended character of neighborhood, regional and core area commercial districts. ~~It is further intended that the C-D zone be restricted along arterial streets and highways.~~ (Ord. 394 § 2.24.02, 1981)

**18.40.020 Permitted uses.**

The following uses shall be permitted in the C-D zone:

L. Fruit and produce stands (including wholesale fruit and produce operations within an enclosed structure not exceeding 1,600 square feet in size);

**18.40.030 Conditional uses.**

Conditional uses for the C-D zone shall be as follows:

A. Golf driving range;

B. Veterinary offices and clinics, subject to the following conditions:

1. Clinic activities shall be restricted to the medical care and treatment of small animals during regular office hours, and the confinement of such animals on the premises shall be limited to essential and usually occasional overnight care,
2. The boarding and breeding of animals shall be prohibited,
3. Clinic activities shall be completely contained within enclosed buildings which shall be so constructed as to prevent emission of any noise, and
4. All refuse shall be stored within a completely enclosed container;

~~C. Lesser building setbacks than required by this chapter;~~

~~D. Building heights in excess of the maximum established by this chapter;~~

~~E-C.~~ Bus stations;

~~F-D.~~ Any use otherwise permitted but which provides off-street parking on a lot or parcel which is not contiguous with the lot on which the primary use is located;

~~G-E.~~ On-site hazardous waste treatment and storage facilities as a conditional use to any activity generating hazardous waste and lawfully permitted in this zone; provided, that such facilities meet the state siting criteria adopted pursuant to the requirements of RCW 70.105.210, or subsequent revisions. (Ord. 722 § 96, 1998; Ord. 609, 1992; Ord. 394 § 2.24.06, 1981)

**Chapter 18.42**

**HOSPITAL USE ZONE**

**Sections:**

~~18.42.010 Description and purpose.~~

~~18.42.020 Permitted primary uses.~~

~~18.42.030 Permitted accessory uses.~~

~~18.42.040 Master plan review procedure.~~

~~18.42.050 Building site area and frontage.~~

~~18.42.060 Yards and site coverage.~~

~~18.42.070 Height limits.~~

~~18.42.080 Off street parking and loading.~~

**~~18.42.010. Description and purpose.~~**

~~The hospital use (H) zone is intended as a zone for hospital facilities and for those unique uses directly related to hospital facilities in accordance with the comprehensive plan of the city. It is further intended that the hospital use (H) zone provide for reserve areas necessary to enable master planning for expansion of hospital campus facilities in accordance with the city's comprehensive plan and in order to foster compatibility between uses and to protect the public health, safety, and general welfare of the community. (Ord. 722 § 98, 1998)~~

~~18.42.020 Permitted primary uses.~~

~~No building, structure, or land shall be used, and no building, structure, or use in the hospital use (H) zone shall be erected, structurally altered, enlarged, or established, except for the following permitted uses:~~

~~A. Hospitals and those medical and health care uses directly related to hospitals as included in the master plan for the campus of any hospital as approved by the city through review procedures set forth in DPMC 18.42.040, including, but not limited to:~~

~~1. Out-patient clinics, continuing/long-term care services, hospice services, laboratories, medical research facilities, and emergency medical services. (Ord. 722 § 98, 1998)~~

**~~18.42.030 Permitted accessory uses.~~**

~~The following accessory uses shall be permitted in the hospital use (H) zone, to the extent that such uses have been approved as part of a master plan for a hospital campus in accordance with DPMC 18.42.040:~~

~~A. Offices of doctors, dentists, physical therapists, and similar health care providers.~~

~~B. Hospital staff facilities such as educational and meeting facilities, and staff sleeping quarters.~~

~~C. Retail sales and services related to hospital campus facilities, including, but not limited to: pharmacies, gift and florist shops, medical and health care equipment sales, and food service facilities.~~

~~D. Child and adult day care facilities.~~

~~E. Outpatient only alcohol or drug treatment facilities and counseling centers.~~

~~F. Facilities for the treatment or temporary storage of biomedical, radioactive, and other hazardous waste generated within the hospital campus; the permanent storage and/or disposal of such wastes shall be prohibited.~~

~~G. A helicopter pad related to the operation of a hospital shall be subject to the following criteria:~~

~~1. The helipad shall be limited to emergency medical uses only.~~

~~2. Noise from the helipad must be minimized using buffering combined with other operational and site design techniques to minimize the noise impact on surrounding uses.~~

~~3. The helipad shall be sited so as to maintain a minimum separation of 75 feet from any external border of the hospital campus property.~~

~~4. The hospital administration shall take reasonable measures to ensure safety around the helipad when it is in use, and shall comply with all applicable Federal Aviation Administration (FAA) standards and regulations.~~

~~H. All open storage shall be enclosed by a fence or wall six feet in height which obscures the view of the open storage area from adjoining properties and streets. As an alternative to a fence or wall, the city may permit one of the following: planting of a solid evergreen hedge at least six feet in height (such as green arborvitae shrubs); installation of a landscaped berm with the berm being a minimum of six feet in height; or development of a combination landscaped earthen berm topped with a solid evergreen hedge having a combined total minimum height of at least six feet. No open storage shall exceed the height of its perimeter screening feature along the front property line or a property line that adjoins a residential use or zone.~~

~~All outdoor trash, garbage, and refuse storage areas shall be screened on all sides from public view and, at a minimum, shall be enclosed on three sides with a six-foot high concrete block or masonry wall, or a solid fence, with a solid gate for access installed on the fourth side. (Ord. 831 § 6, 2006; Ord. 722 § 98, 1998)~~

#### ~~18.42.040 Master plan review procedure.~~

~~Prior to issuance of any development permits, the planning commission shall review and forward a recommendation to the city council on a master plan of any hospital campus. The city has the discretion to process a hospital campus master plan as either a Type II (administrative) application or Type III (quasi-judicial) application in accordance with the procedures and processes set forth in DPMC Title 19.~~

~~A. Any application for approval of a hospital campus master plan shall include: development plans, drawn to scale, showing the actual dimensions and shape of the entire hospital campus; exact size and locations on the property of buildings or facilities already existing; exact size and locations on the property of buildings, facilities, or other alterations proposed; all existing and/or proposed landscaping, parking, signs, building elevations, and other pertinent data. Such application shall also include identification of adjacent properties and uses, and other information as may be required by the city.~~

~~B. Filing fees in an amount specified by resolution of the city council shall be paid upon the filing of any hospital campus master plan approval application for the purpose of defraying the expenses of postage, posting, advertising, and other costs of labor and materials incidental to the processing prescribed in this chapter.~~

~~C. When considering a hospital campus master plan application, the following criteria shall be considered, and only those applications which are found to be in substantial compliance with all the criteria, or which can be suitably conditioned to comply with such criteria, shall be approved:~~

- ~~1. The proposed use(s) and location(s) will be compatible with other uses existing or permitted on surrounding properties and in adjacent neighborhoods;~~
- ~~2. The proposed use(s) demonstrate a public benefit to the city;~~
- ~~3. The size and shape of the locations(s) is adequate for the proposed use(s);~~
- ~~4. The cumulative traffic generated by existing and proposed uses on the hospital campus will not unduly burden the traffic circulation system in the vicinity;~~
- ~~5. Adequate buffering devices exist or will be established to protect contiguous properties from adverse effects of the proposed use(s), including adverse visual and auditory effects;~~
- ~~6. Other uses in the vicinity of the proposed site(s) are such as to permit the proposed use(s) to function effectively;~~

~~7. The proposed use(s) is/are in compliance with parking requirements and other applicable provisions of this chapter and title; and~~

~~8. Any other similar considerations, that may be appropriate to a particular use, have been suitably taken into consideration.~~

~~D. The planning commission may recommend to the city council that such hospital campus master plan be approved, conditionally approved, or denied. The city council shall take into consideration the planning commission recommendation. The city council shall approve, approve with modifications, or disapprove the recommendation of the planning commission. (Ord. 722 § 98, 1998)~~

#### **~~18.42.050 Building site area and frontage.~~**

~~The required minimum lot area and amount of street frontage allowed shall be determined by the aggregate area of the buildings, required yards (setbacks), off-street parking and loading spaces, and any other specified lot area and/or street frontage requirements applicable to the proposed use(s). (Ord. 722 § 98, 1998)~~

#### **~~18.42.060 Yards and site coverage.~~**

~~The following yard (setback) areas and site coverage standards shall be observed by all primary and accessory uses permitted in the hospital use (H) zone:~~

~~A. Street Frontage Yard. The minimum setback from any street, fronting or flanking, shall be 25 feet.~~

~~B. Rear Yard. Rear yards shall have a minimum depth of 15 feet.~~

~~C. Side Yard. Side yards shall have a minimum depth of 15 feet.~~

~~D. Site Coverage. No maximum. (Ord. 722 § 98, 1998)~~

#### **~~18.42.070 Height limits.~~**

~~The maximum height for buildings, structures, and uses in the hospital use (H) zone shall be 35 feet. (Ord. 722 § 98, 1998)~~

**~~18.42.080 Off-street parking and loading.~~**

~~Parking and loading standards for uses in the hospital use (H) zone shall conform to the standards of Chapter 18.74 DPMC; provided, that all loading areas and facilities shall be screened from view from adjoining public streets by building design features, fencing, or landscaping pursuant to this chapter and DPMC 18.74.110.~~

~~A. Where the parking requirements for a use are not specifically defined in Chapter 18.74 DPMC, the parking requirements for such use shall be determined by the city council, and such determination shall be based upon the requirements for the most comparable use specified therein, or other requirements based upon the best available information concerning the proposed use. (Ord. 722 § 98, 1998)~~

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**Chapter 18.43**

**MIXED USE ZONE**

~~Chapter DPMC 18.42~~

~~MIXED USE ZONE~~

Sections:

18.423.010 Purpose.

18.423.020 Permitted uses.

18.423.030 Design Standards.

18.423.040 Yards and Coverage.

18.423.050 Height Limits

18.43.060 Existing property subject to MU zone.

**18.423.010 Description and purpose**

The mixed use zone (MU) is intended to provide for a mix of complementary designed and located residential uses, including single-family and multifamily uses, attached and detached, condominiums and special living facilities, with the opportunity for retail and services. It is the intent of the MU zone to provide sites designed for pedestrian, bicycle and vehicle access and circulation and connections to the adjacent land uses. It should also be compatible with nearby

residential and public facilities and to prevent nuisances such as noise and traffic from accompanying areas.

**18.423.020 Permitted uses.**

A. In the MU zone the following uses shall be permitted:

1. Single-Family and Two-Family dwellings.
2. Apartments and condominiums.
3. Group Homes and Assisted Living Facilities and their associated ancillary services.
4. Recreational facilities of a noncommercial nature, including parks and playfields.
5. Hospitals and medical and health care uses including, but not limited to: out-patient clinics, continuing/long-term care services, hospice services, laboratories, medical research facilities, and emergency medical services.
6. Art galleries and museums.
7. Bed and breakfast coupled with Residential Dwellings.
8. Child day care centers.
9. Offices.
10. Preschools.
11. Public Uses & Facilities (Government buildings, Library, Postal Facilities, etc.).
12. Houses of religious worship including, but not limited to, churches, mosques, synagogues, temples, convents and related uses.

**18.423.030 Design standards.**

A. Non-Residential:

1. All primary building pedestrian entrances and storefront windows shall face onto the primary street serving the site. If the site has multiple street frontages, the more pedestrian-oriented street shall take precedence.

2. The design character of an individual building should be compatible (share similar features such as color, scale, massing and height) with its neighbors but may also include other features or characteristics that are different;
3. Parking. The parking requirements shall be determined by combining the requirements of the residential and the commercial uses, as established in DPMC 18.74.
4. Off-street parking shall not be located in the front yard setback and shall be located to the side or rear of the building(s).
5. All open storage shall be enclosed by a fence or wall six feet in height, which obscures the view of the open storage area from adjoining properties and streets. As an alternative to a fence or wall, the city may permit the planting of a solid evergreen hedge at least six feet in height, (such as green arborvitae shrubs). No open storage shall exceed the height of its perimeter screening feature along the front property line or a property line that adjoins a residential use or zone.
6. All outdoor trash, garbage, and refuse storage areas shall be screened on all sides from public view and, at a minimum, shall be enclosed on three sides with a six-foot-high concrete block or masonry wall, or a solid fence, with a solid gate for access installed on the fourth side.
7. Drive-up, -in or -through facilities are not permitted, except for the roof covering over an entry way that is used as a drop off site for access to the building.

**B. Residential:**

1. Provisions of the Multifamily Zone, and specifically Chapter 18.64.050, Building Site Area, 18.64.060 Floor Area Ratio, 18.64.070 Signs, shall be utilized in determining building construction on the site.
2. Off-Street parking and private storage space.
  - a. Single Family and Two Family Dwellings, Apartment Units and Condominiums shall be provided two covered and enclosed parking spaces per unit.
  - b. Group Homes and Assisted Living Facilities shall provide parking at the ratio of one space per three units, plus one parking space for each staff for the facility. In addition, there shall be an additional paved parking area for visitors based on the ratio of one-half parking space for each dwelling unit and any fraction shall be rounded to the next higher number.
  - c. All parking areas, driveways and approaches which lead onto a street shall be provided with hard surface improvements.

d. A minimum of 90 cubic feet of private storage space shall be provided for each dwelling unit outside of such unit, unless a private attached garage, serving only the unit is provided, such storage space shall be fully enclosed and lockable.

**18.423.040 Yards and site coverage.**

The following yard (setback) areas and site coverage standards shall be observed by all primary and accessory uses permitted in the mixed use (MU) zone:

- A. Street Frontage Yard. The minimum setback from any street, fronting or flanking, shall be 25 feet.
- B. Rear Yard. Rear yards shall have a minimum depth of 15 feet.
- C. Side Yard. Side yards shall have a minimum depth of 15 feet.
- D. Site Coverage. No maximum.

**18.423.050 Height limits.**

A. The maximum height for buildings, structures, and uses shall be 2 stories or 35 feet, whichever is higher.

**18.43.060 Existing property subject to MU zone.**

**Any property that is zoned "Hospital Use Zone" on the effective date of this chapter shall thereafter be considered located in the "Mixed Use zone."**

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**Chapter 18.44**

**COMMERCIAL NEIGHBORHOOD ZONE**

Sections:

- 18.44.010 Intent.
- 18.44.020 Permitted uses.
- 18.44.030 Conditional uses.

- 18.44.040 Building site area.
- 18.44.050 Yards.
- 18.44.060 Height limit.
- 18.44.070 Feasibility study and site plan.
- 18.44.080 Time limits – Rezoning.
- 18.44.090 Off-street parking.

**18.44.010 Intent.**

A. The purpose of the C-N zone is to provide supplemental shopping areas detached from the C-C zone. Such shopping areas shall be located so as to provide convenient shopping centers for the various outlying areas of the community. It is the intent of the C-N zone to provide for concentrated development of such shops and stores within small areas and to limit such goods and services initially to not more than one of a kind whether contained in one building or in separate buildings such as one beauty shop, one drug store, or one grocery store; to avoid strip developments; and to prevent nuisances such as noise and traffic from accompanying such areas.

B. A development in a C-N zone shall require a minimum offering of four different classifications of goods or services, such as one drug store, one grocery store, one barber shop or one shoe repair shop, with a minimum of 5,000 square feet of usable floor area and a minimum land area of 20,000 square feet. An additional 10,000 square feet of sales area for each additional acre of land to a maximum development of 80,000 total square feet of usable floor area and a maximum of eight acres shall be permitted in any one commercial neighborhood zone. (Ord. 394 § 2.26.02, 1981)

**18.44.020 Permitted uses.**

Permitted uses in the C-N zone shall be as follows:

- A. All retail uses, except the following:
  - 1. Heavy farm and construction equipment sales and services,
  - 2. Hay, grain and farm supply stores,
  - 3. Trailer sales,

4. Lumber sales,

5. Other similar uses;

B. All personal, professional, commercial recreation, household service establishments;

C. Signs;

D. Automobile parking;

E. Public uses;

F. Public utilities.

G. All open storage that does not constitute a display for retail, wholesale or rental use shall be enclosed by a fence or wall six feet in height which obscures the view of the open storage area from adjoining properties and streets. As an alternative to a fence or wall, the city may permit one of the following: planting of a solid evergreen hedge at least six feet in height (such as green arborvitae shrubs); installation of a landscaped berm with the berm being a minimum of six feet in height; or development of a combination landscaped earthen berm topped with a solid evergreen hedge having a combined total minimum height of at least six feet. No open storage shall exceed the height of its perimeter screening feature along the front property line or a property line that adjoins a residential use or zone.

All outdoor trash, garbage, and refuse storage areas shall be screened on all sides from public view and, at a minimum, shall be enclosed on three sides with a six-foot-high concrete block or masonry wall, or a solid fence, with a solid gate for access installed on the fourth side. (Ord. 831 § 7, 2006; Ord. 394 § 2.26.04, 1981)

#### **18.44.030 Conditional uses.**

The following conditional uses may be permitted within the C-N zone through the granting of a conditional use permit:

A. Service stations (not including major overhaul or body work);

B. Building height in excess of the maximum established by this chapter.

C. Houses of religious worship including, but not limited to, churches, mosques, synagogues, temples, convents, and related uses;

D. Schools of either a public or private nature. (Ord. 826 § 8, 2005; Ord. 722 § 99, 1998; Ord. 394 § 2.26.06, 1981)

**18.44.040 Building site area.**

Every building hereafter constructed or structurally altered in a C-N zone shall provide a lot area of not less than 20,000 square feet. Fifty percent of the area of all sites must be maintained as open spaces free from buildings or structures. (Ord. 394 § 2.26.08, 1981)

**18.44.050 Yards.**

A. Front Yards. There shall be a front yard minimum depth of 15 feet which shall also apply on streets flanking the normal or original lot front.

B. Rear Yards. There shall be no rear yard requirement unless a building abuts a residential district, in which case the minimum rear yard depth shall be 10 feet.

C. Side Yards – Side Yards Abutting Interior Lot Lines. There shall be no side yard requirement unless a building abuts a residential district in which case the minimum side yard requirement shall be five feet in width. (Ord. 394 § 2.26.10, 1981)

**18.44.060 Height limit.**

No building shall exceed a height of 35 feet. (Ord. 394 § 2.26.12, 1981)

~~**18.44.070 Feasibility study and site plan.**~~

~~Where a change of zone to neighborhood commercial is desired, the application shall be accompanied by the following:~~

~~A. A feasibility study justifying the construction of a shopping center at the desired location. This study shall take into consideration existing and projecting population, impact on existing commercial within a one-mile radius, and the location if in conflict with the comprehensive plan. The planning commission will provide development guidelines for the feasibility study and will determine the format for the preparation of such a study;~~

~~B. A site plan showing lot lines and dimensions, locations of proposed buildings or improvements, height of structures, off-street parking lot design including ingress and egress points, setbacks, exterior lighting and signs, fencing, landscaping, architectural drawings or sketches demonstrating the design and character of the proposed uses and the physical relationship of the elements, and any other data necessary to indicate the proposed~~

~~developments, all of which must be in conformance with the provisions of this title. (Ord. 394 § 2.26.14, 1981)~~

~~**18.44.080 Time limits — Rezoning.**~~

~~To provide adequate neighborhood shopping facilities and equal opportunity for development, lands zoned C-N shall be zones for a period not to exceed one calendar year, at which time the zoning shall become permanent only if development in accord with the approved site plan has commenced. A development shall not be considered commenced until the foundations are poured. If this requirement is not met, the zoning shall automatically revert to the previous classification without additional public hearing. Building permits shall be issued for the first stage of development, consisting of a minimum of four businesses and minimum land and building requirements, which shall be completed within two years following the zoning amendment. A surety bond equal to the estimated cost of the first development stage shall be submitted to the city upon application for a building permit. (Ord. 394 § 2.26.16, 1981)~~

**18.44.090 Off-street parking.**

Parking and loading shall conform with the provisions of Chapter 18.74 DPMC. (Ord. 722 § 100, 1998)

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**18.48.020 Permitted uses.**

The following uses shall be permitted in the L-I zone; in the case of a question as to the inclusion or exclusion of a particular proposed use in the L-I zone, the city planner shall have the authority to make the final determination. The city planner shall make the determination according to the characteristics of the operation of the proposed use.

- A. Fabrication and assembly, wholesaling, warehousing, distribution, repair, rental and servicing of any commodity, the sale of which is permitted in any commercial district;
- B. Food and drug processing;
- C. Brewery, winery or distillery, including tasting rooms and related sales provided the proposed establishment is not closer than 500 feet from any church, school, or public park or playground;
- D. Cold storage plants;

- E. Truck, trailer, manufactured home, marine, auto and farm implement sales, service and rental, vehicle repair, body and fender shops, fueling service stations, car wash and steam cleaning;
- F. Manufacture, processing, or fabrication of metal products and machinery, plumbing, heating and mechanical, welding, electrical, sheet metal, and similar shops to include sales and service; finished lumber and building material storage and sales;
- G. Commercial laundries and dry cleaners;
- H. Animal hospitals, clinics, schools, veterinary offices and kennels;
- I. Restaurants, taverns, nightclubs and drive-in restaurants;
- J. Industrial and scientific research laboratories and science-based industrial and manufacturing facilities;
- K. Administrative and business offices and vocational technical schools, financial institutions;
- L. Communication service centers, systems and sales including facilities;
- M. Public and quasi-public uses;
- N. Any light manufacturing, reduction, assembly, warehousing of light and small items made from previously prepared materials and includes operations which do not constitute public nuisances by reason of air pollution, emission of odors, gas or noise, or emission of wastewater wastes and which conform to the other regulations and ordinances of the city;
- O. Public utilities;
- P. Agricultural chemicals and fertilizer warehouse and distribution facilities;
- Q. Commercial nurseries and greenhouses and the agricultural use thereof, within an enclosed building which could include all agricultural uses such as tree farming, vineyard/winery, vegetable and produce production, floriculture or flower farming, retail and wholesale;
- R. Wireless communication facilities in accordance with Chapter 18.110 DPMC, including co-location of wireless communication facilities;

~~S. Retail and accessory uses common to the permitted uses listed within the zone which are subject to the same development regulations as permitted uses. (Ord. 947 § 1, 2014; Ord. 648 § 2, 1994; Ord. 394 § 2.28.04, 1981)~~

**18.48.022 Retail accessory use.**

Retail uses associated with and accessory to the permitted use on the property may exist; provided that the retail uses occupy less than 30% of the developed area on a property, inclusive of all buildings, structures and non-landscaped outside areas.

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**~~18.50.190 Architectural treatment.~~**

~~A. The exterior architectural design and appearance of buildings shall include strong vertical or horizontal lines.~~

~~B. Building walls should be the dominant architectural form, roofs should be a secondary element. Exposed side and rear walls shall be finished in a style, design and material complementary to the front of the building.~~

~~C. If properties are to be developed in a planned business park environment, the color of building and screening walls shall be coordinated throughout the business park.~~

~~D. All screening walls shall be of the same or coordinated color and materials as the building. (Ord. 722 § 119, 1998; Ord. 634 § 1, 1993)~~

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**18.52.070 Park management.**

The person who operates a mobile home park shall operate the park in compliance with the rules and regulations issued hereunder ~~and set by the county health district~~ and uniform building codes, and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

A. The operator shall notify park occupants of all applicable provisions of these rules and regulations and inform the occupants of their duties and responsibilities;

B. The operator shall supervise the placement and removal of each mobile home on its lot and shall in particular supervise and ascertain that all code requirements for the connection of the mobile homes to sewer, water and electrical connections have been met;

C. The operator shall not allow the owner or person in charge of a dog, cat or other pet animal to permit it to run at large or to commit any nuisance within the limits of any mobile home park;

D. Occupied and unoccupied mobile home space shall be well maintained;

E. All mobile home units shall have fire-resistant skirting around the lower part of the mobile home covering the wheels and undercarriage. Each skirting shall provide at least one opening door or removable panel for inspection purposes;

F. Mobile home parks shall provide ~~adequate~~ open space and recreational areas. (Ord. 394 § 2.30.14, 1981)

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#### **18.56.010 Intent.**

The MHS zone comprises areas developed or to be developed for placement and occupancy of ~~new single-family mobile homes~~, manufactured homes, that are also designated manufactured homes, and modular homes, on individually owned lots in mobile home subdivisions. Regulations are designed to stabilize and encourage a suitable family environment, and to prohibit all incompatible activities. Certain essential and accessory uses are also permitted under conditions and standards which insure protection of the character of the zone. (Ord. 624 § 2, 1992; Ord. 394 § 2.32.02, 1981)

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#### **18.56.020 Permitted uses.**

In the MHS zone, the following uses shall be permitted:

A. ~~New Single-family mobile homes~~, manufactured homes, that are also designated manufactured homes, and modular homes;

B. Recreation areas, facilities and buildings; offices; service buildings and yards; provided, that the primary purpose of any such use shall be service to residents of the subdivision;

C. Home occupations, subject to issuance of a conditional home occupation use permit. (Ord. 624 § 3, 1992; Ord. 394 § 2.32.04, 1981)

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### **Chapter 18.60 MOBILE, MANUFACTURED, AND MODULAR STRUCTURE REQUIREMENTS**

Sections:

~~18.60.010 Intent.~~

18.60.020 Requirements.

#### **~~18.60.010 Intent.~~**

~~A. This chapter specifies the requirements of the city to maintain and encourage a suitable family environment and affordable housing throughout the community, to insure the health,~~

safety, morals, convenience, and general well-being of the city. This chapter also specifies the requirements of the city providing for the use of mobile and manufactured structures for nonresidential uses, including, but not limited to, business offices and portable classrooms.

1. Mobile homes, manufactured homes, designated manufactured homes, and modular homes are permitted in the following zones, subject to the requirements stated in DPMC 18.60.020:

a. Residential 1A;

b. Residential 2A;

c. Residential 3A;

d. Multifamily;

e. Diversified commercial;

f. Mobile home park; and

g. Manufactured home subdivisions.

2. Nonresidential mobile structures, manufactured structures, designated manufactured structures, and modular structures are permitted in the following zones, subject to the requirements stated in DPMC 18.60.020:

a. Diversified commercial;

b. Business park;

c. Light industrial;

d. Hospital; and

e. Public/quasi-public.

B. Mobile homes, manufactured homes, designated manufactured homes, and modular homes not meeting the requirements of DPMC 18.60.020, will only be allowed to be sited in designated mobile home parks subject to the provisions in DPMC 18.52.050 and 18.52.060. Any person, partnership, and/or corporation owning three or more adjoining lots, intending to site mobile homes, manufactured homes, designated manufactured homes, or modular homes, shall be required to make application for a rezone of the proposed area to either a mobile home park or mobile home subdivision zone, following the regulations in Chapter 18.100 DPMC. (Ord. 722 § 123, 1998; Ord. 624 § 8, 1992; Ord. 605 p.11 § 1, 1991; Ord. 394 § 2.34.02, 1981)

## **18.60.0210 Requirements.**

~~Mobile, manufactured, designated manufactured or modular homes and structures may be used as a place of human habitation or nonresidential occupancy in the city upon compliance with the conditions set forth herein. Portable school classrooms shall be subject to all the provisions of this chapter.~~

~~A. No such mobile, manufactured, designated manufactured, or modular home or structure shall be used as a habitation or nonresidential occupancy unless and until all forms of mobility have been removed from such structure. After such removal, such house or structure shall have been installed upon a permanent foundation and permanently attached to power, water, and sanitary facilities, all in accordance with the Uniform Building Code.~~

~~B. No such mobile, manufactured, designated manufactured, or modular home or structure installation may be made, as just aforesaid, unless and until the owner thereof shall have first presented to the city building department/planning department written plans, and plots, clearly showing all streets, alleys, easements, setbacks, and specifications, and shall have received a building permit.~~

~~C. No such permit shall be issued unless the city building department/planning department shall find that such mobile, manufactured, designated manufactured, or modular home or structure complies with all existing zoning requirements of this title.~~

~~D. All previously occupied mobile, manufactured, designated manufactured, or modular homes or structures shall be inspected by the Washington State Department of Labor and Industries and shall be brought up to the most recent HUD specifications before being granted an occupancy permit.~~

~~1. Prior to installation, even those homes or structures having a HUD certificate must first be approved by the city building inspector to determine whether through misuse, neglect, alterations, or accident, the mobile, manufactured, designated manufactured, or modular home or structure has fallen below the safety and occupancy standards of the Uniform Building Code.~~

~~2. All new mobile, manufactured, designated manufactured, or modular homes or structures must meet HUD and Uniform Building Code requirements.~~

~~3. All fees must be paid.~~

~~E. All mobile, manufactured, designated manufactured, and modular homes or structures must meet the tiedown and all weather/fire-resistant requirements of the Uniform Building Code, and WAC 296-150B-250 concerning anchoring systems.~~

~~F. All mobile, manufactured, designated manufactured, or modular homes or structures in any zoning classification, shall meet the requirements of the applicable zone relating to front yards, rear yards, side yards, site area, accessory buildings, height, and off-street parking requirements.~~

1. No travel/dependent trailers or other recreational vehicles shall be used as a place of residential occupancy for a period in excess of 10 days per any calendar year, except when regularly installed and located in a trailer park regularly zoned, used, and maintained as such a park.

2. For all the purposes of this chapter, the term "vehicle" shall mean all instrumentalities capable of movement by means of circular wheels, skids, or runners of any kind, specifically including, but not limited to, all forms of automotive vehicles, buses, trucks, cars, vans, and trailers of any size, whether capable of supplying their own motive power or not.

~~G. All mobile, manufactured, or modular homes or structures not located in an established mobile home park applying for placement permits in the city, shall have been constructed with the previous five years. Pursuant to RCW 35A.63.145, the provisions of this paragraph shall not apply to designated manufactured homes and structures.~~

~~H. All mobile, manufactured, designated manufactured, or modular homes or structures, not located in an established mobile home park, shall be set on permanent foundations, either concrete or of other permanent material, and if not set on an exterior continuous foundation, shall be set on a permanent foundation and skirted.~~

~~I. Except where the base of the mobile, manufactured, designated manufactured, or modular home or structure is flush to the ground level, the mobile, manufactured, designated manufactured, or modular home or structure shall be skirted with permanent masonry skirting or a foundation. Every mobile, manufactured, designated manufactured, or modular home or structure shall be provided with a door, or easily removed portion thereof, for access to the crawl space under the mobile, manufactured, designated manufactured, or modular home or structure.~~

~~J. No building permit shall be issued for any mobile or manufactured homes or structures, smaller than 20 feet in width and 40 feet in length, with a special provision that such width shall extend the full length of such mobile or manufactured home or structure, except for within designated mobile home parks. No building permit shall be issued for any designated manufactured or modular homes or structures of less than 24 feet in width and 36 feet in length, or of at least 800 minimum square feet.~~

~~K. The roofs of all mobile, manufactured, designated manufactured, or modular homes or structures shall have a minimum pitch of three feet of rise for each 12 feet of horizontal run, and shall have an eave of six-inch minimum attached to the entire perimeter. Roofs shall be constructed of any roofing material that is generally acceptable for housing or nonresidential structures built on site, if applied in such a manner as to be similar in appearance.~~

~~L. The exterior of all mobile, manufactured, designated manufactured, or modular homes or structures shall be finished with horizontal metal lap siding, simulated wood siding, wood siding, or other acceptable method of exterior treatment (i.e., stucco), applied in such a manner as to be similar in appearance to housing or nonresidential structures built on site.~~

~~M. Any mobile, manufactured, designated manufactured, or modular home or structure, which is the principal residence or place of nonresidential occupancy of the owner at the time of the passage of the ordinance codified in this section, such owner shall maintain vested rights to repair, maintain, and/or replace the existing mobile, manufactured, designated manufactured, or modular home or structure, should that structure be destroyed by fire, explosion, act of God, act of public enemy, or other cause, and not conform to the minimum size, age, siding, and roof requirements as stated in this chapter. These vested rights are not transferable and shall not apply to parties that do not own or occupy such mobile, manufactured, designated manufactured, or modular homes or structures. (Ord. 722 § 123, 1998; Ord. 702 §2(B), 1997; Ord. 605 pp. 11 – 14, 1991; Ord. 583 § 30, 1990; Ord. 394 § 2.34.02, 1981)~~

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#### **18.66.020 Permitted primary uses.**

No building, structure, or land shall be used, and no building, structure, or use in the public/quasi-public (P/QP) zone shall be erected, structurally altered, enlarged, or established, except for the following permitted uses:

##### **A. Deer Park Municipal Airport subject to the provisions and limitations as follows:**

1. Runways, taxiways, connectors, aprons and/or heliports designed for the landing and taking off of aircraft, transfer of passengers and/or cargo, surface access, and other support facilities typically associated with airports. Such other support facilities typically associated with airports include, but are not necessarily limited to, hangars, control towers, communication and maintenance facilities, operations areas, airport fueling facilities, fixed-based operators (FBO) and passenger and cargo terminals (including retail and eating and drinking establishments located within a terminal or FBO building).
2. Other uses with an aeronautical emphasis similar in nature to the municipal airport's permitted activities as determined by the city council (the council shall solicit recommendations from the airport board, the planning commission, or other designees prior to making its determination).

**B. Government buildings and uses operated by federal, state, county, or municipal government entities, or operated by special purpose districts.**

**C. Libraries.**

**D. Museums.**

**E. Open space/conservation areas.**

F. Parks, recreational uses including, but not limited to, tennis courts, swimming pools, playfield, golf courses, and other similar uses as determined by the planning commission and city council.

G. Public schools.

H. Publicly operated recreational camps with or without overnight accommodations.

I. Publicly or privately operated public utility uses, structures, or transmission facilities.

J. Fairgrounds and rodeo arena facilities. (Ord. 860 § 2, 2008; Ord. 791 § 1, 2002; Ord. 722 § 127, 1998)

### **18.66.030 Permitted accessory uses.**

The following accessory uses shall be permitted in the public/quasi-public (P/QP) zone:

A. Storage of equipment and/or materials required in connection with the primary use; provided, that such storage observes the following standards:

1. All required yard (setback) areas of the public/quasi-public (P/QP) zone are observed; and
2. Accessory storage is located inside a building or, if located outside a building, such storage is concealed from view from surrounding streets, alleys, and properties by a six-foot-high sight-obscuring fence, or by a landscaped berm of equivalent height which achieves the same screening objective for aesthetic purposes.
3. All outdoor trash, garbage, and refuse containers shall be:
  - a. Located within the screened area of the facility; or
  - b. Screened on all sides from public view and, at a minimum, shall be enclosed on three sides with a six-foot-high concrete block or masonry wall, or a solid fence, with a solid gate for access installed on the fourth side. As an alternative to a fence or wall on the non-access sides, the city may permit one of the following: planting of a solid evergreen hedge at least six feet in height (such as green arborvitae shrubs); installation of a landscaped berm with the berm being a minimum of six feet in height; or development of a combination landscaped earthen berm topped with a solid evergreen hedge having a combined total minimum height of at least six feet. The solid gate for access shall still apply on the fourth side.

B. Short-term recreational vehicle parking. For purposes of this Title, short-term recreational vehicle parking shall mean parking of a recreational vehicle on the property for any one

recreational vehicle for a period of up to 21 consecutive days. Each period of 21 consecutive days of parking by any one recreational vehicle shall be followed by 30 days of absence of that recreational vehicle from the subject property.

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C. Fencing when required due to security concerns shall be permitted to a maximum height of 96 inches, not including barbed or razor wire above the top of fence fabric, along property line in compliance with the “clear view triangle” as delineated in DPMC 18.94.010. (Ord. 831 § 9, 2006; Ord. 825 § 2, 2005; Ord. 722 § 127, 1998)

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## Chapter 18.70

### RESOURCE LAND AND CRITICAL AREAS REGULATIONS

#### Sections:

- 18.70.010 Purpose and intent.
- 18.70.020 Definitions.
- 18.70.030 Scope and applicability.
- 18.70.040 Abrogation and greater restrictions.
- 18.70.050 Procedures for critical areas permits.
- 18.70.060 Agricultural lands.
- 18.70.070 Aquifer recharge areas.
- 18.70.080 Fish and wildlife habitat conservation areas.
- 18.70.090 Forest lands.
- 18.70.100 Frequently flooded areas.
- 18.70.105 Spokane County shoreline program.
- 18.70.110 Geologically hazardous areas.
- 18.70.120 Mineral resource areas.
- 18.70.130 Wetlands.
- 18.70.140 Buffers.

18.70.150 Nonconforming uses/structures.

18.70.160 Appeals.

18.70.170 Enforcement.

18.70.180 Severability.

**18.70.010 Purpose and intent.**

The purpose of this chapter is to ensure the public health, safety and welfare by protection of critical areas, to meet the intent of the Growth Management Act (Chapter 36.70A RCW) and to allow the city of Deer Park the ability to define, identify and protect critical areas when development or change in land use is proposed. The intent of this chapter is to ensure that the city's resource lands and critical areas are preserved and protected and that development in association with or adjacent to these areas is properly managed.

It is also the purpose of this chapter to prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat and the overall net loss of wetlands, frequently flooded areas, and habitat conservation areas. The regulations in this chapter are further intended to protect critical areas through the application of "best available science" as determined according to WAC 365-195-900 through 365-195-925 and in consultation with state and federal agencies and other qualified professionals.

While it is the foremost purpose of this chapter that land use actions taken result in equivalent or greater functions and values associated with the critical areas directly associated with the land use permit application at issue this chapter is to be administered with flexibility and attention to site-specific characteristics inasmuch as it is not intended to make a parcel of property unusable by denying its owner a reasonable economic use thereof. To ensure that there is no net loss of critical area functions and values resultant from a development activity or alteration, off-site improvements may be required to compensate for an on-site loss. (Ord. 802 § 1, 2003; Ord. 659 § 1, 1994)

**18.70.020 Definitions.**

A. "Best available science" means scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified scientific professional or team of qualified scientific professionals that is consistent with criteria established in WAC 365-195-900 through 365-195-925. Some sources of best available science are included in "Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas" published by the state Office of Community Development.

1. Valid Scientific Process. The process useful in understanding critical area consequences of a local decision and in developing effective regulations and/or mitigation techniques to protect the functions and values of critical areas. To determine whether information received during the permit review process is reliable scientific information, the city shall determine whether the source of the information displays the characteristics of a valid scientific process including, but not limited to, the following:

a. Peer Review. The information has been critically reviewed by other persons who are qualified experts in that scientific discipline. The proponents of the information have addressed the criticism of the peer reviewers (publication in a refereed scientific journal usually indicates that the information has been appropriately peer-reviewed).

b. Methods. The methods used to obtain the information are clearly stated and reproducible. Such methods are standardized in the pertinent scientific discipline or, if not, the methods have been appropriately peer-reviewed to assure their reliability and validity.

c. Logical Conclusions/Reasonable Inferences. The conclusions presented are based on reasonable assumptions supported by other studies and consistent with the general theory underlying the assumptions, are supported by the data presented, and any information gaps and/or inconsistencies with other pertinent scientific information are adequately explained.

d. Quantitative Analysis. The data has been analyzed using appropriate statistical or quantitative methods.

e. Context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge.

f. References. The assumptions, analytical techniques and conclusions are well referenced with citations to relevant literature and other pertinent existing information.

2. Nonscientific Information. Nonscientific information may be used to supplement scientific information, but is not an adequate substitute for valid and available scientific information. Common sources of nonscientific data include:

a. Anecdotal Information. One or more observations that are not part of an organized scientific effort.

b. Non-Expert Opinion. Opinion of a person who is not a qualified scientific expert in a pertinent scientific discipline.

c. Hearsay. Information repeated from communication with others.

3. Absence of Valid Scientific Information. Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area, leading to uncertainty about the risk to a critical area function of permitting an alteration or impact to a critical area, the city shall:

a. Precautionary Approach. Take a precautionary/no-risk approach that limits development and land use activities until the uncertainty is sufficiently resolved.

b. Adaptive Management Program. Take an adaptive management program approach, being a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty, which shall include the following:

i. Address funding for the research component of the adaptive management program;

ii. Change course based on the results and interpretation of new information that resolves uncertainties; and

iii. Commit to the appropriate time frame and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting protection of critical areas.

B. "Best management practices" means conservation practices or systems of practices and management measures that:

1. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxins and sediment;

2. Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of wetlands;

3. Protect trees and vegetation designated to be retained during and following site construction; and

4. Provide standards for proper use of chemical herbicides within critical areas.

C. "Critical areas" include the following areas and ecosystems:

1. "Agricultural land" is land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.140, or livestock, and that has long-term commercial significance for agricultural production.

2. "Aquifer recharge areas" are areas having a critical recharging effect on aquifers used for potable water where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the certifiable potability of water (WAC 365-190-030).

3. "Fish and wildlife habitat conservation areas" are areas which include: (a) areas with which priority species and habitat have primary association; (b) areas with which endangered, threatened, and sensitive species have primary association; (c) habitats and species of local importance; (d) naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish and other wildlife habitat; (e) waters of the state; (f) lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; or (g) state natural area preserves and natural resource conservation areas.

4. "Forested resource land" is land primarily used for growing trees, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, for commercial purposes, and that has long-term commercial significance for growing trees commercially.

5. "Frequently flooded areas" are areas included in those flooded areas identified in the one percent or greater chance of flooding in any given year of the Federal Emergency Management Agency and the National Flood Insurance Program and other frequently flooded areas. These areas include, but are not limited to, streams, lakes, rivers, wetlands, and the like (WAC 365-190-030).

6. "Geologically hazardous areas" are areas that because of their susceptibility to erosion, sliding, earthquake, or other geologic events are not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns (Chapter 36.70A RCW).

7. "Mineral resource land" is land primarily devoted to the extraction of minerals or that has known or potential long-term commercial significance for the extraction of minerals.

8. "Wetlands" are areas inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands do include artificial wetlands created from nonwetland areas created to mitigate conversion of wetlands (Chapter 36.70A RCW).

D. "Functions and values" means the beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, ground water recharge and discharge, erosion control, protection from hazards, historical and archaeological and aesthetic value protection, and recreation. (Ord. 890 § 1, 2010; Ord. 802 § 2, 2003; Ord. 659 § 1, 1994)

**18.70.030 Scope and applicability.**

A. General. This chapter applies to the construction, alteration or enlargement of any building or structure, excavation, grading, earthwork construction and the removal of vegetation on any land that meets the classification standards for any critical area contained herein. In addition, this chapter applies to all public or private actions, permits and approvals in association with a resource land and/or a critical area and its buffer including but not limited to the following:

1. Building, grading, filling, mining, storage of equipment and materials, special stormwater and sanitary sewer permits and local improvement districts;
2. Annexations, subdivisions, short plats, boundary line adjustments or combination permits;
3. Reclassifications, site plan approvals, special and conditional use permits; and
4. Temporary use permits, variances and exceptions.

B. Wetlands and Streams. For wetlands and streams, the above applicability standards are expanded to include any act or use adjacent to or within 200 feet of a wetland or stream and its associated adjacent buffer which would destroy the natural vegetation; result in significant change in habitat, water temperature, physical or chemical characteristics; alter natural contours and/or substantially alter existing patterns of stormwater and/or ground water flow.

C. Multiple Critical Areas Located on One Site. Where one site is classified as two or more critical areas, the project shall meet the minimum standards and requirements for each identified critical area as set forth in this chapter.

D. Maps and Inventory. Critical areas may be located through the use of the county's generalized wetland and other critical areas inventory maps that are available for reference. Resource lands and critical areas indicated on such maps are presumed to exist in the locations shown and are protected under all provisions of this chapter. The exact location of resource lands and critical areas shall be determined by the applicant as a result of field investigations performed by qualified professionals using the definition found in this chapter. In reference to the Flood Insurance Rate Maps (FIRM), the exact location of the special flood hazard areas (the land in the floodplain within the community subject to a one percent or greater chance of flooding in any given year) is determined by FEMA in conjunction with the community. Any changes in location of the designated area must be documented and approved through the letter of map revision (LOMR) process. (Ord. 890 § 2, 2010; Ord. 659 § 1, 1994)

#### **18.70.040 Abrogation and greater restrictions.**

It is not intended that this chapter repeal, abrogate or impair any existing regulations, easements, covenants or deed restrictions. However, where this chapter imposes greater restrictions, then the provisions of this chapter shall prevail. (Ord. 659 § 1, 1994)

#### **18.70.050 Procedures for critical areas permits.**

If an open record public hearing is to be held on any permit application administered under this chapter, such application shall adhere to the Type III (quasi-judicial) provisions of DPMC Title 19. Any permit application administered under this chapter which is processed by city staff or the ~~planning commission~~ hearing examiner in an administrative manner (i.e., at a public meeting), shall adhere to the Type II (administrative) provisions of DPMC Title 19.

A. All applications for permits to conduct activities having a possible impact on critical areas must identify the critical areas affected and make an estimate of the probable impact. The city of Deer Park shall deny all requests for permits which would result in activities degrading a wetland or fish or wildlife habitat conservation area, which would put people or property in a position of unacceptable risk with respect to floods or geologic hazards, or which would harm critical recharging areas for aquifers. The city of Deer Park may, however, grant permits which include mitigation measures if the mitigation measures adequately protect the critical areas and people and property involved.

B. Required Use of Best Management Practices. All activities shall be conducted using the best management practices that result in the least amount of impact to the critical areas. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The city shall monitor the use of best management practices to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area shall be restored, rehabilitated, or replaced at the responsible party's expense.

C. Critical Area Report. If a proposed activity is within, adjacent to, or is likely to impact a critical area, the city shall require a critical area report from the applicant that has been prepared by a qualified professional, which incorporates best available science, and which details proposed impact mitigation techniques.

1. All impacts that degrade the functions and values of a critical area or areas shall be avoided. If alteration to a critical area is unavoidable, the impact shall be mitigated in accordance with an approved critical area report and SEPA documents.

2. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by the critical area.

3. Mitigation shall not be implemented until after city approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

D. Notice on Title. In order to inform subsequent purchasers of real property of the existence of critical areas, the owner of any property containing a critical area or buffer on which a development proposal is submitted shall file a notice with the county records according to the direction of the city. The notice shall state the presence of the critical area or buffer on the property, the application of this chapter to the property, and the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall run with the land. The applicant shall provide proof to the city that said title notice has been duly filed for public record before the city where such entity has an adjudicated right of an easement or right-of-way, or on the site of a permanent public facility.

This notice shall not be required for a development proposal by a public agency or public or private utility within a recorded easement or right-of-way, where such entity has an adjudicated right of an easement or right-of-way, or on the site of a permanent public facility.

E. Information Requirements. Applications for a critical areas permit under this chapter shall include:

1. A description and map(s) showing the entire parcel of land owned by the applicant and the exact boundary of the critical area on the parcel (when the critical area is a wetland, the boundary must be delineated in accordance with the Washington State Wetlands Identification and Delineation Manual, Ecology Publication #96-94, March 1997 or current edition).

2. A site plan for the proposed activity showing the location, width, depth, and length of all existing and proposed structures, roads and equipment within the critical area and its buffer.

3. Elevations of the site and adjacent lands within the critical area and its buffer and if the permit for a structure is within the special flood hazard area shall be at contour intervals of no greater than five feet, and shall be recorded on a completed elevation certificate (FEMA Form 81-31) for NFIP purposes. Said certificate shall record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved residential structures, and whether or not the structure contains a basement. For all new or substantially improved floodproofed nonresidential structures

where base flood elevation data is provided through the FIS, or FIRM, the elevation certificate shall record the elevation (in relation to mean sea level) to which the structure was floodproofed.

4. Elevation certificates shall be provided to the city and maintained as records subject to a public records request.

5. Specific means to mitigate any potential adverse environmental impacts of the applicant's proposal.

6. Top view and typical cross-section views of the critical area (and buffer, if applicable) to scale.

7. If the critical area is a wetland, a qualified professional shall provide a delineation report using the Washington State Wetlands Identification and Delineation Manual, Ecology Publication #96-94, March 1997 or current edition, unless the planning director determines the project shall be exempt from further review. The project shall be exempt from further review if the applicant can clearly show:

a. No adverse impacts will occur to the wetlands or its buffer; and

b. The proposed use or structure is located beyond the required buffer or building setback zone based upon wetland type.

Following a determination of exemption by the planning director, a written decision shall be prepared stating reasons for the exemption and the decision shall be sent to all interested persons and agencies who are involved or who wish to be notified of such decisions.

8. The planning director may require additional information deemed necessary to verify compliance with the provisions of this chapter or to evaluate the proposed use in terms of the purposes of this chapter.

F. Filing Fees. At the time of an application request, the applicant shall pay a filing fee as determined by the city council by resolution. Sufficient fees shall be charged to the applicant to cover the costs of evaluation of the application. As deemed necessary by the planning director, the city may assess additional reasonable fees as needed to monitor and evaluate permit compliance and mitigation measures.

G. Notification. Upon receipt of the completed critical areas permit application, the planning department shall issue a determination of completeness and notify the individuals and agencies, including federal and state agencies, having jurisdiction over or an interest in the matter, to provide such individuals and agencies opportunity to comment. The planning department shall establish a mailing list of all interested persons and agencies who wish to be notified of such applications.

H. Notice of Filing. The owner of any property with a critical area and/or critical area buffer verified on site in relationship to a development proposal shall record a notice of presence of the critical area and/or buffer with the Spokane County auditor. Such recording shall contain notice of the critical area and/or buffer and the application of this chapter to said property. The applicant must submit proof that the notice has been legally recorded before the final approval for development is issued. The notice shall run with the land and failure to provide such notice to any purchaser prior to transferring any interest in the property shall be in violation of this chapter.

I. Public Hearing. Following the submittal of an application determined to be complete by the planning director, the ~~planning commission~~ hearing examiner shall hold a hearing on the application, unless the planning director finds that the activity is so minor as to not affect a critical area. If a public hearing is required, notice shall be given in accordance with Chapter 18.88 DPMC. Regardless of whether or not a public hearing is required, the notice of application provisions of DPMC Title 19 apply to all applications under this chapter.

J. Permit Actions. The ~~planning commission~~ shall approve, approve with conditions, or deny an application within the time frame required in DPMC Title 19, except that where additional information is required by the commission, the period may be extended in accordance with the provisions of DPMC Title 19. In acting on the application, the ~~planning commission~~ hearing examiner shall, in writing, deny, approve, or conditionally approve the proposed activity in accordance with the notice of decision requirements of DPMC Title 19.

K. Application Approval. An application shall only be approved if the application, as conditioned, is consistent with the provisions of this chapter. Additionally, permits shall only be granted if:

1. A proposed action avoids adverse impacts to critical areas or their buffers or takes affirmative and appropriate measures to minimize and compensate for unavoidable impacts;
2. The proposed activity results in no net loss.

L. Critical areas applications shall not be effective and no activity thereunder shall be allowed during the time provided to file an appeal. (Ord. 890 § 3, 2010; Ord. 802 § 3, 2003; Ord. 722 § 130, 1998; Ord. 659 § 1, 1994)

#### **18.70.060 Agricultural lands.**

[Section reserved/No applicability] (Ord. 659 § 1, 1994)

### **18.70.070 Aquifer recharge areas.**

Any land use having a significant potential to contaminate the water. Portions of the area within the city of Deer Park city limits lie over the Deer Park ground water basin. The ~~planning commission~~ hearing examiner in review of permits will therefore use regulations from the Federal Clean Water Act, Spokane County aquifer overlay zone and other state and county acts and policies related to the aquifer. (Ord. 659 § 1, 1994)

### **18.70.080 Fish and wildlife habitat conservation areas.**

The following rating system is hereby adopted as the rating system for classifying fish and wildlife conservation areas for the city of Deer Park.

A. Class 1 Fish and Wildlife Habitat Conservation Area. Class 1 fish and wildlife habitat conservation areas are lands including the following:

1. All seasonal ranges and habitat elements with which federal and state listed endangered, threatened, and sensitive species have primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.
2. Areas targeted for preservation by federal, state and/or local governments which provide fish and wildlife benefits, such as important waterfowl areas identified by the U.S. Fish and Wildlife Service and state conservation areas identified by Washington State.

B. Class 2 Fish and Wildlife Habitat Conservation Area. Class 2 fish and wildlife habitat conservation areas are all seasonal ranges and habitat elements with which state listed candidate and monitored species or priority game species have a primary association and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

C. Class 3 Fish and Wildlife Habitat Conservation Area. Class 3 fish and wildlife habitat conservation areas are habitats which include attributes such as comparatively high wildlife density, high wildlife species richness, significant wildlife breeding habitat, seasonal ranges or movement corridors of limited availability and/or high vulnerability. These habitats may include caves, islands, meadows, mature forests, snag-rich areas, talus slopes, and urban natural open space.

D. Buffer Zones for Fish and Wildlife Conservation Areas. The width of the required buffer zones shall adhere to the designated standard buffer widths set forth in DPMC 18.70.140, based upon their comparative numerical rating of importance. (Ord. 722 § 131, 1998; Ord. 659 § 1, 1994)

**18.70.090 Forest lands.**

[Section reserved/No applicability] (Ord. 659 § 1, 1994)

**18.70.100 Frequently flooded areas.**

...

I. Regulatory Control, Administration, Permits Required. The ~~city council~~ Planning Director shall be charged with the administration of this section governing “frequently flooded areas,” including the issuance of permits, the general supervision over planning, construction, operation, and maintenance of any works structures and improvements, public or private, that may affect flood conditions. The ~~city council~~ Planning Director shall have authority to examine, approve, approve with conditions, or reject designs and plans for any structure or works, public or private, to be erected or built, or to be reconstructed or modified, upon the banks or in or over the channel, or over and across the floodway or floodplain area of any stream officially mapped for flood hazards as noted elsewhere in this section.

J. Permits. No person shall have the authority or the right hereafter to construct, reconstruct, or modify any structure or works affecting floodwaters or altering the elevation of floodways within any special flood hazard areas. A development permit shall be obtained before construction of development begins within any area of special flood hazard. The permit shall be for all structures including manufactured homes as set forth in subsection (A)(18) of this section, and for all development including fill and other activities within the special flood hazard area.

1. No person shall operate or maintain, nor construct, reconstruct, or modify any structure or work, without a written permit, issued by the city of Deer Park after review of all plans and additional permits required for compliance with provisions of this section and after all review and analysis costs for permits are reimbursed to the city.

2. Compliance with the provisions of this section does not relieve the owner or developer from the responsibility of obtaining other permits which may be required pursuant to federal, state, or county laws, including approvals required by such other entities which related to environmental concerns, water systems and wastewater facilities.

3. Exception shall be when immediate emergency action must be taken in order to protect property or life from high velocity waters, after which permits must be approved to repair or restore damaged property or lands because of flood conditions.

K. Procedural Requirements for Permits and Licenses. Municipal approvals which relate to the development of land or subdivisions shall comply with provisions of DPMC Title 17,

Subdivisions, and provisions of this section for land within an area of special flood hazard. Any lot or site that has any portion of its area within a duly mapped frequently flooded area shall be bound by this section and by development regulations contained herein.

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize or eliminate flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;
4. Where base flood elevation data has not been provided or is not available from another authorized source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

L. Authority. The city of Deer Park shall consider and interpret information produced by the herein-identified federal, state, and county entities to verify those locations mapped as being subject to frequent flooding events of a 100-year probability. Whenever engineering analysis reports are furnished by an applicant, the evaluation shall provide for a zero-rise of elevation and the applicant shall submit evidence of reports to FEMA in the form of a Conditional Letter of Map Revision (CLOMR) request and approval. (Ord. 890 §§ 4 – 12, 2010; Ord. 722 § 132, 1998; Ord. 659 § 1, 1994)

#### **18.70.105 Spokane County shoreline program.**

The applicable provisions of ~~this~~ the most current county-wide and county-administered ~~document~~ shoreline master program and related documents are incorporated herein by reference.

A. Pursuant to RCW 36.70A.480 and WAC 173-26-020(9), Part Four (Use Regulations) of the “Spokane County Shoreline Program,” is hereby incorporated by reference into this section. This incorporation by reference, which governs activities in the vicinity of Dragoon Lake, adopts Spokane County’s regulations as currently constituted and/or as may be amended or modified in the future by the Spokane board of county commissioners.

B. In addition to this section, DPMC 18.70.080, 18.70.100, 18.70.110, and 18.70.130 also serve to potentially regulate portions of the area affected by this section (in and around the vicinity of Dragoon Lake). Therefore, where any applicable portion of any section of this chapter imposes a greater restriction or regulation upon buildings, structures, and/or uses than are imposed by other applicable sections, the most restrictive provisions shall apply. (Ord. 722 § 133, 1998)

### 18.70.160 Appeals.

All decisions by the planning director or the planning commission hearing examiner regarding this chapter shall be final unless, within the time frame provided for in DPMC Title 19 after the issuance of a notice of decision, the applicant or another party of record as defined in DPMC Title 19, appeals the decision in writing to the city council.

A. If the staff's or planning commission's hearing examiner's notice of decision was rendered in an administrative capacity, following a public meeting rather than an open record public hearing, the appeal proceeding before the City Council shall take the form of an open record appeal in accordance with DPMC Title 19.

B. If the planning commission's hearing examiner's notice of decision was rendered in the commission's quasi-judicial capacity, following an open record public hearing, the appeal proceeding before the City Council shall be take the form of a closed record appeal in accordance with DPMC Title 19.

C. For any appeal under this section, the city shall provide for the record that shall consist of the following:

1. Written findings and conclusions;
2. Written minutes to the proceedings;
3. A typed transcript of the proceedings upon request and at a fee established by resolution of the City Council, to be paid by the appellant; and
4. All other materials pertinent to the appeal as set forth in DPMC Title 19. (Ord. 722 § 135, 1998; Ord. 659 § 1, 1994)

All decisions of the Planning Director or the Hearing Examiner regarding this chapter shall be final. Any appeal of the final decision of the Planning Director or Hearing Examiner must be made within the time frame established by state law following the City's issuance of a notice of decision for the appeal of matters pursuant to the Land Use Petition Act , Chapter 36.70C RCW. Appeals shall be timely made pursuant to state law to the Superior Court for the State of Washington in and for Spokane County. Appeals must be filed by the applicant or a Party with standing as defined in the state Land Use Petition Act, Chapter 36.70C RCW.

The City shall provide a record for purposes of appeal that shall consist of the following:

- A. Written findings, conclusions and decisions;
- B. A typed transcript of the proceedings produced at the request of the appellant upon payment by the appellant of the actual costs incurred by the City to produce the transcript.

**18.70.170 Enforcement.**

A. General. No activity requiring a critical areas permit shall be conducted without approval from the planning director and without full compliance with this chapter. Those activities not specifically authorized are prohibited.

B. Administration. The planning director is authorized to enforce the provisions of this chapter.

C. Inspections. The planning director or authorized representative is authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

D. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the planning director or authorized representative has reasonable cause to believe that there exists upon any premises any condition which violates the provisions of this chapter, the planning director or authorized representative may enter such premises at all times to inspect the same or perform any duty imposed upon by this chapter.

E. Violation. Any person, firm or corporation who violates any provisions of this chapter or who fails, refuses or neglects to comply with the terms, conditions or final orders issued under this section within the time provided in such order, ~~is guilty of a misdemeanor~~ shall be deemed to have committed a civil infraction. Each day the violation continues following notice by the city to the person, firm or corporation committing the violation shall be considered a separate civil infraction for which a separate monetary penalty may be assessed. The monetary penalty which may be assessed for each violation for each day of a continuing violation is that monetary penalty set forth in DPMC 1.16.020. (Ord. 659 § 1, 1994)

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**18.74.050 Parking lot design, surfacing and marking requirements.**

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A. All off-street parking and commercial or industrial storage areas within any business, commercial, cemetery, ~~hospital~~, mixed use, industrial, or public/quasi-public zoning classification shall be graded and a paved surface installed before a certificate of occupancy for the building is issued. All paving shall be done in a manner consistent with methods set forth by engineering standards and this code, except for the exemptions listed below, which shall be graded and hard-surfaced:

1. Parking and storage areas routinely used by cleated and other heavy equipment as approved by the planning commission.
2. The planning commission may waive portions of these requirements upon recommendation by the Spokane County air pollution control authority when it can be

demonstrated that the proposed surface, such as grass pavers or other technology, will not adversely affect air quality, water quality or the integrity of the parking areas.

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## Chapter 18.76 VARIANCES

### Sections:

- 18.76.010 Power to decide requests for variances.
- 18.76.020 Intent.
- 18.76.030 Procedure.
- 18.76.040 Public notice.
- 18.76.050 Hearing.
- 18.76.060 Findings of fact.
- 18.76.070 Approval.
- 18.76.080 Appeals.

### **18.76.010 Power to decide requests for variances.**

~~Until required by RCW 35A.63.110 to create a~~ The hearing examiner, ~~the commission and council~~ shall hear and decide all requests for variance from the rules, regulations and requirements of this title. ~~When created, the hearing examiner shall assume this power of the council and the commission to hear and decide variance requests.~~ Building permit applications shall not be considered until a final decision is made on a request for variances. (Ord. 394 § 2.42, 1981)

### **18.76.020 Intent.**

Variance from this title may be authorized where, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of this title would cause undue or unnecessary hardship. Such variance from the terms of this title shall not be granted unless and until all procedures and requirements of this chapter are complied with. (Ord. 394 § 2.42.02, 1981)

### **18.76.030 Procedure.**

An application for a variance shall be processed as a Type III (quasi-judicial) application in accordance with the provision of this title and of DPMC Title 19 unless a conflict with the provisions exists in which case the provisions of this chapter shall apply. ~~comply with the Type III (quasi-judicial) application procedures set forth in DPMC Title 19.~~ Written application for a variance shall be submitted to the planning commission hearing examiner demonstrating:

- A. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zone;
- B. That literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same zone under the terms of this title;

C. That the special conditions and circumstances do not result from any illegal action on the part of the applicant;

D. That granting the variance request will not confer on the applicant any special privilege that is denied by this title to other lands, structures, or buildings in the same zone; and

E. No nonconforming use of neighboring lands, structures, or buildings in the same zone, and no permitted use of lands, structures, or building in other zones, shall be considered grounds for issuance of a variance. (Ord. 722 § 143, 1998; Ord. 394 § 2.42.04, 1981)

#### **18.76.040 Public notice.**

Within 30 days of issuance of a determination of completeness for such application, the planning director shall give notice of public hearing setting the time, place, and purpose of the hearing, and giving other notice of application/public notice information as required in this title and in DPMC Title 19, which shall be published in a newspaper of general circulation in the city, posted on the site, and posted at the City Hall and other public locations, within the time frame prescribed in this title and in DPMC Title 19 prior to the date of the hearing. In accordance with DPMC Title 19, the planning director may provide additional public notice at his discretion (i.e., mailing notice to abutting or surrounding property owners, etc.). (Ord. 722 § 144, 1998; Ord. 394 § 2.42.06, 1981)

#### **18.76.050 Hearing.**

A public hearing shall be held before the ~~planning commission~~hearing examiner in accordance with Chapter 18.88 DPMC and DPMC Title 19. (Ord. 722 § 145, 1998; Ord. 394 § 2.42.08, 1981)

#### **18.76.060 Findings of fact.**

The ~~planning commission~~hearing examiner shall make findings of fact as to whether the requirements of DPMC 18.76.030 and RCW 35A.63.110 have been met by the applicant and forward such findings of facts to the applicant, and other interested parties, ~~and the city council~~ in its notice of decision. (Ord. 722 § 146, 1998; Ord. 394 § 2.42.10, 1981)

#### **18.76.070 Approval.**

A variance may be approved, approved with conditions, or denied. Before approving an application and granting a variance, the ~~planning commission~~hearing examiner shall:

A. Make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that would make possible the reasonable use of the land, building, or structure;

B. The ~~planning commission~~hearing examiner shall further make a finding that the granting of the variance will be in harmony with the general intent and purpose of this title and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare;

C. In granting any variance, the ~~commission-hearing examiner~~ may prescribe appropriate conditions and safeguards in conformity with this title. Any such conditions shall be set forth in the ~~commission's-hearing examiner's~~ notice of decision. Noncompliance with such conditions and safeguards that are made a part of the conditions under which the variance is granted shall be deemed a violation of this title and punishable under Chapter ~~18.108~~ DPMC. (Ord. 722 § 147, 1998; Ord. 394 § 2.42.12, 1981)

#### **18.76.080 Appeals.**

The decision of the ~~planning commissionhearing examiner~~ granting or denying a variance under this chapter may be ~~timely~~ appealed ~~pursuant to Chapter 36.70C RCW to Spokane County Superior Court by to the city council by~~ any party with standing to initiate an appeal as defined in ~~DPMC 19.16.090(D)said state law. Any such appeal shall be a closed record appeal before the city council and shall comply with Chapter 18.96 DPMC and DPMC Title 19.~~ (Ord. 722 § 148, 1998)

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#### **18.78.020 Definitions.**

For the purpose of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

...

B. "Bulletin board" means any sign erected by a charitable, educational or religious institution or by a public agency, which is erected upon the same property as said institution or agency, for the purposes of announcing events which are held on the premises, and contains no commercial message. Announcement of event signs shall be removed from all bulletin boards within two days after the event takes place; however, lost and found pets and personal property information on public agency bulletin boards may be retained until the pet or property is reunited with its owner, but in no event for longer than 120 days after the initial date that the pet or personal property was lost or found.

...

M. "Window sign" means any sign, pictures, symbol, or combination thereof, that is placed inside a window or upon a window. (Ord. 797 § 1, 2003; Ord. 722 § 150, 1998; Ord. 686 § 1, 1996)

#### **18.78.030 Permits required – Exception.**

A. No sign shall hereafter be erected, re-erected, constructed, painted, posted, applied or structurally altered except as provided in this section and pursuant to a sign permit issued by the planning director. A separate sign permit shall be required for each group of signs on a

single, supporting structure installed simultaneously. Thereafter, each additional sign erected on the structure must have a separate sign permit.

B. Exceptions. The following shall not require a sign permit; provided, however, that these exceptions shall not be construed as relieving the owner from the responsibility to comply with the provisions of this code or any other law or ordinance, including the Uniform Building Code.

1. The changing of the advertising copy or message on a lawfully erected sign, readerboard, or similar sign specifically designed for replaceable copy;
2. Painting, repainting, or normal maintenance unless a structural or electrical change is made;
3. Temporary banners and temporary signs as permitted herein;
4. Real estate signs as permitted herein;
5. Temporary political signs;
6. One nonelectric bulletin board as permitted herein for each charitable, educational, or religious institution, or by a public agency, not exceeding 32 square feet per side of a two-sided sign;
7. Temporary contractor, architect, surveyor or engineer signs as permitted. (Ord. 797 § 2, 2003; Ord. 686 § 1, 1996)

#### **18.78.040 Permit process and fee.**

If a sign requiring a permit under the provisions of this chapter is to be placed, constructed, erected, or modified on a lot or parcel of property, the owner of the lot or parcel shall secure a sign permit prior to the construction, placement, erection, or modification of such sign. No signs shall be erected in the public right-of-way except in accordance with this chapter. No sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of this chapter, unless, under the variance provisions authorized in this chapter, the city has first authorized an exception to the signage area, bulk, height, and/or setback.

A. Applications. All applications for sign permits shall be submitted to the planning director on an application form or in accordance with the application specifications of the building inspector with the following minimum information:

1. Name, address and telephone number of the applicant;

2. Site plan of the parcel showing location of the building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected;
3. Position of the sign or other advertising structure in relation to nearby buildings or structures, including dimensional data;
4. Two blueprints of the plans with color designation, specifications, method of construction and attachment to the building or in the ground;
5. Name of person, firm, corporation erecting the structure and copy of contractor's license;
6. Written consent of the owner of the building, structure or land to which or on which the structure is to be erected;

Note: Items (1) and (2) are the only information necessary for banners and portable signs.

B. Fees. Each application for a sign permit shall be accompanied by the applicable fees, which shall be established by the city council from time to time by resolution. (Ord. 797 § 3, 2004; Ord. 686 § 1, 1996)

#### **18.78.160 Violations and penalty.**

Any of the following shall be a violation of this chapter and shall be subject to the enforcement remedies and penalties provided in DPMC 18.108, and by state law:

- A. To install, create, erect or maintain any sign in a way that is inconsistent with any plan or permit governing such sign to the zone lot on which the sign is located;
- B. To install, create, erect, or maintain any sign requiring a permit without such a permit;
- C. To fail to remove any sign that is installed, created, erected, or maintained in violation of this chapter, or for which the sign permit has lapsed; or
- D. To continue any such violation. Each such day of a continued violation shall be considered a separate violation when applying the penalty portions of this chapter. (Ord. 686 § 1, 1996)

**Chapter 18.80**  
**CONDITIONAL USE PERMITS**

**Sections:**

**18.80.010 Application and hearing.**

**18.80.020 Compliance required.**

**18.80.030 Notification of decision.**

**18.80.040 Appeals.**

**18.80.050 Siting of essential public facilities of state/region/countywide significance.**

**18.80.060 Permit Expiration.**

**18.80.070 General Conditions.**

**18.80.080 Bed and Breakfast Inns.**

**18.80.090 Public and Private Schools.**

**18.80.100 Commercial Day Care Facilities.**

**18.80.110 Houses of Religious Worship (including but not limited to, churches, mosques, synagogues, temples, convents, and related uses)**

**A.**

**B. 18.80.010 ~~Conditions~~Application and hearing.**

A conditional use permit application shall be processed as a Type III (quasi-judicial) application in accordance with the provisions of this title and of DPMC Title 19. The ~~commission~~ planning hearing examiner shall have the power to hear and decide only upon such conditional uses as the ~~commission~~ hearing examiner is specifically authorized to consider by the provisions of this title; to decide such questions as are necessarily involved in determining whether conditional use permits should be granted; and to grant such permits with such conditions and safeguards as are appropriate under this title, or to deny such permits when not in keeping with the purpose and intent of this title. A conditional use permit shall not be granted by the ~~commission~~ hearing examiner unless and until:

A. \_\_\_\_ A written application for a conditional use permit is submitted, and determined to be complete, indicating the section of this title under which a conditional use permit is sought and stating the grounds upon which it is requested;

B. \_\_\_\_ Notice of public hearing in accordance with the requirements of Chapter [18.88](#) DPMC and DPMC Title [19](#) shall be given;

C. \_\_\_\_ A public hearing shall be held before the [planning commission hearing examiner](#). Any party may appear in person or by agent or by attorney or by correspondence duly filed with the [planning department hearing examiner](#) prior to commencement of the public hearing;

D. \_\_\_\_ Before approving an application and granting the permit, the [commission hearing examiner](#) shall make a finding that it is empowered under that section of this title described in the application to grant the conditional use permit, and that the granting of such a permit will not adversely affect the public interest. (Ord. 722 § 156, 1998; Ord. 394 § 2.44.02, 1981)

#### **C. 18.80.020 Compliance required.**

In granting any conditional use permit, the [planning commission hearing examiner](#) may prescribe appropriate conditions and safeguards in conformity with this title. Any conditional use development or activity which does not comply with such conditions and safeguards, as are made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this title subject to revocation proceedings as set forth herein. The [planning commission hearing examiner](#) shall prescribe a time limit within which any conditional use shall commence or be completed, or both. Failure to comply with the time limit shall void the conditional use permit.

A. \_\_\_\_ The [planning commission hearing examiner](#) shall have continuing jurisdiction over any conditional use permit. To consider the revocation of a conditional use permit, the [planning commission hearing examiner](#) shall hold a public hearing after giving notice by the same procedure as for consideration of a conditional use permit request. The [planning commission hearing examiner](#) may revoke and terminate the conditional use permit, in whole or in part, reaffirm the conditional use permit, modify the conditions, or impose new conditions. The action of the [planning commission hearing examiner](#) is appealable by the same procedure as for the conditional use permit.

B. \_\_\_\_ A conditional use permit may only be revoked, or conditions modified or added, on any one or more of the following grounds:

1. \_\_\_\_ That the conditional use permit was obtained by fraud or misrepresentation; or

2. \_\_\_\_ That the conditional use permit has been exercised contrary to any of the terms or conditions of approval; or
3. \_\_\_\_ That the use is in violation of any statute, ordinance, law, or regulation; or
4. \_\_\_\_ That the use permitted by the conditional use permit is being, or has been, so exercised as to be detrimental to the public health, safety, or welfare, or as to constitute a nuisance. (Ord. 722 § 157, 1998; Ord. 394 § 2.44.04, 1981)

**D. 18.80.030 Notification of decision.**

A. \_\_\_\_ Upon approval, approval with conditions, or denial of an application for a conditional use permit by the ~~planning commission~~hearing examiner, the planning director shall cause to be sent a written notice of decision of the permit determination to the building official, the applicant, other parties of record, and interested agencies, ~~and the city council~~. All conditions to be met by the applicant, when applicable, including, but not limited to, a required project timetable for completion/implementation, shall be stated in the notice of decision.

B. \_\_\_\_ Upon application for the necessary building permits, the applicant shall present a project completion/implementation timetable ~~as if~~ required by the ~~planning commission~~hearing examiner. The building official shall then notify the planning director of the verified timetable for compliance with the conditions attached to the permit.

C. \_\_\_\_ The building official shall report, in writing, to the planning director on:

1. \_\_\_\_ Any noncompliance with said conditions, including the project timetable; and
2. \_\_\_\_ Completion of the project under the conditional use permit.

D. \_\_\_\_ Upon completion of the project and full compliance by the applicant, the planning director shall ~~promptly submit to the planning commission~~make a written report regarding such completion and compliance for the city file. (Ord. 722 § 158, 1998; Ord. 394 § 2.44.06, 1981)

**E. 18.80.040 Appeals.**

The decision of the ~~planning commission~~hearing examiner granting or denying a conditional use permit under this chapter may be appealed to ~~the city council by any party with standing to initiate an appeal as defined in DPMC 19.16.090(D). Any such appeal shall be a closed record appeal before the city council and shall comply with Chapter 18.96 DPMC and DPMC Title 19the~~ Spokane County Superior Court in accordance with the time requirements set forth in Section 2.48.150 of the Deer Park Municipal Code. (Ord. 722 § 159, 1998)

**F. 18.80.050 Siting of essential public facilities of state/region/countywide significance.**

The regional siting process contained in the essential public facilities element of the comprehensive plan, as it presently exists or as it may be amended in the future, shall be adhered to as a prerequisite for the siting of essential public facilities of statewide or region/countywide significance. In the event that, after completion of the aforementioned regional siting process, the final site selected for implementation of any such essential public facility lies within the city, the application for such facility shall adhere to the processing provisions of this chapter, regardless of the zoning classification in which the property is situated.

However, nothing herein precludes the city from initiating itself, or requiring the applicant to initiate, a comprehensive plan amendment and/or a zone change to a more appropriate classification(s), concurrently with the conditional use permit for the subject facility, if the city, in its discretion, deems such change(s) to be appropriate for the facility. (Ord. 791 § 3, 2002)

~~Permit—Expiration~~ **18.80.060 Permit Expiration.**

- A. If not otherwise specified by the ~~planning commission hearing examiner~~, a conditional use permit shall expire at the end of a period of one year from the time ~~they are~~ it is granted if the use for which the permit is granted is not established by that time.
- B. ~~The permit expires at the time the~~ A conditional use permit shall expire one year following the date when the use for which the permit was granted is discontinued.

~~Evaluation Criteria and General Standards~~ **18.80.070 General Conditions.**

Conditional uses, as conditioned, shall comply with the following ~~evaluation criteria and general standards~~:

- A. The proposed use will be harmonious and in accordance with the general and specific objectives of the comprehensive plan and all subarea plans;
- B. The proposed use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity;
- C. The traffic generated by the proposed use shall be mitigated so as not to burden the traffic circulation system in the vicinity;
- D. The proposed shall be conditioned, as appropriate, so that the use will be adequately served by facilities and services such as highways, streets, law enforcement, fire protection, storm water drainage, refuse disposal, domestic water and sanitary sewers and schools; ~~or that~~

~~persons or agencies responsible for the establishment of the proposed use shall provide adequate services;~~

E. The proposed use will not create excessive additional requirements at public cost for public facilities and services;

F. The proposed use will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, vibration, glare, or odors;

G. Proposed ingress and egress, driveway widths, parking, and street improvements shall be approved pursuant to applicable ~~chapters-provisions~~ of the DPCDeer Park Municipal Code;

H. Adequate buffering devices such as fencing, landscaping, or topographic characteristics shall be in place in order to mitigate and protect adjacent properties from potential adverse impacts of the proposed use, including visual and/or auditory effects;

I. Conditional use permits shall comply with ~~the DPC and~~ all applicable local, state, and/or federal regulations;

J. A conditional use shall ordinarily comply with the standards of the district within which the use is located and with the other applicable provisions of the DPCDeer Park Municipal Code, except as modified by the approval of the conditional use permit ~~and the standards of this chapter or as otherwise specified in the DPC.~~

K. The hearing examiner may, in addition to the standards and regulations specified in ~~the DPC~~the Deer Park Municipal Code, establish other conditions found necessary to protect the health, welfare, safety, and interest of surrounding properties, the neighborhood, and the city as a whole. These conditions may address the following:

1. Increasing the required lot size or yard dimensions;
2. Limiting the coverage or height of buildings
3. Mitigating traffic impacts through on-site and off-site improvements;
4. Increasing the number of off-street parking and loading requirements;
5. Limiting the number, location, design, and size of signs and illumination devices;
6. ~~Increased~~Increasing required landscaping components to reduce noise and visual impacts, including glare;
7. Specifying time limits for construction and/or operation of the use;
8. Requiring performance assurances acceptable to the city ~~attorney~~planning director;

9. Specifying time frames for compliance review; and
10. Other conditions deemed appropriate to address the requirements and intent of this chapter, ~~the DPC, and the comprehensive plan~~ and the provisions of the Deer Park Municipal Code,

## **Home Occupations**

### **18.80.080 Bed and Breakfast Inns.**

The minimum conditions for a bed and breakfast ~~facility~~ inn shall be as follows:

- A. The bed and breakfast facility shall be the principal residence of the owner;
- B. A bed and breakfast inn shall be compatible with the residential character of the neighborhood and the owners shall provide screening with shrubs, fencing, and other suitable materials to minimize the impact upon the residential character of the neighborhood;
- C. The applicant for a conditional use permit for a bed and breakfast inn shall at the time of filing the application provide evidence to the hearing examiner of compliance with all health, building, and fire regulations.
- D. Off-street parking as required in Chapter 18.74 DPMC shall be behind the front yard setback line and shall be screened so as to minimize the visual and audio impact upon the residential character of the neighborhood;
- E. Each bed and breakfast ~~guest house facility~~ inn may have one sign advertising the ~~facility~~ inn which shall comply with the sign regulations in Chapter 18.78 DPMC;
- F. Bathrooms must be provided in accordance with ~~county and~~ state bed and breakfast inn regulations;
- G. Guests shall limit their length of stay to not more than three weeks;
- H. All conditional use permits for bed and breakfast ~~facilities~~ inns shall be nontransferable to subsequent owners of the residence;
- I. Not more than ~~25-40~~ percent of the square footage of floor space of any facility shall be used for bed and breakfast inn purposes;
- J. All applications for bed and breakfast inn conditional use permits shall be accompanied with a floor plan and lot plan setting forth the size and location of bathrooms and bedrooms to be used for bed and breakfast ~~guest house facilities~~ guests. The lot plan shall also show the size and location of off-street parking.
- K. ~~Serving m~~ Meals served shall be limited to paying overnight guests ~~staying at the facility~~ only of the inn.

**18.80.090 Public and Private Schools.**

The minimum conditions for public and private schools shall be as follows:

- A. Minimum land area standards that are established by the State of Washington Office of Superintendent of Public Instruction;
- B. Signage, if any, will comply with DPC 18.78;
- C. Fifty-foot setback on front, side, and rear yards for a proposed school located in any residential district;
- ~~D.~~ Off-street parking area equal to at least five times the floor area of the auditorium or two stalls per classroom, whichever is greater.

**18.80.100 Commercial Day Care Facilities.**

Depending upon the zone where the daycare is proposed to be located, the following minimum conditions shall apply to commercial day care facilities:

- A. In Residential Zoning Districts

The minimum conditions for commercial day care facilities ~~in~~ if allowed as conditional uses in any residential zoning districts shall be as follows:

- 1. Meet Washington State child day care licensing requirements.
- 2. Comply with all building, fire safety, health code, and business license requirements.
- 3. Lot size, building size, setbacks and lot coverage shall conform to the standards of the underlying zoning district except if the structure is a legal nonconforming structure.
- 4. Parking requirements shall conform to Chapter 18.74 DPMC.
- 5. Shall provide certification of the facility licensor (DSHS) that there are adequate drop-off and pick-up areas.
- 6. Signage, if any, will conform to Chapter ~~18.78~~ DPMC~~No signage will be permitted other than signage permitted in the specific zoning district, if any.~~
- 7. Filing of a business registry application form with the city as required in DPMC 5.02.030.
- 8. No structural or decorative alteration which will alter the character of the existing structure used for a commercial day care center is permitted. Any new or remodeled structure must be designed to be compatible with the character of the surrounding neighborhood.
- 9. The licensee shall provide a securely fenced play area which meets the height requirements for front, side and rear yards according to Chapter ~~10.12~~18.94 DPMC.
- 10. The site must be landscaped in a manner compatible with adjacent residences

- B. All Other Zoning Districts

The minimum conditions for commercial day care facilities in all other zoning districts, including commercial and industrial zoned districts, shall be as follows:

1.      Meet Washington State child day care licensing requirements.
2.      Comply with all building, fire safety, traffic safety, health code and business licensing requirements.
3.      Lot size, building size, setbacks and lot coverage shall conform to the standards of the underlying zone.
4.      Parking requirements shall conform to Chapter 18.74 DPMC.
5.      Filing a business registry application form with the city as required in DPMC 5.02.030.
6.      The licensee shall provide a securely fenced play area which meets the height requirements for front, side and rear yards according to DPMC ~~10.12.020~~18.94 (Ord. 680 § 1, 1996)

~~Publicly Operated Transmission Facilities and Privately Operated Public Utility Uses, Structures, or Transmission Facilities~~

~~The minimum conditions for publicly operated transmission facilities and privately operated public utility uses, structures, or transmission facilities shall be as follows:~~

- ~~A. Completely enclosed within buildings which conform to and harmonize with surrounding buildings as to type of architecture and landscaping and comply with the setback requirements of the Commercial Recreation Zone DPC 18.30; or~~
- ~~B. If the use is of an outdoor nature, such as a neighborhood substation, it shall be completely enclosed in a view-obscuring fence or hedge, with the exterior grounds landscaped; such enclosure to meet the following setback requirements: front yard, 30 feet; side yard, 20 feet; and rear yard, 10 feet if abutting on alley, otherwise 20 feet.~~

**18.80.110 Houses of Religious Worship (including, but not limited to, churches, mosques, synagogues, temples, convents, and related uses)**

The minimum conditions for houses of religious worship shall be as follows:

- A. Minimum lot area shall be 10,000 square feet;
- B. Minimum lot frontage shall be 100 feet;
- ~~1. Site must be on or within one block of an arterial street as designated in the comprehensive plan;~~
- C. Maximum lot coverage shall be 25 percent for all buildings;

D. ~~Maximum height shall be 40 feet;~~

D. Minimum setback distances shall be as follows: front yard, 30 feet; side yard, 15 feet; and rear yard, 20 feet. Building on corner lots shall observe the minimum setback on both streets;

E. Parking requirements shall be in accordance with the requirements of Chapter 18.74.030 DPMC.

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### **18.82.030 Family day care – Permitted when certain requirements met.**

A. Family Day Care. A family day care shall be a permitted use in DPMC 18.20.020, 18.23.020, 18.24.020, 18.27.020, 18.28.020, 18.56.020 and 18.64.020 and shall be subject to the following requirements:

1. Meet Washington State child day care licensing requirements.
2. Comply with all building, fire safety, health code, and business licensing requirements.
3. Lot size, building size, setbacks and lot coverage shall conform to the standards of the underlying zoning district except if the structure is a legal nonconforming structure.
4. Parking requirements shall conform to Chapter 18.74 DPMC.
5. Shall provide certification of the facility licenser (DSHS) that there is adequate child drop-off and pick-up areas.
6. Signage, if any, will conform to Chapter 18.78 DPMC.
7. Filing of a business registry application form with the city as required in DPMC 5.02.030.
8. No structural or decorative alteration which will alter the single-family character of an existing or proposed residential structure or be incompatible with surrounding residences is permitted.
9. The licensee shall provide a securely fenced play area which meets the height requirements for front, side and rear yards according to DPMC ~~18.94 10.12.020~~.
10. The site must be landscaped in a manner compatible with adjacent residences.
11. Provide written evidence that all adjacent property owners of the family day care have been notified of the proposed use and a 10-day comment period shall be established before any final action is taken on the proposal.

12. The planning director or his/her designee may impose reasonable conditions on the approval of the family day care permit in order to ensure that the criteria of this chapter are met and that the facility is in harmony with the surrounding neighborhood.

~~13. Review Process.~~

~~a. Any condition imposed by the city under subsection (A)(12) of this section shall undergo a review process by the planning commission if requested by any person within 10 days after imposition of the condition. The conditions when requested will be reviewed by the commission within 20 days after request is made.~~

~~b. Any person may appeal a condition that is imposed by the city and decided upon by the planning commission for a family day care facility by appealing the condition to the city council. Any appeals shall be made in writing to the city council within 10 days of the commission's written decision. (Ord. 680 § 1, 1996)~~

**18.82.040 Commercial day care – Permitted when**

Commercial day care may be allowed in the designated zoning districts as follows:

A. Commercial day care facilities within residential zoning districts under DPMC [18.20.020](#), [18.23.020](#), [18.24.020](#), [18.27.020](#), [18.28.020](#), [18.56.020](#) and [18.64.020](#) may be allowed only upon issuance of a conditional use permit and when accessory to an existing school or church pursuant to Chapter [18.80](#) DPMC. Commercial day cares located within commercial/commercial diversified/light industrial zoning districts under DPMC [18.32.020](#), [18.40.020](#) and [18.48.020](#) will be subject to a conditional use permit.

1. Conditional Use Permit Requirements. In addition to the requirements of Chapter [18.80](#) DPMC, commercial day cares in residential zoning districts shall meet the following requirements:

- a. Meet Washington State child day care licensing requirements.
- b. Comply with all building, fire safety, health code, and business license requirements.
- c. Lot size, building size, setbacks and lot coverage shall conform to the standards of the underlying zoning district except if the structure is a legal nonconforming structure.
- d. Parking requirements shall conform to Chapter [18.74](#) DPMC.
- e. Shall provide certification of the facility licenser (DSHS) that there are adequate drop-off and pick-up areas.

f. Signage, if any, will conform to Chapter [18.78](#) DPMC.

g. Filing of a business registry application form with the city as required in DPMC [5.02.030](#).

h. No structural or decorative alteration which will alter the character of the existing structure used for a commercial day care center is permitted. Any new or remodeled structure must be designed to be compatible with the character of the surrounding neighborhood.

i. The licensee shall provide a securely fenced play area which meets the height requirements for front, side and rear yards according to Chapter ~~10.12~~[18.94](#) DPMC.

j. The site must be landscaped in a manner compatible with adjacent residences.

B. All Other Zoning Districts. A commercial day care center is permitted by right in all commercial and industrial zoned districts subject to the following requirements:

1. Meet Washington State child day care licensing requirements.
2. Comply with all building, fire safety, traffic safety, health code and business licensing requirements.
3. Lot size, building size, setbacks and lot coverage shall conform to the standards of the underlying zone.
4. Parking requirements shall conform to Chapter [18.74](#) DPMC.
5. Filing a business registry application form with the city as required in DPMC [5.02.030](#).
6. The licensee shall provide a securely fenced play area which meets the height requirements for front, side and rear yards according to DPMC 10.12.020 (Ord. 680 § 1, 1996)

#### **18.82.060 Appeals.**

Any appeal of a decision of the Planning Director made pursuant to the provisions of this Chapter shall be considered an appeal of an administrative land use decision and shall be made by the applicant or another party with standing as defined under the state Land Use Petition Act, Chapter 36.70C RCW. Any appeal shall be made within the time frame following the notice of decision as set forth in the state Land Use Petition Act, Chapter 36.70C RCW.

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### **18.84.010 Purpose of provisions.**

There are some instances when the private sector needs to use city property for uses other than what the property was initially intended for. A special use permit provides for consideration of factors affecting the suitability of the proposed activity. An example would be use of a platted, but undeveloped, public right-of-way for private access to private property as yet undeveloped city right of way for access to private property. The purpose of this Chapter is to provide a process for the city to accept and evaluate applications for such uses. (Ord. 722 § 161, 1998)

### **18.84.060 City council decision.**

The city council shall render its written notice of decision within 30 days after receipt of the planning commission's findings and recommendations, unless such time limit is extended by the city council.

A. The city council may grant a special use permit if the application is found to be of a beneficial nature to the community and that adjacent and surrounding properties will not be adversely impacted.

B. In granting a special use permit, the council shall state under what conditions, if any, the permit has been issued. Any such conditions must be complied with. Violation of any condition shall result in revocation of the permit, and further use of the property shall constitute a violation of this title and shall be punishable under Chapter 18.108 DPMC. (Ord. 722 § 161, 1998)

C. The decision of the City Council may include a time limitation for the special use permit or a provision that the special use permit may be terminated by the city upon providing a defined period of notice prior to the termination.

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## **Chapter 18.86 SPECIAL SETBACK ORDINANCE**

### **Sections:**

- ~~18.86.010 Purpose.~~
- ~~18.86.020 Types of special setbacks.~~
- ~~18.86.030 Authority of the city council.~~
- ~~18.86.040 Authorization for initiation.~~
- ~~18.86.050 Application filing.~~
- ~~18.86.060 Filing fees.~~
- ~~18.86.070 Public hearing and notice.~~

~~18.86.080~~ Recommendation of the planning commission.

~~18.86.090~~ Action by the city council.

**~~18.86.010 Purpose.~~**

~~In accordance with the goals and policies of the comprehensive plan of the city, and in furtherance of the public health, safety, and general welfare, provisions for special setback ordinances are authorized in order to establish greater or lesser yard (setback) areas from a particular street or highway, a series of streets or highways, railroad rights-of-way, or other property lines, than are provided for in the zone in which the property is located, in order to allow for:~~

~~A. Future street dedication and/or widening in accordance with the transportation element of the comprehensive plan;~~

~~B. Protection of the public from noise nuisance factors associated with major streets and highways, other rights-of-way, or other uses; and/or~~

~~C. Protection of the public from other environmental nuisance conditions which can be obnoxious to persons of normal sensitivity. (Ord. 722 § 162, 1998)~~

**~~18.86.020 Types of special setbacks.~~**

~~For the purposes of this chapter, a special setback may take any of the following forms, or combinations thereof, as determined by the city council to be most appropriate for a particular situation:~~

~~A. A specific distance for structural improvements from a right-of-way or property line;~~

~~B. A combination of a specific distance from a right-of-way or property line and placement of a solid masonry wall or solid fence with a height above ground level as specified by the city council; and/or~~

~~C. A combination of a specific distance from a right-of-way or property line and placement of an earthen berm, the height of which, excluding landscaping thereon, shall be as specified by the city council. (Ord. 722 § 162, 1998)~~

**~~18.86.030 Authority of the city council.~~**

~~Special setbacks may be established or changed whenever adopted by ordinance of the city council in accordance with the provisions of this chapter. (Ord. 722 § 162, 1998)~~

**~~18.86.040 Authorization for initiation.~~**

~~Applications for a special setback ordinance may be initiated by either:~~

~~A. The verified application of the record owner or owners of the subject property or authorized agent thereof; or~~

~~B. The planning commission or city council through its own motion. (Ord. 722 § 162, 1998)~~

**~~18.86.050 Application filing.~~**

~~Applications for special setback ordinances shall be made on forms available from the city. Applications shall contain all required information relevant to the proposed action, including but not limited to maps, drawings to scale of land and buildings, dimensions, descriptions, and data necessary to demonstrate that the proposed special setback is in conformance with the purpose and intent of this chapter as set forth in DPMC 18.86.010. Special setback requests shall be subject to the Type III (quasi-judicial) provisions of DPMC Title 19. (Ord. 722 § 162, 1998)~~

**~~18.86.060 Filing fees.~~**

~~Filing fees in an amount specified by resolution of the city council shall be paid upon the filing of each application for a special setback ordinance for the purpose of defraying the expense of postage, posting, advertising, and other costs of labor and materials incidental to the proceedings prescribed herein. (Ord. 722 § 162, 1998)~~

**~~18.86.070 Public hearing and notice.~~**

~~When an application for a special setback ordinance is filed, or is initiated by the city, an open record public hearing shall be scheduled before the planning commission. The city clerk shall give notice of the public hearing in accordance with the requirements of Chapter 18.88 DPMC and DPMC Title 19. (Ord. 722 § 162, 1998)~~

**~~18.86.080 Recommendation of the planning commission.~~**

~~The planning commission shall hold a public hearing and consider all evidence presented for and against the proposed special setback ordinance, and shall consider all arguments pertinent thereto. A copy of the commission's recommendation shall be submitted to the council. Any party of record aggrieved by the commission's recommendation may file a request for a closed record appeal proceeding before the city council pursuant to DPMC Title 19. (Ord. 722 § 162, 1998)~~

**~~18.86.090 Action of the city council.~~**

~~The city council shall, at a public meeting, consider the proposed special setback ordinance, taking into consideration the planning commission report and recommendation. The council shall approve, approve with modifications, or disapprove the recommendation of the planning commission. (Ord. 722 § 162, 1998)~~

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**18.88.010 Procedures.**

All applications and petitions processed under this title shall comply with DPMC Title 19 in addition to complying with the procedural provisions of this title.

A. Upon receipt of an application or petition for a variance, conditional use permit, special use permit, rezone, or any amendments, supplementations, or modifications of the comprehensive plan or this zoning title of the municipal code of the city, the planning ~~commission director~~ shall cause to be set a date and time for a public hearing before the ~~hearing examiner or the planning~~ commission and give appropriate notice of the date, time, and place of such hearing, within the time frames required by DPMC Title 19 before the date set for such hearing. ~~The chairperson of the planning commission or the planning director will set such hearing date in accordance with the time frames established in this title and in DPMC Title 19.~~

1. As provided for in certain chapters of this title and in DPMC Title 19, the city's legislative actions pertaining to the comprehensive plan, the text of this title, and the text of other titles of this municipal code governed by Chapters 36.70A and 36.70B RCW, have more flexibility in notification procedures, the number of public hearings, and the timing for final notices of decisions.

B. The findings and determination of ~~hearing examiner or~~ the planning commission made after such public hearing shall be in writing, in the form of a notice of decision as required in DPMC Title 19, and a copy thereof shall be submitted to the applicant or petitioner, other parties of record, municipal departments and interested agencies, and also to the city council within the time frame required in DPMC Title 19 after such findings and determinations have been made. (Ord. 722 § 163, 1998; Ord. 394 § 2.48.02, 1981)

#### **18.88.030 Notice.**

When the petition or application has been filed with the city and has been issued a determination of completeness, the city clerk and/or the planning director shall give notice in advance of the public hearing in accordance with the time frames established in DPMC Title ~~18, 19, or other titles of this code~~. In accordance with the individual chapters of this title and the requirements of DPMC Title 19 ~~and other titles of this code~~, notice shall be published in the local newspaper ~~(if required)~~, posted on the site, posted at the City Hall and other public locations, furnished to interested municipal departments and other agencies, and, depending upon the nature of the application ~~and specific state law or city code requirements~~, mailed to abutting and/or surrounding property owners. (Ord. 722 § 165, 1998; Ord. 394 § 2.48.04, 1981)

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#### **18.96.010 Appeals.**

~~All notices of decision issued by the hearing examiner or planning commission shall be subject to review by appeal to the city council within the time frame set forth in DPMC Title 19 after the notice of decision is issued. Written notice of an appeal shall be filed with the city clerk by any party with standing to appeal as defined in DPMC 19.16.090(D). If an appeal is not filed~~

~~within the time period authorized pursuant to DPMC Title 19, the notice of decision issued shall be final.~~

~~A. Written notice of appeal shall contain the name and address of the party appealing; the decision, or portion thereof, from which appeal is taken; a description of property owned by the party appealing which such party believes to be adversely affected by the notice of decision issued; and a description of the basis for the appeal giving the reasons why the appellant feels aggrieved by the notice of decision issued.~~

~~B. When an appeal is filed, the hearing body shall prepare a record of all proceedings for the city council to evaluate in its appeal consideration. The council shall consider the action of the hearing body, based upon the record and the appeal documents, and shall conduct a closed record appeal hearing, in accordance with DPMC Title 19, whenever the decision of the hearing body was rendered after an open record public hearing. Whenever the decision of the hearing body, or municipal representative, was rendered administratively, without benefit of a public hearing, the appeal before the city council shall be an open record appeal hearing in accordance with DPMC Title 19. The council has the power to affirm, alter, amend, or reverse any of the hearing body's decisions. In the event no action is taken by the city council to affirm, alter, amend, or reverse the decision of the hearing body, the decision of the hearing body is deemed confirmed. The notice of decision of the city council shall be transmitted, in writing signed by the mayor and attested by the city clerk, to the applicant, appellant, and other parties of record, pursuant to DPMC Title 19, and shall be final except for review by the superior court as provided by DPMC Title 19 and Chapter 36.70C RCW. (Ord. 722 § 167, 1998; Ord. 394 § 2.52, 1981)Appeals of decisions made pursuant to the provisions of this title shall be processed in accordance with state law and all limitations therein and when applicable in accordance with the provisions of DPMC title 19.~~

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### **18.100.010 Rezones and amendments.**

The regulations, zone classification and zone boundary lines established by this title may be amended by ordinance passed by the council.

A. Change in zone classification or zone boundary lines established by this title may be initiated by a written request from the council, a motion by the planning commission, or a proper petition presented to the planning commission by property owners within the city and accompanied by the fee for processing such an application as may be established and amended by Council resolution. Upon receiving a request for such change, the planning commission will investigate the request and hold a public hearing on the matter. Notice of the date, time, place and purpose of such hearing shall be

published in a newspaper of general circulation in the city, posted on the site, posted at the City Hall and other public locations, and mailed to interested agencies and property owners prior to the date set for the hearing in accordance with this chapter and DPMC Title 19. In the case of a change of zone initiated by property owners, the planning commission will prepare findings of fact and issue a notice of decision after the hearing, the decision of the planning commission may be appealed to the council, and in any event, the city council shall have final adoption authority and shall adopt, modify, or deny the change of zone by ordinance at a public meeting if the planning commission's decision is not appealed, or shall take action on the matter after a closed record appeal proceeding if the planning commission's decision is appealed to the council. If, after consideration of the planning commission's notice of decision, the council finds such amendment, or modification thereof, is of public necessity, benefits the general welfare of the city or constitutes good zoning practice, it shall then adopt an ordinance amending the official zoning map which is a part of this title.

B. A proposed change in regulations of this title may be initiated by a written request from the council, a motion by the planning commission, or a proper petition presented to the planning commission by citizens of the city and accompanied by the fee for processing such an application as may be established and amended by Council resolution. Upon receiving a request for such change, the planning commission will investigate the request and hold a public hearing on the matter. Notice of the date, time, place and purpose of such hearing shall be published in a newspaper of general circulation in the city, and shall be posted at the City Hall and other public locations, at least 15 days prior to the date set for the hearing. The planning commission will prepare a findings of fact and recommendations for the council after the hearing. If, after consideration of the planning commission's report, the council finds such amendment is of public necessity, benefits the general welfare of the city or constitutes good zoning practice, it ~~shall then~~ may adopt the decision of the planning commission by ordinance or if it desires, the council may establish a date for and conduct a public hearing before the council for the purpose of determining whether or not to amend the text of this title. Notice of the hearing before the city council shall be given in the same manner as required for the planning commission's hearing.

C. Whenever there is a proposed rezoning being reviewed where public hearing is advertised and held, if, after hearing testimony and considering the facts involved, the planning commission finds that a more restrictive zone classification than that requested and advertised or that a rezoning of less land than that advertised, would be in the public interest and constitute good zoning practice and be preferable to that zone classification requested and advertised, the planning commission may issue a notice of decision in favor of said more restrictive zone classification or rezoning of the smaller land area without readvertising and rehearing in accordance with subsection A of this section.

D. Zone Change by Petition.

1. A petition for a change of zone classification or zone boundary lines may be filed with the planning commission by any person owning land in the area proposed to be rezoned or by the duly authorized agent of such record owner;
2. A petition for a change of zone classification or zone boundary lines shall contain signatures by the owners or duly authorized agents of at least 51 percent of the property within an area proposed for rezoning;

3. All petitions filed shall be accompanied by the petitioner's statement justifying the zone change and a list of the names of the last grantee in the last deed in the chain of titles to each parcel or lot proposed to be rezoned and each parcel or lot which, in whole or in part, lies within a distance of 300 feet from the boundary of the property proposed to be rezoned, also the name of the person paying the taxes on each such parcel or lot, together with the address, when available, of each such grantee and person paying the taxes. If any property abutting the zone change site is owned by the same person or entity as the zone change site, the owners of property within 300 feet of that property owned by the zone change applicant shall also be included in the list of grantees and persons paying taxes. The list of owners and persons paying taxes must be certified by any title company, licensed in the state, within 30 days prior to the date such petition is filed with the planning commission. Petitions shall not be accepted for filing unless accompanied by the required current certified list of grantees and persons paying the taxes as prescribed in this paragraph. The above list of owners is for the purpose of sending notices of the hearing to owners of properties in the area proposed to be rezoned and in the vicinity of the property proposed to be rezoned, but nothing in this paragraph shall be construed as prohibiting any interested person from being heard who owns property which is more than 300 feet distant from the property proposed to be rezoned. Petitions, when circulated for rezone, must include a copy of the current zone designation(s) and proposed zone designation(s), landowner's name and address, legal description of the lots owned, and the number of lots owned, and other information as required in DPMC Title 19 for a notice of application/public notice;

4. All petitions filed shall be presented on forms prescribed by the planning ~~commission~~ director. The petition form describing the proposed zone change and a map showing the properties within a 300-foot distance of the property to be rezoned, also the dedicated streets and alleys and portions of any official recorded plats of property therein, shall be prepared by the planning staff for the petitioner upon his/her presentation of a receipt from the city treasurer showing payment for the fee established by separate resolution of the council to cover the cost thereof. Failure to file a petition within one year after its date of issue by the planning staff shall render such petition void;

a. If any property abutting the zone change site is owned by the same person or entity as the zone change site, the owners of property within 300 feet of that property owned by the zone change applicant shall also be mapped for notification purposes;

b. A zone change petition shall be accompanied by a State Environmental Policy Act (SEPA) checklist, including a review and analysis of the comprehensive impacts of the proposed zone change;

5. Any petition properly filed with the planning ~~commission~~ department and accompanied by information prescribed herein, ~~and by the rules of the planning commission~~, shall be heard in less than 30 days after the posting, publication and mailing of such hearing (whichever is last); provided, however, that if any zone change petition is predicated upon preparation of an environmental impact statement or upon amendment of the comprehensive plan, such environmental impact statement must be completed or such comprehensive plan amendment must be heard and approved prior to any hearing on the zone change petition;

6. All persons certified by the title company, as prescribed in subsection (D)(3) of this section, to be an owner of property within 300 feet of the boundary of the property proposed to be rezoned, or extended distance as provided for in said subsection (D)(3), and for whom the address is shown on the certified list, shall be sent a notice mailed not less than 15 days prior to the hearing date. Notice shall also be posted in at least three public places within the affected

area not less than 15 days prior to the hearing date, in accordance with the requirements of DPMC Title 19. The notice of public hearing giving the date, time, place, purpose, and other information required for a notice of application/public notice, shall also be posted at the City Hall and other public locations and published in a newspaper of general circulation within the affected area not less than 15 days prior to the hearing date. The notice shall identify the property and reclassification proposed, the time of hearing and such other information deemed relevant by the planning commission. Failure of any person to receive such notice of hearing shall not invalidate any proceedings in connection with the proposed zone change.

E. An area-wide rezone initiated by the city to implement the comprehensive plan shall comply with the notice and hearing provisions of subsection B of this section.

F. The continuance of a public hearing through verbal motion at a regular or special meeting of the planning commission or city council, and posting of the continuance at ~~established posting place~~the meeting/hearing place, shall be deemed as adequate notice thereof to the public. (Ord. 722 § 169, 1998; Ord. 605 pp. 15 – 17, 1991; Ord. 592 § 1, 1991; Ord. 394 § 2.54, 1981)

18.100.020 Review by public agencies.

#### **18.100.020 Review by ~~public agencies~~Commerce.**

Prior to ~~conducting public hearing~~taking final action on any proposed amendments or additions to the text of this title, such amendments or additions, together with appropriate supporting materials, shall be forwarded to the State Department of ~~Community Trade and Economic Development~~Commerce for its preliminary review as required by WAC 365-195-620. ~~Other state, county, and/or local agencies shall be similarly notified where any such agency may have an interest in the amendments or additions to the text of this title. Such distribution shall be the responsibility of the community services director.~~

~~Amendments to the text of this title shall be forwarded to the Spokane County assessor pursuant to DPMC 19.24.020. (Ord. 722 § 170, 1998)~~

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#### **18.102.030 Annexation zoning plan adoption.**

All territory hereafter annexed to the city of Deer Park shall, upon annexation, be zoned in accordance with a rezoning plan adopted in the manner required by state law, ~~for a change of~~

~~zone.~~ Said rezoning plan ~~shall~~ may be prepared and adopted as a part of the official annexation proceedings. ~~and shall take into account, and be in conformance with, all applicable municipal plans, policies, and documents.~~ In the event no rezoning plan is adopted in accordance with this section, the zoning of the annexed territory shall be Residential 1A zone.  
(Ord. 722 § 171, 1998)

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#### **18.104.010 Nonconforming uses.**

A. The lawful use of land, buildings or structures existing at the time of the adoption of the ordinance codified in this title, although such use does not conform to the provisions of such ordinance, may be continued. If such nonconforming use is abandoned for a period of six months or more, any further use of such land, building or structure must be in conformity with the provisions of this title. The mere presence of a building or structure shall not be deemed to constitute the continuance of a nonconforming use unless such structure is actually continuously occupied and ~~employed in maintaining such use~~ used in the nonconforming manner.

B. A building or structure containing a nonconforming use shall not be enlarged or expanded nor shall the land area be expanded, unless the use of such building or structure is brought into conformance with the provisions of this title. Such use must also be in conformance for the zone in which such building or structure is located.

C. If any nonconforming building or structure is destroyed by fire, explosion, act of God, act of public enemy or any other cause to the extent that 50 percent of the fair market value as indicated by the records of the county assessor is lost, a future building, structure or land use at the site must be in strict conformance with the provisions of this title. (Ord. 394 § 2.56, 1981)

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#### **18.110.040 Development standards.**

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D. Monopole I.

1. Monopole I facilities shall require a conditional use permit pursuant to Chapter 18.80 DPMC, and such permit shall be available only in the central commercial (C-C),

commercial shopping center (C-S), diversified commercial (C-D), light industrial (L-I), business park (BP), and public/quasi-public (P/QP) zones. A Monopole I facility shall not be allowed in any other zoning classification. Site design, landscaping and/or other screening techniques deemed appropriate shall be duly considered as part of the conditional use permit process.

2. Macro facilities shall be the largest wireless communication facilities allowed on a Monopole I wireless communication support structure.

3. Antennas which extend above the wireless communications support structure shall not be calculated as part of the height of the Monopole I wireless communication support structure. For example, a Monopole I, as defined in this chapter, may be up to 60 feet in height, and a macro facility affixed thereto, as defined in this chapter, may be up to 15 in height, thereby allowing a maximum combined height for the Monopole I wireless communication support structure and any affixed macro facility antennas of 75 feet.

4. Co-location on an existing Monopole I support structure shall be permitted without an additional conditional use permit, provided there is no substantial change whatsoever to the Monopole I support structure, or to the associated equipment shelter or cabinet, or to the site design, landscaping and/or other screening techniques authorized under the original conditional use permit.

5. The equipment shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or located underground. Any building or structure erected above ground to house such equipment shelter or cabinet shall not exceed an area of 200 square feet.

6. All Monopole I facilities shall be set back from the nearest property lot line a distance equal to a minimum of 20 percent of the overall height of the wireless communication support structure and the antennas affixed thereto.

E. Monopole II.

1. Monopole II facilities shall require a conditional use permit pursuant to Chapter 18.80 DPMC, and such permit shall be available only in the diversified commercial (C-D), light industrial (L-I), business park (BP), and public/quasi-public (P/QP) zones. A Monopole II facility shall not be allowed in any other zoning classification. Site design, landscaping and/or other screening techniques deemed appropriate shall be duly considered as part of the conditional use permit process.

2. Macro facilities shall be the largest wireless communication facilities allowed on a Monopole II wireless communication support structure.
3. When situated in the diversified commercial (C-D) zone, a Monopole II facility shall be designed to accommodate two or more wireless communication antennas on the wireless communication support structure.
4. Co-location on an existing Monopole II facility shall be permitted without an additional conditional use permit, provided there is no substantial change whatsoever to the Monopole II support structure, or to the associated equipment shelter or cabinet, or to the site design, landscaping and/or other screening techniques authorized under the original conditional use permit.
5. Antennas which extend above the wireless communications support structure shall not be calculated as part of the height of the Monopole II wireless communication support structure. For example, a Monopole II, as defined in this chapter, may be up to 150 feet in height, and a macro facility affixed thereto, as defined in this chapter, may be up to 15 feet in height, thereby allowing a maximum combined height for the Monopole II wireless communication support structure and any affixed macro facility antennas of 165 feet.
6. The equipment shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or located underground. Any building or structure erected above ground to house such equipment shelter or cabinet shall not exceed an area of 300 square feet.
7. All Monopole II facilities shall be set back from the nearest property lot line a distance equal to a minimum of 20 percent of the overall height of the wireless communication support structure and the antennas affixed thereto.
8. Monopole II facilities shall be separated from each other by a distance equal to or greater than one-quarter mile (i.e., 1,320 linear feet) in any direction.

F. Lattice Tower.

1. Lattice towers shall require a conditional use permit pursuant to Chapter 18.80 DPMC, and such permit shall be available only in the light industrial (L-I), business park (BP), and public/quasi-public (P/QP) zones. A lattice tower facility shall not be allowed in any other zoning classification. Site design, landscaping and/or other screening techniques deemed appropriate shall be duly considered as part of the conditional use permit process.

2. Macro facilities shall be the largest wireless communication facilities allowed on a lattice tower wireless communication support structure.
3. A lattice tower facility shall be designed to accommodate two or more wireless communication antennas on the wireless communication support structure.
4. Co-location on an existing lattice tower facility shall be permitted without an additional conditional use permit, provided there is no substantial change whatsoever to the Lattice Tower support structure, or to the associated equipment shelter or cabinet, or to the site design, landscaping and/or other screening techniques authorized under the original conditional use permit.
5. Antennas which extend above the wireless communications support structure shall not be calculated as part of the height of the lattice tower wireless communication support structure. For example, a lattice tower, as defined in this chapter, may be up to 150 feet in height, and a macro facility affixed thereto, as defined in this chapter, may be up to 15 feet in height, thereby allowing a maximum combined height for the lattice tower wireless communication support structure and any affixed macro facility antennas of 165 feet.
6. The equipment shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or located underground. Any building or structure erected above ground to house such equipment shelter or cabinet shall not exceed an area of 300 square feet.
7. All lattice tower facilities shall be set back from the nearest property lot line a distance equal to a minimum of 20 percent of the overall height of the wireless communication support structure and the antennas affixed thereto.
8. Lattice tower facilities shall be separated from each other by a distance equal to or greater than one-quarter mile (i.e., 1,320 linear feet) in any direction. (Ord. 825 § 5, 2005; Ord. 722 § 173, 1998)

**18.110.080 Federal Communications Commission pre-emption.**

All wireless communication facilities shall comply with applicable FCC regulations. Federal law prohibits consideration of the environmental effects of radio frequency emissions to the extent that the proposed facilities comply with Federal Communications Commission (FCC) regulations concerning such emissions. (Ord. 722 § 173, 1998)

**Section 2.** The amendments to the Official Zoning Map of the City of Deer Park as approved by the Planning Commission and as set forth in the eight and one half by eleven "City of Deer Park - Official Zoning Map" and the seven areas identified thereon and in the attached Map Areas 1 through 7 are hereby approved and the City Director of Community Services is hereby directed to make the revisions to the Official Zoning Map of the City. The aforementioned maps are attached hereto, marked as Exhibit "A", and by this reference made a part herein as if set forth in full.

**Section 3. Severability.** If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or the constitutionality of any other section, sentence, clause or phrase of this Ordinance.

**Section 4. Effective Date.** This Ordinance shall take effect and be in full force five (5) days after this Ordinance or summary thereof consisting of the title is published.

APPROVED BY the City Council of the City of Deer Park, Washington at an Open Public Meeting the \_\_\_\_\_ day of \_\_\_\_\_, 2018:

\_\_\_\_\_  
MAYOR TIMOTHY VERZAL

ATTEST/AUTHENTICATED:

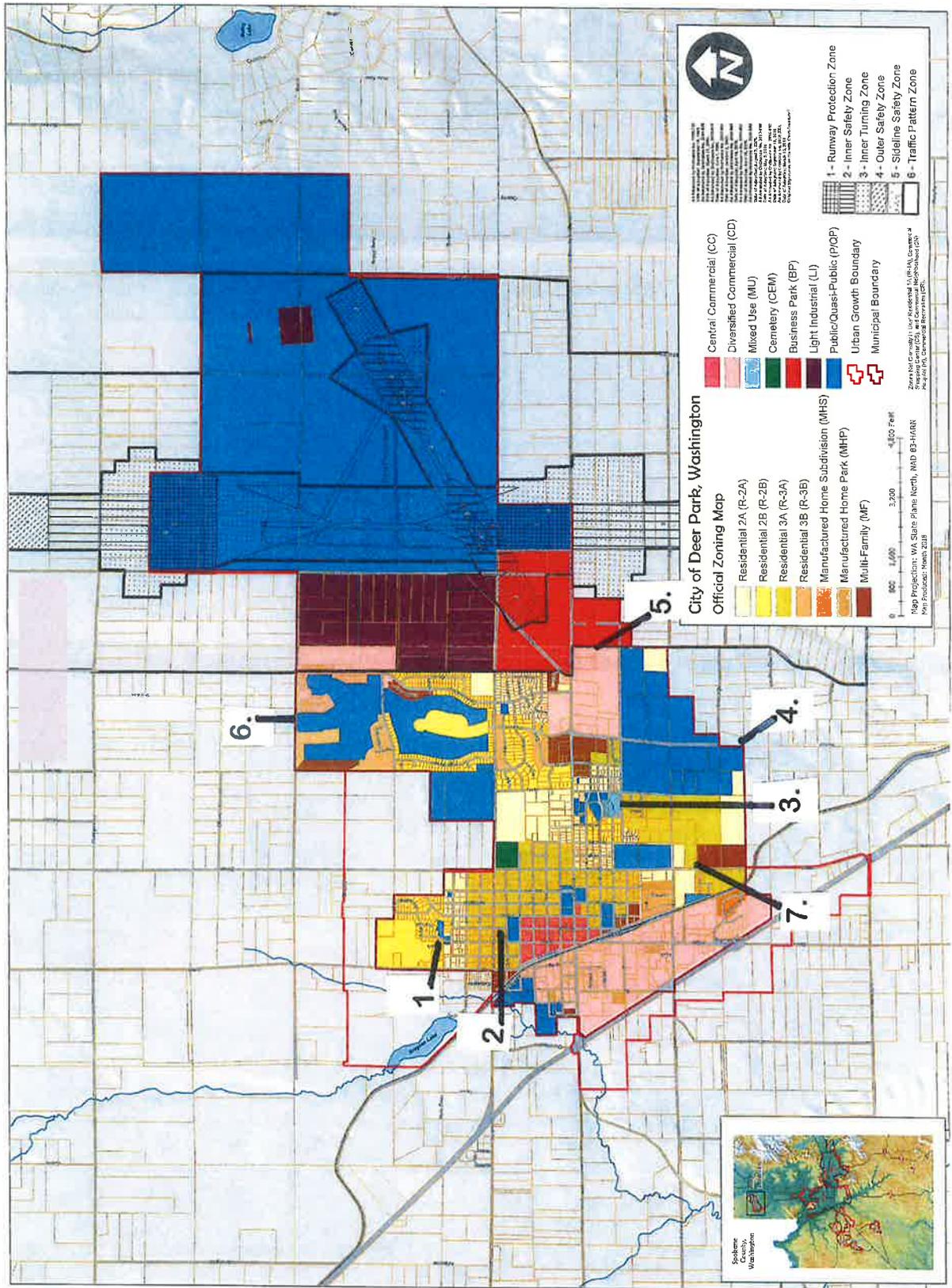
\_\_\_\_\_  
DEBY CRAGUN, CITY CLERK

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

BY:   
\_\_\_\_\_  
CHARLES D. ZIMMERMAN

FILED WITH THE CITY CLERK	:	<u>4/3/2018</u>
PASSED BY THE CITY COUNCIL	:	_____
PUBLISHED	:	_____
EFFECTIVE DATE	:	_____
ORDINANCE NO.	:	2018-974

# City of Deer Park - Official Zoning Map



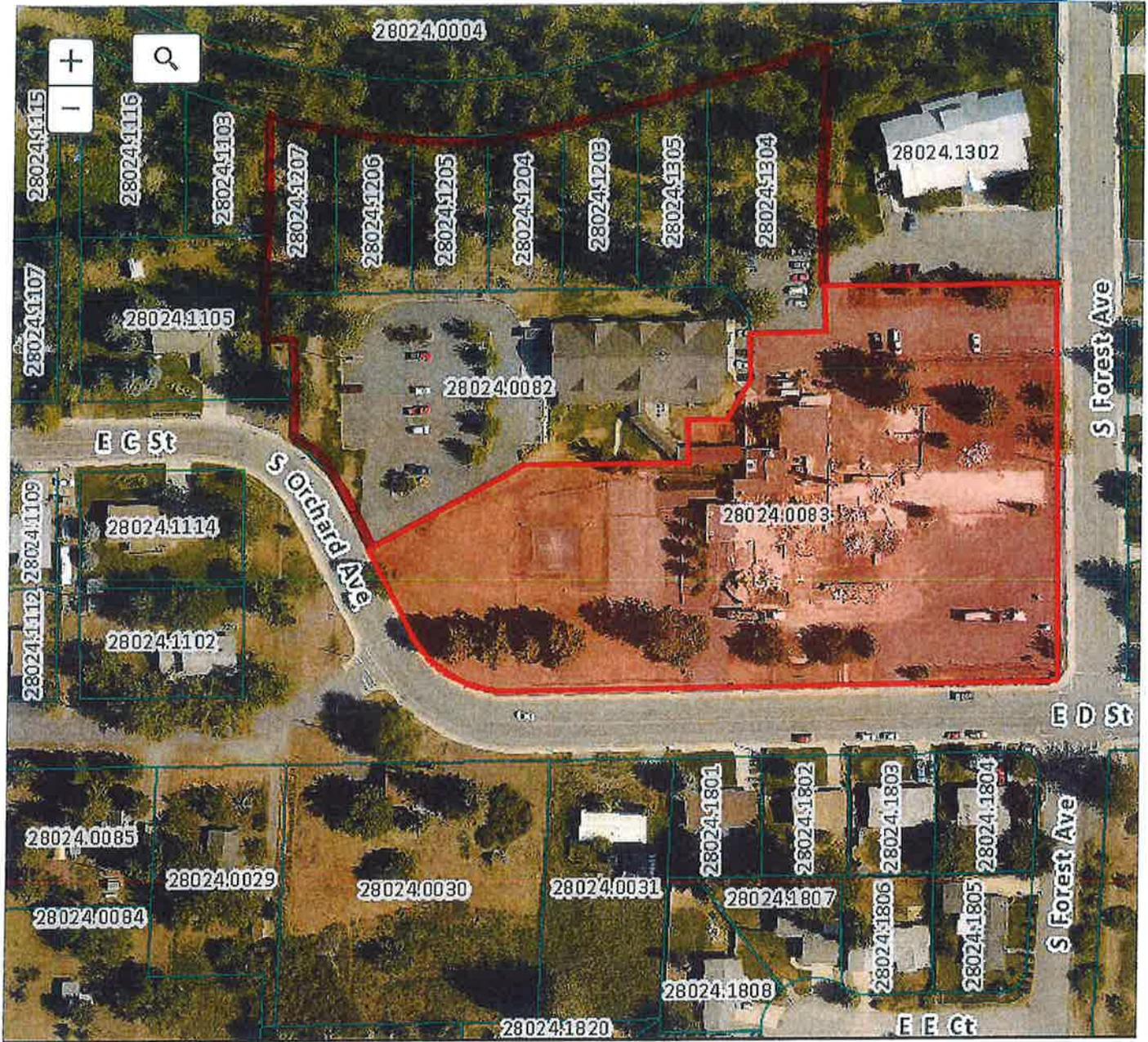
**EXHIBIT "A"**





Measure

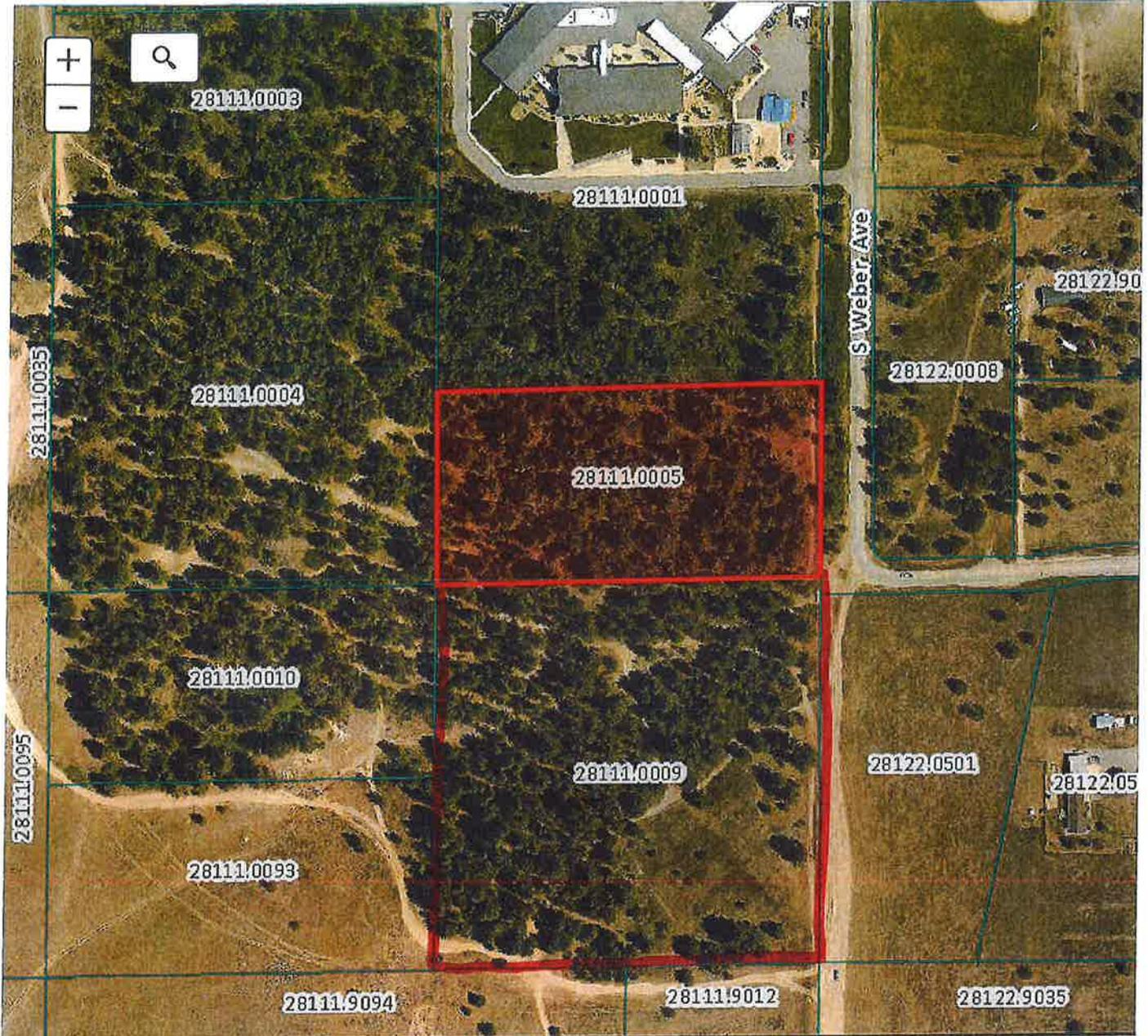
More Info



T  
**MAP AREA 3**  
 TP 28024.0083, 28024.0082,  
 28024.1304, 28024.1305,  
 28024.1203, 28024.1204,  
 TP 28024.1205, 28024.1205,  
 28024.1207  
**From Hospital to Mixed Use**

Measure

More Info

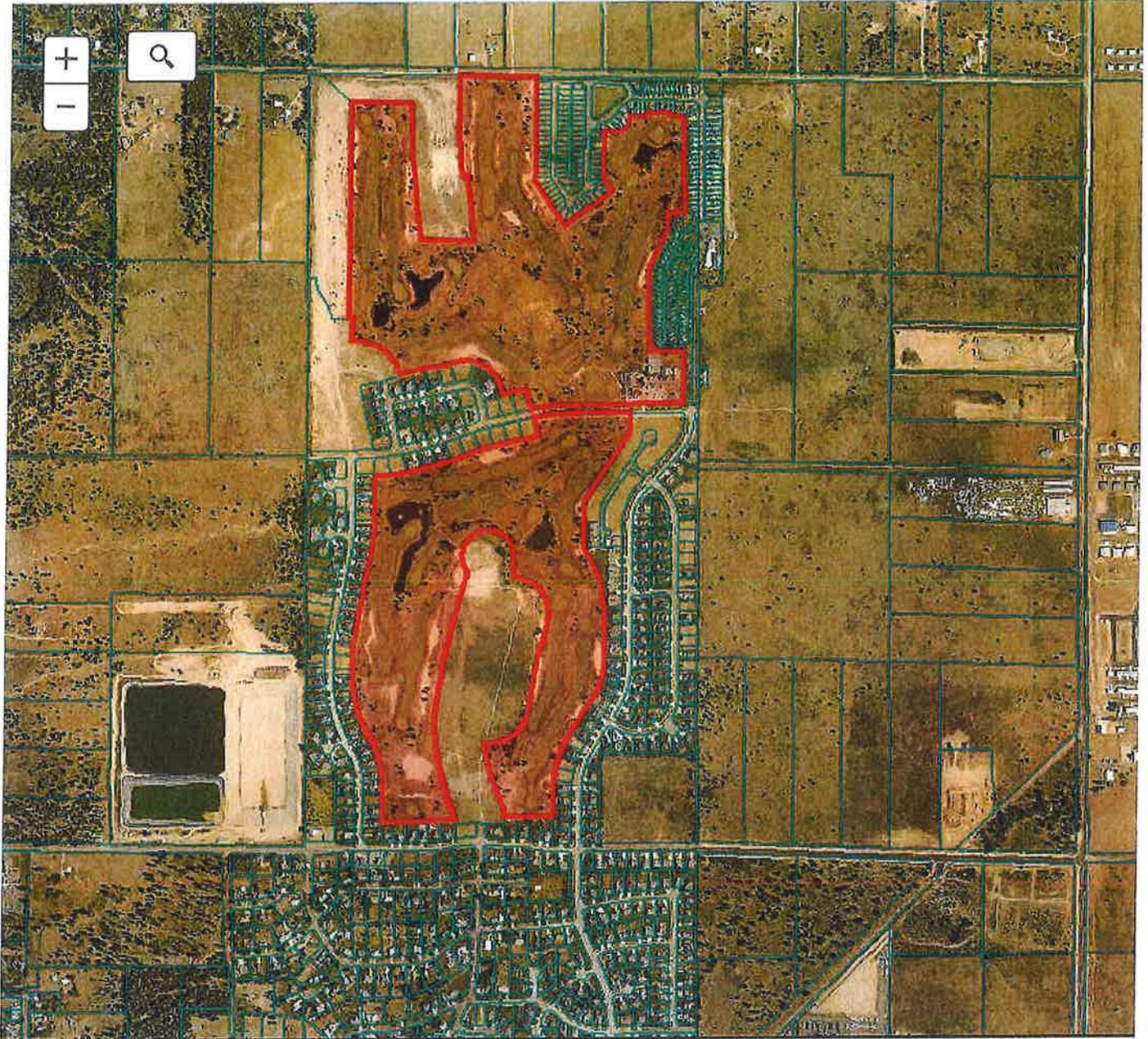


**MAP AREA 4**  
**TP 28111.0005 & 28111.0009**  
**From Residential 2A to Public**

Measure [More Info](#)



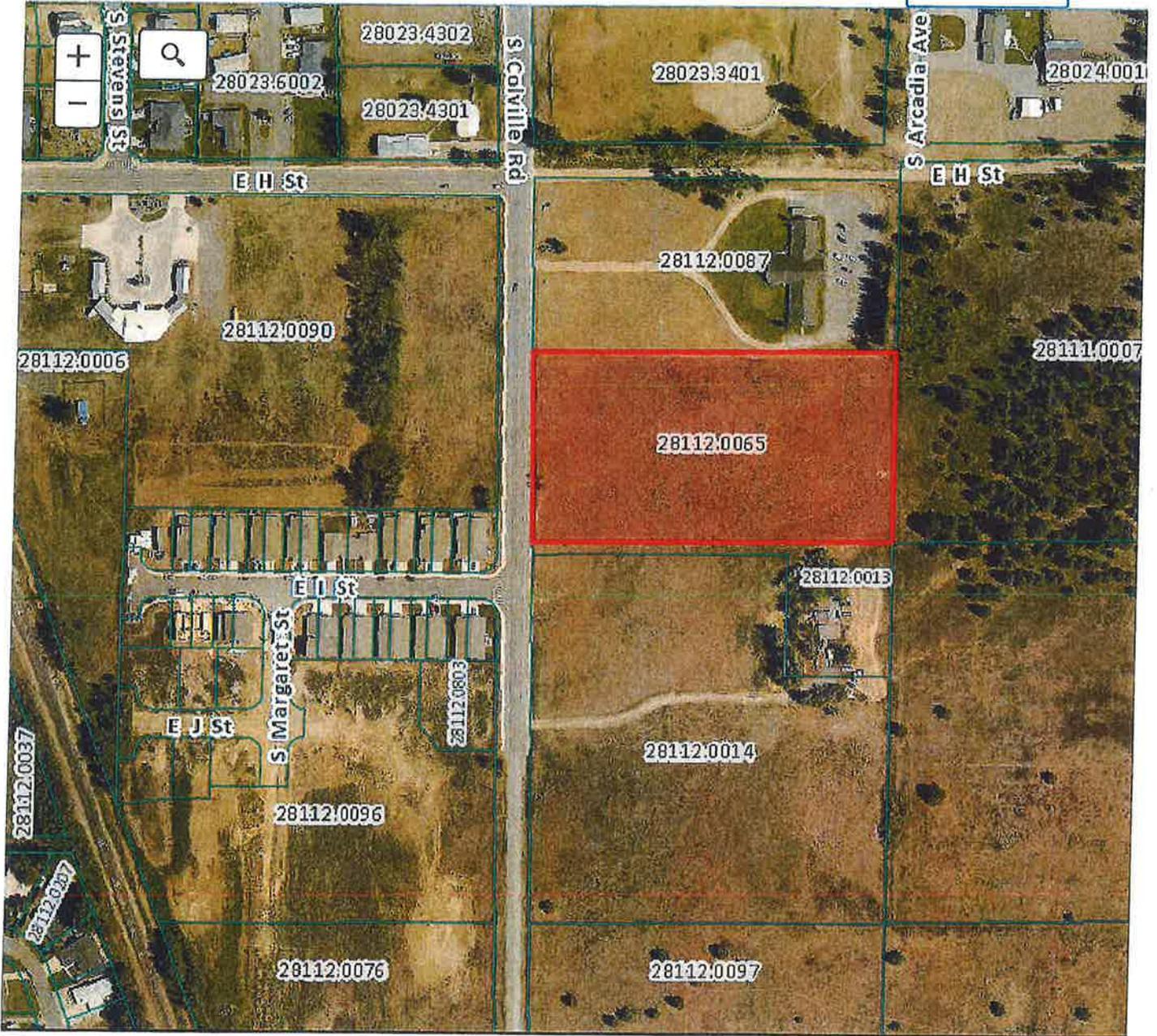
**MAP AREA 5**  
**TP 28013.0037 & 28013.0038**  
**From Light Industrial to**  
**Diversified Commercial**



**MAP AREA 6**  
**TP 29365.0052 (Golf Course)**  
**From Commercial Recreation**  
**to Public**

Measure

More Info



7  
**MAP AREA 7**  
**TP 28112.0065**  
**From Residential 2A to**  
**Residential 3A**