



## BUCKLEY CITY COUNCIL AGENDA

Tuesday, September 23, 2025, at 6:00 P.M.

Multi-Purpose Center, 811 Main Street

Next Ordinance #08-25, Next Resolution #25-06, Next Agenda Bill #25-045

Or Via Zoom:

<https://us02web.zoom.us/j/83366597529?pwd=N2hMTmh5eEZ4TGpJd2dpbFp0cnkvdz09>

Call-in Number: 253-215-8782

Meeting ID: 833 6659 7529 Meeting Passcode: 863441

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### A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll call
3. Agenda Modifications
4. Announcements, Appointments and Presentations

### B. PUBLIC COMMENTS - *Time Limit of Three Minutes* (Citizens wishing to speak are Encouraged to sign up at City Hall by Wednesday prior to the Council Meeting)

### C. COMMITTEE REPORTS

1. Mayor's Report Burkett

### D. REGULAR AGENDA

#### 1. ORDINANCE

- a. ORD No. \_\_\_\_-25: Amending BMC 3.50.040 Park Impact Fees

#### 2. NEW BUSINESS

- a. RCO Grant Agreement – Courts at Miller Park
- b. Transit Service Financial Partnership Agreement Between the City of Buckley and Pierce Transit

### E. STAFF REPORTS

1. Development Code Updates
2. City Administrator Update

### F. PUBLIC COMMENTS - *Time Limit of Three Minutes*

### G. COUNCIL MEMBER COMMENTS & GOOD OF THE ORDER

### H. ADJOURNMENT

## **B. PUBLIC COMMENTS**

## **C. COMMITTEE REPORTS**

## **D. REGULAR AGENDA**





# CITY COUNCIL AGENDA BILL

City of Buckley  
PO Box 1960  
Buckley, WA 98321

ITEM INFORMATION			
<b>SUBJECT:</b>		<b>Agenda Date: September 23, 2025 AB25-045</b>	
<b>ORD No. ____-25: Amending BMC 3.50.040 Updating Park Impact Fees</b>	Department/Committee/Individual	Created	Reviewed
	Mayor		X
	City Administrator		X
	City Attorney		X
	City Engineer		
	City Clerk		X
	Finance Dept		
	Building Official		
	Fire Dept		
	Parks & Recreation	X	X
	Building & Planning		
	Police Dept		
Municipal Court			
PW/Utilities			
<b>Cost Impact</b>			
<b>Fund Source:</b>			
<b>Timeline:</b>			
<b>Staff Contact:</b> Director of Parks & Recreation Snodgrass			
<b>Attachments:</b> Technical Memo and Ordinance			
SUMMARY STATEMENT: The City of Buckley last updated its Parks Impact Fees in 2016. Since that time, population growth, rising construction costs, and changes in state law (RCW) have required the City to update its fee structure. In response, the City Council reviewed the Parks, Recreation, and Open Space (PROS) Plan, selected the eligible capital projects, established residential size tiers, and set the City's proportionate share at 20% based on long-range budget forecasts. These updates ensure compliance with current RCW requirements and amend BMC Section 3.50.040.			
COMMITTEE REVIEW AND RECOMMENDATION:			
RECOMMENDED ACTION: <b>Move to Adopt Ordinance No. 08-25 Amending BMC 3.50.040 Park Impact Fees.</b>			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	



## **Park Impact Fee Rate Study – Technical Memo**

September 2025

### **Purpose**

This technical memo documents the methodology used to establish the 2025 Parks Impact Fee rates, as adopted by ordinance **NO. -**

### **Methodology**

- Fees are calculated using the Capital Facilities List in the adopted Parks, Recreation, and Open Space (PROS) Plan (2024). Council reviewed and selected the following projects for inclusion in the calculation:
  - Flume-Adjacent River Nature Trail and Park, Phase 1
  - Flume-Adjacent River Nature Trail and Park, Phase 2
  - Miller Park Phase I
  - Miller Park Phase II
  - White River Park and Trail
- Project costs were based on planning-level estimates from the PROS Plan, adjusted to 2025 dollars.
- Growth projections are consistent with the City's 2044 Comprehensive Plan population forecasts.
- The City's proportionate share was set at 20% of eligible project costs, based on long-range budget forecasts and fiscal capacity. The remaining 80% is recoverable through impact fees.
- Residential dwelling unit size bands were established using historical housing data and projected development patterns, creating a tiered fee schedule consistent with RCW requirements. These include both single and multi-family units.
- Accessory Dwelling Units (ADUs) and Detached Accessory Dwelling Units (DADUs) are included in the calculation at a 50% reduction as required by RCW requirements.
- Annual adjustments will be made using the Engineering News Record (ENR) Seattle Building and Construction Cost Indexes.

**CITY OF BUCKLEY, WASHINGTON**  
**ORDINANCE NO. \_\_\_\_-25**

**AN ORDINANCE OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON,  
AMENDING SECTION 3.50.040 OF THE BUCKLEY MUNICIPAL CODE TO REFLECT  
UPDATED PARK IMPACT FEES CORRESPONDING WITH THE CAPITAL FACILITIES  
LIST IN THE 2044 COMPREHENSIVE PLAN PARK ELEMENT**

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**WHEREAS**, the City of Buckley is a growing community and the needs for parks and park facilities will continue to increase; and

**WHEREAS**, the City Council of the City of Buckley has identified parks and park facilities as a high-priority for the community; and

**WHEREAS**, the City of Buckley last adopted updates to Section 3.50.040 outlining Park Impact Fees with Ordinance 02-16 in 2016; and

**WHEREAS**, the City updated its Capital Facilities Project List and Park Element as part of the 2044 Comprehensive Plan update and to implement the Park, Recreation, and Open Space plan adopted in February 2024; and

**WHEREAS**, the City had conducted a Parks Impact Fee Rate Study to evaluate the costs associated with expanding its park system to accommodate population growth anticipated to occur over the next 20 years.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BUCKLEY, WASHINGTON DO ORDAIN AS FOLLOWS:

**Section 1** Chapter 3.50.040 of the Buckley Municipal Code entitled "Impact Fee for Parks and Recreation Facilities" is hereby amended to read as follows:

**3.50.040        Impact fee for parks and recreation facilities.**

The park and recreation impact fee imposed on residential development is based on [the assumptions found in the Park Impact Fee Rate Study Technical Memo, 2025, attached hereto and by this reference fully incorporated herein.](#) ~~the cost of capital projects listed in the parks, recreation and open space element of the comprehensive plan. The parks and recreation impact fee imposed shall be that which is set forth in the parks impact fee calculation identified in the comprehensive plan. The fees shall be assessed and collected pursuant to BMC 3.50.035~~

- (1) Park and recreation impact fees shall be assessed to all new residential construction as follows:



Square Footage	Per Dwelling Unit	ADU/DADU Rate
Up to 749	\$ 650.00	\$ 325.00
750 to 1,249	\$ 1082.00	\$ 541.00
1,250 to 1,749	\$ 1515.00	\$ 757.00
1,750 2,249	\$ 1949.00	
2,250 to 2,749	\$ 2380.00	
2,750 to 3,249	\$ 2810.00	
3,250 to 3,749	\$ 3241.00	
Greater than 3750	\$ 3671.00	

(2) The park and recreation impact fees in subsection (1) of this section ~~may~~ shall be reviewed annually to consider adjustments using the following procedure: ~~to the fees to account for increased costs of labor, construction materials and real property. The city council intends that such~~

(a) The City Administrator shall use the average of the Building Cost Index and Construction Cost Index for Seattle published by the Engineering News Record to calculate annual inflation adjustments from June to the following June in the impact fee rates. The parks impact fees shall not be adjusted for inflation should the index remain unchanged or show negative growth.

(b) The indexed impact fee rates shall be effective January 1, 2026.

**Section 2. 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 constitutionality of any other section, sentence, clause or phrase of this ordinance.

**Section 3. Effective Date.** This Ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City; and shall take effect and be in full force on January 1, 2026.

Introduced, passed and approved this 23<sup>rd</sup> day of September 2025.

\_\_\_\_\_  
Beau Burkett, Mayor

ATTEST:

\_\_\_\_\_  
Trevia Zumek, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Phil Olbrechts, City Attorney

PUBLISHED: \_\_\_\_\_  
EFFECTIVE: January 1, 2026



# CITY COUNCIL AGENDA BILL

City of Buckley  
PO Box 1960  
Buckley, WA 98321

ITEM INFORMATION			
<b>SUBJECT:</b> <b>RCO Grant Agreement – Courts At Miller Park</b>		<b>Agenda Date: September 23, 2025 AB25-046</b>	
		Department/Committee/Individual	Created Reviewed
		Mayor	
		City Administrator	X
		City Attorney	
		City Engineer	
		City Clerk	X
		Finance Dept	
		Building Official	
		Fire Dept	
Cost Impact: R: 495,000 E: 23,238		Parks & Recreation	X X
Fund Source: 307		Building & Planning	
Timeline: Completion by October 31, 2027		Police Dept	
		Municipal Court	
		PW/Utilities	X
<b>Staff Contact:</b> Director of Parks & Recreation Snodgrass			
<b>Attachments:</b> Draft Policy			
<p>SUMMARY STATEMENT: The City has been awarded \$495,000 in state funding through the Community Outdoor Athletic Facilities Fund to support the first phase of development at Miller Park, the project is referred to as The Courts at Miller Park. The required City match for this grant is \$23,238. The first phase of park development includes construction of one tennis court with the option for four pickleball courts, a grass volleyball court, site lighting, a public restroom facility, and associated landscaping and hardscaping to support access and usability.</p>			
COMMITTEE REVIEW AND RECOMMENDATION: Approve the agreement as presented.			
RECOMMENDED ACTION: <b>Move to Approve the RCO Grant Agreement for funding for Courts at Miller Park.</b>			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	



**Project Sponsor:** City of Buckley  
**Project Title:** Courts at Miller Park

**Project Number:** 24-2106D  
**Approval Date:** 07/23/2025

## **PARTIES OF THE AGREEMENT**

This Recreation and Conservation Office Grant Agreement (Agreement) is entered into between the State of Washington by and through the Recreation and Conservation Office (RCO), P.O. Box 40917, Olympia, Washington 98504-0917 and City of Buckley (Sponsor, and primary Sponsor), PO Box 1960, Buckley, WA 98321, and shall be binding on the agents and all persons acting by or through the parties.

All Sponsors are equally and independently subject to all the conditions of this Agreement except those conditions that expressly apply only to the primary Sponsor.

Prior to and during the Period of Performance, per the Applicant Resolution/Authorizations submitted by all Sponsors (and on file with the RCO), the identified Authorized Representative(s)/Agent(s) have full authority to legally bind the Sponsor(s) regarding all matters related to the project identified above, including but not limited to, full authority to: (1) sign a grant application for grant assistance, (2) enter into this Agreement on behalf of the Sponsor(s), including indemnification, as provided therein, (3) enter any amendments thereto on behalf of Sponsor(s), and (4) make any decisions and submissions required with respect to the project. Agreements and amendments must be signed by the Authorized Representative/Agent(s) of all Sponsors, unless otherwise allowed in the AMENDMENTS TO AGREEMENT Section.

- A. During the Period of Performance, in order for a Sponsor to change its Authorized Representative/Agent as identified on the original signed Applicant Resolution/Authorization the Sponsor must provide the RCO a new Applicant Resolution/Authorization signed by its governing body or a written delegation of authority to sign in lieu of originally authorized Representative/Agency(s). Unless a new Applicant Resolution/Authorization has been provided, the RCO shall proceed on the basis that the person who is listed as the Authorized Representative in the last Resolution/Authorization that RCO has received is the person with authority to bind the Sponsor to the Agreement (including any amendments thereto) and decisions related to implementation of the Agreement.
- B. Amendments After the Period of Performance. RCO reserves the right to request and Sponsor has the obligation to provide, authorizations and documents that demonstrate any signatory to an amendment has the authority to legally bind the Sponsor as described in the above Sections.

For the purposes of this Agreement, as well as for grant management purposes with RCO, only the primary Sponsor may act as a fiscal agent to obtain reimbursements (See PROJECT REIMBURSEMENTS Section).

## **PURPOSE OF AGREEMENT**

This Agreement sets out the terms and conditions by which a grant is made from the of the State of Washington. The grant is administered by the Recreation and Conservation Office (RCO).

## **DESCRIPTION OF PROJECT**

The City of Buckley will use this grant to build a tennis/pickleball multi-use court, a grass volleyball court, a restroom, connecting pathways, lighting, fencing, landscaping, and utilities at Miller Park in Pierce County. The addition of these courts will expand recreational options for the community. The primary recreational opportunity provided by this project is court sports.

## **PERIOD OF PERFORMANCE**

The period of performance begins on September 1, 2025 (project start date) and ends on October 31, 2027 (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement, or specifically provided for by applicable RCWs, WACs, and any applicable RCO manuals as of the effective date of this Agreement.

The RCO reserves the right to summarily dismiss any request to amend this Agreement if not made at least 60 days before the project end date.

## **STANDARD TERMS AND CONDITIONS INCORPORATED**

The Standard Terms and Conditions of the Recreation and Conservation Office attached hereto are incorporated by reference as part of this Agreement.



## LONG-TERM OBLIGATIONS

For this development project, the Sponsor's long-term obligations for the project area shall be for 20 years from project completion, or as otherwise provided for in this Agreement, or as approved by the funding board or RCO.

## PROJECT FUNDING

The total grant award provided for this project shall not exceed \$495,000.00. The RCO shall not pay any amount beyond that approved for grant funding of the project and within the percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

	Percentage	Dollar Amount	Source of Funding
Office - Comm Outdoor Athl Facilities	95.52%	\$495,000.00	State
Project Sponsor	4.48%	\$23,238.00	
Total Project Cost	100.00%	\$518,238.00	

At the direction of the legislature and RCO best practices, sponsors must utilize the project funds in a timely and efficient manner in accordance with the project milestones set forth in this Agreement. Projects not aptly progressing towards completion may have funding rescinded.

## RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor's application and the project summary and eligible scope activities under which the Agreement has been approved and/or amended as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with the Agreement, such information shall not be used to vary the terms of the Agreement, unless the terms in the Agreement are shown to be subject to an unintended error or omission. "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

## AMENDMENTS TO AGREEMENT

Except as provided herein, no amendment (including without limitation, deletions) of this Agreement will be effective unless set forth in writing signed by all parties. Exception: extensions of the Period of Performance and minor scope adjustments need only be signed by RCO's director or designee and consented to in writing (including email) by the Sponsor's Authorized Representative/Agent or Sponsor's designated point of contact for the implementation of the Agreement (who may be a person other than the Authorized Agent/Representative), unless otherwise provided for in an amendment. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so.

Unless otherwise expressly stated in an amendment, any amendment to this Agreement shall be deemed to include all current federal, state, and local government laws and rules, and policies applicable and active and published in the applicable RCO manuals or on the RCO website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone. However, any such amendment, unless expressly stated, shall not extend or reduce the long-term obligation term.

## COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND POLICIES

This Agreement is governed by, and the sponsor shall comply with, all applicable state and federal laws and regulations, applicable RCO manuals as identified below, Exhibits, and any applicable federal program and accounting rules effective as of the date of this Agreement or as of the effective date of an amendment, unless otherwise provided in the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone unless otherwise expressly stated in the amendment.

For the purpose of this Agreement shall apply as terms of this Agreement.



For the purpose of this Agreement, the following RCO manuals are deemed applicable and shall apply as terms of this Agreement:

- Community Outdoor Athletic Facilities Manual
- Development Projects - Manual 4
- Long Term Obligations - Manual 7
- Reimbursements - Manual 8

## **SPECIAL CONDITIONS**

None

## **SPECIAL CONDITIONS - CULTURAL RESOURCES**

CONDITION APPLIES TO THE FOLLOWING AREA(S): Courts at Miller Park

**State - RCO Lead: Survey required:** This agreement requires compliance with Executive Order 21-02. RCO has completed initial consultation for this project and a cultural resources survey is required. The cultural resources survey must include documentation of any above or below ground archaeological resources as well as any possible historic structures or buildings in the project area. The Sponsor must submit the results of the cultural resources survey to RCO and receive a notice of cultural resources completion. Project actions started without approval will be considered a breach of contract. If archaeological or historic materials are discovered while conducting project activities, work in the immediate vicinity must stop and the Sponsor must ensure compliance with the provisions found in this agreement. All cultural resources work must meet reporting guidelines outlined by the Department of Archaeology and Historic Preservation.

## **AGREEMENT CONTACTS**

The parties will provide all written communications and notices under this Agreement to either or both the mail address and/or the email address listed below:

### **Sponsor Project Contact**

Erin Snodgrass  
Director of Parks & Recreation  
PO Box 1960  
Buckley, WA 98321  
esnodgrass@cityofbuckley.com

### **RCO Contact**

Lan Nicolai  
Outdoor Grants Manager  
PO Box 40917  
Olympia, WA 98504-0917  
Lanlailit.Nicolai@rco.wa.gov

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change. Unless otherwise provided for in this Agreement, decisions relating to the Agreement must be made by the Authorized Representative/Agent, who may or may not be the Project Contact for purposes of notices and communications.

## **ENTIRE AGREEMENT**

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

## **EFFECTIVE DATE**

Unless otherwise provided for in this Agreement, this Agreement, for Project 24-2106, shall become effective and binding on the date signed by both the sponsor and the RCO's authorized representative, whichever is later (Effective Date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in the PERIOD OF PERFORMANCE Section are allowed only when this Agreement is fully executed and an original is received by RCO.

The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT. The signatories listed below represent and warrant their authority to bind the parties to this Agreement.

**City of Buckley**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Name (printed): \_\_\_\_\_

Title: \_\_\_\_\_


**State of Washington Recreation and Conservation Office**

By: \_\_\_\_\_

Date: \_\_\_\_\_

FOR  
Megan Duffy  
Director  
Recreation and Conservation Office

Pre-approved as to form:

By:  \_\_\_\_\_  
Assistant Attorney General

Date: 01/31/2025

**Project Sponsor:** City of Buckley  
**Project Title:** Courts at Miller Park

**Project Number:** 24-2106D  
**Approval Date:** 07/23/2025

## Eligible Scope Activities

### ELIGIBLE SCOPE ACTIVITIES

#### Development Metrics

##### Worksite #1, Miller Park

##### Buildings and Structures

###### Construct / install restroom

Number of restrooms: 1 new, 0 renovated  
Select the restroom type : Restroom

##### General Site Improvements

###### Develop circulation paths or access routes

Enter length of circulation paths and routes by surface type:  
Asphalt 200  
Concrete 200  
Lighting provided (yes/no): Yes

###### Install fencing/barriers

###### Landscaping improvements

Acres of landscaped area : 0.33  
Select the landscape features: Grass/turf, Irrigation, Planters, Trees/shrubs

##### Site Preparation

###### General site preparation

##### Sport Courts

###### Multi-purpose court development

Select the surface types for multi-purpose courts: Pervious  
Select the multi-purpose court renovation elements: Add/replace lighting, Add/upgrade court amenities

###### Volleyball court development

Number of volleyball courts: 0 new, 0 renovated  
Number of volleyball courts with lighting: 1 new, 0 renovated  
Surface types for volleyball courts :  
Natural turf 1  
Select the volleyball court renovation elements: Add/replace lighting, Add/upgrade court amenities

##### Utilities

###### Install power utilities

Select the power utilities: General service connection

###### Install sewage system

Select the sewer utilities: Sewer connection, Sewer line

###### Install water system

Select the water utilities: Water meter, Water service connection

##### Cultural Resources

###### Cultural resources

##### Architectural & Engineering

**Architectural & Engineering (A&E)**

**Project Sponsor:** City of Buckley  
**Project Title:** Courts at Miller Park

**Project Number:** 24-2106D  
**Approval Date:** 07/23/2025

## Project Milestones

### PROJECT MILESTONE REPORT

Complete Milestone	Target Date	Comments/Description
Project Start	09/01/2025	
Design Initiated	10/01/2025	
Cultural Resources Study	11/30/2025	Cultural Resources Survey Report Required. Includes recording arch. sites and built environment (houses, structures, parks, sports fields) over 45 years old in APE on Site/Isolate Forms or HPI Forms. See CR Special Condition for details.
Progress Report Due	12/31/2025	
60% Plans to RCO	12/31/2025	
Applied for Permits	01/31/2026	
All Bid Docs/Plans to RCO	02/15/2026	
Cultural Resources Complete	03/01/2026	Cultural Resources work is complete when either an IDP has been provided by the CR Unit and signed by the Sponsor or the final Monitoring Report has been submitted and accepted by DAHP (if applicable).
SEPA/NEPA Completed	03/31/2026	
Progress Report Due	04/30/2026	
RCO Notice to Proceed	05/31/2026	Receive Notice to Proceed from RCO prior to any ground disturbance.
Annual Project Billing Due	07/31/2026	
Bid Awarded/Contractor Hired	07/31/2026	
Construction Started	08/31/2026	
Progress Report Due	08/31/2026	
Progress Report Due	12/31/2026	
50% Construction Complete	02/15/2027	
RCO Interim Inspection	02/15/2027	
Progress Report Due	04/30/2027	
90% Construction Complete	05/15/2027	
Construction Complete	08/15/2027	
Funding Acknowl Sign Posted	08/15/2027	
RCO Final Inspection	08/20/2027	
Final Billing Due	09/15/2027	
Final Report Due	09/20/2027	
Agreement End Date	10/31/2027	



**Project Sponsor:** City of Buckley  
**Project Title:** Courts at Miller Park

**Project Number:** 24-2106D  
**Approval Date:** 07/23/2025

## Standard Terms and Conditions of the Recreation and Conservation Office

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## STANDARD TERMS AND CONDITIONS EFFECTIVE DATE

This document sets forth the Standard Terms and Conditions of the Recreation and Conservation Office as of 07/08/2025.

## CITATIONS, HEADINGS AND DEFINITIONS

- A. Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.
- B. Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- C. Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

**Agreement, terms of the Agreement, or project agreement** – The document entitled “RCO GRANT AGREEMENT” accepted by all parties to the present project and transaction, including without limitation the Standard Terms and Conditions of the RCO Grant Agreement, all exhibits, attachments, addendums, amendments, and applicable manuals, and any intergovernmental agreements, and/or other documents that are incorporated into the Agreement subject to any limitations on their effect under this Agreement.

**applicable manual(s), manual** – A manual designated in this Agreement to apply as terms of this Agreement, subject (if applicable) to substitution of the “RCO director” for the term “board” in those manuals where the project is not approved by or funded by the referenced board, or a predecessor to the board.

**applicable WAC(s)** – Designated chapters or provisions of the Washington Administrative Code that apply by their terms to the type of grant in question or are deemed under this Agreement to apply as terms of the Agreement, subject to substitution of the “RCO director” for the term “board” or “agency” in those cases where the RCO has contracted to or been delegated to administer the grant program in question.

**applicant** – Any party, prior to becoming a Sponsor, who meets the qualifying standards/eligibility requirements for the grant application or request for funds in question.

**application** – The documents and other materials that an applicant submits to the RCO to support the applicant's request for grant funds; this includes materials required for the “Application” in the RCO's automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

**Authorized Representative/Agent** – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor's signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

**C.F.R.** – Code of Federal Regulations

**completed project or project completion** – The status of a project when all of the following have occurred:

- The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily.
- A final project report is submitted to and accepted by RCO.
- Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO.
- A final reimbursement request has been delivered to and paid by RCO.
- Documents affecting property rights (including RCO's as may apply) and any applicable notice of grant, have been recorded (as may apply).

**contractor** – An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.

**conversion** – A conversion occurs 1) when facilities acquired, developed, renovated or restored within the project area are changed to a use other than that for which funds were approved, without obtaining prior written formal RCO or board approval, 2) when property interests are conveyed to a third party not otherwise eligible to receive grants in the program from which funding was approved without obtaining prior written formal RCO or board approval, or 3) when obligations to operate and maintain the funded property are not complied with after reasonable opportunity to cure.



**Cultural Resources** – Archaeological or historic archaeological sites, historic buildings/structures, and cultural or sacred places.

**development project** – A project that results in the construction of, or work resulting in, new elements, including but not limited to structures, facilities, and/or materials to enhance outdoor recreation resources. A development project may also involve activities that redevelop or renovate an existing facility, and these may occur exclusively in the project or in combination with new construction. For projects in the Boating Facilities Program, the term "development project" includes all of the above and may also include those activities that are defined as maintenance in 50 C.F.R 86.

**director** – The chief executive officer of the Recreation and Conservation Office or that person's designee.

**effective date** – The date when the signatures of all parties to this agreement are present in the agreement.

**equipment** – Tangible personal property (including information technology systems) having a useful service life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the Sponsor or \$5,000 (2 C.F.R. Part 200 (as updated)).

**funding board or board** – The Washington State Recreation and Conservation Funding Board, or the Washington State Salmon Recovery Funding Board. Or both as may apply.

**Funding Entity** – the entity that approves the project that is the subject to this Agreement.

**grant program** – The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.

**long-term compliance period** – The term of years, beginning on the end date of the agreement, when long-term obligations exist for the Sponsor. The start date and end date of the compliance period may also be prescribed by RCO per the Agreement.

**long-term obligations** – Sponsor's obligations after the project end date, as specified in the Agreement and manuals and other exhibits as may apply.

**landowner agreement** – An agreement that is required between a Sponsor and landowner for projects located on land not owned, or otherwise controlled, by the Sponsor.

**match or matching share** – The portion of the total project cost provided by the Sponsor.

**milestone** – An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

**Office** – Means the Recreation and Conservation Office or RCO.

**pass-through entity** – A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 CFR 200 (as updated)). If this Agreement is a federal subaward, RCO is the pass-through entity.

**period of performance** – The period beginning on the project start date and ending on the project end date.

**pre-agreement cost** – A project cost incurred before the period of performance.

**primary Sponsor** – The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. Administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.

**project** – The undertaking that is funded by this Agreement either in whole or in part with funds administered by RCO.

**project area** - A geographic area that delineates a grant assisted site which is subject to project agreement requirements.

**project completion or completed project** – The status of a project when all of the following have occurred:

- The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily.
- A final project report is submitted to and accepted by RCO.
- Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO.
- A final reimbursement request has been delivered to and paid by RCO.



- Documents affecting property rights (including RCO's as may apply) and any applicable notice of grant, have been recorded (as may apply).

**project cost** – The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (see also 2 C.F.R. Part 200 (as updated)) for federally funded projects).

**project end date** – The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.

**project start date** – The specific date identified in the Agreement on which the period of performance starts.

**RCFB** – Recreation and Conservation Funding Board

**RCO** – Recreation and Conservation Office – The state agency that administers the grant that is the subject of this Agreement. RCO includes the director and staff.

**RCW** – Revised Code of Washington

**reimbursement** – RCO's payment of funds from eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.

**renovation project** – A project intended to improve an existing site or structure in order to increase its useful service life beyond current expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.

**secondary Sponsor** – One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.

**Sponsor** – A Sponsor is an organization that is listed in and has signed this Agreement.

**Sponsor Authorized Representative/Agent** – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

**subaward** – Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. Part 200 (as updated). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. Part 200 (as updated)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in the Project Funding Section.

**subrecipient** – Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. Part 200 (as updated)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

**tribal consultation** – Outreach, and consultation with one or more federally recognized tribes (or a partnership or coalition or consortium of such tribes, or a private tribal enterprise) whose rights will or may be significantly affected by the proposed project. This includes sharing with potentially-affected tribes the scope of work in the grant and potential impacts to natural areas, natural resources, and the built environment by the project. It also includes responding to any tribal request from such tribes and considering tribal recommendations for project implementation which may include not proceeding with parts of the project, altering the project concept and design, or relocating the project or not implementing the project, all of which RCO shall have the final approval of.

**useful service life** – Period during which a built asset, equipment, or fixture is expected to be useable for the purpose it was acquired, installed, developed, and/or renovated, or restored per this Agreement.

**WAC** – Washington Administrative Code.



## **PERFORMANCE BY THE SPONSOR**

The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the RCO (to include any RCO approved changes or amendments thereto). All submitted documents are incorporated by this reference as if fully set forth herein.

Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

## **ASSIGNMENT**

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written approval of the RCO. Sponsor shall not sell, give, or otherwise assign to another party any property right, or alter a conveyance (see below) for the project area acquired with this grant without prior approval of the RCO.

## **RESPONSIBILITY FOR PROJECT**

Although RCO administers the grant that is the subject of this Agreement, the project itself remains the sole responsibility of the Sponsor. The RCO and Funding Entity (if different from the RCO) undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement.

The responsibility for the implementation of the project is solely that of the Sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project has more than one Sponsor, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.

The RCO, its employees, assigns, consultants and contractors, and members of any funding board or advisory committee or other RCO grant review individual or body, have no responsibility for reviewing, approving, overseeing or supervising design, construction, or safety of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO, its employees, assigns, consultants and contractors, and any funding board or advisory committee or other RCO grant review individual or body will act only to confirm at a general, lay person, and nontechnical level, solely for the purpose of project eligibility and payment and not for safety or suitability, that the project apparently is proceeding or has been completed as per the Agreement.

## **INDEMNIFICATION**

The Sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence in connection with this Agreement (including without limitation all work or activities thereunder), or the breach of any obligation under this Agreement by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors, or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

Provided that nothing herein shall require a Sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and/or agents for whom the State is vicariously liable.

Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor's agents or employees, and (b) the State, or its employees or agents the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor's negligence or its agents, or employees.

As part of its obligations provided above, the Sponsor specifically assumes potential liability for actions brought by the Sponsor's own employees or its agents against the State and, solely for the purpose of this indemnification and defense, the Sponsor specifically waives any immunity under the state industrial insurance law, RCW Title 51. Sponsor's waiver of immunity under this provision extends only to claims against Sponsor by Indemnitee RCO, and does not include, or extend to, any claims by Sponsor's employees directly against Sponsor.

Sponsor shall ensure that any agreement relating to this project involving any contractors, subcontractors and/or vendors of any tier shall require that the contracting entity indemnify, defend, waive RCW 51 immunity, and otherwise protect the State as provided herein as if it were the Sponsor. This shall not apply to a contractor or subcontractor is solely donating its services to the project without compensation or other substantial consideration.

The Sponsor shall also defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable, in performance of the work under this Agreement or arising out of any use in connection with the Agreement of methods, processes, designs, information or other items furnished or



communicated to the State, its agents, officers and employees pursuant to the Agreement. Provided, this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from the State's, its agents', officers' and employees' failure to comply with specific written instructions regarding use provided to the State, its agents, officers and employees by the Sponsor, its agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

#### **INDEPENDENT CAPACITY OF THE SPONSOR**

The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the RCO or Funding Entity. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of the RCO or the Funding Entity, or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06.

The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

#### **CONFLICT OF INTEREST**

Notwithstanding any determination by the Executive Ethics Board or other tribunal, RCO may, in its sole discretion, by written notice to the Sponsor terminate this Agreement if it is found after due notice and examination by RCO that there is a violation of the Ethics in Public Service Act, RCW 42.52; or any similar statute involving the Sponsor in the procurement of, or performance under, this Agreement.

In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

#### **COMPLIANCE WITH APPLICABLE LAW**

In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations). Such compliance includes, without any limitation as to other applicable laws, the following laws:

- A. **Nondiscrimination Laws.** The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Employment Act (if applicable). In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the RCO or Funding Entity. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law. Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for construction of this project: "During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."
- B. **Secular Use of Funds.** No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or instruction may be a minor use of the grant supported recreation and conservation land or facility.
- C. **Wages and Job Safety.** The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.40. The Sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries.
  - 1) Pursuant to RCW 39.12.040(1)(a), all contractors and subcontractors shall submit to Sponsor a statement of intent to pay prevailing wages if the need to pay prevailing wages is required by law. If a contractor or subcontractor intends to pay other than prevailing wages, it must provide the Sponsor with an affirmative statement of the contractor's or subcontractor's intent. Unless required by law, the Sponsor is not required to investigate a statement regarding prevailing wage provided by a contractor or subcontractor.
  - 2) Exception, Service Organizations of Trail and Environmental Projects (RCW 79A.35.130). If allowed by state and federal law and rules, participants in conservation corps programs offered by a nonprofit organization



affiliated with a national service organization established under the authority of the national and community service trust act of 1993, P.L. 103-82, are exempt from provisions related to rates of compensation while performing environmental and trail maintenance work provided: (1) The nonprofit organization must be registered as a nonprofit corporation pursuant to RCW 24.03; (2) The nonprofit organization's management and administrative headquarters must be located in Washington; (3) Participants in the program must spend at least fifteen percent of their time in the program on education and training activities; and (4) Participants in the program must receive a stipend or living allowance as authorized by federal or state law. Participants are exempt from provisions related to rates of compensation only for environmental and trail maintenance work conducted pursuant to the conservation corps program.

- D. **Restrictions on Grant Use.** No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature. No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.
- E. **Debarment and Certification.** By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries' "Debarred Contractor List."

#### ARCHAEOLOGICAL AND CULTURAL RESOURCES

- A. **Project Review.** RCO facilitates the review of projects for potential impacts to archaeology and cultural resources, except as those listed below. The Sponsor shall follow RCO guidance and directives to assist it with such review as may apply.
- 1) **Projects occurring on State/Federal Lands:** Archaeological and cultural resources compliance for projects occurring on State or Federal Agency owned or managed lands, will be the responsibility of the respective agency, regardless of sponsoring entity type. Prior to ground disturbing work or alteration of a potentially historic or culturally significant structure, or release of final payments on an acquisition, the Sponsor must provide RCO all documentation acknowledging and demonstrating that the applicable archaeological and cultural resources responsibilities of such state or federal landowner or manager has been conducted.
- B. **Termination.** RCO retains the right to terminate a project due to anticipated or actual impacts to archaeology and cultural resources.
- C. **Notice To Proceed.** No work shall commence in the project area until RCO has provided a notice of cultural resources completion. RCO may require on-site monitoring for impacts to archaeology and cultural resources during any demolition, construction, land clearing, restoration, or repair work, and may direct that work stop to minimize, mitigate, or avoid impacts to archaeology and cultural resource impacts or concerns. All cultural resources requirements for non ground disturbing projects (such as acquisition or planning projects) must be met prior to final reimbursement.
- D. **Compliance and Indemnification.** At all times, the Sponsor shall take reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic resources in the project area, and comply with any RCO direction for such minimization and mitigation. All federal or state cultural resources requirements under Governor's Executive Order 21-02 and the National Historic Preservation Act, and the State Environmental Policy Act and the National Environmental Policy Act, and any local laws that may apply, must be completed prior to the start of any work on the project site. The Sponsor must agree to indemnify and hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts discovered, disturbed, or damaged due to the project funded under this Agreement. Sponsor shall comply with RCW 27.53, RCW 27.44.055, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting cultural resources and human remains.
- E. **Costs associated with project review and evaluation of archeology and cultural resources** are eligible for reimbursement under this agreement. Costs that exceed the budget grant amount shall be the responsibility of the Sponsor.
- F. **Inadvertent Discovery Plan.** The Sponsor shall request, review, and be bound by the RCO Inadvertent Discovery Plan, and:
- 1) Keep the IDP at the project site.
  - 2) Make the IDP readily available to anyone working at the project site.
  - 3) Discuss the IDP with staff and contractors working at the project site.



- 4) Implement the IDP when cultural resources or human remains are found at the project site.

#### G. Inadvertent Discovery

- 1) If any archaeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources.
- 2) If any human remains are found while conducting work under this Agreement, Sponsor shall immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then RCO, all in the most expeditious manner, and stop any activity that may cause disturbance to the remains. Sponsor shall secure the area of the find will and protect the remains from further disturbance until the State provides a new notice to proceed.
  - a) Any human remains discovered shall not be touched, moved, or further disturbed unless directed by the Department of Archaeology and Historic Preservation (DAHP).
  - b) The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

#### RECORDS

- A. **Digital Records.** If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.
- B. **Maintenance and Retention.** The Sponsor shall maintain books, records, documents, data and other records relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of nine years from the date RCO deems the project complete, as defined in the PROJECT REIMBURSEMENTS Section. If any litigation, claim or audit is started before the expiration of the nine (9) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
- C. **Access to Records and Data.** At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. This includes access to all information that supports the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.
- D. **Public Records.** Sponsor acknowledges that the RCO is subject to RCW 42.56 and that this Agreement and any records Sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04 (which ever applies). Additionally, the Sponsor agrees to disclose any information in regards to the expenditure of that funding as if the project sponsor were subject to the requirements of chapter 42.56 RCW. By submitting any record to the State, Sponsor understands that the State may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The Sponsor warrants that it possesses such legal rights as are necessary to permit the State to disclose and copy such record to respond to a request under state public records laws. The Sponsor hereby agrees to release the State from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying and pay the reasonable cost of state's defense of such claims.

#### PROJECT FUNDING

- A. **Authority.** This Agreement and funding is made available to Sponsor through the RCO.
- B. **Additional Amounts.** The RCO or Funding Entity shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the RCO director and incorporated by written amendment into this Agreement.



- C. **Before the Agreement.** No expenditure made, or obligation incurred, by the Sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by the RCO director, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.
- D. **After the Period of Performance.** No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the RCO or Funding Entity may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

## PROJECT REIMBURSEMENTS

- A. **Reimbursement Basis.** This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12, whichever has been designated to apply. Only the primary Sponsor may request reimbursement for eligible and allowable costs incurred during the period of performance. The primary Sponsor may request reimbursement only after (1) this Agreement has been fully executed and (2) the Sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in the PROJECT FUNDING Section. Reimbursement shall not be approved for any expenditure not incurred by the Sponsor, or for a donation used as part of its matching share. RCO does not reimburse for donations. All reimbursement requests must include proper documentation of expenditures as required by RCO.
- B. **Reimbursement Request Frequency.** The primary Sponsor is required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recent applicable RCO manuals and this Agreement regarding reimbursement requirements.
- C. **Compliance and Payment.** The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement and other agreements between RCO and the Sponsor.
- D. **Conditions for Payment of Retainage.** RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the following has occurred:
  - 1) RCO has accepted the project as a completed project, which acceptance shall not be unreasonably withheld.
  - 2) On-site signs are in place (if applicable); Any other required documents and media are complete and submitted to RCO; Grant related fiscal transactions are complete, and
  - 3) RCO has accepted a final boundary map of the project area for which the Agreement terms will apply in the future.

## RECOVERY OF PAYMENTS

- A. **Recovery for Noncompliance.** In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, fails to meet its percentage of the project total, and/or fails to comply with any of the terms and conditions of the Agreement, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.
- B. **Return of Overpayments.** The Sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time the Sponsor received such overpayment. Unless the overpayment is due to an error of RCO, the payment shall be due and owing on the date that the Sponsor receives the overpayment from the RCO. If the payment is due to an error of RCO, it shall be due and owing 30 days after demand by RCO for refund.

## COVENANT AGAINST CONTINGENT FEES

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the Sponsor, to terminate this Agreement and to be reimbursed by Sponsor for any grant funds paid to Sponsor (even if such funds have been subsequently paid to an agent), without liability to RCO or, in RCO's discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

## INCOME (AND FEES) AND USE OF INCOME

See WAC 286-13-110 for additional requirements for projects funded from the RCFB.

- A. **Compatible source.** The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement and any applicable manuals, RCWs, and WACs.
- B. **Use of Income.** Subject to any limitations contained in applicable state or federal law, any needed approvals of RCO, and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, rent, franchise fees, ecosystem services, carbon offsets sequestration, etc.) during or after the reimbursement period cited in the Agreement, must be used to offset:
  - 1) The Sponsor's matching resources;
  - 2) The project's total cost;
  - 3) The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the grant funding;
  - 4) The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;
  - 5) Capital expenses for similar acquisition and/or development and renovation; and/or
  - 6) Other purposes explicitly approved by RCO or otherwise provided for in this agreement.
- C. **Fees.** User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored and shall be consistent with the:
  - 1) Grant program laws, rules, and applicable manuals;
  - 2) Value of any service(s) furnished;
  - 3) Value of any opportunities furnished; and
  - 4) Prevailing range of public fees in the state for the activity involved.

## PROCUREMENT REQUIREMENTS

- A. **Procurement Requirements.** If the Sponsor has, or is required to have, a procurement process that follows applicable state and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists, the Sponsor must follow these minimum procedures:
  - 1) Publish a notice to the public requesting bids/proposals for the project;
  - 2) Specify in the notice the date for submittal of bids/proposals;
  - 3) Specify in the notice the general procedure and criteria for selection; and
  - 4) Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected.
  - 5) Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer.

Alternatively, Sponsor may choose a bid from a bidding cooperative if authorized to do so.

This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.

## TREATMENT OF EQUIPMENT AND ASSETS

Equipment shall be used and managed only for the purpose of this Agreement, unless otherwise provided herein or in the applicable manuals, or approved by RCO in writing.

- A. **Discontinued Use.** Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or RULES of applicable grant assisted program. When the Sponsor discontinues use of the



equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.

- B. **Loss or Damage.** The Sponsor shall be responsible for any loss or damage to equipment.

#### **RIGHT OF INSPECTION**

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement. If a landowner agreement or other form of control and tenure limits access to the project area, it must include (or be amended to include) the RCO's right to inspect and access lands acquired or developed with this funding assistance.

#### **STEWARDSHIP AND MONITORING**

Sponsor agrees to perform monitoring and stewardship functions as stated in the applicable WACs and manuals, this Agreement, or as otherwise directed by RCO consistent with the existing laws and applicable manuals. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the RCO; provided that RCO does not represent that any monitoring it may recommend will be adequate to reasonably assure project performance or safety. It is the sole responsibility of the Sponsor to perform such additional monitoring as may be adequate for such purposes.

#### **PREFERENCES FOR RESIDENTS**

Sponsors shall not express a preference for users of grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) except that reasonable differences in admission and other fees may be maintained on the basis of residence. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.

#### **ACKNOWLEDGMENT AND SIGNS**

- A. **Publications.** The Sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.
- B. **Signs.**
- 1) During the period of performance through the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations on the project area that acknowledge the applicable grant program's funding contribution, unless waived by the director; and
  - 2) During the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations to notify the public of the availability of the site for reasonable public access.
- C. **Ceremonies.** The Sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The Sponsor shall verbally acknowledge the applicable grant program's funding contribution at all dedication ceremonies and in all advertisements and mailings thereof, and any and all of its related digital media publications.

#### **PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS**

The following provisions shall be in force:

- A. **Operations and Maintenance.** Properties, structures, and facilities developed, maintained, or operated with the assistance of money granted per this Agreement and within the project area shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health and public safety standards to assure a reasonably safe condition and to prevent premature deterioration. It is the Sponsor's sole responsibility to ensure the same are operated and maintained in a safe and operable condition. The RCO does not conduct safety inspections or employ or train staff for that purpose.
- B. **Document Review and Approval.** Prior to commencing construction or finalizing the design, the Sponsor agrees to submit one copy of all construction and restoration plans and specifications to RCO for review solely for compliance with the scope of work to be identified in the Agreement. RCO does not review for, and disclaims any responsibility to review for safety, suitability, engineering, compliance with code, or any matters other than the scope so identified. Although RCO staff may provide tentative guidance to a Sponsor on matters related to site accessibility by persons with a disability, it is the Sponsor's responsibility to confirm that all legal requirements for accessibility are met even if



the RCO guidance would not meet such requirements.

- 1) Change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the RCO must receive prior written approval of the RCO.
- C. **Control and Tenure.** The Sponsor must provide documentation that shows appropriate tenure and term (such as long-term lease, perpetual or long-term easement, or perpetual or long-term fee simple ownership, or landowner agreement or interagency agreement for the land proposed for construction, renovation, or restoration. The documentation must meet current RCO requirements identified in this Agreement as of the effective date of this Agreement unless otherwise provided in any applicable manual, RCW, WAC, or as approved by the RCO.
- D. **Use of Best Management Practices.** Sponsors are encouraged to use best management practices including those developed as part of the Washington State Aquatic Habitat Guidelines (AHG) Program. AHG documents include "Integrated Streambank Protection Guidelines", 2002; "Land Use Planning for Salmon, Steelhead and Trout: A land use planner's guide to salmonid habitat protection and recovery", 2009; "Protecting Nearshore Habitat and Functions in Puget Sound", 2010; "Stream Habitat Restoration Guidelines", 2012; "Water Crossing Design Guidelines", 2013; and "Marine Shoreline Design Guidelines", 2014. These documents, along with new and updated guidance documents, and other information are available on the AHG Web site. Sponsors are also encouraged to use best management practices developed by the Washington Invasive Species Council (WISC) described in "Reducing Accidental Introductions of Invasive Species" which is available on the WISC Web site.
- E. At no time shall the Sponsor design, construct, or operate this grant funded project in a way that unreasonably puts the public, itself, or others at risk of injury or property damage. The Sponsor agrees and acknowledges that the Sponsor is solely responsible for safety and risk associated with the project, that RCO does not have expertise, capacity, or a mission to review, monitor, or inspect for safety and risk, that no expectation exists that RCO will do so, and that RCO is in no way responsible for any risks associated with the project.

#### LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS

- A. **Long-Term Obligations.** This section applies to completed projects only.
- B. **Perpetuity.** For acquisition, development, and restoration projects, or a combination thereof, unless otherwise allowed by applicable manual, policy, program rules, or this Agreement, or approved in writing by RCO. The RCO requires that the project area continue to function for the purposes for which these grant funds were approved, in perpetuity.
- C. **Conversion.** The Sponsor shall not at any time convert any real property (including any interest therein) or facility acquired, developed, renovated, and/ or restored pursuant to this Agreement, unless provided for in applicable statutes, rules, and policies. Conversion includes, but is not limited to, putting such property (or a portion of it) to uses other than those purposes for which funds were approved or transferring such property to another entity without prior approval via a written amendment to the Agreement. All real property or facilities acquired, developed, renovated, and/or restored with funding assistance shall remain in the same ownership and in public use/access status in perpetuity unless otherwise expressly provided in the Agreement or applicable policies or unless a transfer or change in use is approved by the RCO through an amendment. Failure to comply with these obligations is a conversion. Further, if the project is subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion. Determination of whether a conversion has occurred shall be based upon all terms of the Agreement, and all applicable state or federal laws or regulation.
- 1) When a conversion has been determined to have occurred, the Sponsor shall remedy the conversion as set forth in this Agreement (with incorporated documents) and as required by all applicable policies, manuals, WACs and laws that exist at the time the remedy is implemented or the right to the remedy is established by a court or other decision-making body, and the RCO may pursue all remedies as allowed by the Agreement or law.

#### CONSTRUCTION, OPERATION, USE, AND MAINTENANCE OF ASSISTED PROJECTS

The following provisions shall be in force for this agreement:

- A. **Property and facility operation and maintenance.** Sponsor must ensure that properties or facilities assisted with the grant funds, including undeveloped sites, are built, operated, used, and maintained:
- 1) According to applicable federal, state, and local laws and regulations, including public health standards and building codes;
  - 2) In a reasonably safe condition for the project's intended use;

- 3) Throughout its estimated useful service life so as to prevent undue deterioration;
- 4) In compliance with all federal and state nondiscrimination laws, regulations and policies.

**B. Open to the public.** Unless otherwise specifically provided for in the Agreement, and in compliance with applicable statutes, rules, and applicable WACs and manuals, facilities must be open and accessible to the general public, and must:

- 1) Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.
- 2) Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
- 3) Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals or, by a decision of the RCO director in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

#### **ORDER OF PRECEDENCE**

This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:

- A. Federal law and binding executive orders;
- B. Code of federal regulations;
- C. Terms and conditions of a grant award to the state from the federal government;
- D. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;
- E. State Constitution, RCW, and WAC;
- F. Agreement Terms and Conditions and Applicable Manuals;
- G. Applicable deed restrictions, and/or governing documents.

#### **LIMITATION OF AUTHORITY**

Only RCO's Director or RCO's delegate authorized in writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate.

#### **WAIVER OF DEFAULT**

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director's designee, and attached as an amendment to the original Agreement.

#### **APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH**

The Funding Entity (if different from RCO) and RCO rely on the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

#### **SPECIFIC PERFORMANCE**

RCO may, at its discretion, enforce this Agreement by the remedy of specific performance, which means Sponsors' completion of the project and/or its completion of long-term obligations as described in this Agreement. However, the remedy



of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the RCO shall be deemed exclusive. The RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

#### **TERMINATION AND SUSPENSION**

The RCO requires strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules, and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by RCO. For federal awards, notification of termination will comply with 2 C.F.R. § 200 (as updated).

##### **A. For Cause.**

- 1) The RCO director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
  - a) If the Sponsor breaches any of the Sponsor's obligations under this Agreement;
  - b) If the Sponsor fails to make progress satisfactory to the RCO director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines; or
  - c) If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project;
- 2) Prior to termination, the RCO shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.
- 3) RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.

##### **B. For Convenience.** Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:

- 1) The Sponsor was not in default; or
- 2) Failure to perform was outside Sponsor's control, fault or negligence.

##### **C. Rights and Remedies of the RCO.**

- 1) The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
- 2) In the event this Agreement is terminated by the director, after any portion of the grant amount has been paid to the Sponsor under this Agreement due to Sponsor's breach of the Agreement or other violation of law, the director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent repayment would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.

##### **D. Non Availability of Funds.** The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.

- 1) **Suspension:** The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean

all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.

- 2) **No Waiver.** The failure or neglect of RCO to require strict compliance with any term of this Agreement or to pursue a remedy provided by this Agreement or by law shall not act as or be construed as a waiver of any right to fully enforce all rights and obligations set forth in this Agreement and in applicable state or federal law and regulations.

## **DISPUTE HEARING**

Except as may otherwise be provided in this Agreement, when a dispute arises between the Sponsor and the RCO, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state:

- A. The disputed issues;
- B. The relative positions of the parties;
- C. The Sponsor's name, address, project title, and the assigned project number.

In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the persons chosen by the Sponsor and director shall be dismissed and an alternate person chosen by the Sponsor, and one by the director shall be appointed and they shall agree on a third person. This process shall be repeated until a three person panel is established.

Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.

The parties shall be bound by the majority decision of the dispute panelists, unless the remedy directed by that panel is beyond the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.

All costs associated with the implementation of this process shall be shared equally by the parties.

## **ATTORNEYS' FEES**

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own costs and attorneys' fees.

## **GOVERNING LAW/VENUE**

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in the Superior Court of a county where the project is situated, if venue there is legally proper, and if not, in a county where venue is legally proper. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington and agrees to venue as set forth above.

## **SEVERABILITY**

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

## **END OF STANDARD TERMS AND CONDITIONS**

This is the end of the Standard Terms and Conditions of the Agreement.





# CITY COUNCIL AGENDA BILL

City of Buckley  
PO Box 1960  
Buckley, WA 98321

ITEM INFORMATION			
<b>SUBJECT:</b>	<b>Agenda Date: September 23, 2025</b>		<b>AB25-047</b>
<b>Transit Services Financial Partnership Agreement by and Between the City of Buckley and Pierce Transit</b>	Department/Committee/Individual	Created	Reviewed
	Mayor		X
	City Administrator		X
	City Attorney		X
	City Engineer		
	City Clerk	X	X
	Finance Dept		
	Building Official		
	Fire Dept		
	Parks & Recreation		
	Building & Planning		
	Police Dept		
Municipal Court			
	PW/Utilities		
<b>Cost Impact:</b>			
<b>Fund Source:</b>			
<b>Timeline:</b>			
<b>Staff Contact:</b> City Administrator Brunell			
<b>Attachments:</b> Agreement			
<p>SUMMARY STATEMENT: On August 18, 2025, the SR 410 Bridget between Buckley and Enumclaw was closed following significant damage, creating major transportation challenges for the community. To provide interim mobility, the City of Buckley and Perce Transit have established a financial partnership to operate the Buckley Connector, a free weekday shuttle servicing linking key Buckley locations to the Foothills Trail footbridge for access to Enumclaw and King County Metro. Pierce County has allocated \$50,000 directly to the City to support these services. This agreement defines responsibilities, cost sharing, and service operations during the bridge closure.</p>			
<b>COMMITTEE REVIEW AND RECOMMENDATION:</b>			
<b>RECOMMENDED ACTION: MOVE to Approve the Transit Service Financial Partnership Agreement by and Between the City of Buckley, Washington and Pierce Transit</b>			
RECORD OF COUNCIL ACTION			
Meeting Date	Action	Vote	

**TRANSIT SERVICE FINANCIAL PARTNERSHIP AGREEMENT BY AND BETWEEN  
THE CITY OF BUCKLEY, WASHINGTON**

**AND**

**PIERCE TRANSIT**

THIS TRANSIT SERVICE FINANCIAL PARTNERSHIP AGREEMENT ("Agreement") is made by and between the City of Buckley ("City") and the Pierce County Public Transportation Benefit Authority (or "Pierce Transit") (both Washington municipal corporations referred to collectively as "Service Partner," whether one entity or multiple entities), all of which entities may be collectively referred to as the "Parties."

WHEREAS on August 18, 2025, the State Route 410 Bridge between Buckley and Enumclaw was struck by a vehicle sustaining significant damage to several components and resulting in the immediate closure of the bridge; and

WHEREAS On August 27, 2025, Governor Bob Ferguson issued Emergency Proclamation 25-03 in response to the closure of the bridge; and

WHEREAS the Parties are working together to provide a temporary shuttle service to transport community members free of charge from several locations within the City of Buckley to a stop close to the southern end of the Foothills Trail footbridge. This shuttle service will allow Buckley residents to more quickly and easily access the footbridge to reach work, appointments, schools, and resources in the City of Enumclaw and beyond; and

WHEREAS the Parties have identified funding within their organizations to participate in a financial partnership to each fund a share of Pierce Transit's cost of operating this temporary service; and

WHEREAS Pierce Transit has determined it has the resources available to operate this temporary service hereafter referred to as the Buckley Connector, with the schedule specified within this Agreement; and

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES, COVENANTS AND AGREEMENTS SET FORTH HEREIN, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED BY THE PARTIES, THE PARTIES HEREBY AGREE AS FOLLOWS:

**1. PURPOSE OF AGREEMENT**

The purpose of this Agreement to establish the terms, conditions, and responsibilities of the Parties in relation to this temporary transit service partnership, including methods of financing, operations, monitoring, and terminating the partnership.



## **2. PIERCE TRANSIT'S RESPONSIBILITIES**

Pierce Transit will provide the Buckley Connector service in accordance with the service specifications as follows:

2.1 Pick-up locations are as follows and shown on Attachment A.

- River Road and Cemetery Road
- Mount Rainier Creamery (out front on SR 410)
- Buckley Shopping Center (Jefferson Ave. and SR 410)
- Buckley Library (in front by bike racks and benches)
- Grocery and Post Office (in parking lot)
- New Buckley City Hall (811 Main St)
- River Road and Cemetery Road

Shuttle stop locations and routes may be altered based on need and mutual agreement between the Parties.

2.2 Service Level:

Shuttle service will be provided Monday through Friday during peak commute times:

- Morning 6 a.m. – 10 a.m.
- Evening 3:30 p.m. – 6:30 p.m.

Shuttle service times may be altered based on need and mutual agreement between the Parties.

2.3 Dates for Service

Service under this Agreement will begin on September 11, 2025, and continue through [REDACTED]. This Agreement may be extended upon mutual agreement by the Parties.

2.4 Pierce Transit will provide performance data using its standard ridership and service monitoring practices. The Parties understand and agree that, notwithstanding the Parties' financial contributions, the transit service referenced herein will be open to the general public.

## **3. PARTIES' FINANCIAL RESPONSIBILITIES**

3.1 Operating Cost

The operating cost for the Buckley Connector service will be based on a one-time reduced hourly rate of **\$80.00**.

The reduced rate shall apply to all travel time for the shuttle, including to and from the Pierce Transit base in Lakewood, WA.

## **4. TERM OF AGREEMENT**

4.1 Service Dates: Service under this Agreement will begin on September 11, 2025, and continue through [REDACTED].

4.2 Upon mutual agreement by the Parties, services may be extended beyond the initial

period stated above.

## **5. INVOICES/PAYMENT PROCEDURES**

- 5.1 Pierce Transit will invoice the City of Buckley at the end of each month for the actual cost to operate the service during that period. The invoices will be based on the Pierce Transit service costs specified in Section 3.
- 5.2 The City of Buckley shall make payment to Pierce Transit within forty-five (45) days after receipt of an invoice. Should the City of Buckley fail to pay Pierce Transit the amount due within forty-five (45) days of receipt of a billing invoice from Pierce Transit, a late payment assessment shall be applied to any outstanding balance due for that invoice. The late payment assessment shall be fixed at the maximum rate allowable under Washington State law.

## **6. RECORDS**

- 6.1 Maintenance of Records. The Parties shall maintain books, records, and documents directly pertinent to performance of the work under this Agreement for a period of six (6) years after the expiration or earlier termination of the Agreement or longer if required by the Washington State Archivist retention schedule.
- 6.2 Disclosure of Public Records. The Parties acknowledge that all non-privileged, non-exempt records that may result from access to records under this Agreement are subject to public disclosure.

## **7. INDEMNIFICATION AND LEGAL RELATIONS**

- 7.1 It is understood and agreed that this Agreement is solely for the benefit of the Parties hereto and gives no right to any other person or entity. No joint venture or partnership is formed as a result of this Agreement. No employees or agents of one Party or its contractors or subcontractors shall be deemed, or represent themselves to be, employees, agents, contractors or subcontractors of the other Party.
- 7.2 Each Party shall comply, and shall ensure that its contractors and subcontractors, if any, comply with all federal, state and local laws, regulations, and ordinances applicable to the work and services to be performed under this Agreement.
- 7.3 Each Party shall protect, defend, indemnify and save harmless the other Party, its elected officials, officers, officials, employees and agents while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from each Party's own negligent acts or omissions. Each Party agrees that it is fully responsible for the acts and omissions of its own subcontractors, their employees and agents, acting within the scope of their employment as such, as it is for the acts and omissions of its own employees and agents. Each Party agrees that its obligations under this provision extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees or agents. The foregoing indemnity is specifically and expressly intended to constitute a waiver of each Party's immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the other Party only, and only to the extent necessary to provide the indemnified Party with a full and complete indemnity of claims made by the indemnitor's employees. The Parties acknowledge that these provisions were specifically negotiated and agreed



upon by them.

7.4 Each Party's rights and remedies in this Agreement are in addition to any other rights and remedies provided by law.

7.5 This Agreement shall be interpreted in accordance with the laws of the State of Washington. The Superior Court of Pierce County, Washington, located in Tacoma, Washington, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.

7.6 The provisions of this Section shall survive any termination of this Agreement.

## **8. INSURANCE REQUIREMENTS**

Each party shall self-insure or procure and maintain for the duration of the Agreement, insurance or self-insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of this Agreement by the Parties.

## **9. CHANGES AND MODIFICATIONS**

This Agreement may be amended or modified only by a prior written amendment signed by authorized representatives of the Parties hereto.

## **10. TERMINATION OF AGREEMENT**

10.1 Any Party may terminate this Agreement in writing if another Party substantially fails to fulfill any or all of its obligations under this Agreement through no fault of the other; provided, however, that, insofar as practicable, the Party terminating the Agreement will give not less than 10 calendar days prior to Pierce Transit by written notice delivered by Email or certified mail of intent to terminate.

10.2 In addition to termination under Subsection 10.1 of this Agreement, any Party may terminate this Agreement for its convenience, provided that the other Parties will be given not less than 10 calendar days prior to the Pierce Transit by written notice delivered by Email or certified mail of intent to terminate.

10.3 Performance of any responsibilities undertaken by Pierce Transit pursuant to this Agreement beyond the agencies current appropriation year is conditional upon the appropriation by Pierce Transit Board of Commissioners sufficient funds to support the work provided for in this Agreement. Should such an appropriation not be approved, the Agreement shall terminate at the close of the current appropriation year. Pierce Transit is on an annual budget cycle and appropriations end on December 31st.

## **11. FORCE MAJEURE**

All Party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by a cause beyond its control, including, but not limited to: any incidence of fire, flood, earthquake or acts of nature, including adverse winter weather; strikes or labor actions; commandeering material, products, or facilities by the federal, state or local government; a declared State of Emergency due to a public health emergency or pandemic; and/or national fuel shortage; when satisfactory evidence of such cause is presented to the other Parties, and provided further that such non-performance is beyond the control and is not due to the fault or negligence of the Party not performing. In no event, however, shall this provision eliminate obligation to make payment

to Pierce Transit for services performed in accordance with this Agreement.

**12. WAIVER OF DEFAULT**

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing, signed by authorized Parties and attached to the Agreement as an exhibit.

**13. ASSIGNMENT**

This Agreement shall be binding upon the Parties, their successors, and assigns; provided, however, that neither Party shall assign nor transfer in any manner any interest, obligation or benefit of this Agreement without the other's prior written consent.

**14. NO THIRD- PARTY BENEFICIARIES**

Nothing in this Agreement, express or implied, is intended to confer on any person or entity other than the Parties hereto and their respective successors and assigns any rights or remedies under or by virtue of this Agreement.

**15. MUTUAL NEGOTIATION AND CONSTRUCTION**

This Agreement and each of the terms and provisions hereof shall be deemed to have been explicitly negotiated between, and mutually drafted by, the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against any Party.

**16. ALL TERMS AND CONDITIONS**

This Agreement merges and supersedes all prior negotiations, representations and agreements between the Parties related to the subject matter hereof, contains all the terms and conditions agreed upon by the Parties, and constitutes the entire agreement between the Parties. This Agreement may be amended only by written agreement of the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties hereto.

**17. CONTACT PERSONS**

The Parties shall designate a contact person for purposes of sending inquiries and notices regarding the execution and fulfillment of this Agreement.

	<b>City of Buckley</b>
Contact Name	
Department	
Title	
Address	
Telephone	
E-Mail	

	<b>Pierce Transit</b>
Contact Name	Rod Chandler



Department	Safety Department.
Title	Safety Administrator
Address	3701 96 <sup>th</sup> St SW Lakewood WA 98499
Telephone	253.983.3475
E-Mail	rhandler@piercetransit.org

Each Party agrees to advise the other Party in writing with updates to its contact information as needed.

**18. EXECUTION OF AGREEMENT – COUNTERPARTS**

This Agreement may be executed in three (3) counterparts, either of which shall be regarded for all purposes as an original.

**19. EFFECTIVE DATE**

This Agreement shall take effect on the last date it has been executed by all Parties.

**CITY OF BUCKLEY**

**PIERCE TRANSIT**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Name/Title**

\_\_\_\_\_  
**Date**

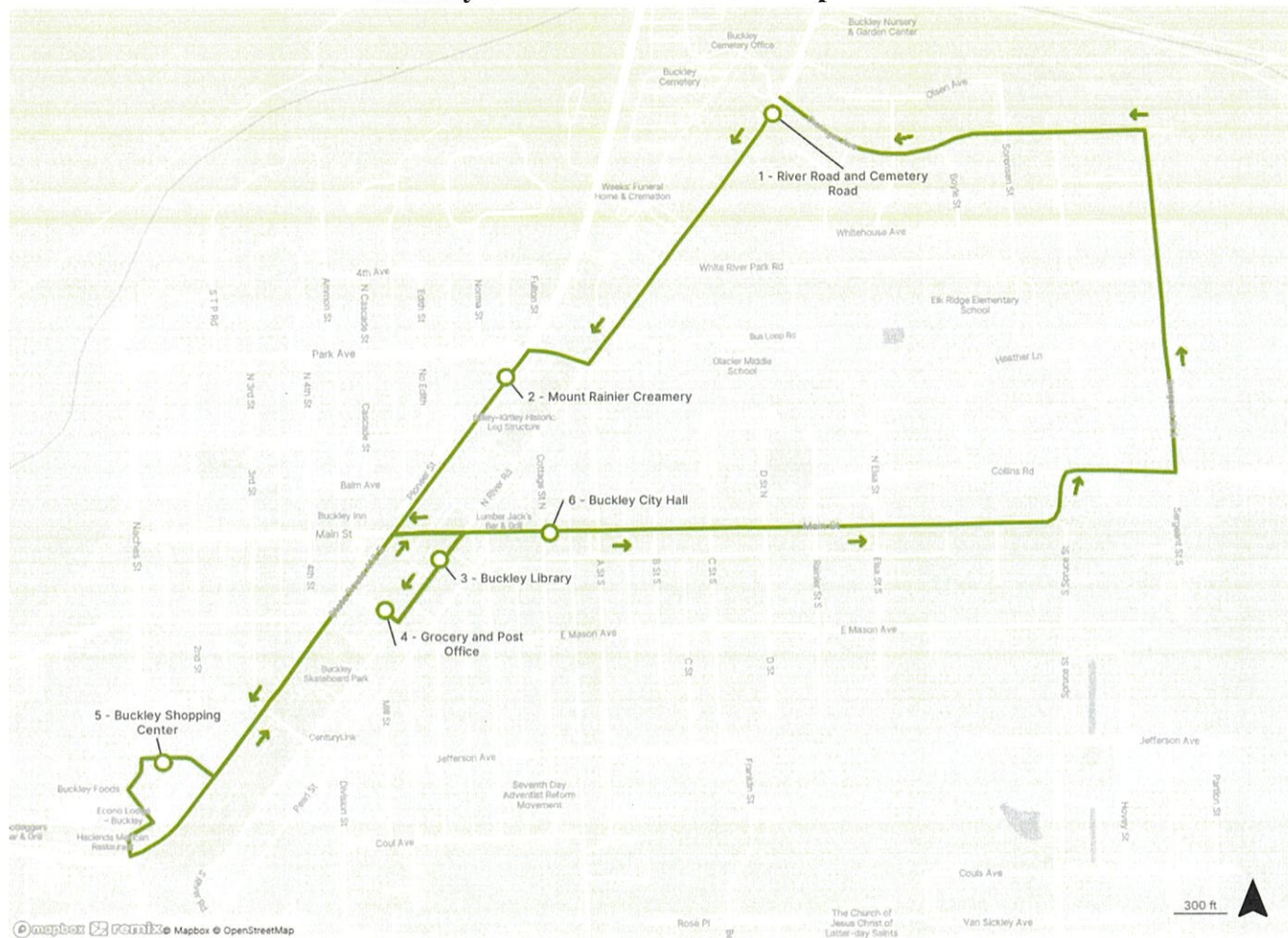
\_\_\_\_\_  
**Signature**

Michael Griffus, Chief Executive Officer  
**Name/Title**

\_\_\_\_\_  
**Date**

ATTACHMENT A

Buckley Connector Route and Stops





## **E. STAFF REPORTS**



TO: Mayor and City Councilmembers  
FROM: Chris Farnsworth, Senior Planner  
THROUGH: Courtney Brunell, City Administrator  
DATE: 9/23/25  
SUBJECT: Development Code Updates 2<sup>nd</sup> Review

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**Purpose:** The purpose of this memo is to provide a chance for the 2<sup>nd</sup> review and discussion of development code updates.

**Background:** We are currently in the process of updating our development code to be in compliance with new state laws as well as updates to the code to reflect the updated comprehensive plan.

**Discussion:** Review of the following development code updates:

1. ADU draft code (compliance)
2. New Housing Definitions
3. Proposed Zoning Map
4. Updated Use Table
5. Nonconforming Use Table
6. Residential Dimensions (R6000 & R8000)

**Next Steps:** 1. Planning Commission Public Hearing  
2. Department of Commerce Submittal and Review (60 days)  
3. Council Adoption

**Attachments:** Please see 1-6 above.



### 19.22.130 Accessory dwelling units.

Accessory dwelling units are permitted outright in all residential zoning districts that permit single-family homes, and may be developed with new or existing single-family homes on any lot that meets the minimum lot size required for the principal unit. The development standards of the underlying zoning district and the following siting and performance standards shall apply to all accessory dwelling units as defined by BMC 19.12.025:

~~(1) The primary residence or accessory dwelling unit shall be the principal place of residence for the homeowner.~~

~~(2) Only one two accessory dwelling unit is units are permitted per single-family residence.~~

Accessory dwelling units can be sited in any of the following configurations:

(i) One attached accessory dwelling unit and one detached accessory dwelling unit;

(ii) Two attached accessory dwelling units; or

(iii) Two detached accessory dwelling units, which may be comprised of either one or two detached structures

(3) Accessory dwelling units may be developed on lots of any size; provided, that all other applicable zoning requirements are met.

(4.) Setback Exception.

For lots that have a rear lot line that abuts an alley, a detached accessory dwelling unit may be sited up to the lot line that abuts the alley. The accessory dwelling unit shall comply with the required side yard setbacks.

(5) Existing Accessory Structures.

Lot coverage and setbacks for existing accessory structures shall be exempted to permit conversion to accessory dwelling units.

~~(3) An accessory dwelling unit shall not be larger than 50 percent of the square footage of the single-family home, with garage space not being included in the calculation. In no case shall the accessory dwelling unit be more than 800 square feet, nor less than 300 square feet, nor have more than two bedrooms.~~

~~(6) An accessory dwelling unit shall not have a gross floor area larger than 1,250 square ft with garage space not included in the calculation.~~

~~(4) Exterior Appearance/Modifications.~~

~~(a) Any alterations shall not change the appearance from that of a single-family residence, as determined by the planning director.~~

~~(b) Only one exterior entrance is allowed to the accessory dwelling unit and it can be located no closer than 10 feet to an adjoining property line.~~

~~(c) Any exterior stairs shall be placed in the rear or side yard and are no closer than 10 feet to an adjoining property line.~~

~~(d) Where garage space is converted to living space, the garage door shall be replaced with materials that match the exterior of the house.~~

~~(e) There shall be only one front door facing the street from the two residences (primary and accessory residences).~~

(6) Compliance with applicable codes.

**Commented [SL24]:** "The city or county may not require the owner of a lot on which there is an accessory dwelling unit to reside in or occupy the accessory dwelling unit or another housing unit on the same lot"  
[36.70A.681](#)

**Commented [SL25]:** "... (j) A city or county must allow detached accessory dwelling units to be sited at a lot line if the lot line abuts a public alley, unless the city or county routinely plows snow on the public alley; "

**Commented [SL26]:** "... (j) A city or county must allow accessory dwelling units to be converted from existing structures, including but not limited to detached garages, even if they violate current code requirements for setbacks or lot coverage;

**Commented [SL27]:** The minimum maximum you can require is 1000 sq ft. gross floor area - [RCW 36.70A.681\(1\)\(f\)](#)

**Commented [SL28]:** Enumclaw's code which appears to meet compliance regulates appearance this way:  
**Architectural design.**

The design of the accessory dwelling unit shall be consistent with the design of the principal dwelling unit and shall maintain the style, appearance and character of the main building, and shall use matching materials, colors, window style, and comparable roof appearance.

**Commented [SL29]:** Requirements for setbacks, yard coverage limits, tree retention mandates, restrictions on entry door locations, aesthetic requirements, or requirements for design review are not more restrictive for ADUs than those for principal units.  
[RCW 36.70A.681\(1\)\(h\)](#) - I believe all of these are more restrictive.

(a) The accessory dwelling unit shall comply with all standards for health and life safety as set forth in the International Building Code, International Residential Code, Uniform Plumbing Code, National Electrical Code, International Mechanical Code, International Fire Code, and Washington State Energy Code as each code is adopted by the city; and any other applicable codes or regulations, except as provided in this chapter. The accessory dwelling unit shall comply with all zoning code provisions for single-family residences, including setbacks, accessory buildings and lot coverage, except as provided in this chapter.

**Commented [SL30]:** Not required - excerpted from Enumclaw municipal code.  
<https://www.codepublishing.com/WA/Enumclaw/html/Enumclaw19/Enumclaw1934.html#19.34.050>

**(75) Parking Requirements.**

- (a) The parking required for the existing single-family home must meet all requirements of the zoning code including amount, size and setback requirements in order for an accessory dwelling unit to be allowed.
- (b) One additional parking space, beyond those required for the primary single-family home, is required for an accessory dwelling unit. The additional parking space must also meet all requirements of the zoning code.
- (c) Newly created parking shall make use of existing curb cuts, when possible.

**Commented [SL31]:** I think this is okay - but a little bit of a gray area if ADUs are a permitted use and this puts a condition on their permitting.

~~(6) An accessory dwelling unit may not be sold as a separate piece of property, or as a condominium unit, unless allowed by the existing zoning on the property.~~

**Commented [SL32]:** (k) A city or county may not prohibit the sale or other conveyance of a condominium unit independently of a principal unit solely on the grounds that the condominium unit was originally built as an accessory dwelling unit

(87) Any homeowner seeking to establish an accessory dwelling unit shall apply for approval in accordance with the following procedures:

- (a) The homeowner shall apply for an accessory dwelling unit permit with the building division. A complete application shall include a properly completed application form, floor and structural plans, fees ~~and an affidavit of owner residency. The affidavit of owner residency must be signed before a notary public affirming that the owner meets the requirements of subsections (1) through (5) of this section.~~

**Commented [SL33]:** Owner occupancy cannot be required.

- (b) Before issuance of the accessory dwelling unit permit, the homeowner must provide a copy of a statement recorded with the county records and elections office. The statement must read:

A permit for an accessory dwelling unit has been issued, by the city of Buckley, to the owner of this property. Future owners are advised that the owner of the property must comply with all requirements of section 19.22.130 of the Buckley Zoning Code, as amended, if the accessory dwelling unit is to be occupied or rented.

(98) If an accessory dwelling unit is to be removed, appropriate permits and inspections must first be received from the Buckley building official. If a homeowner wants to remove the statement as required by subsection (7)(b) of this section from the property's title, then the city shall issue an appropriate release upon evidence that the accessory dwelling unit has been removed. The release shall be recorded, by the homeowner, with the county records office and a copy of the recorded release shall be provided to the Buckley building official. (Ord. 22-08 § 1 (Exh. A), 2008).

**19.22.140 Stormwater retention.**

Standards for stormwater retention shall be as specified under Chapters 14.30 and 17.08 BMC. (Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 19-97 §§ 19, 20, 1997. Formerly 19.24.140).

**19.22.150 Multiple structures or uses on one building lot.**

There may be more than one principal or conditional use or more than one principal building out of which the principal uses or conditional uses are conducted on a single lot if, and only if, all the following conditions are met:

- (1) The use is other than for single-family dwellings; and
- (2) The use is a permitted use within the zone; and
- (3) All setback requirements for the particular zone are met; and

The Buckley Municipal Code is current through Ordinance 11-24, passed October 8, 2024.



#### **19.12.155 Dwelling, caretaker's.**

"Caretaker's dwelling" means a dwelling unit, located inside a principal building on the lot, which is designed for and used exclusively by the property owner or by another person and his or her family, employed to provide security or custodial services for a commercial or industrial use on the same lot. Caretaker's dwelling units may be allowed by the appropriate city-designated official subject to the performance regulations for conditional use permits, and to the following additional requirements:

- (1) The dwelling unit shall only be allowed as an accessory use to the principal use(s) permitted in the zone;
- (2) The dwelling unit shall be located inside the principal building on the property. The appearance of the building shall remain commercial or industrial;
- (3) That portion of the principal building containing the dwelling unit shall observe a minimum setback of eight feet from property lines;
- (4) Only one caretaker's dwelling shall be allowed on the site or lot;
- (5) The caretaker's dwelling shall be removed upon a change in the use or ownership of the property. (Ord. 06-16 § 15, 2016; Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 1-97 § 1, 1997. Formerly 19.12.145).

#### **19.12.160 Dwelling, multiple-family.**

"Multiple-family dwelling" means a building designed exclusively for occupancy by ~~three-four~~ or more families living independently of each other, and containing ~~three-four~~ or more dwelling units ~~as well as townhomes~~. (Ord. 02-22 § 5, 2022; Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 1020 § 2, 1981. Formerly 19.12.150).

**Commented [SL1]:** This is not the same definition as in the multi-family guidelines: "multifamily" includes all duplexes, townhomes, or any other structures containing three or more dwelling units amounting to at least eight (8) residential units on the same parcel or on consecutive parcels under common ownership

#### **19.12.161 Dwelling, courtyard apartment.**

"Courtyard apartment" means up to 25 attached units arranged on two or three sides of a yard or court with yard or court continuous with lot frontage.

#### **19.12.162 Dwelling, four-family or fourplex.**

"Four-family dwelling" or "fourplex" means a building designed or used by four families for residential purposes, which can be either attached or stacked; provided, four townhome units are not considered a fourplex.

#### **19.12.162 Dwelling, live-work.**

"Live-work dwelling" means a detached or attached structure consisting of one dwelling unit above or behind a fire-separated flexible ground floor space occupied by a commercial use.

#### **19.12.164 Dwelling, multiplex.**

"Multiplex" means a building consisting of 5-12 attached units arranged side-by-side or stacked.

#### **19.12.165 Dwelling, single-family.**

"Single-family dwelling" means a building designed or used by one family for residential purposes. (Ord. 34-19 § 5, 2019; Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 01-03 § 1, 2003; Ord. 40-97 § 1, 1997; Ord. 1020 § 2, 1981. Formerly 19.12.160).

#### **19.12.170 Dwelling, temporary.**

"Temporary dwelling" is as defined in BMC 16.10.005. (Ord. 34-19 § 6, 2019; Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 8-84 § 1, 1984. Formerly 19.12.165).

#### **19.12.175 Dwelling, townhome.**

"Townhome dwelling" means a type of attached ~~multifamily~~ dwelling in a row of at least two, but not more than four, such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls. (Ord. 22-08 § 1 (Exh. A), 2008).

**Commented [SL2]:** You have a definition of multifamily that is more than 2 making this confusing.

#### **19.12.180 Dwelling, two-family or duplex.**

"Two-family dwelling" or "duplex" means a building designed or used by two families for residential purposes which can be either attached or stacked; provided, two townhome units are not considered a duplex. (Ord. 04-16 § 3, 2016; Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 1020 § 2, 1981. Formerly 19.12.170).

#### **19.12.182 Dwelling, three-family or triplex.**

"Three-family dwelling" or "triplex" means a building designed or used by three families for residential purposes which can be either attached or stacked; provided, three townhome units are not considered a triplex.

#### **19.12.185 Dwelling unit.**

"Dwelling unit" means one or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the unit for the exclusive use of a single family maintaining a household. (Ord. 22-08 § 1 (Exh. A), 2008).



2025 ZONING UPDATE

25 ZONING UPDATE

Commercial Flex

Central Mixed Use

Historic Commercial

Public

Park

Natural

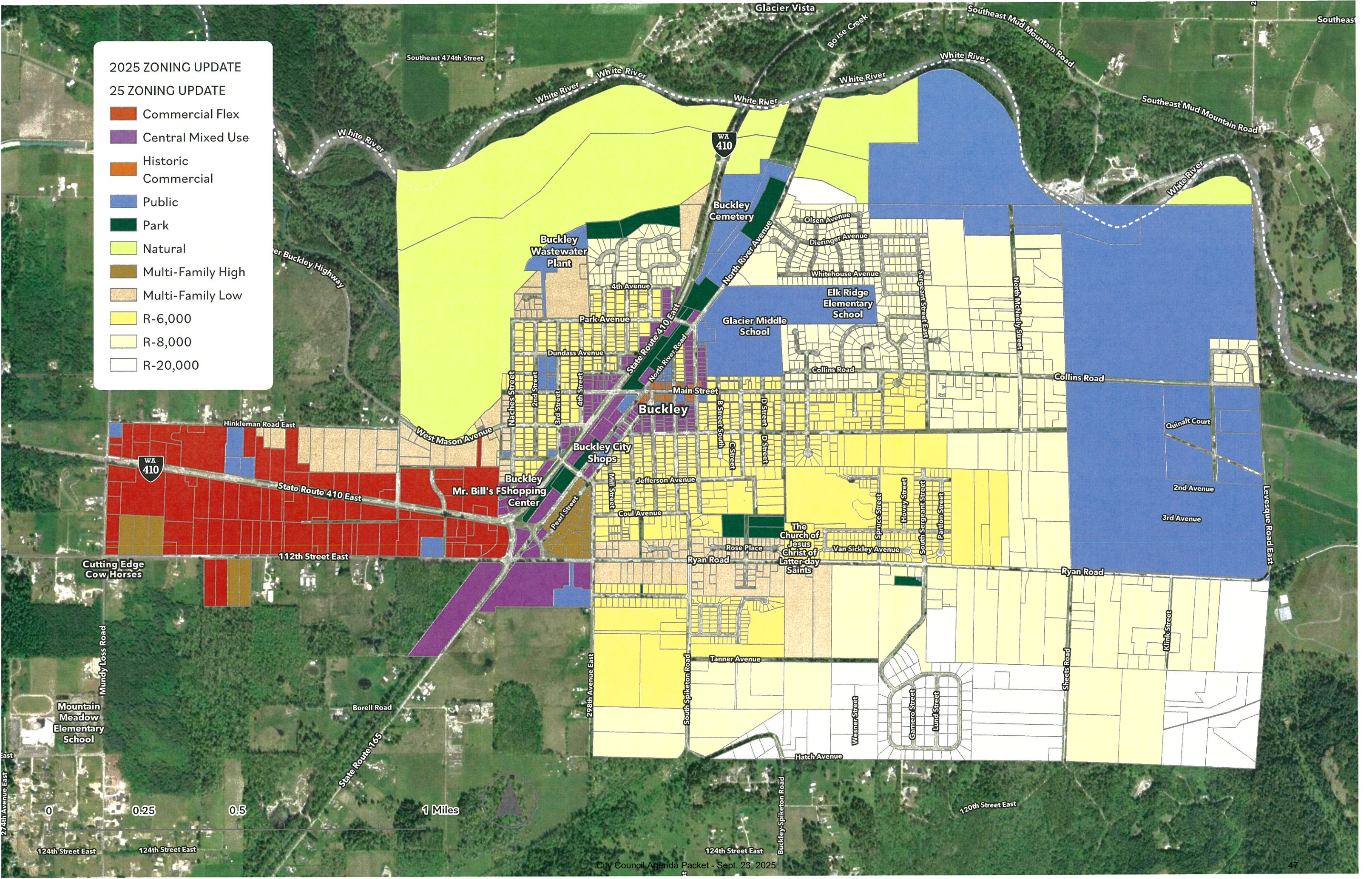
Multi-Family High

Multi-Family Low

R-6,000

R-8,000

R-20,000





## Prohibited use category table

	CF	CMU	HC	HDR-High	HDR-Low	R-6,000	R-8,000	R-20,000	Public	Park	Natural
<b>Agricultural Uses</b>	X	X	X	X	X	X	X		X	X	X
<b>Commercial &amp; Light Industrial</b>				X	X	X	X	X		X	X
<b>Eating &amp; Drinking establishments</b>				X	X	X	X	X		X	X
<b>Essential Public Facilities</b>				X	X	X	X	X		X	X
<b>Government Services</b>				X	X	X	X	X			X
<b>Health &amp; Social Services</b>						X	X	X		X	X
<b>Lodging</b>			X	X	X	X	X	X	X	X	X
<b>Residential</b>									X	X	X
<b>Utilities</b>											

**X = Prohibited use category:**

All uses within this category are prohibited in the indicated zone. For empty cells, refer to the appropriate zone section for specific prohibited and conditional uses.



## Commercial Flex

### Prohibited uses

#### **AGRICULTURAL USES**

- All uses are prohibited

#### **COMMERCIAL AND LIGHT INDUSTRIAL**

- Marijuana production, processing, cooperatives, and other non-retail uses.
- Self-storage facilities including mini-storage and mini-warehouses
- Storage yard (outdoor storage)

#### **EATING & DRINKING ESTABLISHMENTS:**

#### **ESSENTIAL PUBLIC FACILITIES**

#### **GOVERNMENT SERVICES**

- Schools, except for post-secondary education

#### **HEALTH & SOCIAL SERVICES**

#### **LODGING**

#### **RESIDENTIAL**

- Stand-alone residential (exempting permanent supportive housing, transitional housing, and emergency housing).

#### **UTILITIES**

**Commented [SL1]:** City Council is interested in moving this back into prohibited. PC expressed a willingness to place either in prohibited or conditional with additional buffering stipulations.

## Conditional uses

Conditional uses are not allowed outright and require a conditional use permit.

### **AGRICULTURAL USES**

### **COMMERCIAL AND LIGHT INDUSTRIAL**

- Adult entertainment businesses
- Auto – vehicle towing services
- Auto – vehicle rental agencies including truck, trailer, recreational vehicle and other auto rental
- Construction/contractor yards
- Commercial RV parks
- Fuel storage facilities
- Hazardous waste on-site treatment and storage facilities
- Marijuana retail
- Parking including public, public garage and private for fee
- Retail or service activities conducted out of temporary structures and/or trailers
- Warehousing and distribution facilities, to include wholesale trade, not open to general public

### **EATING & DRINKING ESTABLISHMENTS:**

### **ESSENTIAL PUBLIC FACILITIES**

### **GOVERNMENT SERVICES**

### **HEALTH & SOCIAL SERVICES**

- Day care, adult

### **LODGING**

### **RESIDENTIAL**

- Assisted living facilities

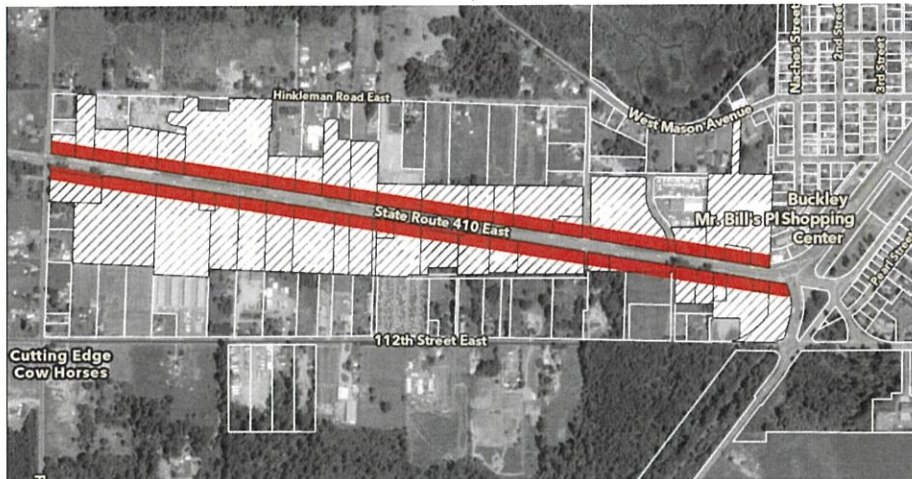
### **UTILITIES**

- Electrical distribution substations
- Radio and television towers
- Personal ham radio antennas
- Satellite dishes, noncommercial, and antennas



## Commercial Flex: Hwy 410 Overlay

This overlay includes the portion of all Commercial Flex designated parcels falling within 100 feet of the Hwy 410 right-of-way. The overlay portion of these lots should include commercial, retail, and service uses. There are several parcels that intersect with both Commercial Flex overlays. Parcels where the SR 410 Overlay apply are indicated in the map below.



## Prohibited uses

## AGRICULTURAL USES

- All uses prohibited

## COMMERCIAL AND LIGHT INDUSTRIAL

- Adult Entertainment businesses
- Auto – vehicle towing services
- Auto – vehicle rental agencies including truck, trailer, recreational vehicle and other auto rental
- Construction/contractor yards
- Commercial RV parks
- Fuel storage facilities (not gas stations)
- Hazardous waste on-site treatment and storage facilities
- Marijuana production, processing, cooperatives, and other non-retail uses.
- Motor vehicle recycling and rebuilding
- Self-storage facilities including mini-storage and mini-warehouses
- Storage yard (outdoor storage)
- Warehousing and distribution facilities, to include wholesale trade, not open to general public

## EATING & DRINKING ESTABLISHMENTS

**ESSENTIAL PUBLIC FACILITIES****GOVERNMENT SERVICES**

- Schools, except for post-secondary education

**HEALTH & SOCIAL SERVICES****LODGING****RESIDENTIAL**

- Stand-alone residential (exempting permanent supportive housing, transitional housing, and emergency housing).

**UTILITIES**

- All uses are prohibited



## Conditional uses

### **AGRICULTURAL USES**

#### **COMMERCIAL AND LIGHT INDUSTRIAL**

- Lumber sales
- Equipment rental services
- Manufactured and modular housing sales
- Marijuana retail
- Parking including public, public garage and private for fee
- Retail or service activities conducted out of temporary structure and/or trailers
- Auto – drive through such as car washes and oil change

#### **EATING & DRINKING ESTABLISHMENTS:**

#### **ESSENTIAL PUBLIC FACILITIES**

#### **GOVERNMENT SERVICES**

#### **HEALTH & SOCIAL SERVICES**

#### **LODGING**

#### **RESIDENTIAL**

- Assisted living facility

#### **UTILITIES**

## Commercial Flex: 112<sup>th</sup> St E Overlay

The 112<sup>th</sup> St E Overlay includes all Commercial flex designated parcels that fall within 150 feet of the 112<sup>th</sup> St E Right-of-Way. There are several parcels that intersect with both overlays. Parcels where the 112<sup>th</sup> St E Overlay apply are indicated in the map below.



### Prohibited uses

#### **AGRICULTURAL USES**

- All uses are prohibited

#### **COMMERCIAL AND LIGHT INDUSTRIAL**

- Construction/contractor yards
- Marijuana production, processing, cooperatives, and other non-retail uses.
- Self-storage facilities including mini-storage and mini-warehouses
- Storage yard (outdoor storage)

#### **EATING & DRINKING ESTABLISHMENTS:**

#### **ESSENTIAL PUBLIC FACILITIES**

#### **GOVERNMENT SERVICES**

- Schools, except for post-secondary education

#### **HEALTH & SOCIAL SERVICES**

#### **LODGING**

#### **RESIDENTIAL**

#### **UTILITIES**



## Conditional uses

Conditional uses are not allowed outright and require a conditional use permit.

### **AGRICULTURAL USES**

#### **COMMERCIAL AND LIGHT INDUSTRIAL**

- Adult entertainment businesses
- Auto – vehicle towing services
- Auto – vehicle rental agencies including truck, trailer, recreational vehicle and other auto rental
- Commercial RV parks
- Marijuana retail
- Fuel storage facilities
- Hazardous waste on-site treatment and storage facilities
- Parking including public, public garage and private for fee
- Retail or service activities conducted out of temporary structures and/or trailers
- Warehousing and distribution facilities, to include wholesale trade, not open to general public

#### **EATING & DRINKING ESTABLISHMENTS:**

#### **ESSENTIAL PUBLIC FACILITIES**

#### **GOVERNMENT SERVICES**

#### **HEALTH & SOCIAL SERVICES**

- Day care, adult

#### **LODGING**

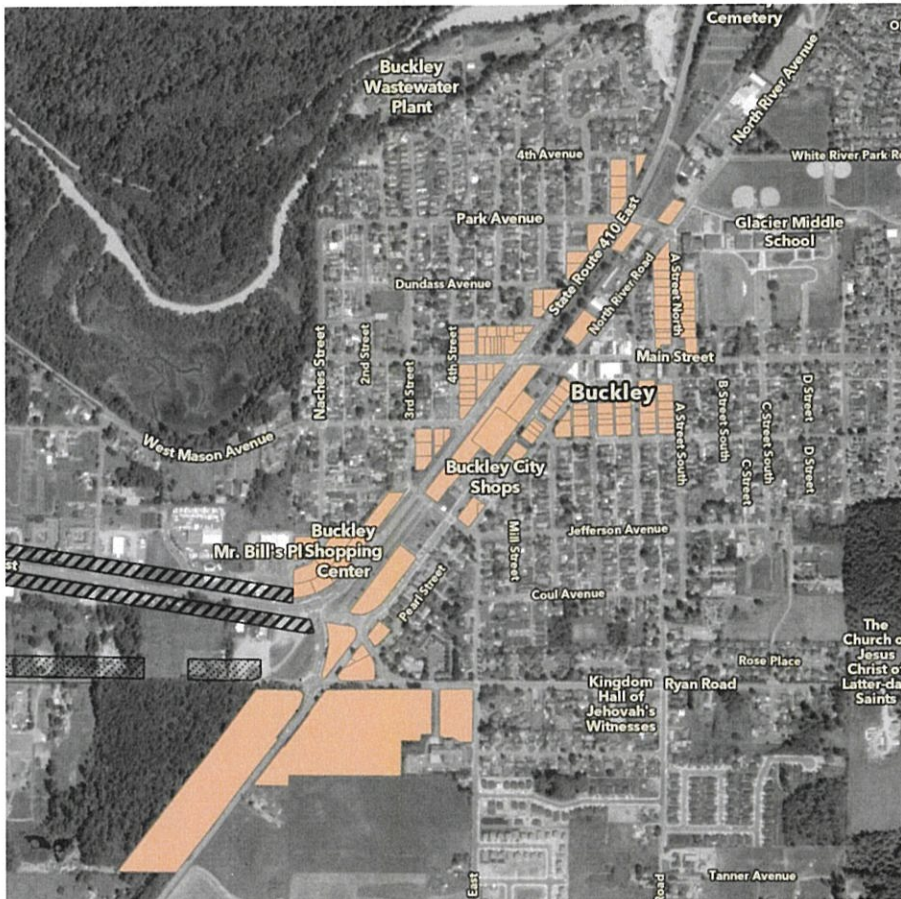
#### **RESIDENTIAL**

- Stand-alone residential (exempting permanent supportive housing, transitional housing, and emergency housing).

#### **UTILITIES**

- Electrical distribution substations
- Radio and television towers
- Personal ham radio antennas
- Satellite dishes, noncommercial, and antennas

## Central Mixed Use





## Prohibited uses

### **AGRICULTURAL USES**

- All uses are prohibited

### **COMMERCIAL AND LIGHT INDUSTRIAL**

- Adult entertainment businesses
- Construction/contractor yards
- Commercial RV parks
- Equipment rental services (commercial)
- Food processing and packing
- Fuel storage facilities
- Hazardous waste on-site treatment and storage facilities
- Lumber Sales
- Manufactured and modular home sales
- Manufacturing, assembling and packaging of articles, products, or merchandise conducted entirely within a building.
- Marijuana production, processing, cooperatives, and other non-retail uses.
- Marijuana retail
- Motor vehicle recycling and rebuilding
- Office Park
- Retail or service activities conducted out of temporary structures and/or trailers
- RV/tent campground or RV park
- Sales, wholesale (wholesaling)
- Self-storage facilities including mini-storage and mini-warehouses
- Storage yard (outdoor storage)
- Warehousing and distribution facilities, to include wholesale trade, not open to general public
- Welding and fabrication

### **EATING & DRINKING ESTABLISHMENTS:**

### **ESSENTIAL PUBLIC FACILITIES**

### **GOVERNMENT SERVICES**

- All schools (exempting preschools)

### **HEALTH & SOCIAL SERVICES**

### **LODGING**

### **RESIDENTIAL**

- Stand-alone residential (exempting permanent supportive housing, transitional housing, emergency housing).

### **UTILITIES**

- Recycling facilities

## Conditional uses

### **AGRICULTURAL USES**

### **COMMERCIAL AND LIGHT INDUSTRIAL**

- Auto – vehicle towing services
- Auto – vehicle rental agencies including truck, trailer, recreational vehicle and other auto rental
- Parking including public, public garage and private for fee
- Retail or service activities conducted out of temporary structure and/or trailers

### **EATING & DRINKING ESTABLISHMENTS:**

- Restaurants with drive-in or drive-through service (fast food)

### **ESSENTIAL PUBLIC FACILITIES**

### **GOVERNMENT SERVICES**

### **HEALTH & SOCIAL SERVICES**

- Day care, adult

### **LODGING**

### **RESIDENTIAL**

- Assisted living facility
- Multi-family housing

### **UTILITIES**

- Electrical distribution substations
- Radio and television towers
- Personal ham radio antennas
- Satellite dishes, noncommercial, and antennas



## Historic Commercial



## Prohibited uses

### AGRICULTURAL USES

- All uses are prohibited

### COMMERCIAL AND LIGHT INDUSTRIAL

- Adult entertainment businesses
- Cemeteries
- Construction/contractor yards
- Commercial RV parks
- Equipment rental services (commercial)
- Food processing and packing
- Fuel storage facilities
- Hazardous waste on-site treatment and storage facilities
- Lumber Sales
- Manufactured and modular home sales
- Manufacturing, assembling and packaging of articles, products, or merchandise conducted entirely within a building.
- Marijuana production, processing, cooperatives, and other non-retail uses.
- Marijuana retail
- Motor vehicle recycling and rebuilding
- Office Park
- Retail or service activities conducted out of temporary structures and/or trailers
- RV/tent campground or RV park
- Sales, wholesale (wholesaling)
- Self-storage facilities including mini-storage and mini-warehouses
- Storage yard (outdoor storage)

- Warehousing and distribution facilities, to include wholesale trade, not open to general public
- Welding and fabrication

#### **EATING & DRINKING ESTABLISHMENTS**

#### **ESSENTIAL PUBLIC FACILITIES**

#### **GOVERNMENT SERVICES**

- All schools (exempting preschools)

#### **HEALTH & SOCIAL SERVICES**

#### **LODGING**

#### **RESIDENTIAL**

- Stand-alone residential (exempting permanent supportive housing, transitional housing, and emergency housing).

#### **UTILITIES**

- Recycling facilities



## Conditional uses

### **AGRICULTURAL USES**

### **COMMERCIAL AND LIGHT INDUSTRIAL**

- Auto – vehicle towing services
- Auto – vehicle rental agencies including truck, trailer, recreational vehicle and other auto rental
- Animal Kennels

### **EATING & DRINKING ESTABLISHMENTS:**

- Restaurants with drive-in or drive-through service (fast food)

### **ESSENTIAL PUBLIC FACILITIES**

### **GOVERNMENT SERVICES**

### **HEALTH & SOCIAL SERVICES**

- Day care, adult

### **LODGING**

### **RESIDENTIAL**

- Assisted living facility

### **UTILITIES**

- Electrical distribution substations
- Radio and television towers
- Personal ham radio antennas
- Satellite dishes, noncommercial, and antennas

## High Density Residential (Low)

### Prohibited uses

#### **AGRICULTURAL USES**

- All uses are prohibited

#### **COMMERCIAL AND LIGHT INDUSTRIAL**

- All uses are prohibited

#### **EATING & DRINKING ESTABLISHMENTS:**

- All uses are prohibited

#### **ESSENTIAL PUBLIC FACILITIES**

- All uses are prohibited

#### **GOVERNMENT SERVICES**

- All schools (exempting preschools) are prohibited
- All other government

#### **HEALTH & SOCIAL SERVICES**

- All uses are prohibited

#### **LODGING**

- All uses are prohibited

#### **RESIDENTIAL**

- Detached single-family residential
- Live-Work
- Residential Cluster

#### **UTILITIES**

- All uses are prohibited

### Conditional uses

#### **AGRICULTURAL USES**

#### **COMMERCIAL AND LIGHT INDUSTRIAL**

#### **EATING & DRINKING ESTABLISHMENTS:**

#### **ESSENTIAL PUBLIC FACILITIES**

#### **GOVERNMENT SERVICES**

#### **HEALTH & SOCIAL SERVICES**

#### **LODGING**

#### **RESIDENTIAL**

- Home occupations

#### **UTILITIES**



## High Density Residential (High)

### Prohibited uses

#### **AGRICULTURAL USES**

- All uses are prohibited

#### **COMMERCIAL AND LIGHT INDUSTRIAL**

- All uses are prohibited

#### **EATING & DRINKING ESTABLISHMENTS:**

- All uses are prohibited

#### **ESSENTIAL PUBLIC FACILITIES**

- All uses are prohibited

#### **GOVERNMENT SERVICES**

- All schools (exempting preschools) are prohibited
- All other government

#### **HEALTH & SOCIAL SERVICES**

- All uses are prohibited

#### **LODGING**

- All uses are prohibited

#### **RESIDENTIAL**

- Detached single-family residential
- Live-Work
- Residential Cluster

#### **UTILITIES**

- All uses are prohibited

### Conditional uses

#### **AGRICULTURAL USES**

#### **COMMERCIAL AND LIGHT INDUSTRIAL**

#### **EATING & DRINKING ESTABLISHMENTS:**

#### **ESSENTIAL PUBLIC FACILITIES**

#### **GOVERNMENT SERVICES**

#### **HEALTH & SOCIAL SERVICES**

#### **LODGING**

#### **RESIDENTIAL**

- Home occupations

#### **UTILITIES**

## R-6,000

### Prohibited uses

#### **AGRICULTURAL USES**

- All uses are prohibited

#### **COMMERCIAL AND LIGHT INDUSTRIAL**

- All uses are prohibited

#### **EATING & DRINKING ESTABLISHMENTS:**

- All uses are prohibited

#### **ESSENTIAL PUBLIC FACILITIES**

- All uses are prohibited

#### **GOVERNMENT SERVICES**

- All schools (exempting preschools) are prohibited
- All other government

#### **HEALTH & SOCIAL SERVICES**

- All uses are prohibited

#### **LODGING**

- All uses are prohibited

#### **RESIDENTIAL**

- Emergency housing
- Co-living
- Fourplex
- Manufactured home park (MPH)
- Multiplex
- Courtyard Apartment
- Live-work
- Nursing home or rehabilitation center

#### **UTILITIES**

- All uses are prohibited

### Conditional uses

#### **AGRICULTURAL USES**

#### **COMMERCIAL AND LIGHT INDUSTRIAL**

#### **EATING & DRINKING ESTABLISHMENTS:**

#### **ESSENTIAL PUBLIC FACILITIES**

#### **GOVERNMENT SERVICES**

#### **HEALTH & SOCIAL SERVICES**

#### **LODGING**

#### **RESIDENTIAL**

- Home occupations

#### **UTILITIES**



## R-8,000

### Prohibited uses

#### **AGRICULTURAL USES**

- All uses are prohibited

#### **COMMERCIAL AND LIGHT INDUSTRIAL**

- All uses are prohibited

#### **EATING & DRINKING ESTABLISHMENTS:**

- All uses are prohibited

#### **ESSENTIAL PUBLIC FACILITIES**

- All uses are prohibited

#### **GOVERNMENT SERVICES**

- All schools (exempting preschools) are prohibited
- All other government

#### **HEALTH & SOCIAL SERVICES**

- All uses are prohibited

#### **LODGING**

- All uses are prohibited

#### **RESIDENTIAL**

- Assisted living facility
- Emergency housing
- Co-living
- Fourplex
- Manufactured home park (MPH)
- Multiplex
- Courtyard Apartment
- Live-work
- Nursing home or rehabilitation center

#### **UTILITIES**

- All uses are prohibited

### Conditional uses

#### **AGRICULTURAL USES**

#### **COMMERCIAL AND LIGHT INDUSTRIAL**

#### **EATING & DRINKING ESTABLISHMENTS:**

#### **ESSENTIAL PUBLIC FACILITIES**

#### **GOVERNMENT SERVICES**

#### **HEALTH & SOCIAL SERVICES**

#### **LODGING**

#### **RESIDENTIAL**

- Home occupations

#### **UTILITIES**

## R-20,000

### Prohibited uses

#### **AGRICULTURAL USES**

- All uses are prohibited

#### **COMMERCIAL AND LIGHT INDUSTRIAL**

- All uses are prohibited

#### **EATING & DRINKING ESTABLISHMENTS:**

- All uses are prohibited

#### **ESSENTIAL PUBLIC FACILITIES**

- All uses are prohibited

#### **GOVERNMENT SERVICES**

- All schools (exempting preschools) are prohibited
- All other government

#### **HEALTH & SOCIAL SERVICES**

- All uses are prohibited

#### **LODGING**

- All uses are prohibited

#### **RESIDENTIAL**

- Emergency housing
- Co-living
- Fourplex
- Manufactured home park (MPH)
- Multiplex
- Courtyard Apartment
- Live-work
- Nursing home or rehabilitation center

#### **UTILITIES**

- All uses are prohibited

### Conditional uses

#### **AGRICULTURAL USES**

#### **COMMERCIAL AND LIGHT INDUSTRIAL**

#### **EATING & DRINKING ESTABLISHMENTS:**

#### **ESSENTIAL PUBLIC FACILITIES**

#### **GOVERNMENT SERVICES**

#### **HEALTH & SOCIAL SERVICES**

#### **LODGING**

#### **RESIDENTIAL**

- Home occupations

#### **UTILITIES**

## Specific uses by use category

Property owners whose desired use is not captured within the table below, should seek clarification from **X**.

### **Agricultural Uses**

- Agriculture production: livestock, fruits and vegetables, not including marijuana
- Commercial produce stand (selling of agricultural products)
- Stables and riding academies

### **Commercial & Light Industrial**

- Adult entertainment businesses
- Auto - related retail including sales and service
- Auto – vehicle towing services
- Auto – vehicle rental agencies including truck, trailer, recreational vehicle and other auto rental
- Cemeteries
- Construction/contractors yards
- Contractor/construction offices
- Convenience stores
- Construction/contractor yards
- Commercial RV parks
- Equipment rental
- Food processing and packing
- Fuel storage facilities
- Grocery
- Kennels
- Pharmacy
- Private gyms, fitness, and sports and recreation facilities
- Hazardous waste on-site treatment and storage facilities
- Large-scale retail
- Manufactured and modular housing sales
- Marijuana production, processing, cooperatives, and other non-retail uses.
- Marijuana retail
- Mini-storages and mini-warehouses (warehousing storage)
- Hazardous waste on-site treatment and storage facilities
- Parking including public, public garage and private for fee
- Personal care services (beauty salons, barbershops)
- Plant nurseries
- Service stations, car washes, and quick service lubrication facilities
- Small-scale manufacturing, assembling, and packaging, conducted entirely within a building
- Specialty and small-scale retail



<ul style="list-style-type: none"> <li>• Small repair shops</li> <li>• Storage yard, outdoor storage</li> <li>• Supply stores (garden, farm, feed, construction, lumber)</li> <li>• Temporary sales (farmer's markets, crafts, flea, rummage sales, and sales conducted out of temporary structures and trailers)</li> <li>• Warehousing and distribution facilities, to include wholesale trade, not open to general public</li> </ul>
<b>Eating &amp; Drinking establishments</b> <ul style="list-style-type: none"> <li>• Bars, pubs, and nightclubs</li> <li>• Casual dining and drinking (ice cream, coffee, bakeries, delis, other pay at the register establishments)</li> <li>• Catering</li> <li>• Drive-throughs (Food, coffee)</li> <li>• Microbreweries</li> <li>• Sit-down restaurants</li> </ul>
<b>Essential Public Facilities</b> <ul style="list-style-type: none"> <li>• Airports</li> <li>• Any facility on the state 10-year capital plan maintained by the Office of Financial Management</li> <li>• In-patient facilities, including substance abuse facilities</li> <li>• Mental health facilities</li> <li>• Solid waste handling facilities</li> <li>• State and local correctional facilities</li> <li>• State education facilities</li> <li>• State or regional transportation facilities</li> <li>• Regional transit authority facilities as defined under RCW 81.112.020</li> <li>• Transportation facilities of statewide significance as defined in RCW 47.06.14</li> </ul>
<b>Government Services</b> <ul style="list-style-type: none"> <li>• Community event facilities</li> <li>• Education, public (preschool, and childcare, primary, secondary, post-secondary)</li> <li>• Job training, and vocational rehabilitation</li> </ul>
<b>Health &amp; Social Services</b> <ul style="list-style-type: none"> <li>• Places of worship</li> <li>• Hospitals</li> <li>• Health care clinics (primary care, dental)</li> <li>• Specialized health care (acupuncture, massage, vision, and other medical specialties)</li> <li>• Veterinary clinic/hospitals</li> <li>•</li> </ul>
<b>Lodging</b> <ul style="list-style-type: none"> <li>• Hotels, motels</li> <li>• Bed and breakfast inns</li> </ul>
<b>Residential</b> <ul style="list-style-type: none"> <li>• Accessory dwelling unit</li> <li>• Adult family home</li> <li>• Assisted living facility</li> </ul>

- Co-living
- Cottage housing
- Duplex
- Emergency housing
- Group homes
- Home occupations
- Permanent supportive housing
- Triplex
- Fourplex
- Multiplex
- Courtyard Apartment
- Single-family housing
- Townhomes
- Live-work
- Manufactured home park (MPH)
- Residential cluster
- Nursing home or rehabilitation center

#### **Utilities**

- Electrical distribution substations
- Recycling facilities, minor
- Personal wireless service facilities
- Radio and television towers
- Personal ham radio antennas
- Satellite dishes, noncommercial, and antennas

## Chapter 19.36

### NONCONFORMING USES

Sections:

- 19.36.010 Purpose.
- 19.36.020 Legal nonconforming uses may continue.
- 19.36.030 Expansion of uses or structures.
- 19.36.040 Destruction of premises.
- 19.36.050 Abandonment.
- 19.36.060 Change from nonconforming use to any other use.
- 19.36.070 Pre-existing legal lots of record.
- 19.36.080 Building safety.

#### **19.36.010 Purpose.**

It is necessary to impose limitations upon nonconforming uses in order to gradually bring such uses into harmony with the intent and purpose of the Buckley comprehensive plan and the zoning code. It is thus intended by this chapter not to allow nonconforming uses to be enlarged or expanded or extended, nor to be used as a basis for adding other structures or uses prohibited elsewhere in the same zone. (Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 02-01 § 1, 2001; Ord. 1020 § 9, 1981).

#### **19.36.020 Legal nonconforming uses may continue.**

Buildings and uses which were legal at time of construction or initiation of use may continue, subject to the limitations of this chapter. If, at the time of construction or initiation of use, a building or use was legal based on the adopted codes of that time, the building or use may continue subject to the limitations of this chapter unless such building or use presents a hazard to the public health, safety, and general welfare in the city's judgment. (Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 02-01 § 1, 2001. Formerly 19.36.015).

#### **19.36.030 Expansion of uses or structures.**

A nonconforming use shall not be expanded or enlarged by addition of other uses or structures; provided, however, it shall be lawful to construct additions or make improvements to an existing nonconforming single-family residence located in the HC, GC or CC zone of the city, so long as any such construction or remodeling does not exceed 50 percent of the appraised value of the existing structure and the construction or remodeling meets all bulk requirements and permitted uses of Chapter 19.20 BMC; and provided further, that nonconforming outbuildings may be relocated and/or reconstructed in accordance with the provisions of BMC 19.22.050(5) as now written or hereinafter amended. It shall be lawful to construct additions to an existing nonconforming storage facility in the CF zone, but not in the 410 overlay, so long as any such construction or remodeling does not exceed 5% of the appraised value of the existing site improvements, and the construction or remodeling meets all dimensional bulk requirements of Chapter 19.20 BMC and it shall also be lawful to make improvements within existing structures of up to 20% of the appraised value of the existing site improvements for nonconforming structure in the CF zone. It is also unlawful to attach additional signs to a building or to add or enlarge signs anywhere on the exterior of the premises. A legal nonconforming use may be extended throughout an existing building, but said building or structure shall not be enlarged, except as permitted in this section, unless it is for a use permitted in the zone in which it is located. (Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 17-94 § 2, 1994; Ord. 13-88 § 1, 1988; Ord. 1020 § 9, 1981. Formerly 19.36.020).



#### **19.36.040 Destruction of premises.**

Any legal nonconforming building or structure which has been destroyed shall not be used again for nonconforming use, except as provided in this section. "Destruction" is defined as damage which in order to repair would cost more than 80 percent of the structure's value prior to its destruction, or where more than 80 percent of the structure's floor area is seriously damaged or destroyed. An existing, legal nonconforming, single-family residential dwelling unit located in the HC, GC or CC zone shall not be subject to this restriction and the destruction of any such nonconforming, single-family dwelling unit may be reconstructed so long as the reconstructed dwelling meets all bulk requirements and uses as set forth in the then-existing NMU zone as set forth in BMC 19.20.050. An existing, legal nonconforming, storage facility located in the CF zone, but not in the 410 overlay, shall not be subject to this restriction, and the destruction of any such nonconforming storage facility may be reconstructed, so long as the reconstructed facility meets all bulk requirements set forth in the then-existing CF zone as set forth in BMC 19.20.100 (Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 13-88 § 2, 1988; Ord. 1020 § 9, 1981. Formerly 19.36.030).

**Commented [SL1]:** This section specifies storage facilities, but could be applied more generally.

#### **19.36.050 Abandonment.**

If any nonconforming use is abandoned or vacant for any reason whatsoever for a period of more than six months, any subsequent use shall be in conformity with the requirements of the zone in which the use was located. (Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 1020 § 9, 1981. Formerly 19.36.040).

#### **19.36.060 Change from nonconforming use to any other use.**

Any nonconforming use of land and/or buildings or structures shall not be changed to any other use unless said proposed use is a use that is permitted in the zone of which said legal nonconforming use is located. (Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 1020 § 9, 1981. Formerly 19.36.050).

#### **19.36.070 Pre-existing legal lots of record.**

(1) Definition. A "nonconforming lot" is one which met applicable zoning ordinance standards as to size, width, depth and other dimensional regulations at the date on which it was created but which, due to the passage of a zoning ordinance, the amendment thereof or the annexation of property to the city, no longer conforms to the current provisions of the zoning ordinance. A lot which was not legally created in accordance with the laws of the local governmental entity in which it was located at the date of the creation is an illegal lot and will not be recognized for development.

(2) Continuation. A nonconforming lot may be developed for any use allowed by the zoning district in which it is located, even though such lot does not meet the size, width, depth and other dimensional requirements of the district, so long as all other applicable site use and development standards are met or a variance from such site use or development standards has been obtained. (Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 23-89 § 1, 1989; Ord. 19-88 § 1, 1988; Ord. 6-86 § 1, 1986; Ord. 1020 § 9, 1981. Formerly 19.36.060).

#### **19.36.080 Building safety.**

Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any nonconforming building or part thereof declared to be unsafe by any city official charged with protecting the public safety, upon order of such official. (Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005; Ord. 1020 § 9, 1981. Formerly 19.36.070).

The Buckley Municipal Code is current through Ordinance 11-24, passed October 8, 2024.

### 19.20.020 R-6,000 residential zone.

(1) Intent and Purpose. The R-6,000 zone is intended to provide for compact residential development. This zone is applied in those areas adjacent to the city center but suitable for detached residential development. Because this zone may be adjacent to commercial zones, limited opportunity for nonresidential uses is recognized via the conditional use permit process.

(2) Performance Standards – Dimensional Requirements.

(a) Lot Area, Coverage, Building Placement, and Building Form and Coverage.

<b>LOT</b>	
<b>Minimum Lot Size</b>	
Single family with ADUs (attached, detached or stacked) <sup>1</sup>	6,000 SF
Duplex	6,000 SF
Triplex	9,000 SF
Townhouse unit (attached)	3,000 SF
Senior low-income housing unit	1,500 SF
Maximum units per lot	3
<b>FRONTAGE</b>	
Minimum Lot Frontage (SF and middle housing / townhouse unit)	45' / 22' <sup>2</sup>
Minimum Lot Depth	85'
<b>COVERAGE</b>	
Maximum Building Coverage	55% <sub>0</sub>
Impervious Surface Coverage	70% <sub>0</sub> <sup>3</sup>
<b>BUILDING PLACEMENT</b>	
Street Setback <sup>4</sup> (Building / front porch)	15' / 9' <sup>5</sup>
Garage Entrance Setback (no alley/ off alley)	22' / 12' <sup>6</sup>
Side Setback	5'
Rear Setback	15' <sup>7</sup>
Space Between Structures	10'
<b>BUILDING FORM</b>	
<b>HEIGHT</b>	
Height	30'
Minimum Roof Pitch	4:12
<b>MASSING</b>	
Maximum building footprint	3,200 SF
Maximum DADU or ADU size	1,250 SF

**Commented [SL1]:** Updated to allow more, previously 2,500 SF (this is to reflect PC preference to allow higher density for senior living).

<sup>1</sup> All lots with detached single-family homes are allowed up to two ADUs.



<sup>2</sup> Minimum frontage for Cul-de-sac terminus and flag lots is 30'.

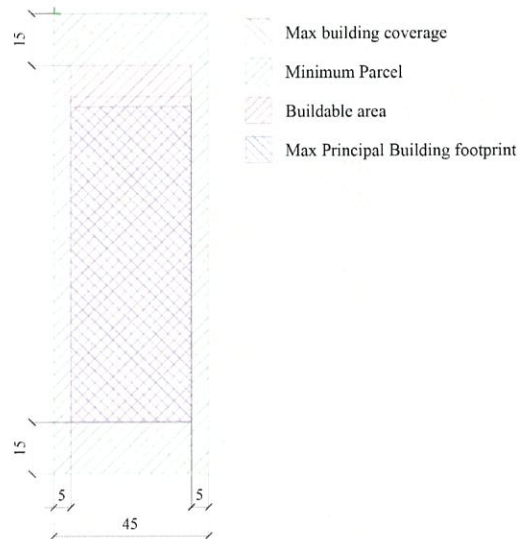
<sup>3</sup> Sustainable pervious permeable surfaces such as driveways, decks, patios, and other on-site permeable surfaces shall not be calculated in the impervious calculations if approved by engineering studies and or best management practices.

<sup>4</sup> Front setback for standard lot, street setback for corner lots.

<sup>5</sup> For corner lots, only one front porch is eligible for the reduced setback.

<sup>6</sup> 12' setback when the garage is parallel to alley; 5' when the garage is perpendicular to the alley.

<sup>7</sup> For lots that have a rear lot line that abuts an alley, a detached accessory dwelling unit may be sited up to the lot line (0' rear setback). Minimum side setbacks still apply.



~~(i) Lot Area. The minimum lot area shall be 6,000 square feet except as permitted within a residential cluster or cottage housing development.~~

~~(A) For single-family dwellings, the minimum lot area per dwelling unit shall be 6,000 square feet except as permitted within a residential cluster or cottage housing development.~~

~~(B) For duplex dwellings, the minimum lot area per building shall be 4,500 square feet per dwelling unit except as permitted within a residential cluster development.~~

~~4. In new subdivisions, duplexes shall be designed to blend in with the single-family character of the neighborhood. If located on a corner lot each unit of the duplex shall face onto an adjacent street, and no two units' front doors and garages are permitted to face the same street frontage.~~

~~(C) For senior citizen low-income housing, the minimum lot area per dwelling unit shall be 2,500 square feet per unit except as permitted within a residential cluster development.~~

~~(D) For townhomes, the minimum lot area per dwelling unit shall be 4,500 square feet.~~

~~(E) For cottage housing, as specified within Chapter 19.24 BMC.~~

~~(ii) Lot Coverage. The maximum lot coverage of the primary dwelling unit shall be 35 percent, not including outbuildings or accessory units. The maximum lot coverage of all structures shall be 45 percent. The maximum of all impervious coverage, including driveways and sidewalks, shall be 60 percent. Sustainable pervious permeable surfaces such as driveways, decks, patios, and other on-site permeable surfaces shall not be calculated in the impervious calculations and shall permit impervious lot coverage to be increased as approved by engineering studies and/or best management practices.~~

~~(A) For all new subdivisions, the second story of single-family residences shall be smaller than the first story by at least 10 percent of the first floor area (square footage) footprint excluding the attached garage, unless the bulk of the living space is located above the attached garage.~~

~~(b) Lot Dimensions. The minimum dimensions for any new lot or parcel shall be:~~

~~(i) Minimum lot width:~~

~~(A) Forty-five feet for a single-family residence, except as allowed in flag lots.~~

~~(B) Twenty-nine feet when attached units are provided.~~

~~(ii) Minimum lot depth 85 feet.~~

~~(iii) Minimum lot width at street frontage on a cul-de-sac or hammerhead terminus 30 feet.~~

~~(iv) Flag lots: Flag lots are permitted subject to the bulk modification conditions set forth in the zoning code.~~

~~(c) Setback Requirements. The minimum setback requirements, except as permitted in a residential cluster or cottage housing, shall be:~~

~~(i) Front yard 15 feet, except where a front porch consisting of more than or equal to two-thirds of the total front of the house and more than or equal to six feet in depth exists, then the minimum front yard setback shall be nine feet to the front of the porch.~~

~~(ii) Twenty-two foot yard to garage vehicle entrance, measured from the property line, sidewalk, or easement for public travel, whichever is closest, except when:~~

~~(A) The garage is accessed from an alleyway, in which case the minimum setback shall be:~~

~~1. Twelve feet if the garage entrance is facing (parallel to) the access alleyway;~~

~~2. Five feet when the garage entrance is perpendicular to the access alleyway.~~

~~(B) An attached garage already exists that prevents adherence to subsection (2)(c)(ii) of this section.~~

~~(iii) Fifteen-foot street side yard (corner lot):~~

~~(A) Where a structure on a corner lot qualifies for reduced front setback requirements by meeting porch standards (as identified in subsection (2)(c)(i) of this section), they shall apply this credit only across one street-fronting property line. If one street-fronting property line is adjacent to a less-busy street than the other, then this is the property line that shall receive the less-stringent setback requirement.~~

~~(iv) Minimum eight foot side yard, except for attached dwellings, then the common wall separating the dwellings may have a zero side yard setback.~~

~~(v) Minimum 15-foot rear yard.~~

(vi) Accessory Buildings and Uses. Accessory structure(s) may be permitted subject to the permitted uses in BMC 19.20.130 and the performance standards of BMC 19.22.120 and 19.22.130, and also subject to provision of a minimum 10-foot clearance between each structure ~~and the principal dwelling.~~

(vii) Off-street parking requirements shall be per Chapter 19.28 BMC. (Ord. 27-16 § 4, 2016; Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005. Formerly 19.20.010).



**19.20.030 R-8,000 residential zone.**

(1) Intent and Purpose. The R-8,000 zone is intended to provide for development at urban residential densities while providing a transitional area between zones of higher urban residential densities and areas of lower densities, environmentally sensitive and public areas.

(2) Performance Standards – Dimensional Requirements.

(a) Lot Area, Coverage, Building Placement, and Building Form and Coverage.

<b><u>LOT</u></b>	
<b><u>Minimum Lot Size</u></b>	
Single family/adus (attached, detached or stacked) <sup>1</sup>	8,000 SF
Duplex	8,000 SF
Triplex	12,000 SF
Townhouse unit (attached)	4,000 SF
Maximum units per lot	3
<b><u>Dimensions</u></b>	
Minimum Lot Frontage (SF and middle housing/townhouse unit) <sup>2</sup>	60'/30'
Minimum Lot Depth	100'
<b><u>COVERAGE</u></b>	
Maximum Building Coverage	40%
Impervious Surface Coverage	55%
<b><u>BUILDING PLACEMENT</u></b>	
Street Setback <sup>3</sup> (Building / Front porch)	15' / 9'
Garage Entrance Setback (no alley/ off alley)	22' / 12'
Side Setback	8'
Rear Setback	20"
Space Between Structures	10'
<b><u>BUILDING FORM</u></b>	
<b><u>HEIGHT</u></b>	
Height	30'
<b><u>MASSING</u></b>	
Maximum building footprint	3,200 SF
Maximum DADU or ADU size	1,250 SF

<sup>1</sup> All lots with detached single-family homes are allowed up to two ADUs.

<sup>2</sup> Minimum frontage for Cul-de-sac terminus and flag lots is 30'.

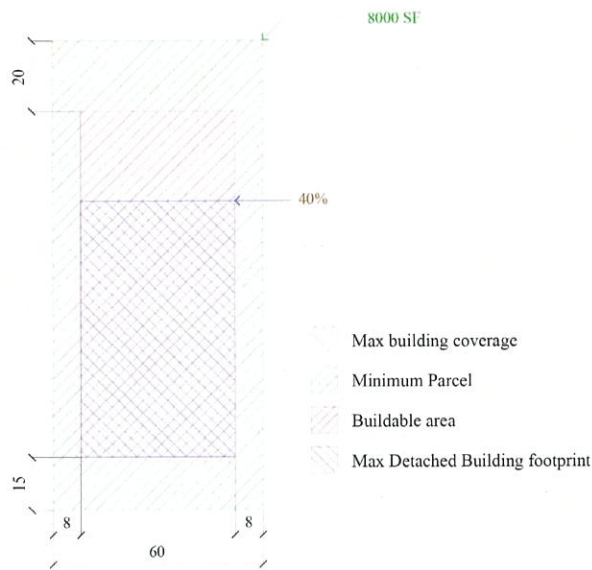
<sup>3</sup>Sustainable pervious permeable surfaces such as driveways, decks, patios, and other on-site permeable surfaces shall not be calculated in the impervious calculations if approved by engineering studies and or best management practices.

<sup>4</sup>Front setback for standard lot, street setback for corner lots.

<sup>5</sup>For corner lots, only one front porch is eligible for the reduced setback.

<sup>6</sup>12' setback when the garage is parallel to alley, 5' when the garage is perpendicular to the alley.

<sup>7</sup>For lots that have a rear lot line that abuts an alley, a detached accessory dwelling unit may be sited up to the lot line (0' rear setback). Minimum side setbacks still apply.



**(i) Lot Area:**

~~(A) For single-family dwellings, the minimum lot area per dwelling shall be 8,000 square feet except as permitted within a residential cluster or cottage housing development.~~

~~(B) For duplex dwellings, the minimum lot area per building shall be 6,000 square feet per dwelling unit except as permitted within a residential cluster or cottage housing development.~~

~~1. In new subdivisions, duplexes shall be designed to blend in with the single-family character of the neighborhood. If located on a corner lot, each unit of the duplex shall face onto an adjacent street, and no two units' front doors and garages are permitted to face the same street frontage.~~

~~(C) For townhomes, the minimum lot area per dwelling unit shall be 6,000 square feet.~~

~~(A) For cottage housing, as specified within Chapter 19.24 BMC.~~

~~(ii) Lot Coverage. The maximum lot coverage of the primary dwelling unit shall be 30 percent, not including outbuildings or accessory units. The maximum lot coverage of all structures shall be 40 percent. The maximum of all impervious coverage, including driveways and sidewalks, shall be 55 percent. Sustainable permeable driveways, decks, patios and other on-site permeable surfaces shall not be included in the impervious surface calculations and shall permit impervious lot coverage to be increased as approved by engineering studies and/or best management practices.~~

~~(iii) Floor Area Ratio. For all new subdivisions, the second story of single-family residences shall be smaller than the first story by 10 percent of the first floor area (square footage) footprint excluding attached garage, unless the bulk of the living space is located above the attached garage.~~

~~(b) Lot Dimensions. The minimum dimensions for any new lot or parcel shall be:~~

~~(i) Minimum lot width:~~

~~(A) Seventy feet for a single-family residence, except as allowed in flag lots;~~

~~(B) Thirty-five feet when attached units are provided;~~

~~(ii) Minimum lot depth: 100 feet, except as allowed in flag lots;~~

~~(iii) Lot width at street on a cul-de-sac or hammerhead terminus: 30 feet;~~

~~(iv) Flag lots: flag lots are permitted subject to the bulk modification conditions set forth in the zoning code.~~

~~(c) Setback Requirements. The minimum setback requirements, except as permitted in a residential cluster or cottage housing, shall be:~~

~~(i) Front yard: 20 feet, except where a front porch consisting of more than or equal to two-thirds of the total length of the living space of a house with a minimum six feet in depth exists, then the minimum front yard setback shall be 14 feet to the front of the porch;~~

~~(ii) Twenty-two foot yard to garage vehicle entrance, measured from the property line, sidewalk, or easement for public travel, whichever is closest, except when:~~

~~(A) The garage is accessed from an alleyway, in which case the minimum setback shall be:~~

~~1. Twelve feet if the garage entrance is facing (parallel to) the access alleyway;~~

~~2. Five feet when the garage entrance is perpendicular to the access alleyway;~~

~~(B) An attached and/or detached garage already exists that prevents adherence to subsection (2)(c)(ii) of this section.~~

~~(iii) Fifteen-foot street side yard (corner lot):~~

~~(A) Where a structure on a corner lot qualifies for reduced front setback requirements by meeting porch standards (as identified in subsection (2)(c)(i) of this section), they shall apply this credit only across one street-fronting property line. If one street-fronting property line is adjacent to a less-busy street than the other, then this is the property line that shall receive the less-stringent setback requirement.~~

~~(iv) For side yard setbacks, an eight-foot side yard on one side and 12-foot side yard on the other side, ensuring a total setback for both sides is a minimum of 20 feet, except for attached dwellings, then the common wall separating the dwellings may have a zero side yard setback. The intent is for staggered side setbacks with this provision. (Note: the applicant shall have the ability to choose the preferred side for each setback; in all instances, there shall be an area, minimum 12 feet in width, extending from the front~~



~~lot line to the rear lot line, which shall not be encumbered with structures.) When utilizing the residential cluster chapter for development of the R-8,000 zone, this provision can be reconsidered.~~

~~(v) Twenty-five-foot rear yard.~~

(vi) Accessory Buildings and Uses. Accessory structure(s) may be permitted subject to the permitted uses in BMC 19.20.130 and the performance standards of BMC 19.22.120 and 19.22.130, and also subject to provision of a minimum 10-foot clearance between each structure ~~and the principal dwelling.~~

(vii) Off-street parking requirements shall be per Chapter 19.28 BMC. (Ord. 22-08 § 1 (Exh. A), 2008; Ord. 22-05 § 1, 2005. Formerly 19.20.020).