

CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. 02-22

**AN ORDINANCE OF THE CITY OF BUCKLEY, PIERCE COUNTY, WASHINGTON, AMENDING
BMC TITLES 16, 18, 19, AND 20 TO CORRECT LAND USE CODE ERRORS, INCONSISTENCIES
AND AMBIGUITIES**

WHEREAS, the city desires to have code that is internally consistent, clear, and unambiguous; and

WHEREAS, various code errors, inconsistencies or ambiguities have been discovered in BMC Titles 16, 18, 19 and 20 since the last time Buckley corrected land use code errors in 2018, including:

- Errors that are unambiguous.
- Inconsistencies between different areas of code.
- Ambiguities where:
 - More clarity is needed, particularly for code requirements that are vague but had a reasonable interpretation by staff in their day-to-day practice of interpreting code;
 - In day-to-day practice of interpreting code for permits and inquiries, staff have found it difficult to understand the intent of particular code provisions and thus required more information or clarity.
- Certain code provisions for which Council has requested corrections; and

WHEREAS, several additional land use code updates are likely needed, as shared by Planning staff and discussed with Planning Commission and Council, but require more discussion and prioritization by the Planning Commission and Council; and

WHEREAS, the attached staff report details the Planning Commission's reasoning and staff's review for each proposed code "housekeeping" correction; and

WHEREAS, the required 60-day notice of intent to adopt these housekeeping corrections was sent to the Washington State Department of Commerce on January 21, 2022; and

WHEREAS, a notice of public hearing was published and posted on February 16, 2022; and

WHEREAS, a SEPA environmental determination of non-significance was issued February 16,

2022; and

WHEREAS, the Buckley Planning Commission held an open record public hearing for proposed land use code housekeeping updates on March 7, 2022 and recommended their adoption; and

WHEREAS, there were no public comments on the proposed code housekeeping corrections;

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

Section 1. BMC 16.01.010, Permit Required, is amended as follows:

No person may engage in land disturbing activity with mechanical equipment without a duly issued land disturbing activity permit; provided, that permits shall not be required for farming activities necessary to the operation of a farm, land disturbing activities performed with a lawn mower or hand held mechanical device, or:

- (1) The delivery of less than 100 cubic yards of material.
- (2) Work performed by city forces for city projects.
- (3) Maintenance work performed by the White River School District on school district property.
- (4) Activity on the WSU Agricultural Facility property and activity on the Rainier State School property.
- (5) Activity as necessary to maintain an existing drainage ditch performed with hand held mechanical devices.

Section 2. BMC 18.14.010, Exemptions, is amended as follows:

- (12) Division of Land by State Highways: The city recognizes that a parcel has been divided into separate, legal lots by a state road or highway.

Section 3. BMC 18.28, Binding Site Plan, is amended as follows:

18.28.010 Purpose and Scope.

This chapter has been established for the purpose of providing greater flexibility in the creation of lots or parcels of land in districts classified for business, commercial and industrial uses, and for the development of condominiums, and to provide an alternative for the subdivision of such land.

Section 4. BMC 19.04, Comprehensive Plan, is amended as follows:

BMC 19.04.020 Definitions

- (1) "Comprehensive plan" is the most recently adopted City of Buckley Comprehensive Plan. The comprehensive plan includes all subsequent annual amendments.

Section 5. BMC 19.12.160, Definition for Dwelling, multiple-family, is amended as follows:

BMC 19.12.160 Dwelling, multiple-family

“Multiple-family dwelling” means a building designed exclusively for occupancy by three or more families living independently of each other, and containing three or more dwelling units, as well as townhomes.

Section 6. BMC 19.12, Definitions, is amended to add the following definitions:

BMC 19.12.356 Motor vehicle recycling and rebuilding establishments: “Motor vehicle recycling and rebuilding establishments” means establishments that specialize in dismantling motor vehicles for the purpose of salvaging their parts, or specializing in the salvage and recycling of already dismantled motor vehicle parts, and/or establishments that specialize in the total or near-total rebuilding of motor vehicles, rather than just repairing, replacing or maintaining specific parts.

BMC 19.12.357 Motor vehicle repair establishments: “Motor vehicle repair establishments” means establishments that specialize in repairing and/or maintaining motor vehicle parts but do not conduct total or near-total rebuilding of motor vehicles.

BMC 19.12.358 Motor vehicle sales and service establishments: “Motor vehicle sales and service establishments” means establishments that specialize in selling new or used motor vehicles and may also conduct maintenance and service of motor vehicles.

Section 7. BMC 19.20.130, Permitted uses for all zones, is corrected as follows:

DISTRICT:	Frontage zone ³	LI	GC	CC	HC	P	NMU	HDR	R-6,000	R-8,000	R-20,000	S ²
Motor vehicle recycling and rebuilding	P	P	X	X	X	X	X	X	X	X	X	X
Motor vehicle rental agencies	P	X	P	P	X	X	X	X	X	X	X	X
Motor vehicle repair establishments	P	P	P	P	X	X	X	X	X	X	X	X
Motor vehicle sales and service establishments	P	P	P	X	X	X	X	X	X	X	X	X

Section 8. BMC 19.22.150, Multiple structures or uses on one building lot, is amended as follows:

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
- (4) All population density requirements for the particular zone are met; and
- (5) The structures are so placed as to assure, in the opinion of the fire chief, safe access for firefighting purposes.
- (6) All structures maintain a minimum separation distance that complies with the International Fire Code.

Section 9. BMC 19.23.030, Permitted location for residential cluster, is amended as follows:

Residential clusters shall only be permitted in the R-6,000 and R-8,000 residential zones.

Section 10. BMC 19.29.110, Protection of significant trees and existing native vegetation, is amended as follows:

- (8) For any tree that may be considered a danger tree by the developer, the applicant shall obtain approval from the planning director prior to removal.

Section 11. BMC 19.40.115, Administrative variance, is amended as follows:

(3) Required Findings to Grant Administrative Variance. The planning director may authorize an administrative variance to zoning code regulations. Each determination granting an administrative variance shall be supported by written findings showing specifically wherein all of the following conditions exist:

- (a) The variance will not alter the character of the neighborhood, or be detrimental to surrounding properties in which the lot is located;
- (b) The variance will not be detrimental to adjacent natural features, critical areas, or open space;
- (c) The variance will not interfere with or negatively impact the operations of existing land uses and all legally permitted uses within the zoning district it occupies;
- (d) The variance will not constitute a threat to public health, safety, and welfare within the city;
- (e) The variance will not grant a special privilege to the property owner;
- (f) Strict enforcement of the requirements of this title creates an unnecessary hardship to the property owner or would deprive the property owner of the rights commonly enjoyed by adjoining properties; and
- (g) The variance is the minimum necessary to grant relief to the applicant.

Section 12. BMC 19.50.040, Review required, is amended as follows:

- (1) No structure or fixture that is subject to review under the city's design guidelines may be constructed or altered until approved in accordance with processes for major or minor design review as specified in BMC Title 20.
 - a) "Major design review" is required for the construction of new buildings and for substantial exterior modifications to the majority of a building façade that affects multiple design elements.
 - b) "Minor design review" is required for any exterior modifications not considered "Major design review."
- (2) The planning commission shall consider the application and the director's report at its next regular meeting following receipt of the director's recommendation transmitted to the committee no less than seven days prior to its meeting. The planning commission will base its recommendation on the city's design guidelines.
- (3) The planning commission may recommend the city council approve, approve with conditions, or deny a project.
 - (a) Conditions shall be given that bring a project into conformance with the code or design guidelines.
 - (b) Where practical difficulties are involved in carrying out the design standards, the city council shall have the authority to grant modifications for individual cases, provided the city council shall first find that special individual reasons makes the strict letter of the design standards impractical and the modification is in compliance with the intent and purpose of the design standards and doesn't create a material departure from any consistent design in surrounding buildings.

Section 13. Buckley's Design Guidelines, as referenced in BMC 19.50, are amended as follows:

Design Guidelines Section IV.E.4.b: Windows shall be fixed, casement, awning, arched, or double hung, with a square or vertical orientation.

Design Guidelines Section V.D.3.g: Windows shall be fixed, casement, awning or double hung, with a square or vertical orientation.

Section 14. BMC 20.08.030, Procedures for processing development project permits, is amended as follows:

Title and Chapter	Permit	Permit Type					
		A-1	A-2	A-3	C-1	C-2	C-3
Title 18, Subdivisions							
18.30.030	Boundary line adjustment	A-1					

Title and Chapter	Permit	Permit Type					
		A-1	A-2	A-3	C-1	C-2	C-3
18.30.040	Boundary line adjustment, non-conforming lots						C-3
	Binding site plans						
18.28.020	Preliminary binding site plans					C-2	
18.28.040	Adjustments (minor) to binding site plan approved plans	A-1					
18.28.040	Adjustments (not minor) to binding site plan approved plans					C-2	
18.28.040	Final binding site plan amendments						C-3
	Short subdivisions (short plats)						
18.26.050	Preliminary short subdivisions		A-2				
18.26.060	Final short subdivisions	A-1					
18.26.080	Amendments (minor) to unrecorded short plats	A-1					
18.26.080	Amendments to approved or recorded final short plats						C-3
	Subdivisions (long plats)						
18.22.010	Preliminary subdivisions (long plats)					C-2	
18.22.030	Final subdivisions						C-3
18.22.020	Amendments to approved (not recorded) preliminary plats					C-2	
18.22.020	Amendments to approved (recorded) final plats (alteration of recorded plat)						C-3
Title 19, Zoning							
19.40.020	Variances, zoning					C-2	

Title and Chapter	Permit	Permit Type					
		A-1	A-2	A-3	C-1	C-2	C-3
19.40.115	Variances, administrative zoning		A-2				
19.50.040	Design review, major ^c						C-3
19.50.040	Design review, minor ^c			A-3			
19.49	Multifamily design review waiver	A-1					

^a The hearing examiner shall give a recommendation to the city council for decisions on applications for site specific rezones, mobile home parks, planned unit developments, and major planned unit development amendments.

^b Telecommunication facilities shall follow the shot clocks (time requirements) required by the FCC for complete applications, permit review, permit consolidation, conditions, approvals, and appeals.

^c “Major” and “minor” as described in BMC [19.50.040](#). The recommendation to Council for major design reviews is delegated to the Planning Commission.

Section 15. BMC 20.28.080, Distribution of notice application, is amended as follows:

(3) The notice of application shall be mailed to:

(a) The applicant and the applicant’s representative;

(b) Owners of property within a radius of 300 feet of the edge of the property that is the subject of the application:

(i) As required by BMC [20.20.050](#), the applicant shall provide the city with self-addressed, stamped, and self-sealing envelopes and a list of adjacent property owners. This list shall be updated for each required round of public noticing. This list may be created or verified by the city planning department;

Section 16. BMC 20.28.110, Notice of decision, is amended as follows:

(1) The city shall provide a notice of decision that includes the following information:

(a) The application information;

(b) The decision;

(c) A statement of any threshold determination made under SEPA (Chapter [43.21C](#) RCW);

(d) The procedures for administrative or judicial appeal, if any;

(e) The right that the affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

Section 17. Copy to the Department of Commerce. Pursuant to RCW 36.70A.106, the City Administrator is hereby authorized and directed to provide a copy of this ordinance to the State Department of Commerce within 10 days of adoption.

Section 18. 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 19. 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 five (5) days after publication.

Introduced, passed, and approved this 22nd day of March 2022.



Beau Burkett, Mayor

Attest:

Treva Percival, City Clerk

APPROVED AS TO FORM:



Phil Olbrechts, City Attorney

PUBLISHED: March 30, 2022

EFFECTIVE: April 5, 2022