#### **ORDINANCE NO. 749**

# AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, AMENDING MULTIPLE SECTIONS OF THE UNIVERSITY PLACE MUNICIPAL CODE PERTAINING TO REORGANIZATION OF DEPARTMENTAL FUNCTIONS

WHEREAS, since the beginning of 2021, the City of University Place has undertaken a number of changes to its operational and organizational practices. These changes include the prosecution of infraction and misdemeanor matters in Pierce County District Court and the reorganization of the Development Services Department and economic development functions of the City into a newly-constituted Department of Community and Economic Development; and

WHEREAS, a further review of the Municipal Code revealed outdated references to departments, roles and responsibilities which have been subsumed by current City departments; and

WHEREAS, it is in the best interests of the residents of University Place to amend the University Place Municipal Code to reflect the current practices of the City in its delivery of services to its residents.

# NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 1.30.040 of the University Place Municipal Code entitled, "Notice of civil infraction - Issuance, service and filing." is amended to read as follows:

#### 1.30.040 Notice of civil infraction – Issuance, service and filing.

- A. A civil infraction proceeding is initiated by the issuance, service and filing of a notice of infraction.
- B. A notice of civil infraction may be issued by an enforcement officer upon certification that the issuer thereof has probable cause to believe, and does believe, that a person has committed an infraction contrary to law. The infraction need not have been committed in the enforcement officer's presence, except as provided by statute.
- C. A notice of infraction may be served either by:
- 1. The enforcement officer serving the notice of infraction on the person named in the notice of infraction at the time of issuance;
- 2. The enforcement officer filing the notice of infraction with the court, in which case the court shall have the notice served either personally or by mail, postage prepaid, on the person named in the notice of infraction at his or her address. If a notice of infraction served by mail is returned to the court as undeliverable, the court shall issue a summons.
- D. A notice of infraction shall be filed with the University Place Municipal Court a court of competent jurisdiction within 48 hours of issuance, excluding Saturdays, Sundays and legal holidays. A notice of infraction not filed within the time limits prescribed in this section may be dismissed without prejudice.
- Section 2. Section 1.30.060 of the University Place Municipal Code entitled, "Notice of civil infraction Form." is amended to read as follows:

#### 1.30.060 Notice of civil infraction - Forma

The notice of civil infraction shall be as prescribed by the Administrator for the Courts, and shall contain the following information:

- A. A statement that the notice of infraction represents a determination that a civil infraction has been committed by the defendant and that the determination is final unless contested as provided in this chapter;
- B. A statement that a civil infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction:
- C. A statement of the specific infraction that the defendant is alleged to have committed and the accompanying statute, regulation or University Place Municipal Code section number; the date, time and place the alleged infraction occurred; the time that the notice of infraction was issued; and the name and, if applicable, the number of the enforcement officer;
- D. A statement that the defendant must respond to the notice of infraction within 14 days of issuance;
- E. A space for the defendant to sign a promise to respond to the notice of infraction within the time required;
- F. A space for the entry of a monetary penalty which defendant may pay in lieu of appearing in court;
- G. A statement that a mailed response must be mailed not later than midnight on the day the response is due;
- H. A statement of the options provided in this chapter for responding to the notice of civil infraction and the procedures necessary to exercise these options;
- I. A statement that at any hearing to contest the determination that the City has the burden of proving, by a preponderance of the evidence, that the civil infraction was committed and that the defendant may subpoena witnesses including the enforcement officer who issued the notice of civil infraction;
- J. A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the civil infraction, the defendant will be deemed to have committed the civil infraction and may not subpoena witnesses;
- K. A statement that failure to respond to the notice of infraction or a failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in a default judgment against the defendant in the amount of the penalty;
- L. A statement that the defendant shall sign that the defendant promises to respond to the notice of infraction in one of the ways provided in this chapter;
- M. A statement that failure to respond to a notice of infraction as promised or to appear at a requested hearing is a misdemeanor and may be punished by a fine or imprisonment in jail;
- N. A statement that the City has authority to impound vehicles parked in violation of the University Place Municipal Code;
- O. The name, address, and telephone number of the University Place Municipal Court of competent jurisdiction;
- P. The name and address of the defendant.
- Section 3. Section 1.30.190 of the University Place Municipal Code entitled, "Vehicle impounds authorized" is amended to read as follows:

# 1.30.190 Vehicle impounds authorized.

- A. Vehicles parked in violation of the University Place Municipal Code upon the public right-of-way or other City-owned or City-controlled property may be impounded.
- B. The written form of authorization to impound shall be the notice of civil infraction authorized in this chapter, which shall clearly denote the City's authority to impound.
- C. The owner may request a hearing in <u>a court of competent jurisdiction</u> University Place Municipal Court to contest the validity of the impoundment.
- Section 4. Section 1.30.240 of the University Place Municipal Code entitled, "Disposition of original and copies of notices of infraction." is amended to read as follows:

# 1.30.240 Disposition of original and copies of notices of infraction.

- A. The original, white in color, shall be filed with <u>a court of competent jurisdiction</u> the University Place Municipal Court.
- B. The first copy, white in color, shall be retained by the department that employs the enforcement officer issuing the notice of infraction.
- C. The second copy, green in color, shall be served upon the defendant or person determined to have committed a civil infraction.
- D. The third copy, white in color, shall not be removed from and shall be retained in the book of notices of infraction.
- Section 5. Section 2.20.070 of the University Place Municipal Code entitled, "Report by department." is amended to read as follows:

## 2.20.070 Report by department.

When a land use application has been set for public hearing the Community Development Department of Community and Economic Development Department shall coordinate and assemble comments and recommendations of other City departments and governmental agencies having an interest in the subject application and shall prepare a report summarizing the factors involved and other appropriate departments' findings and recommendations. At least seven working days prior to the scheduled hearing, the report shall be filled with the Examiner and copies thereof shall be mailed to the applicant and shall be made available for use by any interested party at the cost of reproduction.

Section 6. Section 4.40.030 of the University Place Municipal Code entitled, "Change funds – Authorization." is amended to read as follows:

#### 4.40.030 Change funds – Authorization.

The Parks and Recreation Division, Permit Services Center Department of Community and Economic Development, and Community Services Department (reception desk) Finance Department are each authorized to maintain a change fund for the purpose of making change. The funds shall be administered by a custodian appointed by the Finance Manager, in accordance with regulations providing such lawful administration.

Section 7. Section 4.40.040 of the University Place Municipal Code entitled, "Change funds – Appropriation of funds." is amended to read as follows:

# 4.40.040 Change funds – Appropriation of funds.

A sum of up to but not exceeding \$100.00 each is appropriated from the City general fund balance to the change funds for the Parks and Recreation Division, and the Permit Services Center Department of Community and Economic Department. A sum of up to but not exceeding \$500.00 is appropriated from the City general fund balance to the change fund for the Community Services Department (reception desk) Finance Department. Change fund custodians shall assure that their change fund and any accompanying receipts are reconciled on a daily basis.

Section 8. Section 4.45.040 of the University Place Municipal Code entitled, "Definitions." is amended to read as follows:

#### 4.45.040 Definitions.

The following words, terms and phrases shall have the ascribed meanings for the purpose of this title, unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

- A. "Building permit" means a permit authorized pursuant to UPMC Title 14 for new construction or addition. The term "building permit," as used herein, shall not be deemed to include permits required for the remodeling, rehabilitation, or other improvements to an existing structure or rebuilding a damaged or destroyed structure; provided, there is no increase in the number of dwelling units (for residential construction) resulting therefrom.
- B. "Capital facilities" means the facilities or improvements included in the most recent City of University Place capital facilities plan.
- C. "Capital facilities plan" or "CFP" means the most recent capital facilities plan element of a comprehensive plan adopted pursuant to Chapter 36.70A RCW, and such plan as subsequently amended and adopted by the City Council.
- D. "Department" means the City's Community Development Department of Community and Economic Development Department.
- E. "Director" means the Director of the Community Development Department of Community and Economic Development Department of the City, or the Director's designated representative.
- F. "Development activity" means any construction or expansion of a residential, commercial, industrial, institutional or public building, structure, or use, any change in the use of a building or structure or any change in the use of land that creates additional demand or need for public facilities.
- G. "Duplex" or "two-family" means two dwelling units within the same building. For the purpose of impact fee calculation duplexes shall be considered equivalent to multiple-family.
- H. "Dwelling unit" means one or more rooms designed for or occupied by one family for livingor sleeping purposes and containing kitchen, sleeping and sanitary facilities for use solely by one family. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit. This definition includes single- family, two-family (duplex) and multiple-family dwellings, but not including hotels and motels, lodging houses, rooming houses, and clubs.
- I. "Encumber" means to reserve, set aside, or otherwise transfer the park impact fee dollars from the park impact fee fund to an account for a particular system improvement that is funded in the City's capital budget. The account encumbering the park impact fee dollars shall include the name of the system improvement financed with such money.
- J. "Fee payer" is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau including any government entity or municipal corporation commencing a development activity which creates the demand for planned facilities, and which requires development

approval and/or the issuance of a building permit. "Fee payer" includes an applicant for impact fee credit.

- K. "Impact fee" means a fee levied pursuant to this chapter as a condition of issuance of a building permit. "Impact fee" does not include a reason- able permit fee, an application fee, an administrative fee, the administrative fee for collecting and handling impact fees, the cost of reviewing independent fee calculations or the administrative fee required for an appeal pursuant to this chapter.
- L. "Impact fee account" or "account" means the account or accounts established for the planned facilities for which impact fees are collected. The accounts shall be established pursuant to UPMC 4.55.100 and comply with the requirements of RCW 82.02.070.
- M. "Impact fee schedule" means the fee sched- ule and associated formula as set forth in UPMC 4.55.150.
- N. "Independent fee calculation" means the park impact calculation prepared by a fee payer to support the assessment amount of an impact fee different from the amount derived from use of the impact fee schedules.
- O. "Municipal code" means the municipal code of the City of University Place.
- P. "Multiple-family" means a detached or attached building containing two or more dwelling units. For impact fee calculations this will include duplexes, triplexes, fourplexes, apartments, town- houses, and group and retirement apartments. Congregate care facilities, nursing homes and other types of assisted care facilities are not considered to be "multiple-family" for the purpose of this chapter.
- Q. "Open space" means any parcel or area of land or water essentially unimproved and set aside, dedicated or reserved from normal development and may contain environmental, geological or ecological sensitive or critical areas. These areas may contain limited trails, viewpoints or interpretive signage.
- R. "Owner" means the owner of record of real property, although when real property is being purchased under a real estate contract, the purchaser shall be considered the owner of the real property if the contract is recorded.
- S. "Park" means those dedicated park lands, developed parks and associated improvements so designated in the City of University Place Parks, Open Space and Recreation Element of the City of University Place Comprehensive Plan.
- T. "Park land, dedicated" means any undeveloped or underdeveloped parcel or area of land or water that is controlled by the City of University Place for the intent of future park development.
- U. "Park, developed" means any parcel or area and the improvements on those areas controlled by the City of University Place that have been designated for public passive or active recreational use.
- V. "Park impact fee" means the impact fee designated to assist in funding for acquisition and development of publicly owned parks and outdoor recreational facilities.
- W. "Project" means a development with the necessary site improvements on a specific parcel of land.
- X. "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development or users of the project, and are not system improvements.
- Y. "Public facilities" means the following capital facilities planned, owned or operated by the City of University Place or other governmental entities: publicly owned parks, dedicated park lands, recreational facilities; roads and all associated improvements; storm drains, and schools and school facilities.
- Z. "Service area" means the city limits of the City of University Place.

Section 9. Section 4.65.100 of the University Place Municipal Code entitled, "Impact fee adjustments –Independent calculations." is amended to read as follows:

# 4.65.100 Impact fee adjustments-Independent calculations.

An applicant may request an adjustment to the impact fees determined according to this chapter by preparing and submitting to the Director an independent fee calculation for the development activity for which a permit is sought. Any independent fee calculation must be accompanied by a traffic impact analysis performed by a qualified professional engineer. The documentation submitted shall show the basis upon which the independent fee calculation was made.

- A. If the Director agrees with the independent fee calculation, a written agreement to accept such amount shall be transmitted to the applicant who shall, in turn, present it to the <a href="Department of Community and Economic">Department of Community and Economic</a> Development <a href="Services Department">Services Department</a> upon impact fee collection.
- B. If the Director does not agree with the independent fee calculation, the applicant may appeal this decision to the Hearings Examiner through procedures outlined in UPMC Title 22.

Section 10. Section 4.80.020 of the University Place Municipal Code entitled, "Definitions." is amended to read as follows:

#### 4.80.020 Definitions.

When used in this chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

- A. "Building Codes" means the City and State building and fire codes as set forth in the University Place Municipal Code.
- B. "City" means the City of University Place.
- C. "Department" means the City Department of Planning and Development Services Department of Community and Economic Development Department.
- D. "Director" means the Director of the Department of Planning and Development Services Department of Community and Economic Development Department, or designee.
- E. "Multifamily housing" means a building having 10 or more dwelling units not designed or used as transient accommodations and not including hotels and motels. Multifamily units that provide either leased or owner occupancy on a nontransient basis may result from new construction or rehabilitation or conversion of vacant, underutilized, or substandard buildings to multifamily housing.
- F. "Multifamily property tax exemption" means an exemption from ad valorem property taxation for multifamily housing.
- G. "Owner" means the property owner of record.
- H. "Rehabilitation improvements" means modifications to existing structures that are vacant for 12 months or longer that are made to achieve a condition of substantial compliance with existing building, fire, and zoning codes, or modification to existing occupied structures which increase the number of multifamily housing units.
- I. "Residential targeted area" means the geographic area located within the Town Center overlay zone.
- J. "Substantial compliance" means compliance with all local building, fire and zoning code requirements.

Section 11. Section 5.05.070 of the University Place Municipal Code entitled, "Processing procedure." is amended to read as follows:

#### 5.05.070 Processing procedure.

The designee shall, directly or through a third party designee, issue registrations in the name of the City to all persons qualified under the provisions of this chapter and shall:

- A. Adopt all forms and prescribe the information required to implement this chapter including, but not limited to, annual gross revenue declarations.
- B. The designee shall establish procedures to carry out the business license exemption program and shall obtain a sworn declaration from business owners or managers that the business meets the exemption criteria of UPMC 5.05.060.
- C. Submit all applications to the <u>Department of Community and Economic Development Community Development Department</u>, the Community Services Department, the Police Department, the Fire District, and any other City department or division as necessary for their endorsements as to compliance by applicant with all City regulations which they have the duty of enforcing.
- D. Notify any applicant of the acceptance or rejection of the application and shall, upon denial of any registration, state in writing the reason for rejection and the process for appeal.
- E. Deny any application for registration upon written findings: (1) that the granting would be detrimental to public peace, health, or welfare; (2) that such application for registration is not in compliance with any applicable City regulation; or (3) that the applicant has not paid any applicable tax penalty or fee imposed by the City.
- F. When any such registration is denied, the applicant may appeal such decision to the Hearings Examiner pursuant to the process described in UPMC 5.05.190.
- G. When a registration issuance is denied as well as any action instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the registration was refused unless or until the registration is issued pursuant to an administrative or judicial judgment.

Section 12. Section 5.05.090 of the University Place Municipal Code entitled, "Inspections – Right of Entry." is amended to read as follows:

# 5.05.090 Inspections – Right of Entry

The designee or authorized representative of the <u>Department of Community and Economic Development Department</u>, specifically including the Building Official or Inspector, the Code Enforcement Officer, the Police Department, or the Fire District, are authorized to make such inspections of licensed premises and take such action as may be required to enforce the provisions of any business license or regulation ordinance.

Section 13. Section 5.10.030 of the University Place Municipal Code entitled, "Definitions." is amended to read as follows:

#### 5.10.030 Definitions.

For the purposes of this chapter, the following words and phrases used herein shall have the following meanings:

- "Applicant" shall mean any person or organization who seeks a special events permit to conduct or sponsor an event governed by this chapter.
- "Athletic event" shall mean an occasion in which a group of persons collect to engage in or watch a sport or form of exercise on private or public property and/or on a City street, sidewalk, alley, or other street right-of-way, which obstructs, delays, or interferes with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws or controls. Athletic events include, but are not limited to, bicycle and foot races.
- "Block party" shall mean a festive gathering on private property or a street that may or may not require the closure of a street, or a portion thereof, to vehicular traffic, and/or use of the street for the festivity including barbecues, picnics, music, or games.
- "Department" shall mean the <u>Department of Community and Economic Development</u> Development Services Department of the City of University Place or such other department as may be designated by the City Manager.
- "Director" shall mean the Director of the <u>Department of Community and Economic Development</u>

  Development Services Department of the City of University Place or other designee authorized by the City Manager.
- "Parade" shall mean a march or procession consisting of any number of persons, animals, or vehicles, or a combination thereof, on any City street, sidewalk, alley, or other right-of-way, that obstructs, delays, or interferes with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws and controls.
- "Permit application fee" shall mean the fee to be paid by the special events permit applicant at the time the application is filed. Such fee shall be set by the City Council.
- "Permittee" shall mean any person or organization that has been issued a special events permit by the Department. The permittee shall have authority, subject to approval by the City, to determine participation in commercial activities during a special event.
- "Real estate sales event" shall mean a scheduled showcasing of a number of new houses in a subdivision for the purpose of viewing by interested parties and for sales promotion, which may, but not necessarily, require the closure of a street, or a portion thereof, to vehicular and/or pedestrian traffic. This definition does not include typical sales open houses for individual houses.
- "Refundable deposit" shall mean the amount of money required of a permittee by the Department in order to assure adequate cleanup of the special event site. The deposit shall be returned to the permittee upon written request following the completion of the event and approval of the Department.
- "Special event" shall mean a gathering of more than 50 persons on public facilities or public rights-of-way, or a gathering of any number that disrupts the ordinary and normal use of a public facility, right-of-way, or private street, subject to the exemptions of UPMC 5.10.040. A special event shall include a gathering of more than 50 persons on privately owned property that has any of the following effects:
  - 1. Disrupts the ordinary and normal use of a public facility or right-of-way;
  - 2. Invites public participation and/or spectators;
  - 3. Requires the provision of increased public services above that normally required in the absence of the event including, but not limited to, fire, police, traffic control, and crowd control services. Special events may include, but are not limited to, the following: athletic or sporting events, block parties, street fairs, parades, arts and crafts shows, flea markets, carnivals, circuses or similar transient amusement or recreational activities, rallies, dances, outdoor concerts, and rodeos.

- "Special event, major" shall mean a special event that involves the gathering of 300 or more persons, requires the closure of more than one block of a public or private street, or occurs on more than one consecutive day.
- "Special event, minor" shall mean a special event that involves the gathering of less than 300 persons and does not otherwise qualify as a major special event.
- "Special events permit" shall mean the permit issued by the Department after the applicant has met all applicable reviews and requirements set forth in this chapter.
- "Temporary structure" shall mean any structure that is moved onto or erected on a lot or right-of-way for the purpose of servicing a temporary event. Temporary structures include, but are not limited to, booths for tickets, games, vendors selling wares, and food or other concessions; tents, portable lavatories, gazebos, mobile offices or job shacks, etc.
- Section 14. Section 5.25.030 of the University Place Municipal Code entitled, "Processing procedure." is amended to read as follows:

# 5.25.030 Processing procedure.

The designee shall issue individual peddler and solicitor or master solicitor licenses in the name of the City to all persons qualified under the provisions of this chapter and shall:

- A. Adopt all forms and prescribe the information required to implement this chapter.
- B. Submit all applications to the Chief of Police for an investigation as set forth in UPMC 5.25.040.
- C. Submit all applications to the <u>Department of Community and Economic Development Community Development Department</u>, and/or the Fire District, as necessary, for their endorsements as to compliance by applicant with all City regulations which they have the duty of enforcing.
- D. Notify any applicant of the acceptance or rejection of this application and shall, upon denial of any registration, state in writing the reason for rejection and the process for appeal.
- E. Deny any application for registration upon written findings that the granting would be detrimental to public peace, health, or welfare, or that such application for registration is not in compliance with any applicable City regulation.
- F. When any such registration is denied, the applicant may appeal such decision to the Hearings Examiner pursuant to Chapter 2.20 UPMC.
- H. When the issuance is denied, and any action instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the registration was refused unless or until the registration is issued pursuant to an administrative or judicial judgment.
- Section 15. Section 9.10.020 of the University Place Municipal Code entitled, "Definitions." is amended to read as follows:

#### 9.10.020 Definitions.

- "Alarm Administrator" means the person or persons designated by the City Manager to hear appeals of matters arising under this chapter.
- "Alarm business" means persons, partnerships, corporations, or associations who conduct the business of monitoring any alarm system within the City of University Place. "Alarm business" also includes persons, partnerships, corporations, or associations who conduct the business of selling, providing, maintaining,

servicing, repairing, altering, replacing, moving or installing an alarm system at a premises for compensation, and includes individuals or firms that install and service alarm systems used in a private business or proprietary facility.

"Alarm system" means any system, device, or mechanism which, when activated, transmits a telephone message to a private monitoring company or some other number or emits an audible or visible signal that can be heard or seen by persons outside the protected premises or transmits a signal beyond the premises in some other fashion, except any system, device or mechanism primarily protecting a motor vehicle.

"Alarm user" means any person or entity who has contracted for monitoring, repair, installation or maintenance service from an alarm business for an alarm system, or who owns or operates an alarm system which is not monitored, maintained or repaired under contract.

"Burglary alarm system" means an alarm system designed or used for detecting and reporting an unauthorized entry or attempted unauthorized entry upon real property protected by the system.

"Department" means the City of University Place Development Services Department of Community and Economic Development Department, its agent, the University Place Police Department or other agent authorized by the City Manager.

"False alarm" means the activation of any burglary, panic or robbery alarm system when no crime is being committed or attempted on the premises. An alarm shall be presumed to be false if the police officers responding do not locate any evidence of an intrusion or commission of an unlawful act or emergency on the premises which might have caused the alarm to sound. Alarms caused by earthquakes, hurricanes, tornadoes or other violent acts of nature shall not be deemed to be false alarms.

"False alarm service charge" means a charge for each false alarm response.

"Permittee" means the person(s), corporation, or other business entity to whom a permit has been issued under this chapter.

"Premises" means a location served by one or more alarm systems. In a multi-unit building or complex, each unit shall be considered a separate alarm site if served by a separate alarm system. In a single-unit building that houses two or more separate businesses with separate alarm systems, each business will be considered a separate alarm site.

"Robbery alarm system" means an alarm system designed or used for alerting others of a robbery or other crime in progress which involves potential serious bodily injury or death.

Section 16. Section 9.20A.040 of the University Place Municipal Code entitled, "Permits." is amended to read as follows:

#### 9.20A.040 Permits.

A. Except to the extent that it is inconsistent with this section, the procedures, requirements and conditions set forth in Chapter 70.77 RCW, Chapter 212-17 WAC, Chapter 5.10 UPMC and the provisions of the most recent version of the International Fire Code (as adopted within this code) which are applicable to the submittal, consideration, or granting of permits shall apply to the filling, review, and issuance of any permit required by this chapter; provided, however, that such permit for the sale, possession or discharge of fireworks which would otherwise be prohibited by this chapter shall be issued by the Development Services Department of Community and Economic Development Director or designee, in consultation with the local Fire Official and, as applicable, the Fire Code Official.

B. In reviewing an application for a permit, the issuing official may consider relevant provisions in the fire codes, building codes, and health and sanitation codes adopted by the City in determining whether the

discharge, possession, or storage of fireworks is performed in a safe manner or presents a risk to public health, safety, or welfare.

- C. A permit will only issue under this section in the event a pyrotechnic operator licensed by the State of Washington is designated as the person to discharge the fireworks. The permit application shall designate the licensed pyrotechnic operator by name and Washington State license number.
- D. As a condition of the issuance of any permit, the local Fire Official and the <u>Development Services</u> <u>Department of Community and Economic Development</u> Director or designee shall each retain the authority to revoke a permit at any time due to safety concerns.
- E. The fee for any permit issued in accordance with this chapter shall be set forth in the City's fee schedule.
- Section 17. Section 9.20A.050 of the University Place Municipal Code entitled, "Violations and penalties." is amended to read as follows:

#### 9.20A.050 Violations and penalties.

- A. It shall be a gross misdemeanor for any person to:
- 1. Conduct an indoor or outdoor public display of fireworks without a properly issued City permit or in violation of a properly issued City permit;
- 2. Discharge special effects or articles pyrotechnic without a properly issued City permit or in violation of a properly issued City permit;
- 3. Make any misrepresentation of fact, or knowingly permit any misrepresentation of fact, on any application for a City permit required pursuant to this chapter; or
- 4. Possess or store in excess of 20 pounds of fireworks, except when such possession or storage is incidental to a properly issued City permit.
- B. Any person violating any provision of this chapter for which no other penalty is specified shall be deemed to have committed a class 1 civil infraction as set forth in RCW 7.80.120, together with fees, costs and assessments. An infraction issued pursuant to this section shall be filed in the University Place Municipal Court a court of competent jurisdiction and processed in the same manner as other infractions filed in the University Place Municipal Court.
- C. In addition to criminal penalties, a person who violates this chapter is also liable for a civil penalty and for the costs incurred with enforcing this chapter and bringing the civil action, including court costs and reasonable investigative and attorneys' fees.
- D. In addition to those individuals authorized by law or this code to enforce this code, the local Fire Official shall also have the authority to enforce the provisions of this chapter.

Section 18. Section 13.05.420 of the University Place Municipal Code entitled, "Modifications." is amended to read as follows:

#### 13.05.420 Modifications.

A. Criteria. The Director may modify the requirements of this code after submittal of an application and approval of associated information, plans, and/or design data provided by the applicant. The application and associated information shall demonstrate to the satisfaction of the Director and City Engineer that: (1) the requirements of this code would impose an undue hardship on the applicant; (2) strict application of the requirements of this code would impose an undue hardship on the applicant; (3) that the requirements for safety, environmental considerations, function, appearance, and maintainability are fully met; (4) granting

the modification adequately protects the public health, safety, and welfare; and (5) granting the modification is in the best interest of the public.

B. Application. All applications for modifications shall be on a form provided by the City. All modifications must be approved by the Director in writing prior to the start of construction.

#### C. Notification.

- 1. Whenever the Director determines that a proposed modification has the potential to negatively impact surrounding properties, all adjacent property owners will be notified in writing of the application. The Director shall notify abutting property owners of the due date for any written comments about the application. The applicant shall be furnished a copy of all written comments from abutting property owners that will be considered by the Director in making a decision. Abutting property owners shall be mailed a copy of the decision.
- 2. The Director may require the notification of additional property owners if he determines they have a potential to be negatively impacted.
- 3. All costs associated with public notification shall be borne by the applicant.
- D. Fees. All fees associated with a modification application shall be in accordance with the Development Services Department of Community and Economic Development Fee Resolution.

#### E. Expiration.

- 1. A modification application shall expire when the applicant fails to provide necessary documentation and/or correction necessary to issue a permit in compliance with this code within 180 days of a request to provide such documentation and/or correction. A modification application may be extended for a single period not exceeding 180 days provided the applicant submits a request in writing and demonstrates that circumstances beyond the control of the applicant have prevented completion of the request for documentation and/or correction.
- 2. An approved modification shall expire two years after permit issuance.
- F. Extension of Modification. A modification approval may be extended for a period not exceeding 180 days provided the applicant submits a request in writing and demonstrates that circumstances beyond the control of the applicant have prevented completion of the work under the modification. No modification shall be extended more than once.
- G. Suspension or Revocation. The Director may suspend or revoke any modification issued in error or on the basis of incorrect information supplied by the applicant. The Director may also suspend or revoke any modification when the applicant fails to comply with the provisions of the modification. Any modification applicant aggrieved by the Director's decision to suspend or revoke a permit may appeal this action as provided in this chapter.
- Section 19. Section 13.05.510 of the University Place Municipal Code entitled, "General." is amended to read as follows:

#### 13.05.510 General.

A. Permit Required. It is unlawful for any person to clear land; cut and/or remove trees; grade, and stockpile material; or to alter, construct, repair, remove, excavate, place, obstruct, damage or disturb any structure, utility, facility or improvement located over, under or upon any property or public right-of-way in the City without first having obtained a permit. It is unlawful for any person to interfere with the free use of any public right-of-way in the City without first having obtained a permit. A separate permit shall be obtained for each separate project. The permits administered under this code are identified in this article.

- B. Licensed Contractor. All work performed under a permit must be performed by a licensed, bonded contractor. Work on a single-family or duplex lot may be performed by the property owner if approved by the Director.
- C. Permit Fees. The <u>Department of Community and Economic</u> Development <del>Services</del> Fee Resolution establishes the fees required by this code.
- Section 20. Section 13.05.630 of the University Place Municipal Code entitled, "Street use quarantee." is amended to read as follows:

## 13.05.630 Street use guarantee.

- A. A street use guarantee ensures compliance with right-of-way permit conditions and warranties the design, materials, and workmanship associated with the work performed in a right-of-way. All applicants performing work that will, or has the potential to, disturb, modify, or damage anything within the City right-of-way will be required to post a street use guarantee with the City.
- B. Prior to issuance of a right-of -way permit the applicant shall submit a street use guarantee.
- C. Street use guarantees shall be in the amount of \$5,000 unless the Director determines after a review of a permit that a lower or higher amount is appropriate.
- D. When an applicant has multiple right-of-way permits, a single street use guarantee in the amount of \$20,000 may be submitted in lieu of individual \$5,000 street use guarantees.
- E. The applicant shall be responsible to repair all defects resulting from the applicant's activity in the right-of-way. The applicant will not be relieved of this obligation until the right-of-way impacted by the applicant has remained free from defects for a consecutive period of two years. The applicant will be liable for any third party damages that result from a breach of these duties for the duration of the street use guarantee.
- F. During the period of the street use guarantee, City staff will periodically inspect the right-of-way impacted by the applicant. The City shall provide notice to the applicant when maintenance and/or repairs are necessary, specifying a reasonable time frame within which such work is to be completed. In the event that the applicant does not complete such maintenance and/or repairs, the applicant will be in default subject to the provisions of this article, and the City may perform such work.
- G. If, on the basis of its inspections, the City determines that repairs must be performed immediately to prevent risk to person(s) or property, the City may make necessary repairs and the cost of those repairs shall be paid by the applicant upon demand. If the applicant fails to pay for the repairs by the time specified by the City, the applicant will be in default subject to the provisions of this article.
- H. The applicant shall pay for the inspections performed by the City during the duration of the street use guarantee. Inspection fees will be as specified in the <u>Department of Community and Economic Development services</u> fee resolution.
- I. Release Procedures. Any release of the street use guarantee must be in writing to be effective. The City of University Place will release a street use guarantee only after each of the following have been met:
  - 1. The right-of-way construction work completed by the applicant has remained free of defects for two consecutive years. This period can be reduced if the Director determines that the work associated with the right-of-way permit has been sufficiently completed and stabilized such that there is no further risk of damage to existing facilities.
  - 2. The applicant or surety has requested in writing the release of the guarantee.
  - 3. The applicant has paid all outstanding fees.

Section 21. Section 13.05.650 of the University Place Municipal Code entitled, "Maintenance and defect guarantee." is amended to read as follows:

# 13.05.650 Maintenance and defect guarantee.

- A. A maintenance and defect guarantee ensures the design, workmanship, maintenance, and operation of improvements to streets, landscaping, and drainage facilities. The City requires three types of maintenance and defect guarantees: storm drainage, street improvement, and landscaping.
- B. An applicant shall submit maintenance and defect guarantees for improvements prior to: (1) release of the performance guarantees associated with a project's storm drainage facilities, street improvements, and public landscaping; and (2) City approval of the constructed improvements.
- C. The applicant shall be responsible for the operation and maintenance of the improvements for the duration of the defect and maintenance guarantee.
- D. During the term of the maintenance and defect guarantee, City staff may periodically inspect the guaranteed improvements. If the Director determines that the improvements are not adequately maintained, do not operate satisfactorily or contain defects in design, materials or workmanship, the City shall notify the applicant, specifying remedial action. If the applicant does not complete the remedial action in a timely manner and to the City's satisfaction, the applicant will be in default.
- E. If, on the basis of its inspections, the City determines that repairs must be performed immediately to prevent risk to person(s) or property, the City may make necessary repairs. The cost of necessary repairs shall be paid by the applicant upon the City's written demand. If the applicant fails to pay for the necessary repairs by the time specified by the City, the applicant will be in default.
- F. The applicant shall pay for inspections performed by the City during the duration of the maintenance and defect guarantee. Inspection fees will be as specified in the <u>Department of Community and Economic Development Services</u> Fee Resolution.
- G. Storm Drainage Maintenance and Defect Guarantee (Public and Private). The storm drainage maintenance and defect guarantee shall be set by the Director in the amount of 10 percent of the construction cost of the storm drainage facility.
- H. Street Improvement Maintenance and Defect Guarantee (Public and Private). The street improvement maintenance and defect guarantee shall be set by the Director in the amount of 25 percent of the construction cost of the street improvements.
- I. Landscaping Maintenance and Defect Guarantee. The landscaping maintenance and defect guarantee shall be set by the Director in the amount equal to the cost of the landscaping as indicated in the approved engineer's estimate. Any plant material needing replacement shall be replaced in accordance with Chapter 13.20 UPMC, Article VIII, and inspected prior to the release of the maintenance guarantee.
- J. Release Procedures. Any release of the maintenance and defect guarantee must be in writing to be effective. The City of University Place will release the maintenance and defect guarantee only after each of the following have been met:
  - 1. The guaranteed improvements have remained free of defects for two consecutive years.
  - 2. The applicant has submitted to the City a letter that requests final inspection of the guaranteed improvements and certifies the guaranteed improvements have been cleaned of all debris, dirt, and sediment.
  - 3. Any deficiencies identified by the City in the final inspection have been corrected.

- 4. The applicant or surety has requested in writing the release of the guarantee.
- 5. The applicant has paid all outstanding fees.

Section 22. Section 14.15.030 of the University Place Municipal Code entitled, "Administration." is amended to read as follows:

#### 14.15.030 Administration.

#### A. Site Development Permit.

- 1. Site Development Permit Required. A site development permit and building permit if applicable shall be obtained before construction or development begins within any area of special flood hazard established in UPMC 14.15.020(B). The permit shall be for all structures including manufactured homes, and for all development including fill and other activities.
- 2. Application for Site Development Permit. Application for a site development permit shall be made on forms furnished by the <u>Department of Community and Economic Development Community Development Department</u>, and in addition to the minimum requirements in the public work standards, may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:
  - a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures:
  - b. Elevation in relation to mean sea level to which any structure has been floodproofed;
  - c. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in UPMC 14.15.040(B)(2); and
  - d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.
- B. Designation of the Local Administrator. The <u>Department of Community and Economic Development Community Development Department</u> is hereby appointed to administer and implement this chapter by granting or denying site development permit applications through the City permit center in accordance with its provisions.
- C. Duties and Responsibilities of the Local Administrator. Duties of the <u>Department of Community and Economic Development Community Development Department</u> shall include, but not be limited to:

#### 1. Permit Review.

- a. Review all site development permits to determine that the permit requirements of this chapter have been satisfied.
- b. Review all site development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
- c. Review all site development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of UPMC 14.15.040(C)(1) are met.

- 2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with UPMC 14.15.020(B), the Department shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer UPMC 14.15.040(B) and (C).
- 3. Information to Be Obtained and Maintained.
  - a. Where base flood elevation data is provided through the flood insurance study or required as in subsection (C)(2) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
  - b. For all new or substantially improved floodproofed structures:
    - (1) Verify and record the actual elevation (in relation to mean sea level); and
    - (2) Maintain the floodproofing certifications required in subsection (A)(2)(c) of this section.
  - c. Maintain for public inspection all records pertaining to the provisions of this chapter.
- 4. Alteration of Watercourses.
  - a. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
  - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- 5. Interpretation of FIRM Boundaries. Make interpretations, where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in UPMC Title 22.

#### D. Variances.

- 1. The Hearings Examiner may grant a variance to the requirements of this chapter. Before granting a variance the Hearings Examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
  - a. The danger that materials may be swept onto other lands to the injury of others;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity to the facility of a waterfront location, where applicable;
  - f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - q. The compatibility of the proposed use with existing and anticipated development;

- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- 2. Upon consideration of the factors of subsection (D)(1) of this section and the purposes of this chapter, the Hearings Examiner may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. The decision of the Hearings Examiner shall include the written warning provided for in subsection (D)(4)(h) of this section should a variance be granted.
- 3. The City Clerk shall maintain the records of all appeal actions. The <u>Department of Community and Economic Development Community Development Department shall report any variances to the Federal Insurance Administration upon request.</u>

#### 4. Conditions for Variances.

- a. Generally, the only condition under which a variance from the elevation standard may be granted is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in subsections (D)(1)(a) through (k) of this section have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
- b. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.
- c. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- d. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e. Variances shall only be issued upon:
  - (1) A showing of good and sufficient cause;
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection (D)(1) of this section, or conflict with existing local laws or ordinances.
- f. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

- g. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (D)(4)(a) of this section, and otherwise complies with UPMC 14.15.040(A) and (B).
- h. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- 5. Variance Procedure. Variances shall be processed in accordance with UPMC Title 22.

Section 23. Section 14.15.040 of the University Place Municipal Code entitled, "Provisions for flood hazard reduction." is amended to read as follows:

#### 14.15.040 Provisions for flood hazard reduction.

A. General Standards. In all areas of special flood hazards, the following standards are required:

#### 1. Anchoring.

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- b. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

#### 2. Construction Materials and Methods.

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

#### 3. Utilities.

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

#### 4. Subdivision Proposals.

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
- b, All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least five lots.
- 5. Review of Building Permits. Where elevation data is not available either through the flood insurance study or from another authoritative source (UPMC 14.15.030(C)(2)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.
- B. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in UPMC 14.15.020(B) or 14.15.030(C)(2), the following provisions are required:
  - 1. Residential Construction.
    - a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation.
    - b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
      - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
      - (2) The bottom of all openings shall be no higher than one foot above grade.
      - (3) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.
  - 2. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:
    - a. Be floodproofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
    - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in UPMC 14.15.030(C)(3)(b);

- d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (B)(1)(b) of this section;
- e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below).
- Manufactured Homes.
  - a. All manufactured homes to be placed or substantially improved within zones A1 30, AH, and AE on the community's FIRM on sites:
    - (1) Outside of a manufactured home park or subdivision,
    - (2) In a new manufactured home park or subdivision,
    - (3) In an expansion to an existing manufactured home park or subdivision, or
    - (4) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

- b. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH, and AE on the community's FIRM that are not subject to the above manufactured home provisions be elevated so that either:
  - (1) The lowest floor of the manufactured home is elevated one foot above the base flood elevation; or
  - (2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.
- 4. Recreational Vehicles. Recreational vehicles placed on sites within zones A1 30, AH, and AE on the community's FIRM either:
  - a. Be on the site for fewer than 180 consecutive days;
  - b. Be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
  - c. Meet the requirements of subsection (B)(3) of this section and the elevation and anchoring requirements for manufactured homes.
- C. Floodways. Located within areas of special flood hazard established in UPMC 14.15.020(B) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
  - 1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
  - 2. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (a) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (b) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either (a) before the repair, or

reconstruction is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. Work done on structures to comply with existing health, sanitary, or safety codes or to structures identified as historic places shall not be included in the 50 percent.

- 3. If subsection (C)(1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.
- D. AE and A1 30 Zones with Base Flood Elevations but No Floodways. In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1 30 and AE on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point in the City.
- E. Standards for Shallow Flooding Areas (AO Zones). Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from one to three feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:
  - 1. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified).
  - 2. New construction and substantial improvements of nonresidential structures within AO zones shall either:
    - a. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
    - b. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in subsection (B)(2)(c) of this section.
  - 3. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
  - 4. Recreational vehicles placed on sites within AO zones on the community's FIRM either:
    - a. Be on the site for fewer than 180 consecutive days;
    - b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
    - c. Meet the requirements of this section and the elevation and anchoring requirements for manufactured homes.
- F. Coastal High Hazard Areas. Located within areas of special flood hazard established in UPMC 14.15.020(B) are coastal high hazard areas, designated as zones V1 30, VE and/or V. These

areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this chapter, the following provisions shall also apply:

- 1. All new construction and substantial improvements in zones V1-30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:
  - a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated one foot or more above the base flood level; and
  - b. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
- 2. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subsections (F)(1)(a) and (b) of this section.
- 3. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in zones V1 30 and VE, and whether or not such structures contain a basement. The community services department Department of Community and Economic Development Department shall maintain a record of all such information.
- 4. All new construction shall be located landward of the reach of mean high tide.
- 5. Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood latticework, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
  - a. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
  - b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
- 6. If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
- 7. Prohibit the use of fill for structural support of buildings.
- 8. Prohibit manmade alteration of sand dunes which would increase potential flood damage.
- 9. All manufactured homes to be placed or substantially improved within zones V1 30, V, and VE on the community's FIRM on sites:

- a. Outside of a manufactured home park or subdivision;
- b. In a new manufactured home park or subdivision;
- c. In an expansion to an existing manufactured home park or subdivision; or
- d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood; meet the standards of subsections (F)(1) through (9) of this section and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within zones V1 30, V, and VE on the FIRM meet the requirements of subsection (B)(3) of this section.
- 10. Recreational vehicles placed on sites within zones V1 30, V, and VE on the community's FIRM either:
  - a. Be on the site for fewer than 180 consecutive days;
  - b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
  - c. Meet the requirements of UPMC  $\underline{14.15.030}(A)(1)$  (permitting requirements) and subsections (F)(1) through (9) of this section.
- G. Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year) at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Section 24. Section 17.10.005 of the University Place Municipal Code entitled, "Definitions." is amended to read as follows:

#### 17.10.005 Definitions.

For the purpose of this title, the following definitions shall apply:

- "Activity" means any use conducted on a site.
- "Agricultural activities" means the production of crops and/or raising or keeping livestock, including operation and maintenance of farm and stock ponds, drainage ditches, irrigation systems, and normal operation, maintenance and repair of existing serviceable agricultural structures, facilities or improved areas, and the practice of aquaculture. Forest practices regulated under Chapter 76.09 RCW and WAC Title 222 are not included in this definition.
- "Animal containment area" means a site where three or more animal units are kept per acre, and/or where a high volume of waste material is deposited in quantities capable of impacting ground water resources.
- "Animal unit" means the equivalent of 1,000 pounds of animal.
- "Applicant" means a person, party, firm, corporation, or other legal entity that proposes a development on a site.

- "Aquifer" means a saturated geologic formation that will yield a sufficient quantity of water to serve as a private or public water supply.
- "Aquifer recharge area" means areas where the prevailing geologic conditions allow infiltration rates, which create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water.
- "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year, also referred to as the "100-year flood."
- "Best management practices" means systems of practices and management measures that:
- 1. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, and toxins;
- 2. Control the movement of sediment and erosion caused by land alteration activities;
- 3. Minimize adverse impacts to surface and ground water quality, flow and circulation patterns; and
- 4. Minimize adverse impacts to the chemical, physical and biological characteristics of a critical area.
- "Buffer" means an area contiguous with a landslide hazard area, erosion hazard area, fish and wildlife habitat area or wetland, which is required for the integrity, maintenance, function, and structural stability of the above-referenced area.
- "Building footprint" means the horizontal area measured within the outside of the exterior walls of the ground floor of all principal and/or accessory buildings on a lot.
- "Class" means one of the wetland classes in the United States Fish and Wildlife Service (USFWS) December 1979 publication, Classification of Wetlands and Deep Water Habitats of the United States.
- "Classification" means defining value and hazard categories to which critical areas will be assigned.
- "Clearing" means the cutting, moving on site, or removal of standing or fallen timber; the removal or moving on site of stumps; or the cutting or removal of brush, grass, ground cover, or other vegetative matter from a site in a way which exposes the earth's surface of the site.
- "Compensatory mitigation" means mitigation to compensate for loss of critical area functions due to regulated activities occurring within critical areas.
- "Creation" means producing or forming a wetland through artificial means from an upland (nonwetland) site.
- "Creek" means surface waters that flow into or become connected to other surface waters no less frequently than once per year. Creeks include natural waterways modified by man. Creeks do not include irrigation or roadside ditches, canals, operational spillways, storm or surface water runoff facilities or other entirely artificial watercourses, unless they are used by salmonids, are used to convey naturally occurring creeks or result from modification to a natural watercourse.
- "Critical areas" means wetlands, flood hazard areas, fish and wildlife habitat areas, aquifer recharge areas, geologically hazardous areas and associated buffer areas.
- "Degraded" means to have suffered a decrease in naturally occurring functions and values due to activities undertaken or managed by persons, on or off a site.
- "Delineation" means a wetland study conducted in accordance with the Washington State Wetland Identification and Delineation Manual.

- "Delineation report" means a written document prepared by a wetland specialist, which includes data sheets, findings of the delineation and a site plan which identifies the wetland boundaries.
- "Department" means the City of University Place Planning and Development Services Department of Community and Economic Development Department.
- "Development" means any manmade change to improved or unimproved real estate including but not limited to buildings or other structures, placement of manufactured homes/mobile homes, mining, dredging, clearing, filling, grading, stockpiling, paving, excavation, drilling, or the subdivision or short subdivision of property.
- "Director" means the Director of the Planning and Development Services Department of Community and Economic Development Department or duly authorized designee.
- "DRASTIC" means a model developed by the National Water Well Association and Environmental Protection Agency used to measure aquifer susceptibility.
- "Enhancement" means actions performed to improve the condition of existing degraded wetlands and/or buffers so that the quality of wetland functions increases (e.g., increasing plant diversity, increasing wildlife habitat, installing environmentally compatible erosion controls, removing nonindigenous plant or animal species, removing fill material or solid waste).
- "Erosion hazard areas" means those areas that because of natural characteristics, including vegetative cover, soil texture, slope, gradient, and rainfall patterns, or human-induced changes to such characteristics, are vulnerable to erosion.
- "Existing" means those uses legally established prior to incorporation whether conforming or nonconforming.
- "Fill/fill material" means a deposit of earth material, placed by human or mechanical means.
- "Filling" means the act of placing fill material on any surface, including temporary stockpiling of fill material.
- "Fish and wildlife habitat areas" means:
- 1. Areas which have a primary association with Federally listed endangered, threatened or candidate species, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term; or
- 2. Areas that have been documented by WDF&W as habitat for State listed endangered or threatened species; or
- 3. Creeks listed in UPMC 17.25.040.
- "Fish and wildlife habitat areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.
- "Fisheries biologist" means a professional with a degree in fisheries, or certification by the American Fisheries Society, or with five years' professional experience as a fisheries biologist.
- "Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
- 1. The overflow of inland or tidal waters; and/or

- 2. The unusual and rapid accumulation of runoff of surface waters from any source.
- "Flood hazard areas" means areas of land located in floodplains that are subject to a one percent or greater chance of flooding in any given year. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and the like.
- "Floodplain" means the total area subject to inundation by the base flood, including the flood fringe and the floodway areas.
- "Floodway" means the channel of a river, or other watercourse, and the land areas that must be reserved in order to convey and discharge the base flood without cumulatively increasing the water surface elevation by more than one foot, and those areas designated as deep and/or fast-flowing water.
- "Geological assessment" means an assessment that details the surface and subsurface conditions of a site and delineates the areas of a property that might be subject to specified geologic hazards.
- "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, or other geological events, may pose a risk to the siting of commercial, residential, or industrial development consistent with public health, environmental or safety concerns.
- "Geotechnical report" means a report evaluating the site conditions and mitigating measures necessary to reduce the risks associated with development in geologically hazardous areas.
- "Grading" means any excavating, filling, clearing, or creating of impervious surfaces or combination thereof.
- "Ground water" means all water found beneath the ground surface, including slowly moving subsurface water present in aquifers and recharge areas.
- "Habitat assessment" means a report that identifies the presence of fish and wildlife habitat conservation areas in the vicinity of the proposed development site.
- "Habitat management plan" means a report that discusses and evaluates the measures necessary to maintain fish and wildlife habitat conservation areas on a proposed development site.
- "Hazardous substance(s)" means any liquid, solid, gas, or sludge, including any materials, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste; and including waste oil and petroleum products.
- "Hazardous substance processing or handling" means use, manufacture, storage or treatment authorized pursuant to Chapter 70.105 RCW and Chapter 173-303 WAC, or other land use activity involving hazardous substances, but does not include individually packaged household consumer products or quantities of hazardous substances of less than five gallons in volume per container. Hazardous substances shall not be disposed on site unless in compliance with Dangerous Waste Regulations, Chapter 173-303 WAC and any pertinent local ordinances, such as sewer discharge standards.
- "Hazardous waste" means and includes all dangerous waste and extremely hazardous waste as designated pursuant to Chapter 70.105 RCW and Chapter 173-303 WAC.
- "Hydrogeologic assessment" means a report detailing the subsurface conditions of a site and which indicates the susceptibility and potential for contamination of ground water supplies.
- "Impervious surface" means natural or human-produced material on the ground that does not allow surface water to penetrate into the soil. Impervious surfaces may consist of buildings, parking areas, driveways, roads, sidewalks, and any other areas of concrete, asphalt, plastic, compacted gravel, etc.

- "In-kind mitigation" means to replace wetlands with substitute wetlands whose characteristics, functions and values are required to replicate those destroyed or degraded by a regulated activity.
- "Interdunal wetlands" means wetlands that are located in small interdunal depressions to extensive deflation plains behind stabilized foredunes.
- "Landfill" means a disposal facility or part of a facility at which solid waste is permanently placed in or on land and which is not a land spreading disposal facility.
- "Landslide hazard areas" means areas which are potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.
- "Mitigation" means to avoid, minimize or compensate for adverse critical area impacts.
- "Ordinary high water mark" means that mark on all lakes, streams, ponds, and tidal water that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on the effective date of the ordinance codified in this chapter or as it may naturally change thereafter; or as it may change thereafter in accordance with permits issued by the City, State or Federal regulatory agency; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide, and the ordinary high water mark adjoining fresh water shall be the line of mean high water.
- "Out-of-kind mitigation" means to replace wetlands with substitute wetlands whose characteristics do not approximate those destroyed or degraded by a regulated activity.
- "Permeable surfaces" means sand, noncompacted gravel, and other penetrable deposits on the ground which permit movement of ground water through the pore spaces, and which permit the movement of fluid to the ground water.
- "Person" means an individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons, however organized.
- "Regulated activities" means creation of lots or building sites, construction or alteration of any structure or improvement or alteration of the condition of any land, water or vegetation that could adversely affect any critical area.
- "Restoration" means the re-establishment of a viable wetland from a previously filled or degraded wetland site.
- "Riparian habitat areas" means areas adjacent to aquatic systems with flowing water that contain elements of both aquatic and terrestrial ecosystems, which mutually influence each other.
- "Seismic" means subject to or caused by an earthquake or earth tremor.
- "Site" means a lot, parcel, tract, or combination of lots, parcels, or tracts where a development is proposed, in progress or completed.
- "Slope" means an inclined earth surface, the inclination of which is expressed as the ratio of horizontal distance to vertical distance.
- "Sludge" means a semisolid substance consisting of settled solids combined with varying amounts of water and dissolved materials generated from a wastewater treatment plant or system or other sources, including septage sludge, sewage sludge, and industrial sludge.

"Sludge land application site" means a site where stabilized sludge, septage, and other organic wastes are applied to the surface of the land in accordance with established agronomic rates for fertilization or soil conditioning.

Sludge land application sites are classified under the following five-category system:

- 1. Sites of less than one acre with an application rate of less than 10 dry tons of sludge per acre per five-year period.
- 2. Sites with an application rate of less than 20 dry tons of sludge per acre per 10-year period or less than an annual application of two dry tons of sludge per acre.
- 3. Sites with an application rate of more than 20, but less than 43, dry tons of sludge per 10-year period or
- 4. 3 dry tons per acre per year.
- 5. Sites with one-time applications greater than 43 dry tons per acre and cumulative limits for metals greater than State-designated practices for agricultural cropland application.
- 6. Sites that are permanent landfill disposal facilities.
- "Stockpiling" means the placement of material with the intent to remove it at a later time.
- "Toe of slope" means a distinct topographic break in slope at the lower-most limit of the landslide or erosion hazard area.
- "Top of slope" means a distinct topographic break in slope at the uppermost limit of the landslide or erosion hazard area.
- "Underground tank" means any one or a combination of tanks (including underground pipes connected thereto) which are used to contain or dispense an accumulation of hazardous substances or hazardous wastes, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground.
- "Utility line" means pipe, conduit, cable or other similar facility by which services are conveyed to the public or individual recipients. Such services shall include, but are not limited to, water supply, electric power, gas, telecommunications, cable television and sanitary sewers.
- "Wetland" or "wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands generally do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted by the City.
- "Wetland specialist" means a person with experience and training in wetlands issues, and with experience in performing delineations, analyzing wetland functions and values, analyzing wetland impacts, and recommending wetland mitigation and restoration. Qualifications include:
- 1. Bachelor of Science or Bachelor of Arts or equivalent degree in biology, botany, environmental studies, fisheries, soil science, wildlife, agriculture or related field, and two years of related work experience, including a minimum of one year experience delineating wetlands using the Washington State Wetlands Identification and Delineation Manual and preparing wetland reports and mitigation plans. Additional education may substitute for one year of related work experience; or

- 2. Four years of related work experience and training, with a minimum of two years' experience delineating wetlands using the Washington State Wetlands Identification and Delineation Manual and preparing wetland reports and mitigation plans;
- 3. The person should also be familiar with the City site development regulations, the City wetland management policies, and the requirements of this title. "Wildlife biologist" means a professional with a degree in wildlife, or certification by the Wildlife Society, or

with five years' professional experience as a wildlife biologist.

Section 25. Section 19.10.030 of the University Place Municipal Code entitled, "Definitions." is amended to read as follows:

#### 19.10.030 Definitions.

"Abut" means to be contiguous with or touching property lines or right-of-way.

"Accessory dwelling unit" means a second dwelling unit, detached from, added to, or created within a single-family detached dwelling for use as a completely independent unit.

"Accessory structure" means a structure either attached or detached from a principal or main building and located on the same lot and which is customarily incidental and subordinate to the principal building or use.

"Accessory use" means a use of land or of a building customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

"Adjacent" shall mean close, near, or directly across a street, but not abutting.

"Administrative permit" or "administrative use permit" means a written decision, granted by the Director, to authorize the development or operation of a proposed land use activity subject to special degrees of control. Administrative use permits include, but are not limited to, temporary use permits, recreational vehicle permits, minor amendments, and home occupation permits.

"Administrative review" means a process involving the judgment and discretion of the Director in applying specific decision criteria and requirements.

"Adult bathhouse" means a commercial bathhouse which excludes any person by virtue of age from all or any portion of the premises.

"Adult cabaret" means a commercial establishment which presents go-go dancers, strippers, male or female impersonators, or similar types of entertainment and which excludes any person by virtue of age from all or any portion of the premises.

"Adult entertainment" shall mean:

A. Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance involves a person who is unclothed or in such costume, attire or clothing as to expose any portion of the nipple, the areola, or the lower half of the female breast or any portion of the pubic region, anus, buttocks, vulva or genitals, or wearing any device or covering exposed to view which simulates the appearance of any portion of the nipple, the areola, or the lower half of the female breast or any portion of the pubic region, anus, buttocks, vulva or genitals, or human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

B. Any exhibition, performance or dance of any type conducted in a premises where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to the following specified sexual activities:

- 1. Human genitals in a state of sexual stimulation or arousal; or
- 2. Acts of human masturbation, sexual intercourse or sodomy; or
- 3. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast, or
- C. Any exhibition, performance or dance intended to sexually stimulate any patron and conducted in a premises where such exhibition, performance or dance is performed for, arranged with or engaged in with fewer than all patrons on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance. For purposes of example and not limitation, such exhibitions, performances or dances are commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.
- "Adult entertainment establishment" shall mean any commercial premises which is one of the following: adult motion picture theaters, adult drive-in theaters, adult bookstores, adult cabarets, adult video stores, adult retail stores, adult massage parlors, adult sauna parlors or adult bathhouses, which are defined as follows:
- "Adult entertainment material" means any books, magazines, cards, pictures, periodicals or other printed matter, or photographs, films, motion pictures, video tapes, slides, or other photographic reproductions, or visual representations, CD-ROMs, DVDs, disks, electronic media, or other such media, or instruments, devices, equipment, paraphernalia, toys, novelties, games, clothing or other merchandise or material, which are characterized by an emphasis on the depiction, description or simulation of "specified anatomical areas" or "specified sexual activities."
- "Adult live entertainment establishment" shall mean a commercial premises to which a member of the public is invited or admitted and where an entertainer provides live adult entertainment to a member of the public on a regular basis or as a substantial part of the premises' activity.
- "Adult massage parlor" means a commercial establishment in which massage or other touching of the human body is provided for a fee and which excludes any person by virtue of age from all or any portion of the premises.
- "Adult motion picture theater" means a building, enclosure, or portion thereof, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by the patrons therein.
- "Adult retail establishment" means any bookstore, adult novelty store, and adult video store, or other similar commercial establishment, business, service, or portion thereof, which, for money or any other form of consideration, provides as a significant or substantial portion of its stock-in-trade the sale, exchange, rental, loan, trade, transfer, and/or provision for viewing or use off the premises of adult entertainment material as defined in this chapter. For purposes of this provision, it shall be a rebuttable presumption that 30 percent or more of a business's stock-in-trade in adult retail material, based on either the dollar value (wholesale or retail) or the number of titles of such material, is significant or substantial. In determining whether or not the presumption is rebutted, the Director may consider the following factors, which are not conclusive:
- A. Whether minors are prohibited from access to the premises of the establishment due to the adult entertainment nature of the inventory;
- B. Whether the establishment is advertised, marketed, or held out to be an adult merchandising facility;
- C. Whether adult entertainment material is an establishment's primary or one of its principal business purposes; or
- D. Whether 30 percent or more of an establishment's revenue is derived from adult entertainment material.

An establishment may have other principal business purposes that do not involve the offering for sale or rental of adult entertainment materials and still be categorized as an adult retail establishment. Such other business purposes will not serve to exempt such establishments from being categorized as an adult retail establishment so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified adult entertainment materials. The Director shall have full discretion to give appropriate weight to the factors set forth above as well as other factors considered depending on the particular facts and circumstances of each application.

"Adult sauna parlor" means a commercial sauna establishment, which excludes any person, by virtue of age, from all or any portion of the premises.

"Affordable housing" means housing which is deemed affordable to those with household incomes at or below the area median income (AMI). Households in need include extreme low income (30 percent of AMI) very low income (50 percent of AMI) and low income (80 percent of AMI).

"Alter/alteration" means any change, addition, or modification in construction or occupancy of a building or structure or use of land.

"Amendment" means a change in the wording, context, or substance of this code or the Comprehensive Plan; a change in the zoning map or Comprehensive Plan map; a change to the official controls of City code; or any change to a condition of approval or modification of a permit or plans reviewed or approved by the Director or Hearings Examiner.

"Amendment, major" means any change of a discretionary land use permit that is beyond the scope of a minor amendment and requires the same procedure as the initial permit.

"Amendment, minor" means a limited change of a discretionary land use permit that is reviewed and approved, approved with conditions, or denied by the Director.

"Barn" means any building used for agricultural purposes that contains items generally associated with farming including, but not limited to, farm equipment such as tractors or farm animals such as livestock.

"Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles. There are three levels of battery charging stations based on the electrical force, or voltage, at which an electric vehicle's battery is recharged.

Level 1 is considered slow charging and typically operates on a 15- or 20-amp breaker on a 120-volt alternating current (AC) circuit and standard outlet.

Level 2 is considered medium charging and typically operates on a 40-amp to 100-amp breaker on a 208-or 240-volt AC circuit.

Level 3 is considered fast or rapid charging primarily for commercial and public applications and typically operates on a 60-amp or higher dedicated breaker on a 480-volt or higher three-phase circuit with special grounding equipment.

"Battery electric vehicle (BEV)" means any vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle's batteries, and produces zero tailpipe emissions or pollution when stationary or operating.

"Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process.

"Beauty salon" means a service business operating to provide services related to hair, skin, nail and cosmetology care.

- "Bed and breakfast house" means any owner-occupied single-family dwelling, in which travelers are lodged for two weeks or less and for which compensation of any kind is paid. Limited to four guestrooms. (For the purposes of this definition, a bed and breakfast house is not a hotel, inn, motel, or lodging or rooming house.)
- "Berm" means a formed mound of earth that creates a visual and physical barrier between developments, roads, and/or sensitive areas.
- "Biosolids" means municipal sewage sludge that is a primarily organic, semisolid product resulting from the wastewater treatment process, and septage that can be beneficially recycled and meets all applicable health regulations.
- "Brew pub" means an eating and drinking establishment having a microbrewery on the premises which produces beer, ale or other malt beverage and where most of the beer produced is consumed on premises. This classification allows a brew pub to sell beer at retail and/or act as a wholesaler for beer of its own production for off-site consumption, with appropriate State licenses.
- "Building" means any structure having a roof supported by columns, posts, or walls for the shelter, housing or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.
- "Building, detached" means a building surrounded by open space on the same lot.
- "Building, principal or main" means a building devoted to the principal use of the lot on which it is situated.
- "Business activity" means any activity carried out for the purpose of financial gain for an individual or organization, whether profit or nonprofit.
- "Business or commerce" means the purchase, sale, or other transaction involving the handling or disposition of any article, service, substance, or commodity for livelihood or profit; or the management of office buildings, offices, recreational or amusement enterprises; or the maintenance and use of buildings, offices, structures, and premises by professions and trades rendering services.
- "Buy-back recycling center" means any business which collects, receives or buys recyclable materials from household, commercial or industrial sources for the purpose of sorting, grading, or packaging recyclables for subsequent shipment and marketing.
- "Cemetery" means land used or intended to be used for the burial of human dead.
- "Central office switching unit" means a switching unit in a telephone system having the necessary equipment and operating arrangements for terminating and interconnecting subscribers' lines, farmer lines, toll lines and interoffice trunks.
- "Character" means the distinctive features or attributes of buildings, uses, and site design on abutting and adjacent properties and in the vicinity as required in the Comprehensive Plan, including, but not limited to, building facade, building length, building modulation, building height, building location, roof form, tree cover, types of flora, location of landscaping, size and location of signs, setbacks, amount of parking, location of parking, fencing type, fencing height, location of fencing and intensity of uses.
- "Church." See "Religious assembly."
- "Clubs and lodges" means a meeting place for recreational or social activities of a private or nonprofit organization primarily for use by members or guests. This classification includes union halls, social clubs and youth centers.

- "Commercial vehicle" means any vehicle including, but not limited to, a car, truck, truck trailer, tractor, grading machine, bulldozer, scraper, boat, motorized crane, etc., that is used in the operation of a business to store, transfer, or deliver commodities or in construction, road grading, or logging activities.
- "Composting facility" means a solid waste facility specializing in the composting of one or more organics of a known and consistent composition, other than mixed municipal waste, to produce a marketable product for reuse or as a soil conditioner. Feedstocks may include, but are not limited to, yard waste, biosolids or food waste.
- "Composting facility, municipal solid waste" means a solid waste facility specializing in the composting of mixed waste from municipal sources to reduce the waste for final disposal or to produce a marketable product.
- "Composting facility, small scale" means a facility or equipment used in the composting of organic feedstock such as yard waste or food waste to produce a product for use as a soil conditioner or amendment. Such product is intended for use on the property from which it was generated and is not intended for sale.
- "Conditional use" means a use conditionally permitted in one or more zones as defined by this code but which, because of characteristics particular to each such use, size, technological processes, equipment, or because of the exact location with respect to surroundings, streets, existing improvements, or demands upon public facilities, requires a special degree of control to determine if uses can be made compatible with the Comprehensive Plan, abutting and adjacent uses, and the character of the vicinity.
- "Conditional use permit" means the documented evidence of authority granted by the Examiner to locate a conditional use at a specific location.
- "Correctional institution" means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including State prisons, County and local jails, and other facilities operated by the Department of Corrections or local governmental units primarily for the purposes of punishment, correction, or rehabilitation following conviction of a criminal offense.
- "Craft production facility" means a commercial or light industrial use that involves the production of arts, crafts, food, and beverages with on-site production and assembly of goods primarily involving the use of hand tools and/or small-scale equipment. Due to the limited scale of the activities and small boutique nature of craft production establishments, they are compatible with and are often co-located with retail sales and service uses. Production examples and processes include ceramic art, glass art, candle-making, custom jewelry manufacture, craft foods and nonalcoholic beverages.
- "Day care center, adult" means a center that regularly provides care and supervision for a period of less than 24 hours per day for a group of elderly or disabled adults who cannot safely be left alone.
- "Day care center, child" means a facility, licensed by the State, which regularly provides care for a group of children for periods less than 24 hours per day. The term shall include, but is not limited to, facilities commonly known as "day care facilities," "day care centers," and "preschools."
- "Deck" means an attached or detached raised horizontal platform.
- "Density" means the number of dwelling units allowed per net acre.
- "Department" means the City of University Place Planning and Development Services Department of Community and Economic Development Department.
- "Development" means any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, placement of manufactured homes/mobile homes, mining, dredging, clearing, filling, grading, stockpiling, paving, excavation, drilling or the subdivision of property.

- "Development permit" means any document granting, or granting with conditions, approval of a land use decision, zoning or rezoning, subdivision plat, site plan, building permit, special exception, special use permit, variance, or any other official action of the City having the effect of authorizing the development of land.
- "Development project" means a contiguous area developed, operated and maintained as a single entity accommodating residential, commercial, industrial or public use(s) or a combination of such uses which may or may not be under single ownership.
- "Director" means the Director of the Planning and Development Services <u>Department of Community and Economic Development</u> Department or authorized designee.
- "Discretionary land use permit" means a document granted by official action of the City which authorizes the development or use of land pursuant to a special use permit or administrative permit.
- "Domestic animals" means dogs, cats, birds, and small rodents which can be and are continually kept or raised in a home. Animals not considered to be domestic animals include, but are not limited to, the following: horses, cows, goats, sheep, swine, donkeys, fowl, and any other exotic species of animals.
- "Drive-through" means any establishment, business, or structure where service is provided to a customer and/or vehicle either from a service window, attendant or a self-service device with an access provided by a drive-through lane(s) incorporated into the site design.
- "Drive-up" means a service that allows customers to be served while remaining in their vehicles, including but not limited to services where food or other items are delivered to or received from customers parked in designated parking stalls.
- "Driveway" means a private vehicle access, which serves up to two single-family dwelling units, multifamily or commercial development.
- "Dry sewer facilities" means sewer lines designed and constructed in accordance with the local sewer utility standards for future connection to the sewer provider's sanitary sewerage system. Dry sewer lines shall be constructed from the property line to the structure they will serve.
- "Duplex" means a building containing two dwelling units, providing separate living accommodations within each unit, attached in pairs on a single lot.
- "Dwelling" means a building or portion thereof designed exclusively for human habitation, including single-family, duplex and multiple-family dwellings, accessory dwelling units, live-work units, modular homes, manufactured homes and mobile homes, but not including hotel or motel units having no kitchens.
- "Dwelling unit" means one or more rooms designed for or occupied by one family for living or sleeping purposes and containing kitchen, sleeping and sanitary facilities for use solely by one family. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit.
- "Electric vehicle" means any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on board for motive purpose. "Electric vehicle" includes: (1) a battery electric vehicle; (2) a plug-in hybrid electric vehicle; (3) a neighborhood electric vehicle; and (4) a medium-speed electric vehicle.
- "Electric vehicle charging station" means a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle. There are three levels of battery charging stations based on the electrical force, or voltage, at which an electric vehicle's battery is recharged.

Level 1 is considered slow charging and typically operates on a 15- or 20-amp breaker on a 120-volt alternating current (AC) circuit and standard outlet.

Level 2 is considered medium charging and typically operates on a 40-amp to 100-amp breaker on a 208-or 240-volt AC circuit.

Level 3 is considered fast or rapid charging primarily for commercial and public applications and typically operates on a 60-amp or higher dedicated breaker on a 480-volt or higher three-phase circuit with special grounding equipment.

"Electric vehicle charging station – restricted" means an electric vehicle charging station that is (1) privately owned and restricted access (e.g., single-family home, executive parking, designated employee parking) or (2) publicly owned and restricted (e.g., fleet parking with no access to the general public).

"Electric vehicle parking space" means any marked parking space that identifies the use to be exclusively for the parking of an electric vehicle.

"Employees" means all persons, including proprietors, performing work on premises, or on all shifts, unless otherwise stated in specific sections of this code.

"Escort service" means an establishment where, for any form of consideration, companions are provided for which a fee of any kind is charged.

"Espresso stand" means a walk-up or auto-oriented (drive-through) business that dispenses hot and/or cold nonalcoholic beverages.

"Essential public facilities" means capital facilities typically hard to site (see WAC 365-196-550).

"Examiner" means the City Hearings Examiner.

"Extended stay" means lodging containing four or more units/guestrooms that provides accommodation on a nontransient basis leased for a period of at least one month. Units/guestrooms which contain a kitchen constitute a residential dwelling unit.

"Family" means individuals consisting of two or more persons related by genetics, or adoption or marriage, or a group of five or fewer persons who are not related by genetics, adoption, or marriage and none of whom are wards of the court unless such wards are related by genetics, adoption or marriage to all of the members of such group living in a dwelling unit. For the purposes of this definition, persons with handicaps or otherwise protected by the Federal Fair Housing Act (42 U.S.C. 3601 et seq.) shall not be counted as unrelated persons.

"Farm" means a parcel of land used for agricultural activities.

"Final development plan" means a plan or set of plans that complies with the conditions set forth in a preliminary approval and, once approved, serves as the final approval of a discretionary land use permit.

"Floor area" means the sum of the gross horizontal areas of all floors of the building or portion thereof devoted to a use, including storage areas. However, "floor area" shall not include attic storage, unfinished basement floor area other than area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. The floor area shall be measured from the exterior face of exterior walls and from the centerline of walls dividing uses or establishments. See UPMC 19.45.080 for guidance on calculating floor area ratio.

"Floor area ratio (FAR)" means the floor area of the building or buildings on a lot or on a project site divided by the area of such lot or project site, excluding any public facilities and structured parking.

- "Funeral and interment services" means establishments primarily engaged in the provision of services involving the care, preparation, and disposition of human dead. Typical uses include crematories, mausoleums or mortuaries.
- "Garage, private" means an accessory building or an accessory portion of the main building, enclosed on not less than three sides and designed or used only for the shelter or storage of vehicles owned or operated only by the occupants of the main building or buildings.
- "Glare" means unwanted light that causes eyestrain, discomfort, nuisance, or adversely affects a visual task.
- "Golf course facility" means a recreational facility, under public or private ownership, designed and developed for golf activities with accessory uses including, but not limited to, a driving range, miniature golf, pro shops, caddy shack buildings, swimming pools, tennis courts, restaurants, office and meeting rooms and related storage facilities.
- "Grade average, finished" means the post-construction average elevation of the ground surface as measured at finished grade from base points located at the four corners of the foundation or, if the foundation of a structure does not form a rectangle, at the four corners of the smallest rectangle which surrounds the foundation.
- "Grade existing" means the surface of the ground or pavement at a stated location as it exists prior to disturbance in preparation for a project regulated by this title.
- "Grade, finished" means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within an area between the structure and property line or, where the property line is more than five feet from the structure, between the structure and a line five feet from the structure.
- "Gross vehicle weight" means the total weight of a vehicle including the weight it is licensed to carry, intended to carry, or carrying, whichever is greater.
- "Hazardous substance" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste, and including waste oil and petroleum products.
- "Hazardous substance processing or handling" means the use, storage, manufacture, or other land use activity involving hazardous substances but does not include individually packaged household consumer products or quantities of hazardous substances of less than five gallons in volume per container. Hazardous substances shall not be disposed of on site unless in compliance with Dangerous Waste Regulations, Chapter 173-303 WAC, and any pertinent local ordinances, such as sewer discharge standards.
- "Hazardous waste" means and includes all dangerous waste and extremely hazardous waste as designated pursuant to Chapter 70.105 RCW and Chapter 173-303 WAC.
- A. "Dangerous waste" shall mean any discarded, useless, unwanted, or abandoned substances including, but not limited to, certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes:
- 1. Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or
- 2. Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.
- B. "Extremely hazardous waste" shall mean any waste which:

- 1. Will persist in a hazardous form for several years or more at a disposal site and which in its persistent form presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic makeup of man or wildlife; and
- 2. Is disposed of at a disposal site in such quantities as would present an extreme hazard to man or the environment.
- "Health club facilities" means a use offering exercise equipment for public use, and services such as, but not limited to, expertise and instruction for fitness training and aerobics classes. The use does not include massage or other medically related services.
- "Hearings Examiner review" means a process involving the judgment and discretion of the Examiner in applying specific decision criteria and other requirements unique to a particular use in the approval of an activity permitted, or permitted conditionally, within a zone.
- "Height, building or structure" means the vertical distance from the average finished grade measured to the highest point of a building or structure.
- "Hobby farm" means noncommercial agricultural activities, including the raising of farm animals and placement of associated farm structures, established on a lot without a principal dwelling unit. "Home-based day care, adult" means a facility, located in a dwelling unit, that regularly provides care for a period of less than 24 hours per day for no more than 12 elderly or disabled adults who cannot safely be left alone.
- "Home-based day care, child" means a facility, licensed by the State, that regularly provides care for a period of less than 24 hours per day for no more than 12 children and is located in an owner-occupied dwelling unit.
- "Home occupation" means any activity conducted primarily for financial gain or profit in the principal residence or a permitted accessory structure, which is clearly incidental and secondary to the residential use of the property. An activity inconsistent with the performance standards of this chapter shall be subject to the provisions of this code, even if such activity is conducted without monetary compensation or on a not-for-profit basis.
- "Hotel" or "motel" means lodging containing four or more guestrooms which may provide incidental services such as restaurants, meeting rooms or recreational facilities provided for compensation at a nightly rate.
- "Inoperable vehicle" means a vehicle which is apparently inoperable or which requires repairs in order to be operated legally on public roads, such as repair or replacement of a window, windshield, wheel, tire, motor or transmission.
- "Interim on-site septic system" means a new or remodeled on-site septic system permitted after the effective date of the ordinance codified in this section. Interim systems are intended to be temporary in nature until such time as sanitary sewers become available. Interim on-site septic systems will meet the requirements of the Tacoma-Pierce County Health Department.
- "Interim propane storage system" means propane storage facilities serving one or more customers on an interim basis until extension of natural gas service is feasible.
- "Kennel" means a house, enclosure, or other structure in which any combination of six or more dogs or cats that individually exceed seven months of age are kept for breeding, sale, training, boarding, or sporting purposes, or are kept or cared for as pets or for any other purpose.
- "Kitchen" means any room or area used, intended, or designed to be used for the cooking or preparation of food that contains a range, stove, oven or cooktop that is serviced by gas or a 220/240v outlet, and a kitchen-type sink.

"Landfill" means a solid waste facility for the permanent disposal of solid wastes in or on the land and which needs a solid waste permit under Chapter 70.95 RCW.

"Live-work unit" means a dwelling unit or sleeping unit in which a significant portion of the space includes a nonresidential use that is operated by the tenant. Nonresidential use is limited to no more than 50 percent of floor area.

"Livestock" means all cattle, sheep, goats, or animals of the bovidae family; all horses, mules, or animals of the equidae family; all pigs, swine, or animals of the suidae family; and ostriches, rhea, and emu.

"Lodging" means any building or group of buildings containing units/guestrooms where accommodations are provided (with or without meals) for compensation. All lodging is either (1) hotel or motel; (2) rooming house; (3) extended stay; or (4) bed and breakfast.

"Lot" means a designated parcel, tract, or area of land established by plat, subdivision or as otherwise permitted by law to be used, developed or built upon as a unit.

"Lot area" means the total area within the lot lines of a lot, excluding any street area.

"Lot, corner" means a lot situated at the intersection of two or more streets, having an interior angle of less than 135 degrees. On a corner lot, all yards abutting street rights-of-way shall be considered front yards. See Figure 1.

"Lot, interior" means a lot other than a corner lot. See Figure 1.

"Lot line" means a line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space. See Figure 1.

"Lot line, front" means the portion of a lot line abutting a street or railroad right-of-way. See Figure 1.

"Lot line, rear" means the lot line opposite and most distant from the front lot line. See Figure 1.

"Lot line, side" means any lot line other than a front or rear lot line. See Figure 1.

"Lot of record" means an area of land designated as a lot on the plat or subdivision recorded or registered, pursuant to statute, with the Auditor of Pierce County.

"Lot, pipestem" means a lot which gains street access by way of a driveway easement or lot extension which is too narrow to be built upon. When a pipestem-shaped lot abuts two or more streets it shall not meet this definition of a pipe-stem lot. See Figure 1.

"Lot size, minimum" means the smallest lot that can be created through a land division process, consistent with applicable development regulations.

"Lot, substandard" means a parcel of land that has less than the minimum area or minimum dimensions required in the zone in which the lot is located.

"Lot, through" means a lot that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot. See Figure 1.

"Major improvement" shall mean improvements to the interior and/or exterior of a principal building, except normal maintenance and repair and life/safety improvements, which within a 12-month period exceed a cumulative value of 25 percent of the assessed value as assessed by the Pierce County Assessor's Office of the principal building. The 12-month period shall include the value of all improvements made in conjunction with permits issued within a 12-month period preceding the application for a new permit. Normal

maintenance and repair and life/safety improvements include but are not limited to reroofing, painting, recarpeting, fire sprinkler installation, and improved exiting and accessibility.

"Major redevelopment" shall mean the redevelopment of or addition to a principal building or principal buildings within a development project, except normal maintenance and repair and life/safety improvements, which result in the remodeling of or addition of 25 percent or more of the gross floor area of the existing building or, collectively, to any buildings in a development project. Normal maintenance and repair and life/safety improvements include but are not limited to reroofing, painting, recarpeting, fire sprinkler installation, and improved exiting and accessibility.

"Manufactured home" means a factory-assembled structure intended solely for human habitation, which has sleeping, eating and plumbing facilities, that is being used for residential purposes, constructed after June 15, 1976, in accordance with State and Federal requirements for manufactured homes, which:

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

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

C. Has exterior siding similar in appearance to siding materials commonly used on conventional site-built Uniform Building Code single-family residences.

"Massage parlor" means an establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered; this would include sensitivity studios, body painting studios, exercise studios, conversation studios, companionship studios, exotic dance studios, dating services or any other business title in which massage is a principal activity or principal purpose of the building. The title or name of the business cannot be used as a ruse to circumvent this definition. This definition shall not be construed to include a hospital, nursing home, medical clinic, medical practitioner or the office of a physician, surgeon, chiropractor, osteopath, physical therapist, or by a massage practitioner, licensed by the State pursuant to Chapter 18.108 RCW and whose principal activity is to treat the sick, injured, or infirm, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a volunteer fire department, a volunteer rescue squad, or a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational and athletic facilities.

"Microbeverage production facility" means an establishment that manufactures alcoholic and nonalcoholic beverages for distribution on or off site. Examples include microbreweries, microdistilleries and microwineries. Microbeverage production facilities may operate in conjunction with a tasting room, retail outlet, and/or eating and drinking establishment.

"Microbrewery" means a business known as a craft brewery that produces 5,000 barrels or less of beer per calendar year. A microbrewery may sell beer of its own production directly to a customer for off-premises consumption and by all other legal means. A microbrewery may operate a tasting room or in conjunction with a Level 3 eating and drinking establishment. A microbrewery must be licensed by the Washington State Liquor Control Board and the Federal Alcohol and Tobacco Tax and Trade Bureau.

"Microdistillery" means a business known as a craft distillery that produces 5,000 proof gallons or less of spirits per calendar year. A microdistillery may sell spirits of its own production directly to a customer for off-premises consumption and by all other legal means. A microdistillery may operate a tasting room or in conjunction with a Level 3 eating and drinking establishment. A microdistillery must be licensed by the Washington State Liquor Control Board and the Federal Alcohol and Tobacco Tax and Trade Bureau.

"Microwinery" means a business engaged primarily in the production, including crushing, fermentation, aging, and bottling, and distribution of no more than 5,000 cases of wine per year. A microwinery may sell

wine of its own production directly to a customer for off-premises consumption and by all other legal means. A microwinery may operate a tasting room or in conjunction with a Level 3 eating and drinking establishment. A microwinery must be licensed by the Washington State Liquor Control Board and the Federal Alcohol and Tobacco Tax and Trade Bureau.

"Miniwarehouse" means a facility consisting of separate storage units which are rented to customers having exclusive and independent access to their respective units for storage of residential- or commercial-oriented goods.

"Mobile home" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed prior to June 15, 1976.

"Mobile home/manufactured home park" means a tract of land designed and maintained under a single ownership or unified control where two or more spaces or pads are provided solely for the placement of mobile or manufactured homes for residential purposes with or without charge. A mobile home or manufactured home park shall not include mobile home or manufactured home subdivisions or recreational vehicle parks.

"Moderate risk waste fixed facility" means a solid waste transfer facility needing a solid waste permit which specializes in the collection of household hazardous waste for packaging for transport to a disposal facility for recycling. It may collect limited amounts of hazardous waste from small quantity generators (SQGs) who are businesses which generate hazardous waste in quantities below the threshold for regulation under Washington dangerous waste regulations (Chapter 70.105 RCW).

"Modular home" shall mean a dwelling that is designed for human habitation and is either entirely or substantially prefabricated or assembled at a place other than a building site and meets all of the requirements of Chapter 296-150A WAC. Modular homes are also commonly referred to as factory-built housing, and for purposes of this title a modular home is considered single-family and duplex housing.

"Modulation" means a stepping back or projecting forward of portions of a building facade within specified intervals of building width and depth, as a means of lessening the apparent bulk of a structure's continuous exterior walls.

"Mount" means the structure or surface upon which personal wireless telecommunication facilities are mounted. There are three types of mounts:

- A. Building-Mounted. A personal wireless service facility mount fixed to the roof or side of a building.
- B. Ground-Mounted. A personal wireless service facility mount fixed to the ground, such as a tower.
- C. Structure-Mounted. A personal wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.
- "Multifamily" means a structure containing three or more dwelling units, with the units joined to one another.
- "Museum" means an institution operated as a repository of natural, scientific, historical, cultural or literary objects of interest or works of art, and where the collection of such items is systematically managed for the purpose of exhibiting them to the public.

"Net acre" is calculated by taking the total gross acreage and subtracting out surface water, undevelopable lands (e.g., wetlands) and street rights-of-way or street easements.

"New manufactured home" means any manufactured home required to be titled under RCW Title 46, which has not been previously titled to a retail purchaser, and is not a "used mobile home" as defined in RCW 82.45.032(2).

- "Nonconforming development" means a contiguous area developed, operated and maintained as a single entity accommodating a residential, commercial, industrial or public use or a combination of such uses, which was legal when established but no longer conforms to the applicable development standards, including, but not limited to, parking, loading, access, landscaping, screening, open space or design requirements.
- "Nonconforming lot" means a lot that does not conform to the size, shape or density requirements of the zone where it is located.
- "Nonconforming structure" means a building or structure which was legal when established but no longer conforms to development standards including, but not limited to, parking, landscaping, design, height, setback or coverage requirements.
- "Nonconforming use" means the use of land, a building or a structure lawfully existing prior to August 31, 1995, or the effective date of the ordinance codified in this title or subsequent revisions or amendments thereto, and which no longer conforms with the use regulations of the zone in which it is located.
- "Nude" or "semi-nude" shall mean a state of complete or partial undress in such costume, attire, or clothing so as to expose any portion of the nipple, the areola, or the lower half of the female breast or any portion of the pubic region, anus, buttocks, vulva, or genitals, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- "Odor control structure" means equipment or structures appurtenant to wastewater conveyance facilities used to lessen the odors of the liquids being transported.
- "Official controls" means legislatively defined and enacted policies, standards, precise detailed maps and other criteria, all of which control the physical development of the City, and are the means of translating into regulations and ordinances all or any part of the general objectives of the Comprehensive Plan.
- "Open space" means a substantially unimproved area in public or private ownership. Open space serves as a visual relief in the built environment and may be characterized by undisturbed natural vegetation or areas intended for passive recreation uses. Open space may be permanently dedicated to remain substantially unimproved.
- "Outdoor storage" means the storage, outside of a building, of material not intended for immediate sale or exhibition.
- "Owner occupant" means a property owner, as reflected in title records, that makes his or her legal residence at the site, and resides at the site more than six months out of any given year.
- "Package wastewater treatment plant" means a pre-assembled, factory-built treatment plant. They can be the size of a motor home or larger.
- "Panorama" or "peepshow" shall mean any device which, upon insertion of a coin or by any other means of payment, including membership fee or other charge, exhibits or displays a picture or view by film, video or by any other means, including observation of live performances.
- "Panorama premises" means any premises or portion of a premises on which a panorama is located and which is open to the public, including through membership.
- "Park, community" means a park designed for organized activities and sports, although individual and family activities are also encouraged. Community parks usually exceed 10 acres in size, serve an area of at least two to three miles in radius and often have sport fields, water bodies, gardens, nature trails or similar facilities as the central focus of the park. Most often restroom and parking facilities are found at a community park.

"Park, linear trail" means a recreation area that has as a primary use hiking, biking, walking, and jogging. In some cases, linear trail parks may be used by equestrian groups. The trails within the park may vary in scale and surfacing and may also be used as a means of nonmotorized transportation connecting one destination point to another. Streets, roads and highways with widened shoulders or bike lanes are not included in this category.

"Park, neighborhood" means a combination playground and park designed primarily for unsupervised, unorganized recreation activities. Neighborhood parks are small (about three to 10 acres) and serve an area of approximately one-half mile in radius. In general, facilities recommended for a neighborhood park may include a children's playground, picnic facilities, trails, nature areas, tennis courts, an outdoor basketball court and a multi-use field for soccer, youth league baseball, etc. Most often there are no restroom and parking facilities.

"Park, regional" means a large recreation area that serves an entire region. They are usually large in size and often include areas of natural quality suitable for outdoor recreation activities such as golfing, picnicking, boating, fishing, swimming, camping and hiking. If located within an urban area, regional parks may offer a wider range of facilities and activities which serve the entire region. Regional parks usually exceed 40 acres in area. Restroom and parking facilities are most often found at the site.

"Parking area" means an area accessible to vehicles, which area is provided, improved, maintained, and used for the sole purpose of accommodating a motor vehicle.

"Parking area, public" means an open area other than a street, alley, or private parking area as defined herein, whether privately or publicly owned, which area is used for the parking of vehicles.

"Passive recreation" means an outdoor leisure time activity which usually occurs in a setting that has been preserved, as nearly as possible, in the original or natural condition. Passive recreation may occur in common open lawn areas and, where determined appropriate, critical area buffers, aquifer recharge and flood water storage areas. Activities may include picnicking, sightseeing, walking, hiking, biking, horseback riding, and nature walks. Accessory structures associated with passive recreation include playground equipment, picnic shelters and tables, barbecue pits, exercise stations, restroom facilities, benches, directory signs, garbage containers, and landscaped areas.

"Pasture land" means property on which grass or other plants grow and are used as food for grazing animals.

"Patio" means an uncovered paved horizontal surface constructed flush with the ground that adjoins a dwelling unit and is used for dining or recreation.

"Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons, however organized.

"Personal wireless telecommunication facilities" shall be defined in the same manner as in 47 U.S.C. 332(c)(7)(C), as they may be amended now or in the future, and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.

"Pet day care center" means a facility that provides for the care and supervision and/or the boarding of pets for a period of less than 24 hours per day. Boarding pets for more than 24 hours at a time is considered a kennel.

"Planned development district (PDD)" means a flexible zoning concept which provides an opportunity to mold a district so that it creates a more desirable environment and results in a better use of the land than

that which could have been provided through the limiting standards provided in the regular zoning classifications. Planned development districts are no longer permitted by this title.

"Porch" means a covered deck or patio.

"Post office, branch" means a government-operated subdivision of a main post office station serving as a base for one or more carrier routes and providing customary customer postal service.

"Post office, contract station" means a privately operated, limited-service postal facility carried on as adjunct to a principal business or use.

"Post office, terminal" means the government-operated principal mail handling facility for a postal geographic service area.

"Preliminary approval" means an approval, based upon an application and conceptual plan for a discretionary land use permit, granted by the Director or Examiner which sets forth certain conditions that must be reflected on final development plans.

"Problem waste" means soils removed during the cleanup of a remedial action site, dangerous waste site, or other sites with harmful substances, but not designated dangerous wastes, and contaminated dredge spoils.

"Project site" means that portion of any lot, parcel, or tract or combinations thereof that encompasses all phases of the total project proposal.

"Public bathhouse" means an establishment where, for any form of consideration, baths or facilities for baths of any kind whatever are given or furnished for or in expectation of a fee, compensation or monetary consideration including, but not limited to, Finnish baths, Russian baths, sauna baths, Swedish baths, Turkish baths, baths by hot air, steam vapor, water or electric cabinet; provided, that "public bathhouse" for this definition does not include such baths or facilities for baths where no attendant or other person administers or holds themselves out as administering massage treatment as defined in this section, either by physical manipulation of the body or by the use of equipment.

"Public facilities" means properties and facilities in which a public agency, jurisdiction, district or similar public entity has a real property interest including, but not limited to, streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, storm waste facilities, parks and recreational facilities, public buildings and schools.

"Public facility permit" means documented evidence of authority granted by the Examiner to locate a public facility at a specific location.

"Pump/lift station" means the part of a water collection or distribution system which raises water from a lower to a higher elevation.

"Recorded" means, unless otherwise stated, filed for record with the auditor of the County of Pierce, State of Washington.

"Recreational vehicle" means a structure or vehicle, other than a mobile home, which is permanently designed and intended for use for temporary housing purposes. Recreational vehicles shall include, but not necessarily be limited to, campers, motor homes, and travel trailers.

"Recreational vehicle park" means a tract of land under single ownership or unified control developed with individual sites for rent and containing roads and utilities to accommodate recreational vehicles or tent campers for vacation or other similar short stay purposes.

- "Recycling collection site" means a site with collection boxes or other containerized storage where citizens can leave materials for recycling.
- "Recycling processor" means any large-scale buy-back recycling business or other industrial activity which specializes in collecting, storing and processing any waste, other than hazardous waste or municipal garbage, for reuse and which uses heavy mechanical equipment to do the processing. It may be a facility where commingled recyclables are sorted, baled or otherwise processed for transport off site which is referred to as a "clean" materials resource recovery facility (MRF).
- "Religious assembly" means an establishment, the principal purpose of which is religious worship and/or memorial services. The principal building or other structure contains the sanctuary of the principal place of worship and includes related accessory uses.
- "Religious assembly, place of" means an establishment, the principal purpose of which is religious worship and for which the principal building or other structure contains the sanctuary or principal place of worship, and including accessory uses in the main building or in separate buildings or structures, including religious educational classrooms, assembly rooms, kitchen, library room or reading room, recreation hall, and a one-family dwelling unit, but excluding facilities for residence or for training of religious orders.
- "Religious assembly uses" means uses that are secondary to religious purposes of the church and are considered as providing services to members and other individuals. These uses include, but are not limited to, cafeteria, child day care, educational classes, and social services.
- "Remote switching unit" means a device or group of devices in a telephone system having the necessary equipment for terminating and interconnecting subscribers' lines, farmer lines, toll lines and interfacilities trunks, normally dependent on one or more central office switching units for full operability.
- "Right-of-way" means all public streets and property granted or reserved for, or dedicated to, public use for street purposes, together with public property granted or reserved for, or dedicated to, public use for walkways, sidewalks, bikeways and horse trails, whether improved or unimproved, including the air rights, subsurface rights and easements related thereto.
- "Rooming house" means lodging where within an owner-occupied dwelling unit where not more than four guestrooms are provided for compensation on other than a daily basis and which is not open to transient guests.
- "Secure community transition facility" means a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under Chapter 71.09 RCW. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include but are not limited to the facilities established pursuant to Chapter 71.09 RCW and any community-based facilities established under Chapter 71.09 RCW and operated by the Washington State Secretary of Social and Health Services or the Secretary's designee.
- "Sensitive receptor" shall mean any establishment that provides caretaking, education, or recreation for persons under 18 years of age, or a location where youth are likely to gather including but not limited to schools, school bus stops, day care facilities, dance studios, and park and recreation uses.
- "Septage" means a semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a septic tank system.
- "Service provider" means the department, district or agency responsible for providing the specific public facility or service.

- "Setback" means the minimum required distance between any structure and a specified line such as a lot, public right-of-way, private road, easement or buffer line that is required to remain free of structures unless otherwise provided herein. See Figure 1 in Chapter 19.45 UPMC.
- "Sewage conveyance system" means pipelines, culverts, and appurtenances which transport wastewater and sewage from points of origin to wastewater treatment plants, or which convey treated wastewater to points of discharge. Also called wastewater conveyance systems.
- "Sewage system, on-site" means any system of piping, treatment devices, or other facilities that convey, store, treat, or dispose of sewage on the property where it originates or on abutting or nearby property under control of the user where the system is not connected to a public or approved private sewer system. On-site systems shall be constructed to meet the requirements of the Tacoma-Pierce County Health Department.
- "Single-family, detached" means a dwelling unit that is not attached to another dwelling unit by any means.
- "Small animals" means all animals and birds except for livestock, wild animals and exotics.
- "Soil" means the surface layer of earth supporting plant life.
- "Soil treatment facility" means a solid waste facility which utilizes bioremediation, a thermal desorption process, or similar processes to treat petroleum-contaminated soil or vector waste for reuse or final disposal.
- "Solid waste" means all wastes, including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, discarded commodities, sludge from wastewater treatment plants, septage from septic tanks, wood wastes, dangerous wastes, and problem wastes.
- "Special use permit" means an approval by the Examiner for those types of development proposals which, due to the nature of the project, involve judgment or discretion in determining compliance with the approval requirements. Development proposals subject to special use permits include, but are not limited to, conditional use, public facilities, preliminary and final plats, shoreline substantial development, shoreline conditional use, shoreline variance, and major variance.
- "Specified anatomical areas" means:
- A. Less than completely and/or opaquely covered human genitals, pubic region, buttock, or any portion of the nipple, the areola, or the lower half of the female breast;
- B. Human male genitals in a discernibly turgid state even if completely or opaquely covered.
- "Specified sexual activities" shall mean an act of:
- A. Sexual intercourse within its ordinary meaning, occurring upon a penetration, however slight; or
- B. A penetration of the vagina or anus, however slight, by an object; or
- C. A contact between persons involving the sex organs of one person and the mouth or anus of another; or
- D. Masturbation, manual or instrumental, of oneself or one person by another; or
- E. Touching of the sex organs, anus, or female breasts, whether clothed or unclothed, of oneself or of one person by another.

"Stable, private" means an accessory building for the keeping of more than three horses, cows, or other similar domestic animals owned by the occupants of the premises and not kept for remuneration, hire, or sale.

# "Stock-in-trade" means:

- A. The dollar value of all products, equipment, books, magazines, posters, pictures, periodicals, other printed materials, prerecorded video tapes, disks, or similar material readily available for purchase, rental, viewing or use by patrons of the establishment, excluding material located in any storeroom or other portion of the premises not regularly open to patrons; or
- B. The number of titles of all products, equipment, books, magazines, posters, pictures, periodicals, other printed materials, prerecorded video tapes, disks, or similar material readily available for purchase, rental, viewing or use by patrons of the establishment, excluding material located in any storeroom or other portion of the premises not regularly open to patrons.
- "Stormwater conveyance facilities" means features such as gutters, pipelines, culverts, manholes, weirs, manmade and natural channels, water quality filtration systems and drywells.
- "Stormwater multiple use facilities" means stormwater pond facilities that are also developed to allow uses such as parks, recreational, educational and research structures and activities.
- "Street, private" means a privately owned street that provides vehicle access on a commonly owned tract or private easement. Access is limited to not more than four dwelling units or nonresidential uses on separate parcels or any number of dwelling units or nonresidential uses on a single parcel. A private street may include property reserved for utilities, transmission lines and extensions, walkways, sidewalks, bikeways and other similar uses.
- "Street, public" means a publicly owned and maintained right-of-way; provided, that where the City has acquired an easement from a property owner for right-of-way purposes, the easement area shall not be considered part of the street, but shall be considered part of the property and included in the calculations to determine density, minimum lot size, and setback requirements.
- "Structure" means anything that is constructed in or on the ground or over water, including any edifice, gas or liquid storage tank, and any piece of work artificially built up or composed of parts and joined together. For the purposes of this regulation, structure does not include paved areas, fill, or any vehicle.
- "Surface mine" shall mean any area or areas within one-half mile to each other, where extraction of minerals from the surface results in removal of 5,000 cubic yards of material, or more than three acres of disturbed area, or mined slopes greater than 30 feet high and steeper than one foot horizontal to one foot vertical, or more than one acre of disturbed area within an eight or greater acre area when the disturbed area results from mineral prospecting or exploration activities. Surface mines include areas where mineral extraction from the surface occurs by the auger method or by reworking mine refuse or tailings, when these activities exceed the quantity, size, or height threshold listed above. "Surface mining" shall not include excavations and grading for on-site construction, on-site road maintenance or for the purpose of public safety or restoring the land following a natural disaster.
- "Telecommunications radio relay station" means a facility containing structure and equipment for the transmission of telecommunications messages between telephone system facilities, by microwave radio or similar technologies.
- "Temporary housing unit, construction" means a mobile or manufactured home or recreational vehicle which is placed on a lot or tract of land for the purpose of providing temporary housing for an individual or a representative who is in the process of constructing a permanent use or structure on the same lot or tract.

"Temporary housing unit, family" means a mobile or manufactured home which is proposed to be located temporarily on a lot, parcel or tract of land. The lot's, parcel's, or tract's principal use shall be a single-family detached dwelling. The temporary housing unit shall be occupied by the parent or parents of the occupants of the dwelling, or not more than one individual who is a close relative of the occupants of the principal dwelling. An occupant of the temporary housing must be unable to independently maintain a separate type of residence without human assistance because of age, disability, prolonged infirmity, or other similar incapacitation.

"Temporary housing unit, public facility" means a single-wide mobile home or manufactured home to be used at public schools, fire stations, parks, or other public facilities for the purpose of providing on-site security, surveillance, and improved service at public facilities.

"Toxic materials" means those materials which can cause injury to living organisms by chemical means when present in relatively small amounts.

"Tract" means any parcel of land, lot, building site, or contiguous combination thereof devoted to or intended to be devoted to a principal use and any other uses customarily accessory thereto.

"Transfer station" means a solid waste facility needing a solid waste permit which is a permanent, fixed supplemental collection and transportation facility, used by persons and route collection vehicles to deposit collected solid waste from off site into a larger transfer vehicle for transport to a disposal facility. It may include baling or compaction activities or recycling facilities.

"Transfer station, drop box" means a solid waste facility needing a solid waste permit which is used for placement of a detachable container including the area entrance and exit roads, unloading and turnaround areas. The facility normally serves the general public with loose loads and receives waste from off site.

"Use" means the purpose or activity for which land or buildings are arranged, or intended, or for which land or buildings are occupied or maintained and shall include any manner of performance of such activity with respect to the performance standards of this zoning code.

"Use category" means a group of similar use types that are associated with each other to such an extent that they perform a specific land use function. Use categories are: civic, commercial, essential public facilities, office/business, industrial, residential, resource, and utilities.

"Use, permitted" means any use allowed in a zoning classification and subject to the restrictions applicable to the specific use.

"Use, principal" means the primary or predominant use of any lot or parcel.

"Use, temporary" means a use established for a limited duration with the intent to discontinue such use upon the expiration of the time period. Temporary uses include sales by temporary vendors, temporary housing units, temporary real estate offices, temporary construction buildings, and COWs and personal wireless telecommunications facilities exempt under UPMC 23.45.030.

"Use type" means a group of similar uses that are fundamentally related to each other, contain equivalent characteristics, and which fall within the same use category.

"Utility or public maintenance facility" means facilities for open and enclosed storage, and maintenance of vehicles, equipment, or related materials used in a utility or public facility.

"Variance" means an adjustment to the development standards of the zoning regulation that does not apply to use or density, and that is reviewed and approved, modified, or denied by an administrative officer or the Examiner after at least one public hearing or the Director after obtaining an administrative use permit.

"Vehicle repair, major" means servicing, repairing, or restoring of vehicles including but not limited to engine work, auto body work, or any other work that may involve dismantling of an automobile or body work that typically requires more than a day to accomplish.

"Vehicle repair, minor" means oil changes, tire changes, replacing headlights and windshield wipers and specialized work to restore antique vehicles. Except for restoring antique vehicles, this is typically work that can be accomplished within a relatively short period of time and that can be completed within one day.

"Waste separation and recovery facility" means a solid waste facility needing a solid waste permit where mixed solid waste is collected and processed to segregate recyclable components from that portion of the waste stream which is to be permanently disposed. It may be referred to as a materials resource recovery facility (MRF) or as a "dirty MRF."

"Waste to energy (WTE) facility" means any solid waste facility designed as a combustion plant to dispose of solid waste or to recover energy in a usable form from mass burning, refuse-derived fuel incineration, pyrolysis or any other means of using the heat of combustion of solid waste and which requires a solid waste permit under Chapter 70.95 RCW.

"Waste to energy facility, municipal solid" means a combustion plant specializing in disposal of or energy recovery from mixed waste from municipal sources. These facilities are often referred to as municipal incinerators.

"Waste to energy facility, special" means a combustion plant designed to burn more than 12 tons per day and specializing in disposal of or energy recovery from a single type of waste of known and consistent composition, other than municipal waste, such as tires or infectious waste.

"Wastewater" means water carrying waste from domestic, commercial or industrial facilities together with other waters which may inadvertently enter the sewer system through infiltration and inflow.

"Wastewater transfer facility" means equipment, structures, driving and parking surfaces, and appurtenances used for loading wastewater for transport to wastewater treatment facilities.

"Wild animal" means an untamed or undomesticated animal including but not limited to wolves, coyotes, foxes, bears, cougars, bobcats, deer, raccoons, beavers, and raptors.

"Yard" means a space defined by the required setback on any lot, unoccupied by a structure and unobstructed from the ground upward except as otherwise provided herein.

"Yard, front" means a yard lying between the minimum setback line for a structure and the front lot line and extending across the full width of the lot. See the figures in Chapter 19.45 UPMC.

"Yard, rear" means a yard lying between the minimum setback line for a structure and the rear lot line and extending across the full width of the lot. See the figures in Chapter 19.45 UPMC.

"Yard sale" means all temporary and intermittent sales that may be variously referred to as "yard sale," "garage sale," "lawn sale," "attic sale," "rummage sale," "estate sale," or any similar casual sale of tangible personal property from a residence or community use that is advertised by any means whereby the public at large is or can be made aware of the sale, and that is clearly secondary to the primary use of the site.

"Yard, side" means all yards except front yards and rear yards. See the figures in Chapter 19.45 UPMC.

"Zone classification" means an area accurately defined as to boundaries and location, and classified by the zoning code as available for certain types of uses and within which other types of uses are excluded.

Section 26. Section 19.50,320 of the University Place Municipal Code entitled, "Street trees and landscaping." is amended to read as follows:

#### 19.50.320 Street trees and landscaping.

The intent of this section is to provide for ample vegetation within the streetscape and plaza areas.

- A. Standards.
- 1. Street trees shall be provided in accordance with UPMC 19.50.440 and 19.50.450, arterial streets.
- 2. Street trees shall include only those species specified in UPMC Title 13.
- 3. Street trees shall have a minimum diameter of that specified in UPMC Title 13.
- 4. Landscaping in courtyards and plazas shall include:
- a. Canopy-type deciduous trees or spreading evergreen trees planted in clumps or strips with a mix of living evergreen and deciduous groundcovers and low shrubs. Up to 100 percent of the trees may be deciduous. There shall be at least one tree per 250 square feet of required landscaping area within courtyard and plaza areas.
- b. The area that is not planted with trees shall be planted with shrubs and living groundcover chosen and planted to attain coverage of 90 percent within three years of planting. Shrubs shall be planted at a density of five shrubs per 250 square feet of that portion of the landscape area that is not planted in groundcover. Lawn may be used for up to 75 percent of the required groundcover.
- 5. Landscaping located on private property shall be approved by the Development Services Department of Community and Economic Development Department, prior to planting, as part of the review of landscape plans required by UPMC 19.65.200. Landscaping in the public right-of-way shall be in accordance with UPMC 13.20.870.
- 6. Particular care shall be used in tree selection and placement to avoid visual obstruction of adjacent retail signage, windows and entries.
- 7. If mixing species, different species shall be alternated in a regular pattern. Regular spacing is encouraged. Spacing may be altered where necessary to minimize visual obstruction of adjacent retail uses.
- 8. Trees shall be planted a uniform distance from the curb/edge of street.
- 9. Street trees shall be placed in tree grates, large planters or pots, or planter strip sections.
- 10. Planter strips shall be permanently irrigated per Chapter 13.20 UPMC.
- 11. Landscaped area shall include shrubs and groundcover sized and irrigated in accordance with Chapter 19.65 UPMC.
- 12. A maximum of 50 percent of required landscaping in plazas and courtyards may be potted.
- 13. Potted plants shall not be placed anywhere that impedes pedestrian or vehicular traffic and may function as a separation between pedestrians and vehicles.
- 14. Pots shall be of a uniform type.
- 15. Tree grates shall be designed to reflect local art, history or wildlife.
- 16. Tree grates shall allow for tree growth.

- 17. Tree grates shall be ADA approved.
- 18. Electrical outlets shall be provided within the tree grate area to allow for lighting opportunities.
- B. Guidelines.
- 1. Potted plants may be used in addition to landscape planting areas to complement the surrounding streetscape by adding color and variety.
- 2. Large pots are preferred to fixed boxes to allow for maintenance or service access.
- 3. Larger trees are preferred and may be used to reduce the number of trees required, provided the overall diameter of required trees added together is not reduced.

Section 27. Section 19.50.390 of the University Place Municipal Code entitled, "Utility accessories." is amended to read as follows:

# 19.50.390 Utility accessories.

The intent of this section is to provide for functional and visually attractive utility accessories, including utility boxes, meters, manhole covers and fire hydrants.

#### A. Standards.

- 1. New utility systems shall be underground.
- 2. Utility accessories shall be uniform in design and color throughout a development and shall:
  - a. Blend in with surroundings to minimize visual and physical impact;
  - b. Be readily accessible and placed so as not to obstruct pedestrian movement; and
  - c. Be coordinated with other streetscape accessories.
- 3. Utility accessory design and construction must be approved by the <u>Department of Community and Economic Development Development Services Department</u>.

Section 28. Section 19.54.030 of the University Place Municipal Code entitled, "Responsibility for administration." is amended to read as follows:

# 19.54.030 Responsibility for administration.

The <u>Planning and Development Services Department of Community and Economic Development Department</u> shall be the department responsible for administering the FBC where the FBC applies outside of rights-of-way. The Engineering Department shall be the department responsible for administering the FBC within rights-of-way.

Section 29. Section 21.10.010 of the University Place Municipal Code entitled, "Definitions." is amended to read as follows:

## 21.10.010 Definitions.

As used in this title, unless the context or subject matter clearly requires otherwise, the following words or phrases shall have the following meanings:

- "Binding site plan" means a division of land for sale or lease of commercially or industrially zoned property as provided in RCW 58.17.040(4), divisions of property for lease as provided in RCW 58.17.040(5), and divisions of properties as provided for in RCW 58.17.040(7).
- "Block" means a group of lots, tracts, or parcels within well-defined and fixed boundaries.
- "City Engineer" means a licensed professional engineer appointed by the City Manager as the City Engineer or authorized designee.
- "Council" means the City Council.
- "County assessor-treasurer" means the Pierce County assessor.
- "County auditor" means the Pierce County auditor.
- "Dedication" is the deliberate appropriation of land by an owner for any general and public uses, reserving no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat, short plat, or large lot subdivision showing the dedication thereon; and the acceptance by the City shall be evidenced by the approval of such plat for filing by the appropriate governmental unit.
- "Department" means the City of University Place <u>Department of Community and Economic Development</u>

  Community Development Department.
- "Developer" shall mean the person, party, firm, or corporation who applies for approval of a subdivision, short plat, or large lot subdivision.
- "Development regulations" means any of the City's regulations that specify how land can be developed and/or used, including but not limited to the zoning code, subdivision regulations, shoreline regulations, critical area regulations, building codes, and public works code.
- "Director" means the Director of the City of University Place <u>Department of Community and Economic Development Community Development Department</u> or authorized designee or representative.
- "Electric utility facilities" means unstaffed facilities, except for the presence of security personnel, that are used for or in connection with or to facilitate the transmission, distribution, sale, or furnishing of electricity including, but not limited to, electric power substations.
- "Examiner" means the Land Use Hearings Examiner who is herein authorized to approve subdivisions and hear appeals on short subdivisions, large lot divisions, and other administrative decisions.
- "Final plat" is the final drawing of the subdivision and dedication drawn to a scale not smaller than one inch equals 100 feet unless approval of another scale is given by the director, on standard 18-inch by 24-inch sheet size, prepared for filing for record with the county auditor, and containing all elements and requirements set forth in state law and in this title.
- "Improvement" shall mean anything or structure constructed for the benefit of all or some residents of a subdivision, short subdivision, or binding site plan or the general public such as but not limited to streets, alleys, storm drainage systems and ditches, sanitary sewer pipes or main lines, storm drainage containment facilities, and recreational facilities.
- "Land division" shall mean a subdivision, short subdivision, binding site plan, or boundary line adjustment.

- "Lot" is a fractional part of divided lands having fixed boundaries, and of sufficient area and dimension to meet minimum zoning requirements for width and area. The term "lot" includes tracts or parcels. Lots shall also include those lots legally established prior to the effective date of this title.
- "Model home" means a dwelling unit(s) used to demonstrate a variety of housing designs together with all associated on-site improvements, e.g., landscaping, improved driveway, patios, etc.
- "Original tract" means all contiguous units of land that the applicant(s) own(s), or in which the applicant(s) holds controlling ownership and all contiguous lands under separate ownership when said owners have a direct or indirect common property interest in the subdivision or where a husband and wife own contiguous lots in separate or community ownership.
- "Personal wireless services" means any federally licensed personal wireless service facility including unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures.
- "Planning agency" means the <u>Department of Community and Economic Development Department Development Services Division of the Community Development Department or other such department designated by the City Manager.</u>
- "Plat" is a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys, or other divisions and dedications.
- "Preliminary plat" is a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and the restrictive covenants applicable to a subdivision. A preliminary plat furnishes a basis for the approval or disapproval of the general layout of a subdivision.
- "Short plat" is the map or representation of a short subdivision.
- "Short subdivision" is any voluntary or involuntary division or redivision of land into nine or fewer lots, tracts, parcels, sites, or subdivisions for the purpose of sale, lease, or transfer of ownership provided a maximum of four lots can be used as residential building sites. Other lots, tracts, or parcels created by the short subdivision shall be used exclusively for roads, utilities, open space, or protection of critical areas including but not limited to wetlands.
- "Subdivision" is any voluntary or involuntary division or redivision of land into five or more lots, tracts, parcels, sites or division for the purpose of sale, lease, or transfer of ownership.

  Unlisted words and phases: The definition of any word or phrase not listed in this chapter that is in question when administering this regulation shall be defined from one of the following sources, which are incorporated herein by reference. Said sources shall be utilized by finding the desired definition from source A, but if it is not available there, then source B may be used and so on. The sources are as follows:
- A. City development regulations;
- B. Any City resolution, ordinance, code, or regulation;
- C. Any statute or regulation of the state of Washington (i.e., the most applicable);
- D. Legal definitions from case law or a law dictionary;
- E. Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1986.
- Section 30. Section 22.05.030 of the University Place Municipal Code entitled, "Classification of project permits." is amended to read as follows:

### 22.05.030 Classification of project permits.

A. For the purpose of project permit processing, all project permit applications shall be classified as shown in Table A, as one of the following: Type I, Type II or Type III.

Table A PROJECT PERMIT APPLICATION TYPES		
TYPE I	TYPE II	TYPE III
Administrative Design Review	Short Plat	Appeal of Administrative and SEPA Decision
Administrative Nonconforming Use	Final Plat	Conditional Use Permit
Administrative Use Permit	Plat Alteration	Preliminary Plat
Administrative Variance	Plat Amendment	Nonconforming Use (nonadministrative)
Sign Permit	Large Lot Subdivision	Major Amendment
Building/Construction Permit	Binding Site Plan	Variance (nonadministrative)
Minor Amendment		Shoreline Substantial Development Permit
ROW Permit		Shoreline Conditional Use
Lot Combination	~/,	Shoreline Nonconforming Use
Boundary Line Adjustment		Shoreline Variance
Code Interpretation		Critical Areas Permit
Site Development Permit		Development Agreement Associated with Project Permit Application

B. Determination by Director. The <u>Department of Community and Economic Development Planning and Development Services</u> Director or designee shall determine the proper classification for each project permit application. If there is a question as to the appropriate classification, the Director shall resolve the question in favor of the higher classification type.

Section 31. Section 22.20.080 of the University Place Municipal Code entitled, "Administrative reconsideration and appeals." is amended to read as follows:

### 22.20.080 Administrative reconsideration and appeals.

A. The applicant may request a reconsideration of the determination of concurrency within 14 calendar days of the decision. The request for reconsideration shall be filed with the director on forms available from the city and shall specify the grounds for reconsideration. Each reconsideration request shall be accompanied by a fee as established in the <a href="Department of Community and Economic Development development services">Development development services</a> fee resolution. Upon filing of such reconsideration request, the director shall consider the results of the concurrency evaluation and issue a determination either upholding or amending the original determination.

B. Determinations by the director pursuant to this chapter may be appealed to the city's hearings examiner as provided for in Chapter 22.05 UPMC.

Section 32. Section 23.45.110 of the University Place Municipal Code entitled, "Co-location." is amended to read as follows:

#### 23.45.110 Co-location.

To minimize adverse visual impacts associated with the proliferation of towers, co-location of personal wireless service facilities on existing or new towers is encouraged as follows:

- A. Proposed facilities may, and are encouraged to, co-locate onto existing towers.
- B. The conditional use permit requirement for a facility will be waived in nonresidential zones if the applicant locates the antenna on an existing structure or an existing tower unless additional height requires a conditional use permit. Any co-location must be accomplished in a manner consistent with the policy, site criteria, and landscape/screening provisions contained in this chapter.

The applicant must submit detailed plans to the <u>Department of Community and Economic Development</u> Planning and Development Services Department for an administrative use permit to determine if the conditional use permit process and public hearing can be waived. No building permit will be issued until approval is granted by an administrative use permit or conditional use permit.

- C. The City may deny an application to construct new facilities if the applicant has not shown by substantial evidence that it has made a diligent effort to mount the facilities on an existing structure or tower.
- D. To reduce the number of antenna support structures needed in the City in the future, new proposed support structures shall be designed to accommodate antennas for more than one user, unless the applicant demonstrates why such design is not feasible for technical or physical reasons.
- E. Unless co-location is not feasible: (1) an applicant's site plan shall reserve an area for other providers' equipment near the base of the applicant's tower. A first right-of-refusal (which is either executed or maintained while the provider's personal wireless facilities and services are in use) to lease the area at the base of the tower or mount for other providers will meet the reservation requirement; and (2) the site plan for towers in excess of 100 feet above ground level must propose space for two comparable providers, while the site plan for towers 100 feet or less must propose space for one comparable provider.
- F. All personal wireless service providers or lessees or agents thereof shall cooperate in good faith to accommodate co-location with competitors. If a dispute arises about the feasibility of co-locating, the City Manager may require a third-party technical study, at the expense of either or both parties, to resolve the dispute.
- G. While co-location and the requirements herein are encouraged, co-location shall not take precedence over the construction of shorter towers with appropriate screening.
- Section 33. All references to the Development Services Department in other sections of the University Place Municipal Code or other legislation, unless the context reflects otherwise, shall be construed as meaning the Community and Economic Development Department provided for in this chapter.
- Section 34. <u>Severability</u>. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.
- Section 35. <u>Corrections by City Clerk or Code Reviser</u>. Upon approval of the city attorney, the city clerk or the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.
- Section 36. <u>Ratification</u>. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 37. <u>Effective Date</u>. This Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary.

# PASSED BY THE CITY COUNCIL ON JUNE 7, 2021.

Caroline Belleci, Mayor

ATTEST:

Enelita J. Genetia, City Clerk

APPROVED AS TO FORM:

Matthew S. Kaser, City Attorney

Publication Date: 06/09/21 Effective Date: 06/14/21