

**Draft Amendments to Ch. 18.04
Innovative Permanently Affordable Housing Projects**

6/13/2018

These amendments are proposed to clarify that this code applies to both single-family and multi-family developments and to home-ownership and rental forms of tenure.

Text that is underlined is new. ~~Text that is crossed out is proposed to be removed.~~

18.04.010 Authority and purpose.

A. Authority. Both the Growth Management Act (Chapter 36.70 RCW) and the Housing Policy Act (Chapter 43.185B RCW) require the city to provide housing opportunities for all economic segments of the community. Similarly, the city's comprehensive plan encourages revisions to the city's development regulations to increase the supply of affordable housing. This chapter will allow the use of alternative development standards and processes that are not currently allowed under existing land use regulations, while protecting residential character and maintaining overall consistency with the neighborhood plans and the goals and policies of the Langley comprehensive plan.

B. Purpose. In accordance with the directives of the Growth Management Act, Housing Policy Act, and the city's comprehensive plan, the purpose of this chapter is to facilitate the construction of innovative affordable homes by organizations that can demonstrate, to the city council's satisfaction, after review and approval by the planning director or his/her designee, an ability to finance, manage, and monitor affordable home sales and rentals to assure permanent affordability in accordance with the guidelines contained herein.

C. Goals. The goals of this chapter are:

1. To encourage innovative building design in housing projects by:
 - a. Increasing the supply of affordable housing and the choice of housing styles available in the community.
 - b. Promoting diversity in housing affordability and choice by encouraging smaller and more varied home sizes and mixes of income levels of residents.
 - c. Promoting high quality and environmental design.
2. To encourage the use of innovative site development practices and green building practices by encouraging the use of conservation design methods and principles such as low-impact development techniques, green building materials, water and energy conservation, and mitigation that offsets impacts to biodiversity.

3. In general:

a. To help identify any zoning code amendments that are necessary to support the development of innovative housing choices in Langley.

b. To identify effective incentives to encourage green building and low-impact development standards.

4. The demonstration projects developed under this chapter shall use innovative design and development techniques to achieve these goals. (Ord. 1027 § 1, 2016; Ord. 969 § 2 (Att. B), 2012)

18.04.020 Affordable housing defined.

Purchasers and renters of affordable homes constructed under this chapter shall meet the following requirements:

A. Annual Income. All purchasers and/or renters shall be from a household whose annual income, at the household's initial occupancy of the residence, is middle income or less (as defined under subsection (D) of this section), as adjusted by family size, for Island County, Washington, based on the most recent census data or other verifiable source as determined by the city.

B. Housing Expenses. The monthly expenditure by a purchaser for housing including mortgage payment or rent, insurance, taxes and utilities (water and sewer) shall not exceed 38 percent of the gross household income at the time of purchase and the amount for monthly mortgage payment shall not exceed 30 percent of gross household income. All other variable living expenses associated with the resident's occupancy shall not be a factor in the calculation of affordability.

C. Affordable Housing. Federal guidelines define affordable housing as decent, quality housing that does not exceed 30 percent of a household's gross monthly income for rent or mortgage and utility payments. Island County is ranked as the eighth least affordable area in Washington State for housing and Langley is the most expensive area to live on Whidbey Island.

D. Classification of Income Groups. The United States Department of Housing and Urban Development (HUD) and the state of Washington classify household income groups as follows: Very low income: households below 50 percent of the average median income. Low income: households between 50 and 80 percent of the average median income. Lower income: households between 81 and 95 percent of the average median income. Middle income: households between 96 and 120 percent of the average median income. "Median household income" means the amount calculated and published by the HUD each year for the Island County statistical area as the median household or family income, adjusted by HUD for household size. (Ord. 1027 § 1, 2016; Ord. 969 § 2 (Att. B), 2012)

18.04.030 Project application requirements and incentives.

A. Density Increases. Earned increased density of up to 100 percent over the otherwise allowable density in the applicable residential zone may be granted to a project. A density increase of one unit for each perpetually affordable unit is allowed.

B. Project Applicant. A project applicant under this chapter must meet/comply with the following:

1. The project applicant shall be, create or contract with an organization that has as its purpose the creation and retention of permanently affordable, income qualified home-ownership and/or rentals
2. The organization can demonstrate experience in providing affordable housing. An organization that can demonstrate experience in providing housing and a mission statement of its intent to use that experience toward achieving the goal of providing permanently affordable housing shall be deemed to have met this requirement.
3. The organization can demonstrate the ability to employ a mechanism to retain all of the units as permanently affordable to income-qualified buyers as defined by Section 18.04.020.
4. The organization can demonstrate an ability and commitment to submit an annual report to the city council documenting all residential units, past and pending sales, rental history ~~and~~ or home ownership by qualified renters or home buyers.
5. The organization can demonstrate that the project, including all common areas, will be properly maintained over time.

C. Single-Family or Multi-Family Home Ownership. Projects that create single-family or multi-family residences that are individually owned or rented by their occupants must have controls in place, subject to approval by the planning director or his/her designee, to ensure that the residences remain occupied by income qualified ~~tenants~~ owners.

D. Single-Family or Multi-Family Home Rental. Projects that create single-family or multi-family residences that are rented by their occupants must have controls in place, subject to approval by the planning director or his/her designee, to ensure that the residences remain rented by income qualified tenants.

E. Guarantee of Permanent Affordability. The project must have controls in place, subject to approval by the city attorney, to ensure that the project's single-family or multi-family residences remain affordable in perpetuity in accordance with the definition of affordable housing in Section 18.04.020. All such controls shall be recorded in the title records of Island County. The controls may take various forms including:

1. Continued ownership of the land by the project applicant with the occupants of the single-family or multi-family residences leasing the land back from the project applicant;
2. A deed/subsidy covenant, purchase/sale agreements, or other similar mechanisms, which require that the residences be sold only to qualified purchasers who meet the requirements of Section 18.04.020;
3. A requirement that the project applicant can only transfer the land to another entity that meets the requirements of subsection (B) of this section; and/or
4. Other methods approved by the city attorney to ensure that the project's single-family or multi-family residences remain permanently affordable in accordance with the definition of affordable housing.

F. Project Location. Affordable single-family homes developed under this chapter must be located in a RS zone districts ~~residential single-family zone~~ and affordable multi-family homes developed under this chapter must be located in zone districts where multi-family housing is permitted, within the city of Langley.

G. Design Review. All projects are subject to design review. Housing projects receiving earned increased density under this chapter must comply with the design review process and site location criteria for multi-family residential development in this title to protect, maintain, or enhance neighborhood character and compatibility.

H. Request for Modification to the Application of Development Regulations.

1. Project applicants may request modification of the application of the following development regulations; provided, that the project otherwise complies with applicable Washington State laws and other applicable development regulations and provisions of the Langley Municipal Code:

- a. Minimum lot size;
- b. Minimum street frontage;
- c. Minimum front, side, and rear yard setbacks;
- d. Minimum parking requirements;
- e. Maximum lot coverage;
- f. Minimum usable open space; and/or

g. Other regulations to allow demonstration of innovative approaches to permanently affordable housing, energy conservation, low-impact development, and stormwater management.

2. The applicant shall describe each requested modification in writing and include detailed supporting documentation regarding the appropriateness of, and the need for, the modification. Requests for regulatory modification must accompany the preliminary plat, short plat, binding site plan, or boundary line adjustment or other application and must be noted on submitted site plans.

3. The planning director or his/her designee shall review the requested modification and reasons provided for the modification and provide a written recommendation to the decision-maker for the underlying application regarding whether to approve, approve with conditions, or deny the requested modification on the basis of whether the modification is consistent with the purpose and requirements of this chapter, does not threaten the public health, safety or welfare and otherwise complies with applicable Washington State laws and other applicable development regulations and provisions of the Langley Municipal Code.

4. The decision-maker for the underlying application shall determine whether to approve, approve with conditions, or deny the requested modification as part of the decision on the underlying application. (Ord. 1027 § 1, 2016; Ord. 969 § 2 (Att. B), 2012)

18.04.040 Procedures.

Projects applied for under this chapter shall follow the procedures listed below.

A. Pre-Application Conference. A pre-application conference with planning department staff and the project applicant is required before the city will accept an application under this chapter.

B. Neighborhood Meeting. An applicant is required to conduct a neighborhood meeting prior to the submittal of an application and after the pre-application conference. The director of community planning may provide standard notice formats and guidelines for conducting the meeting. The notice shall include a brief description of the project, date, time and location of the neighborhood meeting and name and phone number of the applicant or their representative. The applicant shall post the notice of the neighborhood meeting on the project site at least 14 days prior to the meeting and shall mail the notice at least 14 days prior to the meeting to:

1. The planning department with a copy of the mailing list;
2. The owner of the property as listed on the application;
3. Owners of property within 500 feet of the site boundary of the subject property as listed by the Island County assessor records;
4. Any neighborhood association registered with the planning department for the neighborhood in which the project is proposed, and for any neighborhood within 500 feet of the project site boundary; and
5. The local newspaper.

C. Submittal Requirements. The director of community planning shall establish submittal requirements and forms to be used for applications.

D. Determination of Complete Application. A complete application shall consist of the completed application form with all required information, a SEPA environmental checklist, if applicable, and any filing fee as established by the city council. If a subdivision of land is required, the preliminary plat, short plat, binding site plan, or boundary line adjustment shall also be submitted as part of the application. An application shall be reviewed by the director of community planning to determine whether it is complete under the procedures in Section 18.36.010.

E. Concurrent Review. The application for design review, subdivision, and project approval under this chapter shall be processed concurrently. The director's recommendation regarding design review shall be forwarded to the hearing examiner with the staff recommendation for the application.

F. Notice of Application. The planning department shall mail notice of application to:

1. The applicant;
2. The owner of the property as listed on the application;
3. Owners of property within 500 feet of the site boundary of the subject property as listed by the Island County assessor records;
4. Any neighborhood association registered with the planning department for the neighborhood in which the project is proposed, and for any neighborhood within 500 feet of the project site boundary;
5. Any person or organization that has filed a written request for notice with the planning and community development department; and
6. The local newspaper.

G. Date of Notice. The date of the notice of application shall be the date the notice is mailed.

H. Posted Notice. The applicant shall post one or more "notice of application" signs on the site or in a location immediately adjacent to the site that provides visibility from adjacent streets. The director shall establish standards for size, color, layout, materials, placement and timing of installation and removal of the signs.

I. Public Comment Period. The minimum comment period shall be 14 days following the date of notice of application.

J. Project Review. Complete applications shall be reviewed by planning director for consistency with the comprehensive plan, the regulatory requirements of the Langley Municipal Code, and the design review guidelines while also utilizing the evaluation methods under subsection (K) of this section. The director of community planning shall consult with the planning advisory board in open public meeting concerning the project application. Thereafter, the planning director shall submit a written recommendation to the hearing examiner to approve, approve with conditions, or deny the project.

K. Evaluation Method. Each project will be evaluated for innovation and achievement of the chapter goals using a number of factors. The evaluation factors are divided into three categories. If a project does not meet the affordable housing criteria or does not provide adequate assurances that the housing will remain affordable for 50 years from the date of approval, it shall not be approved. If a project does not meet a required evaluation factor, the applicant is required to provide a written explanation about why the evaluation factor is not appropriate or cannot be met in this instance, but still should be approved. The director of community planning may consider other alternative site development or building design practices not mentioned below that may be proposed by the applicant but meet the goals of this chapter.

1. Housing Diversity.

a. Unit Type. Any attached or detached single-family or multi-family housing type is allowed. The project can include a variety of unit types, for example, single-family, townhomes, flats, duplex, live/work, triplex, tiny houses, or accessory dwelling units.

b. Unit Size. The project is encouraged to include a variety of housing unit sizes that provide for a broad mix of income levels and family size.

c. Affordable Housing. The project includes housing units that are affordable to the spectrum of income levels as outlined in Chapter 18.04.020. Designated affordable housing shall remain affordable for ~~at~~ at least

a minimum of 50 years from the time of final inspection on the affordable unit. Units that are affordable to a range of income levels are encouraged.

2. Use of Innovative Site Development Practices.

a. Low-Impact Development. The project uses a low-impact development approach to stormwater management, unless determined to be inappropriate to the setting, through small-scale decentralized practices that infiltrate, evaporate and transpire rainwater, such as:

(1) Use of rain gardens and other water-absorbent plant growth media, with drought-tolerant native plants, combined with curb cuts and other proven low-impact development techniques for rainwater catchment and absorption, to lessen stormwater runoff. Invasive species shall not be planted.

(2) An earthen separation between the street and sidewalk and bioswales.

(3) Amended soils.

b. Impervious Surfaces. The project reduces impacts from impervious surfaces through use of techniques such as:

- (1) Porous asphalt, paver blocks or large aggregate pervious concrete for parking and highly used bicycle and pedestrian areas;
- (2) Lattice blocks (or similar products) that permit grass growth for fire lanes and overflow parking;
- (3) Crushed stone or brick for lightly used pedestrian paths; and
- (4) Recycled asphalt and recycled concrete in the base course of pervious and/or impervious surfaces.

c. Landscaping. Low maintenance landscaping that integrates a high proportion of native plants or drought-tolerant plants that are climate appropriate.

d. Common Open Space. The project provides connected common open space area set aside as active open space and designed and integrated into the project.

e. Transportation.

- (1) The project design provides enhanced sensitivity to pedestrian travel.
- (2) The project internally preserves existing informal, internal connection to external trail(s); or creates new connections, where appropriate, to facilitate the City's multi-modal transportation network.
~~implement the nonmotorized transportation plan (NMTP).~~

(3) The project reduces reliance on automobiles and trip counts, and promotes alternative transportation and public transit.

(4) The project accommodates needs of alternative vehicles, such as parking and charging facilities for electric cars, by locating rechargeable electric vehicle (EV) parking in a conspicuous and preferred location, close to a main building entrance, or parking spaces designed for subcompact vehicles, such as Smart™ cars.

(5) The project integrates a parking space for a vehicle sharing program.

(6) The project minimizes the visual dominance of automobiles throughout the project.

3. Innovative Building Design Practice.

a. Alternative Energy. The project utilizes, at least in part, alternative power and heat technologies including, but not limited to, solar, passive solar, wind, and geothermal. All projects should preserve solar access.

b. Energy Efficiency. The project exceeds base energy efficiencies required by the building code by integrating energy efficient building design and appliances.

c. Water Efficiency. The project uses water efficiently by integrating low-flow water fixtures and/or water re-use systems (i.e., greywater for toilets, landscaping).

d. Green Building Materials. The project utilizes sustainable or "green" building materials internally and externally.

e. Accessibility. The project design incorporates access for residents of all ages and mobility inside and outside the home.

L. Notice and Public Hearings

Notification shall be undertaken in accordance with 18.36.020 and Public hearings shall be held in accordance with Ch. 18.36.060, 18.37

~~Notice of Public Hearing. Notice of public hearing shall be provided in accordance with the following:~~

- ~~1. Notice of the public hearing for the application shall be published in a newspaper of general circulation at least 10 days prior to the hearing date.~~
- ~~2. Notice of the hearing shall be mailed at least 10 days prior to the hearing in the same manner as for the notice of application.~~
- ~~3. The notices shall contain a brief description and the general location of the proposal, the time, date and location of the hearing and information about the availability of the staff report.~~

~~M. Public Hearing. The hearing examiner shall conduct an open record public hearing on the proposal in accordance with the following:~~

- ~~1. The hearing shall be scheduled for a date no sooner than 15 days after the issuance of the SEPA determination (if any) regarding the proposal.~~
- ~~2. The public hearing shall be consolidated with the hearing (if any) on any preliminary application submitted for the project.~~
- ~~3. Any person may participate in the hearing by submitting written comments to the planning department prior to the hearing or by submitting written comments or making oral comments at the hearing.~~
- ~~4. The planning department shall transmit to the hearing examiner a copy of the department file on the application including but not limited to the application and all materials submitted by the applicant, all written comments received prior to the hearing, the SEPA threshold decision, and records regarding public notice of the application.~~
- ~~5. The hearing examiner shall create a complete record of the public hearing including all exhibits introduced at the hearing and an electronic sound recording of each hearing.~~

~~N. Hearing Examiner Decision. The hearing examiner shall make a written decision to approve, approve with conditions and/or modifications, or deny the project application based upon the record of the hearing and whether the proposed project is consistent with the purpose, goals and requirements of this chapter and other applicable provisions of the Langley Municipal Code.~~

~~O. Notice of Decision. A notice of decision shall be issued as provided in Section 18.36.130. (Ord. 1027 § 1, 2016; Ord. 969 § 2 (Att. B), 2012)~~

18.04.050 Annual reporting requirements.

~~The owner(s) of a project receiving earned increased density. All associations and organizations who provide the affordability oversight must report under this chapter~~ annually to city council regarding the status of the project. Information presented to city council annually shall include:

A. Total number of units in the project;

For owner-occupied units:

A. Number of units that changed ownership during the past year;

B. The purchase price of each unit that changed ownership.

C. The steps taken by the owner to ensure that each unit that changed ownership was transferred at an affordable price in accordance with Section 18.04.020;

For rental units:

A. Number of units that changed occupancy during the past year;

B. The monthly rent of each unit that changed ownership.

C. The steps taken by the managing association or organization to ensure that the monthly rent for each unit that changed occupancy was maintained at an affordable price in accordance with Section 18.04.020;

and

E. A summary of how the project's innovative design features are functioning including the experience of residents, energy use, building quality, low-impact development, maintenance and other relevant topics. (Ord. 1027 § 1, 2016; Ord. 969 § 2 (Att. B), 2012)

18.04.060 Expiration of innovative permanently affordable housing demonstration program and chapter.

Repealed by Ord. 1027. (Ord. 969 § 2 (Att. B), 2012)