

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON REPEALING AND REENACTING MOUNT VERNON MUNICIPAL CODE CHAPTER 17.70, DESIGN REVIEW, CREATING A NEW CHAPTER OF THE MOUNT VERNON MUNICIPAL CODE TO BE NAMED CHAPTER 2.61 DESIGN REVIEW BOARD, AND AMENDING CHAPTERS: 14.05 PROCESS, 14.10 FEES, 17.15 SINGLE-FAMILY DETACHED RESIDENTIAL DISTRICTS, 17.18 DUPLEXES, 17.24 R-3 MULTIFAMILY RESIDENTIAL DISTRICT, 17.27 R-4 MULTIFAMILY RESIDENTIAL DISTRICT, 17.45 C-1 CENTRAL BUSINESS DISTRICT, 17.48 C-2 GENERAL COMMERCIAL DISTRICT, 17.57 M-1 LIGHT MANUFACTURING AND COMMERCIAL DISTRICT, 17.60 M-2 INDUSTRIAL DISTRICT, 17.87 SIGNS, AND 17.99 FENCES AND WALLS TO ENSURE CONSISTENCY WITHIN THE MOUNT VERNON MUNICIPAL CODE

WHEREAS, the overall design of residential areas, businesses, parks and open spaces has a direct positive relationship to the economic value of property. Conversely, poor design can lead to overcrowding, decreased property values and the loss of public and private revenues; and

WHEREAS, the relationship of good design to community well-being was recognized by the United States Supreme Court in a landmark case with a decision without dissent, *Berman v. Parker* {348 U.S. 26, (1954)}, Justice Douglas stated, “*The concept of the public welfare is broad and inclusive...The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clear, well-balanced as well as carefully patrolled*”. This view was later re-emphasized by the Court in *Penn Central Transportation Co. v. New York City* {438 U.S. 104, 129, (1979)} when it stated, “...*This court has recognized in numerous settings, that states and cities may enact land use regulations or controls to enhance the quality of life by preserving the character and the desirable aesthetic features of a City...*”; and

WHEREAS, one of the City’s most important assets to attract residents, businesses, and employment opportunities is its natural environment. The quality of this environment has a direct effect on the City’s livability and economic potential; and

WHEREAS, the Land Use Element of the Comprehensive Plan contains the Goal and Policy related to design review listed below:

Enhance the quality of life found in the City of Mount Vernon as a place to work, live and recreate (Land Use Goal 1).

Maintain the use of the Design Guidelines to achieve attractive new residential developments within the City. Create new Design Guidelines to promote attractive new office, retail, commercial and industrial developments within the City (Policy 1.1.1).

WHEREAS, The design standards are intended to help secure a high quality of environment, regarding livability, visual interest, identity and sense of place, by providing guidance for the design of certain types of dwelling units and development in specific areas of the City.

WHEREAS, the Department of Commerce was notified of the proposed amendments on October 12, 2018, an acknowledgement was received from Commerce on October 17, 2018, and Commerce granted the City expedited review on October 29, 2018 (their identification number: 25396); and as such, the City is in compliance with RCW 36.70A.106 (1); and

WHEREAS, a SEPA Threshold Determination of Non-significance, non-project action, was issued on November 5, 2018 and published on November 6, 2018 and no comments were received or appeals filed; and,

WHEREAS, notice of public hearing was published on November 6, 2018; and,

WHEREAS, the requisite Planning Commission hearing held on November 20, 2018; and the City Council hearing held on December 19, 2018 were preceded with appropriate notice published on November 6, 2018; and

WHEREAS, the requirements for public participation in the development of this amendment as required by the State Growth Management Act (GMA) and by the provisions of City of Mount Vernon Resolution No. 491 have all been met; and

WHEREAS, The City utilized the State Attorney General Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property for evaluating constitutional issues, in conjunction with and to inform its review of the Ordinance. The City has utilized the process, a process protected under Attorney-Client privilege pursuant to law including RCW 36.70A.370(4), with the City Attorney's Office which has reviewed the Advisory Memorandum has discussed this Memorandum, including the "warning signals" identified in the Memorandum, with decisions makers, and conducted an evaluation of all constitutional provisions potentially at issue and advised of the genuine legal risks, if any, with the adoption of this Ordinance to assure that the proposed regulatory or administrative actions did not result in an unconstitutional taking of private property, consistent with RCW 36.70A.370(2); and

WHEREAS, the proposed amendments ensure that the City's municipal code is internally consistent.

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

SECTION ONE. The City Council does hereby adopt the above listed recitals as set forth fully herein.

SECTION TWO. PLANNING COMMISSION RECOMMENDATION ADOPTED. The City Council adopts the Planning Commission's findings of fact and conclusions of law, outlined below, in their entirety.

A. Planning Commission's Findings of Fact:

1. The procedural requirements outlined in MVMC Chapter 14.05, Procedures, have been satisfied by City staff. This includes the Notice of Public Hearing, the environmental review pursuant to the SEPA statute, and receiving expedited review from the State Department of Commerce.

B. Planning Commission's Conclusions of Law:

1. The Planning Commission finds that the proposed amendments to the Design Standards advance significant governmental interests in the furtherance of community aesthetics including but not limited to:

- i. To enhance long-term economic vitality by preserving, protecting, enhancing and perpetuating elements of the district’s cultural, economic, architectural, and historical value;
- ii. To foster civic pride in the significance and accomplishments of the district’s past, and to provide a legacy for the future;
- iii. To stabilize and improve aesthetic and economic vitality to the City of Mount Vernon, local property owners and local businesses within the district;
- iv. To promote and encourage continued private ownership and utilization of such buildings and other structures now so owned and used; and
- v. To promote local identity of the area to the extent that the objectives previously listed can be reasonably attained under such a policy without undue financial hardship.

C. Planning Commission Recommendation to the City Council:

At their public hearing on November 20, 2018 after review of the materials presented by City staff and listening to public testimony the Planning Commission made a recommendation to adopt the amendments to the Mount Vernon Municipal Code that are contained in this Ordinance.

SECTION THREE. Mount Vernon Municipal Code Chapter 17.70 Design Standards is hereby repealed and reenacted to read as follows:

CHAPTER 17.70 DESIGN REVIEW

- 17.70.010 Intent and Objectives
- 17.70.015 Definitions
- 17.70.020 Areas and Developments Requiring Design Review
- 17.70.030 Supplemental Materials Adopted by Reference
- 17.70.040 Submittal Requirements
- 17.70.050 Creation of Design Review Board and Processes
- 17.70.060 Approval Authorities and Processes
- 17.70.070 Modifications
- 17.70.080 Waivers

17.70.010 Intent and Objectives

- A. Design review of certain types of development is intended to encourage orderly community growth for the health and safety of all residents and protect and enhance property values for the community as a whole.
- B. The design review process is intended to provide opportunities for development to enhance Mount Vernon’s character more effectively than through application of standard zoning regulations
- C. The design review standards contained in this Chapter have the following overall objectives:
 1. To improve site planning.
 2. To encourage developments with amenities designed to strengthen a sense of community and promote community pride.
 3. To minimize potential incompatibility with existing uses.
 4. To protect and enhance community property values.
 5. To support the desired character of various neighborhoods, areas and zoning districts and promote an attractive visual environment.

6. To implement and advance the City's planning efforts supporting the character and functionality of the City's zoning districts and subareas identified in the City's comprehensive plan as now, or hereafter, amended.
 7. To preserve the aesthetic qualities that contribute to the City's small town character that attracts residents, businesses and customers.
- D. Additional objectives specific to design review in the Historic Downtown and surrounding areas is to:
1. Enhance the long-term economic vitality by preserving, protecting, enhancing and perpetuating elements of the district's cultural, economic, architectural, and historical value.
 2. To foster civic pride in the significance and accomplishments of the district's past, and to provide a legacy for the future.
 3. To stabilize and improve the aesthetic and economic vitality to the City of Mount Vernon, local property owners and local businesses within the district.
 4. To enhance the character and promote the local identity of the area.
 5. To ensure development is at a human scale and relates to the desired character of its setting.
 6. To provide a pleasant, appealing and diverse experience for pedestrians.

17.70.015 Definitions

In this Chapter the below-listed words are defined as follows:

- A. **Department** means the Development Services Department
- B. **Development** means proposals to build, locate, construct, remodel, alter or modify structures, facades, visible element(s) of a façade, landscaping, parking lot layout, signs, placement outdoor furniture or accessories, outdoor lighting fixtures, fences, walls and roofing materials.
- C. **Director** means the Development Services Director or his/her designee.
- D. **DRB** means the Design Review Board established under MVMC 17.70.040.
- E. **Historic Downtown and Surrounding Areas** means areas that are established in Map 1.0 found in MVMC 17.70.020.
- F. **Ordinary Maintenance and Repairs** ordinary maintenance means acts to prevent a decline of a physical feature. Ordinary repair means acts to restore a physical feature to its original size, shape, configuration, and external appearance within one (1) year after the features decay or partial destruction. To qualify as ordinary maintenance and repairs the feature being maintained or repaired is required to have complied with the Mount Vernon Municipal Code if effect when the feature was constructed/installed.
- G. **Proposals** means actions sought by an applicant that are ordinarily represented to the Department in applications, permits, approvals, and land use actions.

17.70.020 Areas and Developments Requiring Design Review

- A. The Design Review Standards for residential structures, contained within and adopted by reference, in this Chapter shall apply to all of the following:
 1. All duplex and multifamily structures regardless of what zoning designation they are constructed within.
 2. Subdivisions permitted through the Planned Unit Development process contained within MVMC Chapter 17.69.
 3. Subdivisions that utilize Transfer of Development Rights that are permitted through MVMC Chapter 17.119.
 4. Short plats or standard plats and all of the residential structures associated with said plats where the average lot size is 7,600 square feet or less. In calculating the average lot size only lots where single-family homes will be constructed can be utilized.
 5. Development on existing lots not described in subsections 1 - 4 above, when a deviation from the development standards is requested, but only if the deviation from the standard is the same or is within 20 percent of what all abutting properties observe. The applicant will be solely responsible

for demonstrating graphically and in a narrative the development conditions of the abutting properties.

6. Any building footprint expansion or addition (not including private garages or carports) over 50 percent of an existing multifamily structure or duplex.
- B. The Design Review Standards for areas in and surrounding the historic downtown identified in Map 1.0 (below) shall apply to all activities/work as noted below:
1. All proposals to build, locate, construct, remodel, alter or modify any facade on any structure or building, or other visible element of the façade, of the structure or building or site, including, but not limited to: landscaping, parking lot layout, signs, placement outdoor furniture or accessories, outdoor lighting fixtures, fences, walls and roofing materials. This includes exterior painting. See subsection 17.70.050 for information on how Design Review Standards apply to different types of projects.
- C. Design Review Standards for areas in and surrounding the historic downtown identified in Map 1.0 (below) shall not apply to the following activities/work:
1. Ordinary maintenance and repairs as defined in this Chapter, examples include cleaning of exterior facades, re-roofing, and interior tenant improvements so long as the resulting improvements are not visible from abutting rights-of-way.

Map 1.0: Geographic areas subject to Chapter 17.70 (a more detailed map will be inserted before adoption)



17.70.030 Supplemental Materials Adopted by Reference

- A. In addition to the design standards development regulations contained in this Chapter the City has created a supplemental document titled, Mount Vernon Design Standards Handbook, that is hereby adopted by reference as though fully set forth herein, a copy of which is on file with the Finance Department. For the convenience of the public a copy of these materials can be viewed on the City's website and paper copies are available by request through the Development Services Department.

17.70.040 Submittal Requirements

All applications for development opting, or required to, use the design standards shall be accompanied by the following:

- A. Design Standards Application form.
- B. Architectural building elevations containing the items listed in the definition of Architectural Elevations in MVMC 14.05.220(E) with additional sufficient detail to determine compliance with the requirements of this Chapter. At a minimum the following additional information shall be included: proposed building exteriors, alterations or remodeling, types of exterior materials and construction, roofing design, placement of all windows and doors, siding and trim materials to be used together with the finish, and other materials to be used or applied on all exterior walls.
- C. Floor Plans as defined in MVMC 14.05.220(F).
- D. Plans identifying building-to-building relationships.
- E. Site Plan as defined in MVMC 14.05.220(S).
- F. Landscape plans as defined in MVMC 14.05.220(L).
- G. All other items listed in MVMC 14.05.210

17.70.050 Creation of Design Review Board and Processes

The Design Review Board (DRB) is created for the sole purpose of reviewing, making recommendations, and approving certain improvements in the historic downtown and surrounding areas identified in MVMC 17.70.020.

- A. The DRB is a five-member board with three members that are appointed by the City's Mayor and two members consisting of the Director and a design review consultant under contract with the City. Additional information with regard to the DRB is codified in MVMC Chapter 2.61.
- B. Development subject to review by the DRB shall be processed as follows:
 - 1. All development shall be classified as being administratively approved by the Director; or being subject to review by the DRB.
 - i. Administratively approved development includes the following: installation of signage not requiring conditional use permit, exterior painting when an applicant chooses paint colors pre-approved in the Design Standards Handbook, and other improvements the Design Review Board determines can be administratively approved as per MVMC 2.61.060.
 - ii. Development subject to review by the DSB includes everything not classified as administratively approved in sub-section (i.) above.
 - 2. Development subject to final decisions by the DRB shall be processed as Type III permits under Chapter 14.05 MVMC. See MVMC 14.05 for information on appeals to DRB decisions.
 - 3. The Department shall follow the below listed procedures for development subject to decisions by the DRB:
 - i. Once an application is deemed technically complete the Department shall send a copy of the application and associated materials to the DRB.
 - ii. The Department will complete all procedural requirements with regard to Notice of Application and a SEPA determination, as applicable.
 - iii. Once the comment period and timeframe in which a SEPA appeal could be filed have both lapsed, an open record public hearing before the DRB can be held. The Department shall be responsible for the procedural requirements for the public hearing.

- iv. The Department shall be responsible for transmitting the DRBs recommendation or decision to the applicant within 10 days of the hearing.
- 5. The Department shall follow the below listed procedures for development subject to recommendations by the DRB:
 - i. Once an application is deemed technically complete the Department shall send a copy of the application and associated materials to the DRB. The DRB members shall have ten calendar days within which to submit written comments on the subject application.
 - ii. The Department will complete all procedural requirements with regard to Notice of Application and a SEPA determination, as applicable.
 - iii. All comments from the DRB received by the Department within the ten calendar day timeframe shall be summarized and appended to the Staff Report from the Director to the Hearing Examiner. At a minimum comments from the Director and Design Review Consultant shall be summarized and appended to the Staff Report in the event the other members of the DRB do not provide comments to the Department.
- C. An applicant may request administrative approval of an application or portions thereof that would otherwise require a public hearing before the DRB if the application conforms to the specific requirements of Chapter 17.70 MVMC. The Director shall process a request for administrative approval as follows:
 - 1. The Department shall send a copy of the request for an administrative approval along with the underlying application and associated materials to the DRB. The Director shall ask the DRB members to comment, in writing, within 10 calendar days as to whether they believe the application complies with Chapter 17.70 MVMC or by identifying design elements that they believe do not comply with the specific requirements of Chapter 17.70 MVMC.
 - 2. If the Director receives comments from DRB that elements of an application do not comply with Chapter 17.70 MVMC, the Director shall deny the applicant's request for administrative approval.
- D. To the extent possible, the DRB will be contacted by the Department via email with application materials provided electronically.

17.70.060 Approval Authorities and Processes

- A. The Director shall perform design review for all proposals which require no review or other approval by the Hearing Examiner or DRB.
- B. All decisions and recommendations from the Director shall be based on recommendation(s) from a licensed architect or professional building designer with demonstrated experience that shall be under contract with the Department to complete such reviews.
- C. For proposals reviewed by the Hearing Examiner or Design Review Board, the Department shall perform design review and forward its recommendation to the Hearing Examiner or DRB for the final decision.
- D. Those making recommendations and the approval authority for all proposals subject to Design Review are listed in the following table.

TABLE 17.70.060(E):

TYPE OF PROPOSAL	RECOMMENDATION(S) MADE BY:	APPROVAL AUTHORITY
Development located in the Historic Downtown and Surrounding Areas when it meets the following criteria: <ol style="list-style-type: none"> 1. All Planned Unit Development Applications 2. All plats with an average lot size of 7,600 s.f. or smaller 3. All multi-family or duplex developments requiring a Conditional Use Permit 	Hearing Examiner with the Design Review Board making a recommendation to the Hearing Examiner	City Council
Development located in the Historic Downtown and Surrounding Areas when it meets the following criteria: <ol style="list-style-type: none"> 1. Does not require approval by the Hearing Examiner or City Council; and, 2. Is not classified as an Administrative Approval* in the Historic Downtown and Surrounding areas 	Director	Design Review Board
Development located in the Historic Downtown and Surrounding Areas when it includes requests for design review modifications per MVMC 17.70.070 for the following types of projects if they have already been approved by the City Council: <ol style="list-style-type: none"> 1. All Planned Unit Development Applications 2. All plats with an average lot size of 7,600 s.f. or smaller 3. All multi-family or duplex developments requiring a Conditional Use Permit 	Director with the Design Review Board making a recommendation to the Director	Hearing Examiner
Development located in the Historic Downtown and Surrounding Areas when it meets the following criteria: <ol style="list-style-type: none"> 1. Does not require approval by the Hearing Examiner or City Council; and, 2. Is classified as an Administrative Approval* in the Historic Downtown and Surrounding areas 	Not Applicable	Director
Development located in the Historic Downtown and Surrounding Areas classified as ordinary maintenance and repairs per the definition of such found in MVMC 17.17.015	Director to confirm that the proposed project complies with the definition of Ordinary Maintenance and Repairs	Not Applicable

*See MVMC 17.70.050(B) for the definition of administrative approval

- E. Consistent with MVMC 14.05.080(G) when design review is a required approval for a project with multiple permit applications/approvals design review shall be consolidated with the other permit approvals being processed concurrently. When consolidated with other approvals the Director and/or the Design Review Board shall complete design review and forward its recommendation to the appropriate approval authority to be part of the decision or recommendation.
- F. The design review standards codified within this Chapter are supplemental to other development regulations contained within the MVMC. Should a standard found within this Chapter conflict with requirements contained elsewhere in the Mount Vernon Municipal Code, the standards in this Chapter shall prevail.
- G. Compliance with the standards set forth in this Chapter shall be demonstrated with the submittal of the plans and materials listed within MVMC Chapter 14.05.210 and 17.70.040.

- H. Part of Pre-Application Review can include design review. To expedite applications and reduce development costs, the City of Mount Vernon offers a “predesign development” general information meeting for applications subject to design review requirements. This meeting can be scheduled before, after, or in conjunction with pre-application meetings required by MVMC Chapter 14.05.
 - 1. Predesign development meetings provide input from relevant department staff, the Director, and design review consultant regarding requirements needed for a proposed project, such as site design, required improvements and conformance with the applicable design standards.
 - 2. This informal process helps alert developers to potential issues prior to expending resources on plans that may need alterations to meet City regulations.
- I. The decision of the design review authority (i.e. City Council, Design Review Board, or Director) shall be documented and incorporated into the accompanying approvals, if any, for the permit, land use action, or other approval, and shall be binding on the applicant and his successors in interest. The City may reduce the approval to a document or plan which shall be incorporated into the approved plans for the project. For example, specific conditions for the creation and location of open space pursuant to a requirement of the design review process may be incorporated into a subdivision approval.

17.70.070 Modifications

The Director, Hearing Examiner, or DRB shall not consider, recommend approval, or approve any deviation from municipal code requirements found within Titles 12 to 17 of the MVMC, except as allowed below in sub-section (A) of this Chapter. Approval to deviate from standards not expressly allowed in the following sub-section (A) must be obtained through deviation, amendment, or variance processes codified within Titles 16 and 17, not through the design standards process.

- A. This Chapter authorizes the design review authority to allow the following development standards except for lots abutting arterials:
 - 1. Single-Family Residential Uses, Plats and PUDs and Duplex Developments.
 - i. Front yard setback: front yard setback may be reduced not less than 10 feet from property line, access easement, or back of sidewalk. The front of private garages shall maintain at least 20 feet from the back of sidewalk, property line, or access easement.
 - ii. Rear yard setback: not less than 10 feet.
 - iii. Side yard setback: not less than five feet for single-story homes; provided, that nothing (i.e., eaves, bay windows, enclosed stair landings, chimneys, etc.) will be allowed to project into this reduced side yard setback area. For structures that have more than one story the side yard setback shall be a minimum of five feet with the total of the two side yards being not less than 15 feet. Where the side yard setback is six feet or more the eaves of a structure may project no more than 12 inches into the side yard.
 - iv. To protect privacy, windows facing the side yard shall be offset from the adjacent residence.
 - v. The installation of fences, walls or hedges shall be required.
 - vi. Lot Coverage. For detached single-family residential lots of any size the land covered by buildings shall be no more than 40 percent.
 - 2. Multifamily Residential Uses and Developments.
 - i. Front yard setback: not less than 10 feet from property line, back of sidewalk, or access easement. The front of private garages shall maintain at least 20 feet from the back of sidewalk, property line, or access easement or from edge of pavement on private streets;
 - ii. Side and rear yard setbacks: when adjacent to single-family residential zones the minimum building setback from the common property line shall be 20 feet, otherwise the minimum setback may be reduced to 10 feet for single-story buildings and 15 feet for multistory buildings.

17.70.080 Waivers

An applicant may request waiver(s) from element(s) of design review that do not strictly conform to the specific requirements of this Chapter. Waivers to specific required elements of the design standards may be approved by the Director or DRB if they are the approval authority for the overall project; and the Hearing Examiner for projects where design review was previously approved by the City Council as part of a PUD, plat, or CUP. Waivers shall be approved in limited circumstances and only when an applicant demonstrates all of the following criteria have been satisfied:

- A. The alternative design represents an equivalent or superior design solution to what would otherwise be achieved by rigidly applying specific requirements.
- B. The alternative design meets the intent of the general requirements of Chapter 17.70, Design Review.
- C. Unique and unusual circumstances exist that warrants a modification from the standard requirement.
- D. Modifications from standard requirements will not be approved in circumstances where the applicant is seeking a modification for primarily financial reasons; i.e., the cost of certain façade treatments or use of specified materials are not the type of items that will be taken into consideration when determining whether or not a modification will be granted.

SECTION FOUR. Section 14.05.050, Permit Types, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

14.05.050 Permit types.

A. Permits Classified by Type. Applications for development permits shall be categorized and processed as one or more of the six permit types described in subsection B of this section. Where applications are categorized as more than one type, the code that pertains to the application needs to be evaluated as more than one procedural process is available depending on specific circumstances particular to that application. Applications shall be classified in accordance with the table in MVMC 14.05.060; provided, that shoreline permits under the shoreline management master program shall be processed as described in that program; and that annexations shall be processed according to Chapter 35A.14 RCW. Annexations shall also be subject to additional City specific submittal and procedural requirements as outlined within this Chapter.

B. Permit Types.

1. Type I – Administrative Review without Notice. Type I applications are those applications where a final decision is made by the Director or the Director’s designee without public notice or a public hearing. That decision may be appealed in an open record appeal hearing to the Hearing Examiner. The Hearing Examiner decision may be appealed in a closed record appeal to the City Council. An applicant can file an appeal to the building code board of appeals following the Director’s decision for matters concerning the suitability of alternative building materials, the suitability of alternative methods of construction, or interpretation of building regulations.
2. Type II – Administrative Review with Notice. Type II applications are those applications where a final decision is made by the Director or the Director’s designee after public notice, but without a public hearing. That decision may be appealed in an open record appeal hearing to the Hearing Examiner. The Hearing Examiner decision may be appealed in a closed record appeal to the City Council; for all type II Permits except permits authorizing Temporary Homeless Encampments which shall be subject to appeal to the Skagit County Superior Court as provided in Chapter 36.70 RCW.
3. Type III – Hearing Examiner or Design Review Board Review with Public Hearing. Type III applications are those applications that require an open record hearing before the Hearing Examiner or the Design Review Board and for which the Hearing Examiner or Design Review Board makes the final decision. For all applications subject to a decision by the

Hearing Examiner, except variances, the Hearing Examiner decision may be appealed in a closed record appeal to the City Council. Appeals for variances go to superior court, except appeals of Hearing Examiner shoreline variance decisions go to the City Council. Appeals to Design Review Board decisions may be appealed in a closed record appeal to the Hearing Examiner.

4. Type IV – Council Review with Public Hearing. Type IV applications are those applications that require an open record predecision hearing before the Hearing Examiner or Planning Commission, and for which the Hearing Examiner or Planning Commission action is only a recommendation to the City Council. The City Council shall make the final decision after a closed record hearing on Type IV actions.
5. Type V – Council Review without Hearing. Type V applications are those applications that do not require a public hearing and for which a final decision is made by the City Council.
6. Type VI – Legislative. Type VI applications are those applications that require legislative action by the City Council at an open record hearing after one or more open record public hearing(s) and a recommendation from the Planning Commission, with the exception of street vacations which shall only have one open record public hearing before the City Council.

C. Permits Not Classified by This Chapter. If this Chapter does not expressly provide for review using one of the six types of procedures and a specific procedure is not specified by law, or if there are conflicting procedural requirements, the Director shall classify the application as one of the six procedural types and it will be processed accordingly. Questions about what procedure is appropriate shall be resolved in favor of the type providing the greatest public notice and opportunity to participate.

SECTION FIVE. Section 14.05.060, Permit Classification Table, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

14.05.060 Permit classification table.

Land Use Permit/Action	Permit Type					
	I	II	III	IV	V	VI
Administrative Determination	X					
Binding Site Plan		X				
Boundary Line Adjustment	X					
Building Permit SEPA Exempt	X					
Code Interpretation	X					
Comprehensive Plan Map (and Rezone) or Text Amendments						X
Administrative Conditional Use Permit		X				
Conditional Use Permit			X			
Conditional Use Permit for EPFs				X		
Critical Area Ordinance Reasonable Use Exception, Variances and Appeals per MVMC 15.40.130			X			
Design Review with Building Permit, <u>or Administrative Design Review</u>	X					
Design Review with Hearing Examiner Land Use Permit			X			

Land Use Permit/Action	Permit Type					
	I	II	III	IV	V	VI
Design Review by Design Review Board			X			
Design Review Waiver per Chapter 17.70 MVMC	X		X			
Development Regulation Text Amendments to Chapter 3.40 MVMC and MVMC Titles 15, 16 and 17						X
Development Regulation Text Amendments to Chapters Except Chapter 3.40 MVMC and MVMC Titles 15, 16 and 17					X	
Environmental Review		X				
Fence or Wall Permit	X					
Fill and Grade Permit I	X					
Fill and Grade Permit II		X				
Floodplain District Development Permit				X		
Historic Structure – Designation				X		
Historic Structure – Exterior Alteration		X				
Home Occupation – Type I or Exemption	X					
Home Occupation – Type II		X				
Land Clearing Permits and Management Plans		X				
Land Clearing Moratorium Removal			X			
Land Clearing Single-Family Residential Moratorium Exception		X				
Landscape Modifications per MVMC 17.93.080	X					
Lot Certification	X					
Major Modification	X	X	X	X		
Master Plan Approval per MVMC 17.30.090				X		
Minor Modifications	X					
Model Home Permit	X					
Nonconforming Use – Ordinary Maintenance or Repair	X					
Nonconforming Use – Certificate of Use or Occupancy	X					
Nonconforming Use – Special Permission to Enlarge, Expand, or Reconstruct				X		
Plat, Preliminary				X		
Plat, Final					X	
Planned Unit Development				X		
Rezoning Consistent with Comprehensive Plan				X		

Land Use Permit/Action	Permit Type					
	I	II	III	IV	V	VI
Shoreline Conditional Use Permit			X			
Shoreline Exemption	X					
Shoreline Substantial Development Permit		X				
Shoreline Variance			X			
Short Plat		X				
Site Plan Approval	X					
Site Plan Approval per MVMC 17.39.150				X		
Special Use Permit			X			
Special Use Permit for ADUs		X				
Street Vacations Subject to Procedural Requirements Outlined in Chapter 35.79 RCW						X
Street Design Modifications per Chapter 16.16 MVMC	X					
Temporary Homeless Encampment		X				
Temporary Use Permit Per Chapter 17.92 MVMC	X					
Transfer of Development Rights – Certificate of Available Rights	X					
Transfer of Development Rights – Approval to Utilize	X					
Transportation Concurrency when > 75 PM Peak Hour Trips Are Generated				X		
Variances			X			
Waivers per MVMC 14.10.110, Chapter 16.20 MVMC, and MVMC 17.84.130				X		
Zoning Boundary Determination per MVMC 17.09.040			X			
Zoning Variances Not Exceeding 20 Percent of Lot Width, Setbacks, Lot Coverage, Building Height, Parking, and Landscape Buffers		X				

SECTION SIX. Section 14.05.070, Summary of Permit Processes, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

14.05.070 Summary of permit processes.

	Type I	Type II	Type III	Type IV	Type V	Type VI	Shoreline Permits and Annexations
Pre-Application Meeting	No	Required for short plats, building permits with street improvements, and all other non-single-family	Required, unless waived by Director				

	Type I	Type II	Type III	Type IV	Type V	Type VI	Shoreline Permits and Annexations
		residential actions					
Letter of Completeness	Required	Required	Required	Required	Required	Required	Required
Notice of Application	No	Required, unless exempted by MVMC 14.05.040	Required, unless exempted by MVMC 14.05.040	Required, unless exempted by MVMC 14.05.040	Required, unless exempted by MVMC 14.05.040	Required, unless exempted by MVMC 14.05.040	See Chapter 35A.14 RCW, Annexation by code cities, or the shoreline master program (SMP)
Notice of Hearing	Not Applicable	Not Applicable	Required	Required	Required	Required	See Chapter 35A.14 RCW or the SMP
Open Record Pre-Decision Public Hearing	No	No	Yes, before Hearing Examiner or <u>Design Review Board</u> to render final decision	Yes, before Hearing Examiner or Planning Commission, as noted in MVMC 14.05.080 to make recommendation to City Council for final decision at a closed record hearing	No	Yes, before Planning Commission to make recommendation to City Council for final decision at a closed record hearing except for street vacations which shall be heard only before the City Council	See Chapter 35A.14 RCW or the SMP

	Type I	Type II	Type III	Type IV	Type V	Type VI	Shoreline Permits and Annexations
Administrative Appeal	Yes, open record appeal hearing before the Hearing Examiner or the building code board of appeals	Yes, open record appeal hearing before the Hearing Examiner	Yes, closed record appeal hearing before City Council except for variances, and permits authorizing temporary homeless encampments, <u>and development subject to approval by the Design Review Board</u>	No	No	No	See Chapter <u>35A.14</u> RCW or the SMP
Notice of Decision	Required, pursuant to MVMC <u>14.05.150</u>	Required, pursuant to MVMC <u>14.05.150</u>	Required, pursuant to MVMC <u>14.05.150</u>	Required, pursuant to MVMC <u>14.05.150</u>	Required, pursuant to MVMC <u>14.05.150</u>	Required, pursuant to MVMC <u>14.05.150</u>	See Chapter <u>35A.14</u> RCW or the SMP
Recommendation Made By	Not Applicable	Not Applicable	Not Applicable	Review authority noted in MVMC <u>14.05.080</u>	Review authority noted in MVMC <u>14.05.080</u>	Planning Commission except for street vacations	See Chapter <u>35A.14</u> RCW or the SMP
Final Decision Made By	Development Services Director subject to administrative appeal	Development Services Director subject to administrative appeal	Hearing Examiner subject to administrative appeal except	City Council	City Council	City Council	See Chapter <u>35A.14</u> RCW or the SMP

	Type I	Type II	Type III	Type IV	Type V	Type VI	Shoreline Permits and Annexations
	appeal		for variances				
Judicial Appeal	See MVMC 14.05.190	See Chapter 35A.14 RCW or the SMP					

SECTION SEVEN. Section 14.05.180, Appeals to Council, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

14.05.180 Appeals to council.

A. Decision Subject to Appeal. Type II and III decisions listed within MVMC 14.05.060 (except variances, ~~and~~ permits for Temporary Homeless Encampments, and developments subject to approval by the Design Review Board) may be appealed to the City Council, in writing and must contain the information outlined in MVMC 14.05.160(C)(3). However, Type II decisions may only be appealed to the City Council after they have been appealed to the Hearing Examiner; and the appellant is appealing the Hearing Examiner decision to the City Council.

B. Time for Appeal. Any such appeal must be filed by a party of record aggrieved by the decision and shall submit the appeal to the CEDD, within 14 days from the date of the report decision. The appeal must contain the information outlined in MVMC 14.05.160(C).

C. Transmittal of Record to Council. The CEDD shall forward to the members of the City Council all of the pertinent documents, including the written decision, findings and conclusions of the examiner, the notice of appeal, and additional letters submitted by the parties of record.

D. Council Review Procedures. No open record public hearing shall be held by the City Council. All meetings of the Mount Vernon City Council shall be in accordance with Chapter 42.30 RCW, and all persons shall be permitted to attend any meeting of the City Council except as otherwise provided in Chapter 42.30 RCW.

E. Council Evaluation Criteria. The consideration by the City Council shall be based solely upon the record, the Hearing Examiner report, the appeal and additional submissions by parties.

F. Closed Record Hearing – Additional Evidence. No or limited new evidence or information will be allowed to be submitted and only appeal argument allowed. New or additional evidence or testimony shall be accepted by the City Council only upon a showing by the party offering the evidence that the evidence could not reasonably have been available at the time of the hearing before the examiner; or that relevant information that, in the opinion of the council, was improperly excluded by the examiner. Appellants who believe that information was improperly excluded, or that they have new evidence that could not reasonably have been available at the time of the hearing below, must specifically request, in writing, prior to the closed record appeal hearing, that the information be made part of the record. The request shall describe the information excluded, its relevance to the issues appealed, the reason(s) that the information was excluded by the hearing body/officer, why the hearing body/officer erred in excluding the information, or why it could not reasonably have been available at the time of the hearing below. No reference to excluded information shall be made in any presentation to the City Council on the merits, written or oral, until the City Council has determined that the information should be admitted. If the council determines that additional evidence is required, the council shall remand the matter to the examiner for reconsideration and receipt of additional evidence. The cost of transcription of the hearing record shall be borne by the appellant. In the absence of an order by the City Council authorizing new or additional evidence or testimony, and a remand to the Hearing Examiner for receipt of such evidence or testimony, it shall be presumed that no new or additional evidence or testimony has been accepted by the City Council, and that the record before the City Council is identical to the hearing record before the Hearing Examiner.

G. Council Action. If, after examination of the project record for an appeal of a decision of the Hearing Examiner, the council determines that a substantial error in fact or law exists in the record the council may remand the application to examiner for reconsideration, modify the decision, or reverse the decision.

H. Decision Documentation. The decision of the City Council shall be in writing and shall specify any modified or amended findings and conclusions other than those set forth in the report of the Hearing Examiner. Each material finding shall be supported by substantial evidence in the record. The burden of proof shall rest with the appellant.

I. Council Action Final. The action of the council approving, modifying or rejecting a decision or recommendation of the examiner shall be final and conclusive unless appealed within the time frames established under MVMC 14.05.190.

SECTION EIGHT. Exhibit A, referenced within Mount Vernon Municipal Code 14.15.010, Established, shall include a new fee as follows:

~~Design Review per MVMC 17.69 and 17.70 ————— 100% of Consultant Cost~~

Design Review required as part of the preliminary plat, short plat, or PUD Process:

\$1,000.00 plus 100% of the Design Review consultant cost

Design Review required as part of the final plat, short plat, and/or PUD process:

\$500.00 plus 100% of the Design Review consultant cost

Design Review completed as part of a building permit approval:

\$250.00 plus 100% of the Design Review consultant cost

Design Review Waiver per MVMC 17.70.080:

\$500.00 plus 100% of the design review consultant cost

SECTION NINE. A new Chapter shall be created to be named, Chapter 2.61 Design Review Board that shall read as follows:

DESIGN REVIEW BOARD

Sections:

- 2.61.010 Creation of Design Review Board
- 2.61.020 Terms, qualifications and appointment of members
- 2.61.030 Purposes
- 2.61.040 Organization
- 2.61.050 Meeting and Hearing Requirements
- 2.61.060 Projects Subject to Design Review Board

2.61.010 Creation of Design Review Board

A Design Review Board (also referred to as DRB) is hereby created. The Design Review Board shall consist of five (5) members. The Design Review Board shall interpret, review and implement design review as provided by the City's design standards adopted in Chapter 17.70 MVMC.

2.61.020 Terms, qualifications and appointment of members

- A. Members of the Design Review Board shall serve terms of four years. The terms shall be staggered. Terms expire on January 1st but members of the Design Review Board shall continue to serve until their successors are appointed. The Mayor shall appoint a new DRB member to fill vacancies that might arise and such appointments shall be to the end of the vacating member's term.
 - 1. To accomplish terms that are staggered the original appointment of the three members of the DRB not including the Development Services Director or the Design Review Consultant under contract with the City shall be as follows: one (1) for two (2) years, one (1) for three (3) years, and one (1) for four (4) years. Thereafter, appointments shall be four (4) year terms.
- B. Design Review Board members shall have qualifications, skills or demonstrated interest in architecture, City planning, urban design, development or building, and must be able to demonstrate the ability to read and interpret site plans, elevation drawings, landscape plans, architectural details and other design details and specifications as may be depicted on plans. There shall be one (1) member selected by the Mayor from each of the categories listed below:
 - 1. A licensed architect or professional building designer with demonstrated experience.
 - 2. A person owning a business located in the historic downtown and abutting areas defined in MVMC 17.70.020.
 - 3. A member representing the Downtown Association.
- B. The City's Development Services Director or his/her designee and a design review consultant under contract with the City shall be the fourth and fifth members of the board.
- C. Application for Design Review Board Appointment. Individuals wishing to serve, or to be reappointed to serve, on the Design Review Board shall submit a letter of interest to the Development Services Department. The letter of interest shall state which category of subsection B of this section the individual wishes to serve under, and shall cite their experience and credentials in that category. The Mayor shall consider which individual has the most direct experience in that category and give weight in his/her decision to experience over general interest.

2.61.030 Purposes

The purposes of the Design Review Board are:

- A. Outlined in MVMC 17.70.010.
- B. To implement the procedures related to the City's design review as described in Chapter 17.70 MVMC.
- C. To protect and enhance Mount Vernon's small town characteristics by assuring that decisions on design reflect the intent of the City's design standards.
- D. To make suggestions on design alternatives which meet the needs of the property or business owner and which are consistent with and meet the intent of the City's design standards.

2.61.040 Organization

The City's Design Review Board shall be organized as follows:

- A. Chair and Vice Chair. At the first meeting of each year, the members of the City Design Review Board (DRB) shall elect a chair and vice chair, who shall serve in such capacity for that year. The chair shall preside over the meetings of the DRB and exercise all the powers incident to the office. The vice chair shall serve in the capacity of chair only in the chair's absence.
- B. The City's Development Services Department shall provide administrative staff charged with keeping the record of all meetings and hearings of the DRB. In addition, the Department shall provide the Design Review Board with such assistance as is reasonably necessary to enable it to perform its functions and duties. Staff assistance shall include, but not be limited to, providing public notice of DRB hearings, the making of recommendations in staff reports to the DRB on specific projects, general planning and instruction.

2.61.050 Meeting and Hearing Requirements

- A. Public notice consistent with Chapter 14.05 MVMC shall be provided in advance of all DRB meetings and hearings.
- B. Open Meetings. All meetings and hearings of the DRB shall be open and public in accordance with Chapter 42.30 RCW and all persons shall be permitted to attend any meeting except as otherwise provided in Chapter 42.30 RCW and this Chapter. The DRB shall keep minutes of its hearings and records of all official actions shall be made available to the public upon approval of the minutes by the DRB.
- C. A majority of the DRB shall constitute a quorum for the transaction of business. Any action taken by a majority of those present when those present constitute a quorum shall be deemed and taken as the action of the DRB.
- D. Voting. All actions of the DRB shall be represented by a vote of the five (5) person membership. A simple majority of the members present at the meeting in which action is taken shall approve any action taken. All five (5) members of the DRB are expected to vote.
- E. Conducting Hearings. When a public hearing is held and public comment is presented to the DRB the following rules shall apply:
 - 1. Each speaker is requested to limit their comments to three minutes of speaking time. If a speaker is representing an organization, that speaker shall be granted five minutes of speaking time.
 - 2. Members of the public attending the meeting may only speak if acknowledged by the Chairperson.
 - 3. If audience dialogue becomes disruptive, the Chairperson may recess the meeting or request that the meeting be adjourned.
- F. Procedures. The DRB shall establish its own procedures for the transaction of its business.

2.61.60 Projects Subject to Design Review Board

By majority vote the DRB can create categories of improvements, with associated conditions of approval, to be administratively approved by the Development Services Department consistent with MVMC 17.70.050(B).

SECTION TEN. Section 17.15.070, Setbacks, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.15.070 Setbacks.

Minimum setback requirements are as follows:

- A. Front yard: 25 feet on arterial streets and 20 feet on all other streets. Buildings on corner lots and through lots shall observe the minimum setback on both streets;
- B. Side yard: five feet. The total of the two side yards shall be a minimum of 15 feet;
- C. Rear yard: 20 feet. Where a rear yard abuts an alley, accessory buildings such as private garages and carports may be located no closer than eight feet to the rear property line.
- D. For structures subject to design review per Chapter 17.70 MVMC setbacks are found in 17.70.070(A).

SECTION ELEVEN. Section 17.15.080, Lot Coverage, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.15.080 Maximum land coverage.

Maximum land coverage by buildings shall be 35 percent; except structures subject to design review per Chapter 17.70 MVMC are allowed to have a maximum land coverage of 40 percent.

SECTION TWELVE. A new Section shall be added to Chapter 17.15, R-1 Single-Family Detached Residential District, to be named 17.15.120, Design Review with the new section to read as follows:

17.15.120 Design Review

Certain uses permitted through this Chapter are subject to the development regulations codified in MVMC Chapter 17.70 Design Review.

SECTION THIRTEEN. Section 17.18.060, Setbacks – Maximum land coverage – Building height, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.18.060 Setbacks – Maximum land coverage – Building height.

A. Minimum setback requirements are as follows:

1. Front yard: 25 feet on arterial streets and 20 feet on all other streets. Buildings on corner lots and through lots shall observe the minimum setback on both streets;
2. Side yard: five feet. The total of the two side yards shall be a minimum of 15 feet;
3. Rear yard: 20 feet. Where a rear yard abuts an alley, accessory buildings such as private garages and carports may be located no closer than eight feet to the rear property line.
4. For structures subject to design review per Chapter 17.70 MVMC setbacks are found in 17.70.070(A).

B. Maximum land coverage by buildings shall be 35 percent.

C. Maximum building height shall be two stories, but not more than 35 feet, except that churches may exceed this height with special permission of the City Council.

SECTION FOURTEEN. A new Section shall be added to Chapter 17.18, Duplex and Townhouse Residential District, to be named 17.18.100, Design Review with the new section to read as follows:

17.18.100 Design Review

Certain uses permitted through this Chapter are subject to the development regulations codified in MVMC Chapter 17.70 Design Review.

SECTION FIFTEENTH. Section 17.24.020, Permitted uses, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.24.020 Permitted uses.

Permitted primary uses in the R-3 district include:

A. Two-family and townhouse dwelling units that can meet the minimum density requirements of this zone;

B. Multifamily residential developments of 75 dwelling units or less; ~~provided, that no less than 50 percent of the sum of the building footprints shall be in open space, landscaping, and active play or activity areas.~~ The definition of “density for multifamily zoned developments” found in Chapter 17.06 MVMC describes how the maximum density is calculated within this zone;

C. Municipal parks and playgrounds of less than one-half acre;

D. Professional offices, such as medical and dental, under 4,000 square feet in gross floor area, providing the siting criteria of MVMC 17.24.045(A) are met and mitigate the impacts on the neighborhood. (Ord. 3429 § 62, 2008).

SECTION SIXTEEN. Section 17.24.060, Setbacks, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.24.060 Setbacks.

Minimum setback requirements are as follows:

- A. Front yard: 25 feet on arterial streets and 20 feet on all other streets. Buildings on corner lots shall observe the minimum setback on both streets.
- B. Side yard: 10 feet on each side. No portion of a second-story wall shall be closer than 15 feet to the side yard line. No portion of a third-story wall shall be closer than 20 feet to the side yard line.
- C. Rear yard: 20 feet.

~~D. Duplex or townhouses constructed in this zone shall meet the setbacks listed in MVMC 17.15.070.~~

D. For structures subject to design review per Chapter 17.70 MVMC setbacks are found in 17.70.070(A).

SECTION SEVENTEEN. A new Section shall be added to Chapter 17.24, R-3 Multifamily Residential District, to be named 17.24.140, Design Review with the new section to read as follows:

17.24.140 Design Review

Certain uses permitted through this Chapter are subject to the development regulations codified in MVMC Chapter 17.70 Design Review.

SECTION EIGHTEEN. Section 17.27.020, Permitted Uses, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.27.020 Permitted uses.

Permitted primary uses in the R-4 district include the following:

- A. Two-family and townhouse dwelling units that can meet the minimum density requirements of this zone;
- B. Multifamily residential developments of 75 dwelling units or less; ~~provided, that no less than 50 percent of the sum of the building footprints shall be in open space, landscaping, and active play or activity areas.~~ The definition of “density for multifamily zoned developments” found in Chapter 17.06 MVMC describes how the maximum density is calculated within this zone;
- C. Municipal parks and playgrounds of less than one-half acre;
- D. Professional offices, such as medical and dental, under 4,000 square feet in gross floor area, providing the siting criteria of MVMC 17.27.040(D) are met and mitigate the impacts on the neighborhood. (Ord. 3429 § 68, 2008).

SECTION NINETEEN. Section 17.27.060, Setbacks, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.27.060 Setbacks.

Minimum setback requirements are as follows:

- A. Front yard: 25 feet on arterial streets and 20 feet on all other streets. Buildings on corner lots shall observe the minimum setback on both streets.
- B. Side yard: 10 feet on each side. No portion of a second-story wall shall be closer than 15 feet to the side yard line. No portion of a third-story wall shall be closer than 20 feet to the side yard line.
- C. Rear yard: 20 feet.

D. For structures subject to design review per Chapter 17.70 MVMC setbacks are found in 17.70.070(A).

~~Minimum setback requirements shall be the same as for the R-3 district, except that in areas served by alleys that provide rear fire access, the side yards may be eliminated upon approval by the fire marshal. Approval is contingent upon findings that windows in a residential building on the adjacent property not be closer than 15 feet to the wall that would be built on the side yard property line and further, that the wall itself would not contain any windows.~~

SECTION TWENTY. A new Section shall be added to Chapter 17.27, R-4 Multifamily Residential District, to be named 17.27.140, Design Review with the new section to read as follows:

17.27.140 Design Review

Certain uses permitted through this Chapter are subject to the development regulations codified in MVMC Chapter 17.70 Design Review.

SECTION TWENTY-ONE. A new Section shall be added to Chapter 17.30, Public, to be named 17.30.150, Design Review with the new section to read as follows:

17.30.150 Design Review

Certain uses permitted through this Chapter are subject to the development regulations codified in MVMC Chapter 17.70 Design Review.

SECTION TWENTY-TWO. Section 17.45.070, Development Standards, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.45.070 Development Standards.

A. The following development standards apply to all C-1 zoned properties:

1. Minimum lot area and lot width: Unrestricted.
2. Minimum setbacks: Applicable Building and Fire codes and 17.70 MVMC.
~~Unrestricted~~
3. Density requirements: Unrestricted.
4. Design Standards: Requirements found in Chapter 17.70 MVMC.
5. Parking requirements: Requirements found in Chapter 17.84 and 17.70 MVMC.
6. Signage requirements: Requirements found in Chapter 17.87 and 17.70 MVMC.
7. Landscaping requirements: Requirements found in Chapter 17.93 and 17.70 MVMC.

SECTION TWENTY-THREE. A new Section shall be added to Chapter 17.48, General Commercial District, to be named 17.48.120, Design Review with the new section to read as follows:

17.48.120 Design Review

Certain uses permitted through this Chapter are subject to the development regulations codified in MVMC Chapter 17.70 Design Review.

SECTION TWENTY-FOUR. A new Section shall be added to Chapter 17.57, Light Manufacturing and Commercial District, to be named 17.57.110, Design Review with the new section to read as follows:

17.57.110 Design Review

Certain uses permitted through this Chapter are subject to the development regulations codified in MVMC Chapter 17.70 Design Review.

SECTION TWENTY-FIVE. A new Section shall be added to Chapter 17.60, Industrial District, to be named 17.60.110, Design Review with the new section to read as follows:

17.60.110 Design Review

Certain uses permitted through this Chapter are subject to the development regulations codified in MVMC Chapter 17.70 Design Review.

SECTION TWENTY-SIX. Section 17.87.020, Definitions, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.87.020 Definitions.

- A. “Changing message center” or “electronic message center” means an electronically or electrically controlled public service time, temperature and date sign, message center or reader board where different copy changes of a public service or commercial nature are shown on the same lamp bank.
- B. “Building Frontage” means the measurement in linear feet of the portion of a building that is parallel with an existing dedicated right-of-way or roadway easement. A building may be parallel to more than one dedicated right-of-way or roadway easement; and when this is the case, the sign applicant may choose which side of a building the measurements for sign area are to be based upon. This sign allowance is calculated per one single building frontage.
- C. “Directional sign” means a sign permanently erected or permitted by the City or the state to denote the name of any thoroughfare, the route to any City, town, village, educational institution, public building, business, historic place, shrine or hospital; to direct and regulate traffic; or to denote any railroad crossing, bridge, ferry or other transportation or transmission company for the direction or safety of the public. “Directional sign” also means a sign, notice or symbol about the time and place of regular civic meetings and religious activities and services. “Directional sign” also means a sign which has only information (informational-directional sign) on exit and entrance or parking and contains no form of advertising copy or the name of any advertiser. “Directional sign” also means a sign that identifies a neighborhood, business district and/or community. Such signs may be located in the public right-of-way or on private property that is within the area identified by the signage.
- D. “Freestanding sign” means a sign attached to the ground and supported by uprights or braces placed on or in the ground (also called “ground” or “pole” sign).
- E. “Ground sign” means a type of freestanding sign which is erected on the ground, and which contains no free air space between the ground and the top of the sign.
- F. “Incidental sign” means a small sign eight square feet or less in area which pertains to goods, products, services or facilities which are available on the premises where the sign occurs, and intended primarily for the convenience of the public.
- G. “Mansard roof sign” means a sign which is structurally incorporated into a sloped roof or roof-like facade architecturally capable of being treated as a building wall.
- H. “Marquee” means a permanent structure attached to and projecting from a building and providing protection from the weather elements, but does not include a projecting roof.
- I. “Marquee sign” means any sign which forms part of or is integrated into a marquee or canopy and which does not extend horizontally beyond the limits of such marquee or canopy.
- J. “Multiple building complex” means a group of structures housing at least one retail business, office, commercial venture or independent or separate part of a business which shares the same lot, access and/or parking facilities.
- K. “Multiple tenant building” means a single structure housing more than one retail business, office or commercial venture.

- L. “On-premises sign” means a sign which displays only advertising copy strictly incidental to the lawful use of the premises on which it is located and shall, depending upon the district in which it is located, contain any or all of the following:
1. The name of the owner, occupant, management or firm occupying the premises;
 2. The address of the use;
 3. The kind or name of business and/or the brand name of the principal commodities sold or produced on the premises;
 4. Other information relative to a service or activity involved in the conduct of the business (also includes owner identification or business sign).
- M. “Off-premises sign” means any sign, which cannot be classified as an on-premises sign as described above, but is not a billboard.
- N. “Pedestal sign” means a sign that is no higher than five feet above ground elevation and which is attached to the ground by means of a solid base or at least two legs.
- O. “Portable sign” means any sign of any material, including paper, cardboard, wood or metal, which is capable of being moved easily and is not permanently affixed to the ground, structure or building.
- P. “Street Frontage”. If the business establishment fronts upon more than one street, the sign applicant may choose which street frontage the measurements for sign area are to be based upon. Sign allowance is calculated per street frontage.
- Q. “Projecting sign” means a sign, other than a flat wall sign, which is attached to and projects from a structure or building face. A marquee sign shall not be considered a projecting sign.
- R. “Real estate sign” means a temporary sign erected by the owner or his agent advertising the real estate upon which the sign is located for rent, for lease or for sale, or directing to said property.
- S. “Roof sign” means a sign erected upon or above a roof or parapet of a building or structure. Mansard roof signs shall not be included.
- T. “Sign” means any commercial communication device, structure or fixture, visible from a public right-of-way and using graphics, pictures, symbols or written copy, that is intended to aid an establishment or business in promoting the sale of a product, goods or services. For the purpose of this title, a sign shall not be considered to be building or structural design, national flags or flags of political subdivisions, symbolic flags or insignia of an institution, point of purchase product dispensers, holiday decorations, gravestones, historical site plaques, holiday displays, works of art, murals, and supergraphics as defined within this Chapter, that contain no sign copy.
- U. “Sign Copy” means words, letters, characters, illustrations, logos, graphics, symbols, writing or any combination thereof designated to communicate or attract attention to any activity, service, place, subject, person, firm, corporation, public performance, merchandise or provide direction or identification for a premises, business, or facility.
- V. “Measurement of Total Sign Area”. The following method shall be utilized in calculating the square footage measurement of any freestanding, wall or projecting sign display:
1. The square footage of any freestanding, wall or projecting sign shall be calculated by measuring inside the cabinet retainer area reserved for advertising copy or graphics only, including reader board spaces, by applying a set of straight lines around the visible opening of said sign cabinet.

2. The square footage of any sign display made up of individual dimensional letters (illuminated or nonilluminated), words, graphic symbols or logos shall be measured around each individual letter or symbol by a straight line method and calculated by adding the sum of these individual letters/symbols together. To exclude architectural details or mounting features.
 3. Double-faced or multifaced signs shall be calculated as the maximum visible opening of one side only.
 4. For purposes of calculating the allowed sign area, the total allowance of wall, projecting and freestanding can be applied anywhere on the property or building.
 5. Signs painted or applied directly against the surface of a building shall have square footage calculated by the smallest polygon measurement enclosing the letters and/or symbols of the sign area.
- W. “Sign, Area of – Ground”. The area of all ground signs shall be measured by determining the sum of the area of each square, rectangle, triangle, portion of a circle, or any combination thereof, which creates the smallest single continuous perimeter enclosing the extreme limits of the sign face, and that portion of the sign structure which exceeds one and one-half times the area of the sign face.
- X. “Sign height” means the vertical distance measured from the finished grade (as defined in MVMC 17.06) to the highest point of a sign or, in the case of freestanding signs, to any vertical projection thereof including supporting columns.
- Y. “Supergraphics” means an artistic design theme which exceeds the size limits of this title by continuing the design beyond the actual boundaries of the sign message. That portion of the sign which contains letters and symbols must conform with the size limitations herein.
- Z. “Wall sign” means a sign attached or erected parallel to and extending not more than 18 inches from the facade or face of any building to which it is attached and supported throughout its entire length, with the exposed face of the sign parallel to the plane of said wall or facade. For the purpose of this title, signs incorporated into or attached to a mansard roof, signs on windows, and signs on awnings, or canopies shall all be considered wall signs.

SECTION TWENTY-SEVEN. A new section to be named 17.87.025, Applicability & Permit Required, will be added to Chapter 17.87 of the Mount Vernon Municipal Code with the new section to read as follows:

17.87.025 Applicability & Permit Required.

- A. Applicability.** Signs may be erected, placed, established, painted, created or maintained only in conformance with the standards, procedures, exemptions and other requirements of this Chapter and other applicable City regulations. In the event of conflict between the regulations of this Chapter and those of other local, state or federal regulations, the more restrictive regulation shall govern to the extent allowed by law. This Chapter is not intended to regulate or dictate, in any manner, the content of speech or expression, or the viewpoint of the speaker.
- B. Permit Required.** A sign permit is required for all signs unless specifically exempted elsewhere within this Chapter. All sign permits shall contain the submittal materials outlined within MVMC Chapter 14.05.

SECTION TWENTY-EIGHT. Section 17.87.070, Central business district (C-1), of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.87.070 Central business district (C-1).

Subject to the provisions of MVMC 17.87.170, the following shall apply in all areas zoned C-1:

- A. Off-premises signs are prohibited.
- B. On-premises signs shall include wall signs, marquee signs and projecting signs only. A mansard roof sign shall be considered a wall sign in this district. Projecting signs shall be limited to one per street frontage and shall not exceed an area of 25 square feet per sign face.
~~An exception to the allowable sign area may be approved if the proposed signage replicates the original sign design and size on a historically designated building.~~
- C. Wall signs and marquee signs shall not exceed a total sign area of two square feet per lineal foot of business frontage; except that if a business has only a wall sign, the sign area allowed shall be at least 60 square feet regardless of frontage.
- D. Wall signs and projecting signs shall be constructed of noncombustible materials, or wood of one-inch nominal thickness.
- E. One freestanding sign per business or complex may be permitted in the C-1b zone, and by an administrative conditional use permit in the C-1a zone if such sign will not be significantly detrimental to the purpose of encouraging pedestrian orientation in the subdistrict. The total allowable sign area shall not exceed two square feet of lineal building frontage, not to exceed 40 square feet and not to exceed six feet in height.
- F. Public Directory/directional signs located in the public right-of-way, established by the City, not exceeding 20 square feet in area and eight feet in height.
- G. When proposed signage replicates the original design and size of signage located on buildings that are listed on the National Register of Historic Places or the Washington Heritage Register this signage shall be exempt from the sign type, number, size and height of signage otherwise permitted.
- H. Existing historic signage painted on buildings that are listed on the National Register of Historic Places or the Washington Heritage Register shall not be counted as existing signage for a business wishing to install new signs to advertise their business.

SECTION TWENTY-NINE. Section 17.87.140, Miscellaneous restrictions and requirements, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.87.140 Miscellaneous restrictions and requirements.

- A. Temporary signs for political candidates, issues or events shall be posted on private property only and removed within 10 days after the event or election is over.
- B. All temporary signs for any temporary events, including home or apartment sales or rentals, shall be removed within 10 days of the conclusion of the event.
- C. No projecting signs shall extend more than five feet over the public right-of-way and shall not extend closer than two feet from the face of the curb. All projecting signs shall have a minimum of eight feet clearance from grade to the lowermost portion of the sign.
- D. Signs shall not be included in the setback requirements for other uses.
- E. No sign shall be constructed in any district which constitutes a traffic hazard or detriment to traffic safety by reason of its size, location, movement content, coloring or method of illumination or by obstructing the vision of drivers, or by obstructing or detracting from the visibility of any official traffic control device by diverting or tending to divert the attention of drivers of moving vehicles from traffic movement on streets, roads, intersections or access facilities. No sign shall be erected that may obstruct the vision of pedestrians. Flashing or revolving red, green, blue or amber lights shall be prohibited on any sign. No sign shall use the words "Stop," "Look," "Drive-in," "Danger," or any other words, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic.
- F. Noncommercial signs intended for the convenience of the public, which contain such information as "entrance," "exit," "restrooms," "telephone," "cocktails," "restaurant," etc., shall not be included in total sign area or number of signs allowed.

- G. No sign other than official public signs shall be located in the public right-of-way, except that temporary real estate directional signs for open house purposes may be displayed during the time that the property is actually open for public inspection.
- H. Any sign which was legally erected prior to the enactment of the ordinance codified in this title shall be permitted to remain as a nonconforming use so long as it is maintained in good repair. A permit must be obtained for each sign which requires structural alteration, replacement or relocation, and such sign must be brought into conformance with these provisions.
- I. Any on-premises sign which pertains to a product or service no longer offered on the premises where the sign is located shall be removed including posts, brackets, and other supporting structures within 60 days from the date that the product or service is no longer offered.
- J. Revolving signs may not exceed five R.P.M. and shall be permitted only when the message on each sign face is different.
- K. Special events such as festivals, carnivals, or grand openings or annual sales of retail establishments may be allowed to place temporary signs approved by the City for up to 14 days on a semiannual basis without a permit.
- L. On-site traffic directional signs are permitted, provided they do not exceed four square feet per face or three feet in height and do not carry any commercial message or identification.
- M. Temporary signs containing the message that the commercial or industrial real estate on which the sign is located (including buildings) is for sale, lease, or rent, together with information identifying the owner or agent. Such signs may not exceed 32 square feet in area, or eight feet in height, and shall be removed immediately after sale, lease, or rental. For lots of less than five acres, a single sign on each street frontage may be erected. For lots of five acres or more in area and having a street frontage in excess of 400 feet, a second sign not exceeding 32 square feet in area may be erected.
- N. Temporary Construction Site Identification Signs. Such signs may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain related information including but not limited to sale or leasing information. Not more than one such sign may be erected per site, per street frontage, and it may not exceed 32 square feet in area.
- O. Other temporary signs not listed above or in this Chapter shall be regarded and treated in all respects as permanent signs. Temporary signs shall not be included in calculating the total amount of permitted sign area.
- P. No more than 25 percent of the total sign allowance permitted under this Chapter may be placed or transferred to a building wall that has no street frontage/sign allowance.
- Q. One nameplate per public entrance, per business, of no more than two square feet per face, which is suspended under a canopy and maintains a minimum clearance of seven feet in height above a public right-of-way, is exempt from the requirements of this Chapter.
- R. MVMC 17.70 and its associated Design Standards Handbook contains sign requirements for areas in the Historic Downtown and Surrounding Areas that are required to be complied with.
- S. Permits for changing message center signs require the sign owner to execute a Sign Agreement to ensure their sign is, and remains, compliant with this Chapter of the MVMC.

SECTION THIRTY. Section 17.87.120, Permits - Fees, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.87.120 Permits – Fees.

- A. ~~All signs, excepting only those two square feet in area or less, shall require a permit from the building official, shall contain the name and address of the person or firm installing the sign and the date of installation. The sign company, owner, or owner's representative of the property shall provide an inventory of all signage erected, installed or affixed to the site.~~ All signage shall comply with the requirements of the Mount Vernon sign code. Any sign for which the City of Mount Vernon Development Services building Department has not issued a permit shall be removed or a permit shall be obtained by the owner and shall be made to conform to the current City of Mount Vernon sign

code. ~~unless otherwise waived or approved by the Director of development services.~~ It is unlawful for any person to erect, construct, enlarge or relocate any such sign in the City, or cause the same to be done, without first obtaining a permit for each such sign from the building official. Normal maintenance on any sign shall not require a permit.

- B. A sign permit fee or building permit fee for each sign erected, installed, affixed, altered, relocated or created shall be as set forth in MVMC 15.04.180 as it is currently written or as it may be amended in the future, Table 1-A of the 1994 Edition of the Uniform Building Code. The plan review fee for a sign shall be 65 percent of the sign permit fee. The value of the sign and cost of installation shall be provided by the sign company installing the sign or owner of the property on which the sign is to be erected. If a sign company has not been hired to install the signage, the value of the installation shall be based ~~on phone~~ estimates from two local sign companies.
- C. Any person or firm installing a sign must first obtain a business license in the City of Mount Vernon.

SECTION THIRTY-ONE. Section 17.87.150, Signs specifically prohibited, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.87.150 Signs specifically prohibited.

Prohibited signs are as follows:

- A. Off-premises portable signs, except real estate signs, and except as otherwise provided for in this Chapter.
- B. Roof signs.
- C. All trailer signs and other signs in excess of three square feet placed on a motor vehicle are prohibited. This shall not prohibit signs that are painted or magnetically attached to a currently licensed vehicle for purposes of identifying the business to which the vehicle is related.
- D. Signs that have flashing lights, search lights, flares, twirlers, propellers, pennants, banners, inflatable objects, and streamers are all prohibited.
- F. Any sign that rotates, turns or moves by electrical or mechanical means, flutters, or appears to move except as specifically allowed elsewhere within this code.
- G. Signs containing obscene or illegal matter.

SECTION THIRTY-TWO. Section 17.99.010, Fences and walls – Installation restrictions generally, of the Mount Vernon Municipal Code is hereby repealed and reenacted with the new section to read as follows:

17.99.010 Fences and walls – Installation restrictions generally.

Fences and walls can be installed and maintained in accordance with the following requirements:

- A. In all residential zoned areas on corner, interior, through and reversed frontage lots, fences and walls may be installed up to four feet in height around the entire required front yard setback area. Fences and walls up to six feet in height may be installed around the remainder of the property with the following exceptions:
 - 1. Fences on corner and reverse frontage lots may be constructed up to a height of six feet along the secondary or additional street frontages provided the following conditions are met:
 - a. The fence is set back 10 feet from the property line and does not extend beyond the required or existing setback of the dwelling located on the property; and
 - b. The required 10-foot setback is landscaped with evergreen trees and shrubs, perennial plant materials, and groundcover. Up to 25 percent of the required evergreen trees may be deciduous to add seasonal color and texture variation.

2. Fences along through lots adjacent to other through lots or corner and reverse frontage lots may be constructed up to a height of six feet along the secondary or additional street frontages provided the following conditions are met:
 - a. The fence is set back 10 feet from the property line; and
 - b. The required 10-foot setback is landscaped with evergreen trees and shrubs, perennial plant materials, and groundcover. Up to 25 percent of the required evergreen trees may be deciduous to add seasonal color and texture variation.
3. Fences located on the additional street frontage of through lots adjacent to interior lots shall maintain the front yard setback of the interior lots.

Fences and walls may be installed on property lines in residentially zoned lots. It shall be the property owner's responsibility to determine the location of all property lines.

- B. In all other zones, fences and walls may be installed up to a height of eight feet; provided, that the following requirements are met:
 1. Where commercially or industrially zoned property has street frontage across from residential property, there shall be a setback of one foot for each foot in height of the fence or wall. This setback will be densely landscaped to provide a vegetative barrier. A landscaping plan will be submitted to and approved by the Development Services Director prior to construction of the fence or wall. All installed landscaping materials will be maintained in a healthy state.
 2. A landscaped setback area shall not be required for fences or walls if the commercial or industrially zoned property adjoins or abuts similarly zoned property.
- C. Special regulations for all zones are as follows:
 1. Height shall be measured from the elevation of the highest finished grade at the base of the fence or wall.
 2. Height shall normally be limited to three feet within 30 feet of any street corner. This height may be reduced if vision clearance problems are created.
 3. No fence or wall may be constructed if it creates a hazard to users of the street or to nearby property.
 4. A minimum setback of five feet shall be maintained from any buildings on both sides of a property line.
 5. All fences and walls shall be maintained in a good state of repair.
- D. MVMC 17.70 and its associated Design Standards Handbook contains fence requirements for certain residential uses and areas in the Historic Downtown and Surrounding Areas that are required to be complied with.

SECTION THIRTY-THREE. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

SECTION THIRTY-FOUR. City staff is hereby directed to complete preparation of the final ordinance, and all related municipal code and design standards documents including correction of any typographical or editorial edits, insertion of references, pictures, and other data that is necessary to complete this document.

SECTION THIRTY-FIVE. This ordinance shall be in full force and effect five days after its passage, approval and publication as provided by law.

PASSED AND ADOPTED this 19th day of December, 2018.

SIGNED AND APPROVED this ____ day of December, 2018.

Jill Boudreau, Mayor

Doug Volesky, Finance Director

Approved as to form:

Kevin Rogerson, City Attorney

Published _____