

**Attachment E – Citywide Nonconforming Uses, Structures, and Sites**

*This attachment includes the full text of LUC 20.20.561, adopted March 17 within Ordinance 6906. This attachment does not reflect any amendments proposed with the BelRed Look Forward LUCA.*

**20.20.561 Nonconforming uses, structures, and sites****A. Applicability.**

1. General Applicability. Except as provided below, this section applies to nonconforming uses, nonconforming structures, and nonconforming sites located within any Land Use District established under LUC 20.10.020.
2. Exceptions.
  - a. Critical Areas Overlay District. If there is a conflict between the requirements of this section and the requirements contained in Part 20.25H LUC, then the requirements of Part 20.25H LUC shall control. If there is no such conflict, then the requirements of this section apply within the Critical Area Overlay District established under Part 20.25H LUC.
  - b. Shoreline Overlay District. The provisions of this section do not apply to uses, structures, or sites nonconforming to the requirements of Part 20.25E LUC. Refer to LUC 20.25E.040 and 20.25E.065.I for the requirements for such nonconforming uses, structures, and sites.
  - c. Existing Athletic Club and Accessory Hotel Uses in East Main Transit Oriented Development Land Use Districts. The provisions of this section shall not apply to existing athletic club and accessory hotel uses, as defined in LUC 20.25Q.040, located within any East Main Transit Oriented Development Land Use District.
  - d. Redevelopment of Existing Buildings. The requirements of this section shall apply to the redevelopment of existing buildings under LUC 20.20.727 only as provided in LUC 20.20.727.
  - e. Medical Institution District. The requirements of this section shall apply as normal in the MI land use district except as otherwise provided in LUC 20.25J.030 or LUC 20.25J.060.
  - f. BelRed Land Use Districts. The provisions of this section do not apply to uses, structures, or sites located within a BelRed Land Use District established under LUC 20.10.020 and described in LUC 20.10.375. Refer to LUC 20.25D.060 for the requirements for such nonconforming uses, structures, and sites.

- g. Sign Code. The provisions of this section do not apply to signs governed by Chapter 22.10 BCC.

B. Documentation. The applicant shall submit documentation which shows that the nonconforming use, nonconforming structure, or nonconforming site was permitted when established and has been maintained over time. The Director shall determine based on subsections B.1 and B.2 of this section whether the documentation is adequate to support a determination that the use, structure, or site constitute a nonconforming use, nonconforming structure, or nonconforming site under the terms of this section. The Director may waive the requirement for documentation when a nonconforming use, nonconforming structure, or nonconforming site has previously been clearly established.

1. Use, Structure, or Site Permitted when Established. Documentation that the use, structure, or site was permitted when established includes, but is not limited to, the following:
  - a. Building, land use, or other development permits; and
  - b. Land Use Codes or Land Use District Maps.
2. Use, Structure, or Site Maintained Over Time. Documentation that the use, structure, or site was maintained over time, and not discontinued or destroyed as described in this section. Documentation may include, but is not limited to, the following:
  - a. Utility bills;
  - b. Income tax records;
  - c. Business licenses;
  - d. Listings in telephone or business directories;
  - e. Advertisements in dated publications;
  - f. Building, land use or other development permits;
  - g. Insurance policies;
  - h. Leases; and

i. Dated aerial photos.

C. Regulations Applicable to All Nonconforming Uses, Nonconforming Structures, and Nonconforming Sites.

1. Ownership. The status of a nonconforming use, nonconforming structure, or nonconforming site is not affected by changes in ownership.
2. Maintenance and Repair. Routine maintenance and routine repair associated with a nonconforming use, nonconforming structure, or nonconforming site is allowed.
  - a. "Routine maintenance" includes those usual acts to prevent decline, lapse, or cessation from a lawfully established condition. Routine maintenance includes, but is not limited to, alterations necessary to keep moisture or wind from entering or damaging a building. Routine maintenance does not increase the gross floor area of any building or increase the conditions that render the use, structure, or site nonconforming. Routine maintenance must conform to applicable development regulations.
  - b. "Routine repair" includes like-for-like restoration to a state comparable to its original condition within a reasonable period after decay has occurred. Routine repair includes, but is not limited to, the like-for-like replacement of windows, doors, roofing, or exterior cladding that have decayed and are near the end of their functional life. Routine repair does not increase the gross floor area of any building or increase the conditions that render the use, structure, or site nonconforming. Routine repair must conform to applicable development regulations.

D. Regulations Applicable to Nonconforming Uses.

1. Operations.
  - a. Nonconforming uses may continue to operate, subject to the provisions of this subsection D.
  - b. Nonconforming Uses – Hours of Operation. The hours of operation associated with a nonconforming use located in a land use district subject to this section that permits residential uses may only extend into the period of 9:00 p.m. to 6:00 a.m. subject to Administrative Conditional Use approval. Nonconforming uses which on [INSERT EFFECTIVE DATE OF ORDINANCE], already operated between these hours may continue without such approval, as long as the hours of operation between 9:00 p.m. and 6:00 a.m. are not expanded.

2. Expansions. Nonconforming uses may expand under certain circumstances as described in this subsection:
  - a. Expansions of Nonconforming Structures. If a nonconforming structure containing a nonconforming use is expanded in accordance with the requirements of this section, then the nonconforming use may expand in conjunction with, and in proportion to, the expansion of the nonconforming structure.
  - b. Expansions of Nonconforming Sites. If a nonconforming site containing a nonconforming use is expanded in accordance with the requirements of this section, then the nonconforming use may expand in conjunction with, and in proportion to, the expansion of the nonconforming site.
  - c. Limitation on Expansion. No expansion of hazards. No expansion in operations shall be permitted that increases the use or onsite quantity of flammable or hazardous constituents (e.g., compressed gases, industrial liquids, etc.), or that increases the amount of waste generated or stored that is subject to the Washington Hazardous Waste Management Regulations, RCW 70.105.210, as currently adopted or subsequently amended or superseded. The Director may, in consultation with the Fire Marshal, modify the requirements of this subsection if the Director determines that the expansion will not increase the threat to human health and the environment over the pre-expansion condition.
3. Loss of Nonconforming Use Status.
  - a. Discontinuance.
    - i. If a nonconforming use is discontinued for a period of 12 months with the intention of abandoning that use, any subsequent use shall thereafter conform to the regulations of the land use district in which it is located. Discontinuance of a nonconforming use for a period of 12 months or greater constitutes prima facie evidence of an intention to abandon.
    - ii. If a nonconforming use is discontinued due to new development on the site on which the nonconforming use previously operated, then the right to continue operation of the nonconforming use no longer applies and the nonconforming use may not be re-established.
  - b. Unanticipated Damage or Destruction. When a structure containing a nonconforming use is damaged or destroyed by fire or other causes beyond the control of the owner, the nonconforming use may be re-

established in the same location within three years of the date that the damage or destruction occurred. When re-establishing a nonconforming use under this subsection, the nonconforming use may not be expanded. The structure may be repaired or reconstructed in accordance with applicable City Codes.

- c. Relinquishment. A nonconforming use is relinquished when the nonconforming use is replaced with a permitted or conditional use. Upon relinquishment, the right to continue operation of a nonconforming use no longer applies and the nonconforming use may not be re-established.

#### E. Regulations Applicable to Nonconforming Structures and Nonconforming Sites.

##### 1. Right to Remain.

- a. Nonconforming structures may remain unless specifically limited by the terms of subsection E of this section.
- b. Nonconforming sites may remain unless specifically limited by the terms of subsection E of this section.

##### 2. Alterations.

- a. If the following requirements are satisfied, then alterations may be made to a nonconforming structure, a nonconforming site, or to both a nonconforming structure and nonconforming site:
  - i. The alterations conform to applicable development regulations; and
  - ii. If required under subsection E.3 of this section, improvements are made that satisfy the proportional compliance requirements contained in subsection E.3 of this section.
- b. The following alterations shall not trigger the proportional compliance requirements contained in subsection E.3 of this section.

- i. If the project consists of multiple phases, as shown on a Master Development Plan submitted under Chapter 20.30V LUC, then the transfer of Floor Area Ratio (FAR) from one phase to another phase in amount that does not exceed 50% of the total FAR available in the sending phase.
  - (1).Exception: If unlimited FAR is available to all phases of the project, then the transfer of FAR in any amount between phases of the project shall not trigger the proportional compliance requirements contained in subsection E.3 of this section.
- ii. "Routine maintenance" within the meaning provided in subsection C of this section or as permitted in a critical area or critical area buffer under LUC 20.25H.055.C.3.h.
- iii. "Routine repair" within the meaning provided in subsection C of this section.
- iv. The reconfiguration of existing parking lots within the existing hard surface area so long as the following requirements are met:
  - (1). The reconfiguration maintains a parking supply that either conforms to all applicable parking requirements under this code or maintains the parking supply existing prior to the reconfiguration; and
  - (2). The area of the existing parking lot containing hard surface does not increase.
- v. New development consisting of a single phase, so long as the following requirements are met:
  - (1). If the new development occurs on a nonconforming site, then the nonconforming site shall be brought into compliance with all applicable development regulations.
  - (2). All structures shall conform to all applicable development regulations.
- vi. In projects consisting of multiple phases, as shown on a Master Development Plan submitted under Chapter 20.30V LUC, any individual phase with a project limit that exclusively contains new development so long as the following requirements are met:

(1). If any portion of a nonconforming site is located within that project limit, then that portion of the nonconforming site shall be brought into compliance with all applicable development regulations.

(2). All structures within the project limit of the phase exclusively containing new development shall conform to all applicable development regulations.

vii. Except as otherwise provided in this section, alterations to a nonconforming structure located on a nonconforming site shall not trigger the proportional compliance requirements contained in subsection E.3 of this section for the nonconforming site unless the alterations include permanent, nonstructural alterations to the landscape, above or below ground, of the nonconforming site. For the purposes of this section, the following shall not constitute permanent, nonstructural alterations to the landscape, above or below ground, of the nonconforming site:

(1). Ramps for ADA access;

(2). Replacement windows or sheathing;

(3). The addition of material enabling increased insulation;

(4). Structural features to improve safety;

(5). Additions required to comply with construction, energy codes, or building performance standards for residential conversion;

(6). Circulation features for fire and life safety;

(7). Mechanical equipment;

(8). Plumbing and ductwork; or

(9). Awnings and bays.

viii. Except as otherwise provided in this section, alterations to a nonconforming site shall not trigger the proportional compliance requirements contained in subsection E.3 of this section for any nonconforming structure located on the nonconforming site unless the

alterations include permanent, structural alterations, above or below ground, to the nonconforming structure.

- ix. Demolition of a vacant structure.
- x. Environmental remediation of a nonconforming site or a nonconforming structure, either external or internal.
- xi. Any improvements required by operation of Title 14 BCC.

### 3. Proportional Compliance.

- a. General Procedure. The following procedure shall be used to determine what improvements shall be required to be made in conjunction with alterations to a nonconforming structure, a nonconforming site, or to both a nonconforming structure and a nonconforming site:
  - i. Calculate the value of alterations in accordance with subsection E.3.b of this section.
  - ii. Determine if the value of alterations exceeds the threshold triggering required improvements under subsection E.3.c of this section.
    - (1). If yes, then proceed to subsection E.3.a.iii of this section.
    - (2). If no, then proportional compliance is not required.
  - iii. Determine the value of required improvements under subsection E.3.d of this section.
  - iv. Identify the list of required improvements for the applicable land use district contained in subsection E.3.e of this section.
  - v. Construct the required improvements on the applicable list in the order provided in subsection E.3.f of this section, as may be modified, up to the value of required improvements.
- b. Value of Alterations.
  - i. Projects consisting of a single phase. This subsection applies to projects consisting of a single phase.

- (1) Alterations made within the preceding three-years will be viewed as a single alteration for the purpose of determining the value of alterations.
  - (2) The value of alterations shall be determined based on all proposed alterations, except for those alterations listed in subsection 3.b.iii of this section, and not individual permits.
  - (3) The applicant shall use a construction cost estimator acceptable to the Director to estimate the value of alterations in accordance with subsection 3.b.i of this section.
  - (4) The applicant shall submit the estimate to the Director for approval. If the estimate, and the methodology used to produce the estimate, conform to the applicable requirements of this section, then the Director shall approve the estimate and accept it as the value of alterations for the development.
- ii. Projects consisting of multiple phases. This subsection applies to individual phases within a project consisting of multiple phases, as shown on a Master Development Plan submitted under Chapter 20.30V LUC, that have a project limit that either contains a nonconforming structure or is located, wholly or partially, on a nonconforming site.
- (1) For each individual phase, alterations made within the project limit of that phase within the preceding three-years will be viewed as a single alteration for the purpose of determining the value of alterations.
  - (2) For each individual phase, the value of alterations shall be determined for that phase by the Director based on all proposed alterations within the project limit of that phase, except for those alterations listed in subsection 3.b.iii of this section, and not individual permits.
  - (3) The applicant shall use a construction cost estimator acceptable to the Director to estimate the value of alterations within the project limit for each individual phase in accordance with subsection 3.b.ii of this section.
  - (4) The applicant shall submit the estimates for each individual phase to the Director for approval. If the estimate for a particular phase, and the methodology used to produce that estimate, conform to the

applicable requirements of this section, then the Director shall approve the estimate for that phase and accept it as the value of alterations for that particular phase.

iii. The following alterations or activities shall be excluded when calculating the value of alterations:

- (1) Alterations required as a result of a fire prevention inspection;
- (2) Alterations related to the removal of architectural barriers as required by the Americans with Disabilities Act, or the Washington State Building Code (Chapter 19.27 RCW);
- (3) Alterations required for the seismic retrofit of existing structures; and
- (4) Alterations required for onsite stormwater management facilities under Chapter 24.06 BCC.
- (5) The value of any routine maintenance or routine repair to be performed at the time of the alteration that triggers proportional compliance under subsection E.3 of this section.
- (6) The value of any reconfiguration of existing parking lots in a manner that meets the requirements of subsection E.2.b.iv of this section to be performed at the time of the alteration that triggers proportional compliance under subsection E.3 of this section.

c. Threshold Triggering Required Improvements.

i. General: The standards of this subsection shall be met when the value of alterations to a nonconforming structure, a nonconforming site, or to both a nonconforming structure and nonconforming site exceed the threshold established in LUC 20.25D.060.G.3.a, as may be, or has previously been, administratively adjusted.

ii. Exception:

- (1). In the LL-1, LL-2, SR-1, SR-2, SR-3, SR-4, and LDR-1 land use districts, the standards of this subsection shall be met when the value of alterations to a nonconforming structure, a nonconforming site, or to both a nonconforming structure and nonconforming site

exceed the replacement value of all primary structures located on the site.

d. Value of Required Improvements.

i. General: The value of required improvements shall be equal to 20 percent of the value of alterations calculated under subsection E.3.b of this section.

ii. Exceptions:

(1). If all of the improvements that would otherwise be required under subsection E.3.f of this section have been constructed in a manner that complies with all currently applicable development regulations, then the value of required improvements shall be equal to the minimum amount necessary to bring the nonconforming structure or nonconforming site into full compliance with this Code.

(2). In the LL-1, LL-2, SR-1, SR-2, SR-3, SR-4, and LDR-1 land use districts, the value of required improvements shall be equal to the minimum amount necessary to bring the nonconforming structure or nonconforming site into full compliance with this Code.

e. Required Improvements.

i. If the value of alterations exceeds the applicable threshold specified in subsection E.3.c of this section, then improvements shall be constructed.

ii. What improvements are required depends on the land use district in which the nonconforming structure or nonconforming site is located.

(1). In the LL-1, LL-2, SR-1, SR-2, SR-3, SR-4, and LDR-1 land use districts, improvements are required to the extent necessary to bring the nonconforming structure or nonconforming site into full compliance with this Code.

(2). Required improvements for each other land use district are listed in subsection E.3.f of this section.

iii. If improvements are required to be constructed under subsection E.3.e in a land use district other than the LL-1, LL-2, SR-1, SR-2, SR-3, and LDR-1 land use districts, then they shall be constructed in the order

provided in subsection 3.f of this section up to the value of required improvements calculated in subsection E.3.d of this section. The Director may approve a change in priority order for a specific development. The Director may only approve such a change when the applicant can demonstrate that the change in priority order is needed for one or more of the following reasons:

- (1) A change in priority order is necessary due to the value of required improvements specified under subsection E.3.d of this section is insufficient to construct the site improvement that would be required under the normal order of priority due to the existence of a unique site condition;
- (2) A change in priority order would allow a site improvement to be constructed that would close a gap in existing improvements, such as, but not limited to, a gap in an access corridor or frontage path; or
- (3) A change in priority order would allow the construction of a complete site improvement, rather than a partial site improvement, such as, but not limited to, a complete access corridor or frontage path.

iv. If the development both consists of multiple phases, as shown on a Master Development Plan submitted under Chapter 20.30V LUC, and the alteration occurs entirely within the project limit of only one phase, then no improvements shall be required by operation of this section within the project limit of any other phase.

v. If all of the improvements that would otherwise be required under subsection E.3.f of this section have been constructed in a manner that complies with all currently applicable development regulations, then the nonconforming structure or nonconforming site shall be brought into full compliance with this Code.

f. Required Improvements by Land Use District Established Under LUC 20.10.020:

i. LDR-2, LDR-3, MDR-1, and MDR-2 Land Use Districts (Part 20.20 LUC):

- (1). Compliance with the tree retention and replacement requirements contained in LUC 20.20.900. For the sole purpose of applying this subsection, the alteration shall constitute “development activity”

under LUC 20.20.900 for the purposes of applying the tree retention and replacement requirements.

- (2). If required for the site, then install or improve landscaping in a manner that meets the applicable requirements of LUC 20.20.520.
- (3). If the site contains impervious surface in an amount that exceeds what is allowed under LUC 20.20.460 and all applicable dimensional requirements, then removal of impervious surfaces in an amount that results in compliance with both LUC 20.20.460 and all applicable dimensional requirements.
- (4). If a critical area or critical area buffer exists, wholly or partially, on the site, then compliance with the requirements of Part 20.25H LUC.

ii. Downtown Land Use Districts (Part 20.25A LUC):

- (1). If required for the site under LUC 20.25A.175, then construction of the Grand Connection in a manner that meets the applicable requirements of LUC 20.25A.175.
- (2). If required for the site under LUC 20.25A.090, then the construction of walkways and sidewalks meeting the applicable requirements of LUC 20.25A.090.
- (3). If required for the site under LUC 20.25A.160, then the construction of through-block connections meeting the applicable requirements of LUC 20.25A.160.
- (4). If the site is located on an “A” Rights-of-Way under LUC 20.25A.170, then construction or installation of improvements necessary to meet the applicable requirements of LUC 20.25A.170.B.1 and LUC 20.25A.180.
- (5). If the site is located on a “B” Rights-of-Way under LUC 20.25A.170, then construction or installation of improvements necessary to meet the applicable requirements of LUC 20.25A.170.B.2 and LUC 20.25A.180.
- (6). If the site is located on a “C” Rights-of-Way under LUC 20.25A.170, then construction or installation of improvements

necessary to meet the applicable requirements of LUC 20.25A.170.B.3 and LUC 20.25A.180.

- (7). If the site is located on a “D” Rights-of-Way under LUC 20.25A.170, then construction or installation of improvements necessary to meet the applicable requirements of LUC 20.25A.170.B.4 and LUC 20.25A.180.
- (8). If the site is located on an “E” Rights-of-Way under LUC 20.25A.170, then construction or installation of improvements necessary to meet the applicable requirements of LUC 20.25A.170.B.5 and LUC 20.25A.180.
- (9). If the site is located on an alley with addresses under LUC 20.25A.170, then construction or installation of improvements necessary to meet the applicable requirements of LUC 20.25A.170.C and LUC 20.25A.180.
- (10). If required for the site under LUC 20.25A.175, then construction of major public open space meeting the applicable requirements of LUC 20.25A.175.
- (11). If required for the site under LUC 20.25A.075, then outdoor plaza space meeting the applicable requirements of LUC 20.25A.075.
- (12). If required for the site, then construction of a new gateway meeting the applicable requirements of LUC 20.25A.150.
- (13). If the site contains second-level active uses under LUC 20.25A.170, then construction or installation of improvements necessary to meet the applicable requirements of LUC 20.25A.170.D.
- (14). Install or improve landscaping in a manner that meets the applicable requirements of LUC 20.25A.110 and LUC 20.25A.120.
- (15). If the site contains any existing fences, then removal or modification of the existing fences as necessary to meet the applicable requirements of LUC 20.25A.110.D.

iii. Factoria 1 Land Use District (Part 20.25F1 LUC):

- (1). If the site is adjoining SE 38th Street, then construct a second mid-block pedestrian connection across SE 38th Street in accordance with LUC 20.25F1.060 and LUC 20.25F1.110.
- (2). If the site is adjoining SE 41st Place, then construct a mid-block pedestrian connection across SE 41st Place in accordance with LUC 20.25F1.060 and LUC 20.25F1.110.
- (3). If the site is adjoining the intersection of 127th Avenue SE and SE 40th Street or the intersection of 125th Avenue SE and SE 40th Street, then construct a major gathering place in the vicinity of that intersection in accordance with LUC 20.25F1.090 and LUC 20.25F1.110.
- (4). If the site is adjoining the mid-block pedestrian connection across 124th Ave SE providing connection to the Factoria Trail, then construction of pedestrian path to continue the Factoria Trail into the F1 Land Use District in accordance with LUC 20.25F1.070 and LUC 20.25F1.110.
- (5). If the site is adjoining an on-site street depicted in LUC 20.25F1.015, then construct weather protection in accordance with LUC 20.25F1.115.D.
- (6). If the site is adjoining the intersection of Factoria Boulevard and SE 38th Street, SE 40th Street, or SE 41st Place, then construct a new gateway at the intersection(s) adjoining the project limit in accordance with LUC 20.25F1.080 and LUC 20.25F1.110.
- (7). Install or improve landscaping in a manner that meets the applicable requirements of LUC 20.20.520 and LUC 20.25F1.050.
- (8). If the site contains impervious surface in an amount that exceeds what is allowed under LUC 20.20.460 and LUC 20.25F1.040, then removal of impervious surfaces in an amount that results in compliance with both LUC 20.20.460 and LUC 20.25F1.040.
- (9). If a critical area or critical area buffer exists, wholly or partially, on the site, then compliance with the requirements of Part 20.25H LUC.

iv. Community Mixed-Use Design Districts (Part 20.25I LUC):

- (1). If required for the site under LUC 20.25I.050.A, then pedestrian-oriented frontage meeting the requirements of LUC 20.25I.050.
- (2). If required for the site under LUC 20.25I.050.B, then transparency for the first story of any building fronting a public right-of-way meeting the requirements of LUC 20.25I.050.
- (3). If required for the site under LUC 20.25I.050.B, then transparency and weather protection for publicly accessible entrances fronting a public right-of-way meeting the requirements of LUC 20.25I.050.
- (4). Install or improve landscaping in a manner that meets the applicable requirements of LUC 20.20.520 and LUC 20.25I.050.C.
- (5). If parking structures or surface parking are located on the site, then compliance with the applicable requirements of LUC 20.25I.050.C.
- (6). If required for the site under LUC 20.25I.070, then compliance with transition standards under LUC 20.25I.070.
- (7). If the site contains impervious surface in an amount that exceeds what is allowed under LUC 20.20.460 and LUC 20.20.010, then removal of impervious surfaces in an amount that results in compliance with both LUC 20.20.460 and LUC 20.20.010.
- (8). If a critical area or critical area buffer exists, wholly or partially, on the site, then compliance with the requirements of Part 20.25H LUC.

v. The MI Land Use District (Part 20.25J LUC):

- (1). If the site is adjoining the Eastrail Corridor, then construction of a pedestrian and bicycle connection from the site to Eastrail in a manner that meets the requirements of LUC 20.25J.080 and all other applicable city standards for pedestrian and bicycle connections.
- (2). If the site is adjoining NE 8th Street, NE 12th Street, NE 10th Street, or 116th Avenue NE, then construction of sidewalks meeting the requirements of LUC 20.25J.070.A and all other applicable city standards for sidewalks.

- (3). If the site is adjoining NE 8th Street, NE 12th Street, NE 10th Street, or 116th Avenue NE, then installation of street trees and plantings in a manner that meets the requirements of LUC 20.25J.070.A.
- (4). If the site is adjoining the intersections of 116th Ave NE and NE 8th Street, NE 10th Street, or NE 12th Street, then construct a new gateway at the intersection(s) adjoining the project limit in accordance with LUC 20.25J.070.B and LUC 20.25J.080.
- (5). If the site is adjoining a transit facility, then construct weather protection and other pedestrian amenities meeting the requirements of LUC 20.25J.080.B and LUC 20.25J.080.C.
- (6). If the site contains or is adjoining a parking structure, then construct improvements to pedestrian connections between the parking structure and the principal use in a manner that meets the requirements of LUC 20.25J.050, improves pedestrian safety, and reduces conflict between motor vehicles and other means of transportation.
- (7). Install or improve landscaping in a manner that meets the applicable requirements of LUC 20.20.520 and LUC 20.25J.060.
- (8). If the site is located within DA2 or DA3, then improvements to any existing blank facades, as defined in LUC 20.25J.080.D, located on the perimeter of the MI land use district or on buildings that are highly visible from any public right-of-way in a manner that meets the requirements of LUC 20.25J.080.D.
- (9). If the site is located within DA2 or DA3, then construction of weather protection meeting the requirements of LUC 20.25J.080.D.
- (10). If the site is located within DA2 or DA3, then construct or improve ground floor building elements adjoining public right-of-way that meet the requirements of LUC 20.25J.080.D.
- (11). If a critical area or critical area buffer exists, wholly or partially, on the site, then compliance with the requirements of Part 20.25H LUC.

vi. The OLB-OS Land Use District (Part 20.25L LUC):

- (1). Install or improve landscaping in a manner that meets the applicable requirements of LUC 20.20.520 and LUC 20.25L.040.
- (2). Removal of invasive or noxious species, as defined in LUC 20.20.900, from the open space required to be retained or developed under LUC 20.25L.010 in a manner that complies with all applicable requirements governing such removal.
- (3). Construct or improve weather protection at building entrances in a manner that meets the requirements of LUC 20.25L.040.
- (4). If the site contains impervious surface in an amount that exceeds what is allowed under LUC 20.20.460 and LUC 20.25L.030, then removal of impervious surfaces in an amount that results in compliance with both LUC 20.20.460 and LUC 20.25L.030.
- (5). If a critical area or critical area buffer exists, wholly or partially, on the site, then compliance with the requirements of Part 20.25H LUC.

vii. The CCC Land Use District (Part 20.25N LUC):

- (1). Install or improve landscaping in a manner that meets the applicable requirements of LUC 20.20.520 and LUC 20.25N.060.
- (2). If the site contains impervious surface in an amount that exceeds what is allowed under LUC 20.20.460 and all applicable dimensional requirements, then removal of impervious surfaces in an amount that results in compliance with both LUC 20.20.460 and all applicable dimensional requirements.
- (3). If a critical area or critical area buffer exists, wholly or partially, on the site, then compliance with the requirements of Part 20.25H LUC.

viii. Eastgate Transit Oriented Development Land Use District (Part 20.25P LUC):

- (1). If required for the site under LUC 20.25P.090, then construction or improvement of sidewalks meeting the requirements of LUC 20.25P.090.B.

- (2). If required for the site under LUC 20.25P.085, then construction of ground floor wholesale, retail, and services uses in building frontages in a manner that meets the requirements of LUC 20.25P.085.
- (3). If required for the site under LUC 20.25P.080.C, then construction of ground floor habitable space within existing parking structures in a manner that meets the requirements of LUC 20.25P.080.C.
- (4). Install or improve landscaping in a manner that meets the applicable requirements of LUC 20.20.520 and LUC 20.25P.070.
- (5) If the site is adjoining an A street or B street on the figure in LUC 20.25P.090.A.3, then installation of street trees and plantings in a manner that meets the requirements of LUC 20.25P.070.B.
- (6). If the site contains any existing fences, then removal or modification of the existing fences as necessary to meet the requirements of LUC 20.25P.070.C.
- (7). If the site is adjoining the Eastgate Park and Ride, then construction of a pedestrian access connection to the Eastgate Park and Ride meeting the requirements of LUC 20.25P.100.
- (8). If the site is adjoining to a pre-existing pedestrian access connection to the Eastgate Park and Ride, then construction of an extension to the pre-existing connection to allow access from the site to the Eastgate Park and Ride in a manner that meets the requirements of LUC 20.25P.100.
- (9). If the site is adjoining to a gateway location, as shown in the street diagram contained in LUC 20.25P.090.A.3, then construction of a new gateway at that location meeting the requirements of LUC 20.25P.100.
- (10). Construction of weather protection meeting the requirements of LUC 20.25P.100.
- (11). If the site contains impervious surface in an amount that exceeds what is allowed under LUC 20.20.460 and LUC 20.25P.060, then removal of impervious surfaces in an amount that results in compliance with both LUC 20.20.460 and LUC 20.25P.060.

(11). If a critical area or critical area buffer exists, wholly or partially, on the site, then compliance with the requirements of Part 20.25H LUC.

ix. East Main Transit Oriented Development Land Use Districts (Part 20.25Q LUC):

(1). If required for the site under LUC 20.25Q.100, then construction or improvement of sidewalks in a manner that meets the requirements of LUC 20.25Q.100.A.

(2). If required for the site under LUC 20.25Q.100, then construction of a pedestrian and bicycle route to connect 112<sup>th</sup> Avenue SE to 114<sup>th</sup> Avenue SE in a manner that meets the requirements of LUC 20.25Q.100.B.

(3). If a building exists on the site, then the construction of a six-foot-wide walkway from the nearest public sidewalk or street right-of-way to the main building entrance, unless the Director determines the walkway is not needed to provide safe pedestrian access to the building. The Director may allow modification to the width of walkways so long as safe pedestrian access to the Building is still achieved.

(4). If required for the site under LUC 20.25Q.080, then installation of street trees and landscaping in a manner meeting the requirements of LUC 20.25Q.080.A.

(5). Install or improve landscaping in a manner that meets the applicable requirements of LUC 20.20.520 and LUC 20.25Q.080.B.

(6). If the site contains any existing fences, then removal or modification of the existing fences as necessary to meet the requirements of LUC 20.25Q.080.C.

(7). If required for the site under LUC 20.25Q.130.D, the construction of a new gateway in a manner that meets the requirements of LUC 20.25Q.130.D.

(8). If a critical area or critical area buffer exists, wholly or partially, on the site, then compliance with the requirements of Part 20.25H LUC.

x. PO, LI, and GC Land Use Districts:

- (1). Compliance with the tree retention and replacement requirements contained in LUC 20.20.900. For the sole purpose of applying this subsection, the alteration shall constitute “development activity” under LUC 20.20.900 for the purposes of applying the tree retention and replacement requirements.
- (2). If required for the site, then Install or improve landscaping in a manner that meets the applicable requirements of LUC 20.20.520.
- (3). If the site contains impervious surface in an amount that exceeds what is allowed under LUC 20.20.460 and LUC 20.20.010, then removal of impervious surfaces in an amount that results in compliance with both LUC 20.20.460 and LUC 20.20.010.
- (4). If a critical area or critical area buffer exists, wholly or partially, on the site, then compliance with the requirements of Part 20.25H LUC.

xi. UC, MU-H, MU-M, and MUR-M Land Use Districts (Part 20.25R LUC):

- (1). If required for the site under LUC 20.25R.020.C, then non-motorized access to Eastrail meeting the requirements of LUC 20.25R.020.
- (2). If required for the site under LUC 20.25R.020.C, then emergency vehicle access to the Eastrail corridor meeting the requirements of LUC 20.25R.020.
- (3). If required for the site under LUC 20.25R.030.C, then major public open space meeting the requirements of LUC 20.25R.030.C.
- (4). If required for the site under LUC 20.25R.030.G., then frontage paths along the Eastrail corridor meeting the requirements of LUC 20.25R.030.G.
- (5). If required for the site under LUC 20.25R.020.B, then access, block, and circulation required under LUC 20.25R.020.B.
- (6). Landscaping meeting the requirements of LUC 20.25R.030.C and LUC 20.20.520.

(7). If required for the site under LUC 20.25R.030.G, then active uses along the Eastrail corridor meeting the requirements of LUC 20.25R.030.G.

(8). If required for the site under LUC 20.25R.030.G, then active uses along the Grand Connection meeting the requirements of LUC 20.25R.030.G.

(9). If required for the site under LUC 20.25R.030.E, then weather protection meeting the requirements of LUC 20.25R.030.E.

(10). If required for the site under LUC 20.25R.030.G, then a landscape buffer from the property line adjoining Interstate 405 meeting the requirements of LUC 20.25R.030.E.

4. Unanticipated Damage or Destruction of a Nonconforming Structure or a Nonconforming Site.

a. When a nonconforming structure or a nonconforming site is damaged by fire or other causes beyond the control of the owner, the nonconforming structure or the nonconforming site may be repaired to its condition prior to the damage, provided that such repair shall be commenced within one year of the date of damage and diligently pursued. Changes to the footprint or exterior proposed as part of the repair must conform to this code. If repair is not commenced within one year of the date of damage, then the repair must conform to this code.

b. When a nonconforming structure or a nonconforming site is destroyed by fire or other causes beyond the control of the owner, the nonconforming structure or the nonconforming site may be reconstructed in its original configuration, provided that such reconstruction shall be commenced within two years of the date of destruction and diligently pursued. Changes to the footprint or exterior proposed as part of the reconstruction must conform to this code. If reconstruction is not commenced within two years of the date of destruction, then the reconstruction must conform to this code.

F. Relationship to Title 14 BCC. The requirements of this section operate independently from the requirements of Title 14 BCC. In relation to the same development, the operation of the requirements of this section may result in no required improvements while the operation of the requirements of Title 14 BCC may require improvements.