

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE RELATED TO LAND USE REGULATIONS, PROVIDING EXCEPTIONS TO THE SIZE LIMIT FOR RETAIL ESTABLISHMENTS WITHIN LIMITED AREAS OF THE CITY AND ESTABLISHING NEW STANDARDS FOR SAID EXCEPTIONS BY AMENDING BELLINGHAM MUNICIPAL CODE 20.00.080; 20.00.110; 20.10.025; 20.38.050.C.; 20.38.050.D. AND ADDING SUBSECTION 20.12.030.E**

**WHEREAS**, on February 12<sup>th</sup>, 2007 the City adopted an ordinance establishing a 90,000 square foot size cap on individual retail establishments; and

**WHEREAS**, the Planning and Community Development Director initiated an amendment at the request of the Mayor to provide exceptions the size limit within limited areas of the City if certain standards are met; and

**WHEREAS**, a Determination of Nonsignificance for the proposed amendment was issued under the State Environmental Policy Act; and

**WHEREAS**, as required by RCW 36.70A, notice of the City's intent to adopt the proposed code amendment was sent to the Dept. of Community, Trade and Economic Development on \_\_\_\_\_; and

**WHEREAS**, after mailed and published notice as required by BMC Chapter 21.10, the Planning Commission held a public hearing on \_\_\_\_\_ on the proposed code amendments; and

**WHEREAS**, the Planning Commission considered the staff report and comments received and thereafter transmitted their recommendation to the City Council, and

**WHEREAS**, after mailed and published notice as required by BMC 21.10, the City Council held a public hearing on the proposed code amendment on \_\_\_\_\_;

**NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:**

**Section 1.** The City Council hereby adopts the following findings of fact and conclusions:

*[to be inserted]*

**Section 2.** Areas 17C, 18, 19, 20, 25, 26 and 26A of the Guide Meridian/Cordata Neighborhood Zoning Table (BMC 20.00.080) are hereby amended to add a Special Regulation as shown on Exhibit A.

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**Section 3.** Areas 1, 1A, 2, 4, 5, 8, 9, 10, 12, 12A and 12B of the Meridian Neighborhood Zoning Table (BMC 20.00.110) are hereby amended to add a Special Regulation as shown on Exhibit B.

**Section 4.** Bellingham Municipal Code 20.10.025 is hereby amended as follows:

**20.10.025 – Retail Establishments - Maximum Size**

**A.** An individual retail establishment, including but not limited to membership warehouse clubs, discount stores, specialized product stores and department stores, shall not exceed 90,000 square feet of gross floor area. This restriction shall apply in all zones, including all General Use Types and Use Qualifiers. with the following exception: if this Section conflicts with any other provisions of this Title, this Section shall prevail.

In Guide Meridian/Cordata Neighborhood Zoning Map Areas 17C, 18, 19, 20, 25, 26 and 26A and Meridian Neighborhood Zoning Map Areas 1, 1A, 2, 4, 5, 8, 9, 10, 12, 12A and 12B the size limit may be exceeded if any new or expanded impervious surfacing meets a Green Factor score of 0.3.

**B.** For the purpose of Subsection 20.10.025.A., gross floor area shall consist of the sum of the gross horizontal areas of all floors within the inside perimeter of the exterior walls of the structure or tenant space and roofed or partially walled outdoor areas reserved for the display, storage, or sale of merchandise, including accessory uses inside the primary retail establishment. Structured parking is excluded. The gross floor area of adjacent stores shall be aggregated in cases where the stores (1) are engaged in the selling of similar or related merchandise and operate under common ownership or management; (2) share check stands, a warehouse, or a distribution facility; or (3) otherwise operate as associated, integrated or cooperative business enterprises.

**C.** A building space occupied by an existing single retail establishment larger than 90,000 square feet may change occupancy to a different retail establishment of the same or smaller size.

**D.** If this Section conflicts with any other provisions of this Title, this Section shall prevail.

**Section 5.** Bellingham Municipal Code Subsection 20.38.050.C. regarding Planned Commercial zones is hereby amended as follows:

[ 1. and 2. No change.]

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**3. Maximum Size/Density.**

- a. For planned projects within a commercial general use type, the maximum size of the floor area for retail buildings shall comply with any floor area restriction contained within the applicable Neighborhood Zoning Table under "Density".
- b. An individual retail establishment, including but not limited to membership warehouse clubs, discount stores, specialized product stores and department stores, shall not exceed 90,000 square feet of gross floor area—unless:
  - i. It is located in an Area specifically exempted from the size limit in the Neighborhood Table of Zoning Regulations and
  - ii. Any new or expanded impervious surfacing meets a Green Factor score of 0.3.
- c. For the purpose of ~~this~~ Subsection C.3.b., gross floor area shall consist of the sum of the gross horizontal areas of all floors within the inside perimeter of the exterior walls of the structure or tenant space and roofed or partially walled outdoor areas reserved for the display, storage, or sale of merchandise, including accessory uses inside the primary retail establishment. Structured parking is excluded. The gross floor area of adjacent stores shall be aggregated in cases where the stores (1) are engaged in the selling of similar or related merchandise and operate under common ownership or management; (2) share check stands, a warehouse, or a distribution facility; or (3) otherwise operate as associated, integrated or cooperative business enterprises.
- d. A building space occupied by an existing single retail establishment larger than 90,000 square feet may change occupancy to a different retail establishment of the same or smaller size.

[4. through 12. No change.]

**Section 6.** Bellingham Municipal Code Subsection 20.38.050.D. regarding Planned Industrial zones is hereby amended as follows:

[1. and 2. No change.]

**3. Maximum Size/Density.**

- a. An individual retail establishment, including but not limited to membership warehouse clubs, discount stores, specialized product stores and department stores, shall not exceed 90,000 square feet of gross floor area—unless:

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- i. It is located in an Area specifically exempted from the size limit in the Neighborhood Table of Zoning Regulations and
  - ii. Any new or expanded impervious surfacing meets a Green Factor score of 0.3.
- b. For the purpose of this Subsection D.3., gross floor area shall consist of the sum of the gross horizontal areas of all floors within the inside perimeter of the exterior walls of the structure or tenant space and roofed or partially walled outdoor areas reserved for the display, storage, or sale of merchandise, including accessory uses inside the primary retail establishment. Structured parking is excluded. The gross floor area of adjacent stores shall be aggregated in cases where the stores (1) are engaged in the selling of similar or related merchandise and operate under common ownership or management; (2) share check stands, a warehouse, or a distribution facility; or (3) otherwise operate as associated, integrated or cooperative business enterprises.
- c. A building space occupied by an existing single retail establishment larger than 90,000 square feet may change occupancy to a different retail establishment of the same or smaller size.

**Section 7.** Bellingham Municipal Code Subsection 20.12.030. regarding landscaping is hereby amended to add a new Subsection E. Green Factor as follows:

**E. Green Factor.**

1. The green factor score for a lot is determined by:
  - a. Multiplying the square feet, or equivalent square footage where applicable, of each of the existing and proposed landscape elements in Chart A by the green area multiplier shown for that element.
  - b. Adding together all the products computed under 1.a. above to determine the total green area factor.
  - c. Divide the total green area factor by the lot area to determine the green area factor score.
2. If multiple landscaping elements occupy an area (for example, groundcover under a tree), the full square footage or equivalent square footage of each element is used to calculate the product for that element.
3. Public right-of-way is not included in parcel size calculation.
4. Landscape elements that are in rights-of-way may be counted to calculate the score if they are contiguous with the parcel.

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5. For vegetated walls, use the square footage of the portion of the wall covered by vegetation.
6. For all elements other than trees, large shrubs and vegetated walls, square footage is determined by the area of the portion of a horizontal plane that underlies the element.
7. Permeable paving may not qualify for more than one-third of the green factor numerator for any one site.

**Section 8.** Chart A referenced in Bellingham Municipal Code Section 20.12.030.E. above is added to the Bellingham Municipal Code as shown in Exhibit C.

**PASSED** by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Council President

**APPROVED** by me this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Mayor

**ATTEST:** \_\_\_\_\_  
Finance Director

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Office of the City Attorney

Published:  
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