MEMO

To: Mayor Kwarsick, City Council
From: Jeff Arango, AICP, CFM – Director of Community Planning
Date: February 16, 2012
Subject: 2nd Reading – Ordinances on Affordable Housing and Innovative Mixed-Use Development

A. BACKGROUND

The PAB held a public hearing on November 14, 2011 to consider six proposed additions or amendments to the city’s development regulations, several of which have been recently adopted by the city council. The two remaining ordinances to be considered by the council address demonstration programs for affordable housing and mixed-use development. The PAB voted unanimously to recommend the proposals for adoption by the city council following the November 14, 2011 public hearing.

A State Environmental Policy Act (SEPA) determination of Non Significance was issued on the proposals on September 28, 2011 and the State Department of Commerce has completed their required review of the proposals and responded with no significant comments on September 28, 2011. The city attorney’s office has completed their review of the proposals.

The city council moved the ordinances to a second read on February 6, 2012. The only amendments since the first reading were in response to the edits/comments submitted by Councilmember Seligson at the February 6, 2012 meeting.

B. SUMMARY OF THE PROPOSALS

Item 1. Affordable Housing. Adoption of an Ordinance to allow a limited number of demonstration projects for innovative permanently affordable residential units within the residential and mixed residential zones. Both the Growth Management Act (Chapter 36.70A) and the Housing Policy Act (Chapter 43.185B. RCW) require the City to provide housing opportunities for all economic segments of the community. Similarly the city’s comprehensive plan encourages revisions to the city’s development regulations to increase the supply of affordable housing.

Item 2. Mixed-Use Development. Adoption of an ordinance to allow a limited number of Mixed Use Housing Demonstration Projects within the Central Business (CB) Zone. The purpose of this ordinance is to help achieve the goals and objectives of the land use, economic development, and housing elements of the Langley Comprehensive Plan by providing for a program for individual projects that promote infill mixed use development; incorporate more efficient use of land and energy; offer more diverse housing options, and incorporate smart growth designs into new development.
C. DETAILS

Item #1: Affordable Housing

Purpose: To promote the development of innovative affordable housing projects the ordinance provides flexibility in development standards and incentives for the development of affordable housing. Projects may be approved within any residential zoning district within the city. The details and purpose of the program are:

- To promote a community based process involving broad constituencies of stakeholders
- To allow modifications to the development standards (including density increases) as a means to further the goals and purpose of the program.
- To promote diverse housing options
- To inform future amendments to the City’s development and design standards
- To promote perpetually affordable housing
- To require a neighborhood meeting for all projects in accordance with the notice requirements in the Langley Municipal Code.
- Ordinance sunsets after two years unless extended by the city council

Following expiration of the ordinance, City staff and the PAB will produce a report evaluating how well the projects achieved the goals of the ordinance and the goals of the enabling Comprehensive Plan policy language.

Items #2 Mixed-Use Development

Purpose: To promote innovative mixed-use development in the downtown core by promoting broad based public involvement, high quality design, diverse housing types and sustainable development. Below is a summary of the key aspects of the program:

- A project review panel consisting of representatives from a broad range of stakeholders in the areas of city government, affordable housing, business, youth (under 18 years old) and interested citizens.
- The review board may recommend modifications to the city’s development standards that meet the goals of the innovative mixed-use development program
- Must demonstrate public benefits within the project including high quality design, public space and affordable housing.
- Applies only to the Central Business (CB) Zone and must be mixed-use
- Allows up to three projects; ordinance sunsets after three projects or five years, whichever is sooner. The ordinance may be extended by the city council.
- Projects may inform future design standards
- A neighborhood meeting is required for all projects following the typical notice requirements under the Langley Municipal Code.
D. SUPPORT FOR PROPOSALS IN COMPREHENSIVE PLAN AND STATE LAW

GENERAL DISCUSSION APPLICABLE TO BOTH ORDINANCES

Both items support the following Growth Management Act Goals:

- **Housing.** Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing.

- **Economic development.** Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

- **Reduce sprawl.** Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

- **Urban growth.** Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

Comprehensive Plan Goals and Policies in support of the proposals:

**Innovative and Diverse Housing**

Work to provide a mix of housing in Langley and facilitate residential development in the form of single-family homes, duplexes, condominiums, apartments, townhouses, and other innovative forms of housing.

Policies

1.1 Review the City's development regulations to determine where more flexible development standards could be considered and, thereby, reduce development costs.

1.2 Encourage developers to design and build innovative housing options including creative housing alternatives for individuals at each stage of life.

**Character and Density**

Seek opportunities to ensure that various types and densities of housing are permitted in sufficient numbers to meet projected housing needs, while maintaining the character of existing neighborhoods.

Policies

2.1 Assure that adequate areas are available for higher-density residential development, are appropriately located, and are served by the full range of city services.

2.3 Encourage the distribution of various housing types throughout the city to provide a wide variety of neighborhood settings and avoid undue concentration in particular neighborhoods.

**Pedestrian Orientation, Community and Safety**

Encourage housing with a pedestrian orientation and housing that maintains a development pattern consistent with promoting a sense of community and safety.
Distribution of Land Uses

Policies

3.6 Encourage innovation and diversity in the development of housing affordable to a range of household incomes through such strategies as clustered residential developments, density bonuses for developments that include "affordable" unit/lots, accessory dwelling units, cottage housing developments, and inclusionary zoning.

Housing Affordability

Encourage the opportunity for all residents to purchase or rent affordable housing.

Policies

4.1 Use innovative techniques for enabling affordable housing, such as accessory dwelling units, a housing trust fund, inclusionary zoning, density bonuses, and similar options.

4.2 Consider increasing densities, permitting density bonuses, allowing manufactured housing, and eliminating minimum lot-size requirements, as well as other provisions that could increase the affordability of housing.

4.4 Work with non-profit and governmental housing providers to build permanently affordable housing units.

4.7 Endorse and support the efforts of nonprofit housing organizations, whether governmental such as the Housing Authority of Island County, or community-based such as the Saratoga Community Housing, Whidbey Island Share a Home, or Habitat for Humanity; and endorse and support local organizations in their efforts to obtain technical and financial resources through private organizations and governmental agencies.

Environmentally Friendly Housing

Support efforts to make residential properties efficient in their use of energy, water, and other resources and in other ways environmentally friendly.

Policies

6.1 Create development regulations that encourage, and as appropriate require, homeowners and developers to make existing and new-construction housing resource efficient and environmentally friendly.

General Planning Direction

Ensure that development within the Langley planning area preserves and enhances the qualities that make Langley such a desirable place to live and visit, including the rural, small-town, marine atmosphere; scenic natural setting; waterfront; center of cultural activity; and the rural, early northwest character of the downtown area with a mix of services and activities for both residents and visitors to the community.

Distribution of Land Uses

Encourage the distribution and general location of land-use densities and intensities to coincide with growth projections, subarea plans, and availability of public services.
Policies

3.6 Encourage innovation and diversity in the development of housing affordable to a range of household incomes through such strategies as clustered residential developments, density bonuses for developments that include “affordable” units/lots, accessory dwelling units, cottage housing developments, and inclusionary zoning.

3.7 Encourage a more active waterfront, including expanded marina facilities and increased access to the shorelines via pathways and stairways.

3.10 Encourage the primary commercial development to locate in the downtown core area.

3.11 Encourage development that promotes livability, pedestrian orientation, and quality design and limits stress factors such as noise pollution and traffic congestion.

Diverse and Stable Economy
Support the local economy by providing a predictable development atmosphere, emphasize diversity in the range of goods and services, and make every effort to see that employment opportunities are balanced with a range of housing opportunities.

Policies

4.1 Encourage development of a wide range of commercial uses to support local residents as well as the needs of the visiting public.

4.2 Encourage further development of the marina and waterfront area.

Economic Development
Develop the eastern waterfront with multiple uses that provide broad public benefit and enhance overall community quality of life. Do so in balance with other aspects of the community and in ways that are consistent with the scale and character of Langley. Incorporate residential use in the downtown and along the waterfront in ways that complement, enhance, and do not detract from the primary commercial, civic, and public uses of these areas, that preserve the scale and character of Langley, and that preserve public views and access in these areas.

Both proposals respond to the need for flexible and less restrictive standards.

In some cases, adopting more flexible or less restrictive standards can allow infill development (residential and mixed use) to go forward, where existing regulations might discourage such development. Many infill parcels were created under regulations which have been replaced by newer, stricter standards. The size or configuration of these older parcels may make it difficult or impossible to develop them while meeting current standards. For instance, new requirements for on-site parking or large setbacks may not leave adequate area to reasonably develop the pre-existing lot. In many cities, older but desirable neighborhoods could not be built under current standards, which favor more suburban, auto-oriented type development. Where larger parcels exist, it may be physically possible to carve out new lots under current standards. However, rising land values and improvements requirements may make it unprofitable to develop under current density allowances. Code changes are generally possible while still maintaining desired neighborhood qualities, if a city is clear about what it is really trying to achieve.
Overall Planning Department Work Program

The city is currently implementing a work plan to update its comprehensive plan, conduct a build out analysis and refine the urban growth area boundaries. Subsequently the city will develop zoning code amendments that specifically address innovative housing projects. Until permanent ordinances regarding innovative housing projects can be implemented, there is a need to allow regulated innovative housing projects on an interim basis. The demonstration projects allowed under the interim regulation can demonstrate how innovation can be a win-win-win: developers, builders, buyers and renters have more choices, communities get new housing that fits well into existing neighborhoods, economic revitalization, and fulfilling the goals under the Growth Management Act (GMA). The demonstration projects will help shape the future strategies that will work best under various circumstances. The emphasis is on housing and mixed use developments that can work well in infill sites.

With regard to housing, innovation does not necessarily suggest development that is radical or unusual. The goal is not to provide “adventurous” housing: the vast majority of people are very conservative when they invest in homes or income properties. Rather, the innovation comes from efficient and creative use of spaces, features and amenities, both within the overall development and the individual homes. Innovative housing seeks the right size for each market segment, offering just the things it needs. The result is housing that costs less, uses less land, has lower impacts on the environment, and often provides opportunities for social interaction.

C. Recommendation

The planning agency recommends the city council adopt the ordinance on innovative mixed-use and affordable housing.
CITY OF LANGLEY

ORDINANCE NO. ______

AN ORDINANCE OF THE CITY OF LANGLEY, WASHINGTON, RELATING TO THE CITY'S ZONING CODE CONTAINED IN TITLE 18 OF THE LANGLEY MUNICIPAL CODE; ADOPTING NEW LMC CHAPTER 18.03 WHICH ESTABLISHES A DEMONSTRATION PROGRAM FOR MIXED USE HOUSING PROJECTS WITHIN THE CENTRAL BUSINESS ZONE; AND ADOPTING A NEW LMC CHAPTER 18.04 WHICH ESTABLISHES A DEMONSTRATION PROGRAM FOR DEVELOPMENT OF INNOVATIVE PERMANENTLY AFFORDABLE RESIDENTIAL UNITS WITHIN THE CITY’S THREE RESIDENTIAL ZONES AND THE MIXED RESIDENTIAL ZONE.

WHEREAS, the City of Langley adopted a Growth Management Comprehensive Plan in December 19, 2007, which was developed and approved consistent with the Washington State Growth Management Act (RCW Chapter 36.70A); and

WHEREAS, pursuant to RCW 36.70A.130 each local comprehensive land use plan and development regulation is subject to continuing review and evaluation by the City; and

WHEREAS, both the Growth Management Act and the Housing Policy Act require the City to provide housing opportunities for all economic segments of the community; and

WHEREAS, the City’s Comprehensive Plan encourages revisions to the City’s development regulations to increase the supply of affordable housing; and

WHEREAS, RCW 43.185B.007 states that “[i]t is the goal of the state of Washington to coordinate, encourage, and direct, when necessary, the efforts of the public and private sectors of the state and to cooperate and participate, when necessary, in the attainment of a decent home in a healthy, safe environment for every resident of the state” and “that attainment of that goal is a state priority”; and

WHEREAS, in accordance with the directives of the Growth Management Act, the Housing Policy Act, and the City’s Comprehensive Plan, the purpose of this affordable housing demonstration ordinance is to facilitate the construction of innovative owner/renter occupied affordable homes by organizations that can demonstrate to the City Council's satisfaction, after review and approval by the Planning, an ability to finance, manage, and monitor affordable home sales/rents to assure permanent affordability; and

WHEREAS, the City Council finds that providing earned increased density and regulatory modifications for affordable home ownership projects which meet appropriate criteria will help promote the development of affordable home ownership opportunities; and

WHEREAS, single family neighborhood character can be protected, maintained, and possibly enhanced by requiring that affordable home projects be developed consistent with the City’s design review guidelines; and

WHEREAS, Washington State adopted its Growth Management Act to address problems associated with the spread out patterns of growth that have predominated in recent decades; and
WHEREAS, the mixed use demonstration program contained in this Ordinance is intended to implement comprehensive plan goals and policies encouraging infill development, more efficient use of the remaining developable land, and more efficient use of existing infrastructure, and protection of environmentally sensitive areas and rural lands; and

WHEREAS, infill development and innovative affordable housing developments should be designed to fit the existing context in order to gain neighborhood acceptance and cooperative partnership between government, the development community, the neighborhood, and other resources is essential to achieve infill success; and

WHEREAS, both demonstration programs are established for trial periods to assist the City in the development of regulations that will promote infill and affordable housing development upon the conclusion of the demonstration programs; and

WHEREAS, in accordance with RCW Chapter 36.70A, a request for expedited review was received by the State of Washington Department of Commerce on September 12, 2011, and was granted expedited review on September 28, 2011; and

WHEREAS, the Planning Advisory Board (PAB) met in open public meetings on October 10 and 24, 2011 to discuss the proposal that is subject of this Ordinance prior to scheduling the matter for a public hearing; and

WHEREAS, the City's SEPA Responsible Official has reviewed this Ordinance and related environmental checklist and has issued a Determination of Non-Significance (DNS) threshold determination under the State Environmental Policy Act (SEPA); and

WHEREAS, after due and proper notice the PAB held a public hearing on November 14, 2011 on the two proposals; and

WHEREAS, the PAB considered the staff report and public comment received and recommended that, with amendments responsive to the public testimony and suggestions of PAB members, this Ordinance be adopted; and

WHEREAS, on November 21, 2011, the PAB issued written Findings of Fact, Conclusions of Law and Recommendation attached hereto as Exhibit A, in which the PAB recommended that the City Council adopt the proposed changes to LMC Title 19 that are contained in this Ordinance; and

WHEREAS, on February 21, 2012, the City Council in open public meeting reviewed the recommendations of the PAB and support their recommendation and Findings of Fact and Conclusions of Law;

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

Section 1. New Chapter 18.03, a demonstration program for Mixed Use Housing Projects within the Central Business Zone, attached hereto as Attachment A, is hereby adopted as part of Title 18 of the Langley Municipal Code.

Section 2. New Chapter 18.04, a demonstration program which would allow a limited number of demonstration projects for innovative permanently affordable residential units within the City's
residential zones and mixed residential zone, attached hereto as Attachment B, is hereby adopted as part of Title 18 of the Langley Municipal Code.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 4. Effective Date. This Ordinance shall be in full force and effect five days after publication of an approved summary thereof consisting of the Ordinance title.

PASSED by the City Council and APPROVED by the Mayor on _____________ day of _____________, 2012.

ATTEST

Debbie Mahler, Clerk-Treasurer

MAYOR

Larry Kwarsick, Mayor

APPROVED AS TO FORM:

Grant K. Weed, City Attorney

Published: _____________
ATTACHMENT A

Chapter 18.03

Mixed Use Housing Demonstration Project

18.03.010 Submittal of innovative mixed use housing demonstration project.

A. **Purpose.** The purpose of this chapter is to help achieve the goals and objectives of the land use, economic development, and housing elements of the Langley comprehensive plan by providing for a program for individual projects that promote infill mixed use development, incorporate more efficient use of land and energy, offer more diverse housing options, include public benefits and that incorporate smart growth designs into new development.

B. **Goals.** The goals of the innovative mixed use housing demonstration program are to:

1. Promote housing through mixed use development;

2. Increase the choice of housing styles available in the community;

3. Promote for development of housing that responds to changing demographics and smaller-sized households;

4. Maintain the existing downtown area as Langley's retail and civic center, and maintain its intimate, walkable, small-town atmosphere;

5. Encourage a prosperous downtown by proactively addressing the downtown's planning and infrastructure issues;

6. Incorporate residential use in the downtown and along the waterfront in ways that complement, enhance, and do not detract from the primary commercial, civic, and public uses of these areas, that preserve the scale and character of Langley, and that preserve public views and access in these areas;

7. Support the efficient use of land and higher density infill in developed commercial areas;

8. Promote housing choices by encouraging smaller and more diverse home sizes and mixes of resident’s income levels;

9. Encourage interaction in the community by integrating public and semi-public gathering places into mixed-use projects and encouraging use of parks and community facilities as focal points in the neighborhood;
10. Promote the incorporation of conservation features in the construction of new buildings designed to meet local energy codes, but should also be expected to meet aggressive energy use targets that are “Designed to Earn the ENERGY STAR;” and

11. Allow flexibility in site and design standards, including the requirements of an overlay zone, while promoting infill projects.

C. Timing. Upon the effective date of the ordinance codified in this chapter, the city shall immediately begin accepting applications for innovative mixed use housing demonstration project proposals within the central business zoning district. The definition of mixed use is:

"Mixed use" means a development involving a combination of uses including residential and commercial. Typically, a mixed use project may have commercial uses at street level with residential uses not at street level.

Flexibility in the application of this definition may be considered on a project by project basis based upon the benefits derived.

D. Number of Developments. Except as described below, the city may approve up to three innovative housing demonstration projects, provided that no more than one project demonstrating the same mixed use housing type may receive final approval within any calendar year, unless additional projects are allowed by the city council as follows:

1. The city council may authorize the submittal of additional innovative mixed use housing demonstration project proposals beyond the three projects provided such proposed projects demonstrate exceptional design quality and exceptional consistency with the requirements and parameters of this chapter.

2. Proposals not authorized for submittal by the city council may be resubmitted for consideration at the beginning of the next calendar year.

3. For purposes of this chapter, the first calendar year shall begin on the effective date of the ordinance codified in this chapter, and then on January 1st thereafter.

E. Materials. Applications for an innovative mixed use housing demonstration project shall be made on forms provided by the city and shall include the following materials:

1. A site plan of the proposed development, indicating property lines, proposed setbacks, and lot coverage calculations. The site plan shall also include the location of all adjacent structures and distance to property lines, and the footprint of any existing structures on the property.
2. Conceptual drawings of the proposed innovative mixed use housing type, including building footprints and building elevations, floor plans, roof plans, and the design public and semi-public space.

3. A description of how the proposed development is appropriate for the setting.

4. A description of how the proposed development complies with all the criteria and project parameters for an innovative mixed use housing demonstration project as described in this chapter.

5. A description of the proposed unit type, commercial uses, including proposed square footage, unit mix, number of bedrooms per unit and parking.

6. General information about the site including the number of dwelling units allowed by the zone and the number of proposed dwelling units, open space allowed and proposed, impervious surface allowed and proposed, and building height allowed and proposed.

7. Photographs of the subject and adjacent properties keyed to the site plan.

8. Additional information as required by the application forms provided by the city or deemed necessary by the review panel to consider the application.

9. A conceptual site plan, including building footprint(s), demonstrating the type of development that would likely occur if the site were developed under the city’s zoning and design standards for the site.

10. The application must identify the design team that prepared the project application. The design team shall include an appropriate mix of design professionals (i.e., an architect, building designer, landscape architect, landscape designer, urban planner/designer or other qualified design professionals).

Applications submitted under this Section shall be available for public review for a minimum of two weeks prior to the neighborhood meeting described in LMC 18.03.020.

18.03.020 Neighborhood meeting required.

A. Any applicant shall schedule and host a neighborhood meeting regarding the proposed project following the guidelines established by the planning department and including attendance by city staff. The neighborhood meeting shall be held within two to eight weeks following the application submittal.
B. Notice of the neighborhood meeting shall be mailed to all property owners and residents within 500 feet of the proposed project. The notice shall provide details of the proposed project, including a description of any modification or flexibility in site design standards that has been requested. The city shall also make reasonable efforts to notify parties who have expressed an interest in the innovative housing program and shall work with the media to inform the community about any proposed project.

C. Following the neighborhood meeting, the applicant shall consider public input received during the neighborhood meeting and consider recommendations, if any, for revising the proposed project to respond to neighborhood concerns. Any revisions to the proposal shall be provided to the city within 90 days of the neighborhood meeting.

18.03.030 Review panel and authorization to proceed.

A. Within six weeks of submittal of any revisions to the proposal that are made as a result of the neighborhood meeting or within 30 days of the neighborhood meeting if no recommendations for revision are made, a review panel as described below shall decide which proposals will be authorized to submit development review applications pursuant to LMC 18.03.040. The review panel shall consider recommendations of staff to determine which applications submitted under this chapter shall be authorized to proceed to the next level of review. The review panel shall consider applications based on the responses to the criteria for consideration contained in this section. The review panel shall consist of the following representatives to be appointed by the mayor:

1. Two members of the Langley planning advisory board.
2. Two members of the Langley design review board.
3. One member of the Langley chamber of commerce.
4. One member of the Langley main street program.
5. One member who works in a development related profession (e.g., architect, engineer, land use consultant).
6. One member who is a city resident that has expressed an interest in innovative mixed use housing options.
7. One member of Saratoga Housing authority or similar affordable housing advocacy group.
8. In addition to the nine-member review panel identified in subsection (1) of this section, a youth advocate (18 years old or less) member is encouraged to participate on the review panel as a nonvoting member with parental approval. The minimum age to participate shall be 13 years old.

B. Duties and authority are as follows:

1. The panel is required to meet with the planning official and city staff at a meeting to discuss proposed mixed use innovative housing development site plans and recommend modifications.

2. The panel shall make a recommendation based on whether the proposed project meets the specific design requirements provided in this chapter for the specific type of innovative mixed use housing option and may propose allowable modifications. The review panel may consider the number of vehicle trips that will be generated by a proposed innovative housing demonstration project in determining its appropriateness for the location. All proposed innovative mixed use housing demonstration projects shall meet the criteria of the city’s critical areas ordinance codified as LMC Chapter 16. Ownership housing is preferred, but projects that include a component of rental housing, such as accessory dwelling units as part of the single-family development, are also encouraged. Applicants are strongly encouraged to include housing units that provide for a broad mix of income levels.

C. In addition to the requirements contained in this chapter, the review panel shall use the following criteria in determining which applications will be authorized to proceed to the next level of review:

1. Consistency with the intent of the innovative mixed use housing goals of providing a variety of mixed use housing choices (specifically demonstrating, but not limited to, those housing styles identified in this chapter).

2. Promotion of infill development.

3. Compatibility with surrounding development.

4. Improvement of housing affordability options.

D. Following authorization from the review panel to proceed, the applicant shall submit to the city an application for a binding site plan review to be considered under the city of Langley binding site plan review process, subdivision, and any other permit process as required by existing provisions of the Langley Municipal Code.
E. Decisions of the review panel in selecting proposals that are authorized to proceed as innovative housing demonstration projects may be appealed to the City Council following the procedures in LMC 18.36.12

18.03.040 Permit process.

A. Within six months following authorization from the review panel to proceed, the applicant shall submit the appropriate development review applications as described below. The applicant may make a written request to the planning official for an extension of up to six additional months. The planning official shall grant the extension if satisfied that applicant has made reasonable progress in preparing the submittal.

1. Except for innovative mixed use housing demonstration projects that involve a subdivision as defined by the Langley Municipal Code, the city shall use a binding site plan review process to review and decide on innovative mixed use housing demonstration projects with the additional requirements as described in subsection (3) of this section.

2. For innovative mixed use housing demonstration projects that involve a subdivision, the city shall use a subdivision review process to review and decide on innovative mixed use housing demonstration projects with the additional requirements as described in subsection (3) of this section.

3. In addition to complying with the approval criteria stated for a subdivision or binding site plan review process, the applicant must demonstrate that:

   a. Except as otherwise provided in this chapter, the proposal is compatible with surrounding development with respect to building heights, roof forms, property lines, parking location and screening, access, and lot coverage.

   b. The proposal provides elements that contribute to a sense of community within the development by including elements such as but not limited to front entry porches, common open space, and common buildings or common spaces within buildings.

4. The applicant may propose modifications to the development standards requirements of the Langley Municipal Code upon demonstration that such modifications are important to the success of the proposal as an innovative mixed use housing project and are necessary to meet the intent of this chapter. The city shall prioritize review of any LMC modifications that are deemed appropriate to allow for prompt consideration by the planning advisory board and city council.
5. Unless otherwise specified in LMC 18.03.050, all other regulations and requirements of the Langley Municipal Code shall continue to apply, except that applicants may propose additional modifications to the Langley Municipal Code as provided for in this section.

6. Planning application fees for the review of the proposed project shall be based on the number of single-family units that would be allowed by the underlying zone, regardless of the number of units being built under this chapter.

7. Storm water fees and utility hook-up fees shall be determined based on the actual anticipated usage or on a per unit basis, whichever is less.

8. The city’s approval of an innovative mixed use housing project does not constitute approval of a subdivision, a short plat, or a binding site plan, nor does it exempt the project from proceeding under the review requirements for the type of applicable development review process, or from obtaining all necessary permits required under the applicable building code.

18.03.050 Modifications to the application of the provisions in this chapter.

A. An applicant may request modifications of the application of the provisions of this chapter or other provisions of the Langley Municipal Code related specifically to this chapter, to the extent that such modifications are consistent with the purpose, intent and requirements of this chapter. Modification of the application of the City’s shoreline master program and implementing use regulations may only be authorized as a shoreline variance.

B. The applicant must describe each requested modification in writing, state why the modification is being requested, and describe how the modifications are consistent with the purpose, intent and requirements of this chapter.

C. The hearing examiner shall review the requested modification, reasons provided for the modification, and determine whether the basis for the requested modification is reasonably necessary and whether the modification is consistent with the purpose and requirements of this chapter and does not threaten the public health, safety, or welfare. The planning official or hearing examiner shall give due consideration to the review panel’s recommendations concerning the project proposal. The planning official’s or hearing examiner’s determinations shall be reflected in a written decision with appropriate findings and conclusions.
18.03.060 Minor and major changes/revisions to a site plan or design elements.

A. An applicant may request a minor change(s)/revision(s) to a site plan or design elements already approved under this chapter. Such request shall be in writing and shall describe the requested minor change(s)/revision(s), the reasons for requested minor change(s)/revision(s), and describe how the modification are consistent with the purpose, intent and requirements of this chapter. The planning official shall review the requested minor change(s)/revision(s), reasons provided for the minor change(s)/revision(s), and determine whether the basis for the requested change(s)/revision(s) is reasonably necessary and is consistent with the purpose and requirements of this chapter and does not threaten the public health, safety, or welfare. The planning official shall give due consideration to the review panel’s recommendations concerning the project proposal. The planning official shall then issue a written decision approving, approving with modifications, or denying the requested change(s)/revision(s), and shall make appropriate findings and conclusions.

B. An applicant may request a major change(s)/revision(s) to a site plan or design elements already approved under this chapter. Such request shall be in writing and shall describe the requested minor change/revision, the reasons for requested minor change(s)/revision(s), and describe how the change(s)/revision(s) is consistent with the purpose, intent and requirements of this chapter. Any major change(s)/revision(s) to a site plan or design element shall be approved by the original decision body and shall be subject to design review approval process provided in this chapter. Changes that increase the intensity of development (e.g. trips generated or number of residential units); alter the character of the development or balance of mixed uses; increase the floor area in one building by more than ten percent; change access points; move buildings around on the site; reduce the acreage of common open area or buffering areas, or diminish the effectiveness of perimeter buffers, are major and shall be subject to the requirements of this chapter.

18.03.070 Program evaluation.

A. The planning department will document project process, innovations, and modifications from the Langley Municipal Code and evaluate to what degree they achieve the purpose of this chapter.

B. The innovative mixed use housing review panel will review the process of design approval and document real and perceived successes and problems.
C. The developer or management organization shall submit a periodic report to the city council documenting, describing, and evaluating the results of each project and, if appropriate, making recommendations regarding substantive changes to the Langley Municipal Code based upon the program experience.

18.03.080 Expiration of innovative mixed use housing demonstration program and chapter.

The innovative mixed use housing demonstration program and this chapter shall expire five years following the effective date of the ordinance codified in this chapter, or when three projects developed under this chapter are completed, whichever occurs first, or unless the city council specifically authorizes additional projects as provided for in this chapter.
ATTACHMENT B

DEMONSTRATION PROGRAM FOR INNOVATIVE PERMANENTLY AFFORDABLE HOUSING PROJECTS

18.04.010 Authority and purpose.

A. Authority. Both the Growth Management Act (Chapter 36.70A RCW) and the Housing Policy Act (Chapter 43.185B RCW) require the city to provide housing opportunities for all economic segments of the community. Similarly, the city's comprehensive plan encourages revisions to the city's development regulations to increase the supply of affordable housing.

This chapter will allow the use of alternative development standards and processes that are not currently allowed under existing land use regulations, while protecting residential character and maintaining overall consistency with the neighborhood plans and the goals and policies of the Langley comprehensive plan.

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

C. Goals. The goals of this chapter are:

1. To encourage innovative building design in housing projects by:
   a. Increasing the supply of affordable housing and the choice of housing styles available in the community.
   b. Promoting diversity in housing affordability and choice by encouraging smaller and more varied home sizes and mixes of income levels of residents.
   c. Promoting high quality and environmental design.

2. To encourage the use of innovative site development practices and green building practices by encouraging the use of conservation design methods and principles such as low impact development techniques, green building materials, water and energy conservation, and mitigation that offsets impacts to biodiversity.
3. In general:
   a. To help identify any zoning code amendments that are necessary to support the
development of innovative housing choices in Langley.
   b. To identify effective incentives to encourage green building and low impact
development standards.

4. The demonstration projects developed under this chapter shall use innovative design and
development techniques to achieve these goals.

18.04.020 Affordable housing defined.

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

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

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

C. Affordable housing. Federal guidelines define affordable housing as decent, quality
housing that does not exceed 30% of a household’s gross monthly income for rent/mortgage and utility payments. Island County is ranked as the 8th least affordable area in Washington State for housing and Langley is the most expensive area to live on Whidbey Island.

D. Classification of income groups. The United States Department of Housing and Urban Development (HUD) and the State of Washington classify household income groups as follows:

   Very low income…….Households below 50% of the average median income.
   Low income…………..Households between 50-80% of the average median income.
   Lower income…………Households between 81-95% of the average median income.
   Middle income………..Households between 96-120% of the average median income.
“Median household income” means the amount calculated and published by the HUD each year for the Island County Statistical Area as the median household or family income, adjusted by HUD for household size.

18.04.030 Project application requirements and incentives.

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

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

1. The project applicant shall be, create or contract with an organization that has as its purpose the creation and retention of permanently affordable, income qualified home-ownership and/or rentals.

2. The organization can demonstrate experience in providing affordable housing. An organization that can demonstrate experience in providing housing and a mission statement of its intent to use that experience toward achieving the goal of providing permanently affordable housing shall be deemed to have met this requirement.

3. The organization can demonstrate the ability to employ a mechanism to retain all of the units as permanently affordable to income-qualified buyers as defined by LMC 18.04.020.

4. The organization can demonstrate an ability and commitment to submit an annual report to the City Council documenting all residential units, past and pending sales, rental history and ownership by qualified home buyers.

5. The organization can demonstrate that the project, including all common areas, will be properly maintained over time.

C. Single-family home ownership. Projects that create single-family residences that are individually owned by their occupants must have controls in place, subject to approval by the planning director or his/her designee, to ensure that the residences remain occupied by income qualified tenants.

D. Guarantee of permanent affordability. The project must have controls in place, subject to approval by the planning director or his/her designee, to ensure that the project's single-family residences remain affordable for 50 years in accordance with the definition of affordable housing in LMC 18.04.020. The controls may include:

1. Continued ownership of the land by the project applicant with the owner occupants of the single-family residences leasing the land back from the project applicant;
2. A deed/subsidy covenant, purchase/sale agreements, or other similar mechanisms, which require that the residences be sold only to qualified purchasers who meet the requirements of LMC 18.04.020;

3. A requirement that the project applicant can only transfer the land to another entity that meets the requirements of subsection A above; and/or

4. Other methods approved by the planning director, or his/her designee, to ensure that the project's single-family residences remain permanently affordable in accordance with the definition of affordable housing.

D. Project location. Affordable single family homes developed under this chapter must be located in a residential single family or multi-family zone within the City of Langley.

E. Design review. All projects are subject to design review. Housing projects receiving earned increased density under this chapter must comply with the design review process and site location criteria for multi-family residential development in LMC Chapter 18 to protect, maintain, or enhance neighborhood character and compatibility.

F. Request for modification to the application of development regulations.

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

   a. Minimum lot size;

   b. Minimum street frontage;

   c. Minimum front, side, and rear yard setbacks;

   d. Minimum parking requirements;

   e. Maximum lot coverage;

   f. Minimum usable open space; and/or

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

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

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

4. The decision maker for the underlying application shall determine whether to approve the, approve with conditions, or deny the requested modification as part of the decision on the underlying application.

18.04.040 Procedures.

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

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

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

1. The planning department with a copy of the mailing list;

2. The owner of the property as listed on the application;

3. Owners of property within 500 feet of the site boundary of the subject property as listed by the Island County Assessor records;

4. Any neighborhood association registered with the planning department for the neighborhood in which the project is proposed, and for any neighborhood within 500 feet of the project site boundary; and

5. The local newspaper.
C. **Submittal requirements.** The Director of Community Planning shall establish submittal requirements and forms to be used for applications.

D. **Determination of complete application.** A complete application shall consist of the completed application form with all required information, a SEPA environmental checklist, if applicable, and any filing fee as established by the city council. If a subdivision of land is required, the preliminary plat, short plat, binding site plan, or boundary line adjustment shall also be submitted as part of the application. An application shall be reviewed by the Director of Community Planning to determine whether it is complete under the procedures in LMC 18.36.01

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

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

1. The applicant;

2. The owner of the property as listed on the application;

3. Owners of property within 500 feet of the site boundary of the subject property as listed by the Island County Assessor records;

4. Any neighborhood association registered with the planning department for the neighborhood in which the project is proposed, and for any neighborhood within 500 feet of the project site boundary;

5. Any person or organization that has filed a written request for notice with the Planning and Community Development Department; and

6. The local newspaper.

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

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

I. **Public comment period.** The minimum comment period shall be 14 days following the date of notice of application.
J. Project review. Complete applications shall be reviewed by planning director for consistency with the comprehensive plan, the regulatory requirements of the Langley Municipal Code, and the design review guidelines while also utilizing the evaluation methods under subsection L below. The Director of Community Planning shall consult with the planning advisory board in open public meeting concerning the project application. Thereafter, the planning director shall submit a written recommendation to the Hearing Examiner to approve, approve with conditions, or deny the project.

K. Evaluation method.

Each project will be evaluated for innovation and achievement of the chapter goals using a number of factors. The evaluation factors are divided into three categories.

If a project does not meet the affordable housing criteria or does not provide adequate assurances that the housing will remain affordable for 50 years from the date of approval, it shall not be approved. If a project does not meet a required evaluation factor, the applicant is required to provide a written explanation about why the evaluation factor is not appropriate or cannot be met in this instance, but still should be approved. The Director of Community Planning may consider other alternative site development or building design practices not mentioned below that may be proposed by the applicant but meet the goals of this chapter.

1. Housing diversity.

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

   b. Unit size. The project includes a variety of housing unit sizes that provide for a broad mix of income levels and family size.

   c. Affordable housing. The project includes housing units that are affordable to the spectrum of income levels. Designated affordable housing shall remain affordable for 50 years from the time of final inspection on the affordable unit. Units that are affordable to a range of income levels are encouraged.

2. Use of innovative site development practices.

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

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

ii. An earthen separation between the street and sidewalk and bioswales.

iii. Amended soils.

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

i. Porous asphalt, paver blocks or large aggregate pervious concrete for parking and highly used bicycle and pedestrian areas;

ii. Lattice blocks (or similar products) that permit grass growth for fire lanes and overflow parking;

iii. Crushed stone or brick for lightly used pedestrian paths; and

iv. Recycled asphalt and recycled concrete in the base course of pervious and/or impervious surfaces.

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

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

e. Transportation.

i. The project design provides enhanced sensitivity to pedestrian travel.

ii. The project internally preserves existing informal, internal connection to external trail(s); or creates new connections, where appropriate, to implement the non-motorized transportation plan (NMTP).

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

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

v. The project integrates a parking space for a vehicle sharing program.
vi. The project minimizes the visual dominance of automobiles throughout the project.

3. Innovative building design practice.
   a. Alternative energy. The project utilizes, at least in part, alternative power and heat technologies including, but not limited to, solar, passive solar, wind, and geothermal. All projects should preserve solar access.
   b. Energy efficiency. The project exceeds base energy efficiencies required by the building code by integrating energy efficient building design and appliances.
   c. Water efficiency. The project uses water efficiently by integrating low-flow water fixtures and/or water re-use systems (i.e., greywater for toilets, landscaping).
   d. Green building materials. The project utilizes sustainable or “green” building materials internally and externally.
   e. Accessibility. The project design incorporates access for residents of all ages and mobility inside and outside the home.

L. Notice of public hearing. Notice of public hearing shall provided in accordance with the following:

1. Notice of the public hearing for the application shall be published in a newspaper of general circulation at least 10 days prior to the hearing date.

2. Notice of the hearing shall be mailed at least 10 days prior to the hearing in the same manner as for the notice of application.

3. The notices shall contain a brief description and the general location of the proposal, the time, date and location of the hearing and information about the availability of the staff report.

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

1. The hearing shall be scheduled for a date no sooner than 15 days after the issuance of the SEPA determination (if any) regarding the proposal.

2. The public hearing shall be consolidated with the hearing (if any) on any preliminary application submitted for the project.

3. Any person may participate in the hearing by submitting written comments to the planning department prior to the hearing or by submitting written comments or making oral comments at the hearing.
4. The planning department shall transmit to the hearing examiner a copy of the department file on the application including but not limited to the application and all materials submitted by the applicant, all written comments received prior to the hearing, the SEPA threshold decision, and records regarding public notice of the application.

5. The hearing examiner shall create a complete record of the public hearing including all exhibits introduced at the hearing and an electronic sound recording of each hearing.

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

O. Notice of decision. A notice of decision shall be issued as provided in LMC 18.36.10

18.04.050 Annual reporting requirements.

The owner(s) of a project receiving earned increased density under this chapter must report annually to city council regarding the status of the project. Information presented to city council annually shall include:

A. Total number of units in the project;

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

C. The purchase price of each unit that changed ownership;

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

E. A summary of how the project’s innovative design features are functioning including the experience of residents, energy use, building quality, low impact development, maintenance and other relevant topics.

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

This innovative permanently affordable housing demonstration program and chapter shall expire two years following the effective date of the ordinance codified in this chapter.