WHEREAS, the City of Ferndale has planned for increased business diversity, additional residents, and a vibrant commercial core for several decades; and

WHEREAS, the Ferndale Comprehensive Plan calls for a revitalization of the Downtown core; and

WHEREAS, Ferndale’s Downtown has suffered a decline since the late 1970’s; and

WHEREAS, the City has invested millions of dollars to improve Downtown infrastructure, amenities, park space, and civic institutions; and

WHEREAS, residential and commercial development in other areas of the City has generally met or exceeded projections; and

WHEREAS, the City recognizes that the development costs within the Downtown core may be higher than in other areas of the City, due to a variety of factors; and

WHEREAS, the City recognizes that these higher development costs may act as a barrier to entry for the type and scale of development anticipated by the City’s long-range plans; and

WHEREAS, the City recognizes that a vibrant Downtown core has widespread benefits to the public; and

WHEREAS, the Downtown core may continue to decline unless there are changes or developments that will have a catalyzing effect on the area, by introducing a scale and type of development to the area that will have a positive influence on broader improvements and businesses; and

WHEREAS, there are few indications that such a catalyst project will occur in the near future through private market forces alone; and
WHEREAS, the City is allowed to provide incentives such as those described by Chapter 18.48 as a means of achieving these broad City goals, which are expected to provide substantial public benefit; and

WHEREAS, the Ferndale Planning Commission has worked extensively with City Staff and the City Attorney from Summer 2018 through February 2019; and

WHEREAS, the Ferndale Planning Commission recommended approval of the Catalyst Program following an Open Record Public Hearing held February 20th, 2019; and

WHEREAS, the Ferndale City Council held an Open Record Public Hearing April 15, 2019;

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

Section 1. Chapter 18.48 of the Ferndale Municipal Code, entitled Downtown Catalyst Incentive, is hereby adopted as shown in Exhibit 1.

Section 2. Severability. Should any part of this regulation be held to be illegal, unconstitutional, or otherwise unenforceable, the remainder of the regulation shall still apply.

Section 3. Effective Date. This regulation shall become effective five days after publication in the newspaper of record.

APPROVED AND ADOPTED by the City Council of the City of Ferndale in regular session this 15th day of April, 2019.

ATTEST:

Jon Mutchler, MAYOR

Susan Duncan, CMC, CITY CLERK
EXHIBIT 1

Chapter 18.48

DOWNTOWN CATALYST INCENTIVE

Sections:
18.48.010 Purpose and intent.
18.48.020 Downtown Catalyst Criteria.
18.48.030 Catalyst Benefit Area.
18.48.040 Process.
18.48.050 Limitations.
18.48.060 Catalyst Review Committee.
18.48.070 Scoring Categories.
18.48.080 Catalyst Project Designation.

18.48.010 Purpose and Intent.

A. The City of Ferndale seeks to establish a time-limited incentive for the purpose of promoting the development of significant mixed-use buildings within the downtown core, for the purpose of catalyzing further development and redevelopment within the area.

B. Up to three projects which meet the minimum requirements of this program, including minimum thresholds for size, number of residential units, architectural design, parking configuration, and a four-element scoring system shall be eligible for a waiver of all City fees.

C. The intent of the catalyst incentive is to restore and enhance Ferndale’s Downtown core, and encourage key goals for development downtown, by:

i. Diversifying residential housing options with an emphasis on increasing the numbers of condominium units within the downtown core;

ii. Promoting development adjacent to Main Street and Downtown park areas;

iii. Increased public space;

iv. Encouraging redevelopment of non-conforming or underdeveloped sites;

v. Increasing art in the public space;
vi. Supporting the assemblage of small lots that cannot be efficiently redeveloped on an individual basis;

vii. Recognizing the long-term efficiencies and durability of green building techniques achieved through LEED certification.

D. Catalyst projects shall be exempted from the Special Height Limits described in Chapter 18.46.080 B, provided that those structures on corner locations include an architectural accent approved by the Zoning Administrator. Height restrictions required by the Shoreline Master Program shall be maintained.

18.48.020 Downtown Catalyst Criteria

A. The City of Ferndale shall waive all administrative, impact, and connection fees for up to three development projects that meet all of the following criteria. The development project must consist of:

1. A minimum of three stories
2. A minimum of fifteen residential dwelling units
3. A minimum of 5,000 square feet of first floor commercial area
4. New construction (existing buildings are not eligible for the incentive program)
5. All required onsite parking shall be placed within the footprint of the building and/or on private property behind the building, with no off-street parking credits for residential uses. In addition, on-site parking shall be screened or placed within a structure so as to obscure visibility from a public park.
6. Architecture complies with Downtown Architectural and Site Design Standards (FMC 18.47), in the judgment of the Zoning Administrator
7. Projects maximizing the goals established by the this chapter’s Purpose and Intent section, as well as Section 18.48.070, which are listed below:
   a. Public Benefit
   b. Architectural Design
   c. Site Design
   d. Catalyst Effectiveness
8. Development must be initiated by May 1, 2020 in order to be eligible, and must demonstrate a plan to complete construction by May 1, 2022. For the purposes of this section, “initiated” shall mean the issuance of either a Land Disturbance Permit for full civil work associated with the project, or in the absence of a Land Disturbance Permit, the issuance of a building permit representing all or a majority of the total square footage for the proposed development.
9. A maximum of three development projects shall be eligible for this incentive, processed based on the timing of the submittal of complete application and the applicant’s ability to demonstrate adequate capital/funding to complete the project.

   i. There shall be no penalty against multiple catalyst developments within the same general area, or against multiple projects that are distributed throughout the general area, although no more than one catalyst project may be established west of Fourth Avenue unless there are less than two qualifying projects proposed east of Fourth Avenue, in which additional qualifying projects west of Fourth Avenue shall be considered.

10. Following designation as a Catalyst Project, material changes to catalyst projects shall not be allowed without prior review by the Catalyst Review Committee. For the purposes of this section, substantive changes shall mean any of the following:

   i. A 10% change in the number of residential units or to the gross size of the commercial area;

   ii. Disclosure of a phased development approach not identified in the original application materials;

   iii. A substantive change, in the judgment of the Community Development Director, to elements for which the development was scored pursuant to FMC 18.47.070, the Downtown Design Standards, or to Purpose and Intent categories for which points have been awarded, regardless of whether such points would have altered the project’s eligibility as a catalyst development; or

   iv. The increase or decrease of roof height by more than 10%.

18.48.030 Catalyst Benefit Area

The Catalyst Benefit Area shall include all properties in the City Center Zone, which are the highlighted properties in Map 1, below, however only 1 project will be permitted west of Fourth Avenue, subject to Chapter 18.48.020 9 (i).
18.48.040 Process

A. Application. Applicants wishing to participate in the program shall schedule a pre-application meeting with City staff. The applicant shall complete an Intent to Develop a Downtown Catalyst Project form by the close of business on September 1, 2019, and shall submit that form together with a Site Plan Review application to the Community Development Department. Applications shall be accepted on a rolling basis within the five-month application period. Those applications, and only those applications, that are submitted prior to the close of this application period will be reviewed and considered for the incentive. At the close of the application period, the City may consider a one-time extension to the application period, only if less than three eligible projects are proposed.
B. Technical Review. The City shall then conduct a Technical Review Committee meeting to review the proposed development based on typical City regulations, and to verify that the application conforms to the Catalyst Incentive criteria listed above. The City will endeavor to expedite reviews of these catalyst projects. The Technical Review Committee may conduct its reviews on a rolling basis during the eight-month application period.

C. The Catalyst Review Committee. The Catalyst Review Committee shall review and score all applications, and shall determine which applications are eligible for the Catalyst Incentive benefit. The Catalyst Review Committee shall seek to complete its review within thirty days of the application deadline and all applications are considered complete sixty days from the day the application is considered complete, subject to change depending upon the accuracy of the development application.

D. Certification. Once the Catalyst Review Committee identifies eligible proposals, the Committee shall forward its recommendation to the City Council for consideration and certification. Those proposals that are approved by the City Council shall be certified as Catalyst Projects.

18.48.050 Limitations

This catalyst program shall not be interpreted as a guarantee of City approval of any development project, nor shall the program imply additional flexibility from the City in the form of development standards, street vacations, environmental protection, building code or life-safety requirements, architectural or site design, or any other regulation. The catalyst program represents a broad public purpose that will benefit the Ferndale community, intended to restore and enhance Ferndale’s Downtown core.

18.48.060 Catalyst Review Committee

A. The Catalyst Review Committee shall consist of five persons, including three members of the City Council chosen by vote of the City Council, one Planning Commission member nominated by the Mayor and approved by the City Council, and a member of the EAGLE Board nominated by the Mayor and approved by the City Council. The Catalyst Review Committee shall consider all catalyst applications and will select up to three applications as being eligible for a full waiver of fees. The goal of the Committee will be to evaluate projects based upon the scoring criteria described in 18.48.070.

B. Following technical review of eligible applications by City Staff, and following the close of the application period, the Catalyst Review Committee shall be provided a technical review of each project’s eligibility by City Staff. City Staff will score each project on automatic bonus points based on seven critical criteria described in FMC 18.48.010 (C). Bonus points will be full points or none for each of the 7 criteria, with no judgement or partial consideration by staff. Staff may not provide recommendations for approval or denial of fee waivers. Each applicant shall be given
the opportunity to present their project before the Catalyst Review Committee, and Committee members shall be authorized to ask technical questions of the applicant.

C. Each Committee member shall score the project independently, based upon the four categories listed below. Nothing shall prevent committee members from discussing the elements of the project amongst themselves prior to scoring the project. Each committee member may award up to ten points for each category, assigning no more than forty points total per project, per committee member, or a total of 200 points per project, and 240 points maximum per project when points associated with the Critical Criteria (18.48.010 (C) are included.

D. Following the independent scoring exercise, the committee members shall provide their scoring sheets to City Staff, who shall then tabulate all scores and announce the results, with the scores of individual members remaining confidential.

E. The three projects with the highest scores above 190 combined points shall be forwarded to the City Council for final consideration. The Council shall review the scores of the Review Committee and shall be authorized to allow members of the public staff, and the applicant to speak on the subject. The City Council shall then be authorized to approve (certify) or deny the recommendations of the committee. Those applications that are approved shall be invited to enter into a Catalyst Development Agreement as described below.

F. If less than three projects score above 190, any projects scoring between 170 and 190 points shall be invited to modify their proposals based on feedback from the committee. The committee may allow up to three weeks (twenty-one days) for applicants to submit modified project(s) for review. The committee shall seek to review these modifications within three weeks (twenty-one days) of resubmittal.

18.48.070 Scoring Categories

A. The Catalyst Review Committee shall evaluate eligible projects based on the four categories described below. In evaluating projects, committee members shall seek to identify points based on the general compliance with the category itself; there is not a specific number of points that must be provided for compliance or non-compliance with any one element described in the category.

Points shall be based on the following scale: 0= no attempt, 3= moderate attempt at 1 category aspect, 5= moderate attempts at 2 category aspects, 7= good attempt at 2 aspects or excellent attempt at 1 category aspect, 10= Good attempt at 3 or more aspects and/or excellent attempt at 1 or more aspects.

1. Public Benefit: In what manner does the development directly benefit the public? The Committee may consider public benefits derived from the land use or types of land use proposed, the density of the development, and any amenities that are enhanced or made available to the public as a result of the development. Examples of public benefit could include, but are not limited to: inclusion of affordable housing units; expansion or incorporation of
recreation areas; public gathering areas, whether as part of a business or as a designated open space, publicly viewable art.

2. Architectural Design: Does the development reflect design details or include architectural concepts that are compatible with the vision for the Downtown core? Or, does the design of the buildings create an unwelcoming impression that may tend to limit further development in the surrounding area? Examples of desired architectural design includes but is not limited to: development which incorporates tasteful, unique, and iconic elements; development which includes low impact or energy-efficient design; development which expands and enhances the City’s skyline.

3. Site Design: Has the applicant arranged the development site in a manner that effectively takes advantage of public space, including adjacent public or private rights of way? Or, does the site limit interaction with the general public? Examples of desired site design could include but are not limited to: orientation to the Nooksack River, Mount Baker, and the southern sun; engagement with the adjacent street; full use of the subject property; onsite parking in excess of minimum City requirements, stormwater, and other elements.

4. Catalyst Effectiveness: If developed, is there a reasonable expectation that given favorable market and growth conditions, this project would have a direct positive impact on the surrounding area, as measured by additional development, increased investment in existing buildings or businesses, etc.? Examples of catalyst effectiveness could include but are not limited to: development on or in close proximity to Main Street and the traditional Downtown core; the redevelopment of properties that have remained vacant or under-developed for prolonged period of time; development of properties in close proximity to other catalyst projects or emerging areas; removal of non-conforming buildings or uses; consolidation of small properties; expansion or extension of infrastructure that may support future development; inclusion of condominiumized housing units.

B. Staff shall award automatic bonus points for the following key goals, with no grading or judgement.

1. All residential units available for purchase (condominiumized) – ten points.

2. Fronting Main Street or public park – five points

3. Art viewable from the public space – five points

   Examples: mural, large artistic sign, sculpture, artistic elements in the façade, sculpture/ bike rack, sculpture/ planter, water feature or fountain, etc. Artistic elements at the ground level shall be a minimum of 6’ in height or length. Artistic elements in the façade shall be at least ten square feet in size, which can include a combination of more than one element. Murals shall be a minimum of one hundred square feet. All art shall be privately maintained, and shall be subject to enforcement for failure to adequately and perpetually maintain the element.

4. Public space – five points

   Examples: courtyard, plaza, or landscaped open space with a minimum of one hundred square feet, public parking equal to at least ten percent more than the sum of the total
required residential parking and any additional mixed use or commercial parking
required by code. – five points.

5. Redevelopment of a site with existing improvements – five points

6. Assemblage of smaller sites – five points

7. LEED Gold or higher – five points

18.48.080 Catalyst Project Designation

A. The Catalyst Review Committee may recommend approval of up to three applications as Downtown
Catalyst Projects, and the City Council shall consider whether to certify those projects as a Downtown
Catalyst. The applicant and the City shall enter into an agreement through which the City will waive all
City fees, provided that the applicant can meet the construction deadlines identified in the agreement.

B. With the exception of serious injury or an act of God, should the applicant fail to meet the
construction deadlines the agreement shall be considered null and void, and the applicant shall be
required to either re-apply for a Catalyst Incentive, shall pay the current fees owing, or shall cancel the
project.

C. Applications that have failed to meet construction deadlines as specified in the Catalyst Agreement
shall lose project vesting with regard to this program. Should other eligible projects be proposed prior
to the applicant regaining vesting, these projects may be incorporated into the program, superseding
the prior vesting of those applications that have lost vested status within the program.