

Matrix of proposed amendments to BMC 20.46 Special Development (Draft Chapter follows this matrix):

Zoning Code Chapter/Section (Bremerton Municipal Code)	Proposed Amendments Summary	Further Information
20.46 Special Development	Discussed in January’s Workshop with additional analysis with the Workshop’s Staff Report.	
20.46.020 Fences and Walls	Allowed exception to security measures for fencing (such as barbed wire) for public facilities.	Puget Sound Energy requested exception to protect the property from theft on Kitsap Way.
20.46.030 Home Occupations	(a) Removed requirement (j) to require Conditional Use Permit (CUP) for home businesses certain businesses (such as barber shops or nonautomotive engine repair); and (b) added provision about taxi home businesses	(a) Removed the requirement for a CUP as the code prohibits engine repair as a home business and it is arbitrary for barber shop to get a CUP but a home masseuse would just be allowed. The CUP process adds a public comment period and posting of the site (with an additional \$350 fee and 6-weeks permitting time). The Comprehensive Plan policies encourage less permitting process if possible, and this is an example of an appropriate permit reduction. (b) Staff included a provision to allow only one taxi as a home occupation as Staff and applicants have struggled with when a taxi can be a home business (as there are impacts to on-street parking, and constant driving in a residential street).
20.46.070 Adaptive Reuse of Commercial Buildings	Revised section from “Adaptive Reuse of Public or Semi-public Buildings”	Expanded this process to not just public or semi-public buildings, but allowed it for any commercial building (such as those existing commercial buildings within the residential zone that are nonconforming). Conditions provided to assist with designing the project to have minimal impacts to the neighborhood.
20.46.080 Mineral Resource Overlay	Revised Mineral Resource Overlay (MRO) to be more robust in its requirements to protect the surrounding community and the environment. Also made note to the important role that Department of Natural Resources plays into this permitting process.	As the Comprehensive Plan update included sections in West Bremerton as Mineral Resource Overlay (MRO), it was important to update the MRO provisions. There is consistency between Bremerton and Kitsap County’s MRO code as the County also allows MRO within the adjacent areas.

Zoning Code Chapter/Section (Bremerton Municipal Code)	Proposed Amendments Summary	Further Information
20.46.090 Senior Housing Complex	Removed this section and consolidated it into appropriate designations (with the Low and Medium Density Residential zone).	Consolidated into appropriate section as it was easier for Staff and the developer to not have to review a separate section.
20.46.100 Recycling Collection Station	Removed this portion of the code that regulated how a recycling collection station should be developed.	This was additional requirements that are already addressed within the zoning design standards and was duplicative, thus it has been proposed to be removed.
20.46.130 Outdoor Land Uses.	Removed outdoor land uses description.	It was duplicative as many of those items are addressed in other chapters (such as paved areas is addressed with BMC 20.48 Off-street Parking provisions).
20.46.140 Wireless Communication Facilities	Renamed from Wireless Telecommunication Facilities (WTF) to Wireless Communication Facilities (WCF). Update the code provisions.	Updated as the original code was written in 2004 when cell phones weren't as prevalent. Proposal is consistent with new Federal regulations.

Chapter 20.46 SPECIAL DEVELOPMENT STANDARDS

Sections:

[20.46.010 ACCESSORY DWELLING UNITS.](#)

[20.46.020 FENCES AND WALLS.](#)

[20.46.030 HOME OCCUPATIONS.](#)

[20.46.040 MANUFACTURED HOMES.](#)

[20.46.050 RECREATIONAL VEHICLE ON A PRIVATE LOT.](#)

[20.46.060 DISH ANTENNAS.](#)

[20.46.070 ADAPTIVE REUSE OF COMMERCIAL PUBLIC AND SEMI-PUBLIC BUILDINGS.](#)

[20.46.080 MINERAL RESOURCE EXTRACTION OVERLAY.](#)

~~[20.46.090 SENIOR HOUSING COMPLEX.](#)~~

~~[20.46.100 RECYCLING COLLECTION STATION.](#)~~

[20.46.110 ADULT ENTERTAINMENT BUSINESSES.](#)

[20.46.120 OUTDOOR STORAGE AREAS.](#)

~~[20.46.130 OUTDOOR LAND USES.](#)~~

[20.46.140 WIRELESS TELECOMMUNICATIONS COMMUNICATION FACILITIES.](#)

[20.46.150 PUBLIC UTILITY FACILITIES.](#)

[20.46.160 PUBLIC DISTRIBUTION/ TRANSMISSION FACILITIES.](#)

20.46.010 ACCESSORY DWELLING UNITS.

An accessory dwelling unit (ADU) may be installed where a new or existing single-family dwelling unit (hereafter, "principal unit") is allowed. Accessory dwelling units are exempt from density requirements and shall be subject to the following specific development, design and owner occupancy standards:

- (a) An ADU shall comply with the development standards of the underlying zone for the principal unit including setbacks, height, and lot coverage.
- (b) An ADU may be attached or detached from the principal unit.
- (c) Only one (1) ADU may be created per lot.
- (d) The property owner, which shall include titleholders and contract purchasers, must occupy either the principal unit or the ADU as their permanent residence for at least six (6) months out of the year.
- (e) An ADU shall be limited to not more than:
 - (1) Sixty (60) percent of the principal unit's total floor area (not including basement); and
 - (2) One thousand (1,000) square feet maximum, nor less than three hundred (300) square feet.
- (f) Any ADU shall be designed so that the appearance of the building remains that of a single-family residence including the following:
 - (1) Constructed of similar materials and siding as the principal unit;
 - (2) A roof of equal or greater pitch as the principal unit;
 - (3) A height no more than twenty-five (25) percent greater than the principal unit not to exceed the height limit of the zone.
- (g) The entrance to an attached ADU shall not be on the same facade of the structure as an entrance to the principal unit.
- (h) Accessory dwelling units shall provide one (1) off-street parking space in addition to that which is required for the principal unit.
- (i) When development of an ADU is for people with disabilities, the Director may allow reasonable deviation from the stated requirements to install features that facilitate accessibility such as those required by the International Building Code.

(j) An ADU shall have a deed restriction recorded with the Kitsap County Auditor to indicate the presence of the ADU, the requirement of owner occupancy, and other standards for maintaining the unit as described above.

20.46.020 FENCES AND WALLS.

(a) Fences and walls shall observe the following height and setback requirements:

(1) Residential Zones.

(i) Maximum height shall be six (6) feet.

(ii) Maximum height within the front yard setback area shall be four (4) feet.

(iii) On corner lots with a specified front yard setback on each street frontage, both frontages will require a height of no more than four (4) feet.

(iv) To obtain a six (6) foot high fence on a corner lot, a fence permit is required. The Director can determine that the street frontage of the residence's principal orientation is a "primary frontage" and may permit a six (6) foot maximum height fence in the yard on the other (secondary) frontage only if all of the following conditions are met:

(A) The higher fence will not block any existing front yard views from an adjoining residence with its principal orientation to that same street;

(B) The higher fence will not be closer to the residence's front property line on the street of principal orientation than the closest part of the front facade of the residence;

(C) The higher fence will not encroach into the front yard of the primary frontage where the maximum height limit in subsection (a)(1)(ii) of this section takes precedence.

(v) Six (6) foot tall side yard fences may not project into the front yard setback except when the house's front facade is within the front yard setback area, in which case the taller fence may extend no further than the front facade of the house.

(2) Commercial Zones.

(i) Maximum height shall be eight (8) feet.

(ii) Maximum height shall be six (6) feet when adjacent to a public right-of-way, or to a residential zone.

(3) Industrial Zone.

(i) Maximum height shall be ten (10) feet.

(ii) Maximum height shall be six (6) feet when adjacent to a public right-of-way, or to a residential zone.

(4) District and Neighborhood Center Zones.

(i) Maximum height shall be four (4) feet in front yard setback areas.

(ii) Maximum height shall be six (6) feet for side and rear yard setback areas.

(iii) To obtain an eight (8) foot tall fence, a fence permit is required. The Director may allow for a maximum height of up to eight (8) feet in side and rear yard setback areas provided the use is nonresidential and the fence is necessary for security purposes.

(5) Essential Public Facilities. Essential public facilities may have up to ten (10) foot tall fences in any zone through a fence permit application provided the fence is the minimum necessary for security purposes.

(b) A Type II conditional use permit may be granted for fences or walls up to eight (8) feet high in a side or rear yard only if the fence or wall is necessary to provide privacy and security between a residential and a nonresidential use.

(c) Fences and walls shall not block or hinder the sight distance of traffic. Exact location and design of a fence or wall is subject to the approval of the City Engineer when visibility or public safety is an issue.

(d) No electric or electrified fences shall be permitted within the City of Bremerton.

(e) Barbed wire or similar wire protective devices are permitted only in industrial zones or any property containing a public facility above a height of six (6) feet; provided, that adjoining a residential zone,

devices may be allowed by approval of a Type II conditional use permit pursuant to BMC [20.58.020](#) only if the following criteria are met:

- (1) The applicant demonstrates that the protective device cannot be installed outside of the specified setback without significantly diminishing the utility of the industrial property;
 - (2) The protective device will be designed to minimize adverse aesthetic impact to the residential use by installing the device behind the top of a fence or wall or screening the device with landscape; and
 - (3) The applicant demonstrates that the protective device is necessary to provide additional security along the residential property line to protect the industrial premises.
- (f) Notwithstanding the provisions of subsection (a)(1)(ii) of this section, architectural appurtenances such as trellises or entry gates that define a walkway or driveway entry are allowed in a front yard up to ninety (90) inches high; provided, that:
- (1) No individual structural support for such features shall be more than sixteen (16) inches square in section;
 - (2) Any gate shall not obscure more than twenty (20) percent of visibility to the yard as viewed perpendicular to the gate's installation; and
 - (3) Any entry feature greater than three (3) feet in height shall not be more than six (6) feet wide for a walkway entry or more than sixteen (16) feet wide for a driveway entry.
- (g) All fences shall present a "finished" appearance on their outside face.

20.46.030 HOME OCCUPATIONS.

Home occupations are permitted in a residential dwelling unit subject to the following limitations:

- (a) The business shall clearly be subordinate to the use of the dwelling unit for residential purposes.
- (b) The business shall be wholly situated indoors.
- (c) No person shall be employed in the home occupation unless a resident of the dwelling unit.
- (d) There shall be no exterior display, storage or other exterior indication of the existence of the home occupation, except as allowed by the underlying zone.
- (e) One (1) additional off-street parking space shall be provided in addition to the number of off-street parking spaces already required for the dwelling. The Director may waive this requirement if the home occupation involves Internet services that do not require customers or deliveries at the residence.
- (f) Any sales of product shall be limited to those produced on the premises, except products produced elsewhere may be allowed, provided the business is primarily involved in the product's distribution and does not attract buyers to the property for retail or wholesale sales.
- (g) Sales and services to patrons shall be arranged through appointment so that only one (1) patron vehicle is on the premises at any given time.
- (h) Not more than fifty (50) percent of the gross floor area of the dwelling may be devoted to the home occupation use.
- (i) The garage shall not be used in the business unless the required off-street and customer parking can be adequately accommodated elsewhere on the site.
- ~~(j) Home occupations involving nonautomotive engine and equipment maintenance or servicing, beauty or barbershops, or the selling of products that are not produced on the premises shall require approval of a Type II conditional use permit pursuant to BMC [20.58.020](#).~~
- (j) An independent taxi driver may operate as a home occupation, provided that the business has only one (1) single driver and one (1) taxi vehicle.
- (k) Automotive painting, body, and engine repair, small engine repair services and any activity likely to produce excessive noise are prohibited as home occupations.
- (l) Persons engaged in legal home occupations on the effective date of the ordinance codified in this chapter shall be considered legal, provided the operation is consistent with all of the above-listed

performance standards. Any home occupation which was legally established but does not currently conform to all those standards may not expand or enlarge and shall terminate that use upon:

- (1) Change of use or ownership of the property; or
- (2) Written complaint of adjacent or nearby property owners after due notice and hearing is provided and if the Director determines that the home occupation is interfering with the use and enjoyment of the neighboring premises and is not compatible with the residential environment in which it is located.

20.46.040 MANUFACTURED HOMES.

(a) Manufactured homes are permitted on one (1) individual parcel, lot, or tract in residential zones; provided, that the home is:

- (1) Approved by the Washington State Department of Labor and Industries or the U.S. Department of Housing and Urban Development, and the appropriate certification insignia is affixed to the unit, in accordance with the provisions of Chapter [43.22](#) RCW;
- (2) Comprised of at least two (2) fully enclosed parallel sections each of not less than twelve (12) feet wide by thirty-six (36) feet long;
- (3) Set upon a permanent foundation, as specified by the manufacturer, and that the space from the bottom of the home to the ground be enclosed by concrete or an approved concrete product which can be either load-bearing or decorative;
- (4) Compliant with all local design standards applicable to all other homes within the neighborhood in which the manufactured home is to be located;
- (5) Thermally equivalent to the State Energy Code;
- (6) Originally constructed with and now has a composition of wood shake or shingle, coated metal, or similar roof of nominal three to twelve (3:12) pitch or greater;
- (7) Sided with exterior siding similar in appearance to materials commonly used on conventional site-built International Building Code single-family residences; and
- (8) A new manufactured home as defined in RCW [35.63.160](#)(2).

(b) A manufactured home which was legally placed and maintained prior to the date of adoption of this chapter, and does not meet the requirements of this chapter, shall be deemed to be a nonconforming structure. If a legal nonconforming manufactured home is partially or wholly destroyed, replaced, or altered, it shall be required to meet the relevant requirements set forth in the nonconforming provisions of this title.

(c) The Building Official or designee shall inspect the installation of manufactured homes prior to occupancy and issue certificates of occupancy for manufactured homes. If all requirements are met, a certificate of occupancy shall be issued. No manufactured home shall be occupied until after the City issues a valid certificate of occupancy.

(d) If a manufactured home is replaced by another manufactured home, a new certificate of occupancy shall be required for the installation of a manufactured home after the date of adoption of the ordinance codified in this chapter.

20.46.050 RECREATIONAL VEHICLE ON A PRIVATE LOT.

A recreational vehicle, occupied or not, may be parked on a private lot or lots only as an accessory use subject to the parking provisions of this title and the following provisions:

- (a) A recreational vehicle may be occupied for a cumulative period not to exceed thirty (30) days during any twelve (12) consecutive month period;
- (b) A recreational vehicle may be parked and occupied by the owner of a lot as temporary housing during the period of new house construction on the lot for a period not to exceed one (1) year;
- (c) Only one (1) recreational vehicle may be occupied on a single lot at any time;

- (d) A recreational vehicle shall not be parked within a required front yard setback for more than fifteen (15) consecutive days and not more than thirty (30) days cumulative in any twelve (12) consecutive months; and
- (e) Any occupied recreational vehicle must be self-contained and all garbage and sanitation shall be disposed of in a manner approved by the City.

20.46.060 DISH ANTENNAS.

- (a) A ground-mounted dish antenna is subject to the setback requirements of the underlying zone.
- (b) Dish antennas may not be placed above the maximum underlying zoning district height.
- (c) All dish or other parabolic antennas having a collector dish diameter of six (6) feet or greater shall be ground-mounted, except as provided for otherwise. An antenna having a dish diameter smaller than six (6) feet may be pole- or roof-mounted in a location that has the least visual impact on surrounding properties and views while maximizing the effectiveness of the antenna's operation.

20.46.070 ADAPTIVE REUSE OF ~~PUBLIC AND SEMI-PUBLIC COMMERCIAL~~ BUILDINGS.

The intent of these provisions is to provide opportunities for reusing ~~functionally obsolete public and semi-public, and commercial~~ buildings that are structurally sound with new uses to extend their economic life. The adaptive reuse shall not be granted if the new use adversely affects adjacent properties. Consideration shall be given to the relative intensity of the proposed use compared to the intensity of the planned land use environment.

- (a) ~~Approval of an administrative Type II conditional use permit (CUP) pursuant to BMC 20.58.020 is required when an adaptive reuse is for a legally established commercial building located within a residential zone. However, the notice of application shall follow BMC 20.02.100(c)(1)(iv) with notification of property owners within three hundred (300) feet. The Director may require a nonadministrative CUP whenever the use has a significant impact beyond the immediate site, is of a neighborhood or community-wide interest, or is of a controversial nature. Approval of a Type III conditional use permit pursuant to BMC 20.58.020 is required when an adaptive reuse is for a building located within a residential zone.~~ The adaptive reuse shall meet the following criteria in order to be granted approval:

- (1) New traffic shall be accommodated within the existing levels of service on the surrounding neighborhood streets.
- (2) ~~Provision for off-street parking must be evaluated and to the greatest extent possible, meet the parking demand for change of uses. Provisions for off-street parking are made.~~ The Director or Hearing Examiner may reduce the number of off-street parking spaces if commute trip reduction methods are employed and the adaptive reuse does not generate an increase in on-street parking demand.
- (3) The new use does not generate noise that exceeds City standards for residential zones.
- (4) Adequate street trees and landscaping are incorporated in a manner that buffers the adaptive reuse from adjacent residential uses and makes it more compatible with the surrounding neighborhood.
- (5) Additional conditions may be applied including, but not limited to, limiting hours of operations, density, restrictions for noise attenuation and other conditions deemed necessary to ensure compatibility with surrounding residential uses.
- ~~(6) The subject building must have been constructed for a stated public or semi-public use and operated as such for a minimum of five (5) years. For the purposes of this section, "public and semi-public building" shall include public schools, fire stations, libraries, churches, hospitals, post offices, and other public services.~~

- (b) The following uses may be approved for adaptive reuse:
 - (1) Residential, ~~no density limit~~ underlying zone density limit, provided no new floor area is constructed;

- (2) Foster homes;
- (3) Day care facilities;
- (4) Group residential facilities, Class I (assisted living);
- (5) Youth, teen, senior, or community centers;
- (6) Medical and dental clinic and related services (not hospitals);
- (7) Religious worship facilities;
- (8) Libraries;
- (9) Museums and art galleries;
- (10) Consultants (architectural, engineering, planning, design and similar);
- (11) Computer assistance and training ~~(but not repair)~~;
- (12) Office/business assistance services, call centers, and general offices;
- (13) Social services/facilities;
- (14) Welfare and charitable services/facilities; and
- (15) Public services.
- (16) Hotel and Lodging Place
- (17) General Retail
- (18) Restaurants

20.46.080 MINERAL RESOURCE ~~EXTRACTION~~OVERLAY.

The intent of this overlay is to protect significant sand, gravel and rock deposits as identified mineral resource lands. It is also used to ensure the continued or future use without disrupting or endangering adjacent land uses, while safeguarding life, property, and the public welfare.

(a) Uses: Mineral resource extraction with associated structures and equipment for soil and gravel, quarried stone or ore may be allowed within the Mineral Resource Overlay. In addition, the following provisions shall be met:

- (1) A single on-site security or superintendent dwelling for his or her family may be permitted as an accessory use.
- (2) All uses not listed above are prohibited within the development area while mineral extraction is being actively pursued.

(b) Performance standards: Potential impacts related to traffic, dust control, light emission, visual screening, loss of tree cover, noise emission and protection of environmentally sensitive areas shall be examined. The city recognizes impacts to other elements of the environment including air and water quality are regulated by the state, regional and federal authorities. At a minimum the following shall be met:

- (1) Hours of Operation. Noise associated with surface mining may constitute a nuisance or a public health concern, therefore, when surface mining activity, hours of operation for excavating, processing, and loading shall be prohibited on Saturday, Sundays and legal holidays, and limited to between 7:00 a.m. and 6:00 p.m. Monday through Friday; provided, that the surface mining operation may continue until 9:00 p.m. if the noise created is less than the ambient night time noise levels for that area; and further provided, that the following activities are exempt from these requirements:
 - (i) Activity under public contract when in the public interest. Hours of operation unless shall be between 7:00 a.m. and 6:00 p.m.
- (2) Maximum Permissible Noise Levels. Maximum permissible noise levels shall be according to the provisions of the Bremerton Noise Ordinance per BMC 6.32 with the following exceptions:
 - (i) The mineral resource operation site may have the District of Sound Source be classified as District III during the Hours of Operation per (b)(1).
- (3) Setbacks. The tops and toes of cut and fill slopes shall be set back from property boundaries according to the State Department of Natural Resources standards for safety of adjacent properties,

and to prevent water runoff or erosion of slopes and to provide adequate reclamation slopes per subsection (4) of this section.

(4) Slope. When reclaimed, no slope of cut and fill surfaces shall be steeper than is safe for the intended use, and shall not exceed one and one-half horizontal to one vertical for unconsolidated material such as gravel, and one-fourth horizontal to one vertical for consolidated material, unless otherwise approved by the director after a qualified professional certifies that steeper slopes are appropriate.

(5) Access Roads Maintenance. Access roads to mining and quarrying sites shall be maintained and located to the satisfaction of the Director of Public Works & Utilities, to minimize problems of dust and mud, and connection access to the city roadways.

(6) Best Practices Management. Require mineral extraction and processing operations to implement best management practices to reduce environmental impacts and mitigate any remaining impacts.

(c) Permitting Process: Mineral resource extraction with associated structures and equipment for soil and gravel, quarried stone or ore may be allowed if a Type III Hearing Examiner conditional use permit (CUP) is approved pursuant to BMC 20.58.020, with the adoption that notice of application shall be mailed to all property owners within five hundred (500) feet of the property.

(1) The owner or agent of the quarry shall submit to the City copies of all documents submitted to the Washington State Department of Natural Resources with the application.

(2) Notice of application for the CUP shall be provided to the local tribal government, typically during the environmental review, however if environmental review is not required, a 14-day comment period to the local tribal government of the proposal will be required prior to issuance of approval.

(d) Transition of uses from Mineral Resource Overlay. As an option to reclaim a property(s) and extinguish a Washington State Department of Natural Resources (DNR) surface mining permit, the City may accept, review and approve development permits for uses consistent with the property(s) underlying zone. If a permit meets all applicable, zoning, building, storm water, fire and other county codes, such permits shall be forwarded to the DNR to be reviewed as a reclamation plan. Upon receipt by the City of DNR confirmation of the closing of the surface mining permit for the property(s), the City will revert the property(s) back to their underlying zone and compatible designation.

(e) Special Provisions. All plats, short plats, development permits and building permits issued for land development activities on or within five hundred (500) feet of designated mineral resource overlay lands, shall contain the following notice:

The subject property is within or near land in which resource activities are permitted and encouraged, including a variety of activities which may not be compatible with residential use for certain periods of limited duration. In addition to other activities, these may include noise, dust, smoke, visual impacts and odors resulting from harvesting, planting, surface mining, quarrying, application of fertilizers, herbicides and associated reclamation and management activities. When performed in accordance with state and federal law, these resource activities are not subject to legal action as a nuisance.

~~The purpose of this section is to preserve opportunities for mineral extraction while protecting the health and safety of the community.~~

~~(a) Mineral resource extraction for soil and gravel, quarried stone or ore may be allowed if a Type III conditional use permit is approved pursuant to BMC 20.58.020. The owner or agent of the quarry shall submit to the City copies of all documents submitted to the Washington State Department of Natural Resources with the application.~~

~~(b) At a minimum, the following performance standards shall apply:~~

~~(1) A fence eight (8) feet in height shall be installed around the mineral extraction area and all accessory operations.~~

~~(2) When a subject property is adjacent to developed properties or public rights-of-way, a four (4) foot high landscaped sight-obscuring barrier shall be installed that will grow to not less than eight (8) feet high within three (3) years. If soil and terrain make landscaping impractical, an eight (8) foot fence or wall that completely screens the property from other uses and the public streets shall be installed.~~

~~(3) The following are the minimum distances to be measured from adjacent property lines or public rights-of-way:~~

~~(i) Critical Area.~~

~~(A) To edge of pit, excavation, or stockpiling area, one hundred (100) feet;~~

~~(B) To crushing of rock or processing of stone, gravel or minerals, three hundred (300) feet;~~

~~(C) To blasting, determined on a case-by-case basis.~~

~~(ii) Shoreline Area.~~

~~(A) To edge of pit, excavation, or stockpiling area, one hundred (100) feet;~~

~~(B) To crushing of rock or processing of stone, gravel or minerals, three hundred (300) feet;~~

~~(C) To blasting, determined on a case-by-case basis.~~

~~(iii) Industrial Area.~~

~~(A) To edge of pit, excavation, or stockpiling area, twenty (20) feet;~~

~~(B) To crushing of rock or processing of stone, gravel or minerals, two hundred (200) feet;~~

~~(C) To blasting, four hundred (400) feet.~~

~~(iv) Residential Area.~~

~~(A) To edge of pit, excavation, or stockpiling area, three hundred (300) feet;~~

~~(B) To crushing of rock or processing of stone, gravel or minerals, five hundred (500) feet;~~

~~(C) To blasting, determined on a case-by-case basis, minimum one thousand (1,000) feet.~~

~~(v) All Other Land Uses.~~

~~(A) To edge of pit, excavation, or stockpiling area, one hundred (100) feet;~~

~~(B) To crushing of rock or processing of stone, gravel or minerals, three hundred (300) feet;~~

~~(C) To blasting, determined on a case-by-case basis.~~

~~(4) When a pit exceeds a depth of twenty (20) feet, all dense undergrowth shall be removed from the soil cover for a distance of fifty (50) feet from the edge of the pit.~~

~~(5) No smoke, dust, dirt, fly ash, other airborne particulate matter, toxic or odorous gasses, liquids or solids shall be emitted in quantities that adversely affect surrounding properties.~~

~~(6) The provisions set forth in Chapter 6.32 BMC shall apply, as applicable.~~

~~(7) Upon the termination of quarrying operations at a pit that exceeds a depth of five (5) feet, the pit shall be backfilled to a minimum slope of one (1) foot vertical to one (1) foot horizontal.~~

~~(8) The site shall be restored after quarrying activities are completed. A landscaping and site reclamation plan shall be required with the conditional use permit and the City may require a security guarantee for restoration.~~

~~20.46.090 SENIOR HOUSING COMPLEX.~~

~~Approval of a Type III conditional use permit pursuant to BMC 20.58.020 may allow senior housing complexes in any zone, except industrial zones, subject to the following standards:~~

~~(a) The site shall have access to an arterial street;~~

~~(b) Minimum site area shall be no less than two (2) acres;~~

- ~~(c) Minimum setbacks, density, height and lot coverage of the underlying zone shall apply;~~
- ~~(d) Off-street parking shall be a minimum one (1) space per dwelling;~~
- ~~(e) Except for a community building/clubhouse for the exclusive use of complex residents, all accessory uses shall be located within a structure containing residential units;~~
- ~~(f) Attached or detached structure types are permitted and dwelling units may be owned by individuals or occupied as rentals;~~
- ~~(g) Access to alternative transportation such as public transit or on-site shuttle services to access daily goods and services shall be provided; and~~
- ~~(h) A management agreement or covenants on individual properties to maintain the complex as a senior citizen complex shall be recorded with the Kitsap County Auditor's Office.~~

~~20.46.100 RECYCLING COLLECTION STATION.~~

~~The following standards apply to collection stations intended for public use. They are not mandatory (but may be applied voluntarily) for private on-premises collection and storage of recyclables by owners or tenants of residential properties, businesses or organizations. Such on-premises collection and storage is considered accessory to the principal use of the property and not available to the general public.~~

- ~~(a) Areas to be used in the collection operation must have asphalt or concrete surface and shall be landscaped to the same standards that apply to any other development or use within the subject zone.~~
- ~~(b) The facility shall be closed to public access between the hours of 8:00 p.m. and 6:00 a.m. in residential zones.~~
- ~~(c) A sight-obscuring fence or wall built to the maximum allowed height of the zone shall be constructed and maintained along the sides and rear of the facility. Chain-link type fences and gates are permitted along front lot lines.~~
- ~~(d) The facility may be lighted for use during hours of darkness, but shall not be lighted between the hours of 8:00 p.m. and 6:00 a.m. in residential zones.~~
- ~~(e) The site shall be monitored and maintained in a clean, safe and healthful manner.~~

20.46.110 ADULT ENTERTAINMENT BUSINESSES.

This section regulates the location of adult entertainment businesses. The purpose of these regulations is to reduce conflicts between adult entertainment businesses and other land uses. The intent is to protect the City from the blighting impacts of concentrations of adult entertainment businesses while assuring the full enjoyment of all the constitutionally guaranteed rights of the general public.

(a) Location of Adult Entertainment Businesses.

- (1) Adult entertainment businesses as defined in subsection (c) of this section are prohibited within the area circumscribed by a circle which has a radius of five hundred (500) feet from the following specified uses or zones:
 - (i) Any zone in which residential use is listed as a principal use.
 - (ii) Any public or private school.
 - (iii) Any day care facility as defined in BMC [20.42.040](#).
 - (iv) Any worship, religious, or church facility as defined in BMC [20.42.040](#).
 - (v) Any public park.
 - (vi) Any center designated within the Comprehensive Plan.
 - (vii) Any public library.
- (2) The distances provided in this section shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property or parcel upon which the proposed use is to be located, to the nearest point of the parcel of property or the land use district boundary line from which the proposed land is to be separated.
- (3) Violation of the use provisions of this section is declared to be a public nuisance per se, which shall be abated by the City Attorney as authorized under state law or the City code.

- (4) Nothing in this section is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building, or use which violates any city code or statute of the state regarding public nuisances, sexual conduct, lewdness, or obscene or harmful matter or the exhibition or public display thereof.
- (b) Development Standards. Adult entertainment businesses are subject to the development standards of the underlying zone.
- (c) Definitions.
- (1) "Adult entertainment" means any dance, amusement, show, display, merchandise, material, exhibition, pantomime, modeling, or any other like performance of any type, for the use or benefit of a member or members of the public or advertised for the use or benefit of a member of the public where such is characterized by an emphasis on the depiction, description, or simulation of "specified anatomical areas," defined in this chapter, or the exhibition of "specified sexual activities," also defined in this chapter, or the case of live adult entertainment performances, which emphasizes and seeks to arouse or excite the patron's sexual desires. Any patron of an adult entertainment business, as defined in this section, shall be deemed a member of the public.
- (2) "Adult entertainment business" means any establishment providing adult entertainment as defined in this section including, but not limited to, adult arcade, adult retail establishment, adult motion picture theater, and exotic dance studio, more specifically defined herein.
- (3) "Adult arcade" means a commercial establishment where, for any form of consideration, one (1) or more still or motion picture projectors, slide projectors, computer-generated or enhanced pornography, panoramic peep show, or similar machines, or other image-producing machines, for personal viewing, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which provide material for individual viewing by patrons on the premises of the business which are characterized by an emphasis on the depiction, description or simulation of "specified anatomical areas" or "specified sexual activities."
- (4) "Adult motion picture theater" means a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions characterized by an emphasis on the depiction, description, or simulation of "specified anatomical areas" or "specified sexual activities" are regularly shown for any form of consideration.
- (5) "Adult retail establishment" means any bookstore, adult novelty store, adult video store, or other similar commercial establishment, business service, or portion thereof, which, for money or any other form of consideration, provides as a significant or substantial portion of its stock-in-trade the sale, exchange, rent, loan, trade, transfer, and/or provision for viewing or use off the premises of adult entertainment material defined in this chapter. For purposes of this provision, it shall be a rebuttable presumption that thirty (30) percent or more of a business' stock-in-trade in adult retail material, based on either the dollar value (wholesale or retail) or the number of titles of such material, is significant or substantial. In determining whether or not the presumption is rebutted, the Director may consider the following factors, which are not inclusive:
- (i) Whether minors are prohibited from access to the premises of the establishment due to the adult entertainment nature of the inventory;
 - (ii) Whether the establishment is advertised, marketed, or held out to be an adult merchandising facility;
 - (iii) Whether adult entertainment material is an establishment's primary or one (1) of its principal business purposes; or
 - (iv) Whether thirty (30) percent or more of an establishment's revenue is derived from adult entertainment material.
- An establishment may have other principal business purposes that do not involve the offering for sale or rental of adult entertainment materials and still be categorized as an adult retail establishment. Such other business purposes will not serve to exempt such establishments

from being categorized as an adult retail establishment so long as one (1) of its principal business purposes is offering for sale or rental, for some form of consideration, the specified adult entertainment materials. The Director shall have full discretion to give appropriate weight to the factors set forth above as well as other factors considered depending on the particular facts and circumstances of each application.

- (6) "Exotic dance studio," also known as "erotic dance studio," "topless bar" and "adult cabaret," means a nightclub, bar, restaurant, or similar commercial establishment, or any premises or facility to which any member of the public is invited or admitted and where an entertainer provides live performances to any member of the public, which performances are characterized by an emphasis on the depiction, description, or simulation of "specified anatomical areas" or "specified sexual activities" or which emphasize and seek to arouse or excite the patron's sexual desires.
- (7) "Adult entertainment material" means any books, magazines, cards, pictures, periodicals or other printed matter, or photographs, films, motion pictures, video tapes, slides, or other photographic reproductions, or visual representations, CD-ROMs, DVDs, disks, electronic media, or other such media, or instruments, devices, equipment, paraphernalia, toys, novelties, games, clothing or other merchandise or material, which are characterized by an emphasis on the depiction, description or simulation of "specified anatomical areas" or "specified sexual activities."
- (8) "Specified anatomical areas" means:
- (i) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast below a point immediately above the top of the areola; or
 - (ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (9) "Specified sexual activities" means:
- (i) The caressing, touching, fondling or other intentional or erotic touching of male genitals, female genitals, pubic region, buttocks, anus, or female breasts of oneself or of one (1) person by another; or
 - (ii) Sex acts, normal or perverted, actual or simulated, including masturbation, intercourse, oral copulation, flagellation, sodomy, bestiality, or any sexual acts which are prohibited by law; or
 - (iii) Human genitals in a state of sexual stimulation, arousal, or tumescence or visual state of sexual stimulation, arousal or tumescence, even if completely and opaquely covered; or
 - (iv) Excretory functions as part of or in connection with any of the activities set forth in subsections (c)(9)(i) through (iii) of this section.

20.46.120 OUTDOOR STORAGE AREAS.

All uses that include outdoor storage areas and all refuse containers shall, in addition to any underlying zoning requirements, meet the following criteria [for these accessory uses](#):

- (a) It shall be surrounded by a six (6) foot-high solid wall or sight-obscuring fence except for single-family residential homes on individual lots. The wall or fence shall be considered a structure and shall conform to the setbacks of the underlying zone.
- (b) Outdoor storage of materials shall not exceed six (6) feet in height when visible from a public right-of-way.
- (c) Outdoor storage yards shall meet landscaping requirements for nonresidential uses.

~~20.46.130 OUTDOOR LAND USES.~~

~~In addition to other applicable development requirements, outdoor-oriented land uses such as sales lots, impound lots, outdoor storage yards, and similar activities shall have all parking and storage areas developed with a paved surface which is durable and able to withstand all weather conditions.~~

20.46.140 WIRELESS ~~TELECOMMUNICATIONS~~ COMMUNICATIONS FACILITIES.

(a) Purpose and Intent. The purpose of this section is to provide specific regulations for the placement, construction, modification and removal of these facilities. These standards were designed to comply with the Telecommunications Act of 1996 (“the Act”) and Section 6409 of the Middle Class Tax Relief and Job Creation Act (the “Spectrum” Act). The provisions of this section are not intended to and shall not be interpreted to prohibit or have the effect of prohibiting personal wireless services as defined in the Act. This section shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services, as defined in the Act.

(b) General Provisions.

(1) Exemptions. The following are exempt from the provisions of this section and shall be permitted in all zones:

(i) Temporary wireless communication facilities during an emergency declared by the City;

(ii) Licensed amateur (ham) radio stations;

(iii) Wireless communication facilities which legally existed or had a vested application on or prior to the effective date of the ordinance codified in this section; except, that this exemption does not apply to modifications of such facilities;

(iv) Routine maintenance or repair of wireless communication facilities and related equipment (excluding structural work or changes in height or dimensions of antennas, support structures or buildings); provided, that compliance with the standards of this code are maintained.

(2) Principal or Accessory Use. Wireless telecommunications facilities may be either a principal or accessory use. A different use of an existing structure on the same lot shall not preclude the installation of a wireless telecommunications facility on that lot.

(3) Reimbursement of Costs. In addition to the application fee, the applicant shall reimburse the City for costs of professional engineers and other consultants hired by the City to review and inspect the applicant’s proposal when the City is unable to do so with its existing staffing resources. By way of illustration and not limitation, these professional services may include engineering and technical review, legal review, planning review, Hearing Examiner services, environmental review, critical areas review, financial and accounting review, soils review, and mechanical and structural engineering review. In the event that a project requires professional services beyond that which is included in the base fee, the applicant shall reimburse the City the full cost of such engineer or consultant services plus a City service charge of ten (10) percent as calculated from before-tax cost.

(c) Definitions.

(1) Base Station. A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein or any equipment associated with a tower. Base Station includes, without limitation:

(i) Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(ii) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems (“DAS”) and small-cell networks).

(iii) Any structure other than a tower that, at the time the relevant application is filed with the City under this section, supports or houses equipment described in paragraphs (d)(1)(i)-(ii) that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.

The term does not include any structure that, at the time the relevant application is filed with the City under this section, does not support or house equipment described in (d)(1)(i)-(ii) of this section.

- (2) Collocation. The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
- (3) Concealed. A wireless telecommunications antenna or facility that is not evident; it is disguised, hidden by or integrated with a structure that is not a telecommunications tower; or, a personal wireless service facility that is placed within an existing or proposed structure.
- (4) Eligible Facilities Request. Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:
 - (i) Collocation of new transmission equipment;
 - (ii) Removal of transmission equipment; or
 - (iii) Replacement of transmission equipment.
- (5) Eligible support structure. Any tower or base station as defined in this section, provided that it is existing at the same time the relevant application is filed with the City of Bremerton under this section.
- (4)(6) Existing. A constructed tower or base station is existing for purposes of this section if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and reviewed because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this section.
- (7) FAA (Federal Aviation Administration).
- (8) FCC (Federal Communications Commission).
- (9) Non-substantial change. Any modification to an existing support structure not classified as or meeting the criteria of a substantial change, as defined in this section.
- (10) Provider. Every corporation, company association, joint stock company, firm, partnership, limited liability company, other entity and individual licensed to provide personal wireless services over personal wireless communication facilities.
- (11) Site. For towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.
- (12) Structure. Any existing building, utility pole, or tower capable of supporting a wireless telecommunications antenna. Structures include, but are not limited to, existing buildings, water towers, and utility poles and/or towers.
- (13) Substantial Change. A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:
 - (i) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater
 - (ii) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

- (iii) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
- (iv) It entails any excavation or deployment outside the current site;
- (v) It would defeat the concealment elements of the eligible support structure; or
- (vi) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs (g)(i)-(g)(iv) of this section.

(14)Transmission Equipment. Equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(15)Tower. Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

(16)Wireless telecommunications facility. A facility for the transmission and reception of radio or microwave signals used for communication, cellular phones, personal communications services, enhanced specialized mobile radio or any other services licensed by the FCC, and unlicensed wireless services including but not limited to associated equipment shelter, support tower and antenna array.

(d) Process. The applicant shall provide proof of legal authority to collocate on an existing structure, modify an existing structure, or construct a new structure at the time of permit submittal. This shall include any current franchise agreements for projects located within the City's right-of-way and lease agreements on private or City real property. Only a complete application shall be accepted for review. Prior to acceptance, the permit application shall be reviewed for completeness. If an application is deemed complete, the application will be processed and reviewed. The Director has the discretion to elevate a Type I permit to a Type II permit, and/or a Type II permit to a Type III permit in cases where views from residential properties or views from the public right of way may be affected.

(1) Type I Permit.

- (i) An eligible facilities request, as defined by this chapter.
- (ii) The installation of new wireless communication facilities in the public right-of-way.

(2) Type II Permit.

- (i) All other wireless communication facilities not exempt by this chapter, or eligible for a Type I permit, require a Type II permit.
- (ii) A Type II Permit, including the notification of adjacent property owners within three hundred (300) feet, is required for all new wireless communication facilities in residential zoning districts, and for sites adjacent to residential zones.

(e) Siting Wireless Communication Facilities. It is the policy of the City to minimize the number of wireless communication towers. The City encourages the location of antenna arrays on existing

structures and encourages the collocation of antenna arrays of more than one (1) wireless communication service provider on a single tower. Priority of location shall be as follows:

(1) Collocation. Mount antennas on eligible support structures as defined by this chapter.

(2) Antennas on Street (Utility) Poles.

(i) Residential. In residential zones, antennas on street poles shall not exceed the height of the existing pole by more than twenty (20) feet or the average height of existing poles within three hundred (300) feet, whichever is less, including the mounting.

(ii) Commercial/Industrial. In commercial or industrial zones, street poles shall not exceed the height of the existing pole by more than twenty (20) feet, including the mounting.

(iii) All Zones. In all zones the total bulk added to a pole shall not exceed double the average bulk of existing poles within three hundred (300) feet. An existing street pole may be replaced with a new street pole of the same diameter and appearance as the existing street pole; provided, the highest element on the pole, including antennas, does not exceed twenty (20) feet above the height of the pole being replaced. Alterations for increased height and bulk may be granted by the Director if the applicant can demonstrate superior method of concealment will be utilized. When well concealed, a greater number of sites spread over a larger area is preferable to replacing an existing pole with a taller pole.

(3) Antennas Mounted on Existing Structures. The applicant shall exhaust collocation possibilities and locating on other structures (i.e., buildings, roofs, light standards, etc.) before applying for a new tower. The antennas, mounting hardware and antenna cables shall be camouflaged to match the existing building or structure. Rooftop equipment shall be screened in a manner and material that is architecturally compatible with the building. Examples of appropriate screening include, but are not limited to, lattice, parapet walls or rooftop plantings.

(4) New Towers. The applicant bears the burden to show that mounting antennas on existing structures or towers is not technically feasible before applying for an application for a new tower. This burden includes documenting existing structures that were studied prior to the application and an analysis explaining why those locations were not technically feasible. New towers, support structures and equipment areas shall be designed to accommodate antennas for more than one (1) user, unless the applicant demonstrates why such design is not technically feasible.

(f) Siting and Design of Towers and Associated Equipment. Site location and development shall:

(1) Be integrated through location and design to blend in with the existing characteristics of the site.

(2) Preserve the existing on-site vegetation and minimize disturbance of the existing topography, unless such disturbance would result in less visual impact of the site to the surrounding area.

(3) Be designed and placed on the site in a manner that takes the maximum advantage of existing trees, mature vegetation, and structures as to use existing site features to screen as much of the total facility as possible, and/or use existing site features as a background so that the facility blends into the background with increased sight distances. Equipment shelter/cabinets at ground level shall be screened with landscaping and/or other such material that provides screening during the entire year. Setbacks from property lines shall be maximized where practical.

(4) When comparing potential sites for a new wireless communication tower, sites that can provide substantial screening of the tower will be preferred over sites where the tower will be highly visible.

(5) New towers shall be located in the following locations in order of preference: City property, Industrial zone (I), Freeway Corridor zone (FC), General Commercial zone (GC), place antennas and towers in other zone districts which do not adjoin or adversely impact residential neighborhoods.

(g) Minimum Design & Submittal Requirements. All wireless communication facilities not specifically exempted by this chapter shall provide the following:

- (1) Photo simulations of the proposed facility from affected residential properties and public rights-of-way at varying distances, are required with all new wireless communication facilities.
- (2) A landscaping plan which complies with 20.50.050 shall be required for all new wireless communications. The Director may adjust these requirements when co-locating on an existing structure.
- (3) All new wireless communication facilities shall provide signed statements indicating that:
 - (i) The applicant and landowner (if different) agree they will diligently negotiate in good faith to facilitate co-location of additional wireless telecommunications facilities by other providers on the applicant's structure or within the same site location; and
 - (ii) A letter signed by the applicant stating the tower will comply with all FAA regulations and EIA standards and all other applicable federal and local laws and regulations.
 - (iii) Certification that the antenna usage will not interfere with other adjacent or neighboring transmission or reception functions.
 - (iv) If technology should change and a wireless telecommunications facility becomes obsolete, or the use of the facility abandoned or discontinued, the applicant shall remove facilities per subsection (i) of this section.
- (4) Wireless telecommunications facilities shall be screened or camouflaged by employing the best available technology. This may be accomplished by use of compatible materials, location, color, stealth technologies, and/or other tactics to achieve minimum visibility of the facility as viewed from public streets or residential properties. All screening and camouflaging is subject to the approval of the City.
- (5) Tower bases, equipment enclosures and cabinets and related security fencing shall be screened from public view. This screening requirement may be met in a number of ways, including use of a solid masonry wall, earthen berms, artwork, or landscaping. If landscaping is employed, it shall meet all applicable requirements of Chapter 20.50BMC.
- (6) In reviewing the proposed placement of a wireless facility on the site and any associated landscaping, the City may make a condition of the permit that the applicant supplement existing trees and mature vegetation to more effectively screen the facility.
- (7) Towers, antennas, and any associated hardware and equipment shall be painted a non-reflective color or color scheme appropriate to the background against which the facility would be viewed from a majority of points within its view-shed. A proposed color or color scheme shall be approved by the City.
- (8) Fencing, if used, shall conform to Chapter 20.46.020 BMC and the following:
 - (i) Security fencing shall be effectively screened from view through the use of appropriate landscaping materials; and
 - (ii) Chain-link fences shall be painted or coated with a non-reflective color, and shall have a minimum three (3) foot deep area to be planted with approved plant species in a manner that will completely screen the fencing.
- (9) No wireless equipment enclosures reviewed under this section shall be located within required yard setback areas, and when located outside the right of way, shall not be permitted within ten (10) feet of any property line.
- (h) Proof of Necessity. Providers are required to demonstrate that their facilities must be placed in the proposed location in order to satisfy their grid system and provide adequate coverage. Regional grid maps shall be submitted showing the proposed site and its relation to sites in the area. The companies shall also demonstrate that the height of the facility they are requesting is the minimum height necessary to provide adequate coverage within the grid system. Some gaps in coverage and less than seamless coverage may be acceptable. In some instances, there may be a need for expert review by a third party of the technical data. The City may require such a technical review, to be paid for by the applicant. The expert review may include, but not be limited to, a recommendation on the height of the proposed

facilities relative to the applicant's coverage objectives and system design parameters, or the structural requirements for accommodating collocation. Based on the results of the third party review, the City may require changes to the application that comply with the recommendations of the expert.

(h) Noise. All Wireless Communication facilities and supporting equipment shall conform to levels established in Title 6.32 of the City noise ordinance. A noise study verifying that the maximum level is not being exceeded may be required prior to issuance of the Building Permit. If complaints regarding noise levels are registered with the City, the City may require additional testing and certification of the noise level, at the expense of the communication facility owner/operator.

(i) Abandonment or Discontinuation of Use.

(1) At such time that a provider plans to abandon or is required to abandon the operation of a wireless telecommunications facility, such provider will notify the City Department of Community Development by certified U.S. mail of the proposed date of abandonment. Such notice shall be given no less than thirty (30) days prior to abandonment.

(2) In the event that a licensed provider fails to give such notice, the personal wireless facility shall be considered abandoned.

(3) Upon abandonment, the provider shall physically remove the wireless telecommunications facility within one hundred eighty (180) days from the date of abandonment. "Physically remove" shall include, but not be limited to:

(i) Removal of antennas, mounts, equipment cabinets and security barriers from the subject property.

(ii) Removal of Towers.

(iii) Transportation of the antennas, mounts, equipment cabinets, security barriers, and towers to a location outside of the City of Bremerton.

(iv) Restoring the location of the personal wireless facility to its natural condition, except any remaining landscaping and grading.

(j) Maintenance.

(1) Wireless telecommunications facilities shall be maintained. For purposes of this section, "maintenance" shall include but not necessarily be limited to the following:

(i) Keeping of all plant materials used for screening in a live and healthy condition;

(ii) Regular painting of towers, enclosures, artwork, fences and all paintable items on the site such that rust, peeling paint, or oxidation is not evident;

(iii) Repair of any loose or hanging equipment or parts; and

(iv) Replacement of missing plants, artwork, fencing or fencing parts, or other portions of towers, enclosures, and other equipment.

~~(a) Purpose and Intent. The purpose of this section is to provide specific regulations for the placement, construction, modification and removal of these facilities. Pursuant to the guidelines of Section 704 of the Federal Telecommunications Act of 1996, 47 U.S.C. Section 332(c)(7), the provisions of this section are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting the provision of wireless telecommunications facilities, nor shall the provisions of this section be applied in such a manner as to unreasonably discriminate among providers of functionally equivalent wireless services.~~

~~(b) General Provisions.~~

~~(1) Not Essential Public Facilities. Wireless telecommunications facilities shall not be considered or regulated as essential public facilities.~~

~~(2) Exemptions. The following are exempt from the provisions of this section:~~

~~(i) Industrial processing equipment and scientific or medical equipment using frequencies regulated by the Federal Communications Commission (FCC);~~

~~(ii) Antennas and related equipment no more than three (3) feet in height that are being stored, shipped, or displayed for sale;~~

- ~~(iii) Facilities used for the purpose of public safety by public or semi-public entities including, but not limited to, police communications, hospital communications and 911 system communications;~~
- ~~(iv) Wireless radio utilized for emergency communications in the event of a disaster;~~
- ~~(v) Licensed amateur (ham) radio installations;~~
- ~~(vi) Satellite dish antennas less than two (2) meters in diameter, including direct home satellite services, when an accessory use of the property;~~
- ~~(vii) Routine maintenance of otherwise permitted wireless telecommunications facilities; or~~
- ~~(viii) Subject to compliance with all applicable City, state, and federal standards, an emergency repair of a wireless telecommunications facility; provided, that a permit is applied for within thirty (30) days after completion of such emergency repair.~~
- ~~(3) Principal or Accessory Use. Wireless telecommunications facilities may be either a principal or accessory use. A different use of an existing structure on the same lot shall not preclude the installation of a wireless telecommunications facility on that lot.~~
- ~~(4) Prohibited Use. Type I and Type II towers as defined in Chapter 20.42 BMC are prohibited in the low density residential (R-10) zone.~~
- ~~(5) Reimbursement of Costs. In addition to the application fee, the applicant shall reimburse the City for costs of professional engineers and other consultants, mutually acceptable to both the applicant and the City, hired by the City to review and inspect the applicant's proposal when the City is unable to do so with its existing staffing resources. By way of illustration and not limitation, these professional services may include engineering and technical review, legal review, planning review, Hearing Examiner services, environmental review, critical areas review, financial and accounting review, soils review, and mechanical and structural engineering review. In the event that a project requires professional services beyond that which is included in the base fee, the applicant shall reimburse the City the full cost of such engineer or consultant services plus a City service charge of ten (10) percent as calculated from before-tax cost.~~
- ~~(c) Permits Required. Approval of a permit(s) is required to site a wireless communication facility in accordance with the following and the procedures set forth in Chapter 20.02BMC:~~
 - ~~(1) Type I Director's Decision.
 - ~~(i) Co-location of antennas on towers per this section in nonresidential zones;~~
 - ~~(ii) Co-location of antennas on existing support structures per this section, excluding towers, in any zone.~~~~
 - ~~(2) Type II Director's Decision. New Type I towers and associated equipment and antennas in nonresidential zones.~~
 - ~~(3) Type III Hearing Examiner Decision. Any wireless telecommunications facility not stated above, including the following:
 - ~~(i) Any Type I tower in a residential zone and associated antenna and equipment enclosures;~~
 - ~~(ii) Any Type II tower and associated antennas and equipment enclosures.~~~~
 - ~~(4) Expiration of Permits. A permit shall expire consistent with the provisions of the City building code, except that the permit for construction of a wireless telecommunications facility shall expire one (1) year after the effective date of the permit approval.~~
- ~~(d) Priority of Locations and Consideration Process. The order of priorities for locating new personal wireless service facilities shall be as follows:
 - ~~(1) Place antennas and towers on public property if practical.~~
 - ~~(2) Place antennas and towers in districts zoned freeway commercial (FC), marine industrial (MI), industrial park (IP), or industrial (I).~~
 - ~~(3) Co-locate antennas on appropriate rights-of-way and existing structures, such as buildings, towers, water towers and smokestacks.~~~~

~~(4) Place antennas and towers in other zone districts which do not adjoin or adversely impact residential neighborhoods.~~

~~(5) Only after an applicant has provided an alternative sites report per subsection (e) of this section that demonstrates that priority sites per this section have been investigated shall other sites be approved.~~

~~(e) Application Submittal Requirements. Application for any Type I or Type II permit, and other related requests, shall include any combination of site plans, surveys, maps, technical reports, or written narratives necessary to convey the following information, unless waived or modified by the Director as unnecessary. The following information shall be submitted with a permit:~~

~~(1) A site or combined site and vicinity plan clearly indicating the site location, type and height of the proposed tower (if any) and antenna, on-site and nearby land uses and zoning, roadways, proposed means of access, and setbacks from property lines, sufficient to demonstrate that setbacks and other pertinent requirements have been met. Such drawings shall specifically include elevation drawings of the proposed tower (if any), and any other proposed structures.~~

~~(2) A site elevation and landscaping plan indicating the specific placement of the facility on the site, the location of existing structures, trees, and other significant site features, the type and location of plant materials used to screen the facility, and the proposed color(s) of the facility, the method of fencing, finished color and, if applicable, the method of camouflage and illumination. The Director may adjust these requirements when co-locating on an existing support structure.~~

~~(3) A completed Federal Aviation Regulation (FAR) 7460-1 Airspace Form with applicable agency comments if the facility is located within five (5) miles of any airport. The City may incorporate comments provided in the FAR Part 77 Airspace Form into its decision as conditions.~~

~~(4) Photo simulations of the proposed facility from affected residential properties and public rights-of-way at varying distances.~~

~~(5) Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by FCC Paragraph 1.1307, or, in the event that an FCC environmental assessment is not required, a statement that describes the specific factors that obviate the requirement for an environmental assessment.~~

~~(6) A legal description of the parcel.~~

~~(7) A signed statement indicating that:~~

~~(i) The applicant and landowner (if different) agree they will diligently negotiate in good faith to facilitate co-location of additional wireless telecommunications facilities by other providers on the applicant's structure or within the same site location; and~~

~~(ii) The applicant and/or landlord agree to remove the facility within one hundred eighty (180) days after abandonment per subsection (i) of this section.~~

~~(8) A letter signed by the applicant stating the tower will comply with all FAA regulations and EIA standards and all other applicable federal and local laws and regulations.~~

~~(9) Certification that the antenna usage will not interfere with other adjacent or neighboring transmission or reception functions.~~

~~(10) The telecommunications provider must provide documentation that it is licensed by the FCC if it is required to be licensed under FCC regulations.~~

~~(11) The telecommunications provider must supply documentation that it has consulted with hospitals, medical clinics, and other similar medical uses within a radius of one thousand (1,000) feet of the proposed wireless telecommunications facility and that such hospitals, clinics and medical uses testify that the wireless facility will not cause interference, malfunctions, or improper operation of any diagnostic, analytical, or therapeutic equipment uses in the care, treatment, or diagnosis of medical patients.~~

~~(12) The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with an FCC-licensed telecommunications provider if such telecommunications provider is required to be licensed by the FCC.~~

~~(13) An agreement between the applicant and the City shall be provided establishing that if technology should change and a wireless telecommunications facility becomes obsolete, and the use of the facility abandoned or discontinued, the applicant shall remove facilities per subsection (i) of this section.~~

~~(14) A technical report demonstrating the service requirements of the applicant and demonstrating need for the proposed facility at the location proposed. At a minimum, the technical report shall include:~~

~~(i) A map of the area to be served by the tower or antenna;~~

~~(ii) Its relationship to other cell sites in the applicant's network including technical data related to frequencies, range, capacity, etc.; and~~

~~(iii) An evaluation of existing buildings taller than thirty (30) feet, within one-quarter (1/4) mile of the proposed tower or antenna which from a location standpoint could provide part of a network to provide transmission of signals. The technical report should demonstrate how the proposed site fits into the provider's overall network.~~

~~(15) An alternative sites report must be submitted. The report shall discuss all potential sites investigated, including at a minimum all nearby priority locations as listed in subsection (d) of this section; summarize technical data and other rationale as to why a potential site was not appropriate and considered further; and include a demonstration that:~~

~~(i) The applicant has contacted the owners of structures in excess of thirty (30) feet high within a one-quarter (1/4) mile radius of the site proposed and which from a location standpoint could provide part of a network for transmission of signals;~~

~~(ii) The applicant asked for permission to install the antenna on those structures; and~~

~~(iii) Access/location was denied for reasons other than economic feasibility.~~

~~(16) When there is a technical disagreement relating to location, height or related issues, the City and the applicant may retain a mutually acceptable technical expert in the field of RF engineering to provide technical advice to the City on the proposal. The cost for such a technical expert will be at the expense of the applicant.~~

~~(f) Site Development Standards. Wireless communication facilities shall comply with the following development standards:~~

~~(1) Type I and Type II towers shall be set back a distance equal to one and one-half (1.5) times the height of the tower from nonconforming residential use as measured from the wall of any supporting equipment enclosures of building or the base of the tower, whichever is nearer. The setback shall be measured to the nearest property line of the parcel upon which the nonconforming residential use is located.~~

~~(2) Type I and Type II towers shall be set back a distance equal to three (3) times the height of the tower from any conforming residential use as measured from the wall of any supporting equipment enclosures of building or the base of the tower, whichever is nearer. The setback shall be measured to the nearest property line of the parcel upon which the conforming residential use is located.~~

~~(3) Wireless telecommunications facilities shall be screened or camouflaged by employing the best available technology. This may be accomplished by use of compatible materials, location, color, stealth technologies, and/or other tactics to achieve minimum visibility of the facility as viewed from public streets or residential properties. All screening and camouflaging is subject to the approval of the City.~~

~~(4) Tower bases, equipment enclosures and cabinets and related security fencing shall be screened from public view. This screening requirement may be met in a number of ways, including~~

~~use of a solid masonry wall, earthen berms, or landscaping. If landscaping is employed, it shall meet all applicable requirements of Chapter 20.50 BMC.~~

~~(5) In reviewing the proposed placement of a wireless facility on the site and any associated landscaping, the City may make a condition of the permit that the applicant supplement existing trees and mature vegetation to more effectively screen the facility.~~

~~(6) Type I and II towers, antennas, and any associated hardware and equipment shall be painted a nonreflective color or color scheme appropriate to the background against which the facility would be viewed from a majority of points within its viewshed. A proposed color or color scheme shall be approved by the City.~~

~~(7) Security fencing, if used, shall conform to the following:~~

~~(i) No fence shall exceed eight (8) feet in height;~~

~~(ii) Security fencing shall be effectively screened from view through the use of appropriate landscaping materials; and~~

~~(iii) Chain-link fences shall be painted or coated with a nonreflective color, and shall have a minimum three (3) foot deep area to be planted with approved plant species in a manner that will completely screen the fencing.~~

~~(8) No wireless equipment enclosures reviewed under this section shall be located within required yard setback areas.~~

~~(9) Type I and Type II towers shall not be located in view corridors as defined under the Bremerton Shorelines Management Program.~~

~~(10) Type I and Type II towers shall not be illuminated or have lights located upon them except as required under Federal Aviation Administration (FAA) or other state or federal regulations.~~

~~(11) No equipment shall be operated so as to produce noise levels above forty-five (45) dB as measured from the nearest property line on which the wireless telecommunications facility is located, except temporary generators used during power outages and natural disasters. Such temporary use shall be for the shortest time period practical.~~

~~(g) Co-Location on Type I and Type II Towers. Type I and Type II towers shall be designed to accommodate co-location. The following provisions shall apply:~~

~~(1) All new Type I towers shall be designed to accommodate at least one (1) additional provider. Type II towers shall be designed to accommodate at least two (2) additional carriers. The City of Bremerton may deny a project for a wireless telecommunications facility if co-location is not provided.~~

~~(2) Additional tower height provided for co-location shall be the minimum needed. Separation between existing and potential additional antenna arrays shall not exceed fifteen (15) feet unless a technical rationale for a larger separation, acceptable to the City, is provided during permit approval for initial tower construction or for any modification of existing towers adding tower height.~~

~~(3) An owner of a Type I or Type II tower approved under this chapter may not deny a wireless provider the ability to co-locate on their facility at a fair market rate or at another cost basis agreed to by the affected parties.~~

~~(4) In the event co-location is found to be not feasible, a detailed written statement or report demonstrating the reasons for the unfeasibility shall be prepared by the applicant. The City and the applicant may retain a mutually acceptable technical expert in the field of RF engineering to review the applicant's unfeasibility report. The technical expert will provide comments on the unfeasibility report and provide comments on how the facility could be designed to accommodate co-location if possible. The cost for such a technical expert will be at the expense of the applicant.~~

~~(h) Co-location on Support Structures Other Than Type I and Type II Towers. Wireless telecommunications facilities may be co-located on existing or proposed support structures other than Type I or Type II towers under the following conditions:~~

- ~~(1) Type I and Type II towers may not be placed on any other existing or proposed support structure;~~
- ~~(2) Whip antennas may exceed the structure height by a maximum of fifteen (15) feet, and other omnidirectional antennas may exceed the structure height by a maximum of ten (10) feet;~~
- ~~(3) Wireless telecommunications facilities may be mounted on one (1) or more building facades or on one (1) or more sides of a mechanical equipment enclosure;~~
- ~~(4) The wireless telecommunications facilities of one (1) provider, including all appurtenances and screening, shall not exceed five (5) percent of any facade of a building. The wireless telecommunications facilities of all providers located in the support structure shall not exceed ten (10) percent of the building facade;~~
- ~~(5) Exterior equipment structures placed on existing support structures may not exceed five hundred (500) cubic feet with a five (5) foot height limit above existing building height in residential zones; and~~
- ~~(6) Antennas may be attached to ball field light standards, electrical transmission towers, water tanks or existing utility poles; provided, that:

 - ~~(i) In residential zones, supporting equipment enclosures and structures shall be in side or rear yards and otherwise adhere to the building setback requirements of the zone; and~~
 - ~~(ii) Utility poles in any zone shall not be extended or replaced such that overall height is increased more than twenty (20) feet above the preexisting pole or the average height of existing poles within three hundred (300) feet, whichever is less.~~~~

~~(i) Abandonment or Discontinuation of Use.~~

- ~~(1) At such time that a provider plans to abandon or is required to abandon the operation of a wireless telecommunications facility, such provider will notify the City Department of Community Development by certified U.S. mail of the proposed date of abandonment. Such notice shall be given no less than thirty (30) days prior to abandonment.~~
- ~~(2) In the event that a licensed provider fails to give such notice, the personal wireless facility shall be considered abandoned.~~
- ~~(3) Upon abandonment, the provider shall physically remove the wireless telecommunications facility within one hundred eighty (180) days from the date of abandonment. "Physically remove" shall include, but not be limited to:

 - ~~(i) Removal of antennas, mounts, equipment cabinets and security barriers from the subject property.~~
 - ~~(ii) Removal of Type I or Type II towers.~~
 - ~~(iii) Transportation of the antennas, mounts, equipment cabinets, security barriers, and towers to a location outside of the City of Bremerton.~~
 - ~~(iv) Restoring the location of the personal wireless facility to its natural condition, except any remaining landscaping and grading.~~~~

~~(j) Maintenance.~~

- ~~(1) Wireless telecommunications facilities shall be maintained. For purposes of this section, "maintenance" shall include but not necessarily be limited to the following:

 - ~~(i) Keeping of all plant materials used for screening in a live and healthy condition;~~
 - ~~(ii) Regular painting of towers, enclosures, fences and all paintable items on the site such that rust, peeling paint, or oxidation is not evident;~~
 - ~~(iii) Repair of any loose or hanging equipment or parts; and~~
 - ~~(iv) Replacement of missing plants, fencing or fencing parts, or other portions of towers, enclosures, and other equipment.~~~~

20.46.150 PUBLIC UTILITY FACILITIES.

Public facilities as defined in Chapter [20.42](#) BMC may be permitted in all zones where not listed as an allowable use, provided a conditional use permit is approved pursuant to BMC [20.58.020](#), and subject to the following conditions. Decisions shall be a Type II Director's decision per Chapter [20.02](#) BMC.

- (a) The public facility does not substantially interfere with or detract from the intent of the zone district, as determined by the Director;
- (b) The public facility conforms to applicable development standards of the zone, including setback and height standards, unless modified by the Director;
- (c) Measures are taken to provide screening for the public facility in cases where the facility would otherwise have a negative impact on the visual character of a neighborhood as seen from rights-of-way or adjacent properties.

20.46.160 PUBLIC DISTRIBUTION/ TRANSMISSION FACILITIES.

Public distribution/transmission facilities as defined in Chapter [20.42](#) BMC are permitted outright in all zones. The Director shall determine whether a utility facility is most appropriately classified as a public distribution/transmission facility or a public utility facility (see BMC [20.46.150](#)) according to the definitions set forth in Chapter [20.42](#) BMC.