Title 20
LAND USE*

ZONING MAPS

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20.04 STATE ENVIRONMENTAL POLICY ACT

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20.96 CITY UTILITY LANDS (CUL)
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Exhibit B
Zoning Code Ordinance

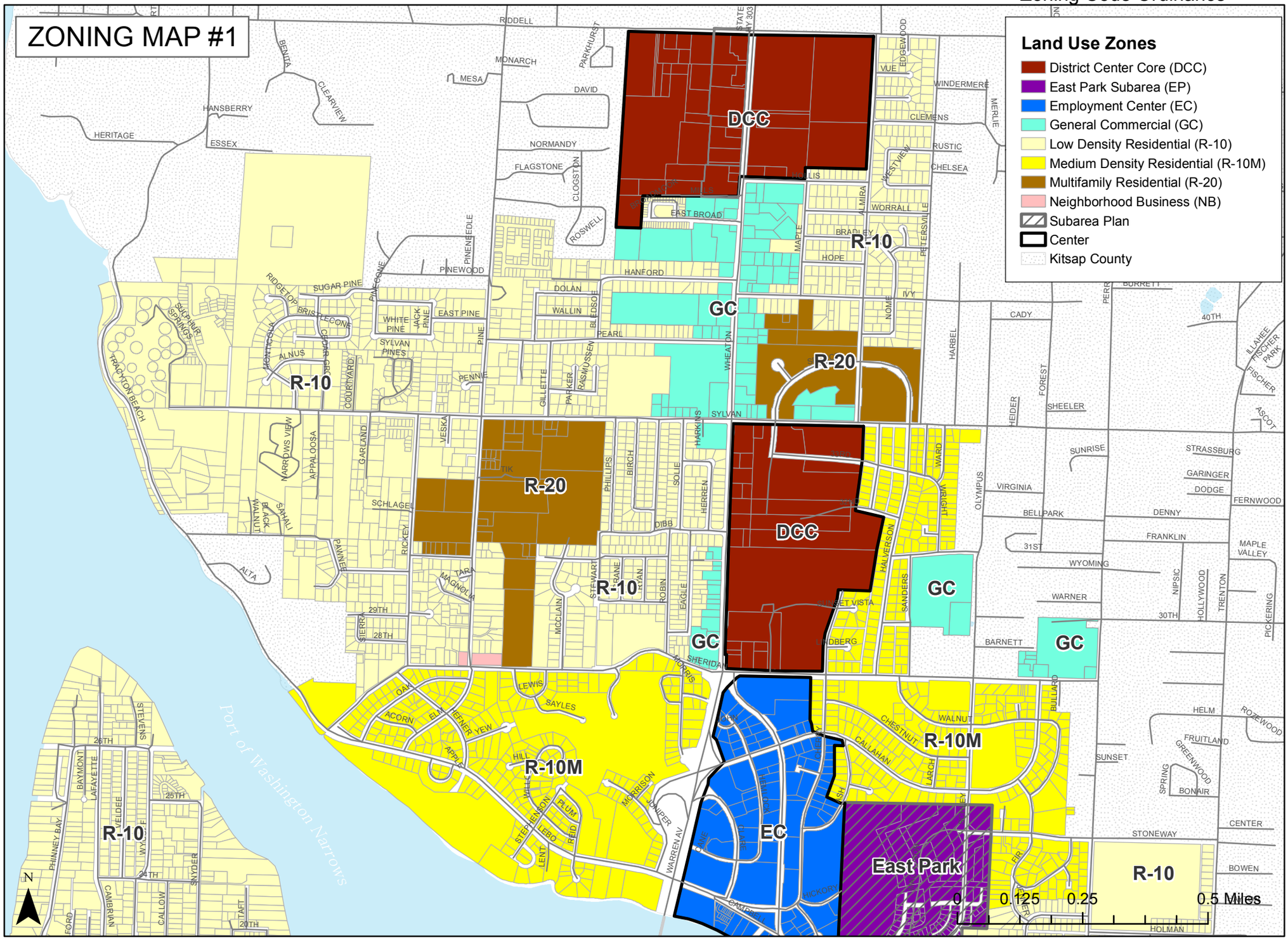
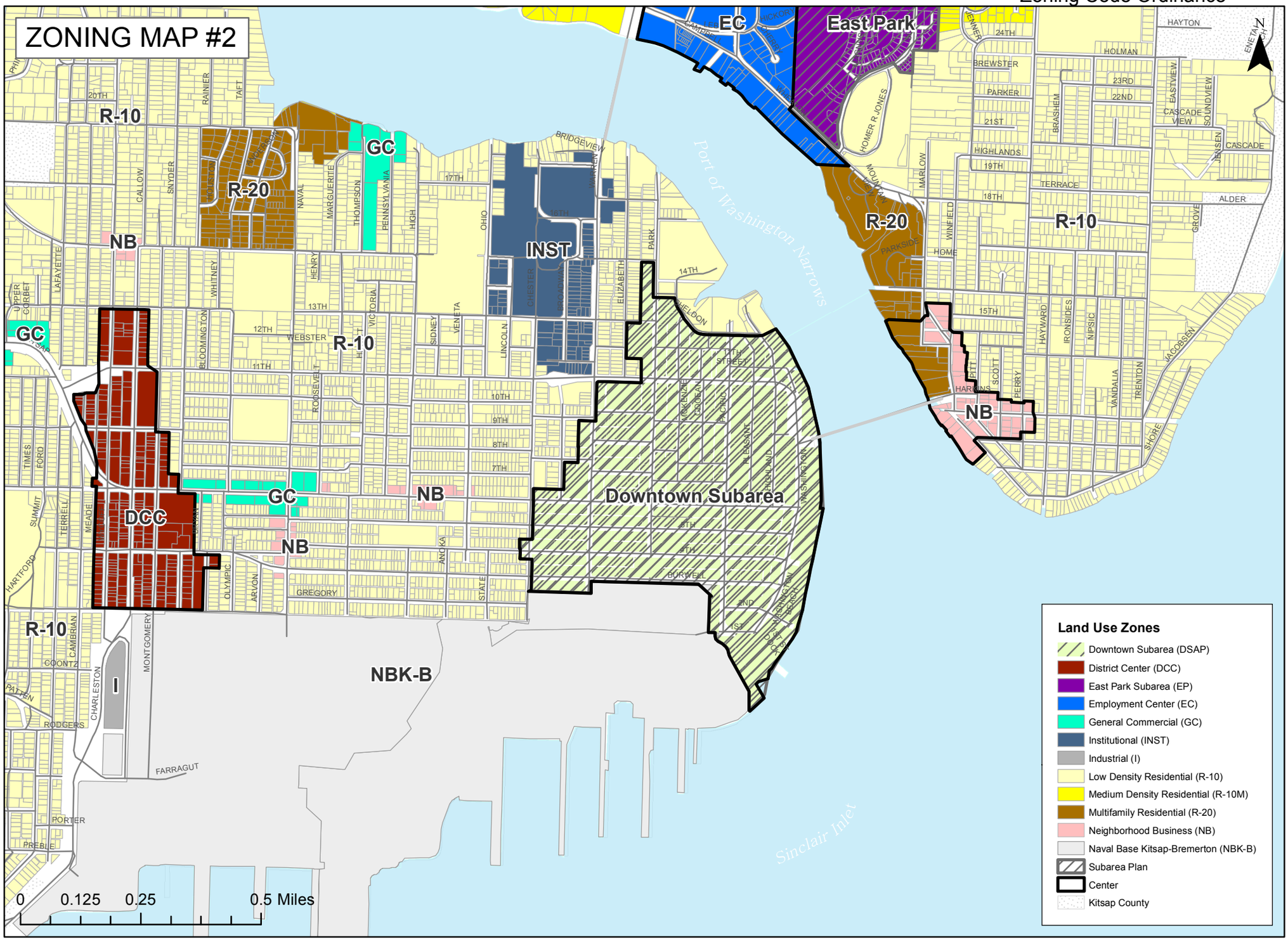


Exhibit B
Zoning Code Ordinance



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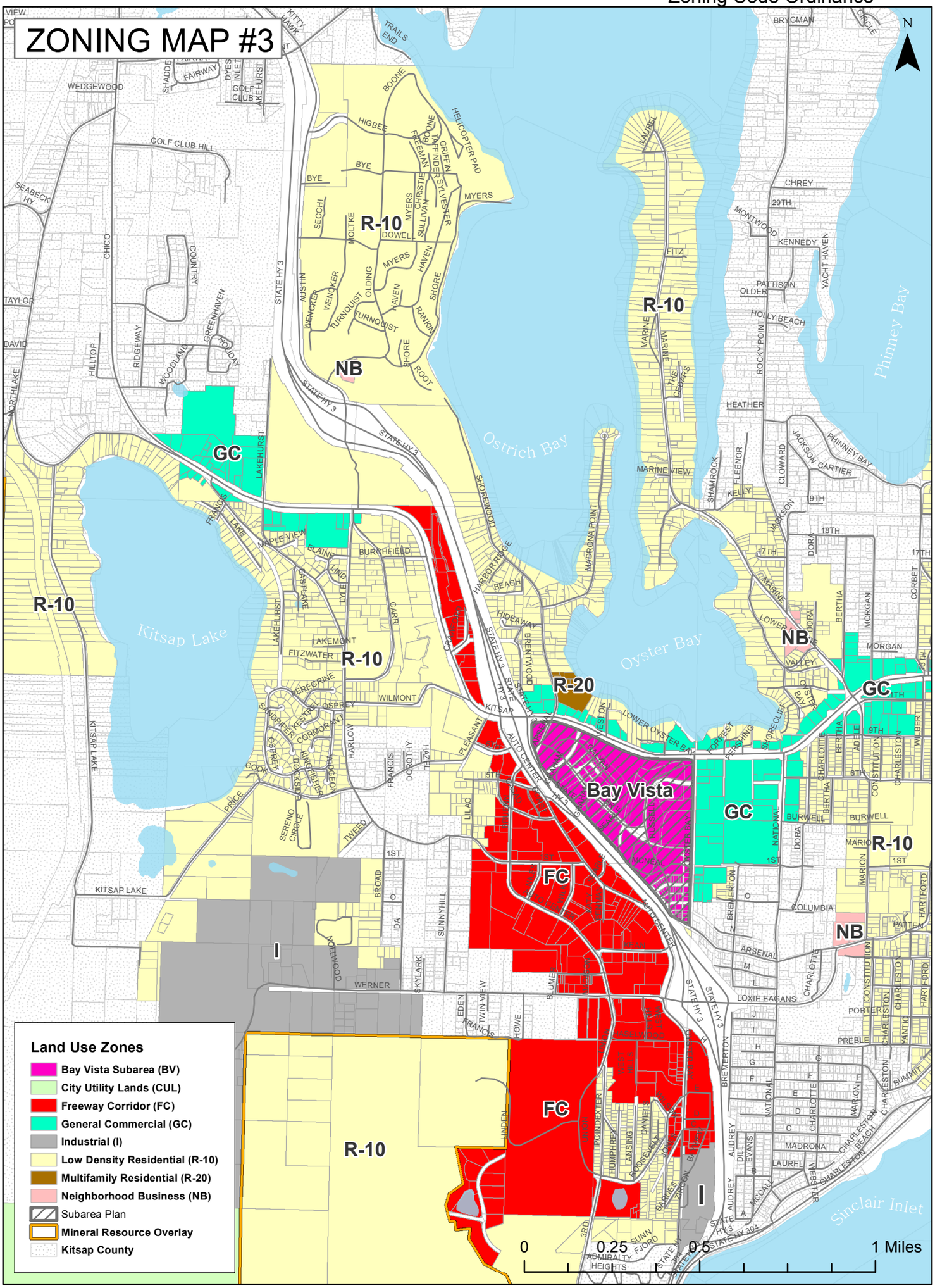

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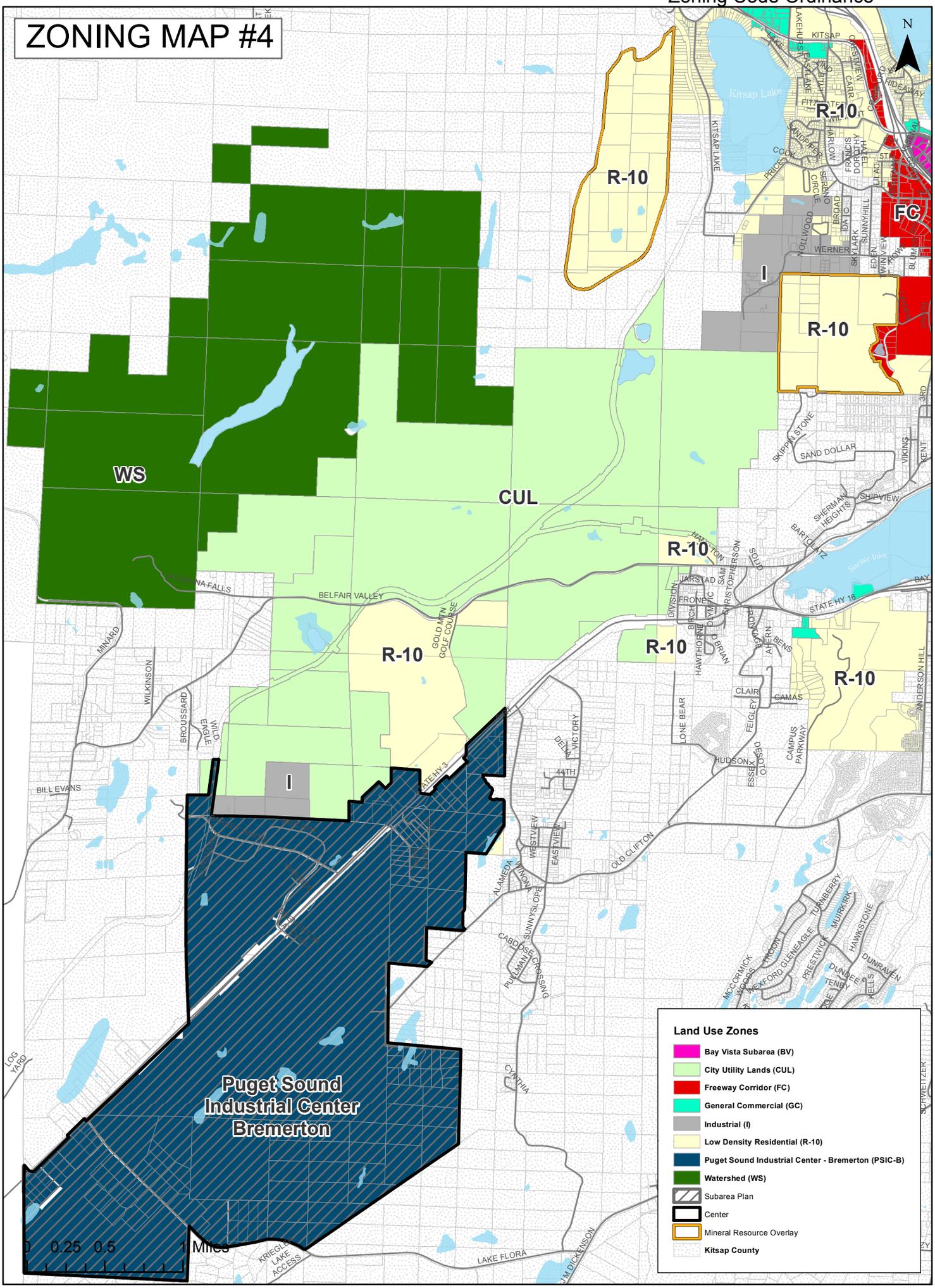

Chapter 20.02
PROJECT PERMITS

Sections:

20.02.010 PURPOSE AND INTENT.
20.02.020 DEFINITIONS.
20.02.030 GENERAL PROVISIONS.
20.02.040 PROJECT PERMIT PROCESSING PROCEDURES.
20.02.050 PRESUBMITTAL APPLICATION CONFERENCE.
20.02.060 SUBMISSION REQUIREMENTS.
20.02.070 VESTING.
20.02.080 OPTIONAL CONSOLIDATED PERMITTING PROCESS.
20.02.090 DETERMINATION OF COMPLETENESS.
20.02.100 NOTICE OF APPLICATION.
20.02.110 NOTICE OF HEARING.
20.02.120 JOINT PUBLIC HEARING.
20.02.130 NOTICE OF DECISION.
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20.02.170 PLANNED ACTIONS.

20.02.010 PURPOSE AND INTENT.

(a) Fundamental land use planning choices made in adopted Comprehensive Plans and development regulations shall serve as the foundation for project review. This chapter establishes how the City of Bremerton will process applications for project permits.

(b) These procedures provide for an effective processing and review of permits consistent with Chapter 36.70B RCW. This chapter is applied in conjunction with Chapter 2.13 BMC (Administrative Hearing Examiner); Chapter 17.04 BMC (City Building Code); Chapter 20.04 BMC (State Environmental Policy Act); Chapter 20.12 BMC (Short Subdivisions and Plats); BMC Title 20, Division III; the Bremerton Shoreline Master Program; Chapter 20.14 BMC (Critical Areas); and other applicable codes making reference to this chapter.

20.02.020 DEFINITIONS.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

"City" means the City of Bremerton.

"Closed-record appeal" means an administrative appeal on the record on a project permit application following an open-record hearing with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

"Days" means calendar days.

"Department" means Department of Community Development.

"Director" means the Director of the Department of Community Development of the City of Bremerton or his/her designee.

"Hearing body" means the City Council, Hearing Examiner or any other body designated by the City Council to preside over an open-record hearing or closed-record appeal.

"Hearing examiner" means the Administrative Hearing Examiner pursuant to Chapter 2.13 BMC.

"Open-record appeal hearing" means an open-record hearing held on an appeal when no open-record predecision hearing has been held on the project permit application.

"Open-record hearing" means a hearing that creates the City's record through testimony and submission of evidence and information, under procedures prescribed by the City by ordinance or resolution. An open-record hearing held prior to the City's decision shall be known as an "open-record predecision hearing."

"Parties of record" means:

(1) The applicant;

(2) The property tax payer as identified by the records available from the Kitsap County Assessor's Office;

(3) Any person who testified at the open-record public hearing on the application; and/or

(4) Any person who submitted written comments during administrative review or has submitted written comments concerning the application at the open-record public hearing (excluding persons who have only signed petitions or mechanically produced form letters).

"Project permit" or "project permit application" means any land use or environmental permit or license required from the City of Bremerton for a project action, including but not limited to building permits, site development permits, land use preparation permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, development plan review, site-specific rezones authorized by the Comprehensive Plan, but excluding adoption or amendment of the Comprehensive Plan and development regulations, zoning of newly annexed land, area-wide rezones, and zoning map amendments except as otherwise specifically included in this subsection.

"Public meeting" means an informal meeting, hearing, workshop, or other public gathering of persons to obtain comments from the public or other agencies on a proposed project permit prior to the City's decision. A public meeting may include, but is not limited to, a design review meeting, a special committee meeting, such as the short subdivision committee, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open-record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the City's project permit application file.

"SEPA" means the State Environmental Policy Act and includes the provisions of Chapter 43.21C RCW, Chapter 197-11 WAC and Chapter 20.04 BMC.

"Stand Alone Nonproject SEPA" means a non-exempt proposal involving a decision on policies, plans, or programs that requires SEPA review and that is not associated with Comprehensive Plan, development regulations, or areawide rezones subject to BMC 20.10, 20.18, and 20.58.050 respectively.

20.02.030 GENERAL PROVISIONS.

(a) General Exemptions. The following permits or approvals are exempt from the procedures set forth in this chapter:

(1) Landmark designations;

(2) Street vacations;

(3) Right-of-way/street use permits;

(4) Permits or approvals relating to the use of public areas or facilities;

(5) Permits or approvals involving the location or development of essential public facilities or utilities;

(6) Project permits not listed in this chapter which are categorically exempt from SEPA;

(7) Legislative actions such as the adoption of or amendments to the Comprehensive Plan, subarea plans, area-wide map amendments, and development regulations. Such legislative actions are addressed in BMC 20.10, 20.18, and 20.58.050.

(b) Applicable Procedures. The Director shall determine the proper procedure for the processing of each project permit application pursuant to the provisions of this chapter. Disputes shall be resolved in favor of the higher category. Type I is considered the lowest and Type IV is the highest.

(c) Standard Consistency. The City reviews proposals for consistency to applicable development regulations and the Comprehensive Plan. This determination includes consideration of the following:

(1) The type of land use permitted, including uses that may be permitted under certain circumstances, provided the criteria for their approval is satisfied;

(2) The density of development allowed such as units per acre or other measures of density;

(3) Availability and adequacy of infrastructure, which includes public facilities and services identified in the Comprehensive Plan; and

(4) Characteristics of the development such as development design standards.

(d) Conflict with Other Regulations. When any provisions of this chapter conflict with provisions of other City regulations, ordinances or resolutions, the more restrictive shall apply.

(e) Severability. If any part or provision of this chapter or the application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operations to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances.

(f) General Notice Requirements. The available records of the Kitsap County Assessor's Office shall be used to determine the property tax payer of record. All notices shall be deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first. Failure to provide the public notice as described in this chapter shall not be grounds for invalidation of a decision on a permit.

(g) Optional Public Notice. In addition to required public notice, the City may provide notice to other individuals or organizations interested or possibly affected by the proposal. Failure to provide optional public notice shall not be grounds for invalidation of a decision on a permit.

20.02.040 PROJECT PERMIT PROCESSING PROCEDURES.

Project permit applications are categorized as Type I, Type II, Type III or Type IV project permits. Permit processing procedures may include determination of completeness, notice of application, notice of public hearing and notice of decision. Applicable procedures for the processing of permits are pursuant to the following provisions:

(a) Type I Project Permits. These are administrative decisions by the Director who may approve, conditionally approve or deny the application. They include permits categorically exempt from SEPA review or that have had SEPA review completed in connection with another application or permit. Type I project permit processing procedures are set forth in Table 040. Examples of Type I permits include administrative code interpretations, building/construction/demolition permits (SEPA exempt), final short subdivisions, permit revocations, etc.

(b) Type II Project Permit. These are administrative decisions by the Director with limited public notice. The Director has the authority to approve, conditionally approve or deny the application. Type II project permit processing procedures are set forth in Table 040. Examples of Type II permits include administrative conditional use permits, short plats/binding site plans, site plan review (requiring SEPA), building/construction/demolition permits (requiring SEPA), stand alone nonproject SEPA, etc.

(c) Type III Project Permit. These are Hearing Examiner decisions. The Hearing Examiner may approve, conditionally approve, or deny the application. Type III project permit processing procedures are set forth in Table 040. Examples of Type III permits include nonadministrative conditional use permits, preliminary formal subdivisions, variances, etc.

(d) Type IV Project Permit. These are decisions by the City Council after a closed-record hearing. The City Council may approve, conditionally approve, modify and approve or deny the application. Type IV project permit processing procedures are set forth in Table 040. Examples of Type IV permits include site-specific rezones, final formal subdivisions, development agreements, vacation of subdivisions, etc.

(e) Table 040 Permit Processing Procedures.

Application Type	Determination of Completeness	Notice of Application	Notice of Hearing	Notice of Decision
Type I Permit	No	No	No	No
Type II Permit	Yes	Yes	No	Yes
Type III Permit	Yes	Yes	Yes	Yes
Type IV Permit	Yes	Yes	Yes	Yes
Development Agreement	No	No	Yes	Yes
Final Subdivision[1]	No	No	No	No
Site Specific Rezone[2]	Yes	Yes	Yes	Yes
Stand Alone Nonproject SEPA	No	No	No	No

1 The Hearing Examiner holds an open-record hearing for preliminary approval. The City Council makes a final decision at a public meeting; a second hearing is not required.

2 The Hearing Examiner holds an open-record hearing. The City Council holds a closed-record hearing for final approval.

20.02.050 PRESUBMITTAL APPLICATION CONFERENCE.

(a) Purpose. The purpose of the pre-application conference is to acquaint the applicant with the review procedures and applicable Bremerton Municipal Code provisions to the proposal. Type II, III and IV permits require a presubmittal application conference prior to submitting an application. Anyone choosing the consolidated permit process set forth in BMC20.02.060 also requires a presubmittal submittal application conference. Only one (1) meeting is required for all project permit applications related to the same project action.

(b) Waiver. The Director may waive the requirement for a presubmittal application conference when a proposal is determined not to be of a size and complexity to require a detailed analysis.

(c) Submission. Presubmittal application conferences may be held at any time before an application is submitted. A completed form and related information in sufficient number of copies as determined by the Director are required. The information does not need to meet the submission requirement set forth in BMC 20.02.060.

(d) Timeline. The City shall hold the presubmittal application conference within thirty (30) days of the receipt of a completed request, unless the applicant agrees to an extension of this time in writing.

(e) Nonbinding. The presubmittal application conference is not intended to be an exhaustive review of all potential issues and the discussions shall not be binding or prohibit the enforcement of applicable laws. Failure to provide all pertinent information may prevent the City from identifying all of the issues or providing the most effective presubmittal application conference.

(f) Lapse of Time. If a time lapse of more than one (1) year occurs between a presubmittal application conference and the submission for permits, or if the Director determines the scope of the project has changed significantly from the presubmittal application conference, a new conference may be required.

20.02.060 SUBMISSION REQUIREMENTS.

(a) Application Contents. An application submitted to the Department shall be in a manner determined by the Director. Unless specified otherwise, an application shall at least include the following:

(1) A completed application form;

(2) A legal description of the property and associated tax account number(s);

(3) A vicinity map showing the location of the property including surrounding major streets, shorelines and other reference points;

(4) A site plan;

(5) When required, mailing labels containing the names and addresses of all owners of record of parcels within the notification radius;

(6) When required, SEPA checklist and/or other environmental documentation;

(7) Additional information required by the Director to support a decision on the application(s);

(8) The application fee(s) for the permit(s) requested as set forth in Chapter 3.01 BMC or by other applicable rule or regulation.

20.02.070 VESTING.

A project permit application shall vest in the land use regulations in effect on the land at the time of submission of a completed project permit application as defined herein and all application fees are paid.

20.02.080 OPTIONAL CONSOLIDATED PERMITTING PROCESS.

(a) An application which involves two (2) or more permits or procedures may have the processes consolidated under the highest project permit classification and procedures. The applicant shall request if they want their permit processes consolidated or if they want each permit processed individually.

(b) If a project involving two (2) or more permits has the permits processed individually, the highest project permit classification and procedures shall be finalized before subsequent permits can be issued. The Director may waive this requirement for permits not dependent on the higher classification of permit for their justification or implementation.

(c) If applicable, a single open-record hearing and no more than one (1) closed-record appeal shall be provided on a consolidated review process. The consolidated process may combine an open-record hearing on one (1) or more permits with an open-record appeal hearing on the other permits.

20.02.090 DETERMINATION OF COMPLETENESS.

When review procedures require a determination of completeness, the following shall apply:

(a) Determination. Within twenty-eight (28) days of accepting the application, the Department shall provide a written determination to the applicant, stating that:

(1) The application is complete; or

(2) The application is incomplete and what is necessary to make the application complete.

To the extent known, the City shall identify other agencies of local, state or federal governments that may have jurisdiction over some aspect of the application.

(b) Failure to Notify. Failure to provide a written determination within the required time shall automatically deem the application complete.

(c) Processing. A complete application meets the submission requirements set forth in BMC 20.02.060 and is sufficient for continued processing. The determination of completeness shall not preclude the City from requesting additional information or studies either at the time of the notice or subsequently if new information is required or substantial changes in the proposed action occur. Should additional information be requested, the applicant shall have ninety (90) days from the date notified to submit the requested materials. Should the materials not be submitted within the time limits, the application shall lapse.

(d) Incomplete Application. An incomplete application shall have ninety (90) days from the date of the written determination in subsection (a)(2) of this section for the necessary information to be submitted. If the applicant either refuses in writing or does not submit the required information within the time limits, the application shall lapse.
(e) Review of Additional Information. When additional information for an incomplete application is received, the City shall notify the applicant within fourteen (14) days of receipt of the additional information whether the application is complete or what additional information is necessary.
(f) Review Timeline. Following the date an application is determined complete, the date shall be noted and the one hundred twenty (120) day official review period to render a decision shall begin.

20.02.100 NOTICE OF APPLICATION.
When review procedures require a notice of application, the following shall apply:
(a) Timeline. The notice shall be provided within fourteen (14) days after the determination of completeness is issued.
(b) Content. The notice of application shall include the following:
(1) The file number assigned;
(2) The date of application, date of the notice of completeness, and the date of the notice of application;
(3) A description of the proposed project action and a list of permits included with the application and, if applicable, a list of requested studies;
(4) Identification of known permits not included with the application;
(5) Identification of existing environmental documents that evaluate the proposal;
(6) The location where the application and any studies can be reviewed;
(7) A statement of the public comment period and which shall not be less than fourteen (14) or more than thirty (30) days;
(8) A statement of the rights of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision and any appeal rights;
(9) Any other information determined appropriate by the City.
(c) Legal Notice. Notice shall be provided in the following manner as applicable:
(1) Mail. The notice shall be sent by email, first class or higher mail to the following:
(i) The applicant;
(ii) Affected City departments;
(iii) State, federal and local agencies with jurisdiction;
(iv) For Type III permits, mailed notice shall also be sent to all property owners of real property (as shown by the records of the Kitsap County Assessor's Office) within three hundred (300) feet of the subject property. Where any portion of a property abutting the subject property is owned, controlled, or under the option of purchase by the applicant, all property owners within a three hundred (300) foot radius of the total ownership interest shall be notified; and
(v) Any person who requests such notice in writing to the Department.
(2) Posting of the Property. Notice shall be posted according to the following:
(i) At least one (1) location on or adjacent to the subject property and that shall be clearly visible and legible from an adjacent street or public area;
(ii) The Director shall determine the specifications to the construction and installation of the notice boards.
(3) Publishing Notice. A published notice in the City's official newspaper of general circulation within the City boundaries is required. The content shall include the following:
(i) Project location;
(ii) Project description;

(iii) Type of permit(s) required;
(iv) Comment period and dates;
(v) Location where the complete application may be viewed.

(d) Integration of Notices. The City will integrate the notice of application with SEPA review whenever possible. Notification for a notice of application should be combined with the notification for threshold determination and the scoping for a determination of significance whenever possible.

(e) Issuance of Decisions. Except for a threshold determination, the City may not issue a decision or a recommendation on a permit until the expiration of the public comment period.

(f) Public Comments. Comments shall be as specific as possible. Comments shall be received by the last day of the comment period specified in the notice. If no comments are received by the date specified in the notice from an affected City department or agency with jurisdiction, which notification was sent to, then it is presumed that the department or agency has no comments.

20.02.110 NOTICE OF HEARING.

When review procedures require a notice of hearing, the following shall apply:

(a) Notice Integration. A notice of hearing is required for public hearings. A notice of hearing may be integrated with the notice of application.

(b) Notice Content. A written notice of hearing shall contain the following information:

(1) The name of the applicant or designated contact;
(2) A description of the affected property (not including any legal description);
(3) Project summary/description of each project permit application;
(4) The application/project file number;
(5) The date, time and place of the hearing;
(6) A statement that all interested persons may appear and provide testimony;
(7) A statement where information may be examined or obtained and the staff contact and phone number;
(8) A statement how written testimony or comments may be submitted;
(9) The SEPA threshold determination along with any appropriate statement regarding any shared or divided lead agency status and phased review, and stating the end of any final comment period;
(10) The deadline (date, time and place) for submitting a SEPA appeal;
(11) A statement regarding any administrative appeal process including SEPA appeal.

(c) Project Permit Notification. Notification for a hearing on a project permit shall be provided in the following manner as applicable:

(1) Mail. The notice shall be sent by email, first class mail or higher to the following:
(i) The applicant;
(ii) All property owners of real property (as shown by the records of the Kitsap County Assessor's Office) within three hundred (300) feet of the subject property. Where any portion of a property abutting the subject property is owned, controlled, or under the option of purchase by the applicant, all property owners within a three hundred (300) foot radius of the total ownership interest shall be notified;
(iii) Any person providing a written request to the Department.

(2) Preliminary Plat. When adjacent to the right-of-way of a state highway, or within two (2) miles of the boundary of a state or municipal airport, mailed notice shall be given to the Secretary of Transportation, who has fifteen (15) days to respond.

(3) Posting of the Property. The notice shall be posted in the same manner and location(s) as the notice of application set forth in BMC 20.02.100(c)(2).

(4) Publishing Notice. A published legal notice in the City's official newspaper of general circulation within the City boundaries is required. The content of the published notice shall include the following information:

(i) Project location;
(ii) Project description;
(iii) Type of permit(s) required;
(iv) Comment period and dates;
(v) Location where the complete application may be viewed.

(d) Notice Deadlines. Notice shall be given at least ten (10) days before the hearing date except:

(1) Shoreline permits pursuant to WAC 173-27-110(3) shall be given at least fifteen (15) days.

(2) An integrated notice of hearing and notice of application shall be given at least fifteen (15) days.

(3) An integrated notice of hearing and notice of a SEPA threshold determination shall be given at least fifteen (15) days.

(e) Continuation of Hearing. Continued hearings do not require additional notices of hearing.

(f) Appeal Notification. Notification for a hearing on an open-record or closed-record appeal shall be provided in the following manner:

(1) Mail. The notice shall be sent by email, first class mail or higher to the following:

(i) The applicant/appellant;
(ii) Parties of record;
(iii) Affected agencies;
(iv) Parties requesting notice; and
(v) Other persons whom the Department believes may be affected by the action.

(g) Additional Procedures. In addition to the procedures contained in this chapter, the Department may develop general procedures for notification, including mailing packets and the format of the notice and an affidavit of posting/mailing form to be filled out by the party doing notice.

20.02.120 JOINT PUBLIC HEARING.

A hearing on a project permit application may be combined with any other hearing on the action held by another local, state, regional, federal, or other agency pursuant to RCW36.70B.110 as currently enacted or hereinafter amended.

20.02.130 NOTICE OF DECISION.

The Director, the Hearing Examiner or the City Council issues a decision at the conclusion of applicable project permit review. The notice of decision may be included as part of the decision or project permit.

(a) The City shall provide a notice of decision. The notice shall include a statement of any threshold determination made under SEPA and the procedures for appeal if a consolidated notice was not given under BMC 20.02.110(d)(3).

(b) Notification. Notification shall be provided in the following manner as applicable:

(1) Mail. The notice shall be sent by email, first class mail or higher to the following:

(i) The applicant;
(ii) Any person who, prior to the rendering of the decision, requested notice of the decision in writing to the Department, or who submitted substantive comments on the application; and
(iii) Kitsap County Assessor's Office.

(c) Notice Contents. The notice may include a copy of the report of decision on the project permit application; and shall include, when available, the SEPA threshold determination, the permit decision, the conditions of approval or where they may be viewed by the public, and the general procedures and time limits to file an appeal.

(d) Change of Valuation. The notice shall state that affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

(e) Timelines. The notice shall be issued within one hundred twenty (120) days after the City notifies the applicant that the application is complete pursuant to BMC 20.02.090, except as follows:

(1) The Director makes written findings that a specified amount of additional time is needed for processing the application; or

(2) A permit or approval involving the location or development of important public facilities or utilities, or related to the use of public areas or facilities, for public purposes may be excluded from the one hundred twenty (120) day time limit upon a determination of the Director that special circumstances warrant a longer process.

(f) Extension of Timelines. If the City is unable to issue its final decision on a project permit application within the time limits provided for in this chapter, it shall provide written notice of this fact to the parties of record. The notice shall include a statement of reasons why the time limits were not met, and an estimated date for issuance of the notice of decision.

(g) Timeline Exclusion. The one hundred twenty (120) day time limit shall exclude any of the following:

(1) Any period an applicant takes to provide additional information, perform studies or provide corrected plans requested by the City.

(2) Any period where the City determines that submitted information is insufficient or incorrect, and has requested the applicant provide the necessary information.

(3) Any period an environmental impact statement (EIS) is being prepared including scoping and preparing the draft and final EIS.

(4) Any period for administrative appeals and any period for reconsideration of decisions of the Hearing Examiner made on project permit applications. The period for consideration and decision on appeals shall not exceed:

(i) Ninety (90) days for an open-record appeal hearing; or

(ii) Sixty (60) days for a closed-record appeal.

(iii) The parties may agree to extend these periods.

(5) Any extension of time mutually agreed upon by the applicant and the City.

(6) All excluded periods are calculated from the date the City notifies the applicant to when the information satisfies the City's requirement.

(7) When the applicant submits the requested information, the City shall have fourteen (14) days to determine if it is satisfactory. If the information is not satisfactory, but the City fails to notify the applicant within the time limit, the information shall be deemed satisfactory.

(8) The time limits established in this section do not apply if a project permit application:

(i) Requires an amendment to the Comprehensive Plan or a development regulation; or

(ii) Requires approval of the location of an essential public facility as provided in RCW 36.70A.200; or

(iii) Is substantially revised by the applicant, in which case the period shall start from the date at which the revised project application is determined to be complete.

(h) Liability. The City is not liable for damages due to the City's failure to make a final decision within the time limits established in this chapter.

20.02.140 APPEALS.

(a) General.

(1) Those land use and development decisions that are subject to appeal shall become final unless an appeal is filed within the designated time to file an appeal.

(2) The appellant shall bear the burden of proving the administrative decision was not supported by substantial evidence.

(3) Appeal of Type I or Type II project permit final decisions shall be to the Hearing Examiner. Appeals shall be filed within fourteen (14) days following the issuance of the notice of decision. A decision involving a SEPA determination of nonsignificance which required public comments shall have the appeal period extended an additional seven (7) days.

(4) Administrative appeal of a SEPA threshold determination on project permits is to the Hearing Examiner pursuant to Chapter 20.04 BMC and subsection (a)(3) of this section. The appeal shall consolidate any allowed appeals of procedural and substantive determinations under SEPA with a hearing or appeal on the underlying governmental action in a single simultaneous hearing before the Hearing Examiner consistent with RCW 36.70B, WAC 197-11-680 and BMC 20.02 and BMC 20.04.

(5) Appeal of Type III or Type IV project permit final decisions shall be to Kitsap County Superior Court pursuant to Chapter 36.70C RCW. Appeals shall be filed within twenty-one (21) days following the issuance of the notice of decision.

(6) Final decision relating to the Bremerton Shoreline Master Program may be appealed as follows:

(i) Director decisions and Type II shoreline permits may be appealed to the Hearing Examiner pursuant to subsection (a)(3) of this section or may be appealed directly to the Shoreline Hearings Board pursuant to RCW 90.58.180.

(ii) Hearing Examiner decisions may be appealed to the Shoreline Hearings Board by filing a petition for review within twenty-one (21) days of the date of filing pursuant to RCW 90.58.140(6).

(b) Standing to Appeal. Only parties of record with standing may initiate an appeal. Standing constitutes the following:

(1) For Type I project permits, only the applicant has standing.

(2) For project permits not Type I, the following have standing:

(i) Applicant;

(ii) Anyone who participates in the public hearing; or

(iii) Anyone who submits written comments in response to a legal notice within the required time limits.

(c) Filing an Appeal. Administrative appeals are filed by submitting a form provided by the Department. The appeal must be received by 5:00 p.m. on the last day of the appeal period. Appeals may be mailed, faxed or delivered to the Department.

(d) Timing of Decisions.

(1) An open-record appeal shall be decided within ninety (90) days from the date the complete appeal was filed.

(2) Should an occasion arise that would require a closed-record appeal hearing, such an appeal shall be decided within sixty (60) days.

(e) Computation of Time. For purposes of computing the time for filing an appeal, the day the decision is rendered shall not be included. The last day of the appeal period shall be included unless it is a Saturday, Sunday, a day designated by RCW 1.16.050 or by the City's ordinances as a legal holiday; then it also is excluded and the filing must be completed on the next business day.

(f) Content of Appeal. An administrative appeal shall not be accepted unless it is written, accompanied by the required appeal fee, and contains at least the following information:

(1) Appellant's name, address and phone number;

(2) Appellant's statement describing his or her standing, as a party of record, to appeal;

(3) Identification of the application which is the subject of the appeal;

(4) Statement of grounds for appeal and the facts upon which the appeal is based;

(5) Statement of the relief sought, including the specific nature and extent; and

(6) A statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.

(g) Effect. The timely filing of an administrative appeal shall stay the effective date of the decision until the appeal is either decided or withdrawn.

(h) Notice of Appeal. The Director shall provide public notice of the appeal as provided in BMC 20.02.110(c).

20.02.150 DESIGN REVIEW.

Buildings that are proposed for construction in areas having adopted design guidelines are subject to review and recommendation by the Design Review Board (Board). For any development activity that requires Board review, the applicant must comply with the provisions of this section before a building permit can be approved, as follows:

(a) Public Meetings. All meetings of the Board shall be open to the public but are not subject to the requirements of the Open Public Meetings Act, Chapter 42.30 RCW.

(b) Conceptual Design Conference. Before submitting a building permit application, the applicant shall attend a conceptual design conference with the Board. The conference will be scheduled by the Director to occur within thirty (30) days of written request by the applicant. The purpose of this conference is to provide an opportunity for the applicant to discuss the project concept with the Board in the early stages of the project development and:

(1) To review preliminary sketches of the design proposal presented by the applicant;

(2) To discuss how the design guidelines pertain to the proposed development;

(3) For the Design Review Board to designate which design guidelines apply to the proposed development based primarily on the location and nature of the proposed development; and

(4) Other application materials the applicant will need to submit with the design review application.

(c) Application. Following the conceptual design conference, the applicant may then submit a building permit application to the Department. The application shall include all documents and exhibits required for the application, as well as all materials required as a result of the conceptual design conference.

(d) Public Notice. On determination of a complete application for a building permit requiring design review, the Director shall schedule a design response conference with the Board to occur within sixty (60) calendar days. The Director shall provide public notice of the design response conference per the requirements of BMC 20.02.100.

(e) Design Response Conference. The design response stage allows the Board to review the design plans and provide direction to the applicant on issues to be resolved for final approval. The applicant shall present the proposed project and demonstrate its consistency with the design guidelines as discussed in the conceptual design conference to the Board. The Board will consider the information presented and make a formal recommendation to the Director for project approval, approval with conditions, or denial. The Board may continue the conference if necessary to gather additional information necessary for its recommendation. If the conference is continued to a specific date, no further public notice is required; otherwise notice of continuance shall be mailed to all parties participating in the design response conference.

(f) Approval. Approval of a building permit that is subject to Board review is a Type II Director decision; however, the Board's recommendation shall hold substantial weight. After reviewing the Board recommendation, the Director may grant, deny or conditionally approve an application for the proposed development. Any deviation from the Board's recommendation shall be documented in the Director's findings and conclusions. The decision of the Director may be appealed per the provisions of BMC 20.02.140.

20.02.160 DEVELOPMENT AGREEMENT REVIEW PROCEDURES.

(a) The City may enter into a development agreement with a person having ownership or control of real property within its jurisdiction or outside its boundaries as part of a proposed annexation or a service agreement. A development agreement sets forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement.
(b) A determination of completeness, notice of hearing and a notice of decision are required pursuant to the provisions of this chapter. The one hundred twenty (120) day time limit for the notice of decision shall not apply to a development agreement.
(c) When a request for a development agreement is consolidated with a Type III or IV project permit, the public hearing shall be consolidated with the open-record hearing on the permit before the Hearing Examiner. The Hearing Examiner shall make a recommendation to the City Council on the development agreement and approval of the project permit shall be conditioned on City Council approval of the development permit.
(d) The City Council may approve a development agreement by ordinance or resolution only.

20.02.170 PLANNED ACTIONS.
A "planned action" is defined in WAC 197-11-164 as one (1) or more types of project action that has had significant environmental impacts adequately addressed in an environmental impact statement (EIS) prepared in conjunction with the Comprehensive Plan, subarea plan, fully contained community, a master planned resort, a master planned development or a phased project.
(a) A project action addressed in a planned action does not require an environmental checklist or threshold determination, but may require the checklist for review to mitigate environmental impacts through the site plan review process.
(b) To qualify, a project action shall:
(1) Be subsequent to or implementing projects in a Comprehensive Plan, subarea plan, fully contained community, a master planned resort, a master planned development or a phased project;
(2) Be located within the City's adopted urban growth areas;
(3) Be consistent with the Comprehensive Plan;
(4) Not be an essential public facility, as defined in RCW 36.70A.200.
(c) The City Council shall designate and approve by ordinance a planned action. The ordinance:
(1) Shall describe the type(s) of project action being designated as a planned action;
(2) Shall describe how the planned action meets the criteria in subsection (b) of this section, including specific references to the EIS;
(3) Shall include findings that the environmental impacts have been identified and adequately addressed in the EIS, subject to project review under WAC 197-11-172;
(4) Should identify any specific mitigation measures other than applicable development regulations that must be applied to a project for it to qualify as a planned action.
(d) The planned action may be limited to certain types of development, to specific geographical areas of the City, and/or a time period identified in the EIS, plan, ordinance or resolution.
(e) Review of a project proposed as a planned action is intended to be simpler and more focused than for other projects. Review of the project shall include:
(1) Verification that it meets the description and implements any applicable conditions or mitigation measures identified in the designating ordinance or resolution;
(2) Verification that the proposed significant adverse environmental impacts of the project have been adequately addressed in the EIS.
(f) Nothing in this section limits the City from using applicable law to place conditions on the project in order to mitigate nonsignificant impacts through normal project review and permitting processes.

Chapter 20.04
STATE ENVIRONMENTAL POLICY ACT

Sections:

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20.04.010 STATUTORY AUTHORITY.

The City adopts the ordinance codified in this chapter under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA Rules, WAC 197-11-904. This chapter contains the City's SEPA procedures and policies. The SEPA Rules, Chapter 197-11 WAC, must be used in conjunction with this chapter. The City also designates and adopts by reference the following policies and regulations as the basis for the City's exercise of authority pursuant to this chapter: Comprehensive Plan, Capital Facilities Comprehensive Plans, and the Bremerton Municipal Code including but not limited to: Title 6 (Health and Sanitation), Title 11 (Streets and Rights-of-Way), Title 15 (Municipal Utilities), Title 17 (Buildings and Construction), and Title 20 (Land Use).

20.04.020 PURPOSE OF ARTICLE II - ADOPTION OF WAC PROVISIONS BY REFERENCE.

This article contains the basic requirements that apply to the SEPA process. The City adopts the following sections of Chapter 197-11 of the Washington Administrative Code by reference:

WAC 197-11-040 - Definitions.
050 Lead agency.
055 Timing of the SEPA process.
060 Content of environmental review.
070 Limitations on actions during SEPA process.
080 Incomplete or unavailable information.
090 Supporting documents.
100 Information required of applicants.

20.04.030 ADDITIONAL DEFINITIONS.
In addition to those definitions contained within WAC 197-11-700 through 197-11-799, when used in this chapter the following terms shall have the following meanings, unless the context indicates otherwise:
(a) "DEIS" means draft environmental impact statement. See WAC 197-11-405.
(b) "Department" means any division, subdivision or organizational unit of the City established by ordinance, rule or order.
(c) "DNS" means determination of nonsignificance. See WAC 197-11-734.
(d) "DS" means determination of significance. See WAC 197-11-736.
(e) "Early notice" means the City's response to an applicant, stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated DNS procedures).
(f) "EIS" means environmental impact statement. See, generally, WAC 197-11-400s.
(g) "FEIS" means final environmental impact statement. See WAC 197-11-405.
(h) "Ordinance" means the ordinance, resolution or other procedure used by the City to adopt regulatory requirements.
(i) "SEIS" means supplemental environmental impact statement. See WAC 197-11-405.
(j) "SEPA rules" means Chapter 197-11 WAC, adopted by the Department of Ecology.

20.04.040 RESPONSIBLE OFFICIAL - DESIGNATION AND RESPONSIBILITY.
(a) For the proposals for which the City is the lead agency, the responsible official shall be the ~~Planning~~ Director or ~~his~~ their appointed designee.
(b) For all proposals for which the City is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA rules that were adopted by reference in BMC ~~3.68.020~~20.04.
~~(~~c) The City shall retain all documents required by the SEPA rules (Chapter 197-11 WAC) and make them available in accordance with Chapter ~~42.17~~ 42.56 RCW, Public Records Act.

20.04.050 LEAD AGENCY -DETERMINATION AND RESPONSIBILITIES.
(a) The department within the City receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under WAC197-11-050 and WAC 197-11-922 through 197-11-940, unless the lead agency has been previously determined or the department is aware that another department or agency is in the process of determining the lead agency.
(b) When the City is the lead agency for a proposal, the department receiving the application shall refer the proposal to the responsible official, who shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.
(c) When the City is not the lead agency for a proposal, all departments of the City shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No City department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the City may conduct supplemental environmental review under WAC 197-11-600.
(d) If the City or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fifteen (15) days of receipt of the determination, or the City must petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the fifteen (15) day time period. Any such petition on behalf of the City may be initiated by the ~~Planning~~ Director.
(e) The City is authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944. The City may assume lead agency status in accordance with WAC 197-11-948.
(f) In making a lead agency determination for a private project the City shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal, i.e., which agencies require nonexempt licenses.

20.04.060 LEAD AGENCY - TRANSFER OF STATUS TO A STATE AGENCY.
For any proposal for a private project where the City would be the lead agency and for which one or more state agencies have jurisdiction, the City's responsible official may elect to transfer the lead agency duties to a state agency. The state agency with jurisdiction appearing first on the priority listing in WAC 197-11-936 shall be the lead agency, and the City shall be an agency with jurisdiction. To transfer lead agency duties, the City's responsible official must transmit a notice of the transfer together with any relevant information available on the proposal to the appropriate state agency with jurisdiction. The responsible official of the City shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal.

20.04.070 TIME LIMITS APPLICABLE TO THE SEPA PROCESS - ADDITIONAL CONSIDERATIONS.
For project permits, see BMC 20.02.

~~The following time limits (expressed in calendar days) shall apply when the City processes licenses for all private projects and those governmental proposals submitted to the City by other agencies:~~

~~(a) Categorical Exemptions. The City should identify whether an action is categorically exempt within seven (7) days of receiving a completed application.~~

~~(b) Threshold Determinations. When the responsible official requires further information from the applicant or consultation with other agencies with jurisdiction:~~

~~(1) The City shall wait no longer than thirty (30) days for a consulted agency to respond;~~

~~(2) The responsible official should complete the threshold determination within fifteen (15) days of receiving the requested information from the applicant or the consulted agency.~~

20.04.080 ADDITIONAL TIMING CONSIDERATIONS.
(a) A final threshold determination or Final EIS shall normally precede or accompany the final staff recommendation, if any, in a quasi-judicial proceeding on a non-exempt application by the Administrative Hearing Examiner.

(~~a~~b) For nonexempt legislative proposals, the DNS or draft EIS or other threshold determination and SEPA environmental documentation for the proposal shall accompany the City's staff recommendation to the appropriate advisory~~decision-making~~ body, such as the Planning Commission.

(~~b~~c) If the City's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the City conduct environmental review prior to submission of the detailed plans and specifications.

20.04.090 PURPOSE OF ARTICLE III - ADOPTION OF WAC PROVISIONS BY REFERENCE.
This article contains the rules for deciding whether a proposal has a "probable significant, adverse environmental impact" requiring an environmental impact statement (EIS) to be prepared. This article also contains rules for evaluating the impacts of proposals not requiring an EIS. The City adopts the following sections of Chapter 197-11 WAC by reference, as supplemented in this part:
WAC 197-11-300 - Purpose of this part.
305 Categorical exemptions.
310 Threshold determination required.
315 Environmental checklist.
330 Threshold determination process.
335 Additional information.
340 Determination of nonsignificance (DNS).
350 Mitigated DNS.
360 Determination of significance (DS)/initiation of scoping.
390 Effect of threshold determination.

20.04.100 USE OF CATEGORICAL EXEMPTIONS.
(a) Whenever a department within the City receives an application for a license or, in the case of governmental proposals, the department within the City initiates the proposal, the Planning Department shall determine whether the license and/or the proposal is exempt. The Planning Department's

determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this chapter apply to the proposal. The City shall not require completion of an environmental checklist for an exempt proposal.

(b) In determining whether or not a proposal is exempt, the Planning Department shall make certain that the proposal is properly defined, and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the Planning Department shall determine the lead agency even if the license application that triggers the Department's consideration is exempt.

(c) If a proposal includes both exempt and nonexempt actions, the City may authorize exempt actions prior to compliance with the procedural requirements of this chapter, except that:

(1) The City shall not give authorization for:

(i) Any nonexempt action;

(ii) Any action that would have an adverse environmental impact; or

(iii) Any action that would limit the choice of alternatives;

(2) The responsible official may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and

(3) The responsible official may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

(d) Threshold Levels for Categorical Exemptions. Pursuant to WAC 197-11-800(1)(c) and (1)(d), cities may adopt raised levels of threshold exemptions for certain types of actions, except as provided in WAC 197-11-305 and 197-11-800(1)(a). As authorized pursuant to WAC 197-11-800(1)(c) and (1)(d), the following threshold exemptions are adopted:

(1) The construction or location of thirty (30) or fewer single-family residential units.

(2) The construction or location of sixty (60) or fewer multifamily residential units.

(3) The construction of an office, school, commercial, recreational, service or storage building with thirty thousand (30,000) square feet of gross floor area, and with associated parking facilities designed for ninety (90) parking spaces.

(4) The construction of a parking facility designed for ninety (90) parking spaces.

(5) Any landfill or excavation of one thousand (1,000) cubic yards throughout the lifetime of the fill or excavation, and any fill or excavation classified as Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.

20.04.110 ENVIRONMENTAL CHECKLIST.

(a) A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate or other approval not specifically exempted in this chapter; except, a checklist is not needed if the City and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The City shall use the environmental checklist to determine the lead agency and, if the City is the lead agency, for determining the responsible official and for making the threshold determination.

(b) For private proposals, the City will require the applicant to complete the environmental checklist, providing assistance as necessary. For City proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.

(c) The City may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:

(1) The City has technical information on a question or questions that is unavailable to the private applicant; or

(2) The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

20.04.120 MITIGATED DNS.

(a) As provided in this section and in WAC 197-11-350, the responsible official may issue a determination of nonsignificance (DNS) based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

(b) An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must: follow submission of a permit application and environmental checklist for a nonexempt

proposal for which the department is lead agency, and precede the City's actual threshold determination for the proposal.
(c) The responsible official should respond to the request for early notice within ten (10) working days. The response shall: be written; state whether the City currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that are leading the City to consider a DS; and state that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.
(d) As much as possible, the City should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
(e) When an applicant submits a changed or clarified proposal, along with a revised environmental checklist, the City shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen (15) days of receiving the changed or clarified proposal; if the City indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the City shall issue and circulate a determination of nonsignificance under WAC 197-11-340(2); if the City indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the City shall make the threshold determination, issuing a DNS or DS as appropriate; the applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct two hundred (200) foot stormwater retention pond at Y location" are adequate; mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.
(f) A mitigated DNS is issued under WAC 197-11-340(2), requiring a fifteen (15) day comment period and public notice. The optional DNS process may be used in WAC 197-11-355 to combine the SEPA comment period with the notice of application comment period, if any, for the underlying permit. If a notice of application is not required for the underlying permit, the SEPA comment period shall follow issuance of the DNS and shall be concluded prior to the decision on the underlying action.
(g) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision, and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the City.
(h) If the City's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the City should evaluate the threshold determination to assure consistency with WAC 197-11-340(3)(a) (withdrawal of DNS).
(i) The City's written response under subsection (b) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the City to consider the clarification or changes in its threshold determination.

20.04.130 PURPOSE OF ARTICLE IV - ADOPTION OF WAC PROVISIONS BY REFERENCE.
This article contains the rules for preparing environmental impact statements. The City adopts the following sections of Chapter 197-11 of the WAC by reference, as supplemented by this part:
WAC 197-11-400 - Purpose of EIS.
402 General requirements.
405 EIS types.
406 EIS timing.
408 Scoping.
410 Expanded scoping.
420 EIS preparation.
425 Style and size.
430 Format.
435 Cover letter or memo.
440 EIS contents.
442 Contents of EIS on nonproject proposals.
443 EIS contents when prior nonproject EIS.
444 Elements of the environment.
448 Relationship of EIS to other considerations.

450 Cost-benefit analysis.
455 Issuance of DEIS.
460 Issuance of FEIS.

20.04.140 PREPARATION OF EIS - ADDITIONAL CONSIDERATIONS.

(a) Preparation of draft and final EIS and SEIS is the responsibility of the Planning Department under the direction of the responsible official. Before the City issues an EIS, the responsible official shall be satisfied that it complies with this chapter and Chapter 197-11 WAC.

(b) The DEIS and FEIS or draft and final SEIS shall be prepared by City staff, or by a consultant selected by the City, or the applicant, as determined by the responsible official. If the applicant is required to prepare the EIS, the applicant shall select a consultant subject to approval of the responsible official. Said individual or firm shall have demonstrated expertise relevant to the information required for the EIS. If the responsible official requires an EIS for a proposal and determines that someone other than the City will prepare the EIS, the responsible official shall notify the applicant within five (5) working days of completion of the threshold determination. The responsible official shall also notify the applicant of the City's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

(c) The City may require an applicant to provide information the City does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this chapter or that is being requested from another agency. (This does not apply to information the City may request under another ordinance or statute.)

20.04.150 ADOPTION OF WAC PROVISIONS BY REFERENCE.

This article contains rules for consulting, commenting and responding on all environmental documents under SEPA, including rules for public notice and hearings. The City adopts the following sections of Chapter 197-11 WAC by reference:

WAC 197-11-500 - Purpose of this part.
502 Inviting comment.
504 Availability and cost of environmental documents.
508 SEPA register.
535 Public hearings and meetings.
545 Effect of no comment.
550 Specificity of comments.
560 FEIS response to comments.
570 Consulted agency costs to assist lead agency.

20.04.160 PUBLIC NOTICE REQUIREMENTS.

(a) Whenever the City issues a DNS under WAC 197-11-340(2) or 197-11-355 or 197-11-360(3), the City shall give public notice as follows:

(1) If public notice is required for a nonexempt license, the City shall state whether a DS or DNS has been issued and a DS notice when comments are due;

(2) If no public notice is required for the nonexempt proposal, the City shall give notice of the DNS or DS by publishing notice in a newspaper of general circulation in the county, City or general area where the proposal is located;

(3) Whenever the City issues a DS under WAC 197-11-360(3), the City shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.

(b) Whenever the City issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:

(1) Indicating the availability of the DEIS in any public notice required for a nonexempt license;

(2) Publishing notice in a newspaper of general circulation in the county, City or general area where the proposal is located.

(c) Whenever possible, the City shall integrate the public notice required under this section with existing notice procedures for the City's nonexempt permit(s) or approval(s) required for the proposal.

(d) The City may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

20.04.170 DESIGNATION OF OFFICIAL TO PERFORM CONSULTED AGENCY RESPONSIBILITIES FOR THE CITY.

(a) The ~~Planning~~ Director shall be responsible for preparation of written comments for the City in response to a consultation request prior to a threshold determination, participation in scoping and reviewing a draft EIS.

(b) The ~~Planning~~ Director shall be responsible for the City's compliance with WAC ~~197-115-50~~197-11-550 whenever the City is a consulted agency, and is authorized to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the City.

20.04.180 PURPOSE OF ARTICLE VI - ADOPTION OF WAC PROVISIONS BY REFERENCE.

This article contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the City's own environmental compliance. The City adopts the following sections of Chapter 197-11 WAC by reference:

WAC 197-11-600 - When to use existing environmental documents.
610 Use of NEPA documents.
620 Supplemental environmental impact statement - Procedures.
625 Addenda - Procedures.
630 Adoption - Procedures.
635 Incorporation by reference - Procedures.
640 Combining documents.

20.04.190 PURPOSE OF ARTICLE VII - ADOPTION OF WAC PROVISIONS BY REFERENCE.

This article contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA determinations to agencies or the courts. The City adopts the following sections of Chapter 197-11 WAC by reference:

WAC 197-11-650 - Purpose of this part.
655 Implementation.
660 Substantive authority and mitigation.
680 Appeals.

20.04.200 SUBSTANTIVE AUTHORITY.

(a) The policies and goals set forth in this chapter are supplementary to those in the existing SEPA authorization of the City.

(b) The City may attach conditions to a permit or approval for a proposal so long as:

(1) Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this chapter; and

(2) Such conditions are in writing; and

(3) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

(4) The City has considered whether other local, state or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

(5) Such conditions are based on one or more policies in subsection (d) of this section and cited in the license or other decision document.

(c) The City may deny a permit or approval for a proposal on the basis of SEPA so long as:

(1) A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a final EIS or final supplemental EIS prepared pursuant to this chapter; and

(2) A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

(3) The denial is based on one or more policies identified in subsection (d) of this section, and identified in writing in the decision document.

(d) The City designates and adopts by reference the following policies as the basis for the City's exercise of authority pursuant to this section:

(1) The City shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs and resources to the end that the state and its citizens may:

(i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(ii) Assure for all people of Washington safe, healthful, productive and aesthetically and culturally pleasing surroundings;

(iii) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(iv) Preserve important historic, cultural and natural aspects of our national heritage;

(v) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(vii) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(2) The City recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

(e) Applications not requiring a final decision by the City Council that are conditioned or denied on the basis of SEPA by a nonelected official shall be appealable to the Administrative Hearing Examiner pursuant to Chapter 2.13 BMC. Such appeal may be perfected by appellant by giving notice to the responsible official within ~~ten~~ fourteen (~~10~~14) days of the decision being appealed. The hearing before the Hearing Examiner shall be an open-record appeal. However, the decision of the SEPA Official shall be presumed correct.

20.04.205 PLANNED ACTIONS.

The City adopts by reference and codifies in this chapter the State Environmental Policy Act (SEPA) rules, WAC 197-11-164, 197-11-168, and 197-11-172, that establish the definitions, procedures, and project review requirements for planned actions.

20.04.210 APPEALS.

(a) The City establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-11-680:

(1) Project Permits: Any agency or person may appeal the City's procedural compliance with Chapter 197-11 WAC for issuance of the following (the appeal must be made to the Administrative Hearing Examiner within ~~ten (10)~~fourteen (14) days of the date of issuance. A decision involving a SEPA determination of nonsignificance which required public comments shall have the appeal period extended an additional seven (7) days:

(i) A final DNS;

(ii) A DS; or~~.~~

(iii) A Final EIS.

(2) Legislative Proposals: There is no administrative appeal of a DNS, DS or Final EIS adequacy associated with a legislative decision.

(~~2~~3) For any administrative appeal under this section, the City shall provide for a record that shall consist of the following:

(i) Findings and conclusions;

(ii) Testimony under oath; and

~~(~~iii) A taped or written transcript.

(~~3~~4) The procedural determination by the City's responsible official shall carry substantial weight in any appeal proceeding.

(b) The City shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.

20.04.220 NOTICE OF ACTION - STATUTE OF LIMITATIONS.
(a) The City, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.
(b) The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the City Clerk, applicant or proponent pursuant to RCW43.21C.080.

20.04.230 PURPOSE OF ARTICLE VIII - ADOPTION OF WAC PROVISIONS BY REFERENCE.
This article contains uniform usage and definitions of terms under SEPA. The City adopts the following sections of Chapter 197-11 WAC by reference, as supplemented by WAC 173-806-040:
WAC 197-11-700 - Definitions.
702 Act.
704 Action.
706 Addendum.
708 Adoption.
710 Affected tribe.
712 Affecting.
714 Agency.
716 Applicant.
718 Built environment.
720 Categorical exemption.
722 Consolidated appeal.
724 Consulted agency.
728 County.
730 Decision maker.
732 Department.
734 Determination of nonsignificance (DNS).
736 Determination of significance (DS).
738 EIS.
740 Environment.
742 Environmental checklist.
744 Environmental document.
746 Environmental review.
748 Environmentally sensitive area.
750 Expanded scoping.
752 Impacts.
754 Incorporation by reference.
756 Lands covered by water.
758 Lead agency.
760 License.
762 Local agency.
764 Major action.
766 Mitigated DNS.
768 Mitigation.
770 Natural environment.
774 Nonproject.
776 Phased review.
778 Preparation.
780 Private project.
782 Probable.
784 Proposal.
786 Reasonable alternative.
790 SEPA.

792 Scope.
793 Significant.
796 State agency.
797 Threshold determination.
799 Underlying governmental action.

20.04.240 ADOPTION OF WAC PROVISIONS BY REFERENCE.
The City adopts sections of Chapter 197-11 WAC by reference, the following rules for categorical exemptions, as supplemented in this chapter, including Section B (Use of exemptions), and WAC 173-806-190 (Environmentally sensitive areas):
WAC 197-11-800 - Categorical exemptions.
880 Emergencies.
890 Petitioning DOE to change exemptions.

20.04.250 PURPOSE OF ARTICLE X - ADOPTION OF WAC PROVISIONS BY REFERENCE.
This article contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, designating environmentally sensitive areas, listing agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The City adopts the following sections of Chapter 197-11 WAC by reference~~, through WAC 173-06-053~~ and this article:
WAC 197-11-900 - Purpose of this part.
902 Agency SEPA policies.
916 Application to ongoing actions.
920 Agencies with environmental expertise.
922 Lead agency rules.
924 Determining the lead agency.
926 Lead agency for governmental proposals.
928 Lead agency for public and private proposals.
930 Lead agency for private projects with one agency with jurisdiction.
932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a City.
934 Lead agency for private projects requiring licenses from a local agency, not a county and one or more state agencies.
936 Lead agency for private projects requiring licenses from more than one state agency.
938 Lead agencies for specific proposals.
940 Transfer of lead agency status to a state agency.
942 Agreements on lead agency status.
944 Agreements on division of lead agency duties.
946 DOE resolution of lead agency disputes.
948 Assumption of lead agency status.

20.04.260 ENVIRONMENTALLY SENSITIVE AREAS.
(a) The ~~Planning~~ Director shall designate environmentally sensitive areas under the standards of WAC 197-11-908, and shall file maps designating such areas, together with the exemptions from the list in WAC 197-11-908 that are inapplicable in such areas, with the Planning Department and the Department of Ecology, Headquarters Office, Olympia, Washington. The environmentally sensitive area designations shall have full force and effect of law as of the date of filing.
(b) The City shall treat proposals located wholly or partially within an environmentally sensitive area no differently than other proposals under this chapter, making a threshold determination for all such proposals. The City shall not automatically require an EIS for a proposal merely because it is proposed for location in an environmentally sensitive area.
(c) Certain exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped.

20.04.270 FEES.

The City shall require fees for its activities in accordance with the provisions of this chapter. Those fees shall be established, from time to time, by City Council resolution.

20.04.280 ADOPTION OF WAC PROVISIONS BY REFERENCE.
The City adopts the following forms and selections by reference:
WAC 197-11-960 - Environmental checklist.
965 Adoption notice.
970 Determination of nonsignificance (DNS).
980 Determination of significance and scoping notice (DS).
985 Notice of assumption of lead agency status.
990 Notice of action.

Division II. Land Development

Chapter 20.10
COMPREHENSIVE PLAN AMENDMENTS

Sections:

20.10.010 ANNUAL AMENDMENTS.
20.10.020 APPLICATIONS.
20.10.030 TIME OF FILING.
20.10.040 SUSPENSION OF APPLICATIONS.
20.10.050 AMENDMENTS OUTSIDE THE ANNUAL PROCESS.
20.10.060 SEPA REVIEW.
20.10.070 CUMULATIVE EFFECT.
20.10.080 DECISION CRITERIA.
20.10.090 HEARING PROCEDURES - NOTICE REQUIREMENTS.
20.10.100 CITY COUNCIL ACTION.
20.10.110 APPEALS.

20.10.010 ANNUAL AMENDMENTS.

The City Council shall consider amendments to the Bremerton Comprehensive Plan no more than once each calendar year, except as provided in BMC 20.10.050.

20.10.020 APPLICATIONS.

Comprehensive Plan amendments may be initiated by the Department of Community Development or other administrative staff of the City, private citizens, private or public entities or agencies, the Planning Commission, or the City Council. Application fees for Comprehensive Plan amendments shall be the same as the fee established for rezones.

20.10.030 TIME OF FILING.

Applications to amend the Comprehensive Plan shall be submitted to the Department of Community Development between the first business day in January to the end of the first business day of April. Applications shall be submitted on forms prescribed by the Department. Incomplete applications will not be accepted for filing. Requests received after the deadline shall be resubmitted during the next calendar year amendment process. The Director of Community Development may, at his or her sole discretion, accept applications filed after the deadline if review has not begun on the pending applications and acceptance of the late application will not have a significant impact on the processing of the pending applications.

20.10.040 SUSPENSION OF APPLICATIONS.

The City Council may, by motion or resolution, suspend the amendment process for any given calendar year. However, in no case shall the amendment process be suspended for two (2) consecutive calendar years.

20.10.050 AMENDMENTS OUTSIDE THE ANNUAL PROCESS.

Pursuant to RCW 36.70A.130, the City Council may consider amendments to the Comprehensive Plan outside the annual review process set forth in BMC 20.10.010 under the following circumstances:

(a) Subarea Plan. The initial adoption of a subarea plan that does not modify the Comprehensive Plan policies and designations applicable to the subarea; and

(b) Shoreline Master Program. The adoption or amendment of a Shoreline Master Program under the procedures set forth in Chapter 90.58 RCW; and
(c) Capital Facilities Element. The amendment of the capital facilities element of the Comprehensive Plan that occurs concurrently with the adoption or amendment of the City's budget; and
(d) Planned Actions. The adoption of Comprehensive Plan amendments necessary to enact a planned action under RCW 43.21C.031(2); and
(e) Emergency Amendments. At any time an emergency situation exists, emergency Comprehensive Plan amendments may be processed separately and in addition to the standard annual amendment process even though such emergency amendment results in a Comprehensive Plan amendment more frequently than once per year. Prior to considering an emergency amendment, the City Council shall, by resolution or motion, make a finding that an emergency situation exists. The following shall constitute a basis for emergency amendments:

(1) Situations involving official, legal, or administrative actions, such as those to immediately avoid an imminent danger to public health and safety, prevent imminent danger to public or private property or to prevent an imminent threat of serious environmental degradation;
(2) To address the absence of adequate and available public facilities or services;
(3) To resolve an appeal of the Comprehensive Plan filed with the Central Puget Sound Growth Management Hearings Board or court, or to comply with a decision of the Board or court or of a State agency or office or the State Legislature necessitating an emergency Comprehensive Plan amendment; or
(4) Council confirmation of the Director's finding of a conflict, inconsistency, deficiency or other internal defect in the Comprehensive Plan that requires correction for clear, complete and consistent policy direction.

20.10.060 SEPA REVIEW.
After April 1st of each calendar year, the City's responsible official shall review the cumulative environmental effect of all proposed Comprehensive Plan amendments, pursuant to the Washington State Environmental Policy Act (SEPA). If the responsible official determines that a draft final or supplemental environmental impact statement (EIS) or other appropriate environmental review is warranted, applicants may be responsible for a full or proportionate share of the costs of preparing the environmental analysis as determined by the responsible official.

20.10.070 CUMULATIVE EFFECT.
In considering annual amendments to the Comprehensive Plan, the Planning Commission and the City Council shall consider all proposed amendments concurrently to assess their cumulative effect. The analysis of cumulative effect shall be conducted pursuant to BMC 20.10.060 and shall be entered into the hearing records of the Planning Commission and City Council prior to any action.

20.10.080 DECISION CRITERIA.
The Planning Commission may recommend, and the City Council may adopt or adopt with modifications, an amendment to the Comprehensive Plan if:
(a) There exists an obvious technical error in the pertinent Comprehensive Plan provisions; or
(b) All the following criteria have been met:

(1) The amendment is consistent with the Growth Management Act;
(2) The amendment is consistent with the Comprehensive Plan or other goals or policies of the City;
(3) If the amendment was reviewed but not adopted as a part of a previous proposal, circumstances related to the proposed amendment have significantly changed, or the needs of the City have changed, which support an amendment;

(4) The amendment is compatible with existing or planned land uses and the surrounding development pattern; and

(5) The amendment will not adversely affect the City's ability to provide urban services at the planned level of service and bears a reasonable relationship to benefitting the public health, safety and welfare.

20.10.090 HEARING PROCEDURES - NOTICE REQUIREMENTS.

The Department of Community Development shall prepare a report on proposed plan amendments which shall be presented to the Planning Commission at a public hearing. The Planning Commission shall hold one (1) or more hearings on the proposed amendments. Following the public hearing by the Planning Commission, the Planning Commission's recommendation shall be forwarded to the City Council for action. For proposed text amendments, notice of the first Planning Commission and the first City Council public hearing shall be given in at least one (1) publication in the local newspaper at least ten (10) days prior to said hearing.

20.10.100 CITY COUNCIL ACTION.

Following receipt of the Planning Commission recommendation, the City Council shall affirm, deny, modify or return the application to the Commission for further consideration. In the event the City Council modifies the recommendation, it shall make its own findings and set forth in writing the reasons for the action taken. If the City Council makes a substantial modification to the Planning Commission recommendation, it shall hold at least one (1) additional hearing on the modified recommendation prior to adoption.

20.10.110 APPEALS.

Appeals from a decision of the Bremerton City Council shall be pursuant to Chapter 36.70A RCW.

Chapter 20.12
LAND DIVISION

Sections:

20.12.010 PURPOSE.
20.12.020 APPLICABILITY.
20.12.030 EXEMPTIONS.
20.12.040 DEFINITIONS.
20.12.050 ADMINISTRATION.
20.12.060 GENERAL PROVISIONS.
20.12.070 SURVEY REQUIREMENTS.
20.12.080 SUBDIVISION CATEGORIES.
20.12.090 REVIEW PROCEDURES AND APPROVALS.
20.12.100 APPROVAL CRITERIA - PRELIMINARY SUBDIVISION.
20.12.110 SUBMITTAL REQUIREMENTS - PRELIMINARY SUBDIVISION.
20.12.120 APPROVAL CRITERIA - FINAL SUBDIVISION.
20.12.130 SUBMITTAL REQUIREMENTS - FINAL SUBDIVISION.
20.12.140 MODIFICATIONS TO PRELIMINARY SUBDIVISION APPROVAL.
20.12.150 RECORDING FINAL SUBDIVISIONS.
20.12.160 EXPIRATION OF FINAL SUBDIVISION APPROVALS.
20.12.170 SUBDIVISION VESTING.
20.12.180 VIOLATION - PENALTY.

20.12.010 PURPOSE.

These regulations are for the purpose of regulating the subdivision of land and support the rights of property owners to develop their property while protecting the public health, safety and general welfare of the community, to establish procedures for the subdivision and resubdivision of land in order to further the orderly layout and use of land, to guide the future growth and development of the community in accordance with the goals, objectives and policies of the City's Comprehensive Plan, and to ensure compliance with the City's development and engineering requirements.

20.12.020 APPLICABILITY.

(a) This chapter shall apply to all divisions of lands including short subdivisions, formal subdivisions, and binding site plans hereafter established within the incorporated areas of the City of Bremerton.

(b) This chapter is applied in conjunction with Chapter 2.13 BMC, Administrative Hearing Examiner; Chapter 20.02 BMC, Project Permits; Chapter 20.04 BMC, State Environmental Policy Act; BMC Title 20, Division III, Zoning; the Bremerton Shoreline Master Program; Chapter 20.14 BMC, Critical Areas; and other applicable codes referencing this chapter.

20.12.030 EXEMPTIONS.

The provisions of this chapter do not apply to the exemptions specified in the State law, including but not limited to:

(a) Cemeteries and other burial plots while used for that purpose.

(b) Divisions of land made by testamentary provisions, or the laws of descent.

(c) A division of land for the purpose of lease when no residential structure, other than mobile homes or travel trailers, are to be placed upon the land.

(d) Division of land due to condemnation or sale under threat thereof by an agency or division of government vested with the power of condemnation.

(e) A division of land into lots or tracts of less than three (3) acres that is recorded in accordance with Chapter 58.09 RCW (Survey Recording Act) and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities. The exemption only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility's existing and new customers. "New customers" are defined as electric service locations not already in existence as of the date that electric utility facilities subject to the provisions of this section are planned and constructed.
(f) A division of land for the purpose of leasing land for facilities providing personal wireless services while used for that purpose.
(g) A division of land for the purpose of dedicating to the public such tracts of lands for open spaces, drainage ways, roads, alleys, easements, parks, playgrounds, sites for schools, school grounds, water supplies, sanitary wastes and other general purposes that may be required to protect the public health, safety and welfare.
(h) Condominiums, pursuant to RCW 58.17.040.

20.12.040 DEFINITIONS.
The following definitions apply to this chapter and they should be used in conjunction with other definitions found in BMC Title 20. However, these definitions are not intended to replace or alter similar definitions found elsewhere within the Bremerton Municipal Code except when specifically applied to the provisions of this chapter.
"Auditor, County" means the person defined in Chapter 36.22 RCW or the office of the person assigned such duties under the Kitsap County Charter.
"Binding site plan" means a drawing to a scale specified by this chapter which: (a) identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by local regulations; (b) contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the local government body having authority to approve the site plan; and (c) contains provisions making any development be in conformity with the site plan.
"Block" means a group of lots, tracts, or parcels within well-defined and fixed boundaries.
"Bond" means a satisfactory security to insure performance and/or warranty.
"Buildable lot" means a tract or parcel of land, legally created, which is intended for use for the placement of structures separate from other parcels.
"City" means the City of Bremerton.
"Comprehensive Plan" means the City of Bremerton Comprehensive Plan as adopted and amended.
"Concurrency" means the requirement that development applications demonstrate that adequate public facilities be available at prescribed levels of service concurrent with the impact or occupancy of development as defined in the City's Comprehensive Plan.
"Day(s)" means calendar days and includes Monday through Sunday and all holidays.
"Dedication" means the deliberate appropriation of land by an owner for any general and public uses, reserving to himself or herself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.
"Department" means the City of Bremerton Community Development Department.
"Director" means the City of Bremerton Director of Community Development and/or his/her designee.
"Division of land" means any segregation of land that creates lots, tracts, parcels, or sites not otherwise exempted by this title that alters or affects the shape, size or legal description of any part of the owner's land.
"Electric utility facilities" means unstaffed facilities except for the presence of security personnel that are used for or in connection with, or to facilitate the transmission, distribution, sale, or furnishing of, electricity including, but not limited to, electric power substations.

"Hearing Examiner" means the person appointed by the Mayor, with the powers and duties prescribed in Chapter 2.13 BMC.
"Lot" means a fractional part of divided lands having fixed boundaries being of sufficient area and dimension to meet the minimum and maximum underlying zoning district requirements for width, area and street frontage. The term shall include tracts or parcels.
"Personal wireless services" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures.
"Plat" means a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys, or other divisions and dedications.
"Plat certificate" means a title report or subdivision guarantee that is prepared by a title company for the property contained in a proposed short subdivision, subdivision or binding site plan, to include, as a minimum, all owners of record, easements and encumbrances affecting said property.
"Plat, final" means the final drawing of the subdivision and dedication prepared for filing for record with the County Auditor and containing all elements and requirements set forth in this chapter and Chapter 58.17 RCW.
"Plat, formal" means the map or representation of a formal subdivision.
"Plat, preliminary" means a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements consistent with the requirements of this chapter. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision or short subdivision.
"Plat, short" means the map or representation of a short subdivision.
"State Environmental Policy Act (SEPA)" means environmental review procedures required under Chapter 43.21C RCW, Chapter 197-11 WAC and Chapter 20.04 BMC.
"Subdivision" means the division or redivision of land through short subdivision, formal subdivision, or binding site plan.
"Subdivision, formal" means the division or redivision of land into ten (10) or more lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership.
"Subdivision, short" means the division or redivision of land into nine (9) or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership.
"Title notice" means a written notice attached to the title of a parcel of land by the property owner at the request of the City of Bremerton with a recording of said notice at the Kitsap County Auditor's Office per a legal description of said parcel for the purpose of notifying the property owner or future property owner of particular circumstances related to said parcel such as warning statement(s), limitation(s), restriction(s) or other.
"Title report" means the written analysis of the status of title to real property, including a property description, names of titleholders and how title is held (joint tenancy, etc.), encumbrances (mortgages, liens, deeds of trusts, recorded judgments), and real property taxes due.
"Tract" means land reserved for special uses such as open space, surface water retention, utilities, or access. Tracts are not counted as lots nor considered as building sites.

20.12.050 ADMINISTRATION.
The Director is vested with the duty of administering and implementing the provisions of this chapter.

20.12.060 GENERAL PROVISIONS.
(a) Submittal. All applications made pursuant to this chapter shall be to the Department.
(b) Minimum Requirements. The provisions set forth in this chapter shall constitute the minimum requirements necessary to promote the public health, safety, and general welfare.

(c) Preliminary Consultation. Any person who desires to subdivide land within the boundaries of the City should consult with the Department at an early date to become familiar with the requirements of this chapter and for assistance in understanding the engineering requirements and the construction standards of the City.

(d) Compliance. Whenever any parcel of land is divided into two (2) or more lots, no person, firm, corporation or agents of them shall sell, transfer or advertise for sale or transfer any such lot without having a subdivision recorded unless preliminary subdivision approval expressly conditions a performance of an offer or agreement to sell, lease, or otherwise transfer a lot, tract, or parcel of land on the recording of the final plat pursuant to RCW 58.17.205.

(e) Critical Areas Environmental Consideration. Lands designated as critical areas such as wetlands, aquifers, streams, flood hazards, geological hazards and wildlife habitats shall not be subdivided or have lot lines adjusted unless adequate safeguards are provided as prescribed in Chapter 20.14 BMC, Critical Areas.

(f) Critical Areas Notice on Title. When a critical area is verified on a property by an assessment or delineation, a notice of its presence shall be recorded by the applicant at the office of the Kitsap County Auditor. The notice may be on the face of a subdivision, or it may be on a form specified by the Department. The notice shall be notarized and proof must be submitted that the notice was legally recorded before final approval for development is issued. The notice shall run with the land and failure to record such notice shall be in violation of this chapter.

(g) Fees. The applicant shall pay a fee according to the fee schedule set forth in Chapter 3.01 BMC, which shall accompany the application.

(h) Bonding of Improvements. In lieu of the completion of the actual construction of any required improvements prior to the approval of a final subdivision, the City may accept a bond providing for and securing the actual construction and installation of such improvements within a period specified by the City. In addition, the City may provide for methods of security, including the posting of a bond securing the successful operation of improvements for up to two (2) years after final approval.

(i) Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

(j) Phasing. Phased development may be permitted with a preliminary formal subdivision application, provided all of the following criteria are met:

(1) Phasing Timelines. The first phase submitted for final subdivision approval must be completed prior to the expiration of the preliminary plat (five (5) years or as otherwise defined by RCW 58.17.140). For each subsequent phase, required infrastructure shall be completed and a final subdivision application shall be submitted within two (2) years of the date of the previous phase's final subdivision approval. No project shall include more than a maximum of four (4) phases. Provided no extensions are granted, this allows for a total of eleven (11) years for project completion.

(2) Phasing Plan. A phasing plan must be submitted and approved with the preliminary subdivision application and must include a minimum of the following materials:

(i) The proposed time limits for each phase shall be clearly indicated; and

(ii) The plan shall identify the number, density of lots, open space areas, parks, roads, and stormwater facilities to be located and developed in accordance within each phase. Said feature location and size shall be clearly identified on the plans; and

(iii) The plan shall include an analysis and supplemental plans as necessary that identify how each phase or as established in RCW 58.17.140 will adequately provide for services such as roadway design, utility, and public service systems, safe walking routes, stormwater, etc.

(k) Expiration and Extension of Preliminary Formal Subdivisions. The approval given to a preliminary formal subdivision shall expire within five (5) years following approval (or as outlined in RCW 58.17.140), unless a complete final subdivision application, meeting the conditions of approval, is submitted to the City prior to expiration. Should extenuating circumstance arise, the applicant may apply for a one (1) year extension provided all of the following criteria are met:

(1) The application for an extension is filed at least thirty (30) days prior to the preliminary subdivision expiration; and

(2) No project may receive more than two (2) extensions for the life of the project. This applies to standard and phased projects. Each extension shall not be granted for more than a single, one (1) year extension; and

(3) The applicant can demonstrate tangible progress and reasonable diligence being made toward infrastructure completion such that it is clear that project completion will occur within the timeline of the extension requested (no more than one (1) year); and

(4) The applicant demonstrates that the extension requested is the minimum necessary to finalize the necessary infrastructure/improvements required for final subdivision approval; and

(5) The director finds there are no substantial changes in conditions that would render approval of the extension contrary to public health, safety or general welfare.

20.12.070 SURVEY REQUIREMENTS.

(a) A Washington State licensed land surveyor registered pursuant to Chapter 18.43 RCW shall prepare, stamp, and seal all proposed subdivisions.

(b) A survey is required for all final approvals of subdivisions and shall meet the survey standards of Chapter 58.09 RCW and Chapter 332-130 WAC.

(c) The surveyor shall certify on the final document to be recorded that it is a true and correct representation of the lands actually surveyed.

(d) Whenever a survey reveals a discrepancy, the discrepancy shall be noted on the face of the subdivision. "Discrepancy" means: (1) a boundary hiatus; (2) an overlapping boundary; or (3) a physical appurtenance, which indicates encroachment, lines of possession, or conflict of title.

20.12.080 SUBDIVISION CATEGORIES.

When reference to "subdivision" is made in this code, it is intended to refer to "short subdivision," "formal subdivision," "and "binding site plan" unless one is specified.

(a) Short subdivision: a subdivision of nine (9) or fewer lots. Land within a short subdivision may not be further divided in any manner within a period of five (5) years without filing of a final plat, except the original owner may file an alteration within five (5) years to create up to a total of nine (9) lots within the original plat boundaries.

(b) Formal subdivision: a subdivision of ten (10) or more lots.

(c) Binding site plan: a land division for commercial and/or industrial developments.

20.12.090 REVIEW PROCEDURES AND APPROVALS.

Each subdivision type is processed as a different action "type" as described in Chapter 20.02 BMC, Table 040, Project Permit Processing Procedures, and summarized as follows:

(a) Subdivision. Approval of all subdivisions requires a four (4) step process: approval of a preliminary subdivision, installation or bonding of required improvements, approval of the final subdivision, and recording of the subdivision with the Kitsap County Auditor.

(1) Short Subdivision.

(i) A preliminary short subdivision: Type II Director decision.

(ii) A final short subdivision: Type I Director decision.

a. The final short subdivision shall be submitted to the Director within five (5) years of the date that the preliminary approval became final or the short subdivision shall become null and void.

(2) Formal Subdivision.

(i) A preliminary formal subdivision: Type III Hearing Examiner decision.

(ii) A final formal subdivision: Type IV City Council decision.

a. The final formal subdivision shall be submitted to the Director within five (5) years of the date that the preliminary approval became final or as approved through phasing and/or timeline extensions per BMC 20.12.060, General Provisions. Should the project fail to comply with these timelines, the formal subdivision shall become null and void.

b. The following signatures on the final plat Mylar are required before the Director can submit the final plat to the City Council:

i. Director. Whose signature approves compliance with all terms of the preliminary plat approval of the proposed plat subdivision or dedication.

ii. City Engineer. Whose signature approves the layout of streets, alleys and other rights-of-way, design of bridges, sewage and water systems and other structures. Additionally, the City Engineer's signature approves the adequacy of the proposed means of sewage disposal and water supply if City services are provided.

iii. Kitsap County Health District. Whose signature approves the adequacy of the proposed means of sewage disposal and water supply if City services are not provided.

iv. Kitsap County Treasurer. Whose signature confirms a statement that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged.

v. Property Owner. Whose signature confirms a statement that the subdivision has been made with the free consent and in accordance with the desires of the owner(s).

(3) Binding Site Plan.

(i) A preliminary binding site plan - Type II Director decision.

(ii) A final binding site plan - Type I Director decision.

a. The final binding site plan shall be submitted to the Director within two (2) years of the date that the preliminary approval became final or the binding site plan shall become null and void.

b. The following signatures on the binding site plan Mylar are required before the Director can approve the final binding site plan:

i. City Engineer. Whose signature approves the layout of streets, alleys and other rights-of-way, design of bridges, sewage and water systems and other structures. Additionally, the City Engineer's signature approves the adequacy of the proposed means of sewage disposal and water supply if City services are provided.

ii. Kitsap County Health District. Whose signature approves the adequacy of the proposed means of sewage disposal and water supply if City services are not provided.

iii. Kitsap County Treasurer. Whose signature confirms a statement that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged.

iv. Property Owner. Whose signature confirms a statement that the division of land has been made with the free consent and in accordance with the desires of the owner(s).

20.12.100 APPROVAL CRITERIA - PRELIMINARY SUBDIVISION.

The following criteria shall be used to review and approve preliminary short subdivisions, formal subdivisions, and binding site plans:

(a) The subdivision is in conformance with the Comprehensive Plan, Shoreline Master Program, and any other City-adopted plans;

(b) Provisions have been made for water, storm drainage, erosion control and sanitary sewage disposal for the subdivision that are consistent with current standards and plans as adopted in City code or ordinance;

(c) Provisions have been made for roads, utilities, street lighting, street trees and other improvements that are consistent with the zoning code and Engineering Standards;

(d) Provisions have been made for dedications, easements and reservations;

(e) The design, shape and orientation of the proposed lots are appropriate to the proposed use. In addition to meeting the minimum lot size density requirement, each residential lot must provide a building envelope. Therefore, corner lots, lots with easements, or lots with environmental constraints may have to be larger than other lots in the subdivision;

(f) The subdivision complies with the relevant requirements of the zoning code and all other relevant local regulations;

(g) Appropriate provisions are made to address all impacts identified by any special reports that have been prepared;

(h) Appropriate provisions for maintenance and monitoring of privately owned common facilities have been made;

(i) Appropriate provisions, in accordance with RCW 58.17.110, are made for:

(1) The public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys or other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and

(2) The public use and interest will be served by the platting of such subdivision and dedication.

20.12.110 SUBMITTAL REQUIREMENTS - PRELIMINARY SUBDIVISION.

An applicant seeking approval of a short subdivision, formal subdivision, or binding site plan must submit a complete application requesting approval. It is the responsibility of the applicant to provide all of the necessary information before the application is processed. In conjunction with the appropriate fee, a complete application for a preliminary subdivision approval shall contain, but is not limited to, the following:

(a) Application Form and Project Narrative Description. Application shall be made on the appropriate forms prescribed by the Department and shall be signed and dated by the property owner or authorized agent. When an authorized agent is involved, they shall provide proof they represent the legal interests of the property owner. The application shall contain each of the following:

(1) The name, address and telephone number of the applicant and person(s) to be contacted;

(2) The Kitsap County Assessor's tax identification number;

(3) The name, address and telephone number of the owner(s) of the property;

(4) Address or location of the property to be subdivided;

(5) Legal description of the property;

(6) The name of the school district serving the development;

(7) The existing zone classification;

(8) The existing shoreline environmental designation if any land is within two hundred (200) feet of the shoreline;

(9) Approximate project site lot area in acres;
(10) The range of lot sizes in square feet.

(b) Preliminary Plan. Seven (7) copies of the preliminary plat/short plat/binding site plan drawn to scale. The preliminary plan shall contain the following illustrations (multiple sheets may be used in order to provide clarity):

(1) Location of the site by section, township, range;
(2) North arrow, scale and the boundary of the lands being subdivided;
(3) Approximate boundaries of all blocks, the designation of lots, lot lines, and dimensions;
(4) The name of any adjacent subdivisions;
(5) The approximate location, names and width of all existing and proposed streets, roads and access easements within the boundaries of the lands being subdivided and adjacent lots;
(6) The location of existing and proposed improvements such as stormwater facilities, sidewalks, utilities, power poles, etc., within the boundaries of the lands being subdivided and adjacent lots;
(7) The location of transit stops within one hundred (100) feet of the boundaries of the lands being divided;
(8) All existing and/or proposed easements or divisions proposed to be dedicated for any public purpose or for the common use of the property owners of the lands being subdivided;
(9) A full and correct description of the lands being subdivided;
(10) Approximate location of existing structures, septic tanks, drain fields, wells and other improvements located on the site and whether such structures are proposed to remain on the property;
(11) Shorelines, streams, wetlands, wildlife habitats and geologically hazardous areas as defined in Chapter 20.12 BMC, Critical Areas, and the Shoreline Master Program;
(12) Topographical information showing general slope information when existing slopes are greater than ten (10) percent.

(c) Reduced Preliminary Plan. An eleven (11) inch by seventeen (17) inch reproducible copy of the preliminary site plan containing the information prescribed in BMC 20.12.110(b).

(d) Vicinity Map. A copy of the Kitsap County Assessor's map showing the location of the existing parcel number of all abutting properties and the approximate location of the subject property clearly marked.

(e) Title Report. A title report issued within thirty (30) days of application, showing all persons having an ownership interest, a legal description describing exterior boundary of application site and listing all encumbrances affecting the site.

(f) Notice. Public notice packet as required by the corresponding application.

(g) SEPA. Environmental (SEPA) checklist if the division of land is not exempt under WAC 197-11-800.

(h) Water and Sewer Availability. Information on the availability of sewer and water services from the City Public Works Department or Kitsap County Health District.

(i) Other Information. Any related information and/or studies (including but not limited to stormwater report, traffic study, or geotechnical report) required by other provisions of the Bremerton Municipal Code, identified in the presubmittal conference meeting, or deemed necessary by the Director.

20.12.120 APPROVAL CRITERIA - FINAL SUBDIVISION.

The following criteria shall be used to review and approve final subdivisions:

(a) Conforms to all terms of the preliminary subdivision approval;
(b) Meets all zoning and engineering requirements;
(c) Meets all requirements of this chapter;
(d) Meets all applicable local and State laws that were in effect at the time of vesting; and
(e) Improvements have been constructed or bonded at one hundred fifty (150) percent of estimated construction value.

20.12.130 SUBMITTAL REQUIREMENTS - FINAL SUBDIVISION.

An applicant seeking final approval of a short subdivision, formal subdivision, or binding site plan must submit a complete application requesting approval. It is the responsibility of the applicant to provide all of the necessary information before the application is processed. In conjunction with the appropriate fee a complete application for a final subdivision approval shall contain, but is not limited to, the following:

(a) Application Form. Application shall be made on the appropriate forms prescribed by the Department and shall be signed and dated by the property owner or authorized agent. When an authorized agent is involved, they shall provide proof they represent the legal interests of the property owner.

(b) Final Plan. The final plan shall be an original that is legibly drawn in black ink on Mylar and is suitable for producing legible prints through scanning, microfilming or other standard copying procedures. The map shall measure eighteen (18) inches by twenty-four (24) inches and shall include all of the following:

(1) Drawn to scale at no less than one (1) inch to two hundred (200) feet and the scale shall be shown on the drawing;

(2) Include the date, title, name and location of the subject property, graphic scale and true north point;

(3) Complete legal description of the lands being divided;

(4) The location of all existing fences, structures, and other improvements;

(5) The location of any lakes, ponds, wetlands, streams, creeks, and slopes (top and toe and percentage of slope) greater than forty (40) percent;

(6) Show the location of utilities, streets and easements within or abutting the subject property;

(7) Display the lines of all streets and roads, alley lines, lot lines, lot and blocks numbered in numerical order, reservations, easements, and any areas to be dedicated to public use, with notes stating their purpose and any limitations;

(8) Contain data sufficient to determine readily and reproduce on the ground the location, bearing, and length of every street, easement line, lot line, boundary line and block line on-site;

(9) Include dimensions;

(10) Include section subdivision information. Methods and data used for corner reestablishment or section subdivision shall be stated on plat;

(11) When applicable, display all interior permanent control monuments located as determined by the City Engineer's office. All monuments and property corners shall be installed prior to the release of any bond;

(12) If the subdivision includes a dedication, the following statements shall be included:

(i) The dedication of all streets and other areas to the public, and individual or individuals, religious society or societies, or to any corporation, public or private, as shown on the plat;

(ii) A waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of said road;

(13) Said statements shall be signed and acknowledged before a notary public by all parties having any interest in the lands subdivided;

(14) Addressing of the individual lots;

(15) Certificate for the approval signatures detailed in BMC 20.12.090;

(16) Treasurer's certificate to ensure payment of taxes; and

(17) Other information requested during the preliminary approval.

(c) Lot Numbering. Lots shall be consecutively numbered; tracts shall be lettered alphabetically and in consecutive order.

(d) Plat Certificates. Three (3) plat certificates for the real property shall accompany the final plat.

(e) Lot Closures. Perimeter lot closures for all lots, tracts, and the exterior boundary of the subdivision shall accompany the final plat.

(f) Addressing. Addresses of the individual lots shall be obtained from the Public Works Department.
(g) Dedications. Dedications of right-of-way are pursuant to Chapter 11.12 BMC, Transportation Development Code.

20.12.140 MODIFICATIONS TO PRELIMINARY SUBDIVISION APPROVAL.

(a) Minor Amendments. At any time after preliminary subdivision approval, and before final subdivision approval, the applicant may submit an application that proposes minor amendments to the approved preliminary subdivision. Minor amendments are allowed for short and formal subdivisions and are processed administratively by the Department. To obtain approval the Director must make a written determination finding that all of the following criteria have been met:

(1) The revision(s) do not substantially change any conditions of approval established in the preliminary subdivision approval; and

(2) The revision(s) will not cause the subdivision to violate any applicable City policy or regulation nor will they be inconsistent with the findings and conclusions of the preliminary subdivision decision; and

(3) The revision(s) do not decrease the total number of lots within the subdivision by more than five (5) lots, nor does the reduction violate any density requirements. In no case shall an increase of units be permitted through the amendment process; and

(4) The revision(s) do not alter the external boundaries of the project, such that the location and external perimeter of the subdivision remains unchanged; and

(5) The revision(s) do not represent a change of more than ten (10) percent to any individual feature such as but not limited to: the location or amount of open space, design or location of stormwater systems, or roadways; and

(6) The revision(s) do not result in the relocation of any roadway access point to an exterior street from the subdivision; and

(7) The revision(s) do not propose phasing of subdivision development not previously approved; and

(8) The revision(s) do not increase any adverse impacts or undesirable effects of the subdivision on the community or surrounding area.

(b) Minor Amendment Application Process. An application for a minor subdivision amendment may be made at any time until the preliminary subdivision approval has expired pursuant to BMC 20.12.060. Amendment applications shall comply with the following:

(1) An amended subdivision proposal shall be submitted on the appropriate application required by the Department and shall include all applicable information as identified for a preliminary subdivision as outlined in BMC 20.12.110.

(2) The Director shall have the discretion to determine if a new SEPA checklist application, stormwater, transportation, geotechnical, or other studies need to be revised or updated.

(3) An approval for a subdivision amendment shall expire at the same time as the original preliminary subdivision approval unless the expiration date is extended pursuant to BMC 20.12.060(k).

(c) Major Amendments. Revisions that do not conform to all the criteria of a minor amendment (outlined above in subsection (a) of this section) constitute a major amendment and shall not be permitted through the minor amendment process set forth in subsection (b) of this section. Major amendments shall be processed as a new preliminary subdivision application and shall vest to the codes in effect at the time the new application is deemed complete. All application materials required for a preliminary subdivision outlined in BMC20.12.110 shall be required and the Director shall have the discretion to determine if application materials, technical reports, and studies from the previous application may be used, or if new or updated reports will be required.

20.12.150 RECORDING FINAL SUBDIVISIONS.
All final subdivisions shall be filed for record with the office of the Kitsap County Auditor. The applicant shall furnish one (1) copy of the recorded document to the Department and one (1) copy shall be filed with the office of the Kitsap County Assessor.

20.12.160 EXPIRATION OF FINAL SUBDIVISION APPROVALS.
Approvals of final subdivisions shall automatically expire if the plans are not recorded within one (1) year of the written approval date.

20.12.170 SUBDIVISION VESTING.
Subdivisions shall be governed by the statutes, ordinances, and regulations in effect at the time of complete application for preliminary subdivision and will continue to be vested for a period of five (5) years after the final subdivision approval.

20.12.180 VIOLATION - PENALTY.
(a) Any violation of any provision of this chapter constitutes a civil violation under Chapter 1.04 BMC for which a monetary penalty may be assessed and abatement may be required as provided therein.
(b) In addition to, or as an alternative to, any other penalty provided in this chapter or by law, any person who violates any provision of this chapter shall be guilty of a misdemeanor pursuant to BMC 1.12.020(2).
(c) This chapter shall not be construed to relieve from or lessen the responsibility of any person owning any land or building, constructing or modifying any subdivisions in the City for damages to anyone injured or damaged either in person or property by any defect therein; nor shall the City or any agent thereof be held as assuming such liability by reason of any preliminary or final approval or by issuance of any permits or certificates authorized herein.

Chapter 20.16
SHORELINE DEVELOPMENT

Sections:

20.16.010 SHORELINE MASTER PROGRAM.

20.16.010 SHORELINE MASTER PROGRAM.

For all applicable requirements within the shoreline jurisdiction, see the Bremerton Shoreline Master Program which is on file with the City Clerk and may be posted or linked on the City of Bremerton's website.

Chapter 20.18
TEXT AMENDMENTS

Sections:

20.18.010 APPLICABILITY.
20.18.020 GENERAL PROVISIONS.
20.18.030 TEXT AMENDMENTS.
20.18.040 PROCEDURAL TEXT AMENDMENTS.
20.18.050 MINOR CORRECTIONS.
20.18.060 AMENDMENTS TO THE SHORELINE MASTER PROGRAM.

20.18.010 APPLICABILITY.

From time to time a change in circumstance or conditions may warrant a change in the development regulations of this title, which are consistent with the Comprehensive Plan. Text amendments revise the text of BMC Title 20 and change specific standards, procedures, meanings or other provisions of the code.

20.18.020 GENERAL PROVISIONS.

(a) Applicant. Any interested party may initiate a text amendment to any provision of BMC Title 20.

(b) Fee. An application fee, pursuant to the adopted fee schedules in Chapter 3.01 BMC, shall accompany an application for a text amendment. Amendments initiated by the City shall be exempt from the application fee.

(c) Notice. Published notice shall be given prior to public hearing dates in the official newspaper in accordance with the following schedule:

(1) Ten (10) calendar days for the first Planning Commission public hearing; and

(2) Five (5) calendar days for the first City Council public hearing;

(3) Subsequent hearing dates on the same proposal do not require additional publication of notice;

(4) Consideration shall be given to WAC 365-195-600 (Public Participation) in determining if additional notice requirements are necessary.

(d) Approval Criteria. A text amendment may be approved if it is found that:

(1) It is consistent with the goals and policies of the Comprehensive Plan; and

(2) It does not conflict with other City, state and federal codes, regulations and ordinances.

(e) Comprehensive Plan Consistency. If a Comprehensive Plan amendment is required in order to satisfy subsection (d)(1) of this section, approval of the Comprehensive Plan amendment is required prior to or concurrently with the granting of an approval on the text amendment.

20.18.030 TEXT AMENDMENTS.

(a) Applicability. This section applies to amendments involving substantive changes such as those standards prescribed in BMC Title 20, Division III, Zoning, Chapter 20.14 BMC, Critical Areas, or Chapter 20.12 BMC, Short Subdivisions. (Note: A change to these chapters does not automatically constitute a substantive change.)

(b) Procedures. Specific procedural requirements are prescribed in Chapter 36.70(A) RCW. The Planning Commission conducts public hearings and makes a recommendation to the City Council. The City Council, following its own public hearing(s), may approve, approve with modifications, deny or remand the Planning Commission's recommendation for additional study.

20.18.040 PROCEDURAL TEXT AMENDMENTS.

(a) Applicability. This section applies to amendments involving changes to procedural requirements such as those prescribed in Chapter 20.02 BMC, Project Permits, or Chapter20.04 BMC, State Environmental Policy Act. (Note: A change to these chapters does not automatically constitute a procedural change.)

(b) Procedures. The Department shall make a recommendation to the City Council. The City Council, following its own public hearing, may approve, approve with modifications, or deny the Department's recommendation.

(c) State Environmental Policy Act. Procedural amendments are exempt from environmental review (SEPA) pursuant to WAC 197-11-800(20).

20.18.050 MINOR CORRECTIONS.

(a) Exempt. An amendment that does not result in any substantive change to the content or meaning of a regulation such as a correction to the punctuation or numbering sequence shall be exempt from notice and hearing requirements of this chapter.

(b) Procedures. The Department makes a recommendation to the City Council, who may approve, modify and approve, or deny the amendment. Amendments to make minor corrections are processed in accordance with the ordinance requirements set forth in the City Charter, Article III, Legislation.

20.18.060 AMENDMENTS TO THE SHORELINE MASTER PROGRAM.

(a) Applicability. This section applies to amendments to Chapter 20.16 BMC, Shoreline Development.

(b) Procedures. Review procedures are prescribed in Chapter 173-26 WAC and the Shoreline Master Program. A minimum of one public hearing shall be held prior to the City Council's decision on the amendment. The City Council may approve, approve with modifications, or deny an amendment.

(c) Approval of Ecology. A City Council decision approving an amendment shall be transmitted to the Washington State Department of Ecology, who approves, recommends specific changes necessary to make the proposal consistent with Chapter 90.58 RCW policy and its applicable guidelines, or denies the amendment.

Chapter 20.14
CRITICAL AREAS

Sections:

20.14.100 GENERAL PROVISIONS.
20.14.110 PURPOSE.
20.14.115 INTENT.
20.14.120 SCOPE AND APPLICABILITY.
20.14.125 RELATIONSHIP TO OTHER REGULATIONS.
20.14.130 ADMINISTRATION AND PROCEDURES.
20.14.140 APPEALS.
20.14.145 EXEMPTIONS.
20.14.150 PUBLIC AGENCY EXCEPTION.
20.14.155 REASONABLE USE EXCEPTION.
20.14.160 NONCONFORMING USES/STRUCTURES.
20.14.165 BONDS.
20.14.170 ENFORCEMENT.
20.14.175 VIOLATION - PENALTY.
20.14.180 SEVERABILITY.
20.14.190 TREE REMOVAL.
20.14.200 DEFINITIONS.
20.14.300 WETLANDS.
20.14.310 DESCRIPTION AND PURPOSE.
20.14.320 CLASSIFICATION AND DESIGNATION.
20.14.330 DEVELOPMENT STANDARDS - WETLANDS.
20.14.340 MITIGATION REQUIREMENTS - WETLANDS.
20.14.350 PERFORMANCE STANDARDS - SUBDIVISIONS.
20.14.360 WETLAND REPORT.
20.14.400 CRITICAL AQUIFER RECHARGE AREAS.
20.14.410 DESCRIPTION AND PURPOSE.
20.14.420 CLASSIFICATION AND DESIGNATION.
20.14.430 DEVELOPMENT STANDARDS.
20.14.440 ALLOWED USES WITH PERFORMANCE STANDARDS.
20.14.450 HYDROGEOLOGIC ASSESSMENT.
20.14.500 FREQUENTLY FLOODED AREAS.
20.14.510 DESCRIPTION AND PURPOSE.
20.14.520 CLASSIFICATION AND DESIGNATION.
20.14.530 DEVELOPMENT STANDARDS.
20.14.600 GEOLOGICALLY HAZARDOUS AREAS.
20.14.610 PURPOSE.
20.14.620 CLASSIFICATION.
20.14.630 DEVELOPMENT STANDARDS.
20.14.650 MITIGATION, PERFORMANCE STANDARDS AND REQUIREMENTS.
20.14.660 SPECIAL REPORTS.
20.14.700 FISH AND WILDLIFE HABITAT CONSERVATION AREAS.
20.14.710 DESCRIPTION AND PURPOSE.
20.14.720 CLASSIFICATION AND DESIGNATION OF FISH AND WILDLIFE HABITAT CONSERVATION AREAS.
20.14.730 DEVELOPMENT STANDARDS.
20.14.740 SPECIAL REPORTS.
20.14.750 MITIGATION STANDARDS AND CRITERIA.
20.14.760 MONITORING AND CONTINGENCY PLAN.

20.14.100 GENERAL PROVISIONS.
BMC 20.14.100 through 20.14.175 are general provisions pertaining to critical areas.

20.14.110 PURPOSE.
The purpose of this chapter is to protect the public health, safety, and welfare by establishing provisions to classify, protect, and preserve Bremerton's critical areas and their functions and values by providing standards for development in association with these areas. The identification and protection of critical areas is required by the Washington State Growth Management Act of 1990 (Chapter 17, Laws of 1990).

20.14.115 INTENT.
Critical areas include wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas. The intent of this chapter is to preserve the beneficial functions and values of critical areas, and to minimize potential dangers or public costs associated with the inappropriate use of such areas, and to manage development in or adjacent to critical areas. This chapter contains classification criteria and preservation standards for each type of critical area. Classification criteria identify physical characteristics by which critical areas are designated. Preservation standards protect critical areas from degradation caused by improper development. These criteria and standards will secure the public health, safety and welfare by:
(a) Reducing risk of damage due to erosion, flooding, and landslides;
(b) Reducing the risks to the public from personal injury, loss of life, or property damage;
(c) Maintaining surface water quality and protecting groundwater areas which help recharge (purify or resupply) rivers, streams, and aquifers;
(d) Maintaining and protecting priority fish and wildlife habitats;
(e) Maintaining and protecting the habitat of threatened and endangered wildlife species;
(f) Avoiding public expenditures to correct damaged or degraded critical ecosystems;
(g) Alerting appraisers, assessors, owners, potential buyers, or lessees to the potential presence of a critical ecosystem and possible development limitations;
(h) Providing flexibility and attention to site-specific characteristics when administering code, allowing for reasonable use of private property and the provision of public facilities and services necessary to support existing development;
(i) Applying the best available science, as determined according to WAC 365-195-900 through 365-195-925;
(j) Implementing the goals, policies, guidelines, and requirements of Bremerton's Comprehensive Plan and the Washington State Growth Management Act.

20.14.120 SCOPE AND APPLICABILITY.
(a) General. This chapter applies to any public or private activity or action which would alter the condition of any land, water or vegetation, or construct or alter any structure or improvement regulated by this title, on any land which meets the classification standards for any critical area defined herein. Such activities or actions include, but are not limited to:
(1) Building, demolition, clearing, grubbing, grading, filling;
(2) Subdivisions and short plats;
(3) Reclassifications, site plan approvals, shoreline substantial development permits, and special and conditional use permits;
(4) Temporary use permits, variances, exceptions and waivers.
(b) Where one (1) site is classified as containing two (2) or more critical areas, the project shall meet the minimum standards and requirements for each identified critical area as set forth in this chapter.
(c) Mapping. Critical areas may be located through the use of any and all information from the Unites States Department of Agriculture, Department of Fish and Wildlife, National Resources Conservation

Service, the United States Geological Survey, the Washington Department of Ecology, the Coastal Zone Atlas, the National Wetlands Inventory maps, Bremerton topography maps, the Kitsap County Generalized Wetland and Critical Areas Inventory maps, Kitsap Public Utilities District maps, and Kitsap County Assessor's maps, and other Geographical Information Systems (GIS) data provided by Kitsap County. The above-listed maps and data sources are only guidelines available for reference. The actual location of critical areas must be determined on a site-by-site basis according to the classification criteria found in this chapter.

20.14.125 RELATIONSHIP TO OTHER REGULATIONS.

Applications for permits and approvals are subject to the provisions of this chapter as well as to other provisions of State and City law, including all other chapters of BMC Title 20, Land Use Code. Where this chapter imposes greater restrictions than existing regulations, easements, covenants or deed restrictions, the provisions of this chapter shall prevail.

20.14.130 ADMINISTRATION AND PROCEDURES.

The requirements and criteria of this chapter shall be applied at the time of application for any development proposal, land use project or nonproject action requiring permit approval subject to the BMC. The requirements and criteria of this chapter shall be applied in conjunction with review for permits required by other Chapters of the BMC. Procedures specifically related to the application of this chapter are as follows:

(a) Project Permits. The procedures as set forth in Chapter 20.02 BMC, Project Permits, shall apply unless modified by this chapter.

(b) Presubmittal Conference. Any applicant intending to construct, grade or conduct any activity subject to this chapter in a critical area or its buffer is encouraged to schedule a presubmittal conference during the earliest possible stages of project planning to discuss impact avoidance before large commitments have been made to a particular project design. Effort put into presubmittal conferences and planning will help applicants create projects which will be more quickly and easily processed.

(c) Burden of Proof. Applications for any proposal subject to this chapter shall be reviewed by the Department of Community Development for completeness and consistency with this chapter. At every stage, the burden of proof demonstrating that any proposed development is consistent with this title is upon the applicant.

(d) Special Reports. When a critical area is on-site, or the Department of Community Development determines a likelihood that a critical area is on-site, the Department may require submittal of additional special reports and studies prepared by qualified specialists to make an assessment or delineation of the critical area. Sections of this chapter include detailed procedures for preparation of special reports.

(e) Site Plan. Applications for any proposal subject to this chapter shall include a site plan drawn to scale identifying locations of critical areas in addition to proposed structures and activities. Site Plan submittal shall meet the standards of BMC 20.58.080, Site Plan Review.

(f) Conditions. The Director may attach any conditions deemed necessary to minimize or avoid impacts to any critical area in order to meet the requirements and intent of this chapter. Development may be prohibited in a proposed site based on criteria set forth in this chapter.

(g) Notice to Title and Hold Harmless. The owner of any property upon which approval under BMC Title 20, or BMC Title 17, is sought, with a critical area or critical area buffer verified on-site through an assessment delineation or permit application, shall record a "Notice to Title" of the presence of the critical area and/or buffer with the Kitsap County Auditor when required by the Department. The Department may require recording of a "Notice to Title and Hold Harmless" in cases where a site-specific critical area could pose potential threats to safety or property if altered through future acts. Said document shall also serve as a hold harmless and covenant holding the City harmless from claims due to soil disturbances or any development on the property in conjunction with issuance of development permits by the City. The notice

shall be notarized and the applicant must submit proof that the notice has been legally recorded before the final approval for development is issued.
(h) Time Limit. The approvals granted under this chapter shall be valid for the same time period as the underlying permit (e.g., preliminary plat, building permit, etc.). If the underlying permit does not contain a specified expiration date, then approvals granted under this title shall be valid for a period of three (3) years from the date of issue, unless a longer or shorter period is specified by the Department.
(i) Activities Not Requiring a Permit. If an activity is subject to this chapter per BMC 20.14.120 but is not subject to any established City permit, the proponent shall obtain written authorization from the Department prior to commencement to ensure compliance with the chapter.
(j) Modifications and Reductions. Modifications or reductions to critical areas buffers, setbacks, or other standards through a site-specific or special report shall be processed as a Type I (for applications where the underlying permit does not require SEPA) or Type II (for applications where the underlying permit requires SEPA) decision per BMC 20.02.160, Table 040.

20.14.140 APPEALS.
An appeal of a decision regarding a critical area may be made in accordance with BMC 20.02.140.

20.14.145 EXEMPTIONS.
An exemption means that an activity is fully exempt from critical areas review, and not subject to the provisions of this chapter. The proponent of the activity may submit a written request for exemption to the Director that describes the activity and states the exemption listed in this section that applies. The Director shall review the request to verify that it complies with this chapter and approve or deny the exemption as a Type I administrative determination. All exempted activities shall use best management practices to the greatest possible extent to avoid potential impacts to critical areas. The following developments, activities and associated uses shall be exempt:
(a) Emergencies. Emergency activities are those activities necessary to prevent an immediate threat to public health safety or welfare, or that pose an immediate risk of damage to property and that require remedial or preventative action in a short time frame. The person or agency undertaking such action shall notify the Department, and the Director shall determine if the action taken is within the scope of the emergency action allowed in this section. After the emergency, the person or agency shall fully restore and/or mitigate any impacts to the critical areas and buffers resulting from the action in accordance with an approved critical area report and mitigation plan.
(b) Operation Maintenance or Repair. Operation maintenance or repair of existing structures not requiring permits, if the activity does not further alter or increase the impact to critical areas or their buffers.
(c) Passive Outdoor Activities. Recreation, education, and scientific research activities that do not degrade the critical area.
(d) Forest Practices. Forest practices regulated and conducted in accordance with the provisions of Chapter 76.09 RCW and forest practices regulations, WAC Title 222.
(e) Existing Infrastructure Maintenance and Repair. Maintenance and repair of legally existing roads, utilities, infrastructure and associated facilities.
(f) Activities Within the Improved Right-of-Way. Construction of new utility facilities, improvements or upgrades to existing utility facilities that take place within existing improved rights-of-way or existing impervious surfaces that do not increase the amount of impervious surface.

20.14.150 PUBLIC AGENCY EXCEPTION.
An exception means that an activity may receive special consideration and relief from certain provisions of this chapter, but the activity is subject to the chapter, and must undergo full critical areas review. Public agencies may make an application for exception to the Department for construction of items such as new

roads, utilities, infrastructure and associated facilities. The application shall include critical area identification; critical area report, including mitigation plan if necessary; and any other related project documents such as environmental documents pursuant to SEPA, Chapter 43.21C RCW. The decision whether to grant the public agency utility exception shall be processed as a Type III Hearing Examiner decision per Chapter 20.02 BMC pursuant to the following review criteria:

(a) There is no other practical alternative to the proposed development with less impact on the critical areas; and

(b) The application of this chapter would unreasonably restrict the ability to provide utility services to the public.

20.14.155 REASONABLE USE EXCEPTION.

An exception means that an activity may receive special consideration and relief from certain provisions of this chapter, but the activity is subject to the chapter, and must undergo full critical areas review. An applicant may apply for a reasonable use exception if it can be demonstrated that application of this chapter would deny all reasonable use of the subject property. The application shall include critical areas identification; critical areas report including mitigation plan, if necessary; and any other related project documents such as environmental documents and special studies. The decision whether to grant the reasonable use exception shall be processed as a Type III Hearing Examiner decision per Chapter20.02 BMC pursuant to the following review criteria:

(a) The application of this chapter would deny all reasonable use of the property;

(b) No other reasonable use of the property has less impact on the critical area;

(c) Any alteration is the minimum necessary to allow for reasonable use of the property; and

(d) The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant after the effective date of this title or its predecessor.

20.14.160 NONCONFORMING USES/STRUCTURES.

An established use or existing structure that was lawfully permitted prior to the adoption of this chapter, but which is not in compliance with this chapter, may continue subject to the provisions of Chapter 20.54 BMC.

20.14.165 BONDS.

All bonds and acceptable securities guaranteeing compliance with this chapter shall be set in the amount of one hundred fifty (150) percent of the average expected value of the project. The value of the bond shall be based on the average of three (3) contract bids that establish all costs of compensation, including costs relative to performance, monitoring, maintenance, and provision for contingency plans.

(a) Performance Bonds. Except for public agencies, applicants receiving a permit are required to post a cash performance bond or other acceptable security to guarantee compliance with this chapter prior to beginning any site work. The surety shall guarantee that work and materials used in construction are free from defects. All bonds shall be approved by the City Attorney. The surety or bonds cannot be terminated or canceled without written approval. The Director shall release the bond after documented proof that all structures and improvements have been shown to meet the requirements of this chapter and that a maintenance bond has been posted, if required.

(b) Maintenance Bonds. Except for public agencies, an applicant shall be required to post a cash maintenance bond or other acceptable security guaranteeing that structures and improvements required by this chapter will perform satisfactorily for a minimum of three (3) years after they have been constructed and approved. All bonds shall be on a form approved by the City Attorney. Without written release, the bond cannot be canceled or terminated. The Director shall release the bond after determination that the performance standards established for measuring the effectiveness and success of the project have been met.

20.14.170 ENFORCEMENT.

(a) No regulated activity, as defined in BMC 20.14.200, shall be conducted without a permit and without full compliance with this chapter. All activities not allowed or conditionally approved shall be prohibited.

(b) The Director shall have authority to enforce this chapter, issue delineation verifications, permits, and violation notices, and process violations through the use of administrative orders and/or civil and criminal actions as provided for herein, and as listed in BMC 20.40.180.

(c) In the event of violation, the City shall have the authority to order restoration, enhancement, or creation measures to compensate for the destroyed or degraded critical area. If work is not completed in a reasonable time following the order, the City may implement a process to restore or enhance the affected site. This includes creation of new wetlands or streams to offset loss as a result of violation of the provisions in this chapter. The violator shall be liable for all costs of such action, including administrative costs.

(d) Failure to comply with an administrative order of the Director under this section shall constitute a violation subject to enforcement pursuant to this section.

20.14.175 VIOLATION - PENALTY.

(a) Any violation of any provision of this chapter constitutes a civil violation under Chapter 1.04 BMC for which a monetary penalty may be assessed and abatement and/or enforcement may be required as provided therein.

(b) In addition to or as an alternative to any other penalty provided in this chapter or by law, any person who violates any provision of this chapter shall be guilty of a misdemeanor pursuant to BMC 1.12.020(2). Each day, or a portion thereof, during which a violation occurs shall constitute a separate violation.

20.14.180 SEVERABILITY.

If any clause, sentence, paragraph, section, or part of this chapter or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any part thereof to any other person or circumstances, and to this end, the provisions of each clause, sentence, paragraph, section or part of this chapter are hereby declared to be severable.

20.14.190 TREE REMOVAL

Trees and other vegetation are important elements of the physical environment especially those located within or near critical areas. This section addresses removing trees within critical areas or their associated buffers. Removal of trees within geological hazardous area shall also comply with BMC 20.14.630(e) and (f).

(a) Elimination of Danger Trees. Removal of danger trees within the critical area or associated buffers may be allowed only if such activity is approved by the Department, provided a certified arborist in the State of Washington makes a written determination that the trees proposed for elimination present a legitimate safety hazard.

(b) Tree Replacement. Trees removed from the critical area or associated buffers, including danger trees, must comply with the following provisions:

(1) Removal of trees greater than 6 inches in diameter at four (4) feet in height shall be replaced at a ratio of 3:1 with native species and shall be re-established within any required buffer on the project site.

(2) Shoreline Jurisdiction. Properties located within the City's shoreline jurisdiction are subject to additional tree removal and replacement standards if the tree(s) to be removed are located

within the required shoreline buffer. See Shoreline Master Program section 7.020 for additional standards.

20.14.200 DEFINITIONS.

Words not defined in this title shall be as defined in the Bremerton Municipal Code, the Washington Administrative Code, or the Revised Code of Washington. Words not found in either code shall be as defined in Webster's Third New International Dictionary, latest edition.

"Active fault" means a fault that is considered likely to undergo renewed movement within a period of concern to humans. Faults are commonly considered to be active if the fault has moved one (1) or more times in the last ten thousand (10,000) years, but faults may also be considered active in some cases if movement has occurred in the last five hundred thousand (500,000) years.

"Adaptive management" relies on scientific methods to evaluate how well regulatory and nonregulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty.

"Adjacent," for the purposes of this chapter, means immediately adjoining (in contact with the boundary of the influence area) or within a distance that is less than that needed to separate activities from critical areas to ensure protection of the functions and values of the critical areas. "Adjacent" shall mean any activity or development located:

A. On a site immediately adjoining a critical area;

B. A distance equal to or less than the required critical area buffer width and building setback;

~~C. A distance equal to or less than one-half (1/2) mile (two thousand six hundred forty (2,640) feet) from a bald eagle nest;~~

~~D~~C. A distance equal to or less than three hundred (300) feet upland from a stream, wetland, or water body;

~~E~~D. Bordering or within the floodway, floodplain, or channel migration zone; or

~~F~~E. A distance equal to or less than two hundred (200) feet from a critical aquifer recharge area.

"Advance mitigation" means mitigation of an anticipated critical area impact or hazard completed according to an approved critical area report and prior to site development.

"Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and/or that has been designated as long-term commercial significance for agricultural production.

"Alluvial fan flooding" means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

"Alteration" means any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, clearing, grubbing, grading, filling, channelizing, dredging, clearing (vegetation), construction, compaction, excavation, or any other activity that changes the character of the critical area.

"Anadromous fish" means fish that spawn and rear in freshwater and mature in the marine environment. While Pacific salmon die after their first spawning, adult char (bull trout) can live for many years, moving in and out of saltwater and spawning each year. The life history of Pacific salmon and char contains critical periods of time when these fish are more susceptible to environmental and physical damage than at other times. The life history of salmon, for example, contains the following stages: upstream migration of adults, spawning, inter-gravel incubation, rearing, smoltification (the time period needed for juveniles to adjust their body functions to live in the marine environment), downstream migration, and ocean rearing to adults.

"Applicant" means a person who files an application for permit under this title and who is either the owner of the land on which that proposed activity would be located, a contract purchaser, or the authorized agent of such a person.
"Aquifer" means a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.
"Aquifer, confined" means an aquifer bounded above and below by beds of distinctly lower permeability than that of the aquifer itself and that contains groundwater under sufficient pressure for the water to rise above the top of the aquifer.
"Aquifer recharge areas" means areas that, due to the presence of certain soils, geology, and surface water, act to recharge groundwater by percolation.
"Aquifer, sole source" means an area designated by the U.S. Environmental Protection Agency under the Safe Drinking Water Act of 1974, Section 1424(e). The aquifer(s) must supply fifty (50) percent or more of the drinking water for an area without a sufficient replacement available.
"Aquifer susceptibility" means the ease with which contaminants can move from the land surface to the aquifer based solely on the types of surface and subsurface materials in the area. Susceptibility usually defines the rate at which a contaminant will reach an aquifer unimpeded by chemical interactions with the vadose zone media.
"Aquifer, unconfined" means an aquifer not bounded above by a bed of distinctly lower permeability than that of the aquifer itself and containing groundwater under pressure approximately equal to that of the atmosphere. This term is synonymous with the term "water table aquifer."
"Area of shallow flooding" means an area designated AO or AH Zone on the flood insurance map(s). The base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.
"Associated wetlands" means those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act.
"Base flood" means a flood event having a one (1) percent chance of being equaled or exceeded in any given year, also referred to as the one hundred (100) year flood. Designations of base flood areas on flood insurance map(s) always include the letters A or V.
"Basement" means any area of the building having its floor below ground level on all sides.
"Best available science" means current scientific information used in the process to designate, protect, or restore critical areas, which is derived from a valid scientific process as defined by WAC 365-195-900 through 365-195-925. Sources of the best available science are included in "Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas" published by the Washington State Department of Community, Trade and Economic Development.
"Best management practices (BMPs)" means conservation practices or systems of practices and management measures that:
A. Control soil loss and reduce water quality degradation caused by high concentrations of nutrients, animal waste, toxics, and sediment;
B. Minimize adverse impacts to surface water and groundwater flow and circulation patterns and to the chemical, physical, and biological characteristics of wetlands;
C. Protect trees and vegetation designated to be retained during and following site construction and use native plant species appropriate to the site for revegetation of disturbed areas; and
D. Provide standards for proper use of chemical herbicides within critical areas.
The City shall monitor the application of best management practices to ensure that the standards and policies of this title are adhered to.
"Biodiversity" means the variety of animal and plant life and its ecological processes and interconnections represented by the richness of ecological systems and the life that depends on them, including human life and economies.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.
"Buffer" or "buffer zone" means an area that is contiguous to and protects a critical area which is required for the continued maintenance, functioning, and/or structural stability of a critical area.
"Channel migration zone (CMZ)" means the lateral extent of likely movement along a stream or river during the next one hundred (100) years as determined by evidence of active stream channel movement over the past one hundred (100) years. Evidence of active movement over the one hundred (100) year time frame can be inferred from aerial photos or from specific channel and valley bottom characteristics. The time span typically represents the time it takes to grow mature trees that can provide functional large woody debris to streams. A CMZ is not typically present if the valley width is generally less than two (2) bankfull widths, if the stream or river is confined by terraces, no current or historical aerial photographic evidence exists of significant channel movement, and there is no field evidence of secondary channels with recent scour from stream flow or progressive bank erosion at meander bends. Areas separated from the active channel by legally existing artificial channel constraints that limit bank erosion and channel avulsion without hydraulic connections shall not be considered within the CMZ.
"Clearing" means the removal of noninvasive surface vegetation including, but not limited to, brush, shrubs, natural grasses, and trees. Removal of surface vegetation in quantities greater than the minimum necessary to maintain a well functioning natural habitat constitutes clearing. For the purposes of this chapter, activities described in BMC 20.14.630(f), Vegetation Thinning, constitute clearing.
"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the flood insurance map(s) as Zone V1-30, VE, or V.
"Compensation project" means actions necessary to replace project-induced critical area and buffer losses, including land acquisition, planning, construction plans, monitoring, and contingency actions.
"Compensatory mitigation" means replacing project-induced losses or impacts to a critical area, and includes, but is not limited to, the following:

A. "Creation" means actions performed to intentionally establish a critical area such as a wetland at a site where it did not formerly exist.
B. "Enhancement" means actions performed to improve the condition of existing degraded critical areas such as a wetland so that the functions they provide are of a higher quality.
C. "Preservation" means actions taken to ensure the permanent protection of existing, high-quality critical areas such as wetlands.
D. "Restoration" means actions performed to reestablish critical areas functional characteristics and processes that have been lost by alterations, activities, or catastrophic events within an area that no longer meets the definition of a wetland.

"Conservation easement" means a legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore providing permanent or long-term protection.
"Critical aquifer recharge area" means areas determined to have a critical recharging effect on aquifers used for potable water as classified per BMC 20.14.420.
"Critical areas" include any of the following areas or ecosystems: aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands, as defined in Chapter 36.70A RCW and this title.
"Critical area tract" means land held in private ownership and retained in an open condition in perpetuity for the protection of critical areas. Lands within this type of dedication may include, but are not limited to,

portions and combinations of forest habitats, grasslands, shrub steppes, on-site watersheds, one hundred (100) year floodplains, shorelines or shorelines of statewide significance, riparian areas, and wetlands.
"Critical facility" means a facility for which even a slight chance of flooding, inundation, or impact from a hazard event might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations that produce, use, or store hazardous materials or hazardous waste.
"Critical species" means all animal and plant species listed by the State or federal government as threatened or endangered.
"Cumulative impacts or effects" means the combined, incremental effects of human activity on ecological or critical areas functions and values. Cumulative impacts result when the effects of an action are added to or interact with other effects in a particular place and within a particular time. It is the combination of these effects, and any resulting environmental degradation, that should be the focus of cumulative impact analysis and changes to policies and permitting decisions.
"Danger tree" means a tree that is dead, or is so affected by a significant structural defect or disease that falling or failure appears imminent, or a tree that impedes safe vision or traffic flow, or that otherwise currently poses a threat to life or property.
Department. Unless otherwise noted, "Department" is defined as the City of Bremerton Department of Community Development.
"Developable area" means a site or portion of a site that may be utilized as the location of development, in accordance with the rules of this title.
"Development" means any activity upon the land consisting of construction or alteration of structures, earth movement, dredging, dumping, grading, filling, mining, removal of any sand, gravel, or minerals, driving of piles, drilling operations, bulkheading, clearing of vegetation, or other land disturbance. Development includes the storage or use of equipment or materials inconsistent with the existing use. Development also includes approvals issued by the City that binds land to specific patterns of use including, but not limited to, subdivisions, short subdivisions, zone changes, conditional use permits, and binding site plans. Development activity does not include the following activities:
A. Interior building improvements.
B. Exterior structure maintenance activities, including painting and roofing.
C. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning, and weeding.
D. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; individual utility service connections; and individual cemetery plots in established and approved cemeteries.
"Development permit" means any permit issued by the City, or other authorized agency, for construction, land use, or the alteration of land.
"Director" means the Director of the Bremerton Department of Community Development or other responsible official, or other City staff granted the authority to act on behalf of the Director.
"Elevated building" means a building that has no basement and its lowest elevated floor is raised above-ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
"Emergent wetland" means a wetland with at least thirty (30) percent of the surface area covered by erect, rooted, herbaceous vegetation extending above the water surface as the uppermost vegetative strata.
"Erosion" means the process whereby wind, rain, water, and other natural agents mobilize and transport particles.
"Exotic" means any species of plants or animals which are foreign to the planning area.
"Fish and wildlife habitat conservation areas" means areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support

viable populations over the long term, and isolated subpopulations are not created as designated by WAC ~~365-190-080~~365-190-130~~(5)~~. These areas include:

A. Areas with which State or federally designated endangered, threatened, and sensitive species have a primary association;

B. Priority habitat species and species of local importance including, but not limited to, areas designated as priority habitat by the Washington Department of Fish and Wildlife;

C. Streams and watercourses used by juvenile salmonids, and habitat of species essential to the juvenile salmonid diet;

D. Commercial and recreational shellfish areas;

E. Kelp, eelgrass beds, herring, smelt, ~~and~~ sandlance~~,~~ and other forage fish spawning habitat;

~~F. Herring and smelt spawning areas;~~

~~G~~F. Naturally occurring ponds under twenty (20) acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds;

~~H~~G. Waters of the State, including lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the State of Washington;

~~I~~H. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;

~~J~~I. State natural area preserves and natural resource conservation areas; and

~~K~~J. Land essential for preserving connections between habitat blocks and open spaces.

"Fish habitat" means habitat that is used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by restoration or management and includes off-channel habitat.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.

"Flood insurance map" means the official map on which the Federal Insurance Administration has delineated the areas of special flood hazards and includes the risk premium zones applicable to the community. Also known as "flood insurance rate map" or "FIRM."

"Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

"Floodplain" means the total land area adjoining a river, stream, watercourse, or lake subject to inundation by the base flood.

"Flood protection elevation" means the elevation that is one (1) foot above the base flood elevation.

"Flood-resistant material" means materials designed to be resistant to the impacts associated with flooding and defined and described in detail in the Federal Emergency Management Agency's Technical Bulletin No. 2-93, 1993, and FEMA publication FEMA-348, Protecting Building Utilities from Flood Damage.

"Floodway" means the channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the surface water elevation more that one (1) foot. Also known as the "zero rise floodway."

"Forested wetland" means a wetland with at least thirty (30) percent of the surface area covered by woody vegetation greater than twenty (20) feet in height that is at least partially rooted within the wetland.

"Formation" means an assemblage of earth materials grouped together into a unit that is convenient for description or mapping.

"Formation, confining" means the relatively impermeable formation immediately overlying a confined aquifer.

"Frequently flooded areas" means lands in the floodplain subject to a one (1) percent or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation functions, as determined by the Director in accordance with WAC 365-190-080(3). Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas include, at a minimum, the one hundred (100) year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.
"Functions and values" means the beneficial roles served by critical areas including, but not limited to, water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation; groundwater recharge and discharge; erosion control; wave attenuation; protection from hazards; historical, archaeological, and aesthetic value protection; educational opportunities; and recreation. These beneficial roles are not listed in order of priority. Critical area functions can be used to help set targets (species composition, structure, etc.) for managed areas, including mitigation sites.
"Geologically hazardous areas" means areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their steep slopes, susceptibility to erosion, sliding, earthquakes, or other geological events. For the purposes of this code, "geologically hazardous areas" are those areas receiving high or moderate geologically hazardous classifications per BMC 20.14.600 through 20.14.660.
"Groundwater" means water in a saturated zone or stratum beneath the surface of land or a surface water body.
"Groundwater management area" means a specific geographic area or subarea designated pursuant to Chapter 173-100 WAC for which a groundwater management program is required.
"Groundwater management program" means a comprehensive program designed to protect groundwater quality, to ensure groundwater quantity, and to provide for efficient management of water resources while recognizing existing groundwater rights and meeting future needs consistent with local and State objectives, policies, and authorities within a designated groundwater management area or subarea and developed pursuant to Chapter 173-100 WAC.
"Groundwater, perched" means groundwater in a saturated zone, separated from the underlying main body of groundwater by an unsaturated rock zone.
"Grading" means excavating, filling or embanking of earth materials in quantities equal to or greater than fifty (50) cubic yards, as specified per the Bremerton Municipal Code grading permit requirement.
"Grubbing" means the removal of vegetative matter from underground, such as sod, stumps, roots, buried logs or other debris, and shall include the incidental removal of topsoil and earth in quantities lesser than fifty (50) cubic yards.
"Habitat conservation areas" means areas designated as fish and wildlife habitat conservation areas.
"Habitat management plan (HMP)" means a report prepared by a professional wildlife biologist or fisheries biologist which discusses and evaluates critical fish and wildlife habitat functions and evaluates the measures necessary to maintain, enhance and improve habitat conservation on a proposed development site.
Habitats of Local Importance. These areas include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alterations such as cliffs, taluses, and wetlands. (WAC 365-190-030).
"Hazard areas" means areas designated as frequently flooded areas or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geological condition.

"Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100.

"High-intensity land use" means land uses which are associated with high levels of human disturbance or substantial habitat impacts including, but not limited to, medium- and high-density residential (more than one (1) home per five (5) acres), multifamily residential, some agricultural practices, and commercial and industrial land uses.

"High quality wetlands" means those wetlands that meet the following criteria:

A. No, or isolated, human alteration of the wetland topography;

B. No human-caused alteration of the hydrology or the wetland appears to have recovered from the alteration;

C. Low cover and frequency of exotic plant species;

D. Relatively little human-related disturbance of the native vegetation, or recovery from past disturbance;

E. If the wetland system is degraded, it still contains a viable and high quality example of a native wetland community; and

F. No known major water quality problems.

"Historic condition" means a condition of the land, including flora, fauna, soil, topography, and hydrology that existed before the area and vicinity were developed or altered by human activity.

"Hydraulic project approval (HPA)" means a permit issued by the Washington Department of Fish and Wildlife for modifications to waters of the State in accordance with Chapter75.20 RCW.

"Hydric soil" means a soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the approved federal wetland delineation manual and applicable regional supplements.~~Washington State Wetland Identification and Delineation Manual~~.

"Hydrologic soil groups" means soils grouped according to their runoff-producing characteristics under similar storm and cover conditions. Properties that influence runoff potential are depth to seasonally high water table, intake rate and permeability after prolonged wetting, and depth to a low permeable layer. Hydrologic soil groups are normally used in equations that estimate runoff from rainfall, but can be used to estimate a rate of water transmission in soil. There are four (4) hydrologic soil groups:

A. Low runoff potential and a high rate of infiltration potential;

B. Moderate infiltration potential and a moderate rate of runoff potential;

C. Slow infiltration potential and a moderate-to-high rate of runoff potential; and

D. High runoff potential and very slow infiltration and water transmission rates.

"Hydrophytic vegetation" means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. The presence of hydrophytic vegetation shall be determined following the methods described in the approved federal wetland delineation manual and applicable regional supplements. ~~Washington State Wetland Identification and Delineation Manual.~~

"Hyporheic zone" means the saturated zone located beneath and adjacent to streams that contains some portion of surface waters, serves as a filter for nutrients, and maintains water quality.

"Impervious surface" means any material which reduces or prevents absorption of stormwater into previously undeveloped land. Permeable paving technologies shall not be classified as impervious surfaces. (See also "Paved surface" in BMC 20.42.040 for a discussion of impervious pavements.)

"In-kind compensation" means to replace critical areas with substitute areas whose characteristics and functions closely approximate those destroyed or degraded by a regulated activity. It does not mean replacement "in category."

"Infiltration" means the downward entry of water into the immediate surface of soil.

"Injection well(s)" means:

A. Class I. A well used to inject industrial, commercial, or municipal waste fluids beneath the lowermost formation containing, within one-quarter (1/4) mile of the well bore, an underground source of drinking water.

B. Class II. A well used to inject fluids:
   1. Brought to the surface in connection with conventional oil or natural gas exploration or production and may be commingled with wastewaters from gas plants that are an integral part of production operations, unless those waters are classified as dangerous wastes at the time of injection;
   2. For enhanced recovery of oil or natural gas; or
   3. For storage of hydrocarbons that are liquid at standard temperature and pressure.

C. Class III. A well used for extraction of minerals, including but not limited to the injection of fluids for:
   1. In-situ production of uranium or other metals that have not been conventionally mined;
   2. Mining of sulfur by Frasch process; or
   3. Solution mining of salts or potash.

D. Class IV. A well used to inject dangerous or radioactive waste fluids.

E. Class V. All injection wells not included in Classes I, II, III, or IV.

"Invasive" means a vegetative or animal species not native to a region, and marked by a tendency to spread, especially with proclivity to replace healthy native species.

"Isolated wetlands" means those wetlands that are outside of and not contiguous to any one hundred (100) year floodplain of a lake, river, or stream and have no contiguous hydric soil or hydrophytic vegetation between the wetland and any surface water.

"Joint aquatic resource permits application" means a single application form that may be used to apply for hydraulic project approvals, shoreline management permits, approvals of exceedance of water quality standards, water quality certifications, coast guard bridge permits, Washington State Department of Natural Resources use authorization, and U.S. Army Corps of Engineers permits.

Land Use, High-Intensity. See "High-intensity land use."

Land Use, Low-Intensity. See "Low-intensity land use."

Land Use, Moderate-Intensity. See "Moderate-intensity land use."

"Low-impact development (LID)" is a stormwater management and development strategy applied at the parcel and subdivision scale that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic predevelopment hydrologic functions.

"Low-intensity land use" means land uses which are associated with low levels of human disturbance or low habitat impacts, including, but not limited to, passive recreation, open space, or forest management land uses.

"Lowest floor" means the lowest floor of the lowest enclosed area, including the basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, which is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable requirements of this title.

"Mine hazard areas" means areas that are underlain by, adjacent to, or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts, and those areas of probable sink holes, gas releases, or subsidence due to mine workings. Factors that should be considered include: proximity to development, depth from ground surface to the mine working, and geologic material.

"Mitigation" means avoiding, minimizing, or compensating for adverse critical areas impacts. "Mitigation," in the following sequential order of preference, is:

A. Avoiding the impact altogether by not taking a certain action or parts of an action;

B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;

C. Rectifying the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;
D. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods, provided the engineered method creates the minimum disturbance necessary to mitigate the action, and the method does not adversely impact categories of critical areas other than those being mitigated;
E. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;
F. Compensating for the impact to wetlands, critical aquifer recharge areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and
G. Monitoring the hazard or other required mitigation and taking remedial action when necessary.
Mitigation for individual actions may include a combination of the above measures.
"Mobile home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "mobile home" does not include a "recreational vehicle."
"Mobile home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.
"Moderate-intensity land use" means land uses which are associated with moderate levels of human disturbance or substantial habitat impacts including, but not limited to, low density residential (no more than one (1) home per five (5) acres), active recreation, and moderate agricultural land uses.
"Monitoring" means evaluating the impacts of development proposals on the biological, hydrological, and geological elements of such systems, and assessing the performance of required mitigation measures throughout the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features, including gathering baseline data.
"Native growth protection area (NGPA)" means an area where native vegetation is preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants and animal habitat.
"Native vegetation" means plant species that are indigenous to the area in question.
"Natural waters" means waters, excluding water conveyance systems that are artificially constructed and actively maintained for irrigation.
Nonconformity. See BMC 20.54.040, Definitions, of the nonconforming provisions of this title.
"Off-site compensation" means to replace critical areas away from the site on which a critical area has been impacted.
"On-site compensation" means to replace critical areas at or adjacent to the site on which a critical area has been impacted.
"Ordinary high water mark (OHM)" means the mark on all lakes, streams, and tidal waters which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on June 1 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: Provided that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water. ~~that mark which is found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, that the soil has a character distinct from that of the abutting upland in respect to vegetation.~~

"Out-of-kind compensation" means to replace critical areas with substitute critical areas whose characteristics do not closely approximate those destroyed or degraded. It does not refer to replacement "out-of-category."

"Permeability" means the capacity of an aquifer or confining bed to transmit water. It is a property of the aquifer or confining bed and is independent of the force causing movement.

"Porous soil types" means soils, as identified by the National Resources Conservation Service, U.S. Department of Agriculture, that contain voids, pores, interstices, or other openings which allow the passing of water.

"Potable water" means water that is safe and palatable for human use.

"Practical alternative" means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and has less impacts to critical areas.

"Primary association area" means the area used on a regular basis by, is in close association with, or is necessary for the proper functioning of the habitat of a critical species. "Regular basis" means that the habitat area is normally, or usually, known to contain a critical species, or based on known habitat requirements of the species, the area is likely to contain the critical species. "Regular basis" is species and population dependent. Species that exist in low numbers may be present infrequently yet rely on certain habitat types.

"Priority habitat" means habitat type or elements with unique or significant value to one (1) or more species as classified by the State Department of Fish and Wildlife. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element.

"Project area" means all areas within fifty (50) feet of the area proposed to be disturbed, altered, or used by the proposed activity or the construction of any proposed structures. When the action binds the land, such as a subdivision, short subdivision, binding site plan, planned unit development, or rezone, the project area shall include the entire parcel, at a minimum.

"Qualified professional" means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and five (5) years of related work experience.

A. A qualified professional for habitats or wetlands must have a degree in biology and professional experience related to the subject species, and meet the requirements set forth in BMC 20.14.360.

B. A qualified professional for a geological hazard must be a professional civil or geotechnical engineer with experience in the field, or geologist, licensed in the State of Washington.

C. A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments, and meets the requirements set forth in BMC 20.14.450.

"Recharge" means the process involved in the absorption and addition of water to groundwater.

"Reclaimed water" means municipal wastewater effluent that has been adequately and reliably treated so that it is suitable for beneficial use. Following treatment, it is no longer considered wastewater (treatment levels and water quality requirements are given in the water reclamation and reuse standards adopted by the State Departments of Ecology and Health).

Recreation Vehicle. See definition in Chapter 20.42 BMC.

"Repair" or "maintenance" means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

"Restoration" means measures taken to restore an altered or damaged natural feature including:

A. Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and
B. Actions performed to reestablish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events.
"Riparian habitat" means areas adjacent to aquatic systems with flowing water that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other. The width of these areas extends to that portion of the terrestrial landscape that directly influences the aquatic ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife. Widths shall be measured from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified or from the channel migration zone (CMZ). It includes the entire extent of the floodplain and the extent of vegetation adapted to wet conditions as well as adjacent upland plant communities that directly influence the stream system. Riparian habitat areas include those riparian areas severely altered or damaged due to human development activities.
"Scientific process" means a valid scientific process is one (1) that produces reliable information useful in understanding the consequences of a decision. The characteristics of a valid scientific process are as follows:
A. Peer Review. The information has been critically reviewed by other qualified scientific experts in that scientific discipline.
B. Methods. The methods that were used are standardized in the pertinent scientific discipline or the methods have been appropriately peer-reviewed to ensure their reliability and validity.
C. Logical Conclusions and Reasonable Inferences. The conclusions presented are based on reasonable assumptions supported by other studies and are logically and reasonably derived from the assumptions and supported by the data presented.
D. Quantitative Analysis. The data have been analyzed using appropriate statistical or quantitative methods.
E. Context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge.
F. References. The assumptions, techniques, and conclusions are well referenced with citations to pertinent existing information.
"Scrub-shrub wetland" means a wetland with at least thirty (30) percent of its surface area covered by woody vegetation less than twenty (20) feet in height as the uppermost strata.
"Section 404 permit" means a permit issued by the U.S. Army Corps of Engineers for the placement of dredge or fill material or clearing in waters of the United States, including wetlands, in accordance with 33 USC Section 1344. Section 404 permits may also be for endangered species consultation. They require a consultation under Section 7 of the Federal Endangered Species Act.
"Seeps" means a spot where water oozes from the earth, often forming the source of a small stream.
"Seismic hazard areas" means areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.
"Shorelines" means all of the water areas of the State as defined in RCW 90.58.030, including reservoirs and their associated shorelands, together with the lands underlying them except:
A. Shorelines of statewide significance;
B. Shorelines on segments of streams upstream of a point where the mean annual flow is twenty (20) cubic feet per second (20 cfps) or less and the wetlands associated with such upstream segments; and
C. Shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes.
"Shorelines of the State" means the total of all "shorelines," as defined in RCW 90.58.030(2)(d), and "shorelines of statewide significance" within the State, as defined in RCW90.58.030(2)(c).
"Shorelines of statewide significance" means those areas defined in RCW 90.58.030(2)(e).

"Shorelands or shoreland areas" means those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of Chapter 90.58 RCW.

"Soil survey" means the most recent soil survey for the local area or county by the National Resources Conservation Service, U.S. Department of Agriculture.

"Special flood hazard areas" means the land in the floodplain within an area subject to a one (1) percent or greater chance of flooding in any given year. Designations of special flood hazard areas on flood insurance map(s) always include the letters A or V.

"Special protection areas" means aquifer recharge areas defined by WAC 173-200-090 that require special consideration or increased protection because of unique characteristics, including, but not limited to:

A. Groundwaters that support an ecological system requiring more stringent criteria than drinking water standards;

B. Groundwater recharge areas and wellhead protection areas that are vulnerable to pollution because of hydrogeologic characteristics; and

C. Sole source aquifer status.

"Species" means any group of animals classified as a species or subspecies as commonly accepted by the scientific community.

"Species, endangered" means any fish or wildlife species that is threatened with extinction throughout all or a significant portion of its range and is listed by the State or federal government as an endangered species.

"Species of local importance" means those species of local concern due to their population status or their sensitivity to habitat manipulation, or that are game species.

"Species, priority" means any fish or wildlife species requiring protective measures and/or management guidelines to ensure their persistence as genetically viable population levels as classified by the Washington Department of Fish and Wildlife, including endangered, threatened, sensitive, candidate and monitor species, and those of recreational, commercial, or tribal importance.

"Species, threatened" means any fish or wildlife species that is likely to become an endangered species within the foreseeable future throughout a significant portion of its range without cooperative management or removal of threats, and is listed by the State or federal government as a threatened species.

"Subdrainage basin" or "subbasin" means the drainage area of the highest order stream containing the subject property impact area. "Stream order" is the term used to define the position of a stream in the hierarchy of tributaries in the watershed. The smallest streams are the highest order (first order) tributaries. These are the upper watershed streams and have no tributaries of their own. When two (2) first order streams meet, they form a second order stream, and when two (2) second order streams meet they become a third order stream, and so on.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred.

"Unavoidable" means adverse impacts that remain after all appropriate and practicable avoidance and minimization have been achieved.

"Vulnerability" means the combined effect of susceptibility to contamination and the presence of potential contaminants.

"Water-dependent" means a use or portion of a use that cannot exist in a location that is not adjacent to the water, but is dependent on the water by reason of the intrinsic nature of its operations. A use that can be carried out only on, in, or adjacent to water. Examples of water-dependent uses include: ship cargo terminal loading areas; fishing; ferry and passenger terminals; barge loading, ship building, and dry docking facilities; marinas, moorage, and boat launching facilities; aquaculture; float plane operations; surface water intake; and sanitary sewer and storm drain outfalls.

"Water resource inventory area (WRIA)" means one (1) of sixty-two (62) watersheds in the State of Washington, each composed of the drainage areas of a stream or streams, as established in Chapter 173-500 WAC as it existed on January 1, 1997.

"Water table" means that surface in an unconfined aquifer at which the pressure is atmospheric. It is defined by the levels at which water stands in wells that penetrate the aquifer just far enough to hold standing water.

"Water typing system" means waters are classified according to WAC 222-16-031. Waters are classified into four (4) types, S, F, Np, and Ns, based on whether the waters are shorelines of the State, their level of human and wildlife use, whether they are perennial streams, and other characteristics. Complete criteria for the water typing system are found in BMC 20.14.720.

"Watercourse" means any portion of a channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the State including areas in which fish may spawn, reside, or through which they may pass, and tributary waters with defined beds or banks, which influence the quality of fish habitat downstream. This definition includes watercourses that flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, stormwater runoff devices, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

"Well" means a bored, drilled, or driven shaft, or a dug hole whose depth is greater than the largest surface dimension for the purpose of withdrawing or injecting water or other liquids.

"Wellhead protection area (WHPA)" means the portion of a zone of contribution for a well, wellfield, or spring, as defined using criteria established by the Washington State Department of Ecology.

~~"Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands. For identifying and delineating a wetland, local government shall use the Washington State Wetland Identification and Delineation Manual.~~

"Wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands include artificial wetlands created from non-wetland areas to mitigate the conversion of wetlands. Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. All areas within the City meeting the wetland designation criteria in that procedure

are hereby designated critical areas and are subject to the provisions of this program. Wetland delineations are valid for five years; after such date, the City shall determine whether a revision or additional assessment is necessary.

"Wetland classes," "classes of wetlands," or "wetland types" means the descriptive classes of the wetlands taxonomic classification system of the U.S. Fish and Wildlife Service (Cowardin, et al., 1979).

"Wetland edge" means the boundary of a wetland as delineated based on the definitions contained in this title.

"Wetlands mitigation bank" means a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

"Zone of contribution" means the area surrounding a well or spring that encompasses all areas or features that supply groundwater recharge to the well or spring.

20.14.300 WETLANDS.

BMC 20.14.310 through 20.14.360 pertain to wetlands.

20.14.310 DESCRIPTION AND PURPOSE.

(a) As identified currently in WAC 173-22-035 and as subsequently amended, identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. ~~Wetlands are those areas, designated in accordance with the "Washington State Wetland Identification and Delineation Manual" (1997), that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions.~~ All areas within the City meeting the wetland designation criteria in the identification and delineation manual, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this title.

(b) Wetlands help to maintain water quality; store and convey stormwater and floodwater; recharge groundwater; provide important fish and wildlife habitat; and serve as areas for recreation, education, scientific study and aesthetic appreciation.

(c) The City's overall goal shall be to achieve no net loss of wetlands. This goal shall be implemented through retention of the function and value of wetlands within the City. Wetland buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for wildlife; protect wetland resources from harmful intrusion; and generally preserve the ecological integrity of the wetland area.

(d) The primary purpose of the wetland regulations is to avoid detrimental wetland impacts and achieve a goal of no net loss of wetland function and values, and where possible enhance and restore wetlands.

20.14.320 CLASSIFICATION AND DESIGNATION.

(a) Wetland Ratings. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system found in the "Washington State Wetland Rating System for Western Washington" (Department of Ecology Publication No. ~~04-06-025~~014-06-029) or as amended hereafter. These documents contain the definitions and methods for determining if the criteria below are met.

(1) Wetland Rating Categories.

(i) Category I. Category I wetlands are those that meet any of the following criteria:

a. Represent a unique or rare wetland type; or

b. Are more sensitive to disturbance than most wetlands; or

c. Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or

d. Are providing a high level of functions, scoring twenty-three points or more, out of twenty-seven (27) (DOE Wetlands Rating System, 2014); ~~, scoring seventy (70) points or more out of one hundred (100) (DOE Wetlands Rating System, 2004);~~ or

e. Are characterized as Wetlands of High Conservation Value per the Washington Natural Heritage Program (WNHP) ~~a national heritage wetland;~~ or

f. Are characterized as a bog; or

g. Are over one (1) acre and characterized as a mature and old-growth forested wetland or are an estuarine wetland.

(ii) Category II. Category II wetlands are those wetlands that are not Category I wetlands and that meet any of the following criteria:

a. Provide high levels of some functions, being difficult, though not impossible to replace; or

b. Perform most functions relatively well, scoring twenty (20) to twenty-two (22) points out of twenty-seven (27) (DOE Wetlands Rating System, 2014). ~~fifty-one (51) through sixty-nine (69) out of one hundred (100) points (DOE Wetlands Rating System, 2004)~~; or

c. Estuarine wetlands smaller than one (1) acre or those that are distributed and larger than 1 acre. ~~.~~

(iii) Category III. Category III wetlands are those wetlands that are not Category I or II wetlands, and that meet the following criterion:

a. Provide moderate levels of functions, scoring between sixteen (16) and nineteen (19) points out of twenty-seven (27) (DOE Wetland Rating System, 2014). ~~thirty (30) through fifty (50) out of one hundred (100) points (DOE Wetlands Rating System, 2004).~~

(iv) Category IV. Category IV wetlands are those that meet the following criterion:

a. Provide low levels of functions, scoring less than sixteen (16) points out of twenty-seven (27) (DOE Wetlands Rating System, 2014) ~~thirty (30) out of one hundred (100) points (DOE Wetlands Rating System, 2004).~~

(2) Date of Wetland Rating. Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system by the local government as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal modifications.

20.14.330 DEVELOPMENT STANDARDS - WETLANDS.

(a) Activities may only be permitted in a wetland or wetland buffer if the applicant can show that the proposed activity will not degrade the functions and functional performance of the wetland and other critical areas.

(b) Activities and uses shall be prohibited in wetlands and wetland buffers, except as provided for in this title. The following activities are regulated if they occur in a regulated wetland or its buffer:

(1) The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.
(2) The dumping of, discharging of, or filling with any material.
(3) The draining, flooding, or disturbing of the water level or water table.
(4) Pile driving.
(5) The placing of obstructions.
(6) The construction, reconstruction, demolition, or expansion of any structure.
(7) The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland.
(8) "Class IV – General Forest Practices" under the authority of the "1992 Washington State Forest Practices Act Rules and Regulations," WAC 222-12-030, or as thereafter amended.
(9) Activities that result in:

(i) A significant change of water temperature.
(ii) A significant change of physical or chemical characteristics of the sources of water to the wetland.
(iii) A significant change in the quantity, timing, or duration of the water entering the wetland.
(iv) The introduction of pollutants.

(c) Activities Allowed in Wetlands. The activities listed below are allowed in wetlands. These activities do not require submission of a critical area report, except where such activities result in a loss of the functions and values of a wetland or wetland buffer. Any ground disturbing activity or placement of fill within wetlands or in-water may also require state or federal approval and it is the applicant's responsibly to ensure that they obtain necessary authorization before beginning work. These activities include:

(1) Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.
(2) Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column will be disturbed.
(3) Enhancement of a wetland through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments.
(4) Educational and scientific research activities.

(d) Category I Wetlands. Activities and uses shall be prohibited from Category I. ~~except as provided for in the public agency and utility exception, reasonable use exception, and variance sections of this title.~~

(e~~d~~) Category II and III Wetlands. With respect to activities proposed in Category II and III wetlands, the following standards shall apply:

(1) Water-dependent activities may be allowed where there are no feasible alternatives that would have a less adverse impact on the wetland, its buffers and other critical areas.
(2) Where nonwater-dependent activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited, unless the applicant demonstrates that:
(i) The basic project purpose cannot reasonably be accomplished and successfully avoid, or result in less adverse impact on, a wetland on another site or sites in the general region; and
(ii) All alternative designs of the project as proposed that would avoid or result in less of an adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration, or density of the project, are not feasible.
(iii) Full compensation for the acreage and loss functions will be provided under the terms established under BMC 20.14.340(f) and (g).

(f~~e~~) Category III and IV Wetlands. Isolated Category III and IV wetlands less than 1,000 square feet that meet all of the following criteria shall be exempt from the buffer provisions in BMC 20.14.330(h) and the normal mitigation sequencing process in BMC 20.14.340(a). Any direct impacts to these wetlands shall be fully mitigated.

(1) Is not associated with riparian areas or buffers,
(2) Is not part of a wetland mosaic, and
(3) Does not contain habitat identified by Washington State Department of Fish and Wildlife as essential for local populations of priority species, as identified under BMC 20.14.720.

(g) Category IV Wetlands. Activities and uses that result in unavoidable and necessary impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved wetland report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish

the applicant's objectives. Full compensation for the acreage and loss functions will be provided under the terms established under BMC 20.14.340(f) and (g).

(h~~f~~) Wetland Buffers.

(1) Standard Buffer Widths. The standard buffer widths presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the vegetation is inadequate, then the buffer width shall be increased or the buffer should be planted to maintain the standard width. Required standard wetland buffers, based on wetland category, are as outlined in the following table. In the table the wetland buffers vary according to the wetland type and/or habitat score (on a range of 3 to 9, with 9 representing high habitat function).

~~Wetland Category~~	~~Standard Buffer~~
~~I~~	~~200 ft.~~
~~II~~	~~100 ft.~~
~~III~~	~~75 ft.~~
~~IV~~	~~50 ft.~~

Wetland Category and Type	**Buffer width (in feet) based on habitat score**			
	3-4 (Low)	**5 (Medium)**	**6-7 (Medium)**	**8-9 (High)**
I: Estuarine wetlands	200			
I: All others	100	140	220	300
II: Estuarine wetlands	150			
II: All	100	140	220	300
III: All	80	140	220	300
IV: All	50			

(2) Measurement of Wetland Buffers. All buffers shall be measured horizontally from a perpendicular line established at the wetland edge as surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers.

(3) Reducing Wetland Buffer Widths. For those projects that can mitigate the impacts and disturbances associated with surrounding land use, required wetland buffer widths may be reduced. The following table lists impact-minimization measures which, when implemented where applicable, may allow a project to reduce the standard wetland buffer widths by no more than twenty-five (25) percent.

Disturbance	**Required Measures to Minimize Impacts**
Lights	(1) Direct lights away from wetland as illustrated in a photometric plan.
Noise	(2) Locate activity that generates noise away from wetland. (3) If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source (4) For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional ten

	(10) feet of heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	(5) Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered (6) Establish covenants limiting use of pesticides within 150 feet of wetland
Stormwater runoff	(7) Retrofit stormwater detention and treatment for roads and existing adjacent development (8) Prevent channelized flow from lawns that directly enters the buffer (9) Use Low Intensity Development Best Management Practices where appropriate
Change in water regime	(10) Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	(11) Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion (12) Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	(13) Use best management practices to control dust
Disruption of corridors or connections	(14) Maintain connections to offsite areas that are undisturbed (15) Restore onsite corridors or connections to offsite habitats by replanting

(~~3~~4) Increased Wetland Buffer Widths. The Director shall require increased buffer widths in accordance with the recommendations of an experienced, qualified professional wetland scientist, and the best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. This determination shall be based on one (1) or more of the following criteria:

(i) A larger buffer is needed to protect other critical areas;

(ii) The buffer or adjacent uplands has a slope greater than fifteen (15) percent or is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the wetland; or

(iii) The buffer area has minimal vegetative cover. In lieu of increasing the buffer width where existing buffer vegetation is inadequate to protect the wetland functions and values, implementation of a buffer planting plan may substitute. Where a buffer planting plan is proposed, it shall include densities that are not less than three (3) feet on center for shrubs and eight (8) feet on center for trees and require monitoring and maintenance to ensure success. Existing buffer vegetation is considered "inadequate" and will need to be enhanced through additional native plantings and (if appropriate) removal of nonnative plants when: (1) nonnative or invasive plant species provide the dominant cover, (2) vegetation is lacking due to disturbance and wetland resources could be adversely affected, or (3) enhancement plantings in the buffer could significantly improve buffer functions.

(~~4~~5) Wetland Buffer Width Averaging. The Director may allow modification of the standard wetland buffer width in accordance with an approved wetland report and the best available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where the applicant and a qualified professional wetland scientist demonstrates that:

(i) No feasible site design exists without buffer averaging;

(ii) It will not reduce wetland functions or functional performance;

(iii) The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit

from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

(iv) The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and

(v) The buffer width is not reduced to less than seventy-five (75) percent of the standard width or thirty-five (35) feet.

(~~5~~6) Buffer Consistency. All mitigation sites shall have buffers consistent with the buffer requirements of this chapter.

(~~6~~7) Buffer Maintenance. Except as otherwise specified or allowed in accordance with this title, wetland buffers shall be retained in an undisturbed or enhanced condition. Removal of invasive nonnative weeds is required for the duration of the mitigation bond.

(~~7~~8) Buffer Uses. The following uses may be permitted within a wetland buffer in accordance with the review procedures of this title, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

(i) Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.

(ii) Passive Recreation. Low-impact uses and activities which are consistent with the purpose and function of the wetland buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the wetland. Uses may include:

a. Walkways and trails; provided, that those pathways that are generally parallel to the perimeter of the wetland may be located in the outer 25 percent of the buffer area and located to avoid removal of significant trees; provided, that:

i. They are no wider than six (6) feet, and generally constructed with a surface that does not interfere with substrate permeability. Raised boardwalks utilizing nontreated pilings may be acceptable; and

ii. They shall be limited to pedestrian use; and

iii. They shall not be allowed to fully enclose a habitat area or buffer; and

iv. They are subject to closure (at the Director's discretion) during critical spawning, migration or breeding time periods of the species present;

b. Wildlife viewing structures; and

c. Fishing access areas down to the water's edge that shall be no larger than six (6) feet.

(iii) Stormwater Management Facilities. Stormwater management facilities, limited to stormwater dispersion outfalls and bioswales, may be allowed within the outer twenty-five (25) percent of the buffer of Category III or IV wetlands only; provided, that:

a. No other location is feasible; and

b. The location of such facilities will not degrade the functions or values of the wetland.

(iv) Low-Impact Development (LID) Facilities. LID facilities may be allowed within the buffer of Category III or IV wetlands only; provided, that:

a. No other location is feasible; and

b. The location of such facilities will not degrade the functions or values of the wetland.

(i~~g~~) Signs and Fencing of Wetlands.

(1) Temporary Markers. The outer perimeter of the wetland or buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and is subject to inspection prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

(2) Permanent Signs. As a condition of any permit or authorization issued pursuant to this chapter, the Director may require the applicant to install permanent signs along the boundary of a wetland or buffer.

(i) Permanent signs shall be made of an enamel-coated metal face and attached to a metal post, or another nontreated material of equal durability. Signs must be posted at an interval of one (1) per lot or every fifty (50) feet, whichever is less, and must be maintained by the property owner in perpetuity. The sign shall be worded as follows or with alternative language approved by the Director:

Protected Wetland Area
Do Not Disturb
Contact City of Bremerton
Department of Community Development
Regarding Uses and Restriction

(3) Fencing.

(i) The Director shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, any permit or authorization issued pursuant to this chapter shall be conditioned to require the applicant to install a permanent fence at the edge of the wetland buffer when fencing will prevent future impacts to the wetland.

(ii) Fencing installed as part of a proposed activity or as required in this subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

20.14.340 MITIGATION REQUIREMENTS - WETLANDS.

Compensatory mitigation for alterations to wetlands shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with the State Department of Ecology publication "Guidance on Wetland Mitigation in Washington State," ~~2004~~ 2006 (Publication Nos. ~~04~~06-06-~~013a~~ 011a and ~~04~~06-06-~~013b~~011b), or as revised.

(a) Mitigation shall be required in the following order of preference:

(1) Avoiding the impact altogether by not taking a certain action or parts of an action.

(2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.

(3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(4) Reducing or eliminating the impact over time by preservation and maintenance operations.

(5) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.

(b) Mitigation for Lost or Affected Functions. Compensatory mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement and shall provide similar wetland functions as those lost, except when:

(1) The lost wetland provides minimal functions as determined by a site-specific function assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington State watershed assessment plan or protocol; or

(2) Out-of-kind replacement will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.

(c) Preference of Mitigation Actions. Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:

(1) Restoring wetlands on upland sites that were formerly wetlands.

(2) Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of nonnative introduced species. This should only be attempted when there is a consistent

source of hydrology and it can be shown that the surface and subsurface hydrologic regime is conducive for the wetland community that is being designed.

(3) Enhancing significantly degraded wetlands in combination with restoration or creation. Such enhancement should be part of a mitigation package that includes replacing the impacted area meeting appropriate ratio requirements.

(d) Type and Location of Mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach, compensatory mitigation for ecological functions shall be either in-kind and on-site, or in-kind and within the same stream reach, subbasin, or drift cell. Mitigation actions shall be conducted within the same subdrainage basin and on the site as the alteration except when all of the following apply:

(1) There are no reasonable on-site or in-subdrainage basin opportunities or on-site and in-subdrainage basin opportunities do not have a high likelihood of success, after a determination of the natural capacity of the site to mitigate for the impacts. Consideration should include: anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, hydrogeomorphic classes of on-site wetlands when restored, proposed flood storage capacity, potential to mitigate riparian fish and wildlife impacts (such as connectivity);

(2) Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and

(3) Off-site locations shall be in the same subdrainage basin unless:

(i) Established watershed goals for water quality, flood or conveyance, habitat, or other wetland functions have been established and strongly justify location of mitigation at another site; or

(ii) Credits from a State-certified wetland mitigation bank or state-approved in-lieu fee (ILF) site are used as mitigation and the use of credits is consistent with the terms of the bank's certification or ILF approval.

(e) Mitigation Timing. Mitigation projects shall be completed with an approved monitoring plan prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

(1) The Director may authorize a one (1) time temporary delay, up to one hundred twenty (120) days, in completing minor construction and landscaping when environmental conditions could produce a high probability of failure or significant construction difficulties. The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, and general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the mitigation plan. The justification must be verified and approved by the City and include a financial guarantee.

(f) Mitigation Ratios.

(1) Acreage Replacement Ratios. The following ratios shall apply to creation or restoration that is in-kind, is on-site, is the same category, is timed prior to or concurrent with alteration, and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases. These ratios do not apply to the use of credits from a State-certified wetland mitigation bank or approved ILF site. When credits from a certified bank or approved ILF site are used, replacement ratios should be consistent with the requirements of the bank's certification or site's approved instrument. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

~~Category I~~	~~6-to-1~~

~~Category II~~	~~3-to-1~~
~~Category III~~	~~2-to-1~~
~~Category IV~~	~~1.5-to-1~~

Wetland Category	Wetland Mitigation Type and Replacement Ratio			
	Creation	Re-establishment	Rehabilitation	Enhancement Only
Category I	6:1	6:1	12:1	Not allowed
Category II	3:1	3:1	6:1	12:1
Category III	2:1	2:1	4:1	8:1
Category IV	1.5:1	1.5:1	3:1	6:1

(2) Increased Replacement Ratio. The Director may increase the ratios under the following circumstances:

(i) Uncertainty exists as to the probable success of the proposed restoration or creation;

(ii) A significant period of time will elapse between impact and replication of wetland functions;

(iii) Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or

(iv) The impact was an unauthorized impact.

(g) Wetlands Enhancement as Mitigation.

(1) Impacts to wetland functions may be mitigated by enhancement of existing significantly degraded wetlands, but ~~must~~ where feasible should be used in conjunction with restoration and/or creation. Applicants proposing to enhance wetlands must produce a wetland report that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions.

(2) Ratios for rehabilitation and enhancement may be reduced when combined with 1:1 replacement through creation or re-establishment See Table 1a, Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance--Version 1, (Ecology Publication #06-06-011a, Olympia, WA, March 2006 or as revised).

~~(2) At a minimum, enhancement acreage shall be double the acreage required for creation or restoration under subsection (f)(1) of this section. The ratios shall be greater than double the required acreage where the enhancement proposal would result in minimal gain in the performance of wetland functions and/or result in the reduction of other wetland functions currently being provided in the wetland.~~

~~(3) Mitigation ratios for enhancement in combination with other forms of mitigation shall range from 6:1 to 3:1 and be limited to Class III and Class IV wetlands.~~

(h) Mitigation of Wetland Buffer Impacts. Compensation for wetland buffer impacts shall occur at a minimum 1:1 ratio. Compensatory mitigation for buffer impacts shall include enhancement of degraded buffers by planting native species and removing structures and impervious surfaces within buffers.

(~~h~~i) Wetland Mitigation Banks.

(1) Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

(i) The bank is certified under Chapter 173-700 WAC; and

(ii) The Director determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and

(iii) The proposed use of credits is consistent with the terms and conditions of the bank's certification.

(2) Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.

(3) Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, bank service areas may include portions of more than one (1) adjacent drainage basin for specific wetland functions.

(~~i~~ii) Wetland Mitigation Monitoring. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring, and how the monitoring data will be evaluated. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years. The Director shall have the authority to modify or extend the monitoring period and require additional monitoring reports for up to ten (10) years when any of the following conditions apply:

(1) The project does not meet the performance standards identified in the mitigation plan;
(2) The project does not provide adequate replacement for the functions and values of the impacted critical area;
(3) The project involves establishment of forested plant communities, which require longer time for establishment.

20.14.350 PERFORMANCE STANDARDS - SUBDIVISIONS.

The subdivision and short subdivision of land in wetlands and associated buffers is subject to the following:

(a) Land that is located wholly within a wetland or its buffer may not be subdivided.

(b) Land that is located partially within a wetland or its buffer may be subdivided; provided, that an accessible and contiguous portion of each new lot is located outside of the wetland and its buffer.

(c) Access roads and utilities serving the proposed subdivision may be permitted within the wetland and associated buffers only if the City determines that no other feasible alternative exists and when consistent with this title and all other required state and federal approvals.

20.14.360 WETLAND REPORT.

Critical area reports for wetlands must meet the requirements of this section.

(a) Preparation by a Qualified Professional. A critical area report for wetlands shall be prepared by a qualified professional who is a certified professional wetland scientist or a noncertified professional wetland scientist with a minimum of five (5) years experience in the field of wetland science and with experience preparing wetland reports.

(b) Area Addressed in Wetland Report. The following areas shall be addressed in a critical area report for wetlands:

(1) The project area of the proposed activity;

(2) All wetlands and recommended buffers within three hundred (300) feet of the project area; and

(3) All shoreline areas, water features, floodplains, and other critical areas, and related buffers within three hundred (300) feet of the project area.

(c) Wetland Analysis. A critical area report for wetlands shall contain an analysis of the wetlands including the following site- and proposal-related information at a minimum:

(1) A written assessment and accompanying maps of the wetlands and buffers within three hundred (300) feet of the project area, including the following information at a minimum:

(i) Wetland delineation and required buffers;

(ii) Existing wetland acreage;

(iii) Wetland category;

(iv) Vegetative, faunal, and hydrologic characteristics;

(v) Soil and substrate conditions;

(vi) Topographic elevations, at two (2) foot contours; and

(vii) A discussion of the water sources supplying the wetland and documentation of hydrologic regime (locations of inlet and outlet features, water depths throughout the wetland, evidence of recharge or discharge, evidence of water depths throughout the year: drift lines, algal layers, moss lines, and sediment deposits).

(2) A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land use activity.

(3) A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and wetland functions.

(4) Functional evaluation for the wetland and adjacent buffer using a local or State agency staff-recognized method and including the reference of the method and all data sheets.

(5) Proposed mitigation, if needed, including a written assessment and accompanying maps of the mitigation area, including the following information at a minimum:

(i) Existing and proposed wetland acreage;

(ii) Vegetative and faunal conditions;

(iii) Surface and subsurface hydrologic conditions including an analysis of existing and future hydrologic regime and proposed hydrologic regime for enhanced, created, or restored mitigation areas;

(iv) Relationship within watershed and to existing waterbodies;

(v) Soil and substrate conditions, and topographic elevations;

(vi) Existing and proposed adjacent site conditions;

(vii) Required wetland buffers (including any buffer reduction and mitigation proposed to increase the plant densities, remove weedy vegetation, and replant the buffers);

(viii) Property ownership; and

(ix) Associated wetlands and related wetlands that may be greater than three hundred (300) feet from the subject project.

(6) A scale map of the development proposal site and adjacent area. A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs.

(7) A bond estimate for the installation (including site preparation, plant materials and installation, fertilizers, mulch, stakes) and the proposed monitoring and maintenance work for the required number of years.

(8) Title Notification. All activity in critical area protection areas shall be accompanied by a title.

(d) Additional Information. When appropriate, the Director may also require the wetland report to include an evaluation by the State Department of Ecology or an independent qualified expert regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, and to include any recommendations as appropriate.

(1) If the development proposal site contains or is within a wetland area, the applicant shall submit an affidavit which declares whether the applicant has knowledge of any illegal alteration to any or all wetlands on the proposed site and whether the applicant previously has been found in

violation of this chapter. If the applicant has been found previously in violation, the applicant shall declare whether such violation has been corrected to the satisfaction of the jurisdiction.

(2) The Director shall determine if the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety, and welfare, consistent with the goals, purposes, objectives and requirements of this chapter.

20.14.400 CRITICAL AQUIFER RECHARGE AREAS.

BMC 20.14.410 through 20.14.450 pertain to critical aquifer recharge areas.

20.14.410 DESCRIPTION AND PURPOSE.

Groundwater from aquifers provides a source of potable water and contributes to stream discharge/flow. Critical aquifer recharge areas contribute to the recharge of aquifers, springs and/or wells and are susceptible to contamination of water supplies through infiltration of pollutants through the soil. City residents rely on an essential life-sustaining safe drinking water supply. A significant portion of the City's drinking water comes from groundwater supplies in aquifers. The primary goals of groundwater protection regulations are to protect groundwater quality by maintaining the quantity of recharge; avoiding or limiting land use activities that pose potential risk of aquifer contamination; and to minimize or avoid adverse impacts to groundwater protection areas through the application of performance standards, and to comply with the requirements of the Federal Safe Drinking Water Act, Washington Administrative Code, and the requirements of the Wellhead Protection Program.

20.14.420 CLASSIFICATION AND DESIGNATION.

Critical aquifer recharge areas are those land areas that contain hydrogeologic conditions that facilitate aquifer recharge and/or transmission of contaminants to an underlying aquifer. Critical aquifer recharge areas under this section may be established based on general criteria, specifically designated due to special circumstances, or based on scientific studies and mapping efforts. Factors considered in the identification of critical aquifer recharge areas include depth to water table, presence of highly permeable soils (specifically Group A hydrologic soils), presence of flat terrain, and the presence of more permeable surficial geology. Critical aquifer recharge areas may be placed in one (1) of the following categories:

(a) Category I Critical Aquifer Recharge Areas. Category I critical aquifer recharge areas are those areas where potential for certain land use activities to adversely affect groundwater is high. Category I critical aquifer recharge areas include:

(1) Areas inside the five (5) year time-of-travel zone for Group A water system wells, calculated in accordance with the Washington State Source Water Assessment Program.

(2) Ten (10) year time-of-travel zones in wellhead protection areas are included as critical aquifer recharge when a well draws its water from an aquifer that is at or above sea level and is without an overlying protective impermeable layer.

(3) Areas identified as regionally significant aquifer recharge areas and identified as such by the City are:

- Gorst Basin Aquifer recharge area, and
- Other areas that may be identified in the future.

(b) Category II Critical Aquifer Recharge Areas. Category II critical aquifer recharge areas are areas that provide recharge to aquifers that are current or potentially will become potable water supplies and are vulnerable to contamination based on the type of land use activity. These include the following:

(1) Highly Permeable Soils (Group A Hydrologic Soils). The general location and characteristics of Group A hydrologic soils in the City is given in the Soils Survey of Kitsap County by the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS). The soil survey information is available at the Department of Community Development.

(2) Areas Above Shallow/Vashon Principal Aquifers. Surface areas above shallow, principal aquifer(s) which are not separated from the underlying aquifers by an impermeable layer that provides adequate protections to preclude the proposed land use from contaminating the shallow aquifer(s) below, are considered aquifer recharge areas of concern.

20.14.430 DEVELOPMENT STANDARDS.

(a) Allowed Activities. The following activities are allowed in critical aquifer recharge areas and do not require submission of a hydrogeological assessment:

(1) Construction of structures and improvements, including additions, resulting in less than five (5) percent or two thousand five hundred (2,500) square feet (whichever is greater) total site impervious surface area that does not result in a change of use or increase the use of a hazardous substance.

(2) Development and improvement of parks, recreation facilities, open space, or conservation areas resulting in less than five (5) percent total site impervious surface area that do not increase the use of a hazardous substance.

Standards for development shall be in accordance with the provisions below and the requirements of other underlying city regulations.

(3) On-site domestic septic systems releasing less than fourteen thousand five hundred (14,500) gallons of effluent per day and that are limited to a maximum density of one (1) system per one (1) acre.

(4) Residential Use of Pesticides and Nutrients. Application of household pesticides, herbicides, and fertilizers that do not exceed times and rates specified on the packaging.

(5) Residential storage or use of petroleum and petroleum products.

(6) Activities which have a potential contamination source below threshold amounts as set forth in applicable statues of the Revised Code of Washington or local regulations. The purpose of this clause is to allow for small-scale and residential activities thought to have no significant impacts to critical aquifer recharge areas.

(b) Prohibited Activities. The following activities and uses are prohibited in Category I critical aquifer recharge areas:

(1) Landfills, including hazardous or dangerous waste, municipal solid waste, special waste, and wood waste;

(2) Underground Injection Wells. Wells which meet the requirements of Chapters 173-218 and 173-200 WAC with the exception of 5B22, 5D2, 5G30, 5W12, 5W32, 5R21, and 5S23;

(3) Commercial mining and washing of metals, hard rock, sand and gravel;

(4) Chemical wood preservation and/or treatment facilities;

(5) Storage, processing, or disposal of radioactive substances;

(6) Commercial activities that are not connected to an available sanitary sewer system;

(7) Use or storage of pesticides listed as "State restricted use pesticides" by Chapter 16-228 WAC;

(8) Within one thousand six hundred (1,600) feet of Twin Lakes, any use of pesticides, and use fertilizers above agronomic rates;

(9) Oil and gas drilling as defined in WAC 332-12-450 and Chapter 173-218 WAC;

(10) Underground storage of hazardous substances as regulated by Chapter 173-360 WAC;

(11) Use, storage, treatment, or production of perchlorethylene (PCE), other than in closed-loop systems that do not involve any discharge of PCE;

(12) Petroleum refining, reprocessing, storage and petroleum-product pipelines;

(13) Electroplating/metal finishing;

(14) Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source; and

(15) Activities that would significantly reduce the recharge to aquifers that are a source of significant base flow to a regulated stream.

20.14.440 ALLOWED USES WITH PERFORMANCE STANDARDS.

(a) General Requirements. Any activity not specifically exempted through BMC 20.14.430 as allowed or prohibited may be permitted in a critical aquifer recharge area if all of the following criteria are met (A list of specific uses with a potential threat to groundwater can be found in subsection (b) of this section.):

(1) Hydrogeological Assessment.

(i) For Category I aquifer recharge areas the applicant must show through a hydrogeological assessment that the proposed activity will not cause significant impact to aquifer quality or recharge. The hydrogeological assessment will be evaluated and treated as a special use review and be reviewed by the Department, the health district, affected tribes, and affected water purveyors. An incompatible activity can be denied by the Director;

(ii) For Category II aquifer recharge areas a hydrogeological assessment may be required. The scope of the report shall be based on site-specific conditions. The hydrogeological assessment will be evaluated and treated as a special use review and be reviewed by the Department, the health district, affected tribes, and affected water purveyors. An incompatible activity can be denied by the Director. The need for additional information will be determined by the Department, the health district, and the affected water purveyor. Based on the report, controls, mitigation, and/or other requirements will be established as a prerequisite for the development proposal being approved.

(2) The proposed activity must comply with the source water protection requirements and recommendations of the U.S. Environmental Protection Agency, Washington State Department of Health, Washington Department of Ecology, and the Kitsap County Health District.

(3) The proposed activity shall be designed and constructed in accordance with BMC Title 15, Municipal Utilities.

(4) The applicant must explore low-impact development site design alternatives and implement them ~~where economically feasible~~. Low-impact development techniques can include, but are not limited to:

(i) Rainwater harvesting;

(ii) Reverse slope sidewalks;

(iii) Vegetated roofs;

(iv) Bioretention areas (rain gardens); and

(v) Pervious pavement.

(b) Potential Threats to Groundwater. Specific uses with potential threats to groundwater can include, but are not limited to the following. Uses meeting the listed performance standards may be allowed if the criteria of this section are met.

(1) Anything that is not exempt per BMC 20.14.430.

(2) All storage tanks proposed to be located in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:

(i) All new above-ground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:

a. Not allow the release of a hazardous substance to the ground, groundwaters, or surface waters;

b. Have a primary containment area enclosing or underlying the tank or part thereof; and

c. A secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.

(3) Vehicle Repair and Servicing.

(i) Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.

(ii) No dry wells shall be allowed in critical aquifer recharge areas on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the State Department of Ecology prior to commencement of the proposed activity.

(4) Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the State Departments of Ecology and Health.

(i) Use of reclaimed water for surface percolation must meet the groundwater recharge criteria given in RCW 90.46.010(10) and 90.46.080(1). the State Department of Ecology may establish additional discharge limits in accordance with RCW 90.46.080(2).

(ii) Direct injection must be in accordance with the standards developed by authority of RCW 90.46.042.

(5) Automobile washers as defined in Chapter 173-216 WAC.

(6) Chemical treatment storage and disposal facilities as defined in WAC 173-303-182.

(7) Hazardous waste generators, including, but not limited to: boat repair shops, biological research facilities, dry cleaners, furniture stripping, motor vehicle service garages, photographic processing, printing and publishing shops, medical and dental facilities, etc., as defined in Chapter 173-303 WAC.

(8) Junk yards and salvage yards as defined in Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicle Recycler Facilities (WDOE publication number 94-146).

(9) On-site sewage systems (large scale) as defined in Chapter 173-240 WAC.

(10) On-site sewage systems (less than fourteen thousand five hundred (14,500) gal/day) as defined in Chapter 246-272 WAC.

(11) Pesticide storage and use as defined in Chapters 15.54 and 17.21 RCW.

(12) Sawmills as defined in Chapters 173-303 and 173-304 WAC, WDOE publication number 95-53, Best Management Practices to Prevent Stormwater Pollution at Log Yards.

(13) Solid waste handling and recycling facilities as defined in Chapter 173-304 WAC.

(14) Wastewater application to land surface as defined in Chapters 173-216 and 173-200 WAC, and WDOE Land Application Guidelines, Best Management Practices for Irrigated Agriculture.

(15) New impervious surface area exceeding twenty thousand (20,000) square feet.

(16) Beneficial use of biosolids as defined in Chapter 173-308 WAC.

(17) Golf courses, provided:

(i) Fertilizer use is not above agronomic rates;

(ii) Pesticides are managed and applied by properly licensed personnel, and use of all pesticides is approved by the affected water utility;

(iii) The golf course allows for periodic monitoring by the Department or an affected water utility.

(18) Noncommercial gravel and sand mining, provided the extraction of materials remains no less than ten (10) feet above the level of the aquifer.

(c) Affected Agency Review. The City will notify Kitsap County Health District and affected water utilities and will request them to comment during the preliminary phases of the City's review process on all proposed projects defined in subsection (b) of this section or other uses not explicitly allowed or prohibited in BMC 20.14.430. The City in conjunction with these agencies may approve, deny, or condition proposals.

(d) Inspection. City personnel may inspect at reasonable times, upon presentation of credentials, as part of its wellhead protection program any activity that is known to manage or potentially manage hazardous materials.

20.14.450 HYDROGEOLOGIC ASSESSMENT.

The assessment shall address the impact the proposed land use will have on both the quality and quantity of the water transmitted to the aquifer.

(a) The assessment shall be submitted to the Department and shall address, at a minimum, the following criteria:

(1) Surficial soil type and geologic setting;

(2) Location and identification of wells within one thousand (1,000) feet of the site;

(3) Location and identification of surface water bodies and springs within one thousand (1,000) feet of the site with recharge potential;

(4) Description of underlying aquifers and aquitards, including water level, gradients and flow direction;

(5) Available surface water and groundwater quality data;

(6) Effects of the proposed development on water quality;

(7) Sampling schedules required to assure water quality;

(8) Discussion of the effects of the proposed development on the groundwater resource;

(9) Recommendations on appropriate BMPs (best management practices) or mitigation to assure no significant degradation of groundwater quality; and

(10) Other information as required by the Kitsap County Health District.

(11) The assessment shall also address the types of pesticides, herbicides and fertilizers that can safely be used for the care of landscaping proposed by the applicant.

(b) The hydrogeologic assessment shall be prepared by a professional geologist/hydrologist or by a soil scientist with a strong background in geology (see definition of "Qualified professional" in BMC 20.14.200).

(c) Applications for development or operations with underground storage of petroleum products will be processed using the appropriate procedure as specified in existing Kitsap County ordinances.

(d) Analysis for a specific parcel(s), using the criteria outlined below, will be employed to confirm if the soils present require a recharge area designation. Data collection will include, at a minimum, six (6) soil logs to a depth of ten (10) feet (or to a depth four (4) feet below the lowest proposed excavation point whichever is greater) for each acre in the parcel(s) being evaluated. At least one (1) well, two hundred (200) feet or greater in depth with an adequate drilling report, must be available within one (1) mile. The associated data shall be analyzed and included in the hydrogeologic assessment to determine the presence of highly permeable soils with the recharge area designation.

20.14.500 FREQUENTLY FLOODED AREAS.

BMC 20.14.500 through 20.14.530 pertain to frequently flooded areas.

20.14.510 DESCRIPTION AND PURPOSE.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas caused by flooding, while protecting the functions and values of the floodplains. In addition, this section will give special consideration to anadromous fish habitat in combination with BMC 20.14.700, Fish and Wildlife Habitat Conservation Areas.

20.14.520 CLASSIFICATION AND DESIGNATION.

Frequently flooded areas are those areas established as areas of special flood hazard under Chapter 17.60 BMC, Floodplain Management. Under Chapter 17.60 BMC, this includes those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Kitsap County and Incorporated Areas" dated November 4, 2010, and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRM), and any revisions thereto. The best available information for flood hazard area identification as outlined in BMC 17.60.140(b) shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under BMC 17.60.140(b). ~~Classifications of flood hazard areas shall be consistent with the one hundred (100) year floodplain designation of the Federal Emergency Management Agency and the National Flood Insurance Program~~.

20.14.530 DEVELOPMENT STANDARDS.

(a) All development proposals shall comply with Chapter 17.60 BMC for general and specific flood hazard protection. Development shall not reduce the base flood water storage ability. Construction, grading or other regulated activities that would reduce the flood water storage ability must be mitigated by creating compensatory storage on- or off-site.

(b) Base flood data and flood hazard notes shall be shown on the face of any recorded plat or site plan including, but not limited to, base flood elevations, flood protection elevation, boundary of floodplain, and zero rise floodway.

(c) Unless exempted in 20.14.530(d), when development occurs within the floodplain, a habitat assessment is required, that is prepared in accordance with *Regional Guidance for Floodplain Habitat Assessment and Mitigation* (FEMA Region X, 2010), or as hereafter amended. The assessment shall determine if the project would adversely affect:

(1) The primary constituent elements identified when a species is listed as threatened or endangered,
(2) Essential Fish Habitat designated by the National Marine Fisheries Service,
(3) Fish and wildlife habitat conservation areas,
(4) Vegetation communities and habitat structures,
(5) Water quality,
(6) Water quantity, including flood and low flow depths, volumes and velocities,
(7) The channel's natural planform pattern and migration processes,
(8) Spawning substrate, if applicable, and/or
(9) Floodplain refugia, if applicable.

(d) The following activities do not require completion a floodplain habitat assessment:

(1) Repair of existing building in its existing footprint, including damages by fire or other casualties;
(2) Removal of noxious weeds;
(3) Replacement of non-native vegetation with native vegetation;
(4) Ongoing activities such as lawn and garden maintenance;
(5) Removal of hazard trees;
(6) Normal maintenance of public utilities and facilities;
(7) Restoration or enhancement of floodplains, riparian areas and streams that meets Federal and State standards.

20.14.600 GEOLOGICALLY HAZARDOUS AREAS.

BMC 20.14.600 through 20.14.660 pertain to geologically hazardous areas.

20.14.610 PURPOSE.

The purpose of BMC 20.14.600 through 20.14.660 is to protect human life and property from potential risks related to development on or near geologically hazardous areas. Geologically hazardous areas

include areas susceptible to erosion, sliding, geologic events, landslides, and moderate and steep slope areas. BMC 20.14.600 through 20.14.660 classifies geologically hazardous areas and sets development standards for development and clearing in or near geologically hazardous areas.

20.14.620 CLASSIFICATION.

The following categories shall be used in classifying geologically hazardous areas:

(a) Areas of high geologic hazard are areas meeting either of the following two (2) criteria:

(1) Areas with slopes greater than forty (40) percent with vertical relief of ten (10) or more feet; or

(2) Areas with slopes greater than thirty (30) percent with vertical relief of ten (10) or more feet, and any of the following characteristics:

(i) Unstable soil or shoreline classified as "unstable" (U), "unstable old slides" (UOS), "unstable recent slides" (URS), or "intermediate" (I) by the U.S. Department of Agriculture Soil Conservation Service, U.S. Geologic Survey, the Washington Department of Ecology Coastal Zone Atlas, or qualified geologist or geotechnical engineer;

(ii) Groundwater seepage or springs present on the slope, areas underlain by impermeable silts or clays, or mappable emergent water;

(iii) Erosion hazard as indicated by potential for stream or wave incision or as classified as "highly erodible" or "potentially erodible" by the Natural Resources Conservation Service;

(iv) Seismic areas subject to liquefaction from earthquakes such as hydric soils as identified by the Natural Resources Conservation Service, and areas that have been filled to make a site more suitable.

(b) Areas of moderate geologic hazard are any areas with slopes of thirty (30) percent or greater and vertical relief of ten (10) or more feet, and any areas with slopes of fifteen (15) percent to thirty (30) percent with vertical relief of ten (10) or more feet and any of the characteristics per subsections (a)(2)(i) through (iii) of this section. Seismic hazard areas subject to liquefaction from earthquakes, areas with hydric soils, and areas of loose fill shall be classified as moderate geologic hazard areas regardless of percent slope.

(c) Site-Specific Determination. Site-specific geological reports may be used to determine the classification of a potentially geologically hazardous area in either of the following cases:

(1) When an applicant questions the information the Department must rely on to determine whether a location is classified as a geologically hazardous area, the applicant may submit an appropriate site-specific geological report. If supportable by the geological report, the Department may make a nongeologically hazardous determination.

(2) The Department is authorized but not mandated to require submittal of a geological report for any proposal on a site with slopes of fifteen (15) percent or greater and vertical relief of ten (10) or more feet, or potential seismic hazard areas. Requests by the Department for submittal of a geological report may be made when slope percentages are poorly documented, or when it is deemed through site visit, close proximity to mapped areas of unstable soils, previously prepared geological reports in the vicinity, or other pertinent information that a probable likelihood of soil instability per subsection (a)(2)(i) through (iv) of this section exists on the site. The Department shall not make requests for geological reports in cases where slope percentages are well documented and there is a probable likelihood of stable soil characteristics on the site.

20.14.630 DEVELOPMENT STANDARDS.

The following standards shall apply to any land or vegetation modification or construction within a geologically hazardous area as classified per BMC 20.14.620 and its buffer as described herein. The Department will approve, approve with conditions or deny the development proposal based on its ability to meet the development standards. The Department will also consider any proposed mitigation measures or buffer reductions included in a geotechnical report per subsection (c) of this section.

(a) Areas of high geologic hazard as classified per BMC 20.14.620(a) shall be subject to the following standards:

(1) Building and Impervious Surface Buffer. No construction of any structure or impervious surface is allowed within fifty (50) feet of the top and toe of the slope, unless reductions supportable by a geotechnical report are approved.

(2) Native Vegetation Buffer. Native vegetation shall be in place from the toe of the slope to twenty-five (25) feet beyond the top of the slope, unless modifications supportable by a geotechnical report are approved. Native vegetation shall meet the standards of subsection (g) of this section.

(b) Areas of moderate geologic hazard as classified per BMC 20.14.620(b) shall be subject to the following standards:

(1) Building and Impervious Surface Buffer. No construction of any structure or impervious surface is allowed within twenty-five (25) feet of the top and toe of the slope, unless reductions supportable by a geotechnical report are approved.

(2) Native Vegetation Buffer. Native vegetation shall be in place from the toe of the slope to twenty-five (25) feet beyond the top of the slope, unless modifications supportable by a geotechnical report are approved. Native vegetation shall meet the standards of subsection (g) of this section.

(c) Reductions with Geological or Geotechnical Report. Modifications and/or reductions to the buffers prescribed per subsections (a)(1) and (2) and (b)(1) and (2) of this section may be granted if a geotechnical or geological report demonstrates that modified or reduced buffers, through design and engineering solutions, will provide protection to the proposed development and adjacent properties equal to that of the standard buffer. Such reports are subject to third-party review per BMC 20.14.660(h). Reductions shall utilize the mitigation and performance standards listed per BMC 20.14.650 to the greatest possible extent. Requirements for geotechnical and geological reports are outlined in BMC 20.14.660.

(d) Buffer Increase. Should the Department determine based on a geological or geotechnical report that greater buffers than required per subsections (a)(1) and (2) and (b)(1) and (2) of this section are necessary to protect the proposed development and adjacent properties, greater buffers may be required. The Department may require an applicant to submit a geotechnical report with any proposal for land alteration that is located within two hundred (200) feet of an area of high or moderate geologic hazard if it determines through site visit, review of available documents, or history of prior events in the area, that the proposal could potentially require increased buffers to ensure safety.

(e) Elimination of Danger Trees. Within high or moderate geologic hazard areas, removal of danger trees may be allowed only if such activity is approved by the Department, provided a certified arborist in the State of Washington makes a written determination that the trees proposed for elimination present a legitimate safety hazard.

(f) Vegetation Thinning. Within high or moderate geologic hazard areas, minor pruning of vegetation or trees for view enhancement may be allowed only if such activity is approved by the Department. The following are allowable methods and techniques for vegetation thinning, except that mature or old-growth trees shall only be treated per method in subsection (f)(5) of this section:

(1) Tree Thinning. The selective removal of branches in the inner crown of the tree, provided no more than twenty-five percent (25%) of a tree's leaf-bearing crown is removed. An even distribution of interior small branches and foliage on remaining limbs shall be maintained to avoid over-thinning.

(2) Tree Raising. The removal of the lower branches of a tree in order to provide clearance for passage or vistas. After raising, the height of the pruned portion shall not exceed one-third (1/3) of the total tree height; provided, that removal of branches from the lower portion shall not exceed twenty-five (25) percent of the tree's leaf-bearing crown.

(3) Tree Reduction. Reducing the height or spread of a tree for clearance or vistas by selectively removing leaders and terminals of branches. Cuts should be made to lateral branches at unions, whereby the cut branch is at least one-third (1/3) the diameter of the stem at the union. No more than twenty-five percent (25%) of a tree's crown mass shall be removed, unless it can be demonstrated that further reduction is necessary for functions such as utility clearance.

(4) Tree Topping. Topping shall be used as a last resort when it can be demonstrated that methods in subsections (f)(1) through (3) of this section are not feasible, or when it can be demonstrated by a certified arborist that topping is less harmful to the particular species of tree than other listed methods. Topping is the indiscriminate cutting of branches and laterals to stubs at a specific tree height or spread, often exceeding twenty-five percent (25%) of a tree's crown mass. Topping is harmful to a tree and creates unsightly regrowth that requires future trimming at frequent intervals. When tree topping is used in a geologically hazardous area, the root system shall remain in place.

(5) Pruning Mature Trees. Mature and old-growth trees are more susceptible to permanent damage or death from pruning. Pruning of mature trees should only be done as a corrective or preventative measure, such as the removal of decayed, rubbing, or crowded branches.

(6) Brush Removal. Clearing of noninvasive brush, shrubs, natural grasses and other such vegetation shall be the minimum necessary to maintain vistas, passage and other necessary functions.

(g) Native Vegetation. Native vegetation shall be of appropriate plant selection and species to perform slope stabilization and erosion prevention functions. The Department may require vegetation enhancement with appropriate species, and may call for an analysis of the relationship between vegetation and slope stability per BMC 20.14.660(e)(1). Valid scientific resources such as Washington State Department of Ecology documents "Vegetation Management: A Guide For Puget Sound Bluff Property Owners," and "Erosion Control Using Vegetation" should be consulted when vegetation is proposed for slope stabilization and erosion control purposes.

(h) Erosion Control. Clearing or grading of any area within a high or moderate geologic hazard area or within two hundred (200) feet of the high or moderate geologic hazard area shall be limited to the period between May 1st to October 1st, unless the applicant provides an erosion and sedimentation control plan prepared by a qualified professional licensed in the State of Washington that specifically and realistically identifies methods of erosion control for wet weather conditions. All land modification proposals shall be consistent with the guidelines set forth in BMC 15.04.090, Stormwater Systems/Engineering Design and Construction Standards General. The faces of all cut and fill slopes shall be protected to prevent erosion as required by the engineered erosion and sedimentation control plan.

(i) Stormwater Runoff. At no time shall concentrated stormwater runoff be allowed to surface flow directly over a moderate or high geologically hazardous area or its buffer on a subject site or on neighboring properties. To reduce potentially harmful stormwater runoff discharge from impervious surfaces, the Department may approve reductions to required parking standards, provided it can be demonstrated that such reductions would not significantly impact neighboring properties. Stormwater discharge shall meet all standards set forth in BMC 15.04.090, Stormwater Systems/Engineering Design and Construction Standards General.

(j) Significant Development Risk. In cases where a geotechnical report indicates a significant risk to public health, safety and welfare, the Department shall deny or require revision of the site development proposal.

(k) Utilities, Trails, and Roads. The following activities are allowable within geologically hazardous areas and buffers, provided it can be demonstrated through a geotechnical report that construction will not significantly increase landslide or erosion risk:

(1) Public or private trails approved by the Department per the provisions of this chapter;

(2) Public or private utilities;

(3) Public roads and related infrastructure.

(l) On-Site Sewage Disposal. On-site sewage disposal should be avoided in areas of high geologic hazard and their buffers. In cases where such areas cannot be avoided, review by a geologist or a geotechnical engineer licensed in the State of Washington will be required in coordination with the Kitsap County Health District.

(m) Construction for Earthquake Loads. All construction must meet the requirements of the City Building Code as set forth in Chapter 17.04 BMC.

20.14.650 MITIGATION, PERFORMANCE STANDARDS AND REQUIREMENTS.

(a) The following project design and location techniques are preferred in areas of moderate or high geologic hazard and their buffers. The Department may condition or modify development proposals to require incorporation of such design techniques in cases where their application would increase public safety and welfare without substantially altering the allowable scope and scale of the proposal:

(1) Minimize soil disturbance and vegetation removal;

(2) Cluster structures to maintain natural topography;

(3) Minimize building footprints and impervious surface areas;

(4) Construct roads, walkways and parking areas to parallel natural contours;

(5) Provide access in areas of the site with less sensitivity;

(6) Avoid toe armoring at the base of banks, bluffs and near shorelines. Toe armoring is only an acceptable engineering solution when it meets the provisions of BMC20.14.660(b), and all requirements of the Bremerton Shoreline Master Program and other sections of this chapter;

(7) The following performance and mitigation standards shall apply to seismically hazardous areas;

(i) Avoid construction of structures using unreinforced masonry materials in areas of hydric soils, fill, or other soils prone to liquefaction from earthquakes;

(ii) When redevelopment is proposed on a site containing hydric soils, fill, or other soils prone to liquefaction from earthquakes encourage replacement or removal of existing unreinforced masonry structures;

(iii) Use appropriate building footing techniques such as pilings on sites containing hydric soils, fill, or other soils prone to liquefaction from earthquakes;

(iv) Avoid construction of essential public facilities, other potential emergency response facilities, and large-scale public gathering places on sites underlain by known surface fault lines.

20.14.660 SPECIAL REPORTS.

Whenever development is proposed in a geologically hazardous area as defined in BMC 20.14.620, or when the Department determines that additional soils and slope analysis is appropriate on a particular site per BMC 20.14.620(c), the applicant is required to submit a geotechnical or geological report that evaluates the surface and subsurface soil conditions on the site.

(a) Qualifications. Geotechnical reports shall be prepared by a qualified professional (defined in BMC 20.14.200 under "qualified professional").

(b) General Provisions. Report recommendations for earthwork, clearing or siting structures in geologically hazardous areas shall be based on existing site conditions rather than measures that have not yet been successfully approved or constructed (e.g., slope recontouring, retaining walls, bulkheads, etc.). Shoreline bulkheads and retaining walls may only be utilized as an engineering solution where it can be demonstrated that:

(1) An existing structure or existing public facility such as roads cannot be safely maintained without such measures;

(2) Other nonstructural methods of beach stabilization have been considered and determined infeasible; and

(3) The resulting stabilization structure is the minimum necessary to provide stability for the existing structure and appurtenances.

(c) Minor Repairs. Minor repair activities on existing permitted structures (i.e., those that do not involve design modifications, changes in structure location, and/or demolition or abandonment of failed structure and replacement with new structures) are not subject to the following project submittal requirements.

(d) Geological Reports. A geological report is required for site development proposals that involve development activities within a geological hazardous area or its buffer per BMC20.14.630(c), but do not require an engineered solution. The following minimum information is required:

(1) Description of surface and subsurface conditions, including ground materials, vegetation, surface drainage, groundwater, and a preliminary geologic hazard assessment which includes the location of structures and the identification of the slope and/or coastal processes occurring at the site and factors that contribute to them;

(2) Review of available information, literature, and mapping;

(3) Detailed description of slope and other topographic features; and

(4) Conceptual siting of structure and general recommendation which include methods and practices that avoid and/or reduce slope and shore impacts. Minimum recommendations should include upland and slope drainage control, groundwater control, site vegetation management, and erosion control.

(e) Geotechnical Reports. A geotechnical report is required when the Department or geological report determines that a site development proposal requires additional site information such as engineering design recommendation, slope stability analysis, subsurface exploration and testing, coastal process analyses, or construction recommendations. Depending on the level of activity proposed, the report will either be a more limited geotechnical slope evaluation report, or a full geotechnical design investigation report as described below:

(1) Geotechnical Slope Evaluation Report. A geotechnical slope evaluation report is required when slope stability analyses are confined to existing surface and/or drainage conditions, including the relationship of natural and constructed slope features to proposed changes in environmental conditions such as drainage, vegetation removal and slope geometry. The following minimum information is required:

(i) All information under subsection (d) of this section;

(ii) Subsurface data, exploration logs, and testing data, when required by the geotechnical engineers;

(iii) Estimated (or surveyed) contour map and site plan, and the Department may require ground surface profiles and typical cross-sections;

(iv) Relative location of ordinary high water (OHW) on the surface profile and cross-sections which include mean higher high water (MHHW) for the site location, where applicable;

(v) Soil strength parameters;

(vi) Stability analysis of existing site;

(vii) Analysis of the relationship of vegetation and slope stability; and

(viii) Conceptual site development plans and cross-sections.

(2) Geotechnical Design Investigation Report. A geotechnical design investigation report is required for site development activities that propose design and construction measures at the slope crest, face and/or toe. If a designed structure does not impact slope stability or coastal processes, the report will not be required to perform all items listed under this section, as long as each item is addressed and the report details why a particular item does not apply. The following information is required:

(i) All the information required under subsection (e)(1) of this section;

(ii) Geotechnical requirements and measures to reduce risks;

(iii) Geotechnical criteria used for any designs including all critical dimension, lateral earth pressures, soil-bearing pressures, location and limits of structure on or near the slope, maximum constructed slope angles, minimum soil reinforcement embedment, soil compaction requirements, and structure heights;

(iv) Temporary construction slope stability recommendation and analyses of proposed final site stability measures;

(v) Required construction specification and construction monitoring procedures;

(vi) Revegetation and surface and groundwater management requirements;

(vii) Evaluation of erosion potential and recommendations for erosion avoidance and any proposed mitigation measures; and

(viii) Detailed tabulation of all basic geotechnical engineering test results pertinent to design and construction, and when required for clarification, detailed examples of tests conducted for the project.

(f) Revisions to Geotechnical Reports. Further recommendations shall be provided by the geotechnical engineer should there be additions or exceptions to the original recommendation based on the plans, site condition, or other supporting data. If the geotechnical engineer who revises the plans and specification is not the same engineer who prepared the geotechnical report, the new engineer shall, in a letter to the Department, express his or her agreement or disagreement with the recommendations in the geotechnical report and state whether the plans and specification conform to his or her recommendations.

(g) Plan and Specification Review. When the engineered solutions are proposed, the geotechnical engineer shall submit a statement that in his or her judgment, the plans and specifications (if prepared by others) conform to the recommendations in the geotechnical report and that all portions of the site which are disturbed or impacted by the proposed development have appropriate measures or specification that permit construction to occur while addressing slope stability so that the work does not create additional risk. The statement shall also indicate whether or not a relative gain in slope stability will be achieved after construction is complete.

(h) Monitoring and Third-Party Review.

(1) To protect public health, safety and welfare, the Department may call for a third-party review of any geotechnical report in cases where it determines there may be substantial damage to life, property or the environment should a proposed engineered solution fail. When a third-party review is required, costs incurred for a qualified third-party geotechnical engineer to perform the review shall be borne by the applicant.

(2) Where revegetation or plantings are proposed as a method to ensure slope stability, a monitoring program shall be included as a part of the approved geotechnical report. To ensure that the performance standards of the approved geotechnical report are met, the vegetation shall be monitored for a minimum of five (5) years. A longer monitoring period may be required by the City based on either the initial report, or a review of subsequent monitoring reports. The monitoring reports shall be submitted on August 1st of each year during the monitoring period.

(i) Construction Inspection. A final inspection report shall be provided by the geotechnical engineer stating that construction has or has not implemented the design recommendations of the geotechnical report, and evaluation of any deviation from the design recommendations.

20.14.700 FISH AND WILDLIFE HABITAT CONSERVATION AREAS.

BMC 20.14.700 through 20.14.760 pertain to fish and wildlife habitat conservation areas.

20.14.710 DESCRIPTION AND PURPOSE.

The intent of these regulations is to avoid impacts to streams, riparian habitat, anadromous fish, and wildlife conservation areas where such avoidance is feasible and reasonable. This section of the City

Code contains standards, guidelines, criteria and requirements intended to identify, evaluate and mitigate potential impacts to habitat conservation areas within the City and to enhance degraded habitat and streams in appropriate cases. In appropriate circumstances, impacts resulting from regulated activities may be minimized, rectified, reduced and/or compensated for, consistent with this chapter. The regulations are to manage land so as to maintain fish and wildlife species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created and achieve no net loss in fish or wildlife habitat or stream functions.

20.14.720 CLASSIFICATION AND DESIGNATION OF FISH AND WILDLIFE HABITAT CONSERVATION AREAS.

Classification and designation of fish and wildlife habitat conservation areas is an ongoing process; while not all of the following critical habitat conservation areas are known to exist in the City, their designation here allows for future categorization for protection. The following categories shall be used for relevant development standards of BMC 20.14.730.

(a) Streams and River Shorelines. All streams and river shorelines which meet the criteria for Type S, F, Np or Ns waters as set forth in WAC 222-16-030 of the Department of Natural Resources Water Typing System.

(1) Type S water means all waters, within their bankfull width, as inventoried as "shorelines of the state" under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW including periodically inundated areas of their associated wetlands.

(2) Type F water means segments of natural waters other than Type S waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of one-half (1/2) acre or greater at seasonal low water and which in any case contain fish habitat or are described by one (1) of the following four (4) categories:

(i) Waters, which are diverted for domestic use by more than ten (10) residential or camping units or by a public accommodation facility licensed to serve more than ten (10) persons, where such diversion is determined by the Department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F water upstream from the point of such diversion for one thousand five hundred (1,500) feet or until the drainage area is reduced by fifty (50) percent, whichever is less;

(ii) Waters, which are diverted for use by federal, State, tribal or private fish hatcheries. Such waters shall be considered Type F water upstream from the point of diversion for one thousand five hundred (1,500) feet, including tributaries if highly significant for protection of downstream water quality. The Department may allow additional harvest beyond the requirements of Type F water designation, provided the Department determines after a landowner-requested on-site assessment by the Department of Fish and Wildlife, Department of Ecology, the affected tribes and interested parties that:

a. The management practices proposed by the landowner will adequately protect water quality for the fish hatchery; and

b. Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery;

(iii) Waters, which are within a federal, State, local, or private campground having more than ten (10) camping units; provided, that the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within one hundred (100) feet of a camping unit, trail or other park improvement;

(iv) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria:

a. The site must be connected to a fish habitat stream and accessible during some period of the year; and

b. The off-channel water must be accessible to fish.

(3) Type Np water means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type Np waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see board manual, section 23), then Type Np waters begin at a point along the channel where the contributing basin area is:

(i) At least thirteen (13) acres in the Western Washington coastal zone (which corresponds to the Sitka spruce zone defined in Franklin and Dyrness, 1973);

(ii) At least fifty-two (52) acres in other locations in Western Washington; or

(iii) At least three hundred (300) acres in Eastern Washington.

(4) Type Ns water means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np water. Type Ns waters must be physically connected by an above-ground channel system to Type S, F, or Np waters.

(b) Saltwater Shorelines~~,~~ and Lakes Twenty (20) Acres and Greater in Surface Area. Those saltwater shorelines and lakes defined as shorelines of the State in the Shoreline Management Act of 1971 and the Bremerton Shoreline Master Program as amended. Shorelines include: Type S waters as set forth in WAC 222-16-030 (DNR Water Typing System) as amended; commercial and recreational shellfish areas; kelp and eelgrass beds; and forage fish spawning areas (i.e., herring, smelt, and sand lance).

(c) Lakes Less than Twenty (20) Acres in Surface Area. Those lakes which meet the criteria for Type F, Np, and Ns waters as set forth in WAC 222-16-030 as amended. This includes lakes and ponds less than twenty (20) acres in surface area and their submerged aquatic beds, lakes, and ponds planted with game fish by a governmental or tribal authority.

(d) Class I Fish and Wildlife Conservation Areas.

(1) Habitats and species recognized by federal or State agencies for federal and/or State-listed endangered, threatened and sensitive species that have primary association documented in maps or databases available to the City and that, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

~~(2) Areas targeted for preservation by the federal, State, and/or local government which provide fish and wildlife habitat benefits, such as the shared strategy process for Puget Sound; and areas of primary association for anadromous fish and important waterfowl areas identified by the U.S. Fish and Wildlife Service.~~

(~~3~~2) Areas that contain habitats and species of local importance. These areas are identified by the City, including but not limited to those habitats and species that, due to their population status or sensitivity to habitat manipulation, warrant protection. Habitats may include a seasonal range or habitat element with which a species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. Habitats of local importance can include attributes such as comparatively high wildlife density, high wildlife species richness, significant wildlife breeding habitat, seasonal ranges or movement corridors of limited availability and/or high vulnerability. These habitats may include cliffs, meadows, old-growth/mature forests, snag-rich areas, and urban natural open spaces.

(e) Class II Fish and Wildlife Conservation Areas.

(1) Habitats for State-listed candidate and monitored species documented in maps or databases available to the City, which if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.

(2) Habitats that have been identified through maps, databases, reports, or studies that include attributes such as comparatively high wildlife density, high wildlife species richness, significant wildlife breeding habitat, seasonal ranges or movement corridors of limited availability and/or high vulnerability. These habitats may include caves, cliffs, meadows, old-growth/mature forests, snag-rich areas, talus slopes, and urban natural open space.

(f) Habitats and Species of Local Importance. The City should accept and consider nominations for habitat areas and species to be designated as locally important.

(1) Habitats and species to be designated shall exhibit the following characteristics:

(i) Local populations of native species are in danger of extirpation based on existing trends;

(ii) Local populations of native species that are likely to become endangered; or

(iii) Local populations of native species that are vulnerable or declining.

(2) The species or habitat has recreation, commercial, game, tribal, or other special value.

(3) Long-term persistence of a species locally is dependent on the protection, maintenance, and/or restoration of the nominated habitat.

(4) Protection by other county, State, or federal policies, laws, regulations, or nonregulatory tools is not adequate to prevent degradation of the species or habitat in the City.

(5) Without protection, there is likelihood that the species or habitat will be diminished locally over the long term.

(6) Areas nominated to protect a particular habitat or species must represent either high-quality native habitat or habitat that has a high potential to recover to a suitable condition and which is of limited availability, highly vulnerable to alteration, or provides landscape connectivity which contributes to the integrity of the surrounding landscape.

(7) Habitats and species may be nominated for designation by any person.

(8) The nomination should indicate whether specific habitat features are to be protected (for example, nest sites, breeding areas, and nurseries), or whether the habitat or ecosystem is being nominated in its entirety.

(9) The nomination may include management strategies for the species or habitats. Management strategies must be supported by the best available science, and where restoration of habitat is proposed, a specific plan for restoration must be provided prior to nomination.

(10) The Director shall determine whether the nomination proposal is complete and, if complete, shall evaluate it according to the characteristics enumerated in subsection (f)(1) of this section and make a recommendation to the Planning Commission based on those findings.

(11) The Planning Commission shall hold a public hearing for proposals found to be complete and make a recommendation to the City Council based on the characteristics enumerated in subsection (f)(1) of this section.

(12) Following the recommendation of the Planning Commission, the City Council shall decide whether to designate a habitat or species of local importance by resolution.

(13) Establishment of Specific Rules for Protection. Within one hundred twenty (120) days of the effective date of an ordinance designating a species or habitat of local importance, the Director shall develop an administrative rule addressing protection in compliance with this section.

(14) Development Standards. Regulated uses in designated fish and wildlife habitat conservation areas and/or buffers shall comply with the performance standards outlined in this section.

20.14.730 DEVELOPMENT STANDARDS.

For the purposes of this title, a designated fish and wildlife habitat conservation area with its buffer is a critical area. Those regulated uses identified below within designated fish and wildlife habitat conservation

areas shall comply with the performance standards outlined in this chapter. A habitat management plan (HMP) is a site investigation to evaluate the potential presence or absence of a regulated fish or wildlife species or habitat affecting a subject property and proposed development.

(a) Endangered, Threatened, and Sensitive Species.

(1) No development shall be allowed within a habitat conservation area or buffer with which State or federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a habitat management plan (HMP)~~ established by the Washington Department of Fish and Wildlife or applicable State or federal agency~~.

(2) Whenever activities are proposed adjacent to a habitat conservation area with which State or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with an HMP prepared by a qualified professional and approved by the City. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Washington Department of Fish and Wildlife for animal species, the Washington State Department of Natural Resources for plant species, and other appropriate federal or State agencies.

~~(3) Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC 232-12-292). Whenever activities are proposed adjacent to a verified nest, territory, or communal roost and, activities that are adjacent to bald eagle sites within eight hundred (800) feet or within one-half (1/2) mile (two thousand six hundred forty (2,640) feet) and in a shoreline foraging area shall require an approved HMP. The City shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the HMP by the Washington Department of Fish and Wildlife.~~

(b) Anadromous Fish.

(1) All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:

(i) Activities shall be timed to occur only during the allowable work window as designated by the Washington Department of Fish and Wildlife for the applicable species;

(ii) If alternative alignment or location for the activity is not feasible, then activities shall be designed so that it will not degrade the functions or values of the fish habitat or other critical areas;

(iii) Shoreline erosion control measures shall be designed to use bioengineering methods or soft armoring techniques, according to an approved critical area report; and

(iv) Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved habitat management plan.

(2) Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed.

(3) Fills, when authorized by the Shoreline Master Program, shall not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impacts and shall only be allowed for a water-dependent use.

(c) Wetland Habitats. All proposed activities within or adjacent to habitat conservation areas containing wetlands shall conform to the wetland development performance standards set forth in BMC 20.14.300. If nonwetlands habitat and wetlands are present at the same location, the provisions of this chapter or the wetlands chapter, whichever provides greater protection to the habitat, apply.

(d) Buffers and Associated Building Setback Areas. The distance shall be measured from the ordinary high water mark (OHM) or from the top of the bank where the OHM cannot be identified. Buffers shall

remain undisturbed natural beach or vegetation areas except where the buffer can be enhanced to improve its functional attributes, as approved by the Department. Buffers shall be maintained along the perimeter of fish and wildlife habitat conservation areas, as listed below in Table 1 of this section. Refuse shall not be placed in buffers. Alteration of buffer areas and building setbacks may be allowed for water-dependent and water-related activities and for other development authorized by an HMP, reasonable use exceptions, general exemptions, standards for existing (nonconforming) development, and variances in general exemptions, BMC 20.14.140.

20.14.730 Table 1: Water Type Buffer Standards			
Water Types	**Attributes**	**Minimum Building Setback**	**Buffer Width Standard**
S Saltwater & Freshwater	See Shoreline Master Program for buffer and minimum building setback per Ordinance 5229, or as hereinafter amended		
F	Fish Habitat Waters	15 feet beyond buffer	150 feet
Np	Year-Round, Nonfish Habitat	15 feet beyond buffer	50 feet
Ns	Seasonal, Nonfish Habitat	15 feet beyond buffer	35 feet

~~**20.14.730 Table 1: Water Type Buffer Standards**~~			
~~**Water Types**~~	~~**Attributes**~~	~~**Minimum Building Setback**~~	~~**Buffer Width Standard**~~
~~S Saltwater~~	~~Urban Commercial/Industrial/ Downtown Waterfront~~	~~15 feet beyond buffer~~	~~25 feet~~
~~-~~	~~Urban Residential~~	~~15 feet beyond buffer~~	~~35 feet~~
~~-~~	~~Urban Conservancy~~	~~15 feet beyond buffer~~	~~175 feet~~
~~S Freshwater~~	~~Freshwater Shorelines of the State~~	~~15 feet beyond buffer~~	~~175 feet~~
~~F~~	~~Fish Habitat Waters~~	~~15 feet beyond buffer~~	~~150 feet~~
~~Np~~	~~Year-Round, Nonfish Habitat~~	~~15 feet beyond buffer~~	~~50 feet~~
~~Ns~~	~~Seasonal, Nonfish Habitat~~	~~15 feet beyond buffer~~	~~35 feet~~

(1) Buffers. Where existing buffer area plantings provide minimal vegetative cover and cannot provide the City's water quality standards or habitat functions (per the requirements of the Department of Ecology and Fish and Wildlife), buffer enhancement shall be required. Where buffer enhancement is required, a plan shall be prepared that includes plant densities that are not less than three (3) feet on center for shrubs and eight (8) feet on center for trees. Monitoring and maintenance of plants shall be required in accordance with BMC 20.14.760, Monitoring and Contingency Plan. Existing buffer vegetation is considered "inadequate" and will require enhancement through additional native plantings and removal of nonnative plants when:

(i) Nonnative or invasive plant species provide the dominant cover;

(ii) Vegetation is lacking due to disturbance and marine, stream, or habitat resources could be adversely affected; or

(iii) Enhancement plantings in the buffer could significantly improve buffer functions.

(2) "Minimum building setback" is the required horizontal distance between the finished exterior wall of a structure and the edge of the buffer of the lot on which the structure is located. All portions of a structure must be located away from the buffer a distance equal to or greater than the minimum setback. Uses not requiring a permit defined in the City Building Code as set forth in Chapter 17.04 BMC may be permitted in the setback if the Department determines that such intrusions will not adversely impact the fish and wildlife habitat conservation area.

(3) Stream Buffer Measurement. Streams shall be classified according to the stream type system as provided in WAC 222-16-031, Interim water typing system. Stream buffer areas are defined by these classifications, as shown in Table 1 of this section. Buffers shall be measured from the ordinary high water mark (OHM) or from the top of the bank where the OHM cannot be identified. The buffer width shall be increased to include streamside wetlands which provide overflow storage for storm waters, feed water back to the stream during low flows or provide shelter and food for fish. In braided channels, the OHM or top of bank shall be defined so as to include the entire stream feature.

(4) Buffer Averaging. For buffering averaging for areas within the areas of shoreline jurisdiction, please refer to the Shoreline Master Program 7.010(c)(5). For all other areas, ~~B~~buffer widths may be modified by averaging buffer widths as long as the total area contained within the buffer after averaging is no less than the required buffer prior to averaging, and as set forth below. A buffer enhancement plan shall be required for any request for buffer averaging. The enhancement plan shall be similar to a mitigation plan, and include provisions for mitigation monitoring and contingency plans. Buffer width averaging shall be allowed only where the applicant demonstrates through a report prepared by a qualified biologist or habitat specialist with five (5) years' experience that:

(i) Buffer averaging is necessary to avoid a hardship caused by circumstances to the property;

(ii) The habitat contains variations in sensitivity due to existing physical characteristics, or the buffer varies in characteristics and it would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;

(iii) Lower intensity land uses would be located adjacent to areas where the buffer width is reduced;

(iv) The widest portion of the buffer shall be the area where the habitat is most sensitive;

(v) Buffer width averaging will not adversely impact fish and wildlife habitat conservation areas;

(vi) The buffer width may be reduced by thirty-five (35) percent of the standard buffer, but not less than thirty-five (35) feet unless provided for by a habitat management plan.

(5) Buffer Reduction. Buffers and associated building setbacks may be reduced where the applicant demonstrates through an approved HMP relying on best available science and prepared by a qualified specialist with five (5) years' experience that through buffer enhancement the smaller buffer would provide equal or better protection than the larger buffer, but shall not be reduced by more than thirty-five (35) percent. Enhancement techniques can include, but are not limited to:

(i) Planting of native trees or shrubs, increasing the diversity of plant cover types, replacing exotic species with native species, or reestablishing fish areas adjacent to a marine shoreline or stream where one (1) currently does not exist will result in improved function of the fish habitat;

(ii) Fish barrier removal to restore accessibility to resident or anadromous fish;

(iii) Fish habitat enhancement using log structures incorporated as part of a fish habitat enhancement plan;

(iv) Stream and/or retention/detention pond improvements:

a. Removal or modification of existing stream culverts (such as at road crossings) to improve fish passage and flow capabilities, or

b. Upgrade of retention/detention facilities or other drainage facilities beyond required levels to provide a more naturalized habitat;

(v) Removal of existing bulkheads to improve fish spawning and habitat areas;

(vi) Daylighting a stream that was previously culverted or piped, or daylighting box culverts or trestles.

(6) Stormwater Management Facilities. Stormwater management facilities, limited to stormwater dispersion outfalls and bioswales, may be allowed within the outer twenty-five (25) percent of the buffer; provided~~,~~ that:

(i) No other location is feasible; and

(ii) The buffer is over 100 feet in width; and

(iii) The location of such facilities will not degrade the functions or values of the stream and/or habitat area shown through an approved HMP.

(7) Low-Impact Development (LID) Facilities. LID facilities, may be allowed within stream buffers; provided that:

(i) No other location is feasible; and

(ii) The buffer is over 100 feet in width; and

(iii) The location of such facilities will not degrade the functions or values of the stream and/or habitat area shown through an approved HMP.

(8) Habitat Conservation Area Buffers. For Type F, Type Np, and Type Ns waters only, h~~H~~abitat conservation area buffers shall be shown on the development site plans or final plat maps along with the notation requirements identified in BMC 20.58.080.

(i) If an existing property has a previously delineated and approved fish and wildlife habitat conservation area and associated buffer by the City, the approved conservation area and buffer may remain in effect. Redevelopment, and/or additions outside of the existing footprint shall be subject to the previously approved buffer; however, a buffer enhancement plan may be required in accordance if the habitat buffer area has become degraded or is currently not functioning or if the habitat area and/or buffer may be negatively affected by proposed new development. If, according to the buffer enhancement plan, additional buffer mitigation is not sufficient to protect the habitat, the City may require larger buffers where it is necessary to protect habitat functions based on site-specific characteristics.

(e) Class I Fish and Wildlife Conservation Areas. All development as described within this chapter or within two hundred (200) feet of designated Class I wildlife conservation areas shall adhere to the following standards:

(1) All sites with known locations of Class I fish and wildlife conservation areas or sites within two hundred (200) feet, or the applicable distance identified by Washington Department of Fish and Wildlife management recommendations, whichever is greater, to known locations of Class I fish and wildlife conservation areas will require, for all development permits, the submittal and approval of a habitat management plan (HMP) as specified in BMC 20.14.750. ~~In the case of bald eagles, an approved bald eagle management plan by the Washington State Department of Fish and Wildlife, meeting the requirements and guidelines of the bald eagle protection rules (WAC 232-12-292), as now or hereafter amended shall satisfy the requirements for an HMP.~~ The requirement for an HMP shall be determined during the SEPA/critical areas review on the project.

(2) All new development within two hundred (200) feet of habitat elements with which Class I fish and wildlife have a critical habitat, or the applicable distance identified by Washington Department

of Fish and Wildlife management recommendations, whichever is greater, may require the submittal of an HMP as specified in BMC 20.14.750. The requirement for an HMP shall be determined during the SEPA/critical areas review on the project.

20.14.730 Table 2: Wildlife Habitat Conservation Areas	
Class I	All developments within 200 ft. or applicable distance by WDFW management recommendations of a designated Class I wildlife habitat conservation area shall have buffer widths determined by a mandatory habitat management plan.
Class II	All development within a Class II wildlife habitat conservation area shall have the buffer widths be determined by the SEPA/critical area review on the project and may require a habitat management plan.

(f) Class II Fish and Wildlife Conservation Area. All new development within Class II fish and wildlife conservation areas may require the submittal of an HMP. An HMP shall consider measures to retain and protect the wildlife habitat and shall consider effects of land use intensity, buffers, setbacks, impervious surfaces, erosion control and retention of native vegetation. The requirement for an HMP shall be determined during the SEPA/critical areas review on the project.

(g) Stream Crossings. Any private or public road expansion or new construction which is allowed and must cross streams classified within this chapter shall comply with the following minimum development standards:

(1) Bridges or bottomless culverts shall be required for all fish-bearing streams. Other alternatives may be allowed upon submittal of a habitat management plan which demonstrates that other alternatives would not result in significant impacts to the fish and wildlife conservation area, as determined appropriate through the Washington State Department of Fish and Wildlife, hydraulics project approval process. The plan must demonstrate that salmon habitat will be replaced on a 1:1 ratio;

(2) Crossings shall not occur in salmonid spawning areas unless no other feasible crossing site exists. For new development proposals, if existing crossings are determined to adversely impact salmon spawning or passage areas, new or upgraded crossings shall be located as determined necessary through coordination with the Washington State Department of Fish and Wildlife;

(3) Bridge piers or abutments shall not be placed in either the floodway or between the ordinary, high water marks unless no other feasible alternative placement exists;

(4) Crossings shall not diminish flood carrying capacity;

(5) Crossings shall serve multiple properties whenever possible; and

(6) Where there is no reasonable alternative to providing a conventional culvert, the culvert shall be the minimum length necessary to accommodate the permitted activity (guidance for these projects can be found in the Washington Department of Fish and Wildlife "Fish Passage Design at Road Culverts" design manual 1999, and the National Marine Fisheries Service "Guidelines for Salmonid Passage at Stream Crossings" 2000).

(h) Stream Relocations. Stream relocations for the purpose of flood protection and/or fisheries restoration shall only be permitted when adhering to the following minimum performance standards and when consistent with Washington State Department of Fish and Wildlife hydraulic project approval:

(1) The channel, bank and buffer areas should be replanted with native vegetation in undisturbed riparian condition;

(2) For those shorelands and waters designated as frequently flooded areas, a professional engineer licensed in the State of Washington shall provide information demonstrating that the equivalent base flood storage volume and function will be maintained; and

(3) Relocated stream channels shall be designed to meet or exceed the functions and values of the stream to be relocated.

(i) Pesticides, Fertilizers and Herbicides. No pesticides, herbicides or fertilizers may be used in fish and wildlife conservation areas or their buffers, except those approved by the EPA and approved under a DOE water quality modification permit for use in fish and wildlife habitat conservation area environments. Where approved, herbicides must be applied by a licensed applicator in accordance with the safe application practices on the label.

(j) Land Divisions and Land User Permits. All proposed divisions of land and land uses (subdivisions, short subdivisions, residential cluster developments, conditional use permits, site plan reviews, and binding site plans) which include fish and wildlife habitat conservation areas shall comply with the following procedures and development standards:

(1) The open water area of lakes, streams, and tidal lands shall not be permitted for use in calculating minimum lot area;

(2) Land division approvals shall be conditioned so that all required buffers are dedicated as open space tracts or an easement or covenant encumbering the buffer. Such dedication, easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan;

(3) In order to avoid the creation of nonconforming lots, each new lot shall contain at least one (1) building site that meets the requirements of this chapter, including buffer requirements for habitat conservation areas. This site must also have access and a sewage disposal system location that are suitable for development and does not adversely impact the fish and wildlife conservation area;

(4) After preliminary approval and prior to final land division approval, the Department may require the common boundary between a required buffer and the adjacent lands be identified using permanent signs. In lieu of signs, alternative methods of buffer identification may be approved when such methods are determined by the Department to provide adequate protection to the aquatic buffer.

(k) Trails and Trail-Related Facilities. Construction of public and private trails and trail-related facilities, such as benches, interpretive centers, and viewing platforms, may be allowed in fish and wildlife habitat conservation areas or their buffers pursuant to the following standards:

(1) Trails and related facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or other such previously disturbed areas;

(2) Trails and related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat;

(3) Viewing platforms, interpretive centers, benches and access to them shall be designed and located to minimize disturbance of wildlife habitat and/or critical characteristics of the affected conservation area;

(4) Trails, in general, shall be set back from streams so that there will be no or minimal impact to the stream from trail use or maintenance. Trails shall be constructed with pervious surfaces when feasible;

(5) Trails shall be generally limited to pedestrian use unless other more intensive uses, such as bike or horse trails, have been specifically allowed and mitigation has been provided. Trail width shall not exceed five (5) feet unless there is demonstrated need, subject to review and approval by the Department. Trails shall be constructed with pervious materials unless otherwise approved by the Department;

(6) Trails shall not be allowed to fully enclose a habitat area or buffer; and

(7) The Department may require closure of trails during critical spawning, migration or breeding time periods of the species present.

(l) Utilities. Placement of utilities within designated fish and wildlife habitat conservation areas may be allowed pursuant to the following standards and that the applicant obtains all other required state and federal approvals for any work in-water of in wetlands:

(1) Utilities maintenance activities involving no material change in size or function shall be allowed within designated fish and wildlife habitat conservation areas, subject to best management practices;

(2) Construction of utilities may be permitted in fish and wildlife habitat conservation areas or their buffers, only when no feasible or reasonable alternative location is available and the utility corridor meets the requirements for installation, replacement of vegetation and maintenance outlined below, and as required in the filing and approval of an HMP which may be required by this chapter;

(3) Construction of sewer lines or on-site sewage systems may be permitted in fish and wildlife habitat conservation areas or their buffers when the applicant demonstrates it is necessary to meet State and/or local health code requirements, there are no other feasible alternatives available, and construction meets the requirements of this section. Joint use of the sewer utility corridor by other utilities may be allowed;

(4) New utility corridors shall not be allowed in fish and wildlife habitat conservation areas with known locations of federal or State-listed endangered, threatened or sensitive species, heron rookeries or nesting sites of raptors which are listed as State candidate except in those circumstances where an approved HMP indicates that the utility corridor will not significantly impact the conservation area;

(5) New utility corridor construction and maintenance shall protect the environment of fish and wildlife habitat conservation areas and their buffers by the following:

(i) New utility facilities, improvements, or upgrades to existing utility facilities should take place within existing improved rights-of-way or existing impervious surfaces so that they do not increase the amount of impervious surfaces within the habitat area;

(ii) New utility corridors shall be aligned when possible to avoid cutting or root damage to trees greater than twelve (12) inches in diameter at breast height (four (4) and one-half (1/2) feet) measured on the uphill side;

(iii) New utility corridors shall be revegetated with appropriate native or equivalent vegetation at not less than preconstruction vegetation densities or greater, immediately upon completion of construction or as soon thereafter as possible due to seasonal growing constraints. The utility shall ensure that such vegetation survives;

(iv) Any additional corridor access for maintenance shall be provided wherever possible at specific points rather than by parallel roads. If parallel roads are necessary, they shall be of a minimum width but no greater than fifteen (15) feet and shall be contiguous to the location of the utility corridor on the side away from the conservation area;

(6) Utility corridor maintenance shall include the following measures to protect the environment of regulated fish and wildlife habitat conservation areas:

(i) Utility towers should be painted with brush, pad or roller and should not be sandblasted or spray-painted, nor should lead-based paints be used;

(ii) Pesticides, Fertilizers and Herbicides. No pesticides or fertilizers may be used in fish and wildlife conservation areas or their buffers, except those herbicides approved by a licensed applicator in accordance with the safe application practices on the label.

(m) Bank Stabilization. A stream channel and bank may be stabilized when naturally occurring earth movement threatens existing structures (defined as requiring a building permit pursuant to the applicable building code), public improvements, unique natural resources, public health, safety or welfare, or the only feasible access to property, and, in the case of streams and marine shorelines, when such stabilization results in maintenance of fish and wildlife habitat, flood control and improved water quality. Where bank stabilization is determined to be necessary, bioengineering or other nonstructural methods should be the first option for protection. Bulkheads and retaining walls may only be utilized as an engineering solution where it can be demonstrated that an existing residential structure cannot be safely maintained or set back without such measures, and that the resulting retaining wall is the minimum length

necessary to provide a stable building area for the structure. A variance pursuant to BMC 20.58.030 must be obtained in all other cases. The Department may require that bank stabilization be designed by a professional engineer and geologist licensed in the State of Washington with demonstrated expertise in hydraulic actions of shorelines. Bank stabilization projects may also require a City grading permit and hydraulic project approval from the Washington Department of Fish and Wildlife. Nonstructural marine shoreline and stream bank protective techniques are preferred to bulkheads or other types of marine shoreline and stream bank armoring. Nonstructural techniques include but are not limited to vegetation plantings and bioengineering. Guidance for these projects can be found in the Washington Department of Fish and Wildlife's "Integrated Streambank Protection Guidelines Manual" for determining when, why, where, and what projects need to be completed to protect an eroding bank.

(n) Fencing and Signs. Prior to approval or issuance of permits for land divisions and new development, the Department may require the common boundary between a required buffer and the adjacent lands be identified using fencing or permanent signs. In lieu of fencing or signs, alternative methods of buffer identification may be approved when such methods are determined by the Department to provide adequate protection to the buffer.

(o) Road/Street Repair and Construction. Any private or public road or street expansion or construction which is allowed in a fish and wildlife habitat conservation area or its buffer shall comply with the following minimum development standards:

(1) No other reasonable or feasible alternative exists and the road or street crossing serves multiple properties whenever possible;

(2) Expansion or construction of any private or public road shall only be allowed when adverse impacts cannot be avoided;

(3) Public and private roads should provide for other purposes, such as utility crossings, pedestrian or bicycle easements, viewing points, etc.;

(4) The road or street construction is the minimum necessary, as required by the Department of Public Works, and shall comply with the Department of Public Works and Utilities' standards; and

(5) Construction time limits shall be determined in consultation with the Washington Department of Fish and Wildlife in order to ensure habitat protection.

(p) Other Allowed Uses in Fish and Wildlife Conservation Areas. Other activities may be allowed using the standard for a Category II wetland buffer as identified by BMC 20.14.330(d).

20.14.740 SPECIAL REPORTS.

Habitat Management Plan Requirements.

(a) General. If the City determines that impacts to habitats may occur as a result of a development project, a habitat management plan (HMP) shall be required. The applicant may choose to complete an HMP for a site-specific analysis to better determine the impact to habitat and to determine the appropriate buffer width and associated building setbacks for their project based on the site-specific analysis. The preparation and submission of this report is the responsibility of the applicant. The report shall rely on best available science as defined in WAC 365-195-900 through 365-195-925 and shall be prepared by a qualified professional who is a biologist with five (5) years of experience preparing reports for the relevant type of habitat. The City may retain a qualified consultant at the applicant's expense to review and confirm the applicant's reports, studies and plans. The HMP shall clearly demonstrate that greater protection of the functions and values of critical areas can be achieved through the HMP than could be achieved through providing the prescribed habitat buffers and building setbacks. An applicant may propose to implement an HMP as a means to protect habitat buffers associated with streams and/or fish and wildlife conservation areas. Approval for an HMP shall not occur prior to the consultation with the appropriate federal or State agencies.

(b) Intent. HMPs are primarily intended as a means to restore or improve buffers that have been degraded by past activity, and should preserve, and not reduce, existing high-quality habitat buffers.

While not primarily intended as a means to reduce buffers, the HMP may propose a reduction of the habitat buffer width where it is shown that the HMP will comply with the other requirements of this section.

(c) Effect of Buffers. An HMP shall provide habitat functions and values that are greater than would be provided by the prescribed habitat buffers. When habitat buffers are a component of an HMP, they shall be at least the minimum size necessary to accomplish the objectives of the HMP. The HMP may propose, but the City shall not require, a habitat buffer containing a greater area than is required by the prescribed habitat buffer.

(d) Impact Mitigation. The HMP shall encompass an area large enough to provide mitigation for buffer reduction below the standard required buffers, and shall identify how the development impacts resulting from the proposed project will be mitigated as defined in BMC 20.14.750. The developer of the plan shall use the best available science in all facets of the analyses. ~~The Washington Department of Fish and Wildlife priority habitat and species management recommendations, and/or bald eagle protection rules outlined in WAC 232-12-292, as amended, may serve as guidance for this report~~.

(e) The assessment of habitats for the site and project shall at a minimum include the following information:

(1) A map prepared at an easily readable scale, showing:

(i) The location of the proposed development site;

(ii) Property boundaries;

(iii) The relationship of the site to surrounding topographic, water, and cultural features;

(iv) Proposed building locations and arrangements;

(v) A legend which includes a complete legal description, acreage of the parcel, scale, north arrow, and date of map revision;

(2) Detailed description of vegetation on and adjacent to the project area and its associated buffer;

(3) Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

(4) A discussion of any federal, State, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;

(5) A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;

(6) Enhancement of existing degraded buffer area and replanting of the disturbed buffer area with native vegetation;

(7) The use of alternative on-site wastewater systems in order to minimize site clearing;

(8) Retention of existing native vegetation on other portions of the site in order to offset habitat loss from buffer reduction;

(9) The need for fencing and signage along the buffer edge;

(10) A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with the mitigation sequencing required by this chapter; and

(11) A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring, maintenance, and enforcement programs.

(f) When appropriate due to the type of habitat or species present or the project conditions, the Director may also require the habitat management plan to include:

(1) An evaluation by an independent qualified professional regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate;

(2) A request for consultation with the Washington Department of Fish and Wildlife or the local Native American Indian tribe or other appropriate agency; and

(3) Detailed surface and subsurface hydrologic features both on and adjacent to the site, including a field determination of the ordinary high water mark or any surface waters and supporting documentation.

(g) Mitigation Measures. Possible mitigation measures to be included in the report, or required by the Director, could include, but are not limited to:

(1) Establishment of buffer zones;

(2) Preservation of critically important plants and trees;

(3) Limitation of access to habitat areas;

(4) Seasonal restriction of construction activities;

(5) Establishing phased development requirements; and

(6) Monitoring plan for a period necessary to establish that performance standards have been met. Generally this will be for a period of seven (7) to ten (10) years.

(h) HMP Adequacy. The HMP shall demonstrate to the satisfaction of the City that the habitat functions and values are improved by implementation of the HMP. If there is a disagreement between the City and the applicant as to the adequacy of the HMP, the issue of plan adequacy shall be resolved by consulting with the appropriate federal or State agency. If the federal or State agencies are not available in a timely manner, the applicant may choose to have the City refer the HMPs to a third-party consultant at the expense of the applicant. After consultation with such State departments or third-party consultant, the Director shall make a final decision on the adequacy of the HMP.

(i) Timing. An HMP must be developed and approved either prior to preliminary plat approval or issuance of the building permit, as applicable, and must be implemented before the City grants either final plat approval or an occupancy permit, as applicable.

20.14.750 MITIGATION STANDARDS AND CRITERIA.

(a) The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in this title, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the best available science in accordance with an approved habitat management plan and SEPA documents, so as to result in no net loss of critical area functions and values.

(b) Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

(c) Mitigation shall not be implemented until after the City's approval of an HMP that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved HMP.

(d) Mitigation Sequencing. Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following sequential order of preference:

(1) Avoiding the impact altogether by not taking a certain action or parts of an action;

(2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;

(3) Rectifying the impact to habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project;

(4) Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;

(5) Compensating for the impact to habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and

(6) Monitoring the hazard or other required mitigation and taking remedial action when necessary. Mitigation for individual actions may include a combination of the above measures.

(e) Mitigation Plan Requirements. When mitigation is required, the applicant shall submit for approval by the City a mitigation plan as part of the HMP. The mitigation plan shall include:

(1) Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

(i) A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria, identification of compensation goals, identification of resource functions, and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;

(ii) A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and

(iii) An analysis of the likelihood of success of the compensation project.

(2) Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this title have been met.

(3) Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

(i) The proposed construction sequence, timing, and duration;

(ii) Grading and excavation details;

(iii) Erosion and sediment control features;

(iv) A planting plan specifying plant species, quantities, locations, size, spacing, and density; and

(v) Measures to protect and maintain plants until established.

These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

(4) Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project (BMC20.14.760, Monitoring and Contingency Plan). A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years one (1), three (3), five (5), and seven (7) after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.

(5) Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met (BMC 20.14.760).

(6) Financial Guarantees. The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with bonds to ensure mitigation, maintenance, and monitoring (BMC 20.14.760).

(f) Innovative Mitigation.

(1) The city may encourage, facilitate, and approve innovative mitigation projects that are based on the best available science. Advance mitigation or mitigation banking are examples of alternative mitigation projects allowed under the provisions of this section wherein one (1) or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together if it is demonstrated that all of the following circumstances exist:

(i) Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation of many individual habitat areas;

(ii) The group demonstrates the organizational and fiscal capability to act cooperatively;

(iii) The group demonstrates that long-term management of the habitat area will be provided; and

(iv) There is a clear potential for success of the proposed mitigation at the identified mitigation site.

20.14.760 MONITORING AND CONTINGENCY PLAN.

(a) A monitoring program shall be included as a part of the approved mitigation plan for a fish and wildlife habitat conservation area. To ensure that the performance standards of the approved mitigation plan have been met, the mitigation and/or buffer enhancement site(s) shall be monitored for a minimum of five (5) years. A longer monitoring period may be required by the City based on either the initial mitigation plan or a review of subsequent monitoring reports. The monitoring reports shall be submitted on August 1st of each year during the monitoring period.

An acceptable surety device is required to ensure the applicant's compliance with the terms of the mitigation agreement.

Performance Surety. All mitigation and buffer enhancement shall be completed prior to final plat approval and/or building occupancy depending on the type of application. However, when improvements cannot be completed prior to final acceptance due to weather conditions which may negatively affect the success of the project, a performance surety may be used. The performance surety shall equal one hundred fifty (150) percent of the cost of the mitigation project, and the required improvements shall be installed in a satisfactory manner within six (6) months or less.

(1) Maintenance Surety. A maintenance surety shall be required on all mitigation projects to ensure that the improvement successfully survives the monitoring periods set above.

(i) Mitigation Projects. The amount of the maintenance surety shall be equal to fifteen (15) percent of the cost of the mitigation project and the term of the surety shall reflect the term of the monitoring program.

(ii) Buffer Enhancement Projects. The amount of the maintenance surety shall be equal to fifteen (15) percent of the costs of the enhancement project and the term of the surety shall reflect the term of the monitoring program.

(2) Monitoring Deposit. A cash deposit shall be submitted with all sureties prior to final acceptance of the project to cover the estimated City costs to review the yearly monitoring reports and conduct a site inspection to ensure the performance standards are being met.

(b) Long-Term Maintenance. To ensure the long-term success of the fish and wildlife habitat conservation area, the applicant or their heirs or successors shall be responsible for the long-term maintenance of the habitat area and its associated buffer. The habitat and buffer shall be kept clear of weeds, invasive plant material, lawn clippings, junk, debris, intrusions or the like.

Chapter 20.40
ADMINISTRATION

Sections:

20.40.010 TITLE.
20.40.020 AUTHORITY.
20.40.030 INTENT AND PURPOSE.
20.40.040 ADMINISTRATIVE AUTHORITY.
20.40.050 DEFINING "SHALL" AND "MAY."
20.40.060 MINIMUM REQUIREMENTS.
20.40.070 CONFLICTS.
20.40.080 INTERPRETATIONS.
20.40.090 ZONING DESIGNATIONS.
20.40.100 ZONING MAP INTERPRETATIONS.
20.40.110 COMPLIANCE WITH OTHER LAWS.
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20.40.130 PROPERTY OWNER/ APPLICANT RESPONSIBILITY.
20.40.140 SCOPE OF UNLAWFUL ACTIVITY.
20.40.150 SIMILAR USE DETERMINATION.
20.40.160 PROHIBITED USES.
20.40.170 COMPREHENSIVE PLAN AND ZONING CONSISTENCY.
20.40.180 ENFORCEMENT.
20.40.190 PROHIBITION OF FURTHER PERMITS OR APPROVALS.
20.40.200 VIOLATION - PENALTY.

20.40.010 TITLE.
This title shall be known as the "City of Bremerton zoning code." This code shall consist of this text and the map entitled "City of Bremerton official zoning map."

20.40.020 AUTHORITY.
This title is adopted pursuant to Chapters 35.63 and 36.70A RCW.

20.40.030 INTENT AND PURPOSE.
The intent of this title is to regulate the physical development of all lands within the City of Bremerton's jurisdiction, except federally owned properties, in order to provide for orderly development within the City. The purpose is:
(a) To implement the City's Comprehensive Plan;
(b) To protect the community's social and economic stability, as well as the positive qualities and unique characteristics of all areas throughout the community;
(c) To address both natural and manmade environmental considerations as part of the land use and development permitting processes; and
(d) To ensure the orderly and beneficial development and use of all lands by:
(1) Reserving an adequate supply of developable land area for each major category of land use and in the most appropriate locations;
(2) Preventing the encroachment of incompatible uses; and
(3) Providing clear, concise regulations and development guidelines that are consistent with City goals and visions.
(e) To protect the public's health, safety and welfare as a whole and not to create a duty of protecting any person or class of persons.

20.40.040 ADMINISTRATIVE AUTHORITY.
The Director shall have the authority to make and issue orders, rules, requirements, permits, interpretations, decisions, or determinations as necessary in the administration and enforcement of the provisions of this title, except when provided for otherwise.

20.40.050 DEFINING "SHALL" AND "MAY."
The word "shall" is always mandatory; the word "may" denotes a use of discretion in making a decision.

20.40.060 MINIMUM REQUIREMENTS.
The provisions set forth in this title shall constitute the minimum requirements necessary to promote the public health, safety, morals, and general welfare.

20.40.070 CONFLICTS.
The provisions of this title shall govern when this code imposes a greater restriction than is required by other ordinances, regulations, easements, covenants, or other agreements. In the case of internal conflicts within this code, the most restrictive provision shall prevail.

20.40.080 INTERPRETATIONS.
The Director shall have the authority to make written interpretations when necessary for clarification or to resolve conflicts within these regulations. The Director's interpretations are processed as a Type I Director's decision as prescribed in Chapter 20.02 BMC. Any person may submit a written request for a code interpretation to the Director, or the Director may issue a code interpretation on the Director's own initiative. A request for a code interpretation shall include the following:
(a) The provision of this title for which an interpretation is requested;
(b) Why an interpretation of the provision is necessary;
(c) Any reason or material in support of a proposed interpretation; and
(d) Any fees adopted pursuant to Chapter 3.01 BMC by the City Council.

20.40.090 ZONING DESIGNATIONS.
Zoning is the primary implementing tool of the Comprehensive Plan. The Plan's land use designations provide the basis for the official zoning map, which breaks each of those designations into more specific zones. Each zone includes the land use standards and development requirements for development in each zone. Figure 20.40(a) lists the zones and the general category of each zone, which are included herein.

20.40.100 ZONING MAP INTERPRETATIONS.
The Director shall use the following criteria to interpret the official zoning map:
(a) Where a zone boundary is indicated as approximately following a property line, the property line is the zone boundary.
(b) Where a zone boundary is indicated as following a street or other right-of-way, the centerline of the street or right-of-way is the zone boundary.
(c) Where a zone abuts or extends into a lake or into Puget Sound, the zone boundary extends into that body of water to the full limit and territorial extent of the jurisdiction and control of the City.
(d) Where a zone boundary is not indicated to follow a property line, street, or other right-of-way, the boundary line is as drawn, based on the scale shown on the zoning map.

20.40.110 COMPLIANCE WITH OTHER LAWS.
Nothing in this title shall be construed to excuse compliance with other applicable federal, state, or local laws or regulations.

20.40.120 CITY LIABILITY.
Nothing in this title shall be construed to impose any duty upon the City or any of its officers or employees so as to subject them to liability for damages not otherwise imposed by law to protect individuals from personal injuries or property damage.

20.40.130 PROPERTY OWNER/APPLICANT RESPONSIBILITY.
(a) It is the intent of this title to place the obligation of complying with the requirements of this title and all applicable laws and regulations upon the owner, and jointly and severally upon the occupant of the land and buildings within its scope.
(b) The applicant is responsible to provide accurate and complete information and plans to comply with the requirements of this title and all applicable laws and regulations. The City is not responsible for the accuracy of information or plans provided to the City for review or approval.

20.40.140 SCOPE OF UNLAWFUL ACTIVITY.
It shall be unlawful for any person, firm or corporation to erect, construct, alter, repair, move, remove, convert, demolish, use, occupy, or maintain any structure or use of land, or any portion, in violation of the provisions of this title. The violation shall exist until the unlawful act and/or unlawful use has been remedied or abated.

20.40.150 SIMILAR USE DETERMINATION.
Whenever a proposal is not listed as a permitted, conditional or accessory use in the zone, it may be permitted in that zone if the Director determines it is a use similar to a listed use for that zone.
(a) The applicant shall make in writing requests for a similar use determination. The determination shall be processed as a Type I Director's decision as set forth in the procedures for a Type I decision in Chapter 20.02 BMC.
(b) The Director shall issue a decision in writing and shall consider the scale, visual impacts, traffic generation, relationship to surroundings, and other factors which influence and/or define the nature of the proposal.
(c) If the proposal is found to be similar to a listed use, the proposal shall be subject to all standards, requirements and permitting processes to which the listed use is subject.

20.40.160 PROHIBITED USES.
(a) No use that is illegal under local, state, or federal law shall be allowed in any zone within the City.
(b) Any use not listed as a permitted, conditional or accessory use by the zone; or any use not determined to be a similar use pursuant to BMC 20.40.150; or any use not found to be an allowable accessory use to the principle use shall be prohibited within that zone unless allowed otherwise by law.
(c) A collective garden, as defined in BMC 20.42.040, is prohibited in all zoning districts of the City.
(1) Any violation of this section is declared to be a public nuisance per se, and shall be abated by the City Attorney under applicable provisions of this code or State law, including, but not limited to, the provisions of Chapter 1.04 BMC;
(2) 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, State, or Federal law or statute.

20.40.170 COMPREHENSIVE PLAN AND ZONING CONSISTENCY.
Regulations used to implement the Comprehensive Plan must be consistent with the Plan. Figure 20.40(~~b~~a) identifies the relationships between a Comprehensive Plan designation and establishes the zoning districts that may be approved within each Comprehensive Plan designation.

20.40.180 ENFORCEMENT.

(a) It is the duty of the Director to enforce the provisions of this title. Enforcement actions may include one or more of the following:

(1) Withhold or revoke land use permits or approvals;

(2) Withhold or revoke building permits for construction or alteration of a structure, abatement of structures;

(3) Revocation of use permits and variances;

(4) Enforcement through Chapter 1.04 BMC;

(5) Filing a court action in a court of competent jurisdiction.

(b) Land Use/Permit Revocation. A permit or land use approval may be revoked if:

(1) The work is not authorized by a valid permit or approval;

(2) Inaccurate or incorrect information was used to obtain the permit or approval or the permit or approval was issued in error;

(3) The permittee is not complying with the terms of the permit or approved plans;

(4) The permittee is in violation of the requirements of this chapter or of any land use ordinance, statute, or regulation; or

(5) The work is, in the Director's judgment, a hazard to property or public safety, is adversely affecting or about to adversely affect adjacent property or rights-of-way, a drainage way, watercourse, sensitive areas or storm water facility, or is otherwise adversely affecting the public health, safety, or welfare.

(c) Revocation of a permit or land use approval shall be made by:

(1) The Director for Type I and Type II permits subject to the right of appeal as set forth in BMC 20.02.140.

(2) The Administrative Hearing Examiner for a Type III permit subject to the right of appeal as set forth in BMC 20.02.140 and Chapter 36.70C RCW.

(3) The Council for a Type IV permit as set forth in BMC 20.02.140 and Chapter 36.70C RCW provided by law.

20.40.190 PROHIBITION OF FURTHER PERMITS OR APPROVALS.

The City shall not accept, process, or approve any application for a subdivision or any other land use permit or approval, or issue a certificate of occupancy for property on which a violation of this title has occurred until the violation is cured by restoration or other means accepted by the Director and by payment of any penalty imposed for the violation.

20.40.200 VIOLATION - PENALTY.

(a) Any violation of any provision of this title constitutes a civil violation under Chapter 1.04 BMC for which a monetary penalty may be assessed and abatement may be required as provided therein.

(b) In addition to, or as an alternative to, any other penalty provided in this chapter or by law, any person who violates any provision of this title shall be guilty of a misdemeanor pursuant to BMC 1.12.020(2).

Figure 20.40(a)

~~The following figure lists the zones in BMC Title 20, Land Use, by major category of residential, commercial, industrial, centers and special districts.~~

~~Figure 20.40(a) ZONING DESIGNATIONS~~

~~Category~~	~~Zoning District~~	~~Chapter~~
~~Residential~~	~~Low Density Residential (R-10)~~	~~20.60~~

	~~Multiple Residential (MR)~~	~~20.77~~
	~~City Core Residential (CCR)~~	~~20.78~~
~~Commercial~~	~~Commercial Corridor (CC)~~	~~20.62~~
	~~Wheaton Way Redevelopment Corridor (WWRC)~~	~~20.64~~
	~~Neighborhood Business (NB)~~	~~20.82~~
	~~Limited Commercial (LC)~~	~~20.84~~
	~~Freeway Corridor (FC)~~	~~20.86~~
~~Industrial~~	~~Marine Industrial (MI)~~	~~20.88~~
	~~Industrial Park (IP)~~	~~20.90~~
	~~Industrial (I)~~	~~20.94~~
~~Downtown Center and Centers~~	~~Neighborhood Center Core (NCC)~~	~~20.66~~
	~~District Center Core (DCC)~~	~~20.70~~
	~~Business Core (BC)~~	~~20.74~~
	~~Downtown Core (DC)~~	~~20.75~~
	~~Downtown Waterfront (DW)~~	~~20.76~~
	~~Employment Center (EC)~~	~~20.92~~
	~~Master Development (MD)~~	~~20.80~~
~~Special Districts~~	~~City Utility Lands (CUL)~~	~~20.96~~
	~~Watershed (WS)~~	~~20.97~~
	~~Institutional (INST)~~	~~20.98~~

Figure 20.40(~~b~~a)

The following figure lists the Bremerton Comprehensive Plan Land Use Map designations with corresponding BMC Title 20, Land Use, implementing zoning districts.

Figure 20.40(~~b~~a) COMPREHENSIVE PLAN/ZONING CONSISTENCY

COMPREHENSIVE PLAN DESIGNATION	IMPLEMENTING ZONING DISTRICTS
Low Density Residential (LDR) ~~Open Space (OS)~~	Low Density Residential (R-10)
Medium Density Residential (MDR)	Low Density Residential (R-10) Medium Density Residential (MDR)
Multifamily Residential (MR)	Low Density Residential (R-10)

	Medium Density Residential (MDR) Multifamily Residential (MR)
~~Core Centers Supporting Residential (CCSR)~~	~~City Core Residential (CCR)~~
~~Neighborhood Centers (NC)~~	~~Low Density Residential (R-10)~~ ~~Neighborhood Center Core (NCC)~~
District Centers (DC)	~~Low Density Residential (R-10)~~ District Center Core (DCC)
Employment Center (EC)	Employment Center (EC) ~~Master Development (MD)~~ ~~Institutional (INST)~~ ~~Low Density Residential (R-10)~~
Downtown Regional Center (DRC)	~~Commercial Corridor (CC)~~ Business Core (BC) Downtown Core (DC) Downtown Waterfront (DW) ~~Multiple Residential (MR)~~ Neighborhood Business (NB) ~~Limited Commercial (LC)~~ ~~Low Density Residential (R-10)~~
Manufacturing and Industrial Center (MIC)	Puget Sound Industrial Center-Bremerton (PSIC) Industrial (I)
~~Commercial Corridor (CC)~~ General Commercial (GC)	~~Commercial Corridor (CC)~~ General Commercial (GC)
~~Wheaton Way Redevelopment Corridor (WWRC)~~	~~Wheaton Way Redevelopment Corridor (WWRC)~~
Freeway Corridor (FC)	Freeway Corridor (FC)
Neighborhood Business (NB)	Neighborhood Business (NB)
~~Limited Commercial (LC)~~	~~Limited Commercial (LC)~~
Industrial (I)	Industrial (I) ~~Industrial Park (IP)~~ City Utility Land (CUL)
~~Industrial Park (IP)~~	~~Industrial Park (IP)~~
~~Marine Industrial (MI)~~	~~Marine Industrial (MI)~~
Higher Education (HE)	Institutional (INST)

~~Public Sector Redevelopment Site (PSRS)~~	~~Low Density Residential (R-10)~~ ~~Master Development (MD)~~ ~~Institutional (INST)~~
~~Transportation, Utilities and Public Facilities (TUPF)~~	~~Industrial Park (IP)~~ ~~City Utility Lands (CUL)~~
City Utility Lands (CUL)	City Utility Lands (CUL) Watershed Lands (WS)
Watershed Lands (WS)	Watershed Lands (WS)
~~Reserve Center (RC) (Overlay)~~	~~Per the implementing zones of the underlying Comprehensive Plan designation~~
~~Homeport - PSNS~~ ~~Industrial Support - PSNS~~ Naval Base-Kitsap	~~PSNS~~ Naval Base-Kitsap

Chapter 20.42
DEFINITIONS

Sections:

20.42.010 INTRODUCTION TO DEFINITIONS.
20.42.040 DEFINITIONS.

20.42.010 INTRODUCTION TO DEFINITIONS.

Terms not defined herein shall take their meaning from definitions in the Comprehensive Plan, Shoreline Master Program and other ordinances incorporated by reference. If a specific term is not defined or referenced, it shall take its normal and customary meaning within the context of how it is used. When not inconsistent with the context, words used in the present tense include the future, words in the singular include the plural, and words in the plural include the singular. The following terms are defined in this chapter and shall be applied to the provisions of this title.

20.42.040 DEFINITIONS.

The following definitions shall be applied within this title:

(a) Definitions "A":

"**Abandoned sign**" means any sign, including its structure and other components, which is located on vacant property or an unoccupied building for a period of one (1) year or more and which, during that time, is not used for legal sign purposes; or which relates to a time, event or purpose which no longer applies; and/or which has been allowed to deteriorate to become a public hazard or eyesore.

"**Abandonment**" or "**abandoned**" means to cease operation for a period of ninety (90) or more consecutive days unless documentation is provided to the City that negotiations are underway potentially leading to the sale, lease, or resumption of operations, in which case a wireless telecommunications facility may not be considered abandoned for an additional period not to exceed ninety (90) days.

"**Accessory dwelling unit (ADU)**" means a second dwelling unit on a lot with an existing principal unit added to or created for use as a complete, independent or semi-independent living unit with provisions for cooking, eating, sanitation and sleeping, and which complies with the development and design standards contained in this code for ADUs (BMC 20.46.010).

"**Accessory use, activity or structure**" means a use, activity, structure or part of a structure which is subordinate and incidental to the permitted principal use or building, located on the same lot or parcel with such principal use or building, and erected or established only after or in conjunction with the establishment of the principal use or building.

"**Acre, gross**" means a measurement of land equal to forty-three thousand five hundred sixty (43,560) square feet with no deductions or subtractions for elements such as public or private streets or nondevelopable areas. (See also "**Acre, net**.")

"**Acre, net**" means a measurement of land after subtracting public and private streets, rights-of-way, and other unusable or nondevelopable areas of land from a gross acre of land (forty-three thousand five hundred sixty (43,560) square feet). (See also "**Acre, gross**.")

"**Adjoining**" or "**adjacent**" means property that touches or is directly across a public or private right-of-way. This does not include property across from limited access highways or arterials with four (4) lanes of traffic or more.

"**Administrative Hearing Examiner**" means a person appointed with the powers set forth in Chapter 2.13 BMC. The term "**Administrative Hearing Examiner**" shall likewise include the Examiner Pro Tem. As used in this chapter, "**Administrative Hearing Examiner**" shall not mean the Municipal Court Hearing Examiner established pursuant to Chapter 2.62 BMC.

"**Adult entertainment business**." See BMC 20.46.110.

"**Adult family home**" means a residential home in which a person or persons provide personal care, special care, room, and board to more than one (1) but not more than six (6) adults who are not related by blood or marriage to the person or persons providing the services; provided, however, any limitation on the number of residents resulting from this definition shall not be applied if it prohibits the City from making reasonable accommodations to disabled persons in order to afford such persons equal opportunity to use and enjoy a dwelling as required by the Fair Housing Amendments Act of 1988, 42 U.S.C. 3604(f)(3)(b).

"**Alley**" means any public right-of-way or thoroughfare having a typical width of at least ten (10) feet, but generally not more than thirty (30) feet, which has been dedicated or deeded to the public for public use and which affords only secondary means of access to abutting properties, primarily for service purposes.

"**Alteration**" means any change in the size, shape, method of illumination, position, location, construction or the supporting structure of a sign.

"**Alteration, structural**" means any changes or repairs to the supporting members of a structure, or to the configurations of the roof or exterior walls, that would prolong the life of the supporting members of a building or structure. This does not include minor actions such as adding a doorway or window, or attaching architectural features, appurtenances, or adornments.

"**Antenna tower**" means any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including but not limited to self-supporting lattice towers, guy towers or monopole towers.

(1) "**Type I tower**" means a tower up to, but not exceeding, sixty (60) feet in height.

(2) "**Type II tower**" means a tower greater than sixty (60) feet in height.

"**Antenna, wireless**" means any exterior equipment attached or mounted to a building or tower in the form of one or more rods, panels, discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

(1) An "**omnidirectional antenna**" transmits and receives radio frequency signals in a three hundred sixty (360) degree radial pattern. For the purpose of the provisions set forth in BMC 20.46.140, an omnidirectional antenna is up to fifteen (15) feet in height and up to seven (7) inches in diameter. If otherwise meeting the definition, a whip antenna is considered an omnidirectional antenna.

(2) A "**directional antenna**" transmits and receives radio frequency signals in a specific directional pattern of less than three hundred sixty (360) degrees.

(3) A "**parabolic antenna**" is a device of generally parabolic shape for the reception and transmission of radio frequency signals in a specific directional pattern. Also referred to as a satellite dish.

"**Applicant**" means a person who applies for any permit or approval to do anything governed by this title and who has legal standing to apply for a permit or approval on the specific property.
"**Appurtenance**" or "**appendage**" means a supplemental component, architectural feature, or decoration that has been added to or extends outward from the exterior of a building wall and is not a primary component of the structure itself. This includes bay windows, low decks, open porches, awnings, chimneys, and other similar features.
"**Area of a sign**" means the total space within the frame or outer dimensions of a sign and including any logos or other artistic or architectural features that are directly related to or an integral part of the sign. (See also BMC 20.52.060, Sign measurements.)
"**Art gallery**" means a room or series of rooms where art such as paintings, sculptures or other works are exhibited.
"**Art studio**" means a loft, room, group of rooms or building in which an artist works. This includes facilities for the production of photographic works (still or motion), painting, sculpture, dance, music or similar activities. A studio is often found in combination with a gallery or may be an accessory use to a retail business or other use. This does not include incidental artist work areas within a residence, which produce no odors or noise that negatively impact adjacent properties.
"**Assisted living facility**" means a residential facility for elderly persons (age fifty-five (55) or older) who require moderate to extensive assistance with daily tasks such as cooking, eating, bathing, housekeeping, dispensing of medicines, shopping, appointments and other tasks.
"**Automobile sales**" means an establishment primarily engaged in the sale or rental of personal or commercial vehicles such as cars, trucks, vans, recreational vehicles, boats, ~~or~~ motorcycles, etc~~.~~. See **"Retail, general"** for clarification of automobile sales that are wholly indoors.
"**Automobile service and repair**" means an establishment primarily engaged in repairing, maintaining, or servicing automobiles, including battery exchange station.
"**Awning/canopy**" means a temporary or movable shelter (awning), or a fixed rigid shelter (canopy) supported entirely by the exterior wall of the building and generally extending over a pedestrian walkway. When used in conjunction with signs, only that portion of the awning or canopy that is actually used as a sign shall be included in sign area calculations. Lighting of the awning or canopy, whether directly, indirectly, or by back-lighting, shall have no effect on the sign requirements, unless lighted signs are specifically prohibited in that area or zone.

(b) Definitions "B":

"**Battery charging station**" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by Chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.
"**Battery exchange station**" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by Chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

"**Bay window**" means a window projecting outward from an exterior wall of a structure. The protrusion has a maximum depth of thirty (30) inches, and a maximum horizontal width of twelve (12) feet. The base of the projecting window is at least twenty-four (24) inches above grade directly below the center of the window.

"**Bed and breakfast**" means an owner-managed and owner-occupied residential single-unit dwelling in which rooms or other overnight accommodations are rented on a nightly basis. Meals may be included that are included as part of the basic compensation. This does not include group residential homes, boarding and rooming houses.

~~"**Boarding house**" or "**rooming house**" means a single-unit residential structure in which rooms without kitchens are provided for nontransient persons and may include meals. This does not include licensed care-providing facilities.~~

"**Buffering**" means a structural, earthy, or vegetative form used to minimize the impacts of one land use upon another. A buffer may include any one or a combination of fences, walls, berms, high shrubs, trees, or other landscaping. Distance separation is also a form of buffering.

"**Building code**" means the International Building Code and related codes as amended and adopted by the City of Bremerton.

"**Building coverage**" means that portion of a lot covered by the roof areas of all structures. This shall not include open decks up to thirty (30) inches above ground, except if it provides a roof over occupancy underneath.

"**Building envelope, allowable**" means the three (3) dimensional space within which a structure is permitted to occupy. Height, floor area ratio, setbacks, lot coverage and similar restrictions establish the building envelope.

"**Building line**" means a line on a lot, generally parallel to property lines and located a sufficient distance from the property lines, to provide the minimum yard areas required by this code. Building lines establish the area within which buildings are permitted and do not necessarily correspond with the location of any existing structures or other improvements.

"**Bulletin board/kiosk**" means a permanent sign structure intended to accommodate changeable copy such as private or public notices, special event information, and other short-term messages, and generally at a scale suitable for pedestrians and not intended to be read by passing motorists. ~~These signs are exempt from sign permits and size requirements if they are provided for the use of the general public and not for commercial advertising purposes.~~

(c) Definitions "C":

"**Car wash**" means a business engaged in washing, waxing, polishing, and general cleaning of automobiles, small trucks, light utility vehicles and small recreational vehicles, but that is not designed to handle larger commercial trucks and buses. It includes self-service, full-service, and automated car washes and auto detailing services.

"**Caretaker**" means a person who maintains or watches over someone else's land or property on a part-time or full-time schedule. The caretaker may live on the property or elsewhere.

"**Caretaker's residence**" means an accessory dwelling unit provided by the owner of a property to be used exclusively as living quarters for the caretaker(s) of that property.

"**Carport**" means an attached or detached partially enclosed accessory structure intended primarily for the storage of private vehicles such as automobiles, light trucks, or recreational vehicles which is open to the weather on at least two (2) sides.

~~"**Cell on wheels (COW)**" means a mobile telecommunications facility transported by a motor vehicle for temporary on-site use.~~

"**Change of use**" means a change in the utilization or occupancy of a property or building from one use to another.

"**Changeable copy/readerboard sign**" means a sign structure that may be internally or externally illuminated and intended to accommodate changeable lettering, numbering, graphic displays, or other short-term messages. Generally used for commercial advertising or for public service announcements of current or coming events. (Also see "**Public information/identification sign**.")

"**City**" means the City of Bremerton, Washington.

"**Collective garden**" means gardens established and/or maintained for the growing, production, transportation, and delivery of cannabis, by qualifying patients, for medical use, as defined in RCW 69.51A.085, as currently enacted and hereinafter amended.

~~"**Co-location**" means the placing of a wireless telecommunications antenna on an existing support structure.~~

"**Community facility**" means a facility operated by a public agency or nonprofit organization for social gatherings, meetings, learning, recreation, programs to promote economic independence, or similar functions.

~~"**Concealed**" means 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.~~

"**Construction sign**" means a sign that relates directly to a construction project taking place on the premises and may include such information as the name of the project and contractors, phone numbers, completion dates, and similar information about the project.

(d) Definitions "D":

"**Day care facility**" means a facility licensed by the state of Washington and approved by the City to provide regular care for adults or children for periods of less than twenty-four (24) hours.

"**Deck**" means an open platform wider than eighteen (18) inches. A deck may be freestanding, cantilevered from a building, or connected to the ground with steps or ramps. A deck that is higher than thirty (30) inches above finish grade may be referred to as a raised deck, a rooftop deck, a balcony, or other suitable term.

"**Density**" means a measure of residential concentration, usually expressed as the number of dwellings per acre of land. For the purposes of calculating allowable densities within this code, density shall be measured on a "net" basis, whereby unusable areas such as rights-of-way and lands in public or shared ownership shall be deducted from the overall area in the calculation. For example, a one hundred and twenty (120) acre area containing twenty (20) acres of rights-of-way and public lands and three hundred (300) dwellings has a (net) density of three (3) dwellings per acre (three hundred (300) dwellings/one hundred (100) usable acres). (See also "**Acre, net**" and "**Acre, gross**.")

"**Density, maximum**" means the maximum number of dwellings allowed per the net buildable acreage as stated for each zone. Where not specified in a zone chapter, no maximum density shall apply.

"**Density, minimum**" means the minimum number of required dwellings per net buildable acre as stated for each zone. Where not specified in a zone chapter, no minimum density shall apply.

"**Detached**" means any residential structures on the same lot that are not connected and have a fire separation of no less than six (6) feet as defined in Section R 302 of the IRC. For commercial structures see the International Building Code.
"**Detoxification center**" means a facility providing for the care and treatment of an intoxicated person during the period in which the person recovers from the transitory effects of acute intoxication.
"**Development coverage**" means that portion of a lot covered by the impervious surface areas of all structures, and impervious paved areas, such as driveways and walkways.
"**Directional sign**" means a permanent sign which is designed solely for the purpose of directing motor vehicle, pedestrian, bicycle, or other traffic, or individuals toward a specific destination or route.
"**Director**" means Bremerton's Director of Community Development and his/her designee.
"**Drinking place**" means an establishment selling intoxicating beverages for consumption on the premises.
"**Driveway**" means a private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure.
"**Drive-through facility**" means an automobile-oriented component of a permitted use that includes both service window(s) and a stacking lane designed primarily for drive-through trade, and which provides service and caters to patrons while in their motor vehicles. (See BMC 20.44.120.)
"**Duplex**" means a structure containing two (2) dwelling units on a single lot.
"**Dwelling unit**" means a living space or combination of rooms designed to provide independent year-round living facilities for one (1) family or household, constructed to the minimum standards of the IBC or HUD Code, and with provisions for sleeping, eating and sanitation.
"**Dwelling, conventional**" means any building or structure that is built or assembled (in the case of a modular structure) on the site and in conformance with the provisions of the International Building Code (IBC).
"**Dwelling, duplex"** means a building designed and arranged exclusively for occupancy by two (2) families living independently of each other in separate dwelling units.
"**Dwelling, modular or factory-built**" means buildings or structures that are constructed primarily in a factory and transported to the site for assembly or installation. All temporary wheels, axles, and other appliances used in the transport are removed at the destination and the structure is permanently placed, unless approved as a temporary placement by the City. Such structures are constructed to the standards of either the International Building Code (IBC) or the HUD Code. (See also "**Manufactured home**.")
"**Dwelling, multi-unit structure**" means a structure containing three (3) or more dwelling units. (Also referred to as a "multifamily structure.") Multi-unit structures also include:

(1) **"Dormitories"** means a structure intended principally for sleeping accommodations, where no individual kitchen facilities are provided, and which is related to an educational institution or maintained by a non-profit welfare organization.

"**Dwelling, single-unit attached**" means two (2) single-unit dwellings (houses) that are attached at a common side lot line with each dwelling located entirely on its own lot. This does not include row houses or other housing types having more than two (2) attached units. (See also "**Zero lot line**.")

"**Dwelling, single-unit structure**" means a structure containing one (1) dwelling unit. (Also referred to as a "single-family dwelling," or a "house.")

"Dwelling, townhouse" for purposes of this code, means a single-unit structure in a row of at least three (3) or more such units in which each unit has its own access to the outside, no unit is located over another, and each is separated from any other unit by one (1) or more common fire-resistant walls.

(e) Definitions "E":

"**Education**" and "**school**" means an institution primarily engaged in teaching and learning, operated by a public school district, nonprofit organization, or a private organization. Business and trade schools and Montessori schools are included, as are satellite buildings of higher education colleges.

"**Education, higher and college**" means a higher education college or university primarily engaged in teaching and research, and comprised of multiple educational buildings within a campus setting.

"**Electric vehicle charging station**" means a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle. An electric vehicle charging station equipped with Level 1 (one hundred twenty (120) volts) or Level 2 (two hundred forty (240) volts) charging equipment is permitted outright as an accessory use to any principal use.

"**Electric vehicle infrastructure**" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

"**Entertainment use**" means an establishment with a primary function as a venue for entertainment activities in an indoor facility, excluding motion picture theaters and adult entertainment. Entertainment uses include video arcades, bowling alleys, billiard halls, performing arts centers, dance halls/night clubs and similar uses.

"**Equipment structure**" means a structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated electronic equipment may include air conditioning, backup power supplies and emergency generators.

(f) Definitions "F":

~~"**FAA**" means the Federal Aviation Administration.~~

~~"**FCC**" means the Federal Communications Commission.~~

"**Fence**" means a structure built to prevent escape or intrusion, or to provide privacy, screening, or buffering from noise or other undesirable impacts or activities beyond the property line. Also includes freestanding walls.

"**Finance**," "**insurance**" and "**real estate**" means an establishment primarily involved in finance, such as depository and nondepository institutions, holding companies, investment companies, and brokers; insurance, such as carriers of all types, agents and brokers; and real estate, such as leasers, buyers, sellers, agents and developers.

"**Foster home**" means a dwelling unit in which a full-time resident provides temporary care and supervision on a full-time basis to not more than six (6) foster children, three (3) expectant mothers, or three (3) other adults requiring full-time care.

"**Franchise business**" means a business granted authorization by a manufacturer or parent company to sell or distribute goods or services at a certain location.
"**Freestanding sign**" means a sign which is designed solely for the purpose of directing motor vehicle, pedestrian, bicycle, or other traffic, or individuals, toward a specific destination or route, which is not affixed to a building.
"**Frontage**" means the actual length of the front property line abutting a street or alley (if no street frontage), or length of the property line of a flag lot that most closely parallels the street it most directly relates to.

(g) Definitions "G":

"**Garage**" means an attached or detached enclosed accessory structure intended primarily for the storage of private vehicles such as automobiles, light trucks or recreational vehicles.
"**Gas station**" means a land use involving the retail sale of gasoline or other motor vehicle fuel or oil, including electric vehicle rapid charging stations. Gas stations include self-service and full-service operations.
"**Grade**" means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line. When the property line is more than five (5) feet from the building, grade is the lowest point of elevation of the finished surface between the building and a line five (5) feet from the building. For structures built over water, "**grade**" shall mean the elevation of the ordinary high water mark. For the purposes of signs, "**grade**" is the level of the ground surface immediately below a sign or proposed sign location, and where slope is involved is the average of the levels at each supporting member of the sign's structure.
"**Grade, average final**" means the average of the final grade that will be directly under the proposed building or structure. Calculations of the average final grade shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure.
"**Grade, existing**" means the grade or topography existing prior to any excavation, clearing, grading or filling.
"**Gross floor area (g.f.a.)**" means the sum of all horizontal areas of floors of a structure when measured from the exterior faces of exterior walls, including glazed or screened porches.
~~"**Group residential**" means shared living quarters without separate kitchen facilities for each room or unit. This classification includes group care residence for those whose permanent residence is the group residential facility. It does not include transient lodging. This definition shall not be construed to include crisis care facilities, detoxification centers or housing of sexually violent predators, as defined in RCW 71.09.020(16).~~
~~"**Group residential facility - Class I (assisted living)**" means a group care residence for seven (7) or more children and/or adults who for various reasons cannot reside in their natural homes; and/or for persons who have severe chronic disabilities or physical handicaps that cause substantial functional limitations. This facility may provide physical therapy and training in social skills. It does not include facilities to which persons are assigned as a result of criminal conviction or those where residents, individually or by their legal guardians, are not free to terminate their residency at will.~~
~~"**Group residential facility - Class II**" means a group care residence for juvenile delinquents, the mentally ill, persons serving a sentence in lieu of confinement, persons needing correctional or mental rehabilitation, or persons needing rehabilitation and treatment for social and/or family~~

~~problems, drug or alcohol addiction, or abuse. This definition includes programs providing alternatives to imprisonment; transition back into the community including prerelease, work-release, and probationary programs that are under the supervision of a court, state, or local agency. Teaching of work or social skills may be provided in this class facility but it does not include drug or alcohol detoxification centers.~~

~~"**Group residential home**" means a residential home in which a person or persons provide personal care, special care, room, and board to more than one (1) but not more than six (6) children and/or adults who are not related by blood or marriage to the person or persons providing the services; provided, however, any limitation on the number of residents resulting from this definition shall not be applied if it prohibits the City from making reasonable accommodations to disabled persons in order to afford such persons equal opportunity to use and enjoy a dwelling as required by the Fair Housing Amendments Act of 1988, 42 U.S.C. 3604(f)(3)(b).~~

"**Group residential**" means a place of residence for persons with physical, developmental or mental disabilities, homeless or otherwise dependent persons (not including dormitories), typically with shared living quarters without separate kitchen facilities for each room or unit. Group Homes are intended to provide residential facilities in a home-like environment. Such homes range from licensed establishments operated with 24 hour supervision to non-licensed facilities offering only shelter. This classification includes group care residence for those whose permanent residence is the group residential facility. It does not include transient lodging. This definition shall not be construed to include crisis care facilities, detoxification centers or housing of sexually violent predators, as defined in RCW 71.09.020(18). Group residential facilities are categorized as follows:

(1) "**Group residential home**" means a residential home in which a person or persons provide personal care, special care, room, and board to more than one (1) but not more than six (6) children and/or adults who are not related by blood or marriage to the person or persons providing the services; provided, however, any limitation on the number of residents resulting from this definition shall not be applied if it prohibits the City from making reasonable accommodations to disabled persons in order to afford such persons equal opportunity to use and enjoy a dwelling as required by the Fair Housing Amendments Act of 1988, 42 U.S.C. 3604(f)(3)(b).

(2) "**Group residential facility - Class I (assisted living)**" means a group care residence for seven (7) or more children and/or adults who for various reasons cannot reside in their natural homes; and/or for persons who have severe chronic disabilities or physical handicaps that cause substantial functional limitations. This facility may provide physical therapy and training in social skills. It does not include facilities to which persons are assigned as a result of criminal conviction or those where residents, individually or by their legal guardians, are not free to terminate their residency at will.

(3) "**Group residential facility - Class II**" means a group care residence for juvenile delinquents, persons serving a sentence in lieu of confinement, persons needing correctional or mental rehabilitation, or persons needing rehabilitation and treatment for social and/or family problems, drug or alcohol addiction, or abuse. This definition includes programs providing alternatives to imprisonment; transition back into the community including prerelease, work-release, and probationary programs that are

under the supervision of a court, state, or local agency. Teaching of work or social skills may be provided in this class facility but it does not include drug or alcohol detoxification centers.

(h) Definitions "H":

"**Heavy industrial/manufacturing**" means a land use involving assembly, construction, research and testing, processing or extraction of goods or materials, with the potential to create noise, smoke, dust, vibration, odor or other environmental impacts or pollution. Storage of equipment or products having similar environmental impacts are also included. Heavy industrial/manufacturing uses include extraction or refinement of raw materials, mass production of large durable goods, production of industrial chemicals, rolling or drawing of metals, and any process that involves extensive use of hazardous or volatile materials or chemicals. Production processes that produce continuous high levels of noise, produce obnoxious odors detectable off-site, or produce off-site light or glare impacts constitute heavy industrial/manufacturing. (See also "**Light industrial/manufacturing**.")

"**Height**" ~~in the context of wireless telecommunications facilities means the following:~~

~~(1) Related to Tower I and Tower II support structures, "**height**" means the dimensions of the tower as measured from the base of the tower at the foundation center to the top of the tower excluding antennas.~~

~~(2) R~~related to existing or proposed buildings, height is determined ~~as per~~pursuant to BMC 20.44.070, except that the highest point of a building with a pitched or hipped roof shall be considered, for purposes of this definition, to be the highest point of the roof.

"**Home occupation**" means any nonresidential use carried out for monetary gain which is secondary to the use of the property for residential purposes, and which is operated in accordance with the home occupation standards of this code.

"**Homeowners' association**" means an association of homeowners that has responsibility for commonly owned property within its residential development and which enforces covenants and restrictions on commonly owned areas or private property.

"**Hospital**" means a licensed institution providing primary health care services and medical or surgical care to persons, primarily inpatients, suffering from physical or mental conditions, and which may include related facilities as an integral part of the institution.

"**Hotel**" and "**lodging place**" means an establishment that offers transient lodging accommodations to the general public, and which may provide such related services such as restaurants, meeting rooms, gift shops, beauty shops and recreational facilities.

"**Household**" means all persons, regardless of age, sex, or family relationships, that reside as a single unit in a dwelling intended for single household occupancy. Such group quarter facilities as dormitories, boarding houses, nursing homes or similar accommodations typically do not provide facilities for households.

(i) Definitions "I":

~~"**Identification sign**" means a sign intended solely to inform the public of the use of a property, building, office, or premises, and which may typically include the address, suite number, or other identifying information, but that does not include advertising or messages that are not necessary for the identification of the premises.~~

"**Illegal sign**" means any sign or advertising device which was erected or altered in violation of the sign codes in effect at the time of such action and which remain in violation of existing codes.

"**Impervious surface**" means any material which reduces or prevents absorption of storm water into previously undeveloped land. (See also "**Paved surface**.")

"**Incidental signs**" means signs that are intended for the convenience of the public, which are informational only, and which do not include the advertising of products or services. Such signs include business hours signs, credit card signs, entrance and exit signs, and similar signs, some of which may be required by law for safety purposes.

"**Incubator for business**" means a facility that provides organizational, mentoring or capital support intended to accelerate the successful development of start-up companies, or imparts job and business skills to employees or trainees. Incubated businesses make progress toward graduation to independence and relocation into permanent facilities.

(j) Definitions "J":

"**Junk yard**" means a place where discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or otherwise handled. This includes automotive wrecking yards, house wrecking yards, and storage of structural steel materials and equipment, but does not include used or salvaged machinery in operable condition nor the processing of used, discarded or salvaged materials as a minor part of manufacturing operations.

(k) Definitions "K":

"**Kennel**" means an establishment where five (5) or more domestic animals older than six (6) months are kept, whether for compensation or not. This does not include veterinary clinics/hospitals, pet shops or zoos.

(l) Definitions "L":

"**Light industrial/manufacturing**" means a land use involving assembly, processing or research and testing of parts or materials or chemicals made or refined at another location. Light industrial/manufacturing uses have little or no potential of creating noise, smoke, dust, vibration or other environmental impacts or pollution. Production processes do not employ the extensive use of hazardous or volatile materials or chemicals, produce continuous high levels of noise, produce obnoxious odors detectable off-site, or produce off-site light or glare impacts. Storage of equipment or products that do not create environmental impacts, and mini-storage as a primary use is included. (See also "**Heavy industrial/manufacturing**.")

"**Loading area**" means an area designed and intended for the temporary parking of a vehicle while loading or unloading passengers, merchandise or other materials.

"**Lot**" means any area, tract or parcel of land owned by or under the lawful control and in the lawful possession of one distinct ownership undivided by a dedicated street or alley or another ownership, and which has a minimum of twenty (20) feet of frontage on a street.

"**Lot area**" means the area within the boundary lines of a lot. When creating new lots, the calculation for each new lot area shall not include public and private streets, wetlands, and other areas that may be restricted from use or from the types of development allowed by the zone in which the property is located, except when an unbuildable critical area, as defined per BMC 20.14.200, comprises twenty-five (25) percent or less of the lot, it may be included in the lot area.

"**Lot line, front**" means any property line that abuts a public street, private street, alley (if the alley provides primary access) or ordinary high water mark, and is considered a frontage. (See also Figure 20.44(a).)
"**Lot line, rear**" means the property line most opposite or most distant from the designated front lot line and does not intersect any front lot line. Corner lots do not have rear lot lines. (See also Figure 20.44(a).)
"**Lot line, side**" means any lot line not defined as a front or rear lot line, or any lot line that intersects a front lot line. (See also Figure 20.44(a).)
"**Lot, depth**" means the horizontal distance between the front and rear property lines of a lot, measured along a line midway between the side property lines. The depth of an irregular lot or a lot having more or fewer than two (2) side lot lines will be determined in the most reasonable manner, based on the lot's longest average dimension.
"**Lot, flag**" means a lot with access to its street by way of a narrow strip of land having a minimum width of twenty (20) feet. A flag lot consists of two (2) parts.

(1) The "**flag**" or main body of the lot; and
(2) The "**panhandle**" or narrow accessway connecting the body of the lot to the street.

"**Lot, waterfront**" means a lot of which any portion abuts wetlands or any water body regulated under the Bremerton Shoreline Master Program.
"**Lot, width**" means the average horizontal distance between side lot lines, measured at right angles to the lot depth line. The Director may use reasonable modifications to this procedure when determining the width of an irregular lot.

(m) Definitions "M":

"**Maintain**" means to allow to exist or continue to exist. Also, where the context indicates, to keep in a safe, neat and clean condition.
"**Manufactured home**" means a single-family dwelling required to be built in accordance with regulations adopted under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.). The unit shall bear an insignia issued by a state or federal regulatory agency indicating that the manufactured home complies with all applicable construction standards of the U.S. Department of Housing and Urban Development (HUD). Commercial coaches, recreational vehicles, travel trailers, and motor homes are neither manufactured homes nor dwelling units. (See "**Mobile home**.")
"**Marina**" means a facility which provides moorage or wet or dry storage for watercraft or float planes, and which may offer marine-related sales and services.
~~"**Marquee**" means a permanent roofed structure attached to and supported by a building and projecting away from the building, usually over a public walkway and typically common to theaters. A marquee itself is not a sign, but is commonly used to support signs.~~
"**Medical laboratory**" means a facility primarily engaged in providing analytic or diagnostic services on human specimens, including body fluid or body tissue, or performing diagnostic imaging, to government agencies, to the medical, dental, or other health service professions or to the patient; includes the fabrication of dentures, eyeglasses and contact lenses, and prosthetic devices.
"**Medical office**" and "**clinic**" means an establishment primarily engaged in providing medical, dental or other health care services to patients on the premises, but which excludes facilities for

overnight patient care. Medical clinics that do not have facilities for overnight patient care are included.

"Mini-Storage" for the intent of this title, means an accessory business that may contain office and individual compartmentalized self-storage units, stalls, or lockers which are rented or leased for the storage of household or business goods, supplies or materials. Mini-storage shall be an accessory use that is subordinate and incidental to the permitted principal use. (See **"Light Industrial/Manufacturing"** for further clarification of **"Mini-Storage"** when it is a primary use**)**.

"**Mobile home**" means a factory-built dwelling built before June 15, 1976, to standards other than the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.), and acceptable under applicable state codes in effect at the time of construction or introduction of the home into this state. Mobile homes are accommodated within some existing mobile home parks, but are not allowed on individual lots. (See "**Manufactured home**.")

"**Monument sign**" means a freestanding sign placed on a base of solid appearance, wherein the width of the base is equal to at least forty (40) percent of the width of the sign face.

"**Motion picture theater**" means any premises in which motion pictures are shown as the principal use of the premises, and wherein fees of any kind are charged, and wherein such movies are shown on a regular basis.

"**Multiple-building complex**" means a group of structures housing a combination of business, office, residential, or other uses, and which shares a common area, access, parking and/or other facilities.

"**Multiple-occupancy building**" means a single building housing more than one (1) retail business, office, commercial venture or other allowed land use.

"**Museum**" and "**gallery**" means a building, room, vessel (boat or ship), or site intended for the preservation and exhibition of artistic, historical, or scientific objects.

(n) Definitions "N":

"**Nonconforming sign**" means a sign that was legally established, but no longer conforms to the current sign standards of this title.

"**Nursery**" and "**greenhouse**" means facilities used for the propagation and sale of agricultural or ornamental plants and related products:

(1) "**Retail nursery/greenhouse**" offers products to the general public including plant materials, planter boxes, fertilizer, sprays, garden tools, and related items.

(2) "**Wholesale nursery/greenhouse**" raises nursery stock for sale to retail nurseries or other businesses.

(3) "**Greenhouse**" means a nursery facility constructed with transparent or translucent materials for indoor propagation of plants. A private greenhouse with no commercial sales is considered an accessory use.

"**Nursing/convalescent home**" means any home, place or institution which operates or maintains facilities providing convalescent or chronic care, or both, for a period in excess of twenty-four (24) consecutive hours for three (3) or more patients not related by blood or marriage to the operator, who, by reason of illness or infirmity, are unable properly to care for themselves. Convalescent and chronic care may include but not be limited to any or all procedures commonly employed in waiting on the sick, such as administration of medicines, preparation of special diets, giving of bedside nursing care, application of dressings and

bandages, and carrying out of treatment prescribed by a duly licensed practitioner of the healing arts. It may also include community-based care. This does not include group residential facilities, hospitals, sanitariums, or treatment centers.

(o) Definitions "O":

"**Office**" and "**business service, general**" means a place of employment providing services other than production, distribution, sale or repair of goods or commodities, excluding personal business services and medical offices. General office and business services include: legal, architectural, engineering, consulting or other professional services, or management, administrative, secretarial, marketing, advertising, or similar services.

"**Off-premises sign**" means any sign, including billboard signs, that contains a message or directs attention to a business, profession, product, event, activity, or service that is not related to a use or activity conducted or offered on the premises or at the location where the sign is located, excluding official road direction signs but including the sign faces(s) that contain(s) the message or direction noted above, as well as the pole or other structure upon which the sign face is attached. Off-premises signs include off-premises banners and signs carried by human beings or live animals when carried on the public right-of-way or any off-premises location.

"**Open space**" means land area not covered by buildings, roads, driveways, parking areas, or outdoor storage areas, including, but not limited to, landscape areas, gardens, walkways, courtyards, lawns, or outdoor recreation areas, the use of which is intended for and accessible to all of the persons residing in the development of which the open space is a part.

Open Space. For zoning and development purposes, specific areas may be required for outdoor recreation, resource or sensitive areas protection, amenities, safety, or buffering. The calculations of areas designated to meet open space requirements may not include driveways, parking areas, required yard areas, land occupied by buildings or structures, nor other impervious surfaces that are not related to the open space.

~~**"Opiate substitution treatment facility"** means an organization that administers or dispenses an approved drug as specified in 212 Code of Federal Regulations (CFR) Part 291 for treatment of detoxification of opiate substitution. The agency is:~~

~~(1) Approved by the Federal Food and Drug Administration;~~

~~(2) Registered with the Federal Drug Enforcement Administration;~~

~~(3) Registered with the State Board of Pharmacy;~~

~~(4) Licensed by the county in which it operates; and~~

~~(5) Certified as an opiate substitution treatment agency by the State Department of Social and Health Services.~~

"**Outdoor athletic fields**" means outdoor facilities used for sporting activities such as softball, baseball, football, soccer, running track, tennis complex and other nonmotorized sports. Outdoor athletic fields may include bleachers, concession stands, lights, restrooms and other supporting facilities.

(p) Definitions "P":

"**Parcel**" means a continuous quantity of land in single ownership or under single control, consisting of one (1) or more lots, and considered a unit for purposes of development. (See "**Lot**.")

"**Park**," "**playground**" and "**open space**" means a site designed, developed, or reserved for recreational use by the public, such as play areas, community gardens and natural areas.

"**Parking, satellite**" means a parking lot containing parking stalls required for a permitted land use, but in a location not contiguous to or abutting the permitted land use.
"**Parking, structure**" means a parking lot in which parking stalls are located either below grade, or in a multilevel building structure.
"**Paved surface**" means a surface paved with asphalt, concrete, concrete pavers, brick or similar durable materials. Low-impact development technologies which provide a hard surface while allowing for water penetration shall be classified as paved areas. Paved areas do not include gravel, crushed rock, and similar nonbound materials.
"**Personal service**" means an establishment engaged primarily in providing services involving the care of a person, apparel or minor appliances, such as: shoe repairs, laundry and dry-cleaning, beauty and barber shops, clothing/costume rental, tanning, other personal grooming facilities and domestic assistance services, and personal computing device or cellular phone repairs. This does not include massage parlors, health care services, exercise establishments, nor funeral services.
"**Physical fitness and health club**" means an establishment primarily engaged in providing facilities for indoor physical fitness activities and recreation. Physical fitness and health clubs may include such facilities as gymnasiums, swimming pools, and ball courts.
~~"**Pier**" means a fixed structure, or a permanently moored floating structure, built over tidelands or shorelands, and used for a marine landing or moorage for watercraft.~~
"**Pole sign**" means a freestanding sign supported by uprights or braces wherein the width of the uprights or braces comprises less than forty (40) percent of the width of the sign face.
"**Porch**" means a roofed open area attached to a building or other structure, usually at an entrance to the structure. A porch that is enclosed, glazed or screened may lose its status as an appurtenance.
"**Portable sign**" means any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building. A-frame or sandwich board signs and movable readerboard signs are examples.
"**Premises**" means contiguous land in the same ownership or control not divided by a street or public right-of-way.
"**Private club or lodge**" means structures, facilities and grounds owned or operated by a private or fraternal organization for use by its members and guests.
~~"**Product sign**" means any sign with a face consisting of more than fifty (50) percent of the area devoted to the advertisement of a commercial product or product logo without integrated advertising for the on-premises business establishment, community facility, or temporary event.~~
"**Projecting sign**" means a sign, other than a wall sign, which is attached to and projects from a structure or building facade and the face(s) of which is not parallel to the building's facade. This sign may be supported by a structure in addition to its building or wall support.
~~"**Provider**" means 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.~~
"**Public administration**" means services and facilities operated by public agencies and serving a community need, and generally including staffed facilities or office spaces. These include government offices, post offices, satellite police and fire station, and other public buildings.

"**Public distribution/transmission facility**" means the infrastructure lines and connections employed in the delivery and conveyance of utility services. Distribution facilities include equipment such as pipes, wires, cables and similar equipment necessary for delivering utilities including water, sewer, electricity, gas, broadband, and other services. Publicly owned utilities as well as privately owned utilities that serve the general public are included. (See also "**Public utility facility**.")

"**Public information/identification sign**" means a sign intended solely to inform the public of events or activities of community interest, to identify the entrance to or exit from the City or a district or neighborhood within the City, and which does not include the advertising of any business, product or service of a commercial nature, nor any logo, symbol, or other indication of a commercial message or sponsorship.

"**Public services**" means services provided for the benefit of the general public, including fire protection and suppression, law enforcement, public health, education, information, recreation, environmental protection, development assistance/permitting, etc.

"**Public utility facility**" means facilities provided for the benefit of the general public related to infrastructure and utilities. These include structures and equipment such as transfer stations, substations, pumping stations, distribution mains, wells, and related utility facilities and the structures that house them. Publicly owned utilities as well as privately owned utilities that serve the general public are included. (See also "**Public distribution facility**.")

(q) Definitions "Q": Reserved.

(r) Definitions "R":

"**Rapid charging station**" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by Chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

"**Recreational vehicle**" means a vehicular-type unit primarily designed for recreational camping or travel use that has its own motive power or is mounted on or towed by another vehicle. These units include, but are not limited to, travel trailers, fifth-wheel trailers, folding camping trailers, truck campers, boat trailers, and motor homes.

"**Recreational vehicle (RV) park**" means a facility designed to provide two (2) or more sites on which to park travel trailers, motor homes or similar recreational vehicles for periods not to exceed thirty (30) days. Accessory uses to an RV park often include a swimming pool, playground equipment, convenience store, bathing and laundry facilities, and other camping/travel services.

"**Recycling center**" means a facility for the collection, storage and processing of recyclable materials including crushing, breaking, sorting, packaging and related operations. A "**junk yard**" is not a recycling center.

"**Recycling collection station**" means a facility consisting of structures, bins, or other containers designed or intended for the collection and temporary storage of recyclable materials until they are picked up and transported to another location for processing and/or packaging.

"**Recycling collection station (limited)**" means a recycling collection station for the collection of glass, tin cans, aluminum, cardboard, newspaper, magazines, plastics, and other recyclables in small units, but not including large appliances, furniture, auto parts, tires, hazardous or liquid wastes, or any forms of domestic garbage (putrescible wastes).

"**Rehabilitation**" means the upgrading of a building from a dilapidated or substandard condition.
"**Residential, as secondary use**" means when permitted in a nonresidential zone, a residential land use is not always accessory to other uses, but is considered secondary and subordinate to the principal uses of that zone. Residential uses are placed in locations that don't conflict with street level frontage locations that are reserved for retail, office and other business uses that comprise the primary function of that zone. (See design standards in center and corridor zones.)
"**Residential use**" means structures meeting the definition of Group R~~, Division 3~~ occupancies under the edition of the International Building Code currently adopted for use by the City.
"**Restaurant**" means a commercial use which sells a variety of prepared food and beverages and provides accommodations for consuming those products on or off the premises.
"**Restaurant, fast food**" means an establishment whose principal business is the sale of a limited variety of preprepared or rapidly prepared food and beverages directly to the consumer for consumption either on-premises or off-premises. Food is generally not served to the customers' tables, but is more often dispensed through a walk-up counter or drive-through take-out window.
"**Retail, general**" means an establishment primarily engaged in the sale or rental of goods or merchandise to the general public for personal or household consumption, and primarily rendering services incidental to the sale of such goods. Establishments with a portion of their sales going to other businesses or contractors, such as office supply stores, butcher shops, paint stores, hardware stores and similar shall also be considered general retail. Art studios shall also be included. General retail uses do not exceed seventy-five thousand (75,000) gross square feet of ground floor building area and do not include gas stations or outdoor automobile sales. Automobile sales that are wholly indoors (no outdoor storage or vehicles), shall be considered general retail.
"**Retail, large**" means an establishment with a building area of seventy-five thousand (75,000) gross square feet or greater in the ground floor, primarily engaged in the sale or rental of goods or merchandise to the general public or other businesses for personal, household or business consumption and primarily rendering services incidental to the sale of such goods. Large retail uses often include wholesale stores, discount stores, malls, shopping plazas, outlet centers, department stores and similar.

(s) Definitions "S":

~~"**Satellite dish.**" See "**omnidirectional antenna**" under "**Antenna, wireless**."~~
"**Senior citizen**" means an individual of fifty-five (55) years of age or older.
"**Senior housing complex**" means a planned residential community, intended and operated for occupancy by senior citizens, which consists of any mix of detached single-family or duplex dwellings and/or retirement apartments, wherein at least eighty (80) percent of the occupied units are occupied by at least one (1) senior citizen.
"**Setback, maximum**" means a required maximum horizontal distance between the finished exterior wall of a structure and the lot line of the lot on which it is located. Where maximum setbacks are stipulated, zone districts specify what portion of the structure's finished front facade width must be located a distance equal to or lesser than the maximum setback from the property line. A maximum setback shall apply to the height of a structure up to fifteen (15) feet above grade, or the height of the building, whichever is less. Where not specified, no maximum setback shall apply.

"**Setback, minimum**" means the required horizontal distance between the finished exterior wall of a structure and the lot line of the lot on which it is located. All portions of a structure must be located away from the property line a distance equal to or greater than the minimum setback.
"**Shop**." Refer to the definition of "**storage building**."
"**Shopping center**" means a contiguous collection of retail businesses under one (1) ownership or common management located in a building or set of buildings.
"**Sidewalk vendor**" means a person(s) who sells edible or nonedible merchandise from a stand, booth, cart, basket, tray, table or other device on any sidewalk, street, highway or public place. They are not categorized as a land use.
"**Sign**" means any communication device, structure, or fixture which is intended to identify a building, use, business, or event; or to promote the sale of products, goods or services; using graphics, letters, figures, symbols, trademarks or written copy. Painted wall designs or patterns which do not represent a product, service or registered trademark, and which do not identify the user, are not considered signs. (See sign provisions of this code.)
"**Sign structure**" means any structure specifically intended to support a sign, and which may include supports, uprights, braces, framework, or other members needed for support.
"**Social services**" means establishments primarily engaged in providing social and rehabilitation services to improve life skills and increase socioeconomic opportunities for neighborhood or community residents of all ages. Establishments primarily engaged in providing welfare and charitable functions are included.
"**Stacking lane**" means a designated driving lane provided for vehicles waiting for, receiving, and exiting after receiving a service at a drive-up window from a permitted use. The lane is physically separated from other traffic and pedestrian circulation on the property and includes adequate area for cars to wait for service.
"**Stadium and sports complex**" means a large structure for open-air sports and entertainment generally consisting of tiered seating where people can sit and watch games or events. Sports complexes may also include recreational motor vehicle tracks such as go-cart tracks. Associated field houses and facilities for serving food are often included.
"**Storage building**" and "**shop**" mean an attached or detached accessory structure which is used for noncommercial storage of household goods or noncommercial recreational and hobby uses in association with the principal use.
"**Storage yard, outdoor storage**" means an outdoor area where vehicles, equipment, merchandise, raw materials, cargo containers, railroad cars, semi-truck trailers or other items are accumulated and stored for an indefinite period until needed. Storage yards are often used in conjunction with a warehouse, storage buildings, sheds or other structures and may be public or private. Unless a function of a government agency or public utility, storage yards are considered accessory to a business or other principal use.
"**Story**" means that portion of a building that extends from the floor surface to the surface of the floor above or, in the case of a top floor, to the ceiling or roof above. If a finished floor level is more than six (6) feet above the finished grade for more than fifty (50) percent of the total perimeter, the area beneath that floor shall be considered a story.
"**Street**" means the improved section of any public or private right-of-way intended primarily for motor vehicle travel and which affords the principal means of access to abutting property, together with bicycle lanes, sidewalks, and related improvements.

"**Street, private**" means a parcel at least twenty (20) feet in width, created specifically to provide motor vehicle access to abutting properties, the owners of which share in its ownership and maintenance responsibilities.
"**Structure**" means that which is built or constructed.
"**Structure, accessory**" means a structure that is incidental and subordinate to a principal structure and which is customarily found in connection with the principal structure and located on the same lot or parcel.
"**Structure, principal**" means a structure containing one or more principal uses, as permitted by the zone in which the property is located.
~~"**Structure, temporary**" means a structure which does not have, nor is it required by the International Building Code to have, a permanent attachment to the ground but is subject to building permits.~~
"**Support structure**" means any existing or proposed building, utility pole, or tower capable of supporting a wireless telecommunications antenna. Support structures include, but are not limited to, existing buildings, water towers, and utility poles and/or towers.

(t) Definitions "T":

"**Temporary sign**" means a sign that is not permanently affixed, and which is intended for short-term use, such as to advertise a specific activity such as a special promotion, sale, or fund-raising event~~, but not including political or election signs~~. For the purposes of this code, temporary signs are those displayed for between seven (7) and sixty (60) days.
~~"**Tower**" means any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including but not limited to self-supporting lattice towers, guy towers or monopole towers.~~

~~(1) "**Type I tower**" means a tower up to, but not exceeding, sixty (60) feet in height.~~
~~(2) "**Type II tower**" means a tower greater than sixty (60) feet in height.~~

"**Townhouse**," see **"Dwelling, townhouse".** ~~for purposes of this code, means a single-unit structure in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another, and each is separated from any other unit by one (1) or more common fire-resistant walls. Ownership of each unit includes ownership of an individual parcel of land beneath the unit and usually includes a privately owned outdoor area as well (private yard or open space). The remainder of the grounds, private streets or driveways, and recreational facilities are owned in common, similar to condominium ownership.~~
"**Transient person**" means a temporary lodger who stays no longer than thirty (30) days per visit.
"**Transportation facility**" means facilities in support of mass transit or multimodal forms of transportation, including transit stations, transit stops, taxicab stands, transportation services, bicycle facilities, battery charging stations, electric vehicle charging stations, and similar.

(u) Definitions "U":

"**Use**" means the purpose or activity for which land or improvements are intended, occupied or maintained.
"**Use, accessory**" means a use that is incidental and subordinate to a principal use, which customarily is found in connection with the principal use, and which is located on the same lot or parcel such as a private garage, hobby shop, workshop, personal greenhouse, and required off-street parking.

"**Use, conditional**" means a use that is not permitted outright, but may be approved through a conditional use permit process. "Conditional use" shall have the same meaning as "special use," as employed in Bremerton Municipal Code.

"**Use, principal**" means the primary or main use conducted or allowed on a lot or parcel.

"**Use, temporary**" means a use that may occur on a lot on a short-term or seasonal basis for a prescribed period of time, which usually does not exceed a six (6) month duration during a twelve (12) month period.

(v) Definitions "V":

"**Vehicle- or trailer-mounted sign**" means a sign placed or maintained on a stationary automobile, truck, trailer, or any other motor-driven vehicle. Vehicle- or trailer-mounted signs do not include signs painted or placed on commercial vehicles announcing or advertising the regular business activity of the vehicle owner. Vehicle- or trailer-mounted signs do not include signs on vehicles for sale at a licensed sales lot, nor signs on public transit vehicles including buses and licensed taxicabs.

"**Vesting**." A fully completed development application is "**vested**" at the time it is received by the permitting authority. The development may then be processed, permitted and carried out under the zoning, land division, and other regulations that were in effect when vesting occurred.

"**Veterinary clinic**" and "**animal hospital**" mean a facility providing routine and emergency medical attention to domestic pets and other animals.

(w) Definitions "W":

"**Wall sign**" means a sign attached directly to or erected against the wall of a building with the face parallel to the facade of the building and extending no more than twelve (12) inches from the wall.

"**Warehousing**" means establishments involved in the storage and/or sale of bulk goods for resale or assembly, including wholesaling. This does not include establishments offering the sale of bulk goods to the general public, which may be classified as large retail.

~~"**Whip antenna.**" See "**omnidirectional antenna**" under "**Antenna, wireless**."~~

~~"**Wireless telecommunications facility**" means 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.~~

"**Worship and religious facility**" means a building or structure primarily intended as a place for public worship and related activities such as religious education, meeting halls, and kitchens, or places for personal worship or meditation. It does not include preschools, parochial schools, day care facilities, major recreational facilities, vehicle or equipment storage yards, or other functions that are not clearly a necessary or integral part of the religious institution.

(x) Definitions "X": Reserved.

(y) Definitions "Y":

"**Yard**" means that portion of a lot that lies between a lot line (property line) and the building line. (See also "**Lot, front**," "**Lot, side**," and "**Lot, rear**.")

(1) "**Front yard**" means the yard area extending the full width of the front of a lot between the front property line (lot line) and the front building line.

(2) "**Rear yard**" means a yard extending the full width of the lot between the rear property line (lot line) and the rear building line. When irregular lots, through lots, and corner lots have no rear lot lines, they will have no rear yard areas as defined.

(3) "**Side yard**" means a yard between the side lot line and the side building line and extending from the front yard to the rear yard. Triangular lots, corner lots, or other irregularly shaped lots may have only front and side yards. Through lots generally have two (2) front yards and two (2) side yards, but no rear yard as defined.

"**Yard, construction or storage.**" See "**Storage yard**."

(z) Definitions "Z":

"**Zero lot line**" means the location of a building on a lot in such a manner that one (1) of its sides rests directly on a side lot line with no setback.

Chapter 20.44
GENERAL DEVELOPMENT STANDARDS

Sections:

20.44.010 FRONT YARD.
20.44.020 TRADITIONAL FRONT YARD.
20.44.030 SIDE YARD.
20.44.040 REAR YARD.
20.44.050 ALTERNATIVE SETBACKS.
20.44.060 ACCESSORY STRUCTURE SETBACKS.
20.44.070 MEASURING THE HEIGHT OF A STRUCTURE.
20.44.080 CALCULATING LOT AREA.
20.44.090 ROUNDING OF FRACTIONS.
20.44.100 FLAG LOTS.
20.44.110 LIGHTING REGULATIONS.
20.44.120 DRIVE-THROUGH FACILITIES.

20.44.010 FRONT YARD.

(a) The front yard is the area extending the full width of the front of a lot between the front lot line and the front building line. (See Figure 20.44(a) for an illustration of front yards.) Structure intrusions into front yard setbacks are prohibited except:

(1) Eaves, cornices, awnings, bay windows, architectural appendages, fireplaces, and chimneys and may project not more than two (2) feet into the front yard setback;

(2) Decks, platforms, porches, steps, walkways, and driveways that do not exceed thirty (30) inches in height above the finished grade;

(3) Raised decks, high or ~~enclosed~~ covered porches, balconies or similar architectural appendages that extend more than thirty (30) inches above finished grade may project not more than six (6) feet into the front yard setback;

(4) Fences and freestanding walls that meet the requirements set forth in BMC 20.46.020 may be allowed.

(b) Front yard setbacks shall be applied in the following manner for through lots:

(1) Through Lot. A through lot has two (2) front lot lines parallel or approximately parallel to each other. The front yard setback shall apply to each front lot line, except the Director may designate one (1) of the front lot lines a rear lot line, provided the following criteria are met:

(i) Orientation of the lot or structure shall be considered;

(ii) At least sixty (60) percent of the lots or structures within the neighborhood block, or area being considered, are oriented in a similar direction away from the lot line being designated as a rear lot line;

(2) Corner Lots. Corner lots have abutting streets that intersect. The front yard setbacks shall apply to each front property line.

(3) Exceptions. When a property contains three (3) or more front yards, the Director may grant exceptions to maximum front yard setback requirements provided:

(i) The maximum front yard setback continues to be applied to at least two (2) front yards that intersect each other;

(ii) Relief is necessary to facilitate good design; and

(iii) A strict application of the setback requirement would result in larger structures that are not practical for the intended use of the site.

20.44.020 TRADITIONAL FRONT YARD.

In residential zones, the Director may grant modifications to the front yard setback provided:

(a) Sixty (60) percent or more of the houses or garages/carports within a numbered block on the same side of the street as the subject property are set back less than the required zoning front yard setback; the average setback of the existing nonconforming structures may be used to establish the minimum front yard of all properties fronting on that side of the street; and

~~(b) No new structure may be set back less than five (5) feet from the front of the structures on the adjoining lots; and~~

(b~~c~~) The minimum front yard setback shall in no case be less than five (5) feet.

20.44.030 SIDE YARD.
The side yard is the area extending between the side lot line and the side building line and extends from the front yard to the rear yard. Triangle lots, corner lots and other irregular lots may have only front and side yards and no rear yards. Structure intrusions into side yard setbacks are prohibited except:
(a) Eaves, cornices, awnings, fireplaces, and chimneys may project not more than two (2) feet into the side yard setback;
(b) Platforms, steps, walkways, and driveways (does not include parking spaces) that do not exceed thirty (30) inches in height above the finished grade; and
(c) Fences and freestanding walls that meet the requirements set forth in BMC 20.46.020.

20.44.040 REAR YARD.
The rear yard is the area extending the full width of the lot between the rear lot line and the rear building line. Structure intrusions into rear yard setbacks are prohibited except:
(a) Eaves, cornices, awnings, architectural appendages, fireplaces, and chimneys and may extend no more than two (2) feet into the required rear yard area setback, and are no closer than three (3) feet from any lot line.
(b) Decks, platforms and open, uncovered porches, provided they do not exceed thirty (30) inches in height above the finished grade and are no closer than three (3) feet from any lot line.
(c) Raised decks, high or covered porches, balconies or similar architectural appendages that extend more than thirty (30) inches above finished grade may project not more than six (6) feet into the rear yard setback.
(d~~c~~) Fences and freestanding walls that meet the requirements set forth in BMC 20.46.020; and steps, walks and driveways, provided they do not exceed thirty (30) inches in height above the finished grade.

20.44.050 ALTERNATIVE SETBACKS.
The Director may approve alternative setbacks that generate a public benefit, provided the following criteria are satisfied:
(a) Total site area within setbacks shall be equal to or exceed that created by adherence to the standard setbacks;
(b) There shall be a finding of public benefit that is consistent with the goals and policies of the Comprehensive Plan. An example of public benefit includes but is not limited to reduction of setback adjacent to a street or other public right-of-way in exchange for increased setback from a development-sensitive environment such as a wetland or an existing incompatible land use; and
(c) The development plan shall not be inconsistent with the intent of any provision of the zoning code.

20.44.060 ACCESSORY STRUCTURE SETBACKS.
(a) Accessory structures shall observe the front yard setback requirements of the zone in which they are located except for intrusions per BMC 20.44.010, 20.44.030, and20.44.040.
(b) Accessory structures in residential zoning districts may be constructed no closer than three (3) feet from the side or rear property lines that adjoin other property. No setback is required if the side or rear property line adjoins an alley.

20.44.070 MEASURING THE HEIGHT OF A STRUCTURE.
The height of a building or structure shall be measured as the distance from the average final grade to the highest point of the structure. Exceptions: penthouse for elevators, firewalls, chimneys, ~~and~~ flagpoles, and wireless communication facilities in conformance with BMC 20.46.140 may exceed maximum height limits. None of these exceptions to the height regulations shall be used for advertising of any kind.

20.44.080 CALCULATING LOT AREA.
Lot area shall include all areas within the exterior lot lines less any water areas, wetlands and other areas that may be restricted from use or from the types of development allowed by the zone in which the property is located. Lot widths, depths and setbacks on shoreline lots are measured from the ordinary high water mark. (See Figure 20.44(b) for an illustration of measuring lot area.)

20.44.090 ROUNDING OF FRACTIONS.
In several instances throughout the code, the number of units allowed may end in a fraction due to the mathematical equation used to determine allowable units. For instance, the number of dwelling units allowed on property using density calculations is determined by dividing the lot size by the number of square feet permitted per dwelling unit. When this number results in a fraction, round up to the next whole number (unit) when the fraction of whole number is at least 0.50. In no case shall setback requirements be rounded.

20.44.100 FLAG LOTS.
A flag lot is defined as a lot with access to a street by way of a narrow strip of land. The lot consists of two (2) parts: the "flag" or main body of the lot and the "panhandle" or the narrow accessway connecting the lot to the street.
(a) When creating new lots the following standards shall apply:
(1) The minimum lot size shall be one hundred and fifty (150) percent of the minimum lot size of the underlying zone;
(2) The "panhandle" shall have a minimum width of twenty (20) feet;
(3) The minimum lot width and depth of the "flag" shall be the same as the underlying zone.
(b) Flag lot dimensions shall be measured from the midpoint between two (2) opposite lot lines of the "flag" body of the lot.
(c) The yard setbacks shall be the same as underlying zone setbacks, except the front yard setback area shall be applied per Figure 20.44(a).
(d) In those cases where subsection (c) of this section cannot be applied, the property line that most closely parallels the street from which the lot gains its access shall be deemed the front lot line and front yard setbacks shall be measured from that line.
(e) The accessway or driveway shall be under the same ownership as the body of the flag lot. An easement shall not be used as a method of providing access to the body of the flag lot.
(f) The panhandle shall provide access to a paved and dedicated public right-of-way or a private street. Flag lots shall not be created in order to avoid providing turnarounds per City engineering street standards.

20.44.110 LIGHTING REGULATIONS.
The following requirements shall apply concerning exterior lighting:
(a) Light sources, both direct and nondirect, shall be selected and placed so that glare produced by any light source does not extend beyond the property lines, except onto adjacent sidewalks.
(~~g~~b) A photometric plan shall be submitted for all nonresidential development and multiple-family developments to confirm compliance with light requirements. The plan shall include the following items:
(1) Location of all lighting fixtures;
(2) Manufacturer's model identification of each lighting fixture;
(3) Manufacturer's performance specifications of each fixture; and
(4) Photometric plan of the installed fixtures which demonstrates that all illumination is confined within the boundaries of the site.

20.44.120 DRIVE-THROUGH FACILITIES.
(a) Applicability. Drive-through facilities are an accessory to a principal use of a structure and therefore are only allowed when found in association with a permitted use in commercial or industrial zones, unless ~~. D~~drive-through facilities are expressly prohibited in ~~some~~ the zoning districts regardless of the principal use.
(1) Exception. While generally prohibited within the ~~NCC~~ Neighborhood Business (NB) and DCC zones, drive-through facilities may be permitted ~~in the following areas~~ provided the business has direct vehicular access from either Wheaton Way or Kitsap Way.~~:~~
~~(i) Properties zoned Neighborhood Center Core (NCC) that are within the Oyster Bay Neighborhood Center; and~~
~~(ii) Properties within the Wheaton Riddell Subarea Plan.~~
(2) Drive-through facilities standards within this section apply to the construction of new drive-through facilities, the addition of a drive-through facility to existing developments, and/or the relocation of an existing drive-through facility on site.

(b) Site Design Requirements. All drive-through facilities shall comply with the following requirements:

(1) Location. All efforts should be taken to locate the drive-through facility towards the side and/or rear of buildings. Drive-through facilities shall not be located between the building and the street frontage except in the following circumstances:

(i) Primary Frontage. A drive-through facility may be placed between a building and the street frontage only when all other site designs have been exhausted and are deemed unworkable by the Director. The drive-through facility shall be fully screened from view of the fronting street through the use of features such as sight-obscuring fencing, walls, trellises, and landscaping.

(ii) Secondary Frontage. When a site contains more than one (1) street frontage the drive-through facility may be located between the building and secondary frontage only when all other site designs have been exhausted and found unworkable. Screening from the secondary frontage is encouraged, but not required.

(2) Stacking. All drive-through facilities shall include a stacking lane that provides room for a minimum of four (4) cars to line up behind the drive-through window. For restaurant/food/drink uses the stacking lane shall provide room for a minimum of six (6) cars.

(3) Design. The drive-through lane(s) shall be designed as a dedicated lane, physically separated from parking areas and internal parking circulation aisles in order to enhance pedestrian safety and provide screening from adjacent properties and right-of-way. A combination of two (2) of the following shall be provided adjacent to the drive-through lane(s):

(i) Landscaped strips, islands, or berms that are a minimum of three (3) feet wide and fifty (50) square feet in size are required in addition to all other required landscaping areas. Said landscaped areas shall include a mix of ground covers and shrubs that act as a barrier between the drive-through lane and adjacent properties, right-of-way, and parking area;

(ii) Hedges, decorative walls, fencing, or trellises that act as a visual barrier between the drive-through lane(s) and adjacent properties, right-of-way and parking areas;

(iii) Decorative pavement, alternative materials (bricks, stamped concrete), or other durable ground treatment that clearly separates the drive-through lane(s) from other driving and parking areas on site that will withstand heavy traffic conditions found in association with drive-through lanes. Paint striping does not meet this requirement.

(4) Signage.

(i) Each ordering location shall have a maximum of (1) one menu board. One (1) additional menu board may be placed adjacent to the stacking lane for patrons waiting behind the ordering station. Each menu board sign shall not exceed thirty (30) square feet and have a maximum height of seven (7) feet.

(ii) Menu boards shall be located in a landscaped strip or island no smaller than three (3) feet wide and fifty (50) square feet in total size. This landscaping area shall be in addition to all other required landscaping. The menu board(s) shall be oriented away from public streets and be intended for viewing by drive-through patrons only. Screening of the menu board may be required when the board is located adjacent to the right-of-way or neighboring properties. Screening shall ensure the board is not readable from the surrounding properties or street.

(5) Pedestrian Features. In order to enhance safe pedestrian access, designated walkways from all on-site parking areas and from the public sidewalk to a building entry shall be provided as follows:

(i) Walkways shall be a minimum five (5) feet in width, clearly marked and easily distinguished from driving surfaces by using a combination of landscaping strips or islands that delineate the pedestrian walkways; and

(ii) Walkways shall include at least one (1) of the following treatments: decorative paving, stamped/stained concrete or raised walkways with alternative materials (such as brick, cobblestone, and decorative pavers) to clearly indicate the safe walking route. Walkways through heavy traffic areas such as the drive-through must be made of durable materials able to withstand heavy traffic conditions.

Figure 20.44(a)

Front Yard Setback Areas

The following figure provides guidance in the application of front yard setback requirements to different types of lot and street configurations.

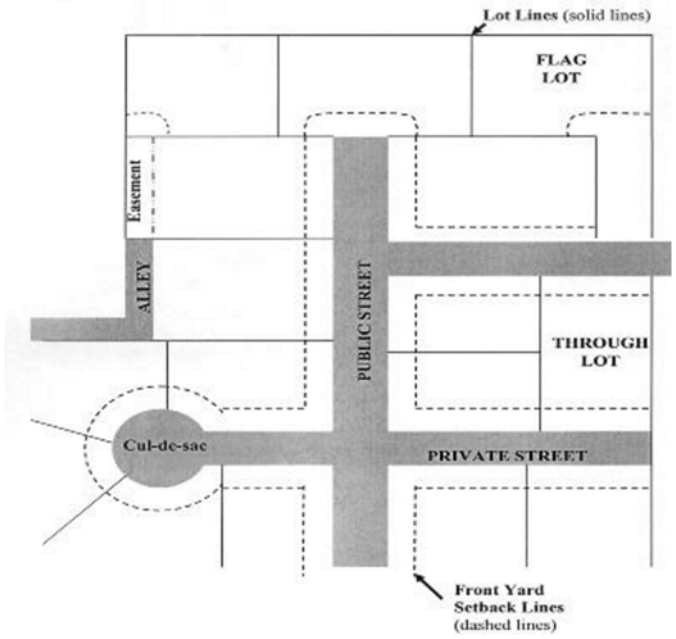


Figure 20.44(a)

Front Yard Setback Areas

The following figure is for illustration purposes only and serves as a guideline when applying setback requirements.

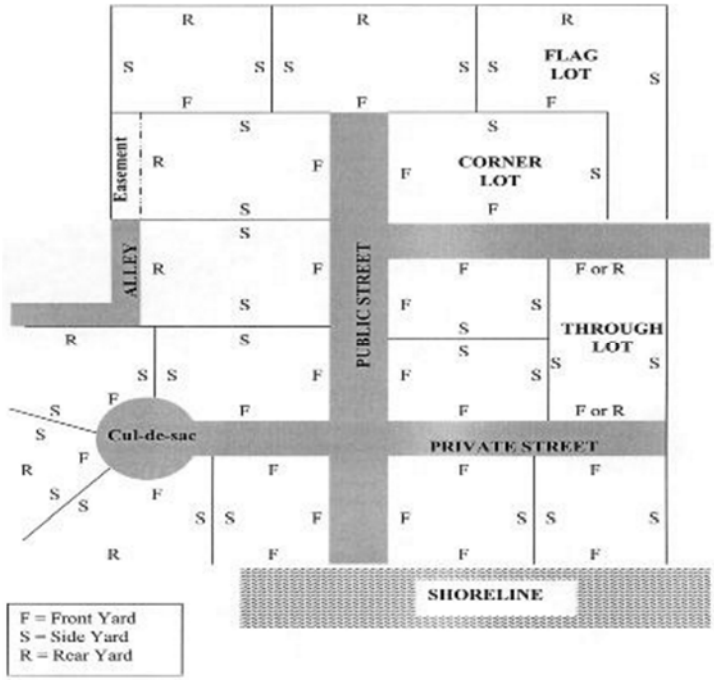


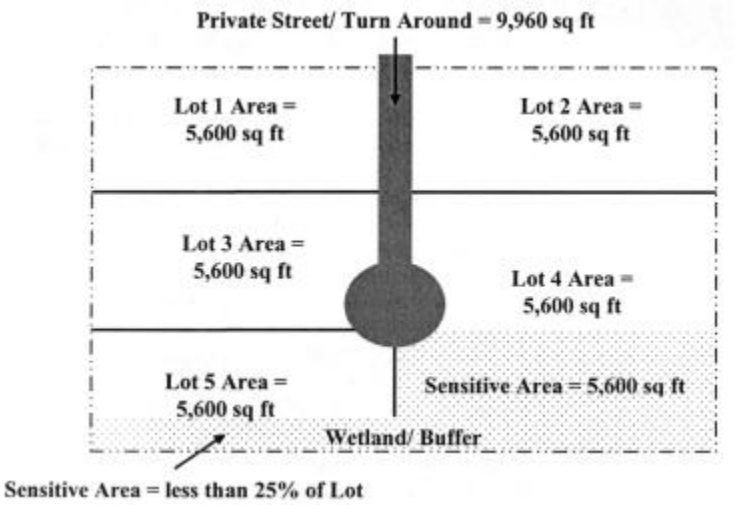
Figure 20.44(b)

LOT AREA CALCULATIONS

The following illustration demonstrates the methods for calculating lot area in BMC Title 20.

1. The drawing below represents a one (1) acre parcel before deductions from buildable areas. This is the "gross" lot area of the site.

2. When creating new lots, the unbuildable areas such as streets and ~~environmentally sensitive~~critical areas are subtracted from the gross lot area to produce a net lot area that is used when calculating the size of each new lot. If a new individual lot contains an unbuildable environmentally sensitive area that is twenty-five (25) percent or less of its gross lot area, the sensitive area may be included in the lot area. The drawing below represents a one (1) acre parcel divided into five (5) parcels with applicable deductions.



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 or 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~~ 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 and enhance 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 area 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) Co-location. 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 wireless communication facility.

(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) Co-location 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.

(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 because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this section.

(7) 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.

(8) 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.

(9) Right of way. For the purpose of this chapter, right of way means any site located in City right of way, or on City property.

(10) 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.

(11) 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.

(12) 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.

(13) 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.

(14) 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.

(15) 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, and not 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 co-location of antenna arrays of more than one (1) wireless communication service provider on a single tower. All Wireless Communication Facilities shall be screened or concealed to the greatest degree feasible unless otherwise exempt. Priority of location shall be as follows:

(1) Co-location. Mount antennas on eligible support structures as defined by this chapter.

(2) Antennas on Street (Utility) Poles located in the right of way. 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 the average height of existing poles within three hundred (300) feet. 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.

(2) Antennas Mounted on Existing Structures. The applicant shall exhaust co-location 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~~concealed 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.

(3) 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.

(2) A landscaping plan which complies with BMC 20.50.050. 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 Federal Aviation Administration (FAA) regulations and Electronic Industries Alliance (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 concealed to the greatest degree feasible 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 concealment 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 20.50 BMC.

(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, unless otherwise required by the FAA. 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 co-location. 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, or to an approved storage area.

(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 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 BMC20.58.020, 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.

Chapter 20.48
OFF-STREET PARKING REQUIREMENTS

Sections:

20.48.010 INTENT.
20.48.020 APPLICABILITY.
20.48.030 NONCONFORMITIES.
20.48.040 GENERAL REQUIREMENTS.
20.48.050 MODIFICATIONS TO PARKING DEVELOPMENT STANDARDS.
20.48.060 RESIDENTIAL PARKING DEVELOPMENT STANDARDS.
20.48.080 NONRESIDENTIAL PARKING DEVELOPMENT STANDARDS.
20.48.100 PARKING REDUCTION.
20.48.120 UNLISTED USES.
20.48.140 ~~HANDICAP~~ ACCESSIBLE PARKING.
20.48.150 ELECTRIC VEHICLE CHARGING STATIONS.
20.48.160 LOADING/UNLOADING SPACES.
20.48.180 OTHER REQUIRED PARKING SPACES.
20.48.200 RENT OF RESIDENTIAL PARKING.
20.48.220 SATELLITE PARKING.
20.48.240 JOINT USE OF PARKING FACILITIES.
20.48.260 DRIVE-THROUGH STACKING REQUIREMENTS.

20.48.010 INTENT.

The intent of this chapter is to require off-street parking and loading facilities in proportion to the parking and loading demand of land uses while minimizing the amount of impervious surface where possible. The purpose of the regulations and design standards are to ensure the usefulness of parking and loading facilities, to protect the public safety, to mitigate adverse land use impacts and to protect the visual, water and air quality of the community.

20.48.020 APPLICABILITY.

(a) General. The provisions of this chapter shall be applied at the time of erection of any building or structure, or at the time any principal building or structure is enlarged or increased in capacity unless provided for otherwise by law. This chapter shall be used in conjunction with specific off-street parking requirements set forth in BMC Title 20, in cases of conflict, the most stringent requirement shall apply.

(b) Remodeled, Improved, or a Change-of-use. When an existing structure is remodeled, improved, or a change of use or tenancy occurs on a legally established site, it shall be exempt from providing additional off-street parking provided that:

(1) The structure is not enlarged, extended, or structurally altered outside the existing building envelope in a manner that would require additional parking pursuant to this chapter. In the case of a structure expanding, the number of additional spaces shall be computed only to the extent of the enlargement, regardless of whether or not the number of previous existing spaces satisfies the requirements of this chapter.

(2) In residential structures, alterations do not increase the number of dwelling units.

(3) The number of off street parking spaces is not decreased, except in cases where the resulting decrease in parking conforms to the minimum number required by this chapter.

(4) This does not apply to adaptive reuses per BMC 20.46.070.

~~(b) Change of Use or Occupancy. The number of off-street parking spaces shall be provided in accordance with the requirements of this chapter if a change in the use or occupancy of an existing building or structure results in a significant increase in the parking requirement, which shall be determined~~

~~by calculating the difference between the required and existing number of parking spaces. If the difference is more than fifteen (15) percent of the existing parking spaces, or if the difference is more than three (3) parking spaces, whichever number is larger, it shall be determined to be a significant increase.~~
~~(c) Expansion of Structure/Use. When an existing structure or use is expanded, additional off-street parking spaces shall be provided in accordance with the requirements of this chapter, except when the expansion necessitates the addition of three (3) or fewer parking spaces. The number of additional spaces shall be computed only to the extent of the enlargement, regardless of whether or not the number of previous existing spaces satisfies the requirements of this chapter.~~
(c~~d~~) Movement of Building. If a building is moved to a new lot, off-street parking spaces shall be provided in accordance with the requirements of this chapter.
~~(e) Change in Ownership. Additional off-street parking shall not be required because of a change in ownership or tenancy, provided the use and the building remain unchanged.~~
~~(f) Rehabilitation. Additional off-street parking spaces are not required because of a building remodel or improvements if:~~
~~(1) The remodel or improvements are contained within the existing envelope of the building or structure;~~
~~(2) The inside gross floor area is not increased by more than ten (10) percent; and~~
~~(3) No additional residential dwellings are created.~~

20.48.030 NONCONFORMITIES.
Any use which, on the effective date of the ordinance codified in this chapter or any amendments hereto, is nonconforming in terms of required off-street parking facilities may continue in the same manner as if they were conforming unless any of the provisions set forth in BMC 20.48.020 would apply. However, in no case shall nonconforming parking have its existing number of off-street parking spaces reduced.

20.48.040 GENERAL REQUIREMENTS.
The following requirements are applicable to all zoning districts:
(a) Occupancy. No building or structure shall be approved for occupancy unless adequate parking facilities are provided consistent with the requirements of this chapter.
(b) Availability. All required off-street parking spaces shall be made available and continuously maintained for the parking of residents, customers, patrons and employees of the related land uses and shall not be rented, leased or otherwise assigned to any person or organization not related to the principal or accessory land use.
(c) Plans Required. No building permit shall be issued until the applicant has submitted satisfactory plans to the City showing how the off-street parking and loading facilities required by this chapter will be provided and maintained. Development of a parking lot without a building or other structure does not require a building permit, but does require site plan review in accordance with BMC 20.58.080.
(d) Maintenance. It shall be the responsibility of the property owner to ensure that parking areas and driveways are continually maintained in good condition and free of refuse and debris. All required landscaping shall be kept in a healthy condition and properly maintained.
(e) Nonparking Activities. No business, temporary or permanent display, or other nonparking activity shall occur on any required parking space.
(f) Parking Prohibited. Parking is prohibited on landscaped or other areas not designed and approved for parking.
(g) Unobstructed Access and Circulation.
(1) Unobstructed vehicular access to and from public or private streets shall be provided for all off-street parking spaces. Vehicular access drives shall be designed to ensure the safety of persons using such access or traveling on the public street.
(2) Required parking and all maneuver areas shall remain free of all obstructions.

(3) No parking space may block access to another parking space unless the City has approved a tandem parking design and valet parking with a tenant is made available during hours of operation.

(4) Except for single-family and duplex structures on individual lots, parking spaces shall be designed to prevent the backing of vehicles onto a public right-of-way, or a private street other than an alley.

(h) Shared Driveways. Shared driveways are encouraged for abutting lots whenever practical. Approval shall include easements granting access to all property owners using the shared driveway.

20.48.050 MODIFICATIONS TO PARKING DEVELOPMENT STANDARDS.

The parking development standards included in BMC 20.48.060 and 20.48.080 are base standards. Individual zone chapters may provide additional parking standards, or departures from these base standards. In cases of conflict, parking development standards in individual zone chapters shall supersede. Further reductions from base parking standards may be allowable per BMC 20.48.100.

20.48.060 RESIDENTIAL PARKING DEVELOPMENT STANDARDS.

The following provisions apply to off-street parking spaces for all residential development:

(a) Surface. Driveways and areas used for loading, parking and maneuvering motorized vehicles shall have a paved surface.

(b) Gravel Surface Driveway. A gravel surface driveway may be allowed for a single-family residence for that portion of the driveway that is more than one hundred (100) feet from the lot line where access is provided. Any driveway approved for a gravel surface shall include a paved apron in front of the garage automobile door entrance extending a minimum depth of eighteen (18) feet and at least the width of the garage door.

(c) Side Yard Setback. Minimum three (3) feet. When parking is located in an approved driveway, the setback for parking may be reduced to zero (0) feet.

(d) Rear Yard Setback. Minimum three (3) feet. When parking is located in an approved driveway, the setback for parking may be reduced to zero (0) feet.

(e) Alley Setback. Zero (0) feet.

(f) Front Yard Setback. No parking shall be located within the front yard setback area of the zone, except within paved driveways, unless allowed otherwise by law.

(g) Stall Dimensions.

(1) Parking stalls for a single-family dwelling shall have a minimum width of eight (8) feet and depth of eighteen (18) feet.

(2) Parking facilities for two (2) or more dwellings shall comply with the design standards prescribed in BMC 20.48.080. These design standards may be modified to allow stacked parking spaces for a residential structure containing up to four (4) dwellings, provided the parking spaces comply with setbacks.

(h) Driveways.

(1) A driveway may be located within any setback area for a residential use, provided it complies with all applicable city street and engineering standards established in BMC Title 11.

(2) The driveway shall not be less than eight (8) feet in width and not more than twenty (20) feet in width within the front yard setback. The Director may approve exceptions to the maximum driveway width when necessary for compliance with the Americans with Disabilities Act (ADA) standards.

(i) Required Parking Spaces. The number of off-street parking spaces shall be provided in accordance with the use and the following corresponding standards, except as modified per BMC 20.48.050:

Type of Use	Number of Bedrooms	Minimum Number of Parking Spaces
(1) ADU		See BMC 20.46.010
(2) Single-unit residential	All	2.0 per dwelling
(3) Two-unit residential	All	2.0 per dwelling
(4) Multi-unit residential	1 or less	1.5 per dwelling
(5) Multi-unit residential	2	1.75 per dwelling
(6) Multi-unit residential	3 or more	2.0 per dwelling
(7) Multi-unit residential located within a Center	All	1 per dwelling
(8) Group residential facility, Class I		2.0 plus 1.0 for each bedroom beyond the first 4 plus 1.0 for each 300 square feet of gross floor area used for counseling
Group residential home		
Adult family home		
(9) Senior Housing Complex		1 per dwelling, plus access to alternative transportation such as public transit or on-site shuttle services to access daily goods and services shall be provided

20.48.080 NONRESIDENTIAL PARKING DEVELOPMENT STANDARDS.

The following provisions apply to off-street parking spaces for all nonresidential developments and parking lots:

(a) Surface. Driveways and areas used for loading, parking and maneuvering motorized vehicles shall have a paved surface.

(b) Side and Rear Yard Setbacks. Parking spaces shall be set back a minimum of five (5) feet from the side and rear lot lines unless adjacent to the low density residential zone in which case a minimum of ten (10) feet of visual screening is required pursuant to BMC 20.50.050. Projects which are not adjacent to low density residential may reduce setbacks to zero (0) if the following are incorporated into the design of the parking area:

(1) A solid fence or wall is provided; and

(2) Landscaped islands at least forty-five (45) square feet of area are provided in a manner that breaks up parking spaces adjacent to the lot line into groups of not more than six (6) spaces each.

(c) Front Yard Setbacks. Parking spaces shall be set back a minimum of ten (10) feet from the front lot line.

(d) Parking Setbacks in Structures. When parking is incorporated within a structure, the parking shall comply with the setbacks of the zone applicable to the structure.

(e) Stall and Aisle Requirements. Parking facilities for required parking shall meet the minimum stall and aisle dimensions set forth in Figure 20.48(a).

(f) Modifications to Parking Stall Requirements. The standards set forth in subsection (e) of this section may be modified to allow for a vehicle overhang of up to two and one-half (2.5) feet, provided:

(1) Wheel stops are attached to the ground or pavement if curbs are not provided;

(2) The vehicle overhang would not extend beyond the lot line or into front yard setback areas;

(3) Walkways maintain a minimum three (3) foot wide (four (4) feet for handicap access routes) unimpeded passage for pedestrian passage beyond the two and one-half (2.5) foot overhang.

(g) Driveways. The width of nonresidential driveways shall be based on the location, intended usage, and other factors and shall be in accordance with State and City engineering standards.

(h) Internal Parking Lot Design. Parking facilities shall incorporate the following features to provide safe and efficient circulation for vehicles and pedestrians:

(1) Standard traffic control signs and devices to direct traffic;

(2) Signs, crosswalks, raised pedestrian walkways and night lighting to provide for safe pedestrian movement;

(3) Landscaped islands, raised curbs, and striping to define parking lot entrances, end of parking aisles and the patterns of internal circulation; and

(4) Overall design coordination and adherence to all applicable design standards.

(i) Landscaping. Landscaping shall be provided in accordance with the requirements prescribed in Chapter 20.50 BMC.

(j) Lighting. Parking areas shall be lighted for the safety of pedestrians and vehicle circulation on the site in the following manner:

(1) Lights are hooded or beamed so that there is no undesirable glare directed onto any adjacent streets or property; and

(2) Lighting shall be designed adequately to illuminate the parking area while preventing the direct illumination of adjacent properties.

(k) Signage and Striping. Directional signs and pavement markings shall be used to control vehicular movement within parking areas and to mark spaces.

(1) The locations of parking spaces shall be clearly indicated by curb markings, wheel stops, bollards, or other means.

(2) Incidental signs within parking lots shall be limited to two (2) square feet in size.

(3) No signs other than those indicating entrances, exits, name of the lot or the establishment to which the lot is accessory, conditions of use, or identification of disabled parking spaces shall be erected.

(4) Signage for handicap spaces shall comply with the requirements prescribed in RCW 70.92.120.

(l) Required Parking Spaces. The number of off-street parking spaces shall be provided in accordance with the use and following corresponding standards except as modified per BMC 20.48.050:

Category of Land Use	Minimum Number of Parking Spaces
BUSINESS/COMMERCIAL:	
(1) Barber shop/beauty salon	1 per 75 sq. ft. gross floor area (g.f.a.)
(2) Bank/financial	1 per 350 sq. ft. g.f.a.
(3) Laundry (self-service)	1 per 4 washing machines, with a minimum of 5 required
(4) Office	1 per 300 sq. ft. g.f.a

(5)	Retail store less than 15,000 sq. ft.	1 per 300 sq. ft. g.f.a.
(6)	Retail store 15,000 sq. ft. or larger	1 per 250 sq. ft. g.f.a
(7)	Personal service shop (tanning, shoe repair, dry cleaner)	1 per 250 sq. ft. g.f.a., with a minimum of 2 required
(8)	Plumbing, heating, electrical and building supplies	1 per 600 sq. ft. g.f.a.
(9)	Convenience market/food store (retail)/market and supermarket	1 per 250 sq. ft. g.f.a., with a minimum of 6 required
(10)	Shopping center*	4.0 per 1,000 square feet of leaseable g.f.a
* A shopping center is a contiguous collection of retail businesses under one ownership or common management located in a building or set of buildings.		
EATING/DRINKING ESTABLISHMENTS:		
(1)	Restaurant/cocktail lounge/tavern less than 4,000 sq. ft.	1 per 150 sq. ft. g.f.a.
(2)	Restaurant/cocktail lounge/tavern 4,000 sq. ft. or greater	20 plus 1 per 100 sq. ft. g.f.a. greater than 4,000 sq. ft.
ENTERTAINMENT:		
(1)	Bowling alley	5 per lane
(2)	Club, lodge	1 per 4 fixed seats, plus 1 per 50 sq. ft. gross floor area of assembly area without fixed seating
(3)	Dance hall	1 per 100 sq. ft. g.f.a.
(4)	Pool hall	1 per 100 sq. ft. g.f.a.
(5)	Theater	1 per 4 fixed seats
(6)	Video game arcade	15 per 1,000 sq. ft. g.f.a.
INDUSTRIAL:		
(1)	Industrial establishment/research and development	1 per 600 sq. ft. g.f.a.
(2)	Mini-warehouse	1 per 3,000 sq. ft. g.f.a., plus 1 loading space per 10,000 sq. ft. g.f.a., plus 1 per 300 sq. ft. g.f.a. for office area
(3)	Wholesale establishment/warehouse, trucking and freight terminal	1 per 2,000 sq. ft. g.f.a. up to 20,000 sq. ft., (3 space minimum), plus 1 per 2,500 sq. ft. g.f.a. 20,001 to 100,000 sq. ft. (10 space minimum), plus 1 per 3,000

		sq. ft. greater than 100,000 sq. ft. (40 spaces minimum)
LODGING:		
(1)	Bed and breakfast	1 per guest room plus 1 for the resident household
(2)	Hotel	1 per 2 guest rooms, plus 1 per 200 sq. ft. g.f.a. of common areas
(3)	Motel	1 per 2 guest rooms, plus 1 per 200 sq. ft. g.f.a. of common area plus 1 for manager
(4)	Travel trailer park/tourist court	1 per trailer site, plus 1 per 10 sites located in a secure storage area, plus 1 per 5 sites for guest parking, plus other parking for office or community buildings
MEDICAL/DENTAL:		
(1)	Medical/dental office	1 per 150 sq. ft. g.f.a
(2)	Hospital/medical centers	1.8 per overnight bed based on state license
(3)	Nursing home/health institution/convalescent home	1 per 600 sq. ft. g.f.a.
(4)	Veterinarian/animal hospital	1 per 200 sq. ft. g.f.a.
RECREATIONAL:		
(1)	Health club/figure salon/physical fitness center	10 per 1,000 sq. ft. g.f.a
(2)	Parks/playground	Based on anticipated parking demand
(3)	Racquet/handball	2 per each court
(4)	Swimming facility	5, plus 1 per 75 sq. ft. of gross surface water area
PUBLIC:		
(1)	Library/museum	1 per 400 sq. ft. g.f.a.
(2)	Places of assembly (arenas, churches, auditoriums, stadiums, sports arenas, etc.)	1 per 4 fixed seats (20 inches of a bench or pew = 1 seat), plus 1 per 50 sq. ft. g.f.a. of assembly without seats
EDUCATIONAL:		
(1)	Nursery school/day care	1 per 5 children, plus 2 loading/unloading spaces (12 or fewer children are exempt from the loading/unloading)
(2)	School, business and trade	6 per classroom, and/or 1 per 200 sq. ft. g.f.a of administrative office, and/or teaching lab or shop

(3)	School, college or university	2 per 1,000 sq. ft. g.f.a. used for academics, plus 1 per each 4 student rooming units, plus additional space as required for nonacademics
(4)	School, K through 9th grade	2 per classroom, plus 1 per 200 sq. ft. g.f.a of administrative office
(5)	School, 10th through 12th grade	1 per each 10 students for which building is designed, plus 1 per classroom, plus 1 per 200 sq. ft. g.f.a of administrative office
AUTOMOBILE:		
(1)	Automobile service	1 per 200 sq. ft. g.f.a., plus 1 per service bay (bay itself is not a space), with a minimum of 5 required
(2)	Motor vehicle/vessel sales lots	1 per 3,000 square feet of retail indoor or outdoor sales area in addition to parking requirements for the building or structure
(3)	Motorcycle/small engine repair	1 per 400 sq. ft. g.f.a.
(4)	Shop/store for sales and service of machinery	1 per 600 sq. ft. g.f.a.
OTHERS:		
(1)	Garden nursery	1 per 400 sq. ft. g.f.a of retail area, plus 1 per 500 sq. ft. g.f.a of building and outside display area (wholesale)
(2)	Marina and moorage facility	1 per 600 sq. ft. g.f.a.
(3)	Mortuary/funeral home	1 per 75 sq. ft. of assembly area
(4)	Uncovered storage area	1 per 2,000 sq. ft., plus 1 per each vehicle anticipated to be parked overnight on a regular basis, plus 1 per 300 sq. ft. g.f.a. for office

20.48.100 PARKING REDUCTION.

Modifications to the requirements of this chapter may be granted for the following:

(a) For a modification to the number of off street parking spaces required by this Title, a decrease in the required number of spaces may be granted if the number of spaces proposed is documented by an adequate and thorough parking-demand-and-utilization-study to sufficiently serve the use with appropriate off-street parking. The study shall be prepared by a licensed transportation engineer or other qualified professional with parking demand expertise, and shall analyze the operational characteristics of the proposed use which justify a parking reduction. Approval of a parking reduction shall be solely at the discretion of the City. The following reductions do not require the above mentioned report:

(1) Covered Bicycle Storage. If covered and secured bicycle storage is provided on site, a credit towards parking requirements at a ratio of one (1) less parking stall per six (6) bicycle spaces will be granted. The Director may increase credits according to size of development and anticipated

pedestrian and bicycle activity and proximity to transit facilities. A maximum reduction of five (5) percent of required parking stalls may be granted. If a reduction of five (5) or more stalls is granted, then changing facilities including showers and lockers shall be required.

(2) Transit Improvements. For new residential development consisting of ten (10) or more dwelling units, or commercial projects consisting of fifty (50) or more employees, and located within one thousand five hundred (1,500) feet of an existing or planned transit facility, a reduction in parking may be requested for up to fifteen (15) percent of required spaces if improvements to the local transit system are made by the applicant. Any such plan requires the approval of Kitsap Transit and the City.

(3) Designated Land Use Centers. If a change of use occurs on a property within a center zone designation, resulting in a significant increase in the parking requirement, the Director may reduce the minimum number of required parking spaces by up to ten (10), provided:

(i) Sites containing multiple buildings and/or uses shall have the reduction applied to the entire site and not to individual uses;

(ii) The number of existing off-street parking spaces is not reduced.

(4) Group Residential Facility - Class I, Adult Family Home, and Group Residential Home. The Director may authorize a reduction in the number of required parking spaces for a group residential facility - Class I, adult family home, or group residential home if there is a clear indication that the requirements of this chapter are excessive due to such factors as the resident's age, ability to drive, or mental or physical abilities and disabilities.

~~(a) Designated Land Use Centers. If a change of use occurs pursuant to BMC 20.48.020(b) on a property within a center zone designation, as categorized in Figure 20.40(a), which results in a significant increase in the parking requirement, the Director may reduce the minimum number of required parking spaces by up to ten (10), provided:~~

~~(1) Sites containing multiple buildings and/or uses shall have the reduction applied to the entire site and not to individual uses;~~

~~(2) The number of existing off-street parking spaces is not reduced.~~

~~(b) Master Development Zone. Approval of a master development zone pursuant to Chapter 20.80 BMC.~~

~~(c) Group Residential Facility - Class I, Adult Family Home, and Group Residential Home. The Director may authorize a reduction in the number of required parking spaces for a group residential facility - Class I, adult family home, or group residential home if there is a clear indication that the requirements of this chapter are excessive due to such factors as the resident's ability to drive, age, or mental or physical abilities and disabilities.~~

~~(d) Senior Housing Complex. Parking requirements may be reduced for a senior housing complex approved pursuant to BMC 20.46.090.~~

~~(e) Manufactured Home Park Requirements. Parking requirements for a manufactured home park are prescribed in the approval criteria for a conditional use permit.~~

20.48.120 UNLISTED USES.

Land uses not specifically listed in BMC 20.48.060(h) and 20.48.080(m) shall have their off-street parking requirements determined in the following manner:

(a) A comparison is made of the unlisted use to a listed use and the Director determines that the parking demand between the two uses is similar.~~; or~~

~~(b) If a comparison cannot be made, the Director may determine the number of required spaces based on anticipated parking demand, which in no case shall be less than one (1) parking space per five hundred (500) square feet of gross floor area.~~

20.48.140 ~~HANDICAP~~ ACCESSIBLE PARKING.
Where parking is provided, accessible parking spaces shall be provided that complies with the requirements in Chapter 17.04 BMC, City Building Code (IBC
Chapter 11). Accessible parking spaces shall be located on the shortest accessible route of travel from adjacent parking to an accessible building entrance.

20.48.150 ELECTRIC VEHICLE CHARGING STATIONS.
For uses in allowed zones and where parking is provided, electric vehicle charging stations are encouraged and shall comply with the City Building Code and Washington State Electrical Code (Chapter 296-46B WAC).

20.48.160 LOADING/UNLOADING SPACES.
(a) Standards. Off-street loading spaces shall be provided in accordance with the following standards for all new nonresidential construction or additions having a floor area greater than one thousand (1,000) square feet of gross floor area that is engaged in retail, manufacturing, wholesale or storage activities, but excluding self-service storage facilities, which requires the delivery of merchandise or materials by trucks:

Total Gross Floor Area	Number of Loading Spaces Required
(1) 1,000 to 20,000 square feet	1
(2) 20,001 to 50,000 square feet	2
(3) 50,001 to 100,000 square feet	3
(4) Greater than 100,000 square feet	4

(b) Standards. Off-street loading spaces shall be provided in accordance with the following standards for all new nonresidential construction or additions having a floor area greater than ten thousand (10,000) square feet of gross floor area that is engaged in hotel, office, restaurant or similar use in accordance, which requires the delivery of merchandise or materials by trucks:

Total Gross Floor Area	Number of Loading Spaces Required
(1) 10,000 to 50,000 square feet	1
(2) 50,001 to 100,000 square feet	2
(3) Greater than 100,000 square feet	3

(c) Loading/Unloading Zone Development Standards.

(1) Design. Off-street loading spaces shall be at least ten (10) feet in width and have a total area of not less than two hundred fifty (250) square feet.

(2) Accessibility. With the exception of gates and security fencing, loading spaces shall be accessible at all times from a street, alley, or driveway and shall not be obstructed by other loading spaces, trash receptacles, outdoor storage, or other obstacles.

(3) Obstructions. Loading functions shall not interfere with any emergency access, fire exit, or required vehicle parking spaces.

(d) Modifications.

(1) If the applicant can demonstrate that deliveries are only made during nighttime or other hours when customers are not present, the loading function may be accommodated in combination with required customer/employee parking.

(2) If the applicant can demonstrate that all deliveries are made by trucks with a gross weight of twenty-six thousand (26,000) pounds or less, the number of required loading/unloading spaces may be reduced by one (1) if a load/unload zone located within the public right-of-way fronting the property is approved by the Public Works Department.

20.48.180 OTHER REQUIRED PARKING SPACES.

All nonresidential uses and residential developments of six (6) or more dwellings shall provide parking spaces for the following:

(a) Motorcycle Spaces. Motorcycle spaces shall be provided at one (1) per twenty-five (25) of the required automobile spaces with at least one (1) motorcycle space provided.

(1) Automobile parking requirements may be reduced one (1) space for every three (3) motorcycle spaces, provided up to a maximum five (5) percent of the total required automobile spaces.

(2) Each motorcycle space shall be no smaller than four (4) feet in width and eight (8) feet in depth.

(3) Motorcycle spaces shall be located according to the same criteria and standards that are applicable to automobile parking spaces.

(4) The Director may exempt those nonresidential uses that would not normally have motorcycle-riding clientele (such as warehouses, storage facilities, automobile services, etc.) from motorcycle parking requirements.

(b) Bicycle Facilities. Bicycle parking spaces shall be provided at ten (10) percent of the required automobile spaces.

(1) The minimum number of required bicycle spaces for schools of all types except higher education institutions shall be calculated at the rate of one (1) space per twenty (20) students, based on the facility's designed capacity.

~~(2) Video game and similar amusement centers commonly frequented by children and/or teenagers shall provide bicycle facilities equal to one-third (1/3) the required numbers of automobile parking spaces.~~

(3) The Director may exempt those nonresidential uses that would not normally have bicycle-riding clientele (such as self-service businesses, automobile services, gas stations, etc.) from the bicycle parking requirements.

(4) Bicycle facilities shall be firmly attached to the ground, located near the building entrance, and designed to allow both the frame and wheels to be securely locked to the structure.

20.48.200 RENT OF RESIDENTIAL PARKING.

(a) The rental, lease or other use of parking spaces for commercial parking purposes within a residential zone is prohibited.

(b) The rental, lease or other use of parking spaces associated with a residential use for commercial parking, whether they are required spaces or not, is prohibited.

20.48.220 SATELLITE PARKING.

Off-street parking requirements may be partially or completely satisfied with the approval of a satellite parking facility. A satellite parking facility is approved by site plan review as prescribed in BMC 20.58.080. A satellite parking facility may be approved, provided:

(a) The parking facility is located within four hundred (400) feet of the property containing the associated use or building;

(b) The parking facility is not located on property zoned for low density residential. The Director may waive the zone restriction for a religious worship facility, public school or public use if:

(1) The parking facility is located on a lot abutting the principal use; or

(2) The parking facility is located within one hundred (100) feet on a lot where a street (public or private) or alley would separate it from the principal use.

(c) A notice to title, approved by the City Attorney and executed by affected parties to set forth clearly the terms of the parking agreement, shall be recorded with the County Auditor. A copy of the recorded agreement shall be submitted to the Department. ~~The owner of the property containing the satellite parking facility executes a binding agreement approved by the City. The agreement shall include covenants running with the land to ensure that conditions are observed and remain in effect until there is a substantial change to the original conditions that made the satellite parking necessary. The agreement at a minimum shall contain:~~

~~(1) A covenant stating that the title to and right to use the satellite lot will be subservient to the title to the premises upon which the primary structure or improvement is to be erected or made; and~~

~~(2) A warrant that lots are not and will not be made subject to any other covenant or contract for such or other use without the prior written approval of the City.~~

~~(d) The owner of the property or an authorized agent shall file the agreement with the County Auditor following City approval. A copy of the recorded agreement shall be submitted to the Department and kept on file.~~

(d~~e~~) The satellite parking facility shall meet the requirements of this chapter.

(e~~f~~) A limit on the time of day that the satellite parking facility is used may be placed as a condition of its approval if deemed necessary by the Director for the protection of adjoining areas.

20.48.240 JOINT USE OF PARKING FACILITIES.

~~Joint use parking facilities provide for the sharing of parking facilities between different uses. A joint use parking facility requires approval of a conditional use permit pursuant to BMC20.58.020. A conditional use permit may be granted under the following conditions:~~

~~(a) Up to fifty (50) percent of the required parking for a theater, auditorium, bowling alley, or dance hall may be supplied by the off-street parking provided by certain types of uses referred to as "daytime" uses in subsection (d) of this section.~~

~~(b) Up to fifty (50) percent of the required parking for uses specified as "daytime" uses in subsection (d) of this section may be supplied by the parking facilities provided by uses referred to as "nighttime" uses in subsection (e) of this section.~~

~~(c) Up to seventy (70) percent of the required parking for a religious worship facility or auditorium incidental to a public or private school may be supplied by the off-street parking facilities provided by uses referred to as "daytime" uses in subsection (d) of this section.~~

~~(d) The following uses are considered as primary "daytime" uses:~~

~~(1) Bank;~~
~~(2) Office;~~
~~(3) Personal service shop;~~
~~(4) Wholesale business;~~
~~(5) Uses similar to the above that normally or traditionally operate only during daytime hours.~~

~~(e) The following uses are considered as primary "nighttime" or Sunday uses:~~
~~(1) Auditorium incidental to a public or private school;~~
~~(2) Civic and commercial theater;~~
~~(3) Bowling alley;~~
~~(4) Dance hall;~~
~~(5) Religious worship facility;~~
~~(6) Uses similar to the above that normally or traditionally operate primarily during evening hours or on Sunday.~~

~~(f) The following conditions apply as a requisite for approving a joint use of parking facilities:~~
~~(1) The principal building or use shall be located within a radius of eight hundred (800) feet of the joint parking facilities.~~
~~(2) The principal building or use shall not be separated from its parking by an arterial street unless it is within one (1) block of a signalized intersection.~~
~~(3) The applicant shall demonstrate there will be no substantial conflict between the two (2) uses regarding hours of operation for which joint use of parking facilities is proposed.~~
~~(4) A properly drawn legal instrument, approved by the City Attorney and executed by affected parties to set forth clearly the terms of the parking agreement, shall be recorded with the County Auditor. A copy of the recorded agreement shall be submitted to the Department.~~
~~(5) The right to occupy the primary premises shall terminate if the joint use parking facilities that are necessary and were approved cease to be available.~~

Joint use parking facilities provide for the sharing of parking facilities between different uses may be granted under the following conditions:

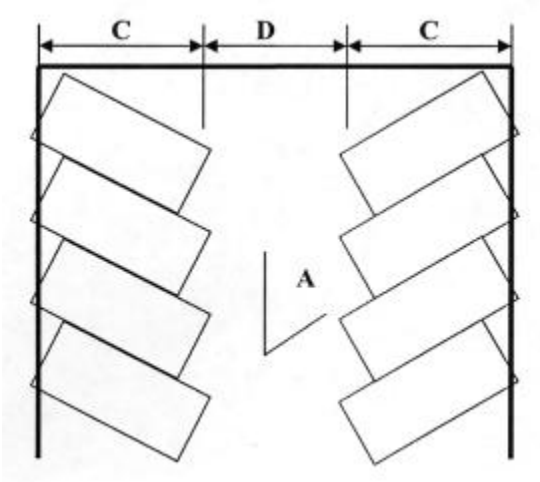
(a) The principal building or use shall be located within a radius of eight hundred (800) feet of the joint parking facilities.
(b) The principal building or use shall not be separated from its parking by an arterial street unless it is within one (1) block of a signalized intersection.
(c) The applicant shall demonstrate there will be no substantial conflict between the two (2) uses regarding hours of operation for which joint use of parking facilities is proposed.
(d) A notice to title, approved by the City Attorney and executed by affected parties to set forth clearly the terms of the parking agreement, shall be recorded with the County Auditor. A copy of the recorded agreement shall be submitted to the Department.
(e) The right to occupy the primary premises shall terminate if the joint use parking facilities that are necessary and were approved cease to be available.

20.48.260 DRIVE-THROUGH STACKING REQUIREMENTS.
Drive-through stacking requirements can be found in BMC 20.44.120.

Figure 20.48(a)

Parking Minimum Design Requirements

Parking Angle	Standards			
	Minimum Stall Width	Minimum Stall Depth	Minimum Aisle Width	
			One-way	Two-way
0°	22'0"	8'0"	10'0"	18'0"
30°	8'6"	17'0"	12'0"	20'0"
45°	8'6"	17'4"	12'3"	2~~1~~0'0"
50°	8'6"	18'0"	12'9"	20'0"
55°	8'6"	18'6"	13'3"	20'0"
60°	8'6"	18'10"	14'4"	20'0"
65°	8'6"	19'0"	15'2"	21'0"
70°	8'6"	19'2"	16'0"	21'6"
75°	8'6"	19'0"	17'6"	22'0"
90°	8'6"	17'11"	22'6"	22'6"
A	**B**	**C**	**D**	**D**



Chapter 20.50
LANDSCAPING

Sections:

20.50.010 INTENT.
20.50.020 APPLICABILITY.
20.50.030 EXCEPTIONS.
20.50.040 GENERAL PROVISIONS.
20.50.050 PERFORMANCE STANDARDS.
20.50.060 LANDSCAPING PLAN SUBMITTAL.

20.50.010 INTENT.

The intent of this chapter is to establish landscaping standards that contribute to a quality urban environment by connecting open spaces, maintaining native, drought-resistant vegetation, replacing nonnative and invasive species, increasing privacy for residential areas, providing visual relief of parking lots, providing habitat for fish and wildlife, retaining significant trees, and reducing erosion and storm water runoff while providing on-site filtration to protect groundwater resources from pollutants and flooding.

20.50.020 APPLICABILITY.

All new development, including expansion of existing structures and/or uses, shall be subject to the requirements of this chapter.

20.50.030 EXCEPTIONS.

(a) Landscaping standards do not apply to residential short subdivisions or developments of single-family units on individual lots, except that all undeveloped areas of the property shall be landscaped and continually maintained or retained in a natural undisturbed state.

(b) The Director may waive or reduce any requirement(s) of this chapter in the following cases:

(1) The remodel of an existing building results in the expansion of floor area that is ten (10) percent or less of the existing floor area;

(2) An expansion of a use that results in no modifications (except normal maintenance and repair of the structure) to the outdoor area of the site;

(3) To accommodate required off-street parking spaces. Pervious pavement or other landscaping mitigation may be required for accommodate for the loss of stormwater function.

(c) Parking lots with less than thirty (30) spaces, are exempt from internal landscaping requirements if they provide at least a five (5) foot width of landscaping across the frontage and along at least one (1) other property line and only one parking lot is located on site.

20.50.040 GENERAL PROVISIONS.

(a) Front Yards. All front yard setback areas shall be landscaped pursuant to the performance standards per BMC 20.50.050;

(b) Street Trees. Street trees shall be planted along public and private streets per performance standards in BMC 20.50.050(a) unless otherwise required by BMC 20.50.050(c). Trees shall be located within the front yard setback area, or within a public right-of-way if approved by the City and the property owner arranges the planting and maintenance of said street trees;

(c) Visual Screening. When any nonresidential development, as defined by the International Building Code (which includes three (3) or more units), is proposed on a site that is adjoining the low or medium density residential ~~(R-10)~~ zones (R-10 and R10M), visual screening shall be provided according to the performance standards in BMC 20.50.050(b);

(d) Areas Adjacent to Trails and Open Spaces. All developments adjacent to publicly used or designated trails and open spaces in the Comprehensive Plan shall provide Type I visual screening along the site facing the trail or open space per the performance standards outlined in BMC 20.50.050(b);
(e) Undeveloped Areas. Undeveloped portions of property not devoted to landscaping shall remain with existing vegetation, including significant trees, as provided for in BMC20.50.050(c), but excluding plants that can be classified as noxious weeds or as invasive species;
(f) Alternative Landscaping Plan. The requirements of this chapter may be modified to encourage better landscaping design as follows:

(1) A request for approval of alternate landscaping shall be submitted and accompanied by a landscape plan as required above;
(2) An alternative landscaping plan may be approved, provided a finding by the City of public benefit and that the total area of landscaping shall be equal to or exceed that created by adherence to the standard landscaping and buffer requirements;

(g) Guarantee. All landscaping shall be completed prior to the issuance of a certificate of occupancy (CO), except that in lieu of installing required landscaping, a performance assurance device may be provided prior to the issuance of a CO. The purpose of such a requirement is to ensure that a landscape plan is carried out when required by this chapter. The following conditions apply:

(1) A bond or other acceptable assurance device shall be in the amount of one hundred twenty-five (125) percent of the estimated cost required to complete the approved landscaping, in order to guarantee its installation and the replacement of any plants that die within two (2) years of the posting of the bond;
(2) If a performance assurance device is provided, landscaping shall be installed within the next planting season and no later than one (1) year from the date of issuance of a CO. If the approved landscape plan is not carried out, the City shall use the performance assurance device to complete the landscaping;
(3) A performance assurance device will be released two (2) years after it is posted if the landscaping vegetation is in a healthy growing condition;

(h) Maintenance Required. All plant material shall be maintained in a healthy growing condition free of weeds, trash or debris through the life and use of the development. Dead, damaged, diseased, or missing plant material shall be replanted or replaced as necessary to comply with the approved landscaping plan and the requirements of the chapter. Maintenance standards and assurances must be provided in the landscape plan as described in BMC 20.50.060.

20.50.050 PERFORMANCE STANDARDS.
Required landscaping shall be provided in the following manner:
(a) General landscaping is intended to provide visual separation between compatible uses and to soften the appearance of parking lots and building facades. All required setback areas, parking lots, and interior landscaping areas shall comply with the following:

(1) Street trees are required, one (1) tree for every twenty-five (25) linear feet of street frontage, and shall be spaced a maximum distance of thirty-five (35) feet on center; however, trees may be spaced irregularly in natural groupings rather than uniformly spaced except as noted elsewhere in this chapter;
(2) Planting shall include a mix of trees, shrubs, ground covers, turf grasses or combination thereof; non-living materials shall not exceed twenty (20) percent of the landscaped area within two (2) years of planting;
(3) Each separate landscaped area shall be a minimum of fifty (50) square feet and shall include at least one (1) tree in combination with shrubs, ground cover, or other landscape materials;
(4) Bioswales and permeable pedestrian access ways connecting landscaped areas are encouraged and are included in the calculation of required landscaping square footage~~;~~. Low

Impact Development best management practices performed onsite may count towards required landscaping (tree for tree, and square footage for square footage).

(5) Interior landscaping shall be dispersed as equally as possible throughout the site particularly in parking areas;

(6) Parking lots shall have at least ten (10) square feet of interior landscaping for each parking space. Required peripheral trees and required landscaped setback areas shall not be included in the interior landscaping calculations;

(7) For every ~~twenty (20)~~ ten (10) parking stalls one (1) tree shall be installed within a landscaped area; and

(8) Landscaped areas shall consist of no more than fifty (50) percent deciduous species.

(b) Visual screening is intended to function as a year-round full visual barrier between incompatible uses. Visual screening is required for all commercial projects adjacent to the low or medium density residential zones. Visual screening is required as follows:

(1) Type I. Required along the property line(s) of all nonresidential development proposed on a site that is adjoining the low or medium density residential ~~(R-10)~~ zones (R-10 and R10M). For purposes of this subsection, nonresidential development is as defined in the International Building Code (which includes three (3) or more dwelling units) and not specifically identified in subsection (b)(2) of this section. A Type I visual screen shall include the following:

(i) A landscaped area of at least ten (10) feet wide;

(ii) A mix of evergreen and deciduous trees, no more than twenty (20) feet apart on center. Deciduous trees up to twenty-five (25) percent of the tree requirement are encouraged to add seasonal and textural variation;

(iii) Shrubs shall be planted between the trees to provide an effective visual barrier. Shrubs may be spaced irregularly in natural groupings rather than uniformly spaced, however grouped shrubs should be no more than five (5) feet apart from each other; and

(iv) A sight-obscuring fence, wall, earthen berm or combination thereof is required adjacent to parking areas to ensure headlights do not project into residential properties. Measures shall be taken to ensure quality in the visual character of the wall or fence on the side facing the residential lot.

(2) Type II. Required for all large retail, motion picture theatres, junk yards, heavy industrial/manufacturing, stadiums, and sports complexes proposed on a site that is adjoining the low or medium density residential ~~(R-10)~~ zones (R-10 and R-10M). Type II screening shall be provided along all property lines that adjoin the low or medium density residential ~~(R-10)~~ zones (R-10 and R-10M). A Type II visual screen shall include the following:

(i) Landscaped area of at least twenty (20) feet in width;

(ii) A double row of evergreen trees spaced no more than fifteen (15) feet apart on center (rows shall be offset and spacing triangulated); existing mature healthy trees on site are encouraged to be retained;

(iii) Shrubs shall be planted to enhance the visual barrier. Shrubs may be spaced irregularly in natural groupings rather than uniformly spaced; however, grouped shrubs should be no more than five (5) feet apart from each other; and

(iv) A sight-obscuring fence, wall, earthen berm or combination thereof is required adjacent to parking areas to ensure headlights do not project into residential properties. Measures shall be taken to ensure quality in the visual character of the wall or fence on the side facing the residential lot.

(c) Centers. Intended to soften the streetscape and sidewalk areas in a dense urban environment. Projects within the ~~NCC, DCC, BC, DC or DW zone~~ centers must comply with the provisions set forth in adopted subarea plans, the provisions of this chapter, and the following:

(1) Street trees shall be provided within the front yard setback or in the sidewalk along any facade facing a major arterial. Any trees located in the City right-of way may require additional approval through the Department of Public Works and Utilities. Trees shall be spaced no less than three (3) trees per one hundred (100) linear feet of frontage. Trees placed in the sidewalk should be provided with street grates at the sidewalk level providing a continuous walking surface to within six (6) inches of the tree base. Where existing areaways or vaults prevent this form of planting, trees shall be planted in planters equipped with irrigation. All trees shall be of a species which allows pruning of lower branches in a manner necessary to keep the sidewalk clear of obstruction to a height of at least eight (8) feet. Trees shall have a minimum caliper of two and one-half (2-1/2) inches at the time of planting;

(2) Surface parking lots, if they abut public sidewalks, shall provide a perimeter landscaping strip containing a combination of trees (with no fewer than three (3) trees per one hundred (100) linear feet of frontage) and shrubs. Masonry walls no lower than fifteen (15) inches nor higher than thirty (30) inches may be substituted for shrubs; and

(3) For parking lots containing more than twenty (20) stalls, at least fifteen (15) percent of the interior area shall be planted with trees and shrubs. All trees shall have a minimum caliper of two and one-half (2-1/2) inches at the time of planting. Pedestrian walkways from adjacent sidewalks shall be provided.

(d) Vegetation Preservation. The retention of existing and healthy trees and vegetation is important to help promote the utilization of natural systems, reduce the impacts of development on the storm drainage system and provide a better transition between various land uses within the City. The following provisions encourage vegetation preservation as follows:

(1) To the greatest extent possible existing healthy significant trees defined below shall be retained on site. Should a proposal include the removal of all or portions of a significant tree(s) a qualified arborculturalist or urban forester shall be retained by the applicant to inventory the tree(s) and make recommendations regarding the protection, retention, preservation or removal of the tree(s). A copy of the report and recommendations shall be submitted to the City as part of the application process.

(2) Existing healthy trees and vegetation may substitute for newly required landscaping. Credit shall be granted tree for tree and area for area. In order to promote the retention of existing significant trees during site development, each significant tree within the landscaped area shall count as three (3) newly required trees.

(3) Credit may be given by the Director at the time of site plan review for the preservation of significant tree(s) in exchange for the loss of a parking space.

(4) Significant trees are defined as follows:

(i) Evergreen Trees. Eight (8) inches in diameter or greater, measured four (4) feet above existing grade; and

(ii) Deciduous Trees. Twelve (12) inches in diameter or greater, measured four (4) feet above existing grade.

(e) Planting Materials. Plants shall be selected based upon site-specific conditions which may affect plant growth such as sun exposure, soil types, shoreline conditions, adjacent site improvements, etc. New plant materials shall consist of drought-resistant species, or other species that are irrigated per the provisions of BMC 20.50.060(b)(4) or located in high moisture content soils. Plant material selection shall be consistent with the list maintained by the American Association of Nurserymen (AAN). Plant materials shall also be coordinated with utility company requirements to avoid conflicts. Unless otherwise specified within this chapter all required landscaping shall at a minimum meet the following size requirements:

(f) Plant Type and Size. Plants shall be sized according to the following:

(1) Standard deciduous trees: one and one-half (1-1/2) inch to two (2) inch caliper.

(2) Small ornamental and flowering trees: one and one-half (1-1/2) inch to one and three-fourths (1-3/4) inch caliper.
(3) Evergreen trees: five (5) feet to six (6) feet in height.
(4) Shrubs: minimum size one (1) gallon container.
(5) Ground cover: minimum four (4) inch container.

(g) Interruptions. Screening and buffering may be interrupted where necessary for access consistent with the general provisions of this chapter.

(h) Safety. All fire hydrants are to be free of fences, hedges, and other landscaping obstacles. Shrubs eighteen (18) inches in height and less must not be placed closer than five (5) feet to a hydrant, and shrubs or trees larger than eighteen (18) inches must not be planted closer than twenty (20) feet to a hydrant.

(i) Freestanding Signs. An area around the base of each freestanding sign equal to the sign area must be landscaped to improve the overall appearance of the sign and to reduce the risk of automobiles hitting the sign or supports of the sign. This landscaping must include vegetation and may include other materials and components such as brick or concrete bases, planter boxes, pole covers, or decorative framing.

(j) Outdoor Storage. In addition to any other requirements, storage yards and garbage dumpsters shall be surrounded by a six (6) foot high solid wall or sight-obscuring fence. The wall or fence shall be considered a structure and shall conform to setbacks which may be required for building on street frontage. Outdoor storage of materials shall not exceed six (6) feet in height when visible from a public right-of-way.

(k) Clear-Vision Triangle. A clear-vision area shall be maintained at the intersections of streets, alleys and commercial driveways, or combinations thereof as determined by the City Engineer with the following requirements:

(1) A clear-vision area shall contain no plantings, fences, walls, other structures, or visual obstructions within a vertical area extending from three (3) feet to eight (8) feet above the ground, measured from the established centerline of the street, alley or driveway;
(2) The foregoing provision shall not apply to:
(i) A tree trimmed to the trunk within the three (3) to eight (8) foot clear area;
(ii) Other plant species that are so planted and trimmed as to leave a clear and unobstructed cross-view in all seasons;
(iii) A supporting member or appurtenance to a permanent building lawfully existing on the site;
(3) Where the maximum setback conflicts with the clear-vision triangle, relief from the maximum setback may be granted thorough a Type I Director decision.

20.50.060 LANDSCAPING PLAN SUBMITTAL.

A landscape plan shall accompany all land use applications, including permits for clearing, grading, and building.

(a) A landscape plan shall be drawn to scale and shall indicate:
(1) Project name, owner's name, designer's name, north arrow, date and scale;
(2) Existing property lines, easements, rights-of-way, utilities, setbacks, trees, fences, and other screening and structures;
(3) Existing and proposed grades of at least five (5) foot intervals;
(4) Proposed plantings, identified by scientific or common name, and caliper, size, and minimum height of specimens to be planted.

(b) A landscape plan shall provide assurances for the following:
(1) Landscape areas consisting of drought-resistant vegetation will not require temporary or permanent irrigation systems;

(2) Areas where existing site conditions assure adequate soil moisture for growth within the required landscape area shall have temporary irrigation systems only as required to sustain new plantings;

(3) Except for areas of undisturbed existing vegetation, all landscape areas that do not have high soil moisture conditions shall have temporary or permanent irrigation systems. Temporary systems may be removed after twenty-four (24) months or two (2) growing seasons, whichever occurs first; provided, that the plantings are established;

(4) Permanent irrigation systems located within required landscape areas shall include the following features:

(i) Moisture or precipitation sensors;

(ii) Automatic timers set for operation to assure adequate moisture levels;

(iii) Head-to-head spacing, if sprinkler heads are proposed;

(iv) Pressure-regulating devices;

(v) Backflow prevention devices;

(vi) Separate irrigation zones for grass and planting beds;

(vii) Other provisions applicable to State and City codes;

(5) Irrigation water shall be applied with demonstrated consideration for avoiding runoff, low head drainage, overspray, or other similar conditions where water flows onto adjacent property, nonirrigated areas, and impervious surfaces;

(6) All landscaping shall be maintained in healthy growing condition for the life of the project;

(7) All plant material shall be managed by pruning so that plant growth does not conflict with public utilities, restrict pedestrian or vehicular access, or create a traffic hazard.

Chapter 20.52
SIGN STANDARDS

Sections:

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20.52.200 REMOVAL OF SIGNS.

20.52.010 INTENT.

The intent of the sign requirements chapter is to recognize the importance of signs in the community and establish regulations to protect the public from damage or injury attributable to distractions and obstructions caused by poorly designed or improperly located signs. These regulations are also intended, in part, to stabilize or enhance the overall appearance of the community, and to protect property values. This chapter is intended to regulate the number, size, placement and physical characteristics of signs and sign structures. These regulations are not intended to and do not restrict, limit or control the content of any sign message.

20.52.020 APPLICABILITY.

These regulations shall apply in all zoning districts and may be subject to additional requirements of certain districts, or to state regulations. In cases of conflict, the most stringent requirement shall prevail.

20.52.030 SIGN PERMIT.

(a) Permit Required. No sign shall be placed, erected, or displayed without first obtaining a sign permit unless exempt under BMC 20.52.040.

(b) Removal of Nonconforming Signs. A property containing a nonconforming sign shall not be allowed a new or additional sign on the property until the nonconforming sign is removed or brought into conformance with the requirements of this chapter and the underlying zone.

(c) Permit Application. An application for a sign permit shall include the following:

(1) Signature of the property owner or their designated agent;

(2) Site plan drawn to scale showing existing buildings, streets, freestanding and building signs, utility poles, and other structures within fifty (50) feet of the proposed sign;

(3) Elevation drawings of the structural details of the proposed sign including dimensions, height, illumination methods and structure supports; and
(4) Landscaping plan showing planting materials and patterns.

20.52.040 EXEMPT SIGNS.
The following signs are exempt from the provisions of this chapter, but may be subject to other provisions of the zoning code or building code:
(a) Traffic signs, signals, wayfinding signs, and other traffic control devices erected by the City or other public authority.
(b) Public notices pertaining to public health or safety issues, or for notification of legal or legislative action erected by the City or other public authority, of a temporary nature.
(c) Permanent plaques, cornerstones, nameplates, and other building identification markings attached to or carved into the building materials and which are integral parts of the structure.
(d) Signs within buildings, provided they do not include moving, flashing or animated signs that are visible from any private or public roadway, or from adjacent properties.
(e) Legal nonconforming signs.
(f) Incidental signs intended for public information or convenience and which consist of no more than ten (10) square feet for a combination of such signs. These may include restroom signs, hours of operation signs, address numbers, help wanted, credit card signs, and similar.
(g) The American flag, State of Washington flag, and other political or special purpose flags that are not intended to contribute to a commercial advertising display.
(h) Wall graphics of an artistic nature and that do not conform to the definition of "sign."
(i) Public information/identification approved through a conditional use permit process pursuant to BMC 20.58.020.
(j) Real estate signs for sale of single-family dwelling units.
(k) Temporary construction and on-site real estate development marketing signs, provided they are removed prior to occupancy approval of the building.
(l) Political signs meeting the provisions in BMC 20.52.090.
(m) Signs not readable from public or private right-of-way or waterway.
(n) Signs intended to for general public information, such as bulletin board/kiosk, that accommodates changeable copy such as private or public notices, special event information, and other short-term messages, at a scale suitable for pedestrians and not intended to be read by passing motorists, and not for commercial advertising purposes.

20.52.050 PROHIBITED SIGNS.
The following signs are prohibited within the City limits of Bremerton and shall be subject to removal through amortization or other means:
(a) Strobe lights or any other flashing, moving, video or animated features that are visible beyond any property line. Readerboard or message center signs that change copy no more frequently than at two (2) second intervals~~, and time/temperature signs~~ are exempt from this provision.
(b) Pole signs in all zones except the freeway corridor (FC) zone and the industrial (I) zone.
(c) Private signs placed within a public right-of-way, except a projecting sign may be permitted over a sidewalk if a clearance of at least eight (8) feet is maintained between the sidewalk and the bottom of the sign.
(d) Any sign that is determined by the City Engineer to be a hazard to public safety due to its design, materials, physical condition, or placement.
(e) Signs painted, attached to, or otherwise supported by rock formations, utility poles, trees or other plant materials.

(f) Bench signs, when installed within the public right-of-way. When on private property, the size of a bench sign will be counted toward the total allowable sign area.
(g) Portable signs within the public right-of-way except portable signs per BMC 20.52.160.
(h) Off-premises signs including billboards, but not including co-op signs or portable signs where permitted.
~~(i) Product signs, other than those at a franchise business identifying the franchise product.~~

20.52.060 SIGN MEASUREMENTS.
(a) The area of sign faces shall be measured as the area bounded by any six (6) straight lines intersecting at right angles, and shall include any surrounding frames or cabinet edges.
(b) Sign area does not include supports, foundations or structures that are not part of the sign.
(c) Only one (1) side of a double-faced sign is counted in the sign's total area.
(d) Multiple copy signs or shopping center signs consisting of several individual signs on the same support structures are calculated as the total of all individual sign components.
(e) A round or cylindrical sign is calculated as the maximum area that can be seen at one (1) time from one (1) position, or fifty (50) percent of the total area, whichever is greater.
(f) The height of a sign is measured from grade, as defined, to the highest point of the sign.
(g) Sign clearances are measured from grade directly below the sign to the bottom of the sign or sign frame.
(h) Street corner signs (at an intersection) shall be assigned to one (1) of the frontages by the applicant and shall conform to the requirements of that frontage only.
(i) Portable signs shall be calculated as part of the total freestanding sign area available to the site.

20.52.070 SIGN PLACEMENT REQUIREMENTS.
(a) All signs, including supporting structures, shall be erected or placed totally within the boundaries of the site and not within any public right-of-way, except for the following:
(1) Public authority and other traffic-related signs;
(2) Temporary banner signs advertising a public event, which meet City approval;
(3) Approved signs overhanging public walkways; and
(4) Approved portable signs per BMC 20.52.160.
(b) Intersections standard. A vision clearance setback shall be maintained of at least fifteen (15) feet from the edge of all private and public roadways, alleys and driveway intersections.
(c) General road standard. A vision clearance setback shall be maintained of at least ten (10) feet from the edge of existing or planned roadways. Signs may be allowed within the clear-vision setback if:
(1) A pole sign is allowed by the zone;
(2) The top of the sign is three (3) feet or less above the grade;
(3) The bottom of the sign is eight (8) feet or greater above the grade; or
(4) The posts and support structure have a diameter no greater than twelve (12) inches within this area.
(d) A pedestrian clearance is required for any projecting sign (8) feet above grade or sidewalk as measured to the bottom of the sign.
(e) A projecting sign may extend over a public right-of-way or public pedestrian walkway up to six (6) feet past the property line, but in no case shall the sign extend over a street or other area used by motor vehicles.
(f) The setbacks for freestanding signs may be reduced to zero (0), provided the applicant provide justification and documented proof that the sign's placement will not hinder vision clearance for existing and future development on the site~~the sign complies with the vision clearance requirements~~.
(g) Freestanding signs shall not extend beyond property lines.

20.52.080 TEMPORARY SIGNS.

All temporary signs are subject to the placement, size, and height requirements of this chapter, and the requirements set forth in the underlying zone. Additionally, the following requirements shall apply:

(a) The sign area of individual temporary signs shall not exceed thirty-two (32) square feet; except a banner may be permitted with a sign area of up to one hundred (100) square feet.

(b) The maximum height of a temporary sign is six (6) feet, except a banner may be allowed a maximum height of twenty (20) feet.

(c) Signs may be displayed for a period not to exceed sixty (60) days. Any time a temporary sign is removed by a business, it shall not be replaced by the same or other temporary sign for a period of not less than ninety (90) consecutive days.

(d) Temporary signs meeting the following standards are exempt from the requirements of BMC 20.52.030 and BMC 20.52.090 through 20.52.140:

(1) The sign is displayed for a period of seven (7) days or less;

(2) The area of the sign is twenty-four (24) square feet or less; and

(3) The height of the sign is six (6) feet or less.

(e) Temporary signs shall not be permanently attached to the ground, a building, or to any other structure, other than what is necessary to secure it to prevent theft, wind damage or safety problems.

(f) Advertising wind signs or devices that flutter, wave, sparkle, or otherwise move from the pressure of the wind are permitted for specific promotions or events but shall not be permanently displayed.

20.52.085 POLITICAL SIGNS.

Political signs identify candidates or issues in upcoming elections and/or they may express noncommercial speech such as religious, political, social, or other philosophical messages. The content of such signs are not regulated, but are subject to the following requirements:

(a) The sign area of political signs shall not exceed thirty-two (32) square feet.

(b) The maximum height of a political sign shall be six (6) feet.

(c) Political signs advertising a candidate or issue in an upcoming election shall be removed within fourteen (14) days after the general election.

(d) Political signs that do not comply with the requirements of this section shall be subject to the permit requirements, sign area, setback and other provisions of this chapter.

20.52.090 GENERAL SIGN REGULATIONS.

The following regulations apply to signs in all zone districts:

(a) Vision Clearance. Signs shall conform to the clearance requirements of BMC 20.52.060.

(b) Extension Above Rooftop. No sign that is attached to a building shall extend above the highest point of the roof~~, except that in the DC, DW, and BC zones,~~ except for commercial and center zones up to fifty (50) percent of the area of a wall sign that is integrated into an architectural facade design element to define the primary entry to the premises may project above the parapet of a flat roof; provided, that all components of the sign are only visible to public view on the primary entry side of the building.

(c) Window Signs. Signs placed on the inside of windows and directed toward the outside of a building shall be included in the total sign area calculations.

(d) Canopies and Awnings. Signs placed on projecting canopies and awnings, whether lighted or not, shall be calculated only for the area of the canopy or awning taken up by the sign itself.

(e) Landscaping. All freestanding signs shall have a landscaped island at the base of the sign equal to, or greater than, the sign area.

20.52.100 COMMERCIAL DISTRICTS SIGN REGULATIONS.

The following standards shall apply to signs placed on property zoned commercial:

(a) Freestanding Signs.

(1) No use or combination of uses on a single lot or building shall have more than one (1) freestanding sign per street frontage, with the following exceptions:

(i) Parcels with five hundred (500) feet of continuous frontage may have one (1) additional sign.

(ii) Co-Op Signs. See subsection (d) of this section.

(2) Maximum Height and Design. Freestanding signs shall comply with the height and design requirements set forth in Figure 20.52(a).

(b) Building Signs.

(1) Commercial Uses. The building sign standards shall be in accordance with the following:

(i) Sign Area. Signs attached to a building may have an aggregated area that shall not exceed two (2) square feet for each one (1) lineal foot of building facade width.

(ii) Maximum Sign Size. A building sign attached individually shall not exceed one hundred (100) square feet in area, except it may exceed the maximum if the total sign area is less than ten (10) percent of the total building facade area of the side with the signage.

(2) Industrial Uses. The building sign standards for industrial uses and other uses not engaged in the sale of goods or services to the public shall be in accordance with the following:

(i) Sign Area. The maximum aggregated area for all building signs attached to a single building shall be one hundred (100) square feet.

(3) Number of Signs. There is no limit to the number of individual building signs, provided the maximum aggregated sign area is not exceeded.

(4) Illumination. Signs may be illuminated directly, indirectly, or internally, provided the lighting is directed away from other land uses, and away from oncoming traffic.

(c) Shopping Center or Professional Complex. A shopping center, professional office complex, or similar large multiple-occupancy development may have an identification sign to a maximum size of three hundred (300) square feet placed along one (1) street frontage, provided the parcel has an area of at least eight (8) acres, and the sign is no closer than one hundred (100) feet from an adjacent property on the same side of the street.

(d) Co-Op Signs. A co-op sign is intended to permit businesses that do not have street frontages on Kitsap Way or Wheaton Way a reasonable opportunity to advertise. A co-op sign transfers the right to place a freestanding sign from the nonfronting parcel to the parcel with street frontage on Kitsap Way or Wheaton Way. Co-op signs may be permitted in the following circumstances:

(1) The parcel fronting Wheaton Way or Kitsap Way shall have at least one hundred (100) feet of continuous street frontage on Wheaton Way or Kitsap Way; and

(2) The parcels (fronting and nonfronting) must share a property line; and

(3) The nonfronting business shall not have a property line fronting Wheaton Way or Kitsap Way; and

(4) A parcel fronting Kitsap Way or Wheaton Way shall be permitted one co-op sign, not to exceed one hundred (100) square feet; however, the co-op sign may contain signage for more than one (1) nonfronting business; and

(5) In the event that the fronting and nonfronting parcel(s) elect to share a single freestanding sign, a twenty-five (25) percent bonus in square footage is permitted, provided:

(i) The shared sign is the only permitted freestanding sign on the fronting and nonfronting parcels, except as provided in subsection (d)(7)(i) of this section.

(ii) The sign does not exceed the fifteen (15) foot maximum height.

(6) The nonfronting parcel is limited to one (1) co-op sign on Kitsap Way or Wheaton Way; and

(7) The nonfronting parcel will transfer the right to develop a freestanding sign on the nonfronting parcel to the parcel fronting Kitsap Way or Wheaton Way;

(i) The nonfronting parcel may place a directional sign at each entrance, not to exceed ten (10) square feet in size.

(8) The owners of both the fronting parcel and the nonfronting parcel shall record a "Notice to Title" prepared by the Department recognizing the presence of a co-op sign with the Kitsap County Auditor when required by the Department. The notice shall be notarized and the applicant must submit proof that the notice has been legally recorded before the sign permit is issued.

20.52.110 AUTO DEALERSHIP SIGN REGULATIONS.

This section applies within the freeway commercial zone designation.

(a) No provisions under this section shall be interpreted to preclude other provisions of this chapter that are applicable to a given property or proposal.

(b) In addition to the other standards prescribed in this chapter, a dealership group may erect one (1) automobile dealership district sign subject to the following requirements:

(1) A dealership group is two (2) or more franchises under common ownership;

(2) The automobile dealership district sign shall be limited to identifying the dealership group and the brands of vehicles sold in the group;

(3) The total area of the sign shall not exceed fifty (50) square feet for each dealer franchise in the group (example: a dealership group with two (2) dealer franchises would be allowed an automobile dealership district sign of up to one hundred (100) square feet);

(4) The maximum total sign area in no case shall exceed one hundred fifty (150) square feet if the sign is a pole sign, or two hundred (200) square feet if it is a monument sign;

(5) The square footage of the sign shall be deducted from the total aggregated signage allotted to the parcel on which the sign is placed;

(6) The sign can only front on a City arterial street;

(7) A master signage plan is required to be submitted prior to issuance of the sign permit showing the location and area of all signage of all the dealerships within the dealership group.

20.52.120 RESIDENTIAL DISTRICT SIGN REGULATIONS.

The following regulations apply to properties in residential zones:

(a) Freestanding Signs.

(1) Entrance Signs. One (1) freestanding sign may be permitted at each street entrance to a neighborhood, subdivision, manufactured park, apartment/condominium complex, or other homogeneous residential area, provided:

(i) The sign specifically identifies the development only;

(ii) The sign area is fifty (50) square feet or less.

(2) Multiple-Family Developments. A residential development having four (4) or more dwelling units may have one (1) permanent freestanding sign per street frontage, provided the total sign area does not exceed four (4) square feet.

(3) Individual Properties. Each residential property may have one (1) freestanding permanent sign that shall not exceed two (2) square feet in sign area.

(4) Height. Freestanding signs shall have a maximum height of six (6) feet as measured from grade directly below the sign to the highest point on the sign or its support structure.

(b) Building Signs.

(1) The freestanding sign limitations prescribed in subsections (a)(1) through (3) of this section may be applied to building signs in lieu of freestanding signs.

(c) Resident name plaques and address numbers shall not be included in total sign area calculations, but shall be limited to a size and character of other such signs in the immediate neighborhood.

(d) Advertising wind signs or devices that flutter, wave, revolve, or sparkle, or are otherwise moved by the wind are prohibited.

20.52.130 SPECIAL PURPOSE SIGN REGULATIONS.

~~Special purpose signs, for uses such as churches, schools, and parks, shall comply with the requirements for the commercial zone as prescribed in BMC 20.52.100~~. When a sign that is not otherwise regulated by this title and is located in a ~~the low density~~ residential zone, the special purpose sign regulations shall apply. Specifically, special purpose signs are signs located in a residential zone that are for either (1) commercial uses, such as an adaptive reuse, or legally established nonconforming commercial use, or (2) noncommercial signs such as signs for churches, schools and parks. ~~In addition,~~ T~~t~~he following shall apply:

(a) Freestanding Signs.

(1) Sign Area. The maximum area of a freestanding sign shall be limited to fifty (50) square feet.

(2) Number of Signs. Only one (1) freestanding sign is allowed per each street frontage.

(3) Height. The height of a freestanding sign shall not exceed six (6) feet.

(b) Building Signs.

(1) Sign Area. The aggregate area of all building signs, projecting signs, and other signs attached to buildings shall not exceed one hundred (100) square feet.

(2) Number of Signs. There is no limit to the number of individual building signs, provided the maximum aggregated sign area is maintained.

(c) Illumination. When located within a ~~the low density~~ residential zone, the sign shall not be illuminated between the hours of 10:00 p.m. and 7:00 a.m.

20.52.140 DOWNTOWN AND CENTERS SIGN REGULATIONS.

The following standards shall apply to signs located in a center ~~in the downtown core (DC), downtown waterfront (DW), business core (BC), and in the center zones: neighborhood center core (NCC), district center core (DCC), and employment center (EC)~~:

(a) Freestanding Signs.

(1) Sign Area. The requirements prescribed in BMC 20.52.100(a)(1) shall apply, except wide parcels shall be limited to only one (1) freestanding sign not to exceed one hundred (100) square feet.

(2) Spacing. Freestanding signs shall be no closer than twenty-five (25) feet from adjacent properties, except this may be modified by the Director where such factors as the width of the lot or the driveway access makes compliance impossible.

(3) Maximum Height and Design. Freestanding signs shall comply with the height and design requirements set forth in Figure 20.52(a).

(b) Building Signs. The requirements prescribed in BMC 20.52.100(b) shall apply.

(c) Moving, flashing, or animated signs are prohibited in downtown and centers zones.

20.52.150 VARIATIONS TO SIGN REGULATIONS.

(a) The Director shall have the authority to grant administrative approval for minor adjustments to sign heights, numbers of signs, sign placement, and sign size, provided:

(1) The adjustments do not exceed ten (10) percent of the basic requirement; and

(2) The adjustment is based on a hardship or problem with the site, existing building placements, or poor site visibility, and not based on economic factors or personal design preference.

(b) A request for adjustments beyond ten (10) percent shall be processed as a variance pursuant to BMC 20.58.030.

20.52.160 PORTABLE SIGNS.

Portable signs may be placed on sidewalks or portions of the pedestrian public right-of-way subject to the following conditions:

(a) A minimum four (4) feet of unobstructed sidewalk or pedestrian path must be maintained. A portable sign shall not be allowed on sidewalks with less than four (4) feet in width.

(b) Portable signs may not be placed in the driving lanes of a public street or in parking stalls on the public right-of-way.

(c) One (1) portable sign is allowed for any licensed business. The sign must be displayed immediately adjacent to the main entrance of the business employing the sign.

(d) Portable signs shall not exceed thirty-two (32) inches in width or thirty-six (36) inches in height as displayed.

(e) Portable signs shall be professionally lettered, neatly painted or assembled, and remain in good repair.

(f) Portable signs shall be constructed to avoid being blown from their intended location and to avoid tipping or falling.

(g) Portable signs shall not be internally lit, not have moving parts, nor shall any attachment or portion of the sign extend beyond the thirty-two (32) by thirty-six (36) inch maximum dimensions established in subsection (d) of this section.

(h) Portable signs shall be displayed during daylight hours only and shall be removed by the business owner immediately after dusk each day.

(i) Any site landscaping required by the City shall not be altered to accommodate a portable sign.

(j) Portable signs shall not block intersections or otherwise constitute a public safety hazard.

(k) Pursuant to Chapter 47.42 RCW and Chapter 468-66 WAC, placement of portable signs on the public right-of-way of SR 3, SR 303, SR 304, and SR 310 is prohibited.

(l) Placement of portable signs on the public right-of-way in violation of this section will result in immediate removal of the sign from the public right-of-way by City personnel.

20.52.180 NONCONFORMING SIGNS.

(a) Applicability. This section applies to the maintenance, repair, as appropriate, and removal of nonconforming signs. "Nonconforming sign" means a sign that was legally established, but no longer conforms to the current sign standards of this title.

(b) Maintenance and Repair of Off-Premises Signs. Any nonconforming off-premises sign shall immediately lose its legal nonconforming designation, and be removed or brought into conformity with the provisions of this chapter, when one (1) or more of the following events occur:

(1) Alterations to Sign.

(i) Any structural alteration to an off-premises sign shall result in the loss of its nonconforming status. This does not include replacing the sign's message or painting.

(ii) In no case shall an off-premises sign be permitted to be expanded or enlarged. Adding electronic components that move, flash, or change copy is not permitted.

(c) Maintenance and Repair of On-Premises Signs. Any nonconforming on-premises sign shall immediately lose its legal nonconforming designation, and be removed or brought into conformity with the provisions of this chapter, when one (1) or more of the following events occur:

(1) Alterations to Sign.

(i) If alterations are made to the sign that exceed twenty-five (25) percent of the replacement cost of the sign, it shall lose its nonconforming status; or

(ii) For freestanding signs, refacing the sign with a new message is permitted; however, if the cabinetry housing the sign is removed, or is intended to be replaced, the sign shall lose its nonconforming status; or

(iii) In no case shall an on-premises sign be permitted to be expanded or enlarged.

(2) Alteration to Associated Business or Site. Should a business with a nonconforming sign undergo remodel or site improvements, unless the structure was damaged by fire or other casualty not intentionally caused by the owner and/or tenant and a permit is applied for within one (1) year of such fire or casualty, -the sign shall lose its nonconforming status under any of the following circumstances:

(i) The on-site renovation, construction, or other site improvements exceed seventy-five (75) percent of the assessed improvement value of the site; or

(ii) On-site construction/improvements costs exceed fifty thousand dollars ($50,000).

20.52.190 GOVERNMENT ACQUISITION OF PROPERTY FOR RIGHT-OF-WAY.

(a) A sign that becomes no-nconforming with respect to its setback from the edge of a public right-of-way as a result of a local, state, or federal government acquisition of property for right-of-way expansion shall be characterized as a legal nonconforming sign and shall be allowed subject to the requirements of this section.

(b) The City may allow, by a Type II permit as prescribed in Chapter 20.02 BMC, the placement of a new sign or relocation of an existing sign within a required setback if it meets all of the following criteria:

(1) The enforcement of this code would result in substantial hardship to the applicant because no feasible location exists to place a sign on the subject property other than in a required setback, and such hardship was created solely by local, state, or federal government acquisition of property for right-of-way expansion and not by any action of the applicant.

(2) The sign is not prohibited by BMC 20.52.050 and, except for location within a required setback, complies with all other requirements of this chapter.

(3) The sign complies with the City's minimum sight distance at intersection requirements pursuant to BMC 20.52.070.

(4) Location of the sign within a required setback is otherwise consistent with the public health, safety, and welfare.

20.52.200 REMOVAL OF SIGNS.

The sign user, owner and/or owner of the property on which an abandoned, dangerous, defective, illegal, or prohibited sign is located shall remove or cause to be removed any such sign as required in this chapter. Failure to comply shall subject the sign user, owner and/or owner of the property on which the sign located to the remedies and penalties of BMC 20.40.200.

Figure 20.52(a)
Freestanding Signs: Zone-Specific Size and Design Requirements

Commercial Zones	Freestanding Sign Type	Max. Height	Max. Size[1, 3]
General Commercial (GC)	Monument only	8'	60 sq. ft.
Neighborhood Business (NB)	Monument only	6'	60 sq. ft.
Freeway Corridor (FC)	Any	35'	100 sq. ft.[4]
Industrial (I)	Any	25'	-
Institutional (INST)	Monument only	8'	60 sq. ft.
Downtown and Centers Zones	**Freestanding Sign Type**	**Max. Height**	**Max. Size**
District Center Core (DCC)	Monument only	8'	60 sq. ft.

Downtown Core (DC)	Monument only	8'	60 sq. ft.
Downtown Waterfront (DW)	Monument only	8'	60 sq. ft.
Business Core (BC)	Monument only	8'	60 sq. ft.
Employment Center (EC)	Monument only	8'	60 sq. ft.

1. Larger signs for shopping centers or office complexes are allowable per BMC 20.52.100(c).
2. Larger signs for auto dealerships are allowed per BMC 20.52.110.
3. Freestanding sign size for special purpose zones not listed in this table are subject to the requirements of BMC 20.52.130.
4. Freestanding sign size for special purpose zones not listed in this table is subject to the requirements of BMC 20.52.130.
5. Freestanding signs fronting Wheaton Way and Kitsap Way may increase the maximum height to fifteen (15) feet, and maximum area to one hundred (100) square feet per BMC 20.52.100(d), which is a permissible departure from the requirements listed in Figure 20.52(a).

~~Figure 20.52(a)~~

~~Freestanding Signs: Zone-Specific Size and Design Requirements[4]~~

~~Commercial Zones~~	~~Freestanding Sign Type~~	~~Max. Height[4, 5]~~	~~Max. Size[1, 2, 4]~~
~~Commercial Corridor (CC)~~	~~Monument only~~	~~8'~~	~~60 sq. ft.~~
~~Wheaton Way Redev. Corr. (WWRC)~~	~~Monument only~~	~~8'~~	~~60 sq. ft.~~
~~Neighborhood Business (NB)~~	~~Monument only~~	~~6'~~	~~60 sq. ft.~~
~~Limited Commercial (LC)~~	~~Monument only~~	~~8'~~	~~60 sq. ft.~~
~~Freeway Corridor (FC)~~	~~Any~~	~~35'~~	~~100 sq. ft.[3]~~
~~Marine Industrial (MI)~~	~~Monument only~~	~~8'~~	~~100 sq. ft.~~
~~Industrial Park (IP)~~	~~Monument only~~	~~8'~~	~~100 sq. ft.~~
~~Industrial (I)~~	~~Any~~	~~25'~~	~~-~~
~~Institutional (INST)~~	~~Monument only~~	~~8'~~	~~60 sq. ft.~~
~~Downtown and Centers Zones~~	**~~Freestanding Sign Type~~**	**~~Max. Height~~**	**~~Max. Size~~**
~~Neighborhood Center Core (NCC)~~	~~Monument only~~	~~8'~~	~~60 sq. ft.~~
~~District Center Core (DCC)~~	~~Monument only~~	~~8'~~	~~60 sq. ft.~~
~~Downtown Core (DC)~~	~~Monument only~~	~~8'~~	~~60 sq. ft.~~
~~Downtown Waterfront (DW)~~	~~Monument only~~	~~8'~~	~~60 sq. ft.~~
~~Business Core (BC)~~	~~Monument only~~	~~8'~~	~~60 sq. ft.~~
~~Employment Center (EC)~~	~~Monument only~~	~~8'~~	~~60 sq. ft.~~

~~1. Larger signs for shopping centers or professional office complexes are allowable per BMC 20.52.100(c).~~
~~2. Larger signs for auto dealership groups are allowable per BMC 20.52.110.~~

3. Freestanding sign size for special purpose zones not listed in this table is subject to the requirements of BMC 20.52.130.
4. Freestanding signs fronting Wheaton Way and Kitsap Way may increase the maximum height to fifteen (15) feet, and maximum area to one hundred (100) square feet, which is a permissible departure from the requirements listed in Figure 20.52(a).
5. The structure that the freestanding sign is attached to shall not be more than twenty-five (25) percent taller than the height of the sign as defined in BMC 20.52.060(f).

Chapter 20.54
NONCONFORMING PROVISIONS

Sections:

20.54.010 INTENT.
20.54.020 ESTABLISHMENT OF A LEGAL NONCONFORMITY AND APPLICABILITY.
20.54.030 ANNEXATION.
20.54.040 DEFINITIONS.
20.54.050 NONCONFORMING LOTS.
20.54.060 NONCONFORMING USES.
20.54.070 NONCONFORMING STRUCTURES.
20.54.080 NONCONFORMING LANDSCAPING.
20.54.090 CONDITIONAL NONCONFORMING USES.
20.54.100 NONCONFORMING SIGNS.
20.54.110 UNLAWFUL USES, ~~AND~~ STRUCTURES, AND LOTS.

20.54.040 DEFINITIONS.

The following definitions are applicable to this chapter:

(a) Nonconforming Lots. A lot that does not meet the lot area, width, ~~or~~ street frontage, or other requirements of the zone in which it is located, but was lawfully created prior to the effective date of the zone or subsequent amendments thereto.

(b) Nonconforming Use. Any activity, development or condition that by the zone in which it is located is not permitted outright or as an accessory use, or is not permitted by a conditional use permit or other special permitting process; but was lawfully created prior to the effective date of the zone or subsequent amendments thereto and was continually maintained as defined in this chapter. A nonconforming use may or may not involve buildings or structures and may involve part of or all of a building or property.

(c) Nonconforming Structure. A building or structure that does not comply with the required setbacks, height, lot coverage and other development requirements of the zone in which it is located, but was lawfully constructed prior to the effective date of the zone or subsequent amendments thereto and was continually maintained as defined in this chapter. This term does not apply to any substandard condition that was legally granted a variance.

~~(~~d) Substantial Destruction. For the purpose of this chapter, "substantial destruction" means the repair or replacement of a building or structure which exceeds one of the following~~seventy-five (75) percent of the replacement cost of the entire building, excluding the foundations. The replacement cost shall be derived from the market value of the structure or the value as defined by the City's building code, whichever is greater~~.

(1) Seventy five percent (75%) of the assessed value of the structure as determined by the Kitsap County Assessor. An appraised value may be substituted for the assessed value at the request of the applicant and as deemed appropriate by the Director.

(2) For accessory structures which are typically not assessed (such as decks, sheds, garages, and retaining walls) and the value cannot be determined, substantial destruction will occur at the point that seventy five percent (75%) or more of the structure is replaced.

20.54.050 NONCONFORMING LOTS.

The following provisions shall apply to all lots meeting the definition in BMC 20.54.040(a):

(a) Continuation and Development. A nonconforming lot may be developed for any use allowed by the zone, provided the development meets, through design or by an approved variance, the requirements of the zone in which it is located.

(b) Illegal Lot Modifications or Split. The following is applicable to all lots:

(1) No lot may be modified, divided or adjusted in a manner that would violate ~~the~~ dimensional, ~~or~~ area, or other requirements of the zone in which it is located.

(2) A government agency may lawfully modify a lot in a manner that would result in nonconformity, if portions of a lot are acquired for a public use or purpose, or is allowed otherwise by law.

20.54.060 NONCONFORMING USES.

The following provisions shall apply to all uses meeting the definition in BMC 20.54.040(b):

(a) Continuation. Any legally established nonconforming use may be continued until such time that it is discontinued as prescribed in subsection (d) or (e) of this section.

(b) Change of Use. A structure or property containing a nonconforming use may be changed to the following:

(1) A use that conforms to the requirements of the zone; or

(2) Another nonconforming use; provided, that:

(i) A conditional use permit is approved pursuant to BMC 20.58.020;

(ii) The existing nonconforming use was not discontinued as prescribed in subsection (d) or (e) of this section;

(iii) The new use is clearly a reduction in the nonconformity and intensity of the existing nonconforming use; and

(iv) The applicant demonstrates that there is a demand for the use in the neighborhood that provides a public benefit.

(c) Expansion. A nonconforming use may not be expanded or enlarged, except under one (1) of following circumstances:

(1) Alterations are permitted, provided it is within the existing physical space of the building or use.

(2) Residential dwellings may have the building area expanded if the number of dwelling units is not increased above or below the requirements of the zone in which it is located, there is no decrease in the number of off-street parking spaces below the minimum requirements and the addition complies with all zoning requirements.

(3) The acquisition of additional accessory off-street parking is not an expansion of a nonconforming use.

(d) Discontinuation. A nonconforming use that is discontinued shall have its legal nonconforming status terminated and any subsequent use of the property or building shall be that of a use that conforms to the requirements of the zone. A nonconforming use is determined to be discontinued if any of the following circumstances apply:

(1) The nonconforming use is changed to a conforming use;

(2) Another nonconforming use is approved pursuant to subsection (b)(2) of this section; or

(3) The nonconforming use has ceased for a period of more than one (1) year.

(e) Damage or Destruction. If a structure containing a nonconforming use experiences substantial destruction, it shall constitute a discontinuation of the nonconforming use, except the nonconforming use may be allowed to continue under any of the following circumstances:

(1) The structure has suffered substantial destruction as a result of fire or other casualty not intentionally caused by the owner or tenant and a complete building permit application is filed within one (1) year of such fire or other casualty.

~~(2) The use is a detached or attached single-family dwelling located anywhere in the City.~~

(2~~3~~) A conditional use permit was approved pursuant to BMC 20.54.090.

(f) Repair and Maintenance. A building or structure containing a nonconforming use may be repaired and maintained if the work does not restore it from substantial destruction.

20.54.070 NONCONFORMING STRUCTURES.

The following provisions shall apply to all structures and buildings meeting the definition in BMC 20.54.040(c):

(a) Continuation. Any legally established nonconforming structure may be continued until such time that it is discontinued as prescribed in subsection (c) of this section.

(b) Expansion. Buildings may be expanded, provided:

(1) A nonconforming structure may be enlarged, extended or structurally altered, provided the enlargement or alteration complies with the setback, height, lot coverage, and other site development requirements of the zone in which the structure is located.

(2) Structures not conforming to the setback may be expanded by up to twenty (20) percent of the gross floor area and to the building line, provided the enlargements do not further violate setback requirements.

(c) Damage or Destruction. A nonconforming structure experiencing substantial destruction shall be considered discontinued and have its nonconforming status terminated. Any subsequent repair or reconstruction of the structure shall comply with the requirements of the zone, with the following exception:~~.~~

(1) The nonconforming structure may be allowed to be rebuilt within the same footprint and size if the structure has suffered substantial destruction as a result of fire or other casualty not intentionally caused by the owner, and a complete building permit application is filed within one (1) year of such fire or other casualty.

(d) Partial Damage or Destruction. A nonconforming structure suffering from less than substantial destruction may have its nonconforming status suspended for a time period determined by the Director and be considered conforming for the purpose of improvements and repair, if:

(1) The structure is damaged by fire or other casualty not intentionally caused by the owner or tenant and a complete building permit application is filed within one (1) year of such fire or other casualty; or

(2) A building permit application is submitted prior to partial destruction. The building permit must remain active and if it is allowed to expire, the legal nonconforming status shall terminate and subsequent repairs and improvements shall comply with the requirements of the zone.

(3) In no case shall the nonconformity be allowed to expand.

(e) Repair and Maintenance. Normal repair and maintenance work on a nonconforming structure may be performed that maintains continued safe and sanitary conditions.

20.54.080 NONCONFORMING LANDSCAPING.

Uses which were lawfully established which do not conform to landscaping requirements need not provide additional landscaping, except:

(a) Expansion of a Structure. If an existing structure or use is expanded, additional landscaping shall be provided in accordance with the requirements of Chapter 20.50 BMC. The amount of additional landscaping shall be computed only to the extent of the expansion regardless of whether existing landscaping complies with the requirements.

(b) Change of Use. A change to a use that requires greater amounts of landscaping than the former use shall provide landscaping in accordance with the requirements of Chapter20.50 BMC. The Director may modify the amount of landscaping required if providing the required landscaping would result in a reduction of the parking below the minimum required by Chapter 20.48 BMC.

(c) Parking Lot. When an existing unpaved parking area is paved, it shall be landscaped in accordance with the requirements of Chapter 20.50 BMC. The Director may modify the amount of landscaping required if the landscaping would result in a reduction of the parking below the minimum required by Chapter 20.48 BMC.

20.54.090 CONDITIONAL NONCONFORMING USES.

(a) Unsuitable Structures for Uses. An existing structure constructed for a use no longer allowed by the zone, which has lost its legal nonconforming status, and is not suited for other uses permitted by the zone, may have its use re-established if a conditional use permit is approved pursuant to BMC 20.58.020; provided, that:

(1) The applicant demonstrates that the remaining life of the structure is adequate to warrant the proposed use of the structure;

(2) The applicant demonstrates that an allowed use of the zone cannot be established;

(3) The applicant demonstrates that there is a demand for the use in the community or region that provides a public benefit; and

(4) The applicant demonstrates that the use and renovation to the structure is not inconsistent with the goals and policies of the Comprehensive Plan.

20.54.100 NONCONFORMING SIGNS.

Refer to Chapter 20.52 BMC for regulations pertaining to nonconforming signs.

20.54.110 UNLAWFUL USES, ~~AND~~ STRUCTURES, AND LOTS.

(a) Nothing in this chapter shall be interpreted to be authorization for, or approval of, the continuation of the use of a structure that is in violation of any ordinance in effect at the time of the passage of the ordinance codified in this chapter. The intermittent, temporary, or illegal use of land or structures shall not be sufficient to establish the existence of a nonconforming, ~~use and/or~~ structure, and/or lot.

(b) Any use, structure or lot which did not comply with the zoning code requirements at the time it was established or constructed and does not comply with the current zoning code is illegal and shall be brought into compliance with the provisions of BMC Title 20, Division III.

Chapter 20.58
LAND USE PERMITS

Sections:

20.58.010 GENERAL.
20.58.020 CONDITIONAL USE PERMITS.
20.58.030 VARIANCE.
20.58.040 SITE-SPECIFIC REZONE.
20.58.050 AREA-WIDE REZONES.
20.58.060 RESIDENTIAL CLUSTER DEVELOPMENT.
20.58.080 SITE PLAN REVIEW.
20.58.090 SITE DEVELOPMENT PERMIT.

20.58.010 GENERAL.

(a) Applicability. This chapter contains the provisions and approval criteria for land use permits applicable to BMC Title 20. The provisions of this chapter are applied in conjunction with Chapter 20.02 BMC, Project Permits, in establishing the appropriate review procedures and criteria by which land use permits are reviewed and a decision rendered.

(b) Fees. The corresponding application fees prescribed in the fee schedules set forth in Chapter 3.01 BMC shall accompany applications.

20.58.020 CONDITIONAL USE PERMITS.

(a) Authority. Uses listed as a conditional use may be permitted if a conditional use permit (CUP) is approved.

(b) Applicant. The City, federal, state or local agencies, property owner(s), or their designated agents may initiate a request for a CUP.

(c) Procedure. A CUP application may be processed as an administrative Type II Director decision or as a nonadministrative Type III Hearing Examiner decision pursuant to the provisions set forth in Chapter 20.02 BMC.

(1) 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.

(2) The Director may convert a Type II administrative CUP to a Type III nonadministrative CUP any time prior to the issuance of a decision on the application.

(3) In addition to the notification requirements prescribed in BMC 20.02.100, the notice of application shall be mailed to all property owners within three hundred (300) feet of the property.

(d) Criteria for Approval. The City shall approve a CUP only if it is found that:

(1) The use is consistent with the Comprehensive Plan goals and policies;

(2) The use complies with all applicable zoning and development standards and requirements;

(3) The use satisfies all of the conditional use approval criteria specified in the zone in which the use is located;

(4) The design of the proposal and conditions of approval has mitigated all identifiable adverse impacts;

(5) The use is compatible with nearby land uses and the surrounding neighborhood in terms of the level of light and glare, noise and parking demand, hours of operation and air quality; and

(6) Stipulations are made for the availability of adequate water, sewer, storm water, utilities and urban governmental services.

(e) Conditions of Approval. Conditions such as site orientation, fencing, buffering, parking location, lighting, access, hours of operation, and others may be imposed as a condition of approval if it is found they are necessary to mitigate identifiable adverse impacts and ensure compatibility with nearby uses.
(f) Lapse of Approval. If the CUP is not acted on within one (1) year from the date the decision became final, it shall expire. Expiration is automatic and notice is not required. The Director may grant a single six (6) month extension if the applicant makes such a request in writing prior to the expiration date and can show good cause for granting the extension.

20.58.030 VARIANCE.
(a) Authority. The variance is a mechanism that allows the provisions of BMC Title 20 to be varied on a case-by-case basis. Approval of a variance may only be granted when it is for relief from a dimensional standard when the requirement of such would result in an unusual or unreasonable hardship due to physical characteristics of the site, or due to existing improvements on or adjacent to the site.
(b) Applicant. The City, federal, state or local agencies, property owner(s), or their designated agents may initiate a request for a variance.
(c) Procedures. A variance application is processed as a Type III Hearing Examiner decision pursuant to the provisions set forth in Chapter 20.02 BMC. If the variation would not exceed ten (10) percent of the required dimensional standard from which relief is being sought, the Director may approve the variance as a Type II Director decision.
(d) Criteria for Approval. The City may grant a variance only if it is found that:
(1) The variance will not be materially detrimental to the surrounding neighborhood and avoids adverse impacts on other properties and residences;
(2) The variance is necessary to overcome exceptional or extraordinary hardship circumstances related to the size, shape, topography, location, or surroundings of the subject property, or the location of a preexisting legal nonconformity that may exist on or adjacent to the site;
(3) The variance will not grant relief for a self-created hardship, or for a personal or financial hardship or inconvenience;
(4) The variance will only grant the subject property the same general rights enjoyed by other properties in the same area and zoned as the subject property;
(5) The variance is the minimum necessary to allow the subject property the same general rights enjoyed by other property in the same area and zone; and
(6) Other solutions, uses, or design options that might achieve a similar result without the need for a variance have been evaluated and rejected.
(e) Prohibited. Under no circumstances shall a variance be granted for any of the following:
(1) To alter any definition or interpretation of this title;
(2) To alter any provision establishing a use within a zoning district;
(3) To alter any procedural provisions; or
(4) To alter residential density standards.
(f) Conditions of Approval. Conditions may be imposed as a condition of approval if it is found they are necessary to mitigate identifiable adverse impacts and ensure compatibility with nearby uses.
(g) Lapse of Approval. If the variance is not acted on within one (1) year from the date the decision became final, it shall expire. Expiration is automatic and notice is not required. The Director may grant a single six (6) month extension if the applicant makes such a request in writing prior to the expiration of the variance and can show good cause for granting the extension.

20.58.040 SITE-SPECIFIC REZONE.
(a) Authority. A site-specific rezone is a change to the zoning classification of a specific property or properties. The new zone must be consistent with the Comprehensive Plan and results in a change to the City's official zoning map.

(b) Procedures. A site-specific rezone application is processed as a Type IV City Council decision pursuant to the provisions set forth in Chapter 20.02 BMC. The City Council shall act on the proposal after the Administrative Hearing Examiner holds an open-record public hearing and makes a recommendation to the City Council.

(c) Applicant. The City, federal, state or local agencies, property owner(s), or their designated agents may initiate a request for a site-specific rezone.

(d) Criteria for Approval. The City may grant a site-specific rezone only if it is found that:

(1) The rezone is consistent with the Comprehensive Plan;

(2) The rezone will advance the public health, safety, or welfare, and will not have adverse impacts on adjacent properties;

(3) The rezone is necessary because either:

(i) Conditions in the immediate vicinity or neighborhood have so markedly changed that it is in the public interest to approve the rezone; or

(ii) The rezone will correct a zone classification or zone boundary that was inappropriate when established; and

(4) The rezone is in the public interest.

(e) Comprehensive Plan Consistency. If a Comprehensive Plan amendment is required in order to satisfy subsection (d)(1) of this section, approval of the Comprehensive Plan amendment is required prior to or concurrently with the granting of an approval on the rezone.

20.58.050 AREA-WIDE REZONES.

(a) Authority. An area-wide rezone is a change to zoning classifications that is not site-specific. New zoning designations must be consistent with the Comprehensive Plan and approval changes the City's official zoning map.

(b) Applicant. Only the City may initiate an area-wide rezone.

(c) Procedures. These are legislative actions exempt from the requirements of Chapter 20.02 BMC. Specific procedural requirements are prescribed in Chapter 36.70A RCW. The Planning Commission conducts public hearings for area-wide rezones and makes a recommendation to the City Council. The City Council, following its own public hearing(s), may approve, approve with modifications, deny or remand the Planning Commission's recommendation for additional study.

(d) Notice. Published notice shall be given prior to public hearing dates in the official newspaper in accordance with the following schedule:

(1) Ten (10) calendar days for the first Planning Commission public hearing; and

(2) Five (5) calendar days for the first City Council public hearing;

(3) Subsequent hearing dates on the same proposal do not require additional publication of notice;

(4) Consideration shall be given to WAC 365-195-600 (Public Participation) in determining if additional notice requirements are necessary.

(e) Approval Criteria. The City Council may approve an area-wide rezone if it is found that:

(1) It is consistent with the Comprehensive Plan; and

(2) It does not conflict with other City, state and federal codes, regulations and ordinances.

(f) Comprehensive Plan Consistency. If a Comprehensive Plan amendment is required in order to satisfy subsection (e)(1) of this section, approval of the Comprehensive Plan amendment is required prior to or concurrently with the granting of an approval on the rezone.

20.58.060 RESIDENTIAL CLUSTER DEVELOPMENT.

(a) Intent. The intent of the residential cluster development (RCD) is to accommodate urban densities of the underlying zoning district while allowing residential development to utilize less land area. These provisions aim to allow greater flexibility in the design of subdivisions to ensure development is in

harmony with the natural characteristics onsite and to preserve features such as critical areas, open space, recreation areas, or scenic vistas.

(b) Applicability. A RCD may be applied to all subdivisions as permitted in Chapter 20.12 BMC, Land Division.

(c) Procedures.

(1) A RCD shall be processed in coordination with a subdivision application and will follow the permitting procedures established in Chapter 20.12 BMC, Land Division.

(2) The Director has the discretion to convert a Type II administrative subdivision application that is using the RCD provisions to a Type III nonadministrative conditional use permit any time prior to the issuance of a decision on the application should the Director find the project to have significant impacts beyond the immediate site, is of a neighborhood or community wide interest, or is of a controversial nature.

(3) In addition to the notification requirements prescribed in BMC 20.02.100, the notice of application shall be mailed to all property owners within three hundred (300) feet of the property.

(d) Development Standards. Modification may be allowed to the underlying zone for which a RCD applies as follows:

(1) Density. The minimum and maximum density of the underlying zone shall apply, however, unbuildable critical areas as defined in Chapter 20.14 BMC may be included in the area for calculating density; however, land used for right-of-way may not.

(2) Minimum Lot Size. Lot size may be reduced to two thousand five hundred (2,500) square feet, provided all lots are buildable.

(i) Reductions below two thousand five hundred (2,500) square feet will only be permitted if the applicant provides an additional ten (10) percent of permanently protected open space as required by subsection (d)(8) of this section.

(3) Setbacks.

(i) For the purposes of this section perimeter setbacks shall be defined as the exterior boundary of the entire property to be subdivided. Structures and parking areas shall be set back a minimum of ten (10) feet from all perimeter property lines.

(ii) All other setbacks may be modified to encourage innovative site design.

(4) Lot Width. Deviations are permitted.

(5) Development Coverage. The development coverage is limited to fifty (50) percent of the total site area including open space.

(6) Parking. Two parking spaces are required for each primary residence. All deviations from the standard parking requirements shall be accompanied by a detailed analysis showing how alternative parking will provide better site design and will provide clear benefits to the residents. Deviations are permitted as follows:

(i) Setbacks may be modified;

(ii) Parking may be applied to the entire site rather than to individual lots;

(iii) Parking tracts shall be placed in easily accessible locations;

(iv) Designated parking spaces should be clearly marked.

(7) Housing Type. Attached and detached single-family homes and townhomes are allowed as primary residential structures. Accessory dwelling units are permitted pursuant to BMC 20.46.010.

(8) Open Space Designation and Preservation.

(i) Each RCD shall provide not less than twenty (20) percent of the gross site area for common open space which shall be primarily concentrated in large areas. When these areas are designated as critical areas they should be designed to provide connectivity for habitat functions;

(ii) Open space areas shall be located on separate tract(s), and shall be developed for passive or active recreational uses or set aside to preserve critical areas as defined in the critical area regulations in Chapter 20.14 BMC;

(iii) Parking areas, rights-of-way, driveways, and yards within individual lots shall not be included in common open space;

(iv) Facilities and other improvements that enhance recreational use(s) may be located in an open space area (provided they are not prohibited by other sections of the BMC). Such facilities can include, but are not limited to, fields, picnic areas, playgrounds, and athletic courts.

(v) Open space areas shall be restricted in perpetuity from further subdivision and/or land development. This restriction shall be noted on the face of the plat.

(vi) Open Space Plan. For all designated open space areas the proposal shall include an open space plan. This plan is to ensure the open space is maintained and preserved in perpetuity. Open space requirements established in the critical areas regulations (Chapter 20.14 BMC) shall be met for all designated critical areas. All open space areas excluding critical areas shall comply with the following:

(A) Identify all proposed improvements such as public facilities, proposed vegetation, and existing vegetation to remain; and

(B) The plan must comply with the requirements of the landscaping chapter, found in Chapter 20.50 BMC; and

(C) The plan shall outline maintenance responsibilities in a format acceptable to the Director; and

(D) The plan shall include a notice to title approved by the City and recorded with the County Auditor. This notice shall include provisions for the designation and retention of open space, and provisions for permanent maintenance of the open space and/or commonly owned facilities.

(e) Criteria for Approval. The decision-making authority may grant a RCD only if it is found that:

(1) A RCD shall be approved with the approval of a subdivision. The RCD shall follow the same approvals and timelines as the concurrent subdivision application pursuant to Chapter 20.12 BMC, Land Division.

20.58.080 SITE PLAN REVIEW.

(a) Authority. Site plan review is an evaluation of development plans to identify environmental impacts and overall compliance with applicable development regulations including zoning and engineering standards. It is a preliminary review and does not constitute approval to develop the site.

(b) Applicability. Site plan review is required for all new development, expansion of existing structures, or other exterior site improvements that will change the physical conditions of a site.

(c) Applicant. The City, federal, state or local agencies, property owner(s), or their designated agents may initiate a request for site plan review.

(d) Procedures. A request for a site plan review is processed as a Type I or Type II Director's decision pursuant to Chapter 20.02 BMC. Site plan review may be conducted independently or may be reviewed concurrently with a site development permit set forth in BMC 20.58.090. When a site development permit is not required, site plan review may be consolidated with the review of a building permit application.

(e) Application Requirements. An application for a site plan review shall include the following components. The Director may modify these requirements based on the size, scope and complexity of the project.

(1) Vicinity Map. Showing the subject property in relation to all other properties and major structures within a two hundred fifty (250) foot radius of the property.

(2) Site Plan. Containing, but not limited to, the following information:

(i) The location, size, bulk, height, number of stories, and use of all structures and areas on the subject parcel, both existing and proposed.

(ii) Existing and proposed pedestrian walkways, bikeways, parks, playgrounds, recreational areas, activity centers, landscaped areas, and other areas and facilities of a public or recreational nature.

(iii) Existing and proposed utility systems, drainage structures, fire hydrants, and other infrastructure improvements.

(iv) An environmental summary, including such features as shorelines, bulkheads, creeks, culverts, wetlands, steep slopes, unstable soils, rock outcroppings, significant trees, other "sensitive areas," etc.

(v) All property lines, easements, fences, walls, signs, and other points of reference.

(vi) Other information, maps or data that is helpful to better understand the nature and scope of the proposal and its impacts on surrounding properties, people, and land uses.

(3) Parking Plan. A parking plan shall be included showing all of the parking spaces, aisles, handicapped stalls, loading spaces, motorcycle spaces, setbacks and other dimensional information necessary to evaluate the project. This information may be shown on the site plan or may be a provided in a separate plan.

(4) Landscape Plan. When required, a plan showing the areas of landscaping and street trees shall be provided. This information may be shown on the site plan or may be provided in a separate plan.

(5) Storm Water Plan. When required, a storm drainage report and preliminary storm drainage plans shall accompany the application.

(6) Water and Sewer Availability. A letter summarizing the utility service requirements per BMC Title 15 shall be obtained from the City Public Works Department and submitted with the application.

(7) Other Reports. When required, studies such as traffic reports, geotechnical reports, wetland reports and other environmental studies shall accompany the application.

(8) Narrative. A written explanation of the proposal including:

(i) Calculations of gross residential density, size of the site in square feet, and square footage of structures, parking areas, landscaped and recreational open space areas;

(ii) Elevations and/or perspective drawings of proposed structures and other major improvements being proposed;

(iii) The specific nature of any agreements, covenants, or other provisions that govern or affect the proposal; and

(iv) Signatures, mailing addresses, and phone numbers of all owners of record or agents of the subject property.

(9) Plans. All plans shall be drawn to scale, legible, in a reproducible black and white format and shall include a north arrow.

(f) Criteria for Approval. A site plan that complies with all applicable development regulations shall be approved, or approved with conditions.

20.58.090 SITE DEVELOPMENT PERMIT.

(a) Authority. A site development permit shall be required prior to constructing, enlarging, or demolishing a building or structure; grading, excavating or filling of earth; or other exterior site improvements that will change the physical conditions of a site. A site development permit constitutes approval for those activities to develop a site, not including buildings.

(b) Applicability. A site development permit is required for the following activities:

(1) The construction of five (5) or more residential dwelling units;

(2) The construction or expansion of a structure or structures of more than four thousand (4,000) square foot gross floor area for a nonresidential use or uses;

(3) Any filling, grading, excavating, placing or dumping of soil, loam, peat, sand, gravel, rock, and similar materials in excess of one hundred (100) cubic yards;

(4) Any activity or use located within an environmentally sensitive area as designated in Chapter 20.14 BMC, Critical Areas;

(5) Any development or redevelopment of a site that requires street frontage improvements pursuant to BMC 11.12.110;

(6) Any proposal that requires an engineered storm drainage system pursuant to Chapter 15.04 BMC;

(7) Construction of a nonaccessory surface or structural parking lot; or

(8) Construction of an accessory off-street parking facility of more than twenty (20) automobile spaces.

(c) Exemptions. The following are exempt from the requirement for a site development permit:

(1) Forest practices other than Forest Practice IV regulated under WAC Title 222;

(2) Development that is undertaken by the Washington State Department of Transportation in state highway rights-of-way and is regulated by Chapter 173-270 WAC, the Puget Sound Highway Runoff Program; or

(3) Road and utility construction and related activities undertaken by the City's Public Works Department.

(d) Applicant. The City, federal, state or local agencies, property owner(s), or their designated agents may initiate a request for a site development permit.

(e) Procedures. A request for a site development permit is processed as a Type I Director's decision pursuant to Chapter 20.02 BMC. The review may be conducted independently or may be reviewed concurrently with a site plan review.

(f) Application Requirements. An application for a site development permit shall include the following components:

(1) Vicinity Map. Showing the subject property in relation to all other properties and major structures within a two hundred fifty (250) foot radius of the property.

(2) Site Plan. Containing the following information:

(i) The location, size, bulk, height, number of stories, and use of all structures and areas on the subject parcel, both existing and proposed;

(ii) Existing and proposed pedestrian walkways, bikeways, parks, playgrounds, recreational areas, activity centers, landscaped areas, and other areas and facilities of a public or recreational nature;

(iii) Existing and proposed utility systems, drainage structures, fire hydrants, and other infrastructure improvements;

(iv) An environmental summary, including such features as shorelines, bulkheads, creeks, culverts, wetlands, steep slopes, unstable soils, rock outcroppings, significant trees, other "sensitive areas," etc.;

(v) All property lines, easements, fences, walls, signs, and other points of reference;

(vi) Other information, maps or data that is helpful to better understand the nature and scope of the proposal and its impacts on surrounding properties, people, and land uses; and

(vii) Dimensional information or drawn to scale at not less than one (1) inch = fifty (50) feet.

(3) Parking Plan. Showing all existing and proposed off-street parking spaces. This may be integrated into the base site plan or shown on a separate plan. Parking plans should show all spaces, aisles, handicapped and motorcycle spaces, loading spaces, transit facilities, and parking lot access and internal circulation. It should also show dimensions of all parking areas, spaces, driveways, setbacks, and distances from curb cuts to intersection corners, and similar detail.

(4) Landscape Plan. Showing details of existing vegetation to be preserved and the general planting pattern as well as the numbers and types of new plants being provided. This may be integrated into the base site plan or provided in a separate plan.

(5) Elevation and/or Perspective Drawings. Drawings showing proposed structures and other major improvements.

(6) Civil Engineering Drawings. "Final" plans for street frontage improvements, circulation and street lighting.

(7) Final Storm Drainage Report. Storm drainage system meeting City engineering standards.

(8) Erosion and Sediment Control Plan. Erosion control plans prepared pursuant to BMC 15.04.042.

(9) Phasing. If the project is designed to be permitted and/or constructed in phases, a site plan showing the phases of development and a written schedule of development is required.

(10) Narrative. A written explanation of the proposal, including:

(i) Calculations of gross residential density, size of the site in square feet, and square footage of structures, parking areas, landscaped and recreational open space areas;

(ii) Elevations and/or perspective drawings of proposed structures and other major improvements being proposed;

(iii) The specific nature of any agreements, covenants, or other provisions that govern or affect the proposal; and

(iv) Signatures, mailing addresses, and phone numbers of all owners of record or agents of the subject property.

(11) Other Reports. When required, studies such as traffic reports, geotechnical reports, wetland reports and other environmental studies shall accompany the application.

(12) Plans. All plans shall be drawn to scale, legible, in a reproducible black and white format and shall include a north arrow.

(g) Criteria for Approval. A site development permit that complies with all applicable development regulations and requirements for construction shall be approved.

(h) Time Limits on Approval. Approval of a site development permit shall become void if building permits are not applied for or construction has not begun within one (1) year. The expiration is automatic and notice is not given. Exterior site improvements and the exterior of all structures shall be completed within three (3) years of issuance of the site development permit. If the permit expires, a new site development permit is required that meets the development standards in effect at the time a new permit is applied for.

(i) Compliance Required. No person shall violate or fail in complying with an approved site development permit or any conditions thereof. Nor shall a building permit be valid for any structure which violates or fails to comply with any approved site development permit for the parcel(s) on which such structure is to be located.

Chapter 20.60
LOW DENSITY RESIDENTIAL (R-10)

Sections:

20.60.010 INTENT.
20.60.020 PERMITTED USES.
20.60.030 ACCESSORY USES.
20.60.040 CONDITIONAL USES.
20.60.060 DEVELOPMENT STANDARDS.
20.60.065 ALLOWABLE DENSITY AND LOT AREA.
~~**20.60.066 ALLOWABLE DENSITY AND LOT AREA IN A CENTER.**~~
~~**20.60.068 ALLOWABLE DENSITY AND LOT AREA IN UNDERUTILIZED URBAN FRINGE AREAS.**~~
20.60.080 OFF-STREET PARKING REQUIREMENTS.
20.60.090 LANDSCAPING REQUIREMENTS.
20.60.100 SIGN STANDARDS.

20.60.010 INTENT.

The intent of the low density residential (R-10) zoning district is to accommodate single-family housing by infilling at a range of lot sizes consistent with urban growth patterns. Some attached single-family housing may be appropriate when responding to sensitive areas or with innovative design. Residential development at higher densities is encouraged at the edge of designated centers.

20.60.020 PERMITTED USES.

Only one (1) principal use shall be allowed on each residentially zoned lot unless allowed for otherwise by law. This limitation shall not include permitted accessory uses associated with a permitted principal use. The following uses are permitted outright:

(a) Cemetery;

(b) Co-location of wireless telecommunications per BMC 20.46.140;

(c) Community facilities of twenty thousand (20,000) square feet gross floor area or less;

(~~c~~d) Day care facility of twelve (12) or fewer persons receiving care;

(~~d~~e) Education and schools (K-12) of twelve (12) or fewer students;

(~~e~~f) Foster home;

(~~f~~g) Group residential home;

(~~g~~h) Manufactured home per BMC 20.46.040;

(~~h~~i) Parks, playgrounds and open space equal or less than one-half (0.5) acre (twenty-one thousand seven hundred eighty (21,780) square feet);

(i) Residential uses:

(~~i~~1) Single-unit dwelling unit, detached;

(~~j~~2) Single-unit dwelling unit, attached (zero (0) lot lines) per BMC 20.60.060(b);

(k) Worship and religious facilities of twenty thousand (20,000) square feet gross floor area or less;

(l) Incubator for business associated with a worship and religious facility or community facility, provided the following conditions are met:

(1) The incubated business is a use that is permitted outright in the neighborhood business zone, BMC 20.82.020;

(2) Landscaping and signage requirements of the neighborhood business zone, Chapter 20.82 BMC, shall be met; and

(3) The parcel upon which the incubated business is situated shall have frontage on an arterial street.

20.60.030 ACCESSORY USES.

The following accessory uses may be permitted when found in connection with a principal use:

(a) Attached or detached accessory dwelling unit per BMC 20.46.010;

(b) Detached garage, carport, and parking facilities for the residents of the property;

(c) Home occupation per BMC 20.46.030;

(d) Other necessary and customary uses determined by the Director to be appropriate, incidental and subordinate;

(e) Playhouses, patios, cabanas, porches, gazebos, swimming pools and incidental household storage buildings.

20.60.040 CONDITIONAL USES.

The following uses may be permitted, provided a conditional use permit is approved pursuant to BMC 20.58.020 subject to the corresponding conditions:

(a) **Bed and breakfast**, provided:

(1) The operators of the business shall occupy the house as their primary residence;

(2) No more than one (1) full-time equivalent (FTE) employee who is not a resident of the dwelling may be employed;

(3) No more than six (6) bedrooms are made available for rent to guests and all guest rooms are contained within the principal structure;

(4) Two (2) off-street parking spaces, plus one (1) off-street parking space per each guest bedroom, are required;

(5) Off-street parking spaces may be reduced, provided the applicant can demonstrate parking will not spill over into nearby residential properties and any streets;

(6) Rooms shall not be made available to guests for more than fourteen (14) days during any thirty (30) day period;

(7) No commercial receptions, parties, or other public gatherings, or serving of meals to nonresident guests for compensation, are allowed; and

(8) Any remodeling of the residential structure shall maintain the residential nature of the structure and not alter the structure in such a manner that would prevent it from being used as a residence in the future.

(b) **Group residential facilities - Class I**, provided:

(1) All state licensing requirements are satisfied;

~~(2) The site is located on a collector or higher street;~~

(2~~3~~) Minimum setbacks, height and lot coverage of the underlying zone shall apply;

(3~~4~~) Off-street parking shall be at a minimum of one (1) space per each employee during the peak shift, plus one (1) space per two (2) residents the facility will provide service to;

(4~~5~~) If counseling services are provided to nonresidents, additional parking spaces are required at one (1) per three hundred (300) square feet of gross floor area used for counseling services;

(5~~6~~) The number of required off-street parking spaces may be reduced, provided the applicant can demonstrate that parking will not spill over into nearby residential properties and any streets; and

(6~~7~~) Landscaping is provided meeting the minimum requirements for nonresidential uses prescribed in Chapter 20.50 BMC. Additional landscaping for screening purposes may be required if it is found necessary to mitigate any impacts to adjoining residential properties.

(c) **Senior housing complex**, provided the following conditions ~~set forth in BMC 20.46.090~~ are satisfied~~.~~:

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

(2) Minimum setbacks, density, height and lot coverage of the underlying zone shall apply;

(3) Off-street parking shall be a minimum one (1) space per dwelling;

(4) 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;
(5) Attached or detached structure types are permitted and dwelling units may be owned by individuals or occupied as rentals;
(6) Access to alternative transportation such as public transit or on-site shuttle services to access daily goods or services shall be provided; and
(7) 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.

(d) **Nursing/convalescent homes**, provided:
(1) All state licensing requirements are satisfied;
~~(2) The site is located on a collector or higher street;~~
(2~~3~~) Minimum site area shall be no less than one (1) acre;
(3~~4~~) Minimum setbacks, height and lot coverage of the underlying zone shall apply;
(4~~5~~) Off-street parking shall be a minimum of one (1) space per six hundred (600) square feet of gross floor area;
(5~~6~~) The number of required off-street parking spaces may be reduced, provided the applicant can demonstrate that parking will not spill over into nearby residential properties and any streets; and
(6~~7~~) Landscaping is provided meeting the minimum requirements for nonresidential uses prescribed in Chapter 20.50 BMC. Additional landscaping for screening purposes may be required if it is found necessary to mitigate any impacts to adjoining residential properties.

(e) **Day care facilities (thirteen (13) or more persons receiving care)**, provided:
(1) All state licensing requirements are satisfied;
~~(2) The site is located on a collector or higher street;~~
(2~~3~~) Off-street parking shall be a minimum one (1) space per each five (5) children based on the state license maximum occupancy load;
(3~~4~~) One (1) loading/unloading space without backup is required for the first twenty (20) children and one (1) additional space for up to each additional twenty (20) children;
(4~~5~~) The number of required off-street parking spaces may be reduced, provided the applicant can demonstrate that parking will not spill over into nearby residential properties and any streets;
(5~~6~~) Landscaping is provided meeting the minimum requirements for nonresidential uses prescribed in Chapter 20.50 BMC. Additional landscaping for screening purposes may be required if it is found necessary to mitigate any impacts to adjoining residential properties; and
(6~~7~~) The maximum height of a fence or wall within a front yard setback may be increased up to six (6) feet, provided it enhances safety and security of an outdoor play area.

(f) **Adaptive reuse of ~~public and semi-public~~commercial buildings**, provided the conditions set forth in BMC 20.46.070 are satisfied.

(g) **Manufactured home park or expansion of existing parks**, provided:
(1) It is exempt pursuant to RCW 58.17.040 from requirements for property segregation;
(2) The minimum site size shall be five (5) acres;
(3) Density shall meet the underlying zone;
(4) Adequate water, sewer, and utility services are available to all building sites;
(5) A fire protection system meeting the requirements of the City Fire Marshal is provided;
(6) Interior circulation shall meet the City Engineer road standards plus the following standards:
(i) All interior circulation routes shall be constructed within a tract or easement;
(ii) Roads and driveways shall be paved;
(iii) The City Fire Marshal and City Engineer shall approve all fire turnarounds;

(7) The following setbacks shall apply to manufactured homes or mobile homes, together with their additions and appurtenant structures, accessory structures, and other structures on the site (excluding fences), excluding any hitch or towing fixture:

(i) From interior roads, at least fifteen (15) feet from centerline of the tract or easement, but in no case shall the setback be less than five (5) feet from the paved surfaced edge;

(ii) Structures near the perimeter lot lines of the property shall comply with the setbacks of the underlying zone;

(iii) A minimum of ten (10) foot separation between all manufactured homes;

(8) Off-street parking spaces shall be provided in the following manner:

(i) One (1) parking space per home site; plus

(ii) One (1) parking space for each five (5) home sites for guest parking; plus

(iii) Additional parking spaces to provide for the parking needs of offices, community buildings, recreational facilities, or other uses within the park that may be used by park residents or others;

(9) Outside storage of vessels (boats), household items and equipment is prohibited, except a common central storage area may be provided for residents of the park. The storage area shall be screened by a minimum five (5) foot high by five (5) foot wide sight-obscuring barrier consisting of landscaping and fencing or wall, and shall meet minimum setbacks of the underlying zone;

(10) Ten (10) percent of the site shall be maintained as common recreational open space for the use of residents and:

(i) May include community areas and facilities such as playgrounds, swimming pools, and hobby and craft shops;

(ii) However, it shall not include required landscaping areas, perimeter setback areas, parking areas, storage areas, building separation areas or other areas deemed impractical by the Director for the recreational enjoyment of the residents;

(11) Trees meeting the standards set forth in Chapter 20.50 BMC shall be provided along all property lines abutting a residential zone and public streets. Exceptions for trees may be allowed when a property line abuts an alley or is obstructed by a building or other structure;

(12) Adequate lighting to illuminate streets, driveways, and walkways for the safe movement of pedestrians and vehicles is required; and

(13) All water, sewer, electrical, and communication service lines shall be underground.

(h) **Worship, religious, and community facilities greater than twenty thousand (20,000) square feet**, provided:

~~(1) The site is located on a collector or higher street;~~

(1~~2~~) The site area shall be one (1) acre or more; and

(2~~3~~) Landscaping is provided meeting the minimum requirements for nonresidential uses prescribed in Chapter 20.50 BMC. Additional landscaping for screening purposes may be required if it is found necessary to mitigate any impacts to adjoining residential properties.

(i) **Golf course**, provided:

(1) A site plan review and a site development permit are approved pursuant to Chapter 20.58 BMC;

(2) Through the conditional use permit, modifications to parking and landscaping may be allowed in order to facilitate good design;

~~(3) Access to the site shall be from an arterial street or highway; and~~

(3~~4~~) Other conditions are applied as deemed necessary to mitigate impacts to nearby residential properties and ensure compatibility with the neighborhood.

(j) **Schools, parks and associated uses** may be approved in accordance with the following:

(1) The following uses are permitted through approval of a conditional use permit:

(i) All public schools and associated gymnasiums and auditoriums;

(ii) Private schools (K-12) with thirteen (13) or more students;
(iii) Parks and playgrounds greater than one-half (1/2) acre;
(iv) Outdoor athletic fields;
(v) Boat launching and related facilities;
(vi) Maintenance and service yards;
(vii) Bus and other vehicle and equipment maintenance and storage facilities;
(viii) Administrative office related to the facilities greater than two thousand (2,000) square feet gross floor area;
(ix) Buildings and structures for nonprofit groups on public lands;

(2) Uses permitted pursuant to subsection (j)(1) of this section shall be subject to complying with the following conditions:

(i) Front, side and rear yard setbacks of structures and outdoor storage areas shall be at least thirty (30) feet;
(ii) Setbacks may be reduced for those portions of a structure fronting interior streets;
(iii) The maximum height for any new construction may be increased to match the architecture of existing buildings; provided, that it is set back an additional foot from any property line for each additional foot of allowed height, and in no case shall the new construction exceed forty-five (45) feet;
(iv) Landscaping is provided meeting the minimum requirements for nonresidential uses prescribed in Chapter 20.50 BMC. Additional landscaping for screening purposes may be required if it is found necessary to mitigate any impacts to adjoining residential properties;
(v) Additional measures may be required if deemed necessary to mitigate any noise impacts to adjacent residential uses; and
(vi) The maximum height of a fence or wall within a front yard setback may be increased to six (6) feet, provided it enhances safety and security around an outdoor play area.

(k) **Public utility facilities located above ground**, provided:

(1) Landscaping is provided meeting the minimum requirements for nonresidential uses prescribed in Chapter 20.50 BMC. Additional landscaping for screening purposes may be required if it is found necessary to mitigate any impacts to adjoining residential properties;
(2) The maximum height of a fence or wall may be increased within a front yard setback that will provide screening from adjacent uses and enhance safety and security around the facility; and
(3) Exceptions to setbacks may be allowed if the applicant can demonstrate that the public interest is better served by allowing the modification.

(l) **Law enforcement and fire facilities**, provided:

(1) Landscaping is provided meeting the minimum requirements for nonresidential uses prescribed in Chapter 20.50 BMC. Additional landscaping for screening purposes may be required if it is found necessary to mitigate any impacts to adjoining residential properties.
(2) The maximum height of a fence or wall may be increased within a front yard setback that will provide screening from adjacent uses and enhance safety and security around the facility.

(m) **Mineral resource extraction** per BMC 20.46.080, provided:

(1) The site is located within a Mineral Resource Overlay.

~~(m) **Neighborhood businesses**, provided:~~

~~(1) The use is listed as a permitted use in BMC 20.82.020;~~
~~(2) The use is a preexisting use that has legally operated within the previous twelve (12) month period; and~~
~~(3) The use is not expanded beyond its existing footprints.~~

~~(n) **Community facilities under twenty thousand (20,000) square feet**, provided:~~

~~(1) Additional landscaping outside what is required in Chapter 20.50 BMC (Landscaping) may be required for screening purposes in order to mitigate impacts to adjoining residential properties;~~

~~(2) A parking analysis may be required to establish that adequate on-site parking will be available for the proposed use.~~

20.60.060 DEVELOPMENT STANDARDS.

(a) Lot Standards. Lot development requirements shall be in accordance with this section and the following standards unless allowed for by law otherwise:

(1) Setbacks.

(i) Minimum front yard setback is fifteen (15) feet;

(ii) Minimum side yard setback is five (5) feet;

(iii) Minimum rear yard setback is fifteen (15) feet.

(2) Maximum structure height is thirty-five (35) feet.

(3) Maximum structure height in (R-10) areas within the downtown regional center shall be pursuant to Figure 20.74(a) and shall supercede subsection (a)(2) of this section.

(4) Minimum lot width is thirty (30) feet.

(5) Maximum development coverage is sixty (60) percent.

(b) Zero (0) Lot Line (ZLL) Development. An attached single-family dwelling and/or garage structure may have a single shared side or rear lot line, and a setback reduced to zero (0), provided the structure complies with building code fire separation requirements.

(c) Accessory Structures. The following standards shall apply but are not limited to: garages, carports, shops, barns, covered patios, cabanas, gazebos, and incidental household storage buildings, excluding accessory dwelling units per BMC 20.46.010 and structures not requiring a building permit:

(1) The maximum area for all accessory structures shall be eighty (80) percent of the principal residential use not to exceed one thousand two hundred (1,200) square feet.

(2) Setbacks of detached accessory structures are pursuant to BMC 20.44.060.

(d) Garages, Storage Buildings and Shops.

(1) Any garage, storage building or shop structure shall be designed so that the appearance of the building remains that of a single-family residence including the following:

(i) Constructed of similar materials as the principal unit;

(ii) A roof of equal or greater pitch as the principal unit;

(iii) A height no more than twenty-five (25) percent greater than the principal unit not to exceed thirty-five (35) feet.

(2) Any garage, storage building, or shop may be exempt from the accessory structure size requirements provided it is contained within the principal unit.

(3) Garage, Carport, and Shop Vehicle Entrance Setbacks. When the vehicle entrance faces the street, the garage, carport, or shop shall have a front yard setback of at least twenty (20) feet, except as provided in BMC 20.44.020 (Traditional Front Yard Setbacks).

(e) Lot Area for Parks and Schools. Parks and schools may exceed maximum lot area requirements if approved by a conditional use permit.

20.60.065 ALLOWABLE DENSITY AND LOT AREA.

The purpose of this section is to establish compatible levels of density within existing neighborhoods. The intent is to allow infill residential development~~ at densities equal to or slightly higher than existing residential densities in the vicinity to encourage neighborhood compatible infill over time~~. The following density and lot area standards are applicable to development within the zone:

(a) Minimum Density. The minimum required density is five (5) dwellings per acre.

(b) Maximum Density. The maximum allowed density is ten (10) dwellings per acre.~~subject to neighborhood compatibility and the neighborhood average lot area as determined in subsection (f) of this section, and the following corresponding target densities:~~

	~~Neighborhood Average Lot Area:~~	~~Target Density (Net) (Dwellings Per Acre):~~
~~(1)~~	~~Low 7,501 sq. ft. or greater~~	~~6~~
~~(2)~~	~~Medium 6,001 to 7,500 sq. ft.~~	~~8~~
~~(3)~~	~~High 6,000 sq. ft. or less~~	~~10~~

(c) Maximum Lot Area. The maximum lot area is eight thousand seven hundred twelve (8,712) square feet, with the following exceptions:

(1) The lot area may be modified through the approval of a residential cluster development pursuant to BMC 20.58.060;

(2) One (1) lot within a proposal for a division of land may exceed eight thousand seven hundred twelve (8,712) square feet, provided the remaining lots do not exceed the eight thousand seven hundred twelve (8,712) square foot maximum lot size; and

(3) A flag lot that complies with the requirements in BMC 20.44.100 may exceed eight thousand seven hundred twelve (8,712) square feet, provided the total area of the flag lot does not exceed thirteen thousand sixty-eight (13,068) square feet.

(d) Minimum Lot Area. The minimum allowed lot area is four thousand three hundred (4,300) square feet.

~~(d) Minimum Lot Area. The minimum allowed lot area is subject to neighborhood compatibility and the neighborhood average lot area as determined in subsection (f) of this section, and the following corresponding lot area:~~

	~~Neighborhood Average Lot Area:~~	~~Minimum Lot Area Allowed:~~
~~(1)~~	~~Low 7,501 sq. ft. or greater~~	~~6,000 sq. ft.~~
~~(2)~~	~~Medium 6,001 to 7,500 sq. ft.~~	~~5,000 sq. ft.~~
~~(3)~~	~~High 6,000 sq. ft. or less~~	~~4,300 sq. ft.~~

(e) Exception to Minimum Lot Areas~~ and Maximum Target Density~~.

(1) The minimum lot area may be modified through the approval of a residential cluster development pursuant to BMC 20.58.060, provided the development complies with the maximum density requirement set forth in subsection (b) of this section.

~~(2) The minimum lot area in a center may be modified pursuant to BMC 20.60.066(c).~~

~~(3) One (1) remainder lot within a proposal for a division of land may be less than the minimum allowable lot area, provided it is in no smaller than four thousand three hundred (4,300) square feet, and provided the reduction is the minimum necessary to create the other conforming lot(s).~~

~~(f) Determining Neighborhood Compatibility and Neighborhood Average Lot Area. New development is required to be compatible with the density of the surrounding neighborhood. Compatibility is determined~~

~~by calculating the average lot area of all existing lots within one hundred fifty (150) feet from the outer boundaries of the site subject to the following standards:~~

~~(1) All lots greater than eight thousand seven hundred twelve (8,712) square feet shall be rounded down to eight thousand seven hundred twelve (8,712) square feet to determine average lot area;~~

~~(2) The platted or unplatted lot boundaries recorded with the Kitsap County Assessor shall be used to determine average lot area;~~

~~(3) Flag lots meeting the requirements in BMC 20.44.100 shall have their lot area divided by one and one-half (1.5) to be used to determine lot area;~~

~~(4) All lots containing two (2) or more dwelling units (not including accessory dwelling units) and all lots containing nonresidential uses shall be rounded down to four thousand three hundred (4,300) square feet to determine average lot area;~~

~~(5) All lots containing multifamily residential uses with twenty-five (25) or more units shall be considered ten (10) lots with areas of four thousand three hundred (4,300) square feet each for the purposes of this calculation. No further bonus is allowed, regardless of the number of units exceeding twenty-five (25).~~

~~(g) Target Density/Minimum Lot Area Discrepancy. Should a discrepancy arise between the number of subdividable lots allowed through the use of the minimum allowable lot area and the target density, the minimum allowable lot area shall be the controlling factor in cases where nine (9) or fewer lots are being created, and the target density shall be the controlling factor in cases where ten (10) or more lots are being created.~~

~~20.60.066 ALLOWABLE DENSITY AND LOT AREA IN A CENTER.~~

~~When a property zoned low density residential (R-10) is located within an area designated a neighborhood or district center by the Comprehensive Plan, the following density and lot area standards apply:~~

~~(a) Minimum Density. The minimum required density is five (5) dwellings per acre.~~

~~(b) Maximum Density. The maximum allowed density is fifteen (15) dwellings per acre.~~

~~(c) Minimum Lot Area. The minimum allowed lot area is three thousand (3,000) square feet, except as modified by the approval of a residential cluster development pursuant to BMC20.58.060.~~

~~(d) Maximum Lot Area. The maximum lot area is pursuant to BMC 20.60.065(c).~~

~~20.60.068 ALLOWABLE DENSITY AND LOT AREA IN UNDERUTILIZED URBAN FRINGE AREAS.~~

~~(a) When a property zoned low density residential meets the criteria for an underutilized urban fringe area per subsection (a)(1) of this section, the density and lot area standards of subsection (b) of this section shall apply.~~

~~(1) A property shall be classified as underutilized urban fringe when the average lot size of all lots within three hundred (300) feet of the site's outer boundaries is greater than eight thousand seven hundred twelve (8,712) square feet, and the property meets one (1) of the following criteria:~~

~~(i) The property is outside of the December 1, 2005, Bremerton City limits; or~~

~~(ii) The property is inside of the December 1, 2005, Bremerton City limits and is a single project equal to or greater than fifty (50) acres in size.~~

~~(b) The following density and lot area standards shall apply to lots in underutilized urban fringe areas:~~

~~(1) Minimum Density. The minimum required density for that portion of the site not containing critical areas is seven (7) dwellings per acre.~~

~~(2) Maximum Density. The maximum allowed density is ten (10) dwellings per acre.~~

~~(3) Minimum Lot Area. The minimum lot area is four thousand three hundred (4,300) square feet.~~

~~(4) Maximum Lot Area. The maximum lot area is six thousand two hundred (6,200) square feet.~~

20.60.080 OFF-STREET PARKING REQUIREMENTS.
Off-street parking shall be provided in accordance with the requirements set forth in Chapter 20.48 BMC.

20.60.090 LANDSCAPING REQUIREMENTS.
Landscaping shall be provided in accordance with the requirements set forth in Chapter 20.50 BMC.

20.60.100 SIGN STANDARDS.
Signs shall meet the standards of Chapter 20.52 BMC and the following:
(a) One (1) sign with a sign area of up to eight (8) square feet may be allowed to advertise a permitted bed and breakfast, provided it matches the architectural features of the primary residence.
(b) For a home occupation sign, the residential district sign regulations in BMC 20.52.120 shall apply.
(c) When an established business use is located in the low density residential zone, the special purpose sign regulations in BMC 20.52.130 shall apply.

Chapter 20.62
~~COMMERCIAL CORRIDOR (CC)~~GENERAL COMMERCIAL (GC)

Sections:

20.62.010 INTENT.
20.62.020 PERMITTED USES.
20.62.040 CONDITIONAL USES.
20.62.060 DEVELOPMENT STANDARDS.
20.62.070 DESIGN STANDARDS.
20.62.080 PARKING REQUIREMENTS.
20.62.090 LANDSCAPING REQUIREMENTS.
20.62.100 SIGN STANDARDS.

20.62.010 INTENT.

The intent of the ~~commercial corridor (CC)~~ general commercial (GC) district is to provide locations for high intensity commercial uses serving the entire community while preserving ~~maritime~~ views, forested areas, and buffering impacts to adjacent residential areas. The corridor accommodates access to businesses by automobile while also creating a pedestrian-friendly, transit-supporting corridor.

20.62.020 PERMITTED USES.

The following uses are permitted outright:

~~(a) The following uses, provided they do not exceed twenty thousand (20,000) square feet gross floor area:~~

~~(1) Automobile service and repair excluding outdoor display areas for cars, boats, or other vehicles;~~
~~(2) Community facility;~~
~~(3) Day care;~~
~~(4) Drinking place;~~
~~(5) Drive-through facility;~~
~~(6) Education and school;~~
~~(7) Entertainment use;~~
~~(8) Finance, insurance and real estate;~~
~~(9) General office and business service;~~
~~(10) General retail;~~
~~(11) Medical office and clinic;~~
~~(12) Personal service;~~
~~(13) Physical fitness and health club;~~
~~(14) Restaurant;~~
~~(15) Senior center;~~

~~(b) Co-location of wireless telecommunications facilities per BMC 20.46.140;~~
~~(c) Hotel and lodging place;~~
~~(d) Museum and gallery;~~
~~(e) Nonmotorized outdoor recreation facility;~~
~~(f) Public administration use;~~
~~(g) Residential as a secondary use;~~
~~(h) Veterinary clinic.~~

(a) Co-location of wireless communications facilities per BMC 20.46.140;
(b) Community facility;

(c) Day care;
(d) Drinking place;
(e) Education and school;
(f) Entertainment use;
(g) Finance, insurance and real estate;
(h) Fully enclosed boat storage
(i) General office and business service;
(j) General retail;
(k) Hospital
(l) Hotel and lodging place;
(m) Medical office and clinic;
(n) Museum and gallery;
(o) Park, playground, and open space
(p) Personal service;
(q) Physical fitness and health club;
(r) Public administration use;
(s) Recycling collection station
(t) Residential of all types except Group Residential Facility Class II.
(u) Restaurant;
(v) Senior housing complex;
(w) Transportation facility
(x) Veterinary clinic.

20.62.040 CONDITIONAL USES.

The following uses may be permitted provided a conditional use permit is approved pursuant to BMC 20.58.020:

(a) Hardware and materials supply stores including garden supply, provided:
  (1) The structure(s) is less than twenty thousand (20,000) square feet of gross floor area;
  (2) Outdoor storage and product display shall be screened from view by a solid fence or wall;
  (3) No loading areas shall be located in a front yard or side yard abutting or located across from a residentially zoned property; and
  (4) Outside storage is limited to five thousand (5,000) square feet.

(b) Gas stations and car washes, provided:
  (1) No more than two (2) points of ingress/egress are allowed per street frontage. Ingress/egress points shall be separated in accordance with City engineering requirements.
  (2) Buffering is provided pursuant to BMC 20.50.050, and in addition, trees at least ten (10) feet in height of two (2) inch caliper, measured four (4) feet above ground at time of planting and/or construction shall be included at intervals not greater than fifteen (15) feet.

(c) Dry storage of marine vessels commonly referred to as dry stacking, provided:
  (1) Located along Pennsylvania or Thompson Avenue
  (2) The maximum height of dry stacking may not exceed fifty (50) feet; and
  (3) The dry stacking facility will not substantially obscure existing views to the water from existing residences.

(d) Light industrial/manufacturing, excluding marijuana production or processing for distribution, provided:
  (1) The applicant can demonstrate that the use will not significantly detract from the visual character of the neighborhood.
  (2) Building Design: All structures shall have the appearance of a multistory building that emulates a commercial office or multifamily structure;

(3) Development/Design Standards: Must meet all the development and design criteria in BMC 20.62.060 and 20.62.070;
(4) No odor, dust or smoke byproduct will be detectable offsite and the use meets the noise provisions of BMC 6.32;
(5) Light sources, both direct and non-direct, shall be selected and placed so that glare produced by any light source does not extend beyond the property lines, except onto adjacent sidewalks; and
(6) Mini-storage facilities are allowed provided:
(i) Site Design: All storage units shall gain access from the interior of the site. Doors for the storage units may not face the public right-of-way with the exception of alleys;
(ii) Outdoor storage: Storage of boats, RVs, vehicles, etc. or storage of outdoor pods or shipping containers are considered outdoor storage subject to BMC 20.62.070(b);
(iii) Hours of Operation: Mini-storage facilities located adjacent to a residential zone, shall not operate or allow tenant access between the hours of 10:00PM and 7:00AM; and
(iv) Uses: Each storage unit shall be used for storage only. No commercial or manufacturing activities, vehicle repair or services, or related activities, whether for business or personal purposes, are permitted in any storage unit.

20.62.060 DEVELOPMENT STANDARDS.

(a) Lot development shall be in accordance with the following standards, unless allowed for otherwise by law:

(1) Maximum front yard setback: ten (10) feet. At least sixty-five (65) percent of the building's front facade must meet the maximum front yard setback. The setback may be increased if the Director finds that such increase is the minimum necessary to facilitate a superior site design. In order to obtain approval for an increased setback, the applicant shall submit a written analysis establishing how the project facilitates superior site design is the minimum necessary, is consistent with specific goals and policies within the Comprehensive Plan, and is compliant with all applicable sections of the BMC. The following list identifies examples of circumstances where increased setbacks may be found to be appropriate:

(i) When the site includes more than one (1) street frontage;
(ii) To accommodate existing topography, utilities, or other physical site constraints that make compliance with the setback infeasible;
(iii) To accommodate phasing of infill development;
(iv) On sites that are significantly developed with existing legally established nonconforming uses or structures whereby strict code compliance will not facilitate effective circulation; or
(v) For projects that in the opinion of the Director provide enhanced public amenities within the setback area which include, but are not limited to, the following: public plazas, increased landscaping, architectural features, improved pedestrian connections.

(2) Minimum side yard setback: zero (0) except when adjacent to the low or medium density residential zones (R-10 and R-10M) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC 20.50.050(b).

(3) Minimum rear yard setback: zero (0), except when adjacent to the low or medium density residential zones (R-10 and R-10M) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC 20.50.050(b).

(4) ~~No maximum density for secondary residential uses.~~ Maximum residential density: thirty (30) units per acre; provided, that:

(i) Site design provides for internal circulation connections for both pedestrians and vehicles between all portions of the site;

(ii) Landscaping and/or screening adjacent to residential zones shall be provided per BMC 20.50.040(c).

(5) Maximum building coverage: fifty (50) percent unless increased per subsection (b) of this section. In no case shall maximum lot coverage exceed seventy-five (75) percent.

(6) Maximum development coverage is seventy-five (75) percent unless increased per subsection (b) of this section. In no case shall maximum lot coverage exceed ninety-five (95) percent.

(7) Maximum height: forty-five (45) feet, except that structures within one hundred (100) feet of the low or medium density residential ~~(R-10)~~ zones (R-10 and R-10M) shall not exceed thirty-five (35) feet in height.

(8) Maximum building heights within the downtown regional center are pursuant to the Downtown Subarea Plan and shall supersede subsection (a)(7) of this section.

(b) A development that provides the following may have its maximum development and lot coverage increased by adding bonus percentages to the maximum base area percentage, provided the total does not exceed the maximum allowed above:

(1) Commercial/residential mixed use development: twenty (20) percent bonus;

(2) Development containing seventy-five (75) percent of the building footprint with three (3) and four (4) story buildings: ten (10) percent bonus;

(3) Ten (10) percent bonus if a sidewalk ten (10) feet in width or greater is installed extending to the front of the building and continuing along the entire arterial frontage of the parcel;

(4) Pedestrian through-corridor that provides pedestrian access to a location approved by the Director: five (5) percent bonus;

(5) Fifty (50) percent of off-street parking is provided underground or within a building designed for occupancy: twenty (20) percent bonus.

20.62.070 DESIGN STANDARDS.

The following design standards shall be applied to all new development or significant redevelopment of a site. When development involves the remodel or expansion of existing structures, the Director may modify these requirements to reasonably fit the scope and scale of the remodel or expansion.

(a) Bulk Reduction. At least two (2) of the following criteria shall be used to reduce the appearance of mass and bulk of the facade of all buildings facing public streets:

(1) Upper floor setbacks of not more than ten (10) feet, provided the setbacks are not applied to more than twenty-five (25) percent of building facades facing a public street.

(2) One (1) or more of the following techniques:

(i) Recessing the entrance area at least three (3) feet.

(ii) An entrance area that protrudes at least three (3) feet.

(iii) A canopy, portico or overhang extending at least five (5) feet over the sidewalk in the entrance area.

(3) Buildings with at least five (5) foot overhangs, awnings, canopies or arcades elevated between eight (8) and twelve (12) feet above the sidewalk.

(4) Window Fenestration. Windows shall occupy, or design elements shall be included to emulate the presence of windows, for at least fifty (50) percent of the ground floor facade measured to ten (10) feet above the sidewalk or finished grade.

(b) Outdoor storage of all materials shall be prohibited, except outdoor storage may be allowed if screened from the public or private right-of-way and adjacent residential uses with a minimum of a Type I visual screen pursuant to BMC 20.50.050(b)(1). In no case shall outdoor storage be placed between the primary front building façade and the public right-of-way. ~~except for~~ For nurseries, screening ~~which~~ shall be provided ~~screening~~ pursuant to BMC 20.50.050(b).

(c) Refuse Containers.

(1) Refuse container screening shall be required and be of a material and design compatible with the overall architectural theme of the associated structure, shall be at least as high as the refuse container, and shall in no case be less than six (6) feet high;
(2) No refuse container shall be permanently stored between a street and the front of a building;
(3) Refuse collection areas shall be designed to contain all refuse generated on site and deposited between collections. Deposited refuse shall not be visible from outside the refuse enclosure.

20.62.080 PARKING REQUIREMENTS.
On-site parking shall be provided in accordance with Chapter 20.48 BMC, and the following standards shall be met:
(a) On-site parking shall be to the rear or to the side of buildings on the site and shall not occupy more than fifty (50) percent of the site frontage facing the arterial street frontage(s). The site frontage includes all of the area between the right-of-way and front building wall which applies to the entire length of the property regardless of building width. Corner lots have two (2) site frontages as they are positioned on two (2) street frontages.
(b) All efforts shall be taken to avoid installing parking on street corners. Parking located between the building frontage and street corners shall be fully screened. Screening shall consist of the following:
(1) A four (4) foot tall decorative wall within the front yard landscaping area that fully screens the parking areas. The wall shall be located such that it blocks views of the parking from the right-of-way. For long spans of frontage (one hundred (100) feet or more), the wall shall include modular articulation to add architectural variety.
(2) Shrubs or other alternative materials may be substituted for the wall, provided it is demonstrated that the shrubs/alternative will provide equal to or better visual screening than the wall. Shrubs shall be a minimum of three (3) feet tall at time of installation and shall be additional to the landscaping required in Chapter 20.50 BMC.
(3) Openings may be required within a wall section in order to provide a sidewalk from the right-of-way to the building entry. The entry shall be the minimum necessary to accommodate a sidewalk that is a minimum of five (5) feet in width, clearly marked, and distinguished from driving surfaces by using decorative paving, stamped/stained concrete, or raised walkways with alternative materials (such as brick, cobblestone, decorative pavers). Paint striping does not meet this requirement.
(c) Access to parking may be from adjacent nonprincipal arterial streets, or from driveways off of the principal arterial.
(d) Driveways providing access to parking area shall be well marked.

20.62.090 LANDSCAPING REQUIREMENTS.
The landscaping requirements set forth in Chapter 20.50 BMC shall be satisfied.

20.62.100 SIGN STANDARDS.
Signage shall meet the standards of Chapter 20.52 BMC. For freestanding signs, the maximum size and height standards of Figure 20.52(a) shall apply.

~~Chapter 20.64~~
~~WHEATON WAY REDEVELOPMENT CORRIDOR (WWRC)~~

~~Sections:~~

~~**20.64.010 INTENT.**~~
~~**20.64.020 OUTRIGHT PERMITTED USES.**~~
~~**20.64.040 CONDITIONAL USES.**~~
~~**20.64.060 DEVELOPMENT STANDARDS.**~~
~~**20.64.070 DESIGN STANDARDS.**~~
~~**20.64.080 PARKING REQUIREMENTS.**~~
~~**20.64.090 LANDSCAPING REQUIREMENTS.**~~
~~**20.64.100 SIGN STANDARDS.**~~

~~20.64.010 INTENT.~~

~~The intent of the Wheaton Way redevelopment corridor (WWRC) zone is to provide for the transition over time of the corridor away from suburban-style strip commercial development. The WWRC zone seeks to create a mixed use, high density corridor that will enable a full range of commercial uses oriented closer to the street, and medium to high density residential uses above or on portions of larger sites away from the street frontage. The zone seeks to balance the needs of automobile-oriented businesses with a desire to incorporate a more pedestrian-oriented design approach. Introduction of residential use within the corridor is intended, in part, to support high levels of transit usage within the corridor. In addition, the WWRC zone seeks to provide adequate transitions to less intense adjacent zone districts.~~

~~20.64.020 OUTRIGHT PERMITTED USES.~~

~~The following uses are permitted outright:~~

~~(a) All residential uses except Class II group residential;~~
~~(b) Automobile service and repair;~~
~~(c) Co-location of wireless telecommunications facilities per BMC 20.46.140;~~
~~(d) Community facility;~~
~~(e) Drinking place;~~
~~(f) Drive-through facility;~~
~~(g) Entertainment use;~~
~~(h) Finance, insurance and real estate;~~
~~(i) General office and business service;~~
~~(j) General retail;~~
~~(k) Hotel and lodging place;~~
~~(l) Medical office and clinic;~~
~~(m) Museum and gallery;~~
~~(n) Park, playground and open space;~~
~~(o) Personal service;~~
~~(p) Physical fitness and health club;~~
~~(q) Public administration use;~~
~~(r) Restaurant;~~
~~(s) Veterinary clinic.~~

~~20.64.040 CONDITIONAL USES.~~

~~The following uses may be permitted, provided a conditional use permit is approved pursuant to BMC 20.58.020:~~

~~(a) Hardware and materials supply stores including garden supply, provided:~~

~~(1) The structure is less than twenty thousand (20,000) square feet of gross floor area;~~
~~(2) Outside storage shall be entirely screened from view by a solid fence or wall;~~
~~(3) Outside storage is limited to five thousand (5,000) gross square feet or less of materials.~~

~~(b) Gas stations and carwashes, provided:~~

~~(1) No more than two (2) points of ingress/ egress are allowed per street frontage. Ingress/egress points shall be separated laterally along the property frontage(s) to the maximum possible while meeting all other street standards and City requirements;~~
~~(2) Buffering is provided pursuant to BMC 20.50.050, and in addition, trees at least ten (10) feet in height of two (2) inch caliper, measured four (4) feet above ground at time of planting and/or construction shall be included at intervals no greater than fifteen (15) feet.~~

~~20.64.060 DEVELOPMENT STANDARDS.~~

~~(a) Lot development shall be in accordance with the following standards, unless allowed for otherwise by law:~~

~~(1) Maximum front yard setback: ten (10) feet. At least sixty-five (65) percent of the building's front facade must meet the maximum front yard setback. The setback may be increased if the Director finds that such increase is the minimum necessary to facilitate a superior site design. In order to obtain approval for an increased setback, the applicant shall submit a written analysis establishing how the project facilitates superior site design is the minimum necessary, is consistent with specific goals and policies within the Comprehensive Plan, and is compliant with all applicable sections of the BMC. The following list identifies examples of circumstances where increased setbacks may be found to be appropriate:~~
~~(i) When the site includes more than one (1) street frontage;~~
~~(ii) To accommodate existing topography, utilities, or other physical site constraints that make compliance with the setback infeasible;~~
~~(iii) To accommodate phasing of infill development;~~
~~(iv) On sites that are significantly developed with existing legally established nonconforming uses or structures whereby strict code compliance will not facilitate effective circulation; or~~
~~(v) For projects that in the opinion of the Director provide enhanced public amenities within the setback area which include, but are not limited to, the following: public plazas, increased landscaping, architectural features, improved pedestrian connections;~~
~~(2) Minimum side yard setback: zero (0) except when adjacent to the low density residential zone (R-10) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC 20.50.050(b);~~
~~(3) Minimum rear yard setback: zero (0) except when adjacent to the low density residential zone (R-10) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC 20.50.050(b);~~
~~(4) Maximum building coverage: fifty (50) percent unless increased per subsection (b) of this section. In no case shall maximum lot coverage exceed seventy-five (75) percent;~~
~~(5) Maximum development coverage: seventy-five (75) percent unless increased per subsection (b) of this section. In no case shall maximum lot coverage exceed ninety-five (95) percent;~~
~~(6) Maximum height: forty (40) feet, and structures within one hundred (100) feet of the low density residential (R-10) zone shall not exceed three (3) stories in height.~~

~~(b) A development that provides the following may have its maximum development and lot coverage increased by adding bonus percentages to the maximum base area percentage, provided the total does not exceed the maximum allowed above:~~

~~(1) Commercial/residential mixed use development: twenty (20) percent bonus;~~
~~(2) Development containing seventy-five (75) percent of the building footprint with three (3) and four (4) story buildings: ten (10) percent bonus;~~
~~(3) Ten (10) percent bonus if a sidewalk ten (10) feet in width or greater is installed extending to the front of the building and continuing along the entire arterial frontage of the parcel;~~

~~(4) Projects providing a through-block corridor that facilitates pedestrian access in a location approved by the City: five (5) percent bonus;~~

~~(5) Projects providing at least fifty (50) percent of their required parking underground or within the building: twenty (20) percent bonus.~~

~~(c) Maximum residential density: twelve (12) units per acre, except on sites in single ownership larger than three (3) acres, residential density may be increased to a maximum density of twenty (20) units per acre; provided, that:~~

~~(1) Site design provides for internal circulation connections for both pedestrians and vehicles between all portions of the site;~~

~~(2) Landscaping and/or screening adjacent to a single-family zone district shall be provided per BMC 20.50.040(c);~~

~~(3) A transit stop with shelter is provided at the arterial street frontage.~~

~~(d) Commercial uses shall be located within two hundred (200) feet of the arterial street frontage.~~

~~20.64.070 DESIGN STANDARDS.~~

~~The following design standards shall be applied to all new development or significant redevelopment of a site. When development involves the remodel or expansion of existing structures, the Director may modify these requirements to reasonably fit the scope and scale of the remodel or expansion.~~

~~(a) Bulk Reduction. At least two (2) of the following criteria shall be used to reduce the appearance of mass and bulk of the facade of all buildings facing public streets:~~

~~(1) Upper floor setbacks of not more than ten (10) feet, provided the setbacks are not applied to more than twenty-five (25) percent of building facades facing a public street.~~

~~(2) One or more of the following techniques:~~

~~(i) Recessing the entrance area at least three (3) feet;~~

~~(ii) An entrance area that protrudes at least three (3) feet; or~~

~~(iii) A canopy, portico or overhang extending at least five (5) feet over the sidewalk in the entrance area.~~

~~(3) Buildings with at least five (5) foot overhangs, awnings, canopies or arcades elevated between eight (8) and twelve (12) feet above the sidewalk.~~

~~(4) Window Fenestration. Windows shall occupy at least fifty (50) percent of the ground floor facade measured to ten (10) feet above the sidewalk or finished grade.~~

~~(b) Residential uses shall be placed only on upper floors of mixed-use structures in which ground floors are occupied with nonresidential uses, except that on sites in single ownership larger than three (3) acres, single-use residential structures are permitted if screened from major arterials by mixed-use structures or structures containing other permitted nonresidential uses only. Such screening structures must comprise at least sixty-five (65) percent of the arterial frontage to a height of thirty-five (35) feet.~~

~~(c) Outdoor storage of all materials shall be prohibited except for nurseries, which shall provide screening pursuant to BMC 20.50.050(b).~~

~~(d) Refuse containers, provided:~~

~~(1) Refuse container screening shall be required and be of a material and design compatible with the overall architectural theme of the associated structure, shall be at least as high as the refuse container, and shall in no case be less than six (6) feet high;~~

~~(2) No refuse container shall be permanently stored between a street and the front of a building; and~~

~~(3) Refuse collection areas shall be designed to contain all refuse generated on site and deposited between collections. Deposited refuse shall not be visible from outside the refuse enclosure.~~

~~20.64.080 PARKING REQUIREMENTS.~~

~~On-site parking shall be provided in accordance with Chapter 20.48 BMC and the following standards shall be met:~~

~~(a) On-site parking shall be to the rear or to the side of buildings on the site and shall not occupy more than fifty (50) percent of the site frontage facing the arterial street frontage(s). The site frontage includes the area between the right-of-way and front building wall which applies to the entire length of the property regardless of building width. Corner lots have two (2) site frontages as they are positioned on two (2) street frontages.~~

~~(b) All efforts shall be taken to avoid placing parking on street corners. Parking located between the building frontage and street corners shall be fully screened. Screening shall consist of the following:~~

~~(1) A four (4) foot tall decorative wall within the front yard landscaping area that fully screens the parking areas. The wall shall be located such that it blocks views of the parking from the right-of-way. For long spans of frontage (one hundred (100) feet or more), the wall shall include modular articulation to add architectural variety.~~

~~(2) Shrubs or other alternative materials may be substituted for the wall, provided it is demonstrated that the shrubs/alternative will provide equal to or better visual screening than the wall. Shrubs shall be a minimum of three (3) feet tall at time of installation and shall be additional to the landscaping required in Chapter 20.50 BMC.~~

~~(3) Openings may be required within a wall section in order to provide a sidewalk from the right-of-way to the building entry. The entry shall be the minimum necessary to accommodate a sidewalk that is a minimum of five (5) feet in width, clearly marked, and distinguished from driving surfaces by using decorative paving, stamped/stained concrete, or raised walkways with alternative materials (such as brick, cobblestone, decorative pavers). Paint striping does not meet this requirement.~~

~~(c) Access to parking may be from adjacent nonprincipal arterial streets, or from driveways off of the principal arterial.~~

~~(d) Driveways providing access to parking area shall be well-defined, highly visible entryways.~~

~~20.64.090 LANDSCAPING REQUIREMENTS.~~

~~Landscaping shall meet the standards of Chapter 20.50 BMC.~~

~~20.64.100 SIGN STANDARDS.~~

~~Signage shall meet the standards of Chapter 20.52 BMC. For freestanding signs, the maximum size and height standards of Figure 20.52(a) shall apply.~~

~~Chapter 20.66~~
~~NEIGHBORHOOD CENTER CORE (NCC)~~

~~Sections:~~

~~**20.66.010 INTENT.**~~
~~**20.66.020 PERMITTED USES.**~~
~~**20.66.050 PROHIBITED USES.**~~
~~**20.66.060 DEVELOPMENT STANDARDS.**~~
~~**20.66.070 DESIGN STANDARDS.**~~
~~**20.66.080 PARKING REQUIREMENTS.**~~
~~**20.66.090 LANDSCAPING REQUIREMENTS.**~~
~~**20.66.100 SIGN STANDARDS.**~~

~~20.66.010 INTENT.~~

~~The intent of the neighborhood center core (NCC) zone is to establish base threshold standards for the central core of neighborhood centers that preserve future opportunity for full realization of the centers concept. The NCC designation assumes that future amendments to the zoning code will more fully implement the centers intent.~~

~~20.66.020 PERMITTED USES.~~

~~Permitted uses include:~~

~~(a) Bed and breakfast;~~
~~(b) Co-location of wireless telecommunications facilities per BMC 20.46.140;~~
~~(c) Community facility;~~
~~(d) Drinking place;~~
~~(e) Entertainment use;~~
~~(f) Finance insurance and real estate;~~
~~(g) General office and business service;~~
~~(h) General retail;~~
~~(i) Hotel and lodging place containing ten (10) or fewer guest rooms;~~
~~(j) Medical office and clinic;~~
~~(k) Museum and gallery;~~
~~(l) Park, playground and open space;~~
~~(m) Personal service;~~
~~(n) Public administration;~~
~~(o) Transportation facility;~~
~~(p) Residential as a secondary use;~~
~~(q) Restaurant;~~
~~(r) Transportation facility;~~
~~(s) Veterinary clinic.~~

~~20.66.050 PROHIBITED USES.~~

~~(a) Drive-through lanes except within the Oyster Bay Neighborhood Center when the business has direct vehicular access from Kitsap Way.~~

~~20.66.060 DEVELOPMENT STANDARDS.~~

~~(a) Maximum front yard setback: ten (10) feet. At least sixty-five (65) percent of the building's front facade shall meet the maximum front yard setback. The setback may be increased if the Director finds that such increase is the minimum necessary to facilitate a superior site design. In order to obtain~~

~~approval for an increased setback, the applicant shall submit a written analysis establishing how the project facilitates superior site design is the minimum necessary, is consistent with specific goals and policies within the Comprehensive Plan, and is compliant with all applicable sections of the BMC. The following list identifies examples of circumstances where increased setbacks may be found to be appropriate:~~

~~(1) When the site includes more than one (1) street frontage;~~

~~(2) To accommodate existing topography, utilities, or other physical site constraints that make compliance with the setback infeasible;~~

~~(3) To accommodate phasing of infill development;~~

~~(4) On sites that are significantly developed with existing legally established nonconforming uses or structures whereby strict code compliance will not facilitate effective circulation; or~~

~~(5) For projects that in the opinion of the Director provide enhanced public amenities within the setback area which include, but are not limited to, the following: public plazas, increased landscaping, architectural features, improved pedestrian connections.~~

~~(b) Side yard setback: zero (0), except when adjacent to the low density residential zone (R-10) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC20.50.050(b).~~

~~(c) Rear yard setback: zero (0), except when adjacent to the low density residential zone (R-10) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC20.50.050(b).~~

~~(d) There is no maximum density for residential as a secondary use.~~

~~(e) Maximum building coverage: sixty (60) percent base maximum; provided, that through the use of any combination of the following, building coverage may be increased up to eighty-five (85) percent maximum.~~

~~(1) Projects containing mixed uses: twenty (20) percent bonus.~~

~~(2) Projects within a two (2) or three (3) story building: ten (10) percent bonus.~~

~~(3) Projects providing a pedestrian-oriented plaza or area of at least one hundred fifty (150) square feet along a pedestrian walkway at an intersection corner, bus stop or other key pedestrian area approved by the city. Such areas shall contain seating for at least four (4) people, a trash receptacle and three (3) or more of the following: a pedestrian shelter, a drinking fountain, a bike rack, pedestrian-scale lights, pavers on the walkway surfaces, a kiosk, a street vendor station providing food or beverages, trees, a statue or sculpture, or a public restroom. Interior courtyards with these amenities qualify if they would be readily apparent and accessible to pedestrians on adjoining sidewalks: ten (10) percent bonus.~~

~~(4) Projects providing a through-block corridor that facilitates pedestrian access in a location approved by the city: five (5) percent bonus.~~

~~(5) Projects providing at least fifty (50) percent of their required parking underground or within the building: twenty (20) percent bonus.~~

~~(f) Maximum development coverage: maximum coverage by impervious surfaces seventy-five (75) percent; provided, that through the use of any combination of the mechanisms listed in subsections (e)(1) through (5) of this section, up to ninety-five (95) percent maximum development coverage may be allowed.~~

~~(g) Maximum building height: thirty-five (35) feet.~~

~~20.66.070 DESIGN STANDARDS.~~

~~(a) Building Design. The following guidelines apply to mixed-use and commercial structures only:~~

~~(1) To enhance the pedestrian environment, commercial uses shall include large windows along any ground floor facade facing the public sidewalk or sidewalks providing circulation within a site. Windows shall allow views into interior building spaces. At least seventy-five (75) percent of all such facades, measured to ten (10) feet above the sidewalk or surface grade, shall be comprised of such windows.~~

~~(2) At least one (1) of the following amenities shall be required along any ground floor facade facing the public sidewalk: outdoor eating areas; street furniture such as benches, bike racks and trash receptacles; plantings in window boxes; public art; or public display cases, kiosks, or boards.~~

~~(3) Building entrances shall be easily identifiable from the street and sidewalks. This may be accomplished by:~~

~~(i) Ornamentation and/or architectural detailing around the door; and~~

~~(ii) One (1) or more of the following techniques:~~

~~(A) Recessing the entrance area at least three (3) feet.~~

~~(B) An entrance area that protrudes at least three (3) feet.~~

~~(C) A canopy, portico or overhang extending at least five (5) feet over the sidewalk in the entrance area.~~

~~(4) Bulk. Building modulation shall be used to reduce the appearance of mass and bulk of the structure. This can be achieved by utilizing any combination of at least two (2) of the following;~~

~~(i) Setback of upper floors by at least ten (10) feet. However, such setbacks shall not be applied to more than fifty (50) percent of a facade facing a major arterial.~~

~~(ii) Recessed or protruding doorways per subsection (a)(3)(ii) of this section.~~

~~(iii) Overhangs, awnings, canopies, or arcades between eight (8) and twelve (12) feet above the sidewalk.~~

~~(iv) Window fenestration per subsection (a)(1) of this section.~~

~~(5) Building Size. Structures shall not exceed twenty thousand (20,000) square feet in ground floor area.~~

~~(6) Blank Facades. Building facades shall not present a blank facade to view from public rights-of-way, common parking areas, or residential properties. Such facades may be broken by windows, trellises, columns, variations in plane, or other devices that add variation and interest to the facade.~~

~~(7) Structures at the intersection of two (2) arterial streets shall include a significant architectural feature at the building corner that provides visual emphasis at the corner. This may be accomplished in one or more of the following ways:~~

~~(i) The inclusion of a major entryway at the corner. Such entryways must be marked by an awning, recessed area, colonnade, or other architectural feature that defines the entry.~~

~~(ii) The inclusion of a building element the height of which varies from the remainder of the building by at least ten (10) percent.~~

~~(iii) A plaza at the corner that includes a fountain, artwork, or planting of at least ten (10) feet in height.~~

~~(b) Site Design. In addition to other guidelines provided in this chapter, site design shall meet the following requirements:~~

~~(1) Retail structures shall not be set back more than ten (10) feet from the public right-of-way. In addition, retail structures shall be either mixed-use structures with residential or office uses above or be constructed so as to allow future addition of at least one (1) additional story containing residential or office uses.~~

~~(2) Circulation. Clearly defined pedestrian and vehicle circulation routes shall be provided such that all portions of the site are linked.~~

~~(3) Storage. Outside storage of any kind is prohibited with the exception of garbage cans and/or dumpsters. Garbage cans and dumpsters shall be placed in an enclosure as per BMC 20.46.120. No garbage enclosure shall be permitted between a street and the front of a building.~~

~~**20.66.080 PARKING REQUIREMENTS.**~~

~~Parking shall meet the standards of Chapter 20.48 BMC and the following requirements:~~

~~(a) For nonresidential uses, the minimum parking requirement is one (1) space per employee, plus one (1) handicapped-accessible space;~~

~~(b) On-site parking for nonresidential uses shall not exceed one (1) space per three hundred (300) square feet of floor area;~~
~~(c) On-site parking shall be to the rear or to the side of buildings on the site and shall not occupy more than fifty (50) percent of the site frontage facing the arterial street(s). The site frontage includes the area between the right-of-way and front building wall which applies to the entire length of the property regardless of building width. Corner lots have two (2) site frontages as they are positioned on two (2) street frontages;~~
~~(d) All efforts shall be taken to avoid placing parking on street corners. Parking located between the building frontage and street corners shall be fully screened as follows:~~

~~(1) A four (4) foot tall decorative wall within the front yard landscaping area that fully screens the parking areas. The wall shall be located such that it blocks views of the parking from the right-of-way. For long spans of frontage (one hundred (100) feet or more), the wall shall include modular articulation to add architectural variety.~~

~~(i) Alternate architectural features, shrubs may be substituted for the wall, provided it is demonstrated that the shrubs/alternative will provide equal to or better visual screening than the wall. Shrubs shall be a minimum of three (3) feet tall at time of installation and shall be additional to the landscaping required in Chapter 20.50 BMC.~~

~~(ii) Openings and architectural features may be required within a wall section in order to tie the wall feature into the architecture of the building and to provide pedestrian access. The entry shall be the minimum necessary to accommodate a sidewalk that is a minimum of five (5) feet in width, clearly marked, and distinguished from driving surfaces by using decorative paving, stamped/stained concrete, or raised walkways with alternative materials (such as brick, cobblestone, decorative pavers). Paint striping does not meet this requirement;~~

~~(e) Access to parking shall be provided per the following priority:~~

~~(1) First, from an alley if available; if an alley is not available, then from local street;~~
~~(2) If neither is available, then from a nonprincipal arterial street;~~
~~(3) If none of the above are available then from a principal arterial street.~~

~~Project applicants shall be required to demonstrate to the satisfaction of the City that access design has been considered with the preceding priorities. The applicant shall demonstrate that the proposed access is provided from the highest priority facility per the above list;~~
~~(f) Driveways providing access to parking shall be well marked;~~
~~(g) Reduction in Number of Required Parking Spaces. The Director may reduce the number of required parking spaces on a site by up to ten (10) when a remodel, expansion, alteration, or change in the use or tenancy of an existing building occurs, provided:~~

~~(1) For sites with multiple uses or structures, the reduction shall be applied to the entire site and not to individual uses.~~
~~(2) When a use is nonconforming to the required number of off-street parking spaces, it shall not be allowed to reduce the number of existing spaces.~~

~~20.66.090 LANDSCAPING REQUIREMENTS.~~
~~Landscaping shall meet the standards of Chapter 20.50 BMC.~~

~~20.66.100 SIGN STANDARDS.~~
~~Signs shall meet the standards of Chapter 20.52 BMC. For freestanding signs, the maximum size and height standards of Figure 20.52(a) shall apply.~~

Chapter 20.70
DISTRICT CENTER CORE (DCC)

Sections:

20.70.010 INTENT.
20.70.020 OUTRIGHT PERMITTED USES.
20.70.030 ACCESSORY USES.
~~**20.70.050 PROHIBITED USES.**~~
20.70.060 DEVELOPMENT STANDARDS.
20.70.070 DESIGN STANDARDS.
20.70.080 PARKING REQUIREMENTS.
20.70.090 LANDSCAPING REQUIREMENTS.
20.70.100 SIGN STANDARDS.

20.70.010 INTENT.

~~The intent of the district center core (DCC) zone is to establish base threshold standards for district centers that preserve future opportunity for full realization of the centers concept. The DCC designation assumes that future amendments to the zoning code will more fully implement the centers intent.~~ The intent of the district center core (DCC) zone is to provide a mixed-use "town center" to support the surrounding neighborhoods and general public. The DCC provides opportunities for a variety of services including commercial and residential development that demonstrates planning and design to create a pedestrian friendly community while still accommodating a certain level of regional auto-dependent uses.

20.70.020 OUTRIGHT PERMITTED USES.

The following uses are permitted outright:

(a) Bed and breakfast;
(b) Co-location of wireless ~~tele~~communications facility per BMC 20.46.140;
(c) Community facility;
(d) Day care facility;
(e) Drinking place;
(f) Entertainment use;
(g) Finance, insurance and real estate;
(h) General office and business services;
(i) General retail;
(j) Group residential facilities - Class I;
(k) Hotel and lodging place;
(l) Hospital, Medical office and clinic;
(m) Motion picture theater;
(n) Museum and gallery;
(o) Nursing/convalescent home;
(p) Park, playground and open space;
(q) Personal services business;
(r) Physical fitness and health club;
(s) Public or private park, playground or open space;
(t) Public administration;
(u) Residential of all types except Group Residential Facility ~~Type~~ Class II;
(v) Restaurant;
(w) School and education;
(x) Senior housing complex;
(y) Transportation facility;

(z) Veterinary clinic.

20.70.030 ACCESSORY USES.

The following accessory uses may be permitted when found in connection with a principal use:

(a) Mini-Storage, provided:

(1) Mini-storage facilities are permitted as an accessory use, and may not occupy more than fifty (50) percent of the property's building gross floor area. With the exception of the mini-storage business office, mini-storage facilities shall not be permitted upon the street level of the multistory building where the primary entrance is located.

(2) All storage units shall gain access from the interior of the buildings or site, such as access from the alley. No unit doors may face the street.

(3) Mini-storage facilities located adjacent to a residential zone, shall:

(i) Not be visible from the residential property. This may require that the property be screened by a Type I visual screen per BMC 20.50.050 for the facility loading bays, docks or doors.

(ii) Not operate or allow tenant access between the hours of 10:00PM and 7:00AM. The Director may permit extended hours of operation if the facility will not have significant noise impacts on the adjacent properties.

(4) Outdoor storage prohibited. All goods and property stored in a mini-storage facility shall be stored in an enclosed building. No outdoor storage of boats, RVs, vehicles, etc. or storage in outdoor pods or shipping containers are permitted.

(5) Each storage unit shall be used for storage only. No commercial or manufacturing activities, vehicle repair or services, or related activities, whether for business or personal purposes, are permitted in any storage unit.

~~**20.70.050 PROHIBITED USES.**~~

~~(a) Drive-through lanes except within the Wheaton/Riddell District Center when the business has direct vehicular access from Wheaton Way.~~

20.70.060 DEVELOPMENT STANDARDS.

Lot development shall be in accordance with the following unless allowed for otherwise by law:

(a) Maximum front yard setback: ten (10) feet. At least sixty-five (65) percent of a building's front facade shall meet the maximum front yard setback. The setback may be increased if the Director finds that such increase is the minimum necessary to facilitate a superior site design. In order to obtain approval for an increased setback, the applicant shall submit a written analysis establishing how the project facilitates superior site design is the minimum necessary, is consistent with specific goals and policies within the Comprehensive Plan, and is compliant with all applicable sections of the BMC. The following list identifies examples of circumstances where increased setbacks may be found to be appropriate:

(1) When the site includes more than one (1) street frontage;

(2) To accommodate existing topography, utilities, or other physical site constraints that make compliance with the setback infeasible;

(3) To accommodate phasing of infill development;

(4) On sites that are significantly developed with existing legally established nonconforming uses or structures whereby strict code compliance will not facilitate effective circulation; or

(5) For projects that in the opinion of the Director provide enhanced public amenities within the setback area which include, but are not limited to, the following: public plazas, increased landscaping, architectural features, improved pedestrian connections.

(b) Side yard setback: zero (0) except when adjacent to the low or medium density residential zones (R-10 and R-10M) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC20.50.050(b).
(c) Rear yard setback: zero (0) except when adjacent to the low and medium density residential zones (R-10 and R-10M) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC20.50.050(b).
(d) There is no maximum density for residential use.
(e) Maximum building coverage: sixty (60) percent base maximum; provided, that through the use of any combination of the following, building coverage may be increased up to eighty-five (85) percent maximum:

(1) Projects containing mixed uses: ten (10) percent bonus.
(2) Projects with a three (3) or four (4) story building: ten (10) percent bonus; projects with five (5) or more story building: fifteen (15) percent bonus.
(3) Projects providing a pedestrian-oriented plaza or area of at least one hundred fifty (150) square feet along a pedestrian walkway at an intersection corner, bus stop or other key pedestrian area approved by the City. Such areas shall contain seating for at least four (4) people, a trash receptacle and three (3) or more of the following: a pedestrian shelter, a drinking fountain, a bike rack, pedestrian-scale lights, pavers on the walkway surfaces, a kiosk, a street vendor station providing food or beverages, trees, an appropriately sized statue or sculpture, or a public restroom. Interior courtyards with these amenities qualify if they would be readily apparent and accessible to pedestrians on adjoining sidewalks: twenty (20) percent bonus.
(4) Projects providing a through-block corridor that facilitates pedestrian access in a location approved by the City: five (5) percent bonus.
(5) Projects providing at least fifty (50) percent of their required parking underground or within the building: twenty (20) percent bonus.

(f) Maximum development coverage: maximum development coverage by impervious surfaces, seventy-five (75) percent; provided, that through the use of any combination of the mechanisms listed in subsections (e)(1) through (5) of this section, up to ninety-five (95) percent maximum development coverage may be allowed.
(g) Maximum building height: eighty (80) feet except:

(1) Structures within fifty (50) linear feet of parcels zoned for low density residential shall not exceed four (4) stories in height; and
(2) Structures within fifty (50) and one hundred (100) linear feet of parcels zoned for low density residential shall include architectural features to gradually transition the building height from four (4) stories to a maximum height of eighty (80) feet at the one hundred (100) foot distance from the low density residential zoned parcel.

(h) Mixed-Use Requirement. All structures that include residential uses located adjacent to, are oriented towards, or are viewable from a public right-of-way (not required on private streets) shall provide retail/commercial uses along a minimum of sixty-five (65) percent of the ground floor building facade. On corner lots, the requirement shall be applied to both frontages facing a public right-of way. Exceptions to this requirement will be made for projects that comply with BMC 20.70.070(a)(3).

20.70.070 DESIGN STANDARDS.

(a) Building Design.

(1) To enhance the pedestrian environment, commercial uses shall include large windows along any facade facing the public sidewalk or sidewalks providing circulation within a site. Windows shall allow views into interior building spaces. At least seventy-five (75) percent of all such facades, measured to ten (10) feet above the sidewalk or surface grade, shall be comprised of such windows.

(2) At least one (1) of the following amenities shall be required along building facades facing the public sidewalk: outdoor eating areas, street furniture such as benches, bike racks and trash receptacles, and plantings in window boxes.

(3) Ground Oriented Uses. Ground oriented uses must conform to either of the following:

a. At least fifty (50) percent of the floor area abutting the linear sidewalk level should be "pedestrian oriented."

b. The floor area abutting at least fifty (50) percent of the linear sidewalk level frontage shall be designed and constructed to accommodate future conversion to "pedestrian oriented" commercial uses and may be occupied by any use permitted in the zoning district. The areas designed and constructed to accommodate future conversion shall meet the following standard, in addition to any other required basic or additional design standards:

(i) The sidewalk level façade must include an entrance or entrances to accommodate a single or multiple tenants or be structurally designed to accommodate a single or multiple tenants when converted to the building uses listed in BMC 20.70.020.

~~(3) Building entrances shall be easily identifiable from the street and sidewalks. This may be accomplished by:~~

~~(a) Ornamentation and/or architectural detailing around the door; and~~

~~(b) One (1) or more of the following techniques:~~

~~(i) Recessing the entrance area at least three (3) feet;~~

~~(ii) An entrance area that protrudes at least three (3) feet;~~

~~(iii) A canopy, portico or overhang extending at least five (5) feet over the sidewalk in the entrance area.~~

(4) Bulk. Building modulation shall be used to reduce the appearance of mass and bulk of the structure. This can be achieved by utilizing any combination of at least two (2) of the following:

(a) Setback of upper floors by at least ten (10) feet. However, such setbacks shall not be applied to more than fifty (50) percent of a facade facing a major arterial.

(b) Recessed or protruding doorways per subsection (a)(3)(ii) of this section.

(c) Overhangs, awnings, canopies, or arcades between eight (8) and twelve (12) feet above the sidewalk.

(d) Window fenestration per subsection (a)(1) of this section.

(5) Blank Facades. Building facades shall not present a blank facade to view from public rights-of-way, common parking areas, or residential properties. Such facades may be broken by windows, trellises, columns, variations in plane, or other devices that add variation and interest to the facade.

(6) Structures at the intersection of two (2) arterial streets shall include a significant architectural feature at the building corner that provides visual emphasis at the corner. This may be accomplished in one (1) or more of the following ways:

(a) The inclusion of a major entryway at the corner. Such entryways must be marked by an awning, recessed area, colonnade, or other architectural feature that defines the entry.

(b) The inclusion of a building element the height of which varies from the remainder of the building by at least ten (10) percent.

(7) A plaza at the corner that includes a fountain, artwork, or planting of at least ten (10) feet in height.

(b) Site Design. In addition to other standards provided in this chapter, site design shall meet the following requirements:

(1) Circulation. Clearly defined pedestrian and vehicle circulation routes shall be provided such that all portions of the site are linked.

(2) Storage. Outside storage of any kind is prohibited with the exception of garbage cans and/or dumpsters. Garbage cans and dumpsters shall be placed in an enclosure per BMC 20.46.120. No garbage enclosure shall be permitted between a street and the front of a building.

20.70.080 PARKING REQUIREMENTS.

Parking shall meet the standards of Chapter 20.48 BMC and the following requirements~~:~~. For legally established existing buildings that comply with 20.48.020(b) the parking will be exempt from the following requirements.

(a) For nonresidential uses, the minimum parking requirement is one (1) space per employee.

(b) On-site parking for nonresidential uses shall not exceed four (4) spaces per one thousand (1,000) square feet of floor area.

(c) On-site parking shall be to the rear or side of buildings and shall not occupy more than fifty (50) percent of the site frontage facing the arterial street(s). The site frontage includes the area between the right-of-way and front building wall which applies to the entire length of the property regardless of building width. Corner lots have two (2) site frontages as they are positioned on two (2) street frontages.

(d) All efforts shall be taken to avoid placing parking on street corners. Parking located between the building frontage and street corners shall be fully screened as follows:

(1) A four (4) foot tall decorative wall within the front yard landscaping area that fully screens the parking areas. The wall shall be located such that it blocks views of the parking from the right-of-way. For long spans of frontage (one hundred (100) feet or more), the wall shall include modular articulation to add architectural variety.

(i) Alternate architectural features, shrubs may be substituted for the wall, provided it is demonstrated that the shrubs/alternative will provide equal to or better visual screening than the wall. Shrubs shall be a minimum of three (3) feet tall at time of installation and shall be additional to the landscaping required in Chapter 20.50 BMC.

(ii) Openings and architectural features may be required within a wall section in order to tie the wall feature into the architecture of the building and to provide pedestrian access. The entry shall be the minimum necessary to accommodate a sidewalk that is a minimum of five (5) feet in width, clearly marked, and distinguished from driving surfaces by using decorative paving, stamped/stained concrete, or raised walkways with alternative materials (such as brick, cobblestone, decorative pavers). Paint striping does not meet this requirement.

(e) Access to parking shall be provided per the following priority:

(1) First, from an alley if available; if an alley is not available, then from local street;

(2) If neither is available, then from a nonprincipal arterial street;

(3) If none of the above are available then from a principal arterial street.

Project applicants shall be required to demonstrate to the satisfaction of the City that access design has been considered with the preceding priorities. The applicant shall demonstrate that the proposed access is provided from the highest priority facility per the above list.

(f) Driveways providing access to parking shall be well marked.

~~(g) Reduction in Number of Required Parking Spaces. The Director may reduce the number of required parking spaces on a site by up to ten (10) when a remodel, expansion, alteration, or change in the use or tenancy of an existing building occurs, provided:~~

~~(1) For sites with multiple uses or structures, the reduction shall be applied to the entire site and not to individual uses.~~

~~(2) When a use is nonconforming to the required number of off-street parking spaces, it shall not be allowed to reduce the number of existing spaces.~~

20.70.090 LANDSCAPING REQUIREMENTS.

Landscaping shall meet the standards of Chapter 20.50 BMC and the following standards shall be met:

(a) All development proposed on properties abutting Almira Drive NE shall provide a Type II visual screen as established in BMC 20.50.050(b).

20.70.100 SIGN STANDARDS.

Signs shall meet the standards of Chapter 20.52 BMC. For freestanding signs, the maximum size and height standards of Figure 20.52(a) shall apply.

Chapter 20.74
BUSINESS CORE (BC)

Sections:

20.74.010 INTENT.
20.74.020 OUTRIGHT PERMITTED USES.
20.74.080 PARKING REQUIREMENTS.
20.74.090 LANDSCAPING STANDARDS.
20.74.100 SIGN STANDARDS.

20.74.010 INTENT.

The intent of this zone is detailed in the adopted Downtown Regional Center Subarea Plan. This chapter supplements the adopted plan.

20.74.020 OUTRIGHT PERMITTED USES.

The following uses are permitted:

~~(a) Accessory parking facility;~~
~~(b)~~(a) Bed and breakfast;
~~(c)~~(b) Co-location of wireless ~~tele~~communications facility per BMC 20.46.140;
~~(d)~~(c) Communication/broadcasting facility;
~~(e)~~(d) Community facility;
~~(f)~~(e) Day care facility;
~~(g)~~(f) Detoxification center;
~~(h)~~(g) Finance, insurance and real estate;
~~(i)~~(h) General office and business services;
~~(j)~~(i) General retail;
~~(k)~~(j) Group residential facilities - Class I;
~~(l)~~(k) Hotel and lodging place;
~~(m)~~(l) Indoor automobile sales, service, repair, or car wash;
~~(n)~~(m) Indoor entertainment use;
~~(o)~~(n) Indoor recreational facility;
~~(p)~~(o) Hospital, Medical office and clinic;
~~(q)~~(p) Motion picture theater;
~~(r)~~(q) Museum and gallery;
~~(s)~~(r) Parking structure;
~~(t)~~(s) Personal services business;
~~(u)~~(t) Physical fitness and health club;
~~(v)~~(u) ~~Public or private p~~Park, playground or open space;
~~(w)~~(v) Public administration;
~~(x)~~(w) Public facility;
~~(y)~~(x) Residential use of all types;
~~(z)~~(y) Restaurant and drinking place;
~~(aa)~~(z) School and education use;
~~(bb)~~(aa) Social services facility;
~~(cc)~~(bb) Transportation facility;
~~(dd)~~(cc) Veterinary clinic;
~~(ee)~~(dd) Welfare and charitable services and facility;
~~(ff)~~(ee) Worship and religious facility.

20.74.080 PARKING REQUIREMENTS.
In addition to the off-street parking requirements set forth in Chapter 20.48 BMC, the automobile off-street parking spaces shall be provided in accordance with the Downtown Subarea Plan.

20.74.090 LANDSCAPING STANDARDS.
Landscaping shall meet the standards of Chapter 20.50 BMC.

20.74.100 SIGN STANDARDS.
Signage shall meet the standards of Chapter 20.52 BMC. For freestanding signs, the maximum size and height standards of Figure 20.52(a) shall apply.

Chapter 20.75
DOWNTOWN CORE

Sections:

20.75.010 INTENT.
20.75.020 OUTRIGHT PERMITTED USES.
20.75.050 PROHIBITED USES.
20.75.080 PARKING REQUIREMENTS.
20.75.090 LANDSCAPING.
20.75.100 SIGN STANDARDS.
20.75.110 CHANGE OF USE OR REHABILITATION OF EXISTING BUIDLING.

20.75.010 INTENT.

The intent of this zone is detailed in the adopted Downtown Regional Center Subarea Plan. This chapter supplements the adopted plan.

20.75.020 OUTRIGHT PERMITTED USES.

The following uses are permitted outright:

(a) Community facility;
(b) Drinking place;
(c) Education and school;
(d) Entertainment use;
(e) Finance, insurance and real estate;
(f) General retail;
(g) General office and business service;
(h) Hotel and lodging place;
(i) Hospitals, Medical office and clinic;
(j) Motion picture theater;
(k) Museum and gallery;
(l) Park, playgrounds and open space;
(m) Parking structure;
(n) Personal service business;
(o) Public administration;
(p) Restaurant;
(q) Residential uses of all types;
(r) Transportation facility;
(s) Veterinary clinic;
(t) Worship and religious facilities.
(u) Mini-storage, as an accessory use, provided access is not located on the ground floor where the pedestrians oriented access is to the primary use, and the design standards emulate an office-type or multi-family structure from the view of the public street.

20.75.050 PROHIBITED USES.

The following uses are specifically prohibited:

(a) Light and heavy industrial/manufacturing uses;
(b) Drive-through facility;
(c) Automobile sales, service, repair or car wash;
~~(d) Storage of equipment and materials;~~
(~~e~~d) Adult entertainment;
(~~f~~e) Work release facility;

(~~g~~f) Commercial surface parking lot not serving a permitted use.

20.75.080 PARKING REQUIREMENTS.
In addition to the off-street parking requirements set forth in Chapter 20.48 BMC, the automobile off-street parking spaces shall be provided in accordance with the Downtown Subarea Plan.

20.75.090 LANDSCAPING.
Landscaping shall meet the standards of Chapter 20.50 BMC.

20.75.100 SIGN STANDARDS.
Signage shall meet the standards of Chapter 20.52 BMC. For freestanding signs the maximum size and height standards of Figure 20.52(a) shall apply.

20.75.110 CHANGE OF USE OR REHABILITATION OF EXISTING BUILDING.
When an existing building or structure is remodeled, improved or a change in use or tenancy occurs, it shall be exempt from off-street parking and landscaping requirements provided that:

(a) The structure is not enlarged, extended or structurally altered outside the existing building envelope in a manner that would require additional parking pursuant to BMC Section 20.48;

Chapter 20.76
DOWNTOWN WATERFRONT

Sections:

20.76.010 INTENT.
20.76.020 OUTRIGHT PERMITTED USES.
20.76.050 PROHIBITED USES.
20.76.080 PARKING REQUIREMENTS.
20.76.090 LANDSCAPING REQUIREMENTS.
20.76.100 SIGN STANDARDS.
20.76.110 MEASURING HEIGHT.

20.76.010 INTENT.

The intent of this zone is detailed in the adopted Downtown Regional Center Subarea Plan. This chapter supplements the adopted plan.

20.76.020 OUTRIGHT PERMITTED USES.

The following uses are permitted outright:

~~(a) Drinking places;~~
~~(b) General office and business services comprising no more than twenty-five (25) percent of the total gross floor area of a mixed-use development;~~
~~(c) General retail, including marine retail;~~
~~(d) Hotels and lodging places;~~
~~(e) Parks, playgrounds and open spaces;~~
~~(f) Residential uses of all types;~~
~~(g) Restaurants;~~
~~(h) Structured parking with other permitted uses;~~
~~(i) Transportation facilities;~~
~~(j) Veterinary clinics.~~

(a) Drinking places;
(b) General office and business services comprising no more than twenty-five (25) percent of the total gross floor area of a mixed-use development;
(c) General retail, including marine retail;
(d) Hospitals
(e) Hotels and lodging places;
(f) Medical office, and clinics
(g) Parks, playgrounds and open spaces;
(h) Residential uses of all types;
(i) Restaurants;
(j) Structured parking with other permitted uses;
(k) Transportation facilities;
(l) Veterinary clinics.

20.76.050 PROHIBITED USES.

The following uses are specifically prohibited:

(a) Adult entertainment;
(b) Automobile sales, service, repair and car wash;
~~(c) Boat sales, storage and repair;~~

(c~~d~~) Commercial surface parking lots not serving a permitted use;
(d~~e~~) Drive-through facilities and drive-through lanes;
(e~~f~~) Light and heavy industrial/manufacturing uses;
(f~~g~~) Stand-alone commercial parking not serving a permitted use;
(g~~h~~) Storage of equipment and materials;
(h~~i~~) Work release facilities.

20.76.080 PARKING REQUIREMENTS.
In addition to the off-street parking requirements set forth in Chapter 20.48 BMC, the automobile off-street parking spaces shall be provided in accordance to the Downtown Subarea Plan.

20.76.090 LANDSCAPING REQUIREMENTS.
Landscaping shall meet the standards in Chapter 20.50 BMC.

20.76.100 SIGN STANDARDS.
Signage shall meet the standards of Chapter 20.52 BMC. For freestanding signs, the maximum size and height standards of Figure 20.52(a) shall apply.

20.76.110 MEASURING HEIGHT.
The maximum height shall be measured from the average grade on Washington Avenue adjacent to the subject property's front lot line.

Chapter 20.78

~~CITY CORE RESIDENTIAL (CCR)~~ MEDIUM DENSITY RESIDENTIAL (R-10M)

Sections:

20.78.010 INTENT.
20.78.020 OUTRIGHT PERMITTED USES.
20.78.030 ACCESSORY USES.
20.78.040 CONDITIONAL USES.
20.78.060 DEVELOPMENT STANDARDS.
20.78.065 ALLOWABLE DENSITY AND LOT AREA.
20.78.080 OFF-STREET PARKING REQUIREMENTS.
20.78.090 LANDSCAPING REQUIREMENTS.
20.78.100 SIGN STANDARDS.

20.78.010 INTENT.

The intent of the medium density residential (~~MDR~~R-10M) zoning district is to accommodate single-family housing and existing medium density-type development, and encourage redevelopment opportunities by permitting a wider variety of housing types. Consistency throughout the neighborhoods between Low Density Residential (R-10) and Medium Density Residential shall be implemented.

20.78.020 OUTRIGHT PERMITTED USES.

Only one (1) principal use shall be allowed on each residentially zoned lot unless allowed for otherwise by law. This limitation shall not include permitted accessory uses associated with a permitted principal use. The following uses are permitted outright:

(a) Cemetery;
(b) Co-location of wireless telecommunications per BMC 20.46.140;
(c) Community facilities of twenty thousand (20,000) square feet gross floor area or less;
(d) Day care facility of twelve (12) or fewer persons receiving care;
(e) Education and schools (K-12) of twelve (12) or fewer students;
(f) Foster home;
(g) Group residential home;
(h) Manufactured home per BMC 20.46.040;
(i) Parks, playgrounds and open space equal or less than one-half (0.5) acre (twenty-one thousand seven hundred eighty (21,780) square feet);
(i) Residential uses:
  (1) Single-unit dwelling unit, detached;
  (2) Single-unit dwelling unit, attached (zero (0) lot lines) per BMC 20.78.060(b);
  (3) Duplexes (meeting underlying zoning);
  (4) Townhouse (meeting underlying zoning)
(k) Worship and religious facilities of twenty thousand (20,000) square feet gross floor area or less;
(l) Incubator for business associated with a worship and religious facility or community facility, provided the following conditions are met:
  (1) The incubated business is a use that is permitted outright in the neighborhood business zone, BMC 20.82.020;
  (2) Landscaping and signage requirements of the neighborhood business zone, Chapter 20.82 BMC, shall be met; and
  (3) The parcel upon which the incubated business is situated shall have frontage on an arterial street.

20.78.030 ACCESSORY USES.

The following accessory uses may be permitted when found in connection with a principal use:

(a) Attached or detached accessory dwelling unit per BMC 20.46.010;

(b) Detached garage, carport, and parking facilities for the residents of the property;

(c) Home occupation per BMC 20.46.030;

(d) Other necessary and customary uses determined by the Director to be appropriate, incidental and subordinate;

(e) Playhouses, patios, cabanas, porches, gazebos, swimming pools and incidental household storage buildings.

20.78.040 CONDITIONAL USES.

The following uses may be permitted, provided a conditional use permit is approved pursuant to BMC 20.58.020 subject to the corresponding conditions:

(a) **Bed and breakfast**, provided:

(1) The operators of the business shall occupy the house as their primary residence;

(2) No more than one (1) full-time equivalent (FTE) employee who is not a resident of the dwelling may be employed;

(3) No more than six (6) bedrooms are made available for rent to guests and all guest rooms are contained within the principal structure;

(4) Two (2) off-street parking spaces, plus one (1) off-street parking space per each guest bedroom, are required;

(5) Off-street parking spaces may be reduced, provided the applicant can demonstrate parking will not spill over into nearby residential properties and any streets;

(6) Rooms shall not be made available to guests for more than fourteen (14) days during any thirty (30) day period;

(7) No commercial receptions, parties, or other public gatherings, or serving of meals to nonresident guests for compensation, are allowed; and

(8) Any remodeling of the residential structure shall maintain the residential nature of the structure and not alter the structure in such a manner that would prevent it from being used as a residence in the future.

(b) **Group residential facilities - Class I**, provided:

(1) All state licensing requirements are satisfied;

(2) Minimum setbacks, height and lot coverage of the underlying zone shall apply;

(3) Off-street parking shall be at a minimum of one (1) space per each employee during the peak shift, plus one (1) space per two (2) residents the facility will provide service to;

(4) If counseling services are provided to nonresidents, additional parking spaces are required at one (1) per three hundred (300) square feet of gross floor area used for counseling services;

(5) The number of required off-street parking spaces may be reduced, provided the applicant can demonstrate that parking will not spill over into nearby residential properties and any streets; and

(6) Landscaping is provided meeting the minimum requirements for nonresidential uses prescribed in Chapter 20.50 BMC. Additional landscaping for screening purposes may be required if it is found necessary to mitigate any impacts to adjoining residential properties.

(c) **Senior housing complex**, provided the following conditions are satisfied:

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

(2) Minimum setbacks, density, height and lot coverage of the underlying zone shall apply;

(3) Off-street parking shall be a minimum one (1) space per dwelling;

(4) 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;

(5) Attached or detached structure types are permitted and dwelling units may be owned by individuals or occupied as rentals;
(6) Access to alternative transportation such as public transit or on-site shuttle services to access daily goods or services shall be provided; and
(7) 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.

(d) **Nursing/convalescent homes**, provided:
(1) All state licensing requirements are satisfied;
(3) Minimum site area shall be no less than one (1) acre;
(4) Minimum setbacks, height and lot coverage of the underlying zone shall apply;
(5) Off-street parking shall be a minimum of one (1) space per six hundred (600) square feet of gross floor area;
(6) The number of required off-street parking spaces may be reduced, provided the applicant can demonstrate that parking will not spill over into nearby residential properties and any streets; and
(7) Landscaping is provided meeting the minimum requirements for nonresidential uses prescribed in Chapter 20.50 BMC. Additional landscaping for screening purposes may be required if it is found necessary to mitigate any impacts to adjoining residential properties.

(e) **Day care facilities (thirteen (13) or more persons receiving care)**, provided:
(1) All state licensing requirements are satisfied;
(2) Off-street parking shall be a minimum one (1) space per each five (5) children based on the state license maximum occupancy load;
(3) One (1) loading/unloading space without backup is required for the first twenty (20) children and one (1) additional space for up to each additional twenty (20) children;
(4) The number of required off-street parking spaces may be reduced, provided the applicant can demonstrate that parking will not spill over into nearby residential properties and any streets;
(5) Landscaping is provided meeting the minimum requirements for nonresidential uses prescribed in Chapter 20.50 BMC. Additional landscaping for screening purposes may be required if it is found necessary to mitigate any impacts to adjoining residential properties; and
(6) The maximum height of a fence or wall within a front yard setback may be increased up to six (6) feet, provided it enhances safety and security of an outdoor play area.

(f) **Adaptive reuse of commercial buildings**, provided the conditions set forth in BMC 20.46.070 are satisfied.

(g) **Worship, religious, and community facilities greater than twenty thousand (20,000) square feet**, provided:
(1) The site area shall be one (1) acre or more; and
(2) Landscaping is provided meeting the minimum requirements for nonresidential uses prescribed in Chapter 20.50 BMC. Additional landscaping for screening purposes may be required if it is found necessary to mitigate any impacts to adjoining residential properties.

(h) **Golf course**, provided:
(1) A site plan review and a site development permit are approved pursuant to Chapter 20.58 BMC;
(2) Through the conditional use permit, modifications to parking and landscaping may be allowed in order to facilitate good design;
(3) Other conditions are applied as deemed necessary to mitigate impacts to nearby residential properties and ensure compatibility with the neighborhood.

(i) **Schools, parks and associated uses** may be approved in accordance with the following:
(1) The following uses are permitted through approval of a conditional use permit:
(i) All public schools and associated gymnasiums and auditoriums;
(ii) Private schools (K-12) with thirteen (13) or more students;

(iii) Parks and playgrounds greater than one-half (1/2) acre;
(iv) Outdoor athletic fields;
(v) Boat launching and related facilities;
(vi) Maintenance and service yards;
(vii) Bus and other vehicle and equipment maintenance and storage facilities;
(viii) Administrative office related to the facilities greater than two thousand (2,000) square feet gross floor area;
(ix) Buildings and structures for nonprofit groups on public lands;

(2) Uses permitted pursuant to subsection (j)(1) of this section shall be subject to complying with the following conditions:

(i) Front, side and rear yard setbacks of structures and outdoor storage areas shall be at least thirty (30) feet;
(ii) Setbacks may be reduced for those portions of a structure fronting interior streets;
(iii) The maximum height for any new construction may be increased to match the architecture of existing buildings; provided, that it is set back an additional foot from any property line for each additional foot of allowed height, and in no case shall the new construction exceed forty-five (45) feet;
(iv) Landscaping is provided meeting the minimum requirements for nonresidential uses prescribed in Chapter 20.50 BMC. Additional landscaping for screening purposes may be required if it is found necessary to mitigate any impacts to adjoining residential properties;
(v) Additional measures may be required if deemed necessary to mitigate any noise impacts to adjacent residential uses; and
(vi) The maximum height of a fence or wall within a front yard setback may be increased to six (6) feet, provided it enhances safety and security around an outdoor play area.

(j) **Public utility facilities located above ground**, provided:

(1) Landscaping is provided meeting the minimum requirements for nonresidential uses prescribed in Chapter 20.50 BMC. Additional landscaping for screening purposes may be required if it is found necessary to mitigate any impacts to adjoining residential properties;
(2) The maximum height of a fence or wall may be increased within a front yard setback that will provide screening from adjacent uses and enhance safety and security around the facility; and
(3) Exceptions to setbacks may be allowed if the applicant can demonstrate that the public interest is better served by allowing the modification.

(k) **Law enforcement and fire facilities**, provided:

(1) Landscaping is provided meeting the minimum requirements for nonresidential uses prescribed in Chapter 20.50 BMC. Additional landscaping for screening purposes may be required if it is found necessary to mitigate any impacts to adjoining residential properties.
(2) The maximum height of a fence or wall may be increased within a front yard setback that will provide screening from adjacent uses and enhance safety and security around the facility.

20.78.060 DEVELOPMENT STANDARDS.

(a) Lot Standards. Lot development requirements shall be in accordance with this section and the following standards unless allowed for by law otherwise:

(1) Setbacks.

(i) Minimum front yard setback is fifteen (15) feet;
(ii) Minimum side yard setback is five (5) feet;
(iii) Minimum rear yard setback is fifteen (15) feet.

(2) Maximum structure height is thirty-five (35) feet.
(3) Maximum structure height in (R-10) areas within the downtown regional center shall be pursuant to Figure 20.74(a) and shall supercede subsection (a)(2) of this section.

(4) Minimum lot width is thirty (30) feet.

(5) Maximum development coverage is sixty (60) percent.

(b) Zero (0) Lot Line (ZLL) Development. An attached single-family dwelling and/or garage structure may have a single shared side or rear lot line, and a setback reduced to zero (0), provided the structure complies with building code fire separation requirements.

(c) Accessory Structures. The following standards shall apply but are not limited to: garages, carports, shops, barns, covered patios, cabanas, gazebos, and incidental household storage buildings, excluding accessory dwelling units per BMC 20.46.010 and structures not requiring a building permit:

(1) The maximum area for all accessory structures shall be eighty (80) percent of the principal residential use not to exceed one thousand two hundred (1,200) square feet.

(2) Setbacks of detached accessory structures are pursuant to BMC 20.44.060.

(d) Garages, Storage Buildings and Shops.

(1) Any garage, storage building or shop structure shall be designed so that the appearance of the building remains that of a single-family residence including the following:

(i) Constructed of similar materials as the principal unit;

(ii) A roof of equal or greater pitch as the principal unit;

(iii) A height no more than twenty-five (25) percent greater than the principal unit not to exceed thirty-five (35) feet.

(2) Any garage, storage building, or shop may be exempt from the accessory structure size requirements provided it is contained within the principal unit.

(3) Garage, Carport, and Shop Vehicle Entrance Setbacks. When the vehicle entrance faces the street, the garage, carport, or shop shall have a front yard setback of at least twenty (20) feet, except as provided in BMC 20.44.020 (Traditional Front Yard Setbacks).

(e) Lot Area for Parks and Schools. Parks and schools may exceed maximum lot area requirements if approved by a conditional use permit.

20.78.065 ALLOWABLE DENSITY AND LOT AREA.

The purpose of this section is to establish compatible levels of density within existing neighborhoods. The intent is to allow infill residential development. The following density and lot area standards are applicable to development within the zone:

(a) Minimum Density. The minimum required density is five (5) dwellings per acre.

(b) Maximum Density. The maximum allowed density is ten (10) dwellings per acre.

(c) Maximum Lot Area. The maximum lot area is eight thousand seven hundred twelve (8,712) square feet, with the following exceptions:

(1) The lot area may be modified through the approval of a residential cluster development pursuant to BMC 20.58.060;

(2) One (1) lot within a proposal for a division of land may exceed eight thousand seven hundred twelve (8,712) square feet, provided the remaining lots do not exceed the eight thousand seven hundred twelve (8,712) square foot maximum lot size; and

(3) A flag lot that complies with the requirements in BMC 20.44.100 may exceed eight thousand seven hundred twelve (8,712) square feet, provided the total area of the flag lot does not exceed thirteen thousand sixty-eight (13,068) square feet.

(d) Minimum Lot Area. The minimum allowed lot area is four thousand three hundred (4,300) square feet.

(e) Exception to Minimum Lot Areas.

(1) The minimum lot area may be modified through the approval of a residential cluster development pursuant to BMC 20.58.060, provided the development complies with the maximum density requirement set forth in subsection (b) of this section.

20.78.080 OFF-STREET PARKING REQUIREMENTS.
Off-street parking shall be provided in accordance with the requirements set forth in Chapter 20.48 BMC.

20.78.090 LANDSCAPING REQUIREMENTS.
Landscaping shall be provided in accordance with the requirements set forth in Chapter 20.50 BMC.

20.78.100 SIGN STANDARDS.
Signs shall meet the standards of Chapter 20.52 BMC and the following:
(a) One (1) sign with a sign area of up to eight (8) square feet may be allowed to advertise a permitted bed and breakfast, provided it matches the architectural features of the primary residence.
(b) For a home occupation sign, the residential district sign regulations in BMC 20.52.120 shall apply.
(c) When an established business use is located in the medium density residential zone, the special purpose sign regulations in BMC 20.52.130 shall apply.

~~Chapter 20.78~~
~~CITY CORE RESIDENTIAL (CCR)~~

~~Sections:~~
~~**20.78.010 INTENT.**~~
~~**20.78.020 OUTRIGHT PERMITTED USES.**~~
~~**20.78.030 ACCESSORY USES.**~~
~~**20.78.040 CONDITIONAL USES.**~~
~~**20.78.060 DEVELOPMENT STANDARDS.**~~
~~**20.78.080 PARKING REQUIREMENTS.**~~
~~**20.78.090 LANDSCAPING REQUIREMENTS.**~~
~~**20.78.100 SIGN STANDARDS.**~~

~~**20.78.010 INTENT.**~~
~~The intent of the city core residential (CCR) zone is to enhance opportunities for significant population growth in the City core and increase activity levels along a planned "loop" trail system connecting the two downtown bridges and three closely related nodes of future growth. While based on the permitted uses and development standards of the low density residential (R-10) zone, the CCR zone also permits higher density housing, including attached multifamily units, when developed on large lots in conjunction with a public trail that links the City's core centers: Manette neighborhood center, Harrison employment center, and downtown regional center. Along with a distinct pedestrian orientation, uses in this zone shall be well served by public transit.~~

~~**20.78.020 OUTRIGHT PERMITTED USES.**~~
~~The following uses are permitted:~~
~~(a) Day care facility (twelve (12) or fewer persons receiving care);~~
~~(b) Foster home;~~
~~(c) Multi-unit dwelling units and townhouses, provided:~~
~~(1) Within a project comprising ten (10) or more acres;~~
~~(2) Units are developed in conjunction with a public trail improvement;~~
~~(d) Park, playground and open space;~~
~~(e) Single-unit dwelling unit, detached;~~

~~(f) Single-unit dwelling unit, attached (zero (0) lot lines) per BMC 20.60.066(b);~~
~~(g) Transportation facility.~~

~~20.78.030 ACCESSORY USES.~~
~~Permitted accessory uses are those set forth in BMC 20.60.030 (low density residential (R-10) zone).~~

~~20.78.040 CONDITIONAL USES.~~
~~The following uses may be permitted, provided a conditional use permit is approved pursuant to BMC 20.58.020. Conditions for approval of the following uses shall be the standards listed for the corresponding use in BMC 20.60.040, the conditional uses section of the low density residential (R-10) zone:~~
~~(a) Bed and breakfast;~~
~~(b) Class I group residential facilities;~~
~~(c) Senior housing complex;~~
~~(d) Nursing/convalescent home;~~
~~(e) Day care facilities;~~
~~(f) Worship, religious, and community facilities;~~
~~(g) Schools, parks and associated facilities of the types set forth in BMC 20.60.040(j).~~

~~20.78.060 DEVELOPMENT STANDARDS.~~
~~Development standards shall be in accordance with the development standards in the low density residential (R-10) zone set forth in BMC 20.60.060 unless modified per the following:~~
~~(a) Maximum density may be increased to twenty (20) dwelling units per acre, provided:~~
~~(1) Within a project comprising ten (10) or more acres;~~
~~(2) Units are developed in conjunction with a public trail improvement linking the City's core centers as approved by the City;~~
~~(3) Units are developed in conjunction with on-site provisions to improve existing access to public transit.~~

~~20.78.080 PARKING REQUIREMENTS.~~
~~Parking shall meet the standards of Chapter 20.48 BMC.~~

~~20.78.090 LANDSCAPING REQUIREMENTS.~~
~~Landscaping shall meet the standards of Chapter 20.50 BMC.~~

~~20.78.100 SIGN STANDARDS.~~
~~Signage shall meet the standards of Chapter 20.52 BMC.~~

Chapter 20.79

~~MULTIPLE RESIDENTIAL (MR)~~MULTIFAMILY RESIDENTIAL (R-20)

Sections:

20.79.010 INTENT.
20.79.020 OUTRIGHT PERMITTED USES.
20.79.030 ACCESSORY USES.
20.79.040 CONDITIONAL USES.
20.79.080 PARKING REQUIREMENTS.
20.79.090 LANDSCAPING REQUIREMENTS.
20.79.100 SIGN STANDARDS.

20.79.010 INTENT.

The intent of the multifamily residential (R20) zoning district is to provide a high standard of development for residential multifamily type structures and to provide a variety of housing options for a wide diversity of people, within neighborhoods that are currently developed with multifamily development. In addition to supporting the adopted Downtown Subarea Plan. ~~The intent of this zone is detailed in the adopted Downtown Regional Center Subarea Plan. This chapter supplements the adopted plan.~~

20.79.020 OUTRIGHT PERMITTED USES.

The following uses are permitted outright:

(a) Co-location of wireless ~~tele~~communications per BMC 20.46.140;

(b) Residential Use. Residential uses include:

- (1) Day care facility (twelve (12) or fewer persons receiving care);
- (2) Foster home;
- (3) Class I group residential facility;
- (4) Multi-unit dwelling units;
- (5) Single-unit dwelling unit, attached (zero (0) lot lines);
- (6) Single-unit dwelling unit, detached;
- (7) Townhouses;~~.~~
- (8) Duplexes.

20.79.030 ACCESSORY USES.

~~Permitted accessory uses are those set forth in BMC 20.60.030 (low density residential (R-10) zone).~~ The following accessory uses may be permitted when found in connection with a principal use:

(a) Attached or detached accessory dwelling unit per BMC 20.46.010;

(b) Detached garage, carport, and parking facilities for the residents of the property;

(c) Home occupation per BMC 20.46.030;

(d) Other necessary and customary uses determined by the Director to be appropriate, incidental and subordinate;

(e) Playhouses, patios, cabanas, porches, gazebos, swimming pools and incidental household storage buildings.

20.79.040 CONDITIONAL USES.

The following conditional uses shall be permitted pursuant to BMC 20.58.020, provided the conditional use complies with the corresponding standard as listed in BMC 20.60.040 (low density residential (R-10) zone):

(a) Bed and breakfast;

(b) Senior housing complex;

(c) Nursing/convalescent home;
(d) Day care facilities (more than twelve (12) persons receiving care);
(e) Worship, religious, and community facilities;
(f) Schools, parks and associated facilities of the types set forth in BMC 20.60.040(j).

20.79.060 DEVELOPMENT STANDARDS.

(a) For properties located within the Downtown Regional Center, the Downtown Subarea Plan will regulated development standards. The following development standards listed are for all other locations where the R20 zone is located.

(b) Lot Standards. Lot development requirements shall be in accordance with this section and the following standards unless allowed for by law otherwise:

(1) Setbacks.

(i) Minimum front yard setback is fifteen (15) feet;

(ii) Minimum side yard setback is five (5) feet;

(iii) Minimum rear yard setback is fifteen (15) feet.

(2) Maximum structure height is forty-five (45) feet, except that conditionally allowed uses per BMC 20.79.040 may be sixty (60) feet unless otherwise noted.

(3) Minimum lot width is thirty (30) feet.

(4) Maximum development coverage is sixty (60) percent.

(b) Zero (0) Lot Line (ZLL) Development. An attached single-family dwelling and/or garage structure may have a single shared side or rear lot line, and a setback reduced to zero (0), provided the structure complies with building code fire separation requirements.

(c) Garages, Storage Buildings and Shops.

(1) Garage, Carport, and Shop Vehicle Entrance Setbacks. When the vehicle entrance faces the street, the garage, carport, or shop shall have a front yard setback of at least twenty (20) feet, except as provided in BMC 20.44.020 (Traditional Front Yard Setbacks).

(d) Lot Area for Parks and Schools. Parks and schools may exceed maximum lot area requirements if approved by a conditional use permit.

(e) Minimum Density: five (5) dwelling units per acre.

(f) Maximum Density: twenty (20) dwelling units per acre.

20.79.080 PARKING REQUIREMENTS.

In addition to the off-street parking requirements set forth in Chapter 20.48 BMC, the automobile off-street parking spaces located within the Downtown Regional Center shall be provided in accordance to the Downtown Subarea Plan.

20.79.090 LANDSCAPING REQUIREMENTS.

Landscaping shall meet the standards of Chapter 20.50 BMC.

20.79.100 SIGN STANDARDS.

Signage shall meet the standards of Chapter 20.52 BMC.

~~Chapter 20.80~~
~~MASTER DEVELOPMENT (MD)~~

~~Sections:~~

~~**20.80.010 INTENT.**~~
~~**20.80.020 APPLICABILITY.**~~
~~**20.80.030 ESTABLISHMENT OF A MASTER DEVELOPMENT ZONE.**~~
~~**20.80.035 MASTER DEVELOPMENT ZONE BASE STANDARDS.**~~
~~**20.80.040 SUBAREA PLAN REQUIRED.**~~
~~**20.80.050 MASTER DEVELOPMENT ZONE PERMITTED USES.**~~
~~**20.80.060 GUIDELINES FOR DEVELOPMENT STANDARDS.**~~
~~**20.80.070 MASTER DEVELOPMENT ZONE APPLICATION.**~~
~~**20.80.080 SUBAREA PLANS.**~~

~~20.80.010 INTENT.~~

~~The intent of the master development (MD) zone is to provide large-scale planned development by public entities or through public-private partnerships which provide a clear community benefit. These areas are envisioned for innovative development meeting unique community needs. Sites shall employ subarea planning efforts that address compatibility with surrounding uses and consistency with the Comprehensive Plan.~~

~~20.80.020 APPLICABILITY.~~

~~The provisions of this chapter shall be applied to lands located within public sector redevelopment site (PSRS), employment center (EC), district center (DC), neighborhood center (NC), or downtown regional center Comprehensive Plan designations.~~

~~20.80.030 ESTABLISHMENT OF A MASTER DEVELOPMENT ZONE.~~

~~A master development zone shall be in effect when the following steps are completed:~~

~~(a) Subarea planning efforts are completed pursuant to BMC 20.80.040;~~

~~(b) An ordinance is adopted approving a subarea plan identified in BMC 20.80.080 and establishing associated development standards and regulations for the subject subarea plan district. A text amendment to BMC 20.80.080 should be made to reference the applicable ordinance to the subarea plan district;~~

~~(c) A site-specific rezone to the master development classification is approved pursuant to BMC 20.58.040.~~

~~20.80.035 MASTER DEVELOPMENT ZONE BASE STANDARDS.~~

~~If a master development zone has been established on the official zoning map, all requirements of Chapter 20.60 BMC, Low Density Residential (R-10), shall be in effect until the following steps are completed:~~

~~(a) Subarea planning efforts are completed pursuant to BMC 20.80.040;~~

~~(b) An ordinance is adopted approving the subarea plan identified in BMC 20.80.080 and establishing associated development standards and regulations for the subject subarea plan district. A text amendment to BMC 20.80.080 shall be made to reference the applicable ordinance to the subarea plan district.~~

~~20.80.040 SUBAREA PLAN REQUIRED.~~

~~(a) Approval of a subarea plan is required prior to approval of a master development zoning district. A subarea plan is an amendment to the Comprehensive Plan and is processed pursuant to Chapter 20.10 BMC.~~

~~(b) In developing a subarea plan for the purpose of this chapter, the following shall apply:~~

~~(1) The Director shall determine the number of neighborhood meetings based on the scope of the proposal and the community's interest.~~

~~(2) The applicant shall be responsible for scheduling and facilitating the neighborhood meetings. City staff should participate in the meetings, taking notes and helping to address the public's concerns.~~

~~(3) Notification of the time and location of the meetings shall be posted on the property. The Director shall determine the specifications to the construction and installation of the notice boards. Additionally, if the Director determines it appropriate, mailed notice may be required to be sent to nearby property owners, affected state and local agencies and neighborhood organizations.~~

~~20.80.050 MASTER DEVELOPMENT ZONE PERMITTED USES.~~

~~Specific uses shall be determined through the subarea planning process. Potential uses may include, but are not limited to, commercial, office, and various residential types.~~

~~20.80.060 GUIDELINES FOR DEVELOPMENT STANDARDS.~~

~~Development standards such as setbacks, lot coverage, height and density shall be developed through the subarea planning process and implemented through the adoption of the master development zone. The following guidelines establish the parameters from which development standards are derived:~~

~~(a) Consistency with the Comprehensive Plan's community character goals and policies;~~

~~(b) Provide open space that protects environmentally sensitive areas;~~

~~(c) Development at the edge of the site that is designed with densities and uses which are compatible with nearby neighborhoods and uses;~~

~~(d) Well-designed streetscapes that incorporate context-sensitive design, including amenities such as street trees, planting strips, sidewalks, sidewalk benches, street lamps and other design features that make the streets more interactive, walkable, and enjoyable;~~

~~(e) Parking requirements shall be pursuant to Chapter 20.48 BMC. However, modifications to the off-street parking requirements may be allowed through the approval of a master development zone. If there is a proposed reduction of ten (10) percent or more to the number of off-street parking spaces required by Chapter 20.48 BMC, a parking study is required to demonstrate that there is no impact on adjacent properties to the site;~~

~~(f) Landscaping requirements shall be pursuant to Chapter 20.50 BMC. However, modifications to the landscaping requirements may be allowed through the approval of a master development zone. Landscaping shall incorporate street trees, planter strips and other passive and active green spaces. Significant trees shall be identified on the site plan and may be required to be preserved;~~

~~(g) Signage is allowed pursuant to the following:~~

~~(1) Signs for residential uses shall be pursuant to Chapter 20.52 BMC for residential zones;~~

~~(2) Signs for all other uses shall meet the standards of Chapter 20.52 BMC for commercial zones, except freestanding signs shall be limited to monument-style signs that do not exceed six (6) feet in height and forty-eight (48) square feet in area.~~

~~20.80.070 MASTER DEVELOPMENT ZONE APPLICATION.~~

~~In addition to other application requirements, applications for a subarea plan and a master development zone designation shall include the following information:~~

~~(a) Vicinity Map. Showing the subject site in relation to all other properties within a three hundred (300) foot radius;~~

~~(b) Site Plan. Containing the following information:~~

~~(1) General configuration of lots, building areas, number of stories and specific uses to be allowed;~~

~~(2) Proposed configuration and design of parking areas, streets, sidewalks, and driveways;~~

~~(3) Proposed walkways, bikeways, open space, recreational areas, and other areas and facilities of a public or recreational nature;~~

~~(4) Proposed landscaping, buffers, parks, recreation areas, open space and similar features;~~

~~(c) Narrative. A written explanation of the proposal with, at a minimum, the following information shall be provided (when appropriate, this information may be shown on the site plan):~~

~~(1) Major project components including specific area uses to be allowed, residential densities, commercial or site and floor areas, public and private rights-of-way, and off-street parking;~~

~~(2) Design and development standards to be applied to the project, including architectural treatment, maximum heights, setbacks, landscaping, drainage, utilities, parking, signage, and any others;~~

~~(3) Elevations and/or perspective drawings of proposed structures and other major improvements being proposed;~~

~~(4) The specific nature of any agreements, covenants, or other provisions that govern or affect the proposal;~~

~~(5) Required mitigation measures, development conditions, and other requirements of project approval;~~

~~(d) Other Information. The City may request additional information found to be necessary for evaluating the proposal to be included with the application.~~

~~20.80.080 SUBAREA PLANS.~~

~~The following are subarea planning areas where subarea plans and unique development regulations may be created for each:~~

~~(a) Bay Vista Subarea Plan (adopted by Ordinance No. 5077);~~

~~(b) East Park Subarea Plan (adopted by Ordinance No. 4962);~~

~~(c) Wheaton Riddell Subarea Plan (adopted by Ordinance No. 5025*);~~

~~(d) Downtown Regional Center Subarea Plan (adopted by Ordinance No. 5034);~~

~~(e) Manette Subarea Plan (adopted by Ordinance No. 5082);~~

~~(f) Harrison Employment Center;~~

~~(g) Port Blakely Employment Center;~~

~~(h) SKIA Subarea Plan (adopted by Ordinance No. 5188);~~

~~(i) Gorst Subarea Plan (adopted by Ordinance No. 5237).~~

~~The subarea planning areas listed above having adopted subarea plans are identified with the corresponding adopting ordinance number. This ordinance will contain the unique regulations and standards that guide development for that subarea planning area. Subsequent amendment to adopted subarea plans need not be identified in this section by the amending ordinance number.~~

Chapter 20.82
NEIGHBORHOOD BUSINESS ~~ZONE~~ (NB)

Sections:

20.82.010 INTENT.
20.82.020 OUTRIGHT PERMITTED USES.
20.82.030 PROHIBITED USES.
~~**20.82.040 CONDITIONAL USES.**~~
20.82.060 DEVELOPMENT STANDARDS.
20.82.070 DESIGN STANDARDS
20.82.080 PARKING REQUIREMENTS.
20.82.090 LANDSCAPING REQUIREMENTS.
20.82.110 SIGN STANDARDS.

20.82.010 INTENT.

The intent of the neighborhood business (NB) zone is to provide for small-scale business districts that reflect the scale and character of surrounding neighborhoods. The NB zone shall include uses such as small groceries, convenience stores, offices, restaurants, and mixed use opportunities.

~~The intent of the neighborhood business (NB) zone is to provide for small-scale business districts outside of centers and corridors that reflect the scale and character of surrounding neighborhoods. These NB locations support neighborhoods which generally lack walkable access to a designated center. The NB zone shall include uses such as small groceries, convenience stores, offices, and restaurants. Neighborhood business districts are generally limited in size to one (1) acre each and are typically comprised of a tight cluster of businesses on several parcels.~~

20.82.020 OUTRIGHT PERMITTED USES.

The following uses are permitted outright:

~~(a) Bed and breakfast;~~
~~(b) Co-location of wireless telecommunications facilities per BMC 20.46.140;~~
~~(c) Day care facility, and foster home;~~
~~(d) General office and business service under five thousand (5,000) gross square feet;~~
~~(e) General retail under five thousand (5,000) gross square feet;~~
~~(f) Medical offices and clinics;~~
~~(g) Park, playground and open space;~~
~~(h) Personal services under five thousand (5,000) gross square feet;~~
~~(i) Public administration;~~
~~(j) Residential as a secondary use;~~
~~(k) Restaurant under two thousand five hundred (2,500) gross square feet;~~
~~(l) Worship and religious facility located on a collector or higher street.~~
(a) Bed and breakfast;
(b) Co-location of wireless communications facilities per BMC 20.46.140;
(c) Community facility;
(d) Day care facility;
(e) Drinking place ~~under five thousand~~;
(f) Entertainment uses;
(g) Finance, insurance and real estate;
(h) General office and business services;
(i) General retail;

(j) Hotel and lodging places;
(k) Medical offices and clinics;
(l) Museum and gallery;
(m) Park, playground and open space;
(n) Personal services;
(o) Public administration;
(p) Recycling collection station;
(q) Residential as a secondary use;
(r) Restaurant drinking place;
(s) Senior housing complex
(t) Transportation facility;
(u) Veterinary clinic;
(v) Worship and religious facility.

20.82.030 PROHIBITED USES.

(a) Drive-through ~~lanes~~facilities~~-~~.

~~20.82.040 CONDITIONAL USES.~~

~~The following uses may be permitted, provided a conditional use permit is approved pursuant to BMC 20.58.020:~~

~~(a) Restaurants larger than two thousand five hundred (2,500) gross square feet and all drinking places, provided:~~

~~(1) All seating, dining, and cooking areas are located within the principal structure at all times;~~

~~(2) All refuse and recycling containers are fully enclosed and screened from view from all adjacent and adjoining properties, and meet the standards of Chapter 20.46 BMC;~~

~~(3) Measures are taken to ensure that parking will not spill over into the neighborhood;~~

~~(b) Community uses, provided:~~

~~(1) The applicant can demonstrate that all provisions of the noise levels ordinance, Chapter 6.32 BMC, shall be met;~~

~~(2) Measures are taken to ensure that parking will not spill over into the neighborhood;~~

~~(3) Public events, programs or performances shall not continue later than 10:00 p.m.~~

20.82.060 DEVELOPMENT STANDARDS.

Lot development requirements shall be in accordance with the following standards unless allowed for by law otherwise:

(a) Maximum front yard setback: ten (10) feet. At least sixty-five (65) percent of a building's front facade must meet the maximum front yard setback. The setback may be increased if the Director finds that such increase is the minimum necessary to facilitate a superior site design. In order to obtain approval for an increased setback, the applicant shall submit a written analysis establishing how the project facilitates superior site design is the minimum necessary, is consistent with specific goals and policies within the Comprehensive Plan, and is compliant with all applicable sections of the BMC. The following list identifies examples of circumstances where increased setbacks may be found to be appropriate:
    (1) When the site includes more than one (1) street frontage;
    (2) To accommodate existing topography, utilities, or other physical site constraints that make compliance with the setback infeasible;
    (3) To accommodate phasing of infill development;
    (4) On sites that are significantly developed with existing legally established nonconforming uses or structures whereby strict code compliance will not facilitate effective circulation; or

(5) For projects that in the opinion of the Director provide enhanced public amenities within the setback area which include, but are not limited to, the following: public plazas, increased landscaping, architectural features, improved pedestrian connections;

(b) Side yard setback: zero (0) except when adjacent to ~~the low density~~a residential zone ~~(R-10)~~ where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC20.50.050(b);

(c) Rear yard setback: zero (0) except when adjacent ~~to the low density~~a residential zone ~~(R-10)~~ where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC20.50.050(b);

(d) Maximum building size: nonresidential uses may not exceed a footprint of ~~five thousand (5,000)~~ fifteen thousand (15,000) gross square feet ~~at ground level~~;

(e) Maximum building coverage: sixty (60) percent base maximum; provided, that through the use of any combination of the following, building coverage may be increased up to eighty-five (85) percent maximum.

(1) Projects containing mixed uses: twenty (20) percent bonus.

(2) Projects within a two (2) or three (3) story building: ten (10) percent bonus.

(3) Projects providing a pedestrian-oriented plaza or area of at least one hundred fifty (150) square feet along a pedestrian walkway at an intersection corner, bus stop or other key pedestrian area approved by the city. Such areas shall contain seating for at least four (4) people, a trash receptacle and three (3) or more of the following: a pedestrian shelter, a drinking fountain, a bike rack, pedestrian-scale lights, pavers on the walkway surfaces, a kiosk, a street vendor station providing food or beverages, trees, a statue or sculpture, or a public restroom. Interior courtyards with these amenities qualify if they would be readily apparent and accessible to pedestrians on adjoining sidewalks: ten (10) percent bonus.

(4) Projects providing a through-block corridor that facilitates pedestrian access in a location approved by the city: five (5) percent bonus.

(5) Projects providing at least fifty (50) percent of their required parking underground or within the building: twenty (20) percent bonus.

(f) Maximum development coverage: maximum coverage by impervious surfaces seventy-five (75) percent; provided, that through the use of any combination of the mechanisms listed in subsections (e)(1) through (5) of this section, up to ninety-five (95) percent maximum development coverage may be allowed.

~~(e) Maximum building coverage: eighty-five (85) percent;~~

~~(f)~~(g) Maximum building height: thirty-five (35) feet;

~~Maximum building heights within the downtown regional center are pursuant to Figure 20.74(a), and shall supersede subsection (g) of this section;~~

~~(g)~~(h) There is no maximum density for residential as a secondary use.

~~(h)~~(i) Outdoor storage of any kind shall be prohibited, except for refuse and recycling containers, which shall meet the standards set forth in Chapter 20.46 BMC.

20.82.070 DESIGN STANDARDS.

(a) Building Design. The following guidelines apply to mixed use and commercial structures only:

(1) To enhance the pedestrian environment, commercial uses shall include large windows along any ground floor facade facing the public sidewalk or sidewalks providing circulation within a site. Windows shall allow views into interior building spaces. At least seventy-five (75) percent of all such facades, measured to ten (10) feet above the sidewalk or surface grade, shall be comprised of such windows.

(2) At least one (1) of the following amenities shall be required along any ground floor facade facing the public sidewalk: outdoor eating areas; street furniture such as benches, bike racks and trash receptacles; plantings in window boxes; public art; or public display cases, kiosks, or boards.

(3) Building entrances shall be easily identifiable from the street and sidewalks. This may be accomplished by:

(i) Ornamentation and/or architectural detailing around the door; and

(ii) One (1) or more of the following techniques:

(A) Recessing the entrance area at least three (3) feet.

(B) An entrance area that protrudes at least three (3) feet.

(C) A canopy, portico or overhang extending at least five (5) feet over the sidewalk in the entrance area.

(4) Bulk. Building modulation shall be used to reduce the appearance of mass and bulk of the structure. This can be achieved by utilizing any combination of at least two (2) of the following;

(i) Setback of upper floors by at least ten (10) feet. However, such setbacks shall not be applied to more than fifty (50) percent of a facade facing a major arterial.

(ii) Recessed or protruding doorways per subsection (a)(3)(ii) of this section.

(iii) Overhangs, awnings, canopies, or arcades between eight (8) and twelve (12) feet above the sidewalk.

(iv) Window fenestration per subsection (a)(1) of this section.

(6) Blank Facades. Building facades shall not present a blank facade to view from public rights-of-way, common parking areas, or residential properties. Such facades may be broken by windows, trellises, columns, variations in plane, or other devices that add variation and interest to the facade.

(7) Structures at the intersection of two (2) arterial streets shall include a significant architectural feature at the building corner that provides visual emphasis at the corner. This may be accomplished in one or more of the following ways:

(i) The inclusion of a major entryway at the corner. Such entryways must be marked by an awning, recessed area, colonnade, or other architectural feature that defines the entry.

(ii) The inclusion of a building element the height of which varies from the remainder of the building by at least ten (10) percent.

(iii) A plaza at the corner that includes a fountain, artwork, or planting of at least ten (10) feet in height.

20.82.080 PARKING REQUIREMENTS.

Parking shall meet the standards of Chapter 20.48 BMC and the following:

(a) On-site parking shall be to the rear or to the side of buildings on the site and shall not occupy more than fifty (50) percent of the site frontage facing the arterial street frontage(s). The site frontage includes the area between the right-of-way and front building wall which applies to the entire length of the property regardless of building width. Corner lots have two (2) site frontages as they are positioned on two (2) street frontages.

(b) All efforts shall be taken to avoid placing parking on street corners. Parking located between the building frontage and street corners shall be fully screened as follows:

(1) A four (4) foot tall decorative wall within the front yard landscaping area that fully screens the parking areas. The wall shall be located such that it blocks views of the parking from the right-of-way. For long spans of frontage (one hundred (100) feet or more), the wall shall include modular articulation to add architectural variety.

(i) Alternate architectural features, shrubs may be substituted for the wall, provided it is demonstrated that the shrubs/alternative will provide equal to or better visual screening than the wall. Shrubs shall be a minimum of three (3) feet tall at time of installation and shall be additional to the landscaping required in Chapter 20.50 BMC.

(ii) Openings and architectural features may be required within a wall section in order to tie the wall feature into the architecture of the building and to provide pedestrian access. The

entry shall be the minimum necessary to accommodate a sidewalk that is a minimum of five (5) feet in width, clearly marked, and distinguished from driving surfaces by using decorative paving, stamped/stained concrete, or raised walkways with alternative materials (such as brick, cobblestone, decorative pavers). Paint striping does not meet this requirement.

(c) Access to parking shall be provided per the following priority:

(1) First, from an alley if available; if an alley is not available, then from local street;

(2) If neither is available, then from a nonprincipal arterial street;

(3) If none of the above are available then from a principal arterial street.

~~Access to parking may be from adjacent nonprincipal arterial streets, or from driveways off of the principal arterial.~~

(d) Driveways providing access to parking area shall be well-defined, highly visible entryways.

20.82.090 LANDSCAPING REQUIREMENTS.

Landscaping shall meet the standards of Chapter 20.50 BMC.

20.82.110 SIGN STANDARDS.

Signs shall meet the standards of Chapter 20.52 BMC. For freestanding signs, the maximum size and height standards of Figure 20.52(a) shall apply.

~~Chapter 20.84~~
~~LIMITED COMMERCIAL ZONE (LC)~~

~~Sections:~~

~~**20.84.010 INTENT.**~~
~~**20.84.020 OUTRIGHT PERMITTED USES.**~~
~~**20.84.060 DEVELOPMENT STANDARDS.**~~
~~**20.84.070 DESIGN STANDARDS.**~~
~~**20.84.080 PARKING REQUIREMENTS.**~~
~~**20.84.090 LANDSCAPING REQUIREMENTS.**~~
~~**20.84.100 SIGN STANDARDS.**~~

~~20.84.010 INTENT.~~

~~The intent of the limited commercial (LC) zone is to recognize the community's existing general commercial districts outside the designated boundaries of centers on lots zoned general business (GB) in the City, or an equivalent designation in the county, on December 1, 2004. The LC zone is not intended to be expanded or applied to new properties or areas of the City.~~

~~20.84.020 OUTRIGHT PERMITTED USES.~~

~~The following uses are permitted:~~

~~(a) Automobile service and repair, and car wash;~~
~~(b) Co-location of wireless telecommunications facilities per BMC 20.46.140;~~
~~(c) Day care facility, all;~~
~~(d) Drive-through facility;~~
~~(e) Finance, insurance and real estate;~~
~~(f) Gas stations at the intersection of arterial roadways;~~
~~(g) General office and business services;~~
~~(h) General retail;~~
~~(i) Hotel and lodging places, motels, and inns;~~
~~(j) Personal services;~~
~~(k) Public administration;~~
~~(l) Recycling collection station;~~
~~(m) Residential as a secondary use;~~
~~(n) Restaurant drinking place;~~
~~(o) Veterinary clinic.~~

~~20.84.060 DEVELOPMENT STANDARDS.~~

~~(a) Maximum front yard setback: ten (10) feet. At least sixty-five (65) percent of a building's front facade must meet the maximum front yard setback. The setback may be increased if the Director finds that such increase is the minimum necessary to facilitate a superior site design. In order to obtain approval for an increased setback, the applicant shall submit a written analysis establishing how the project facilitates superior site design is the minimum necessary, is consistent with specific goals and policies within the Comprehensive Plan, and is compliant with all applicable sections of the BMC. The following list identifies examples of circumstances where increased setbacks may be found to be appropriate:~~

~~(1) When the site includes more than one (1) street frontage;~~
~~(2) To accommodate existing topography, utilities, or other physical site constraints that make compliance with the setback infeasible;~~
~~(3) To accommodate phasing of infill development;~~

~~(4) On sites that are significantly developed with existing legally established nonconforming uses or structures whereby strict code compliance will not facilitate effective circulation; or~~

~~(5) For projects that in the opinion of the Director provide enhanced public amenities within the setback area which include, but are not limited to, the following: public plazas, increased landscaping, architectural features, improved pedestrian connections.~~

~~(b) Side yard setback: zero (0) except when adjacent to the low density residential zone (R-10) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC20.50.050(b).~~

~~(c) Rear yard setback: zero (0) except when adjacent to the low density residential zone (R-10) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC20.50.050(b).~~

~~(d) Maximum building size: nonresidential uses may not exceed fifteen thousand (15,000) gross square feet at ground level.~~

~~(e) No maximum building coverage, provided all setbacks and landscaping standards are met.~~

~~(f) No maximum development coverage, provided all setbacks and landscaping standards are met.~~

~~(g) Maximum building height: fifty (50) feet.~~

~~(h) Maximum building heights within the downtown regional center are pursuant to Figure 20.74(a), and shall supersede subsection (g) of this section.~~

~~20.84.070 DESIGN STANDARDS.~~

~~(a) Bulk Reduction. At any side or rear lot line adjacent to a residential zone, portions of buildings above thirty (30) feet in height shall be set back one (1) foot in addition to the standard setback per BMC 20.84.060 for each additional foot of height.~~

~~20.84.080 PARKING REQUIREMENTS.~~

~~Parking shall meet the standards of Chapter 20.48 BMC and the following:~~

~~(a) On-site parking shall be to the rear or to the side of buildings on the site and shall not occupy more than fifty (50) percent of the site frontage facing the arterial street frontage(s). The site frontage includes the area between the right-of-way and front building wall which applies to the entire length of the property regardless of building width. Corner lots have two (2) site frontages as they are positioned on two (2) street frontages.~~

~~(b) All efforts shall be taken to avoid placing parking on street corners. Parking located between the building frontage and street corners shall be fully screened as follows:~~

~~(1) A four (4) foot tall decorative wall within the front yard landscaping area that fully screens the parking areas. The wall shall be located such that it blocks views of the parking from the right-of-way. For long spans of frontage (one hundred (100) feet or more), the wall shall include modular articulation to add architectural variety.~~

~~(2) Alternate architectural features, shrubs may be substituted for the wall, provided it is demonstrated that the shrubs/alternative will provide equal to or better visual screening than the wall. Shrubs shall be a minimum of three (3) feet tall at time of installation and shall be additional to the landscaping required in Chapter 20.50 BMC.~~

~~(3) Openings and architectural features may be required within a wall section in order to tie the wall feature into the architecture of the building and to provide pedestrian access. The entry shall be the minimum necessary to accommodate a sidewalk that is a minimum of five (5) feet in width, clearly marked, and distinguished from driving surfaces by using decorative paving, stamped/stained concrete, or raised walkways with alternative materials (such as brick, cobblestone, decorative pavers). Paint striping does not meet this requirement.~~

~~(c) Access to parking may be from adjacent nonprincipal arterial streets, or from driveways off of the principal arterial.~~

~~(d) Driveways providing access to parking area shall be well-defined, highly visible entryways.~~

~~20.84.090 LANDSCAPING REQUIREMENTS.~~
~~Landscaping shall meet the standards of Chapter 20.50 BMC.~~

~~20.84.100 SIGN STANDARDS.~~
~~Signs shall meet the standards of Chapter 20.52 BMC. For freestanding signs, the maximum size and height standards of Figure 20.52(a) shall apply.~~

Chapter 20.86
FREEWAY CORRIDOR ZONE (FC)

Sections:

20.86.010 INTENT.
20.86.020 OUTRIGHT PERMITTED USES.
20.86.040 CONDITIONAL USES.
20.86.050 PROHIBITED USES.
20.86.060 DEVELOPMENT STANDARDS.
20.86.070 DESIGN STANDARDS.
20.86.080 PARKING REQUIREMENTS.
20.86.090 LANDSCAPING REQUIREMENTS.
20.86.100 SIGN STANDARDS.

20.86.010 INTENT.

The intent of the freeway corridor (FC) zone is to identify areas for commercial activities that will typically be region-serving in nature and scale. Uses in the zone benefit from high visibility from freeways serving the region, incorporate signage legible to fast-moving traffic, provide large areas for parking, and may include large-scale structures and/or outdoor display or storage areas. Design standards, buffering and/or other techniques are used to mitigate the effects of the intense uses allowed in the FC zone on less intense adjacent uses.

20.86.020 OUTRIGHT PERMITTED USES.

In the freeway corridor zone all uses are permitted outright except for those uses set forth as conditional uses per BMC 20.86.040, and those uses prohibited per BMC 20.86.050.

20.86.040 CONDITIONAL USES.

A conditional use permit, which is approved pursuant to BMC 20.58.020, may permit the following uses:

(a) Heavy industrial/manufacturing, provided:

(1) All standards of the noise levels ordinance, Chapter 6.32 BMC, are met;

(2) No unshielded light or glare will be visible during periods of darkness in a residential zone;

(3) No odor, dust or smoke byproduct will be clearly detectable on any adjacent or adjoining commercial or residential lot;

(4) The applicant can demonstrate that the use will not significantly detract from the visual character of the area as seen from public rights-of-way or any adjacent lot. Unkept or unsightly storage, refuse, yard, or equipment areas are elements with the potential to negatively impact visual character.

(b) Adult business per BMC 20.46.110.

(c) Class II group residential facilities, provided:

(1) The facility will not create an operational conflict with the efficiency of large-scale freeway-oriented commercial use.

~~(d) Opiate substitution treatment facility, provided:~~

~~(1) The permit shall be processed as a Type III Hearing Examiner decision;~~

~~(2) No opiate substitution treatment facility shall be sited within 1,000 (one thousand) feet of another opiate substitution treatment facility;~~

~~(3) Off-street parking shall be provided one (1) parking space per one hundred fifty (150) square feet of gross floor area; and~~

~~(4) Landscaping is provided meeting the minimum requirements for nonresidential uses as prescribed in Chapter 20.50 BMC.~~

20.86.050 PROHIBITED USES.

The following uses are prohibited in the freeway corridor zone:

(a) Residential, as a primary or secondary use, except for Class II group residential facilities as a conditional use per BMC 20.86.040;

(b) Recreational vehicle park;

(c) Junk yard;

(e) Motion picture theater;

(d) Any use with significant adverse impacts on less intense uses in neighboring residential zones, determined by the City by having any combination of the following criteria:

(1) Noise Encroachment. Generation of sound not meeting the provisions of the noise levels ordinance, Chapter 6.32 BMC;

(2) Light/Glare Encroachment. Unshielded glare visible during periods of darkness in an adjacent residential zone;

(3) Odor, Dust or Smoke Encroachment. Emission of an odor, dust or smoke byproduct clearly detectable in any residential zone.

20.86.060 DEVELOPMENT STANDARDS.

Lot development requirements shall be in accordance with the following standards unless allowed for by law otherwise:

(a) Minimum front yard setback: twenty (20) feet;

(b) Minimum side yard setback: zero (0) except when adjacent to the low or medium density residential zones (R-10 and R-10M) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC 20.50.050(b);

(c) Rear yard setback: zero (0) except when adjacent to the low or medium density residential zones (R-10 and R-10M) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC20.50.050(b);

(d) No maximum building coverage, except all setback and landscaping requirements shall be met;

(e) No maximum development coverage, except all setback and landscaping standards shall be met;

(f) Maximum building height: sixty (60) feet.

20.86.070 DESIGN STANDARDS.

The following design standards shall be met:

(a) Bulk. The horizontal dimension of any structure facing a public right-of-way shall include visual treatment at intervals not to exceed one hundred (100) feet, for a width of not less than twenty (20) feet. Visual treatment shall be one or more of the following types:

(1) An offset with a minimum depth of five (5) feet;

(2) A facade material, texture or color that is visually different and distinct from the base material, texture or color.

(b) Curb Cuts. The number of curb cut site entries from public rights-of-way shall be limited to the minimum number of curb cuts required for safe and efficient vehicle circulation into and out of the site. No curb cut width may exceed forty-eight (48) feet.

20.86.080 PARKING REQUIREMENTS.

Parking shall meet the standards of Chapter 20.48 BMC.

20.86.090 LANDSCAPING REQUIREMENTS.

Landscaping shall meet the standards of Chapter 20.50 BMC and the following requirements:

(a) Buffers and screening adjacent to rights-of-way. All off-street parking areas, vehicle storage areas, and outdoor storage or work areas, except for those areas for display of vehicles or products for sale or lease, shall be screened or buffered from public rights-of-way by any combination of the following:

(1) Five (5) foot wide landscaped buffer with evergreen hedge or other screen plantings of a size that will provide an immediate effective visual screen having a minimum height of five (5) feet;

(2) Solid fence or wall a minimum of five (5) feet in height unless modified by the City to correct a visibility obstruction; or

(3) An earthen berm planted with grass, shrubs, or other groundcover and having an effective visual height of at least five (5) feet;

(b) Buffers or screening between commercial uses. The City may determine that landscape buffering or screening is required along an interior property line shared by commercial uses in cases where a higher intensity use such as light or heavy manufacturing/industry abuts a commercial use that is frequently visited by members of the public. Such buffering or screening is intended to minimize potential conflicts.

20.86.100 SIGN STANDARDS.

Signs shall meet the standards of Chapter 20.52 BMC. For freestanding signs, the maximum size and height standards of Figure 20.52(a) shall apply.

~~Chapter 20.88~~
~~MARINE INDUSTRIAL (MI)~~

~~Sections:~~

~~**20.88.010 INTENT.**~~
~~**20.88.020 OUTRIGHT PERMITTED USES.**~~
~~**20.88.030 ACCESSORY USES.**~~
~~**20.88.040 CONDITIONAL USES.**~~
~~**20.88.060 DEVELOPMENT STANDARDS.**~~
~~**20.88.070 DESIGN STANDARDS.**~~
~~**20.88.080 PARKING REQUIREMENTS.**~~
~~**20.88.090 LANDSCAPING REQUIREMENTS.**~~
~~**20.88.100 SIGN STANDARDS.**~~

~~20.88.010 INTENT.~~

~~The intent of the marine industrial (MI) zone is to provide for areas of marine-related light industrial uses within a waterfront-oriented complex. Marine industrial areas should include adequate screening, architectural standards, and other site design considerations to assure compatibility with neighboring uses – especially residential and shoreline public access areas. Developments shall be consistent with shorelines and critical areas designations, functionally linked to marine-related activities, and accessible from the waterfront through an on-site circulation system.~~

~~20.88.020 OUTRIGHT PERMITTED USES.~~

~~The following uses are permitted outright:~~
~~(a) Boat and marine vehicle sales;~~
~~(b) Boat and marine vehicle service and repair;~~
~~(c) Fully enclosed boat storage;~~
~~(d) General office and business service that is functionally related to marine-related activities;~~
~~(e) General retail under seven thousand (7,000) gross square feet that is functionally related to marine-related activities;~~
~~(f) Light industrial/manufacturing that is functionally related to marine-related activities, including research, development and testing;~~
~~(g) Location of wireless telecommunications facilities per BMC 20.46.140;~~
~~(h) Residential as a secondary use;~~
~~(i) Restaurants and drinking places under two thousand five hundred (2,500) gross square feet that are functionally related to water-related activities;~~
~~(j) Transportation facility including marine freight and passenger terminals, transit stops and transportation services;~~
~~(k) Waterfront parks, playgrounds and open space, or public viewing facility.~~

~~20.88.030 ACCESSORY USES.~~

~~The following accessory uses may be permitted when found in connection with a principal use:~~
~~Fuel stations intended primarily for marine vehicles, provided ingress and egress shall occur entirely within the MI zone, and not on roadways or parking areas adjacent to other zones.~~

~~20.88.040 CONDITIONAL USES.~~

~~Dry storage of marine vessels commonly referred to as dry stacking may be allowed to a height of fifty (50) feet, provided a conditional use permit is approved pursuant to BMC20.58.020, subject to the following conditions:~~

~~(a) All other setback and development standards of the marine industrial zone and the Shoreline Master Program are met;~~
~~(b) The dry stacking facility will not substantially obscure existing views to the water from existing residences.~~

~~20.88.060 DEVELOPMENT STANDARDS.~~
~~Lot development requirements shall be in accordance with the following standards unless allowed for by law otherwise:~~
~~(a) Maximum front yard setback: ten (10) feet. At least sixty-five (65) percent of a building's front facade shall meet the maximum front yard setback requirement.~~
~~(b) Minimum side yard setback: zero (0) except when adjacent to the low density residential zone (R-10) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC 20.50.050(b).~~
~~(c) Minimum rear yard setback: zero (0) except when adjacent to the low density residential zone (R-10) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC 20.50.050(b).~~
~~(d) Maximum building height: thirty-five (35) feet.~~
~~(e) Maximum building coverage: sixty (60) percent unless increased per BMC 20.88.070(b).~~
~~(f) Maximum development coverage: seventy-five (75) percent unless increased per BMC 20.88.070(c).~~
~~(g) Maximum density of secondary residential use: ten (10) units per acre.~~

~~20.88.070 DESIGN STANDARDS.~~
~~(a) Light, glare, and odors shall not impact or be readily discernable from properties outside the MI zone, and all provisions of the noise levels ordinance, Chapter 6.32 BMC, shall be met.~~
~~(b) Maximum building coverage may be increased to seventy-five (75) percent when separate buildings on more than one (1) lot are constructed with uniformity of the following architectural elements:~~
~~(1) Roof pitches;~~
~~(2) Exterior building facade material;~~
~~(3) Exterior building facade palette of colors;~~
~~(4) Exterior window sash material and style.~~
~~(c) Maximum development coverage may be increased to eighty-five (85) percent with a City-approved, on-site circulation plan depicting access to and from all portions of the site and the waterfront.~~
~~(d) Ingress and egress to all uses within the MI zone shall be from a collector arterial roadway or higher roadway classification, or from a roadway or driveway that is fully within the MI zone and not adjacent to other zones.~~
~~(e) Hours of operation for light industrial/manufacturing uses shall be limited to 7:30 a.m. to 7:30 p.m.~~

~~20.88.080 PARKING REQUIREMENTS.~~
~~Parking shall meet the standards of Chapter 20.48 BMC.~~

~~20.88.090 LANDSCAPING REQUIREMENTS.~~
~~Landscaping shall meet the standards of Chapter 20.50 BMC.~~

~~20.88.100 SIGN STANDARDS.~~
~~Signage shall meet the standards of Chapter 20.52 BMC. For freestanding signs, the maximum size and height standards of Figure 20.52(a) shall apply.~~

~~Chapter 20.90~~
~~INDUSTRIAL PARK (IP)~~

~~Sections:~~

~~**20.90.010 INTENT.**~~
~~**20.90.020 OUTRIGHT PERMITTED USES.**~~
~~**20.90.040 CONDITIONAL USES.**~~
~~**20.90.060 DEVELOPMENT STANDARDS.**~~
~~**20.90.070 DESIGN STANDARDS.**~~
~~**20.90.080 PARKING REQUIREMENTS.**~~
~~**20.90.090 LANDSCAPING REQUIREMENTS.**~~
~~**20.90.100 SIGNS STANDARDS.**~~

~~20.90.010 INTENT.~~

~~The intent of the industrial park (IP) zone is to provide an environment for and conducive to a broad range of existing and future light industrial, office and large retail uses. The industrial park (IP) zone ensures a well planned complex with attention to landscaping and architectural features. Site design in the industrial park (IP) zone ensures compatibility with neighboring less intense uses, and provides a high-quality environment for the conduct of business.~~

~~20.90.020 OUTRIGHT PERMITTED USES.~~

~~The following uses are permitted outright:~~

~~(a) Automobile service and repair;~~
~~(b) Car wash;~~
~~(c) Community facility;~~
~~(d) Day care facility;~~
~~(e) Drive-through facility;~~
~~(f) Entertainment uses;~~
~~(g) Finance, insurance and real estate;~~
~~(h) Gas station;~~
~~(i) General and large retail;~~
~~(j) General office and business services;~~
~~(k) Kennel;~~
~~(l) Light industrial/manufacturing;~~
~~(m) Medical office;~~
~~(n) Nursery and greenhouse;~~
~~(o) Outdoor athletic field and sports complex;~~
~~(p) Outdoor storage;~~
~~(q) Physical fitness and health club;~~
~~(r) Public administration;~~
~~(s) Recycling collection station;~~
~~(t) Restaurant;~~
~~(u) Schools and education uses;~~
~~(v) Transportation facility;~~
~~(w) Veterinary clinic;~~
~~(x) Warehousing;~~
~~(y) Wireless telecommunications facility per BMC 20.46.140;~~
~~(z) Worship and religious facility.~~

~~20.90.040 CONDITIONAL USES.~~

~~The following uses may be permitted, provided a conditional use permit is approved pursuant to BMC 20.58.020:~~

~~(a) Heavy industrial/manufacturing, provided:~~

~~(1) The applicant can demonstrate that the use will not significantly detract from the visual character as seen from public rights-of-way or any adjacent lot. Unkempt or unsightly storage, refuse, yard, or equipment areas are elements with potential to negatively impact visual character;~~

~~(2) No odor, dust or smoke byproduct will be clearly detectable on any abutting commercial or residential lot;~~

~~(3) All standards of the noise levels ordinance, Chapter 6.32 BMC, are met;~~

~~(4) No unshielded light or glare will be visible during periods of darkness in a residential zone.~~

~~20.90.060 DEVELOPMENT STANDARDS.~~

~~Lot development requirements shall be in accordance with the following standards unless allowed for by law otherwise:~~

~~(a) Minimum front yard setback: fifteen (15) feet, except twenty (20) feet from residentially zoned lots including residentially zoned lots across a public right-of-way from the IP zone.~~

~~(b) Minimum side yard setback: ten (10) feet, except when adjacent to the low density residential zone (R-10) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC 20.50.050(b).~~

~~(c) Minimum rear yard setback: ten (10) feet, except when adjacent to the low density residential zone (R-10) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC 20.50.050(b).~~

~~(d) Maximum building height: fifty (50) feet; provided, that where abutting a residential zone, structures shall be set back one (1) additional foot for each additional foot of height above thirty-five (35) feet.~~

~~(e) Maximum building coverage: eighty-five (85) percent, provided all setbacks and landscape requirements are met.~~

~~(f) Maximum development coverage: eighty-five (85) percent, provided all setbacks and landscape requirements are met.~~

~~20.90.070 DESIGN STANDARDS.~~

~~Development in the industrial park zone shall meet the following standards:~~

~~(a) Outdoor storage areas shall be screened from all adjacent property lines with one (1) of the following types:~~

~~(1) A solid view-obscuring fence or wall at least eight (8) feet in height;~~

~~(2) A densely planted, view-obscuring evergreen shrub or hedge at least eight (8) feet in height, and thirty (30) inches in depth;~~

~~(b) Outdoor storage of materials exceeding fifteen (15) feet in height shall not be located within thirty-five (35) feet of any property line.~~

~~(c) Drive-through facilities and drive-through lanes shall be accessed from the rear of a site and run along an interior lot line or building elevation.~~

~~20.90.080 PARKING REQUIREMENTS.~~

~~Parking shall meet the standards of Chapter 20.48 BMC.~~

~~20.90.090 LANDSCAPING REQUIREMENTS.~~

~~Landscaping shall meet the standards of Chapter 20.50 BMC.~~

~~20.90.100 SIGNS STANDARDS.~~

~~Signs shall meet the standards of Chapter 20.52 BMC. For freestanding signs, the maximum size and height standards of Figure 20.52(a) shall apply.~~

Chapter 20.92
EMPLOYMENT CENTER (EC)

Sections:

20.92.010 INTENT.
20.92.020 OUTRIGHT PERMITTED USES.
20.92.030 ACCESSORY USES.
20.92.040 CONDITIONAL USES.
20.92.060 DEVELOPMENT STANDARDS.
20.92.070 DESIGN STANDARDS.
20.92.080 PARKING REQUIREMENTS.
20.92.090 LANDSCAPING REQUIREMENTS.
20.92.100 SIGN STANDARDS.

20.92.010 INTENT.

The intent of the employment center (EC) zone is to offer a well-planned and designed environment where a potentially large employee population is offered the option to live near places of employment. The EC zone provides for integration of employment activities with housing and commercial activities scaled to serve the employee population at the center, thereby reducing home-to-workplace commute trips. Employment centers create large numbers of jobs in uses to include office and services.

20.92.020 OUTRIGHT PERMITTED USES.

The following uses are permitted outright:

~~(a) Co-location of wireless telecommunications facilities per BMC 20.46.140;~~
~~(b) Community use facility;~~
~~(c) Day care facility, all;~~
~~(d) General office and business services;~~
~~(e) Finance, insurance and real estate;~~
~~(f) General retail;~~
~~(g) Hotels and lodging places;~~
~~(h) Medical offices;~~
~~(i) Outdoor athletic fields;~~
~~(j) Park playgrounds and open space, and parks;~~
~~(k) Personal service business;~~
~~(l) Physical fitness and health clubs;~~
~~(m) Public administration;~~
~~(n) Residential uses of the following types:~~
~~(1) Group residential facility - Class I;~~
~~(2) Nursing convalescent home;~~
~~(3) Senior housing complex;~~
~~(4) Single-unit dwelling structure, attached or detached;~~
~~(5) Multi-unit dwelling structure;~~
~~(6) Townhouse;~~
~~(o) Restaurants and drinking places;~~
~~(p) Schools and education uses;~~
~~(q) Transportation facility;~~
~~(r) Veterinary clinic;~~
~~(s) Worship and religious facility.~~

(a) Co-location of wireless communications facilities per BMC 20.46.140;
(b) Community facility;
(c) Day care facility;
(d) General office and business services;
(e) Finance, insurance and real estate;
(f) General retail;
(g) Hospitals;
(h) Hotels and lodging places;
(i) Medical offices and clinic;
(j) Outdoor athletic fields;
(k) Park, playgrounds and open space;
(l) Personal service;
(m) Physical fitness and health clubs;
(n) Public administration;
(o) Residential uses of all types except group residential facility - Class II;
(p) Restaurants and drinking places;
(q) Schools and education uses;
(r) Transportation facility;
(s) Veterinary clinic;
(t) Worship and religious facility.

20.92.030 ACCESSORY USES.

The following accessory uses may be permitted when found in connection with a principal use:

(a) Light industrial/manufacturing to support the associated primary use, such as development of products onsite, provided the business is primarily involved in the products distribution (general retail).
    (1) The applicant shall demonstrate that the use will not significantly detract from the visual character as seen from public rights-of-way or any adjacent lot. This accessory use~~s~~ shall be fully screened or fully enclosed, with no outdoor storage visible from the right-of-way or adjacent lot.

(b) Mini Storage, provided:
    (1) Mini storage facilities are permitted as an accessory use, and may occupy no more than fifty (50) percent of the property's building gross floor area. With the exception of the mini storage business office, mini storage facilities shall not be permitted upon the street level of the multistory building where the primary entrance is located.
    (2) All storage units shall gain access from the interior of the buildings or site, such as access from the alley. No unit doors may face the street.
    (3) Mini storage facilities located adjacent to a residential zone~~,~~ shall:
        (i) Not be visible from the residential property. This may require that the property be screened by a Type I visual screen per BMC 20.50.050 for the facility loading bays, docks or doors.
        (ii) Not operate or allow tenant access between the hours of 10:00PM and 7:00AM. The Director may permit extended hours of operation if the facility will not have significant noise impacts on the adjacent properties.
    (4) Outdoor storage prohibited. All goods and property stored in a mini storage facility shall be stored in an enclosed building. No outdoor storage of boats, RVs, vehicles, etc. or storage in outdoor pods or shipping containers are permitted.

(5) Each storage unit shall be used for storage only. No commercial or manufacturing activities, vehicle repair or services, or related activities, whether for business or personal purposes, are permitted in any storage unit.

20.92.040 CONDITIONAL USES.

The following uses may be permitted, provided a conditional use permit is approved pursuant to BMC 20.58.020:

(a) Light industrial/manufacturing, provided:

(1) No odor, dust or smoke byproduct will be clearly detectable on any abutting commercial or residential lot;

(2) All standards of the noise levels ordinance, Chapter 6.32 BMC, are met;

(3) No unshielded light or glare will be visible during periods of darkness on adjacent commercial or residential lots;

(4) The applicant can demonstrate that the use will not significantly detract from the visual character as seen from public rights-of-way or any adjacent lot. Unkempt or unsightly storage, refuse, yard, or equipment and mechanical areas are elements with potential to negatively impact visual character. This use~~s~~ shall be fully screened or fully enclosed, with no outdoor storage visible from the right-of-way or adjacent lot(s).

(5) Does not include business activities related to marijuana production or processing for distribution.

20.92.060 DEVELOPMENT STANDARDS.

Development shall be in accordance with the following standards:

(a) Minimum density for residential uses: fifteen (15) dwelling units/acre;

(b) Minimum side yard setback: zero (0), except when adjacent to the low or medium density residential zones (R-10 and R-10M) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC 20.50.050(b);

(c) Minimum rear yard setback: zero (0), except when adjacent to the low or medium density residential zones (R-10 and R-10M) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC 20.50.050(b);

(d) Minimum front yard setback requirements: zero (0), except that for residential uses with garages facing a public right-of-way, the garage shall have a setback five (5) feet greater than that of the principal structure;

(e) Maximum building coverage: sixty-five (65) percent base maximum; provided, that through the use of any combination of the following, building coverage may be increased to a maximum of eighty-five (85) percent:

(1) Projects with two or more stories: ten (10) percent bonus;

(2) Projects containing mixed uses: ten (10) percent bonus;

(3) Projects incorporating at least fifty (50) percent of required parking underground or within the structure: twenty (20) percent bonus;

(f) No maximum development coverage, provided all setbacks and landscaping requirements are met;

(g) Maximum Building Height. Eighty (80) feet for residential uses and sixty (60) feet for nonresidential uses. For mixed uses, the building height will be based on the use that predominately (fifty (50) percent or greater) occupies the structure.

20.92.070 DESIGN STANDARDS.

(a) Blank Facades. The horizontal dimension of any structure facing the perimeter of the site along a public right-of-way shall provide one (1) of the following visual treatments for a width of twenty (20) feet at intervals not to exceed one hundred (100) feet:

(1) An offset with a minimum depth of five (5) feet;

(2) A facade material, texture or color that is visually different and distinct from that of the base material, texture or color;

(b) Structures containing general retail uses, restaurant uses, drinking place uses, or personal service business uses shall have the following features:

(1) Large windows along any facade facing the public sidewalk or a sidewalk providing circulation within the site. At least sixty-five (65) percent of all such facades measured to ten (10) feet above sidewalk or surface grade shall be comprised of such windows.

(2) Either a clearly identifiable entrance that is recessed or protruding at least three (3) feet, or a canopy or overhang extending at least five (5) feet over the sidewalk in the entrance area.

20.92.080 PARKING REQUIREMENTS.

Parking shall meet the standards of Chapter 20.48 BMC. ~~except as modified by the following:~~

~~(a) Required parking for a nonresidential use may be reduced by twenty (20) percent if the project is within one thousand three hundred (1,300) feet of designated transit-oriented development.~~

20.92.090 LANDSCAPING REQUIREMENTS.

Landscaping shall meet the standards of Chapter 20.50 BMC.

20.92.100 SIGN STANDARDS.

Signage shall meet the standards of Chapter 20.52 BMC. For freestanding signs, the maximum size and height standards of Figure 20.52(a) shall apply.

Chapter 20.94
INDUSTRIAL (I)

Sections:

20.94.010 INTENT.
20.94.020 OUTRIGHT PERMITTED USES.
20.94.030 CONDITIONAL USES.
30.94.050 PROHIBITED USES.
20.94.060 DEVELOPMENT STANDARDS.
20.94.080 PARKING REQUIREMENTS.
20.94.090 LANDSCAPING REQUIREMENTS.
20.94.100 SIGN STANDARDS.

20.94.010 INTENT.

The intent of the industrial (I) zone is to accommodate light and heavy industrial uses in locations where there is limited interaction with residential uses. Uses include large-scale and/or heavy industries in a manner that reduces impact to the community while meeting industry's needs for easy access, large sites, and locations that do not cause conflicts with residential and other less intense use areas.

20.94.020 OUTRIGHT PERMITTED USES.

In the Industrial zone, all uses are permitted outright except for those uses set forth as conditional uses per BMC 20.94.030, and those uses prohibited per BMC 20.94.050.

~~The following uses are permitted:~~

~~(a) Automobile service and repair;~~
~~(b) Car wash;~~
~~(c) Drive-through facility;~~
~~(d) Gas station;~~
~~(e) General office and business services over five thousand (5,000) gross square feet;~~
~~(f) Heavy industrial/manufacturing;~~
~~(g) Kennel;~~
~~(h) Light industrial/manufacturing;~~
~~(i) Nursery and greenhouse;~~
~~(j) Outdoor storage;~~
~~(k) Public administration;~~
~~(l) Recycling collection station;~~
~~(m) Outdoor athletic fields;~~
~~(n) Stadiums and sports complex;~~
~~(o) Transportation facility;~~
~~(p) Veterinary clinic;~~
~~(q) Warehousing;~~
~~(r) Wireless telecommunications facilities per BMC 20.46.140.~~

20.94.030 CONDITIONAL USES.

The following uses may be permitted, provided a conditional use permit pursuant to BMC 20.58.020 is approved:

(a) Junk yard, provided:
  (1) The use is not adjacent to a residentially zoned lot;

(2) A view-obscuring screen consisting of a solid wall or dense evergreen shrub to a height of ten (10) feet is provided along all lot lines.

(b) Adult business as defined in BMC 20.46.110.

(c) Group residential facility - Class II, provided the facility will not create an operational conflict with the efficiency of large-scale industrial uses.

20.94.050 PROHIBITED USES.

The following uses are prohibited in the Industrial zone:

(a) Residential, as a primary or secondary use, except for Class II group residential facilities as a conditional use per BMC 20.94.030(c);

(b) Recreational vehicle park;

(c) Motion picture theater;

(d) Any use with significant adverse impacts on less intense uses in neighboring residential zones, determined by the City by having any combination of the following criteria:

(1) Noise Encroachment. Generation of sound not meeting the provisions of the noise levels ordinance, Chapter 6.32 BMC;

(2) Light/Glare Encroachment. Unshielded glare visible during periods of darkness in an adjacent residential zone;

(3) Odor, Dust or Smoke Encroachment. Emission of an odor, dust or smoke byproduct clearly detectable in any residential zone.

20.94.060 DEVELOPMENT STANDARDS.

Lot development requirements shall be in accordance with the following standards unless otherwise allowed by law:

(a) Minimum front yard setback: ten (10) feet, except twenty (20) feet where abutting or across a public right-of-way from a residential zone;

(b) Minimum side yard setback: zero (0) except when adjacent to the low and medium density residential zones (R-10 and R-10M) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC 20.50.050(b);

(c) Minimum rear yard setback: zero (0) except when adjacent to the low and medium density residential zones (R-10 and R-10M) where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC 20.50.050(b);

(d) No maximum building coverage, provided all setbacks and landscaping standards are met;

(e) No maximum development coverage, provided all setbacks and landscaping standards are met;

(f) Maximum building height: fifty (50) feet for structures intended for human occupancy, and no height limit for unoccupied structures such as cranes, antennas, and mechanical apparatuses employed in industry, provided setback requirements are met;

(g) Where abutting a residential zone, structures shall be set back one (1) additional foot for each additional foot of height above thirty-five (35) feet.

20.94.080 PARKING REQUIREMENTS.

Off-street parking shall be provided in accordance with Chapter 20.48 BMC.

20.94.090 LANDSCAPING REQUIREMENTS.

Landscaping shall be provided per the requirements set forth in Chapter 20.50 BMC.

20.94.100 SIGN STANDARDS.

Signs shall meet the requirements set forth in Chapter 20.52 BMC. For freestanding signs, the maximum size and height standards of Figure 20.52(a) shall apply.

Chapter 20.96
CITY UTILITY LANDS (CUL)

Sections:

20.96.010 INTENT.
20.96.020 OUTRIGHT PERMITTED USES.
20.96.030 ACCESSORY USES.
20.96.040 CONDITIONAL USES.
20.96.060 DEVELOPMENT STANDARDS.
20.96.080 PARKING REQUIREMENTS.
20.96.090 LANDSCAPING REQUIREMENTS.
20.96.100 SIGN STANDARDS.

20.96.010 INTENT.

The intent of the city utility lands (CUL) zone is to preserve resource-related functions of land, and to protect watersheds and timberlands. The CUL zone is also intended to ensure healthy forest cover and provide habitat for wildlife. The zone will accommodate some limited commercial and recreational activities, which adhere to a high standard of environmental best management practices, and low impact development.

20.96.020 OUTRIGHT PERMITTED USES.

The following uses are permitted:

(a) Educational and resource activities compatible with forest resources;
(b) Forest and wildlife management activities and forest practices;
(c) Groundwater development and aquifer protection;
(d) Hydropower activities and facilities;
(e) Public utilities functions and activities, and nonresidential structures necessary to execute such functions and activities;
(f) Wireless ~~tele~~communications facilities per BMC 20.46.140.

20.96.030 ACCESSORY USES.

The following accessory uses may be permitted:

(a) Caretaker's residence associated with a permitted use;
(b) Temporary quarters associated with a permitted use.

20.96.040 CONDITIONAL USES.

The following uses may be permitted, provided a conditional use permit is approved pursuant to BMC 20.58.020. The conditional use permit may allow modifications to parking, landscaping and other development requirements necessary to mitigate environmental impacts.

(a) Residential development, provided:
  (1) The project consists of attached or detached single-unit dwelling units, townhouses, or senior housing complex;
  (2) The location does not interfere with City public utility functions and activities;
  (3) The location is adjacent to an existing recreational or residential use;
  (4) Sustainable development and best environmental management practices are employed to minimize environmental impacts such as:
    (i) Low impact stormwater management and natural drainage;
    (ii) Preservation of significant trees;

(iii) Clustered development;
(iv) Minimization of impervious surfaces;
(5) Maximum density shall be ten (10) dwelling units per acre, except twenty (20) dwelling units per acre for senior housing complexes;
(6) Development standards per the low density residential zone, BMC 20.60.060(a)(2) through (d) are met;

(b) Passive outdoor public recreation such as trails, provided:
(1) The location does not interfere with City public utility functions and activities;
(2) The location is adjacent to an existing recreational or residential use;
(3) Sustainable development and best environmental management practices are employed to minimize environmental impacts such as:
(i) Low impact stormwater management and natural drainage;
(ii) Identification and preservation of significant trees;
(iii) Minimization of impervious surfaces.

20.96.060 DEVELOPMENT STANDARDS.
Development standards for conditional uses shall be pursuant to the criteria set forth in BMC 20.96.040.

20.96.080 PARKING REQUIREMENTS.
Parking shall meet the standards of Chapter 20.48 BMC and the following requirements:
(a) Parking may not exceed two (2) stalls per residential dwelling unit;
(b) On-site parking requirements for a permitted or a conditional use may be reduced by up to forty (40) percent, provided it can be demonstrated through a parking analysis that the reduction would decrease impervious surface area, and the reduction would not cause parking to spill over into adjacent areas.

20.96.090 LANDSCAPING REQUIREMENTS.
Landscaping shall meet the standards of Chapter 20.50 BMC, except landscaping requirements may be modified or reduced if it can be demonstrated that such modifications or reductions preserve existing or native vegetation.

20.96.100 SIGN STANDARDS.
Signage shall meet the standards of Chapter 20.52 BMC.

Chapter 20.97
WATERSHED (WS)

Sections:

20.97.010 INTENT.
20.97.020 OUTRIGHT PERMITTED USES.
20.97.030 ACCESSORY USES.
20.97.060 DEVELOPMENT STANDARDS.
20.97.080 PARKING REQUIREMENTS.
20.97.090 LANDSCAPING REQUIREMENTS.
20.97.100 SIGN STANDARDS.

20.97.010 INTENT.
The intent of the watershed (WS) zone is to protect the Bremerton public water supply by controlling activities and maintaining high water quality at the source, consistent with state and federal regulations. It is further intended to maintain strict control of access to and activities within the Union River drainage to allow the Union River water supply source to continue in its unfiltered status.

20.97.020 OUTRIGHT PERMITTED USES.
The following uses are permitted:
(a) Educational and resource activities compatible with public water supply;
(b) Forest and wildlife management activities, and forest practices;
(c) Groundwater development and aquifer protection;
(d) Hydropower activities and facilities;
(e) Location of wireless ~~tele~~communications facilities per BMC 20.46.140;
(f) Public utilities functions and activities related to the monitoring and distribution of potable water.

20.97.030 ACCESSORY USES.
The following accessory uses may be permitted:
(a) Caretaker's residence or gate guard associated with an outright permitted use;
(b) Nonresidential structures necessary for the execution of an outright permitted use;
(c) Temporary quarters associated with an outright permitted use.

20.97.060 DEVELOPMENT STANDARDS.
Development shall be in accordance with the following standards:
(a) All developments shall minimize the amount of impervious surface to that necessary to execute a permitted use;
(b) Sustainable development and best environmental management practices shall be employed to minimize environmental impacts such as:
  (1) Low impact storm water management and natural drainage;
  (2) Identification and preservation of significant trees;
  (3) Minimization of impervious surfaces.

20.97.080 PARKING REQUIREMENTS.
Parking shall meet the standards of Chapter 20.48 BMC, except required parking may be reduced or waived by the Director in the watershed (WS) zone in order to reduce impervious surface area.

20.97.090 LANDSCAPING REQUIREMENTS.
Landscaping shall meet the standards of Chapter 20.50 BMC, except landscaping requirements may be modified or reduced if it can be demonstrated that such modifications or reductions preserve existing or native vegetation.

20.97.100 SIGN STANDARDS.
Signage shall meet the standards of Chapter 20.52 BMC.

Chapter 20.98
INSTITUTIONAL (INST)

Sections:

20.98.010 INTENT.
20.98.020 OUTRIGHT PERMITTED USES.
20.98.030 ACCESSORY USES.
~~**20.98.040 CONDITIONAL USES.**~~
20.98.060 DEVELOPMENT STANDARDS.
20.98.080 PARKING REQUIREMENTS.
20.98.090 LANDSCAPING REQUIREMENTS.
20.98.100 SIGN STANDARDS.

20.98.010 INTENT.

~~The intent of the institutional (INST) zone is to provide for continued operation and facilitate managed growth of existing major institutions within the City. Institutions in the zone shall also be compatible with surrounding neighborhoods. Major institutions include the Olympic College campus, and the Harrison Hospital.~~ The intent of the institutional (INST) zone is to provide for continued operation and facilitate managed growth of Olympic College. Growth of the College and supporting uses should be promoted in the zone while being compatible with the surrounding neighborhoods and nearby areas.

20.98.020 OUTRIGHT PERMITTED USES.

The following uses are permitted:

(a) Co-location of wireless ~~tele~~communications facilities per BMC 20.46.140;
(b) Community facility;
(c) General office and business services;
(d) General retail associated with an institution;
(e) Higher education and colleges;
(f) ~~Hospitals;~~
(g) Medical offices and clinics;
(h) Outdoor athletic fields and park playground and open spaces;
(i) Parking as a principal use;
(j) Public administration;
(k) Residential uses of the following types:
  (1) Group residential facility - Class I;
  (2) Nursing convalescent home;
  (3) Senior housing complex;
  (4) Single-unit dwelling unit structure, attached or detached;
  (5) Multi-unit dwelling structure;
  (6) Townhouse;
  (7) Duplex
(l) Restaurants;
(m) Schools and education uses;
(n) Transportation facility;
(o) Welfare and charitable services and facility;
(p) Worship and religious facility.

20.98.030 ACCESSORY USES.
Any subordinate use with a direct connection to or association with the core functions of a higher education college ~~or a hospital~~ may be permitted by the Director as an accessory use.

~~**20.98.040 CONDITIONAL USES.**~~
~~A conditional use permit, which is approved pursuant to BMC 20.58.020, may permit the following uses:~~
~~(a) Opiate substitution treatment facility, provided:~~
~~(1) The permit shall be processed as a Type III Hearing Examiner decision;~~
~~(2) May only be located in the Institutional zone where the Harrison Medical Center campus is sited, in the vicinity of Cherry Avenue, Wheaton Way, and Clare Avenue;~~
~~(3) No opiate substitution treatment facility shall be sited within 1,000 (one thousand) feet of another opiate substitution treatment facility;~~
~~(4) Off-street parking shall be provided one (1) parking space per one hundred fifty (150) square feet of gross floor area; and~~
~~(5) Landscaping is provided meeting the minimum requirements for nonresidential uses as prescribed in Chapter 20.50 BMC.~~

20.98.060 DEVELOPMENT STANDARDS.
Development shall be in accord with the following standards:
(a) Minimum front yard setback: zero (0), except ten (10) feet where adjacent to any lot not within the institutional zone;
(b) Minimum side yard setback: zero (0), except when adjacent to ~~the low density~~a residential zone ~~(R-10)~~ where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC 20.50.050(b);
(c) Minimum rear yard setback: zero (0), except when adjacent to ~~the low density~~a residential zone ~~(R-10)~~ where a ten (10) to twenty (20) foot visual screen is required pursuant to BMC 20.50.050(b);
(d) Maximum height: eighty-five (85) feet, provided all upper level setback requirements are met;
(e) Upper level setbacks: where adjacent to any lot not within the institutional (INST) zone, structures shall be set back one (1) additional foot for each additional foot of height above thirty-five (35) feet.

20.98.080 PARKING REQUIREMENTS.
Parking shall meet the standards of Chapter 20.48 BMC.

20.98.090 LANDSCAPING REQUIREMENTS.
Landscaping shall meet the standards of Chapter 20.50 BMC.

20.98.100 SIGN STANDARDS.
Signage shall meet the standards of Chapter 20.52 BMC.