



CITY OF PORT ORCHARD
Planning Commission
216 Prospect Street, Port Orchard, WA 98366
(360) 874-5533 planning@cityofportorchard.us

PLANNING COMMISSION MEETING AGENDA

Tuesday, March 1, 2022
6:00 pm

This meeting will be held remotely via telephone and Zoom webinar pursuant to the Governor's "Stay Home, Stay Healthy Proclamation" No. 20-25, as amended.

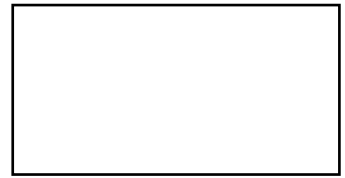
Public Zoom Link (Planning Commissioners please use individual webinar links):

<https://us02web.zoom.us/j/87444276232>

Dial-in (phone audio) only: +1 253 215 8782

Webinar ID: 874 4427 6232

- 1. Call to Order: 6:00 p.m.**
Pledge of allegiance
- 2. Audience Comments – Topics not on Tonight's Agenda**
Please limit comments to **3 minutes**.
- 3. Approval of Minutes from December 7, 2021**
- 4. Business Items**
 - (a) Elect Chair and Vice Chair
 - (b) Vision 2050/CPP's/Periodic Update Presentation
 - (c) PC Training Update, and APA PC Membership
 - (d) Accessory Dwelling Unit Owner Occupancy Requirements
 - (e) Cell Tower Ordinance
 - (f) 2022 Comprehensive Plan Docket
- 5. Adjourn**



**Planning Commission Meeting Minutes
December 7, 2021
Zoom Teleconference**

COMMISSIONERS:

Present: Annette Stewart (Chair), Joe Morrison, Mark Trenary, Trish Tierney, Stephanie Bailey, Dave Bernstein.

Absent: Phil King.

STAFF:

Community Development Director Nick Bond, Assistant Planner Josie Rademacher.

1. CALL TO ORDER: Chair Stewart called the meeting to order at 6:02 p.m. and led the Pledge of Allegiance.

2. PUBLIC COMMENTS: There were no comments from the public regarding issues not on the agenda.

3. APPROVAL OF MINUTES FROM NOVEMBER 2, 2021: Chair Stewart made a motion to review the minutes as amended from the November 2nd's meeting at the December 7th meeting.

4. BUSINESS ITEMS:

A. PUBLIC HEARING: 2021 COMPREHENSIVE PLAN AMENDMENTS.

Community Development Director Bond gave a brief overview of the proposed 2021 Comprehensive Plan Amendments before opening the public hearing. Bond explains that the proposed plan amendments have been available to the Planning Commission for some time and have been delayed in hopes to include the Parks Plan to this year's Comprehensive Plan docket. Bond continues by explaining that the final draft of the Parks Plan has not been completed in time to be reviewed with the other proposed amendments awaiting approval. The Parks Plan will move forward for adoption in 2022.

The amendments recommended for adoption for the 2021 Comprehensive Plan docket includes several City initiated text amendments, and a site-specific land use map amendment. Bond explains the text amendments now reference two projects for the Capital Facilities section of the Comprehensive Plan: the City Hall space analysis and the South Kitsap Community Events Center. Bond explains that additionally, the utilities element will reflect the updates to water and sewer plans to reflect the technical documents that our utilities department has adopted. Appendix B has been updated to reflect the updated water systems plan, the new transportation improvement plan, and replaces the 1987 Blackjack Creek comprehensive management plan with the new 2017 Blackjack Creek comprehensive watershed management plan. Bond explains that this is important information to have in planning documents for instances when Tribes or other agencies are applying for funding for culvert replacement or environmental enhancement projects, the

objectives of the 2017 help the City be a partner in these projects. The City participated in the creation of the plan, the plan however hasn't been adopted to reference in the Comprehensive Plan.

Bond explains the updates to the 6-year Transportation Improvement Plan and has been updated to reflect new cost estimates and completed projects. These updates reflect new cost estimates and implementation.

Lastly, Bond explains the He rezone comprehensive plan application was submitted to create consistency between Mr. He's other property. Mr. He has submitted plans for a mixed-use commercial development off of Bethel that will include the China Sun restaurant. The consistency will help with tract access to the new development for both of Mr. He's properties.

Chair Stewart opened the public hearing. No comments were made. Chair Stewart closed the public hearing.

B. DISCUSSION AND RECOMMENDATION: 2021 COMPREHENSIVE PLAN AMENDMENTS.

Community Development Director Bond gave a summary of the updates included in the 2021 Comprehensive Plan Amendments docket.

Commissioner Bailey asked for a refreshment of the 2016 Rice Fergus Miller City Hall space analysis and what that would mean for City Hall and what that might look like. Bond explains that when City Hall was originally designed, it included a wing that extended the public works and court departments out towards Kitsap St. This would have extended the building out above the police storage area. This section was value engineered out of the original design and left as a possible addition to City Hall in the future. The analysis looked at the FTE count, growth rates, and how projecting forward, what that would mean for the space needed for City Hall and its employees and services. Not only does the analysis acknowledge the original plans of City Hall and its possible additions, but also how much additional space will be needed to provide for employees and support ongoing services. Bond explains that however, with the analysis we know how much square footage is needed, but not how that remodel will look.

Commissioner Bailey notes that the Comprehensive Plan Docket states that the City Hall remodel is planned to be completed in 2025. She asks if that is entirely accurate given that the analysis only reflected how much square footage is necessary for the remodel. Bond states that he believes someone is currently contracted to do the work, it just hasn't been designed yet.

Commissioner Stewart asked if City employees are back to work full-time or not. Bond responded explaining that the staff is currently part time and the office spaces have been converted to more general workspaces, rather than assigned desks to better incorporate the influx in staff when they are in the office.

Commissioner Morrison asked what is under permits and/or construction right now for residential units in Port Orchard. Bond explains that the number is hard to define because some permits

include subdivisions that have been approved for many years. Bond estimates that there are about 5,000 residential units in the pipeline; some being built now, some being built years from now.

Commissioner Trenary asks if with the expansion of City Hall if that will include bringing the Department of Community Development back to the main building or if it will remain a separate entity. Bond responds that he believes it plans on staying a separate entity for the foreseeable future. However, with the new Community Event Center space, that will be available to use for City Council and Planning Commission meetings and would free up space in the Council Chambers. This hasn't been formally discussed but has been an option that has been explored.

Commissioner Stewart made a motion to recommend that the City Council approve the proposed revisions to POMC 20.170, the Flood Damage Prevention Code. Commissioner Tierney seconded the motion. The motion passed unanimously.

C. PUBLIC HEARING: MCCORMICK VILLAGE SUBAREA PLAN AND REGULATIONS (CON'T FROM NOVEMBER)

Community Developer Director Bond explains that the Public Hearing has stayed open from the November meeting to allow the public more time with the plan.

Chair Stewart reopened the public hearing.

Greg Krabbe, wished to testify in regard to allowing a licensed Arborist's to do the work requested in the Tree Canopy Standards in addition to a Landscape Architect. Due to connection issues, Bond summarized a previous conversation they had on the matter. Bond explains that in addition to a Landscape Architect, an Arborist be allowed to do that work as well to complete a Tree Canopy plan since they typically work with the Landscape Architect to complete the information needed for the plan. Mr. Krabbe confirmed the summary was accurate to his request.

Chair Stewart closed the public hearing.

D. DISCUSSION AND RECOMMENDATION.

Community Development Director Bond explains that the motion would be to recommend approval of the McCormick Village Subarea Plan and Overlay District to City Council with an amendment to allow an Arborist to prepare a Tree Canopy Plan as specified in the Overlay District.

Commissioner Bailey states that the public feedback from the survey for the subarea had to do mostly with the protection of trees and natural habitat. Bailey further states that she feels the plan does not capture the protection of habitat to the extent of the feedback. Bond states he understands the hang up and that this area has been identified as a center and must follow what constitutes a center as outlined in the Growth Management Act. However, the natural landscape of this area is being vastly protected, even though it is considered urban land, and must develop at urban densities. The area includes a large park, a variety of walking trails and woods, and several critical

areas that are protected by buffers. Commissioner Bailey asked if the plan were to not be passed, what would that look like. Bond states that there is a boundary in our comprehensive plan that states that this area is a center and needs to be planned as a center. This requires a center to be developed at 10 activity units at a minimum and is the lowest a center can be planned at. The McCormick Village Plan is only planning for 10 activity units. This determination also helps in getting the area access to transit and other services.

Commissioner Trenary states that his main concern is Old Clifton Rd. is not suitable for transportation needs as development increases. Bond states that the Transportation Plan reflects updates for nonmotorized vehicles that connects from Anderson Hill to Tremont by a graded pathway. Trenary asks if there are any plans to improve the Sunnyslope entrance. Bond states that the development only plans to Feigley Rd. Once the school property is developed, that will increase the transportation improvements in that area. However, west of this development is unincorporated county including the roads making them county projects.

Commissioner Bailey refers back to the last meeting in November where Wayne and Kelly Wright had addressed concerns about parks and people accessing them without paying the HOA dues they are. Bond clarifies by stating that the comment had more to do with the parks plan listing the trails as amenities rather than the Village itself. The facilities that the HOA maintains have the right to exclude, however they are an amenity to residents of that part of the city and need to be listed in the parks plan that the amenity needs of that area have been met, regardless if they are public or private. Developer Greg Krabbe also clarifies that the McCormick North HOA will be combined with the existing HOA and will contribute to the maintenance of the existing trails and parks.

Commissioner Bernstein asks about the Tree Canopy standards of the plan and how they line up with the Significant Trees Code adopted a couple years back. Bond states that this standard is different from any standard adopted so far. Bond states that it isn't safe or desirable to keep swaths of trees in the development of Centers because of the high risk they pose. This Tree Canopy standard in the plan implements standards for the creation of robust tree canopy. Although the trees will look small for the first couple of years, it will be the safest route in the long run. Bernstein continues by stating that he believes that dovetails off what Commissioner Bailey had stated earlier about natural habitat preservation and mature natural qualities of the area. Bernstein further states that he feels as though the Significant Tree Canopy code should apply to this area but doesn't. Bond states that the only area in which the Significant Tree Canopy code doesn't apply is the boundary of the village (shown in purple on the site map). Bond points out multiple areas in the region of the plan that are protected natural areas, making up roughly 20-30% of the area. Developer Greg Krabbe states that they have followed significant tree standards required in each development and will save all of the trees they can in the new development of McCormick Village. Bernstein explains that it seems as though the root of the frustration for people is that older McCormick communities appeared to be built into the natural landscape versus new McCormick communities appear to be the opposite. Bond states the juxtaposition between what existed, and the start of new development can be drastic, but the point of requiring such a robust landscape and tree canopy plan is to ensure that the natural habitat is safe for people and homes. Bond further states that the densities in which McCormick Woods was built at were much lower than the current density expectation of today. This makes it nearly impossible to build

homes in the way that they did because the areas being developed today have such higher densities.

Commissioner Morrison states that the need for housing is very apparent in the greater Seattle metropolitan area as it is one of the fastest growing metro areas in the nation. Morrison further states that the issue of not developing this land is that it creates unaffordable housing for those who live in the area. Although making sure that this project and other projects are done right and protect the natural beauty of the area, it is important that there are places for people to live. Bond explains that the tree canopy standard sets the foundation for an established future habitat.

Commissioner Trenary asks if the McCormick Woods project is grandfathered in, and because of this would not be held to the standard of the Significant Tree code. Bond responds by stating that 90% of this area would not be affected by the Significant Tree code. The two areas that would be affected are the two areas in purple shown on the site plan. Bond further states that the plan requires a 25% tree canopy which in a commercial area, is a very large tree canopy.

Bond shared the landscape plan that was proposed to the City by Swift Company and McCormick Communities.

Commissioner Bernstein made a motion to recommend that the City Council approve the McCormick Subarea Plan and Overlay District as amended. Commissioner Morrison seconded the motion. The motion passed 3 to 2 obtained.

ADJOURN: Chair Stewart adjourned the meeting at 7:27 pm.

Annette Stewart, Chair

Nick Bond, Community Development Director



CITY OF PORT ORCHARD
DEPARTMENT OF COMMUNITY DEVELOPMENT

216 Prospect Street, Port Orchard, WA 98366
Ph.: (360) 874-5533 • FAX: (360) 876-4980

PLANNING COMMISSION STAFF REPORT

Agenda Item No:	<u>4(d)</u>	Meeting Date:	<u>March 1, 2022</u>
Subject:	<u>Accessory Dwelling Unit Owner Occupancy</u>	Prepared by:	<u>Nick Bond, Development Director</u>

During the 2021 Regular Session the State of Washington passed House Bill 1220 related to supporting emergency shelters and housing through local planning and development. A new section was added to chapter 36.70A RCW which encourages cities to consider policies encouraging the construction of accessory dwelling units (ADU) as a mechanism to meet affordable housing goals.

The 2019 adoption of the City of Port Orchard’s form-base code provided several building types in areas of Port Orchard that previously may have not been permitted including the backyard cottage building type. Part of the intent of the form-based code was to address affordable housing goals. For the most part the Port Orchard Municipal Code (POMC) is consistent with the suggested policies regarding ADU development in House Bill 1220.

However, the City has determined that a potential barrier to ADU construction exists in POMC 20.68 related to an owner occupancy requirement of one of the units and where the suggested policies for Cities is to remove the owner occupancy requirement. To that end the repeal of certain language regarding owner occupancy in POMC 20.68.070, .090 and .100 are necessary to address affordable housing goals consistent with the guidance provided by the State Legislature.

During adoption of the McCormick Village Overlay District (MVOD), POMC 20.38.200-280, the City recognized that an owner occupancy requirement could hinder the development of ADUs. Therefore, the City adopted development regulations removing the owner occupancy requirement of POMC 20.68.100(5). If the suggested repeal of owner occupancy references in POMC 20.68 are approved, the language in POMC 20.38.235 would reference off-street parking requirements, not owner occupancy. The repeal of the entirety of POMC 20.38.235 is necessary because of the redundancy created through the removal of owner occupancy requirements in 20.68.

The suggested Code amendments further Policy HS-4 of the City of Port Orchard Comprehensive Plan’s Housing Element and is consistent with the guidance provided by the Washington State Legislature.

20.68.070 Accessory dwelling units – Application procedures.

(1) Procedures. Any property owner seeking to establish an ADU shall apply for approval in accordance with the following procedures:

(a) Application. Prior to installation of an ADU, the property owner shall apply for an ADU permit. A complete application shall include a properly completed application form, floor and structural plans for modification, a site plan if detached structures or an addition are proposed, and fees as prescribed in subsection (1)(b) of this section.

(b) Fees. Upon sale of the property, the new property owner shall be required to sign a new affidavit and to register the ADU, paying the applicable fee in accordance with the city's adopted fee schedule. If new or upgraded water or sewer connections are required, water and/or sewer connection fees shall be required in accordance with POMC Title [13](#).

(c) Accessory Dwelling Unit Agreement. The owner of any property containing an ADU shall record with the Kitsap County auditor an accessory dwelling unit agreement and notice to title for the ADU. Such agreement and notice shall be approved by the planning director, on a form approved by the city council, and shall include as a minimum: (i) the legal description of the property which has been permitted for the ADU; (ii) affirmation ~~that the owner shall occupy either the main building or the ADU (unless the ADU is within a commercial or industrial development), and~~ that the property owner agrees to all requirements provided in this chapter; and (iii) the conditions necessary to apply the restrictions and limitations contained in this section.

The property owner shall submit proof that the agreement and notice to title have been recorded prior to issuance of an ADU permit. The ADU agreement and notice to title shall run with the land as long as the ADU is maintained on the property. The property owner may, at any time, apply to the planning director for a termination of the ADU agreement. Such termination shall be granted upon proof that the ADU no longer exists on the property and that a notice to title has been recorded which states that the ADU has been removed.

(d) Permit. Upon receipt of a complete application, application fees, proof of recorded accessory dwelling unit agreement, and approval of any necessary building or other permits, an ADU permit shall be issued.

20.68.090 Violations.

A violation of this chapter ~~regarding provision of ownership~~ shall be governed by POMC [20.68.100\(5\)](#), ~~and a violation of provision of legalization of nonconforming ADUs shall be governed by POMC 20.68.100(9)~~. Violations of any other city permit or code requirements shall be governed by Chapter [20.02](#) POMC.

20.68.100 General requirements.

ADUs shall be subject to the following requirements, which shall not be subject to a variance:

(1) ADU permits may only be issued for a legal lot of record zoned for single-family use containing not more than one single-family dwelling.

(2) Number of ADUs per Lot. No more than one ADU, whether an accessory apartment (attached dwelling) or a backyard cottage dwelling, shall be permitted on one lot.

(3) Occupancy. The maximum number of occupants in any ADU shall be four persons. Maximum occupancy may be further limited by Section 1004 (Occupant Load) of the International Building Code.

(4) Composition. The ADU shall include facilities for cooking, living, sanitation, and sleeping.

~~(5) Ownership and Occupancy. The property owner must maintain his or her occupancy in the main residence or the ADU. For the purposes of this chapter, "occupancy" means that the property owner, as reflected in title records, makes his or her legal residence at the site, as evidenced by property tax, voter registration, vehicle registration, or similar means, and actually resides at the site more than six months out of any given year, and at no time rents both units. Owners shall record a notice on title, as approved by the city, which attests to their occupancy and attests that at no time shall they rent both units. Falsely attesting owner residency shall be a gross misdemeanor subject to a fine not to exceed \$5,000, including all statutory costs, assessments, and fees. In addition, ADUs shall not be subdivided or otherwise segregated in ownership from the main building. Nothing in this chapter shall be interpreted as prohibiting a property owner from renting out a room or rooms in their legal residence of occupancy (main residence or ADU) to another resident or residents, or from collecting rent from a roommate, as long as the property owner continues to maintain occupancy according to the terms of this subsection.~~

~~(6)~~ Parking. No off-street parking is required for the ADU; provided, that the minimum required off-street parking per Chapter [20.124](#) POMC for the primary use (single-family residence, commercial or industrial development) is met on the lot or if on-street parking is provided on both sides of the street(s) abutting the lot. One parking stall shall be provided per ADU if either of the preceding conditions is not satisfied. If additional ADU parking is provided, parking for a commercial or industrial ADU shall be located in the rear portion of the lot and shall not be accessed from the front if suitable access to the rear is available, such as an abutting right-of-way that is or can practicably be developed. Driveways shall comply with the vehicular access and driveway standards in the city's development guidelines.

~~(7)~~ Home Businesses and Occupations. Home businesses and occupations shall be allowed, subject to existing regulations. However, if both the main residence and the ADU contain home businesses, only one of the two is permitted to receive customers on the premises.

~~(8)~~ Short-Term Rental. The use of an ADU as a short-term rental shall be allowed, subject to compliance with the vacation rental and bed and breakfast regulations in POMC [20.39.345](#).

(98) Legalization of Nonconforming ADUs. Existing ADUs that are made nonconforming by this chapter, or ADUs legally existing prior to the enactment of these requirements, may be maintained as a legal nonconforming use in accordance with Chapter [20.54](#) POMC.

~~20.38.235 MVOD detached accessory dwelling units.~~

~~Accessory dwelling units within the MVOD shall comply with the requirements of Chapter [20.68](#) POMC except POMC [20.68.100\(5\)](#).~~

CHAPTER 20.27
WIRELESS COMMUNICATION FACILITIES

Sections:

- 20.27.010 Purpose
- 20.27.020 Authority and Application
- 20.27.030 Exemptions
- 20.27.040 Permits Required
- 20.27.050 Types of Permits-Priority--Restrictions
- 20.27.060 New Towers
- 20.27.070 General Requirements
- 20.27.080 Electrical Transmission Tower Co-Location-Specific Development Standards
- 20.27.090 Adding Antennas to Existing WCF Tower-Specific Development Standards
- 20.27.100 Concealed Building Mounted Development Requirements
- 20.27.110 Non-concealed Building Mounted Development Requirements
- 20.27.120 Utility Pole Co-location
- 20.27.130 Towers-Specific Development Standards
- 20.27.140 Request to Use Non-concealed Building Attached in Lieu of a Concealed Building Attached
- 20.27.150 Landscaping/Screening
- 20.27.160 Zoning Setback Exceptions
- 20.27.170 Height Waivers
- 20.27.190 Removal of Abandoned Wireless Communication Facilities
- 20.27.200 Standards for Eligible Facilities Modifications
- 20.27.210 Expiration of Wireless Facility Permits

20.27.010 Purpose

A. The purpose of this Chapter is to regulate the placement, construction and modification of wireless communication facilities, in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City. The purpose of this Chapter will be achieved through adherence to the following objectives:

1. Establish clear and nondiscriminatory local regulations concerning wireless telecommunications providers and services that are consistent with Federal and State laws and regulations pertaining to telecommunications providers;
2. Protect residential areas and land uses from potential adverse impacts that wireless communication facilities might create, including but not limited to impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, and health and safety of persons and property;
3. Encourage providers of wireless communication facilities to locate these facilities, to the extent possible, in areas where the adverse impact on the community is minimal;

4. Encourage the location of wireless communication facilities in nonresidential areas and allow wireless communication facilities in residential areas only when necessary, to meet functional requirements of the telecommunications industry;

5. Minimize the total number of wireless communication facilities in residential areas;

6. Require cooperation between competitors and, as a primary option, joint use of new and existing towers, tower sites and suitable structures to the greatest extent possible, in order to reduce cumulative negative impact upon the City;

7. Allow wireless communication companies to use City property (i.e. City Hall, Community Center, utilities property, parks, etc.) for the placement of wireless facilities, where consistent with other public needs, as a means to generate revenue for the City;

8. Ensure wireless communication facilities are configured in a way that minimizes the adverse visual impact of the wireless communication facilities, as viewed from different vantage points, through careful design, landscape screening, minimal impact siting options and camouflaging techniques, and through assessment of technology, current location options, siting, future available locations, innovative siting techniques and siting possibilities beyond the jurisdictional boundaries of the City;

9. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently;

10. Provide for the removal of wireless communication facilities that are abandoned or no longer inspected for safety concerns and Building Code compliance, and provide a mechanism for the City to cause these abandoned wireless communication facilities to be removed, to protect the residents from imminent harm and danger;

11. Avoid potential damage to adjacent properties from tower failure, through engineering, careful siting, height limits, and maintenance of wireless communication facilities; and

12. Provide a means for public input on major wireless communications facility placement, construction and modification.

B. In furtherance of these objectives, the City shall give due consideration to the Comprehensive Land Use Plan, zoning code, existing land uses, and environmentally sensitive areas in approving sites for the location of communication towers and antennas.

C. These objectives were developed to protect the public health, safety and welfare, to protect property values, and to minimize visual impact, while furthering the development of enhanced telecommunication services in the City. These objectives were designed to comply with the Telecommunications Act of 1996. The provisions of this Chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This Chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services.

D. To the extent that any provision of this Chapter is inconsistent or conflicts with any other City ordinance, this Chapter shall control. Otherwise, this Chapter shall be construed consistently with the other provisions and regulations of the City.

E. In reviewing any application to place, construct or modify wireless communication facilities, the City shall act within a reasonable period of time after an application for a permit is duly filed, taking into account the nature and scope of the application. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The City shall approve, approve with conditions, or deny the application in accordance with Title 20 of the Port Orchard Municipal Code, this Chapter, the adopted Port Orchard Comprehensive Plan, and other applicable ordinances and regulations.

20.27.020 Authority and Application.

The provisions of this Chapter shall apply to the placement, construction or modification of all wireless communication facilities, except as specifically exempted in POMC Section 20.27.030.

20.27.030 Exemptions.

The provisions of this Chapter shall not apply to the following:

1. Wireless communication facilities permits are not required for subparagraphs 1.a through 1.e of this section; however, other permits, such as a grading permit, street excavation permit, traffic management plan, or building permit may be required:

a. Routine maintenance and repair of wireless communication facilities when no traffic impacts will occur. This shall not include changes in height or dimensions of towers or buildings; provided that the wireless communication facility received approval from the City of Port Orchard or Kitsap County for the original placement, construction or subsequent modification. When traffic impacts will occur, a traffic control plan approved by the City is required.

b. Changing of antennas on wireless communication facilities is exempt from wireless facilities permits, provided the total area of the new antennas and support structure is not increased more than 10% of the previous area or the area is reduced.

c. Changing or adding additional antennas within a previously permitted concealed building-mounted installation is exempt provided there is no visible change from the outside.

d. Bird exclusionary devices may be added to towers and are not subject to height limitations.

e. Additional ground equipment may be placed within an approved equipment enclosure, provided the height of the equipment does not extend above the screening fence.

2. An antenna that is designed to receive or send direct broadcast satellite service and/or broadband signals, or other means for providing internet service including direct-to-home satellite services, and that is 1 meter or less in diameter or diagonal measurement, and when the antenna is attached to the residence or business that is utilizing the service.

3. An antenna that is designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that is 1 meter or less in diameter or diagonal measurement.

4. An antenna that is designed to receive television broadcast signals.

5. Antennas for the receiving and sending of amateur radio devices or HAM radios, provided that the antennas meet the height requirements of the applicable zoning district, and are owned and operated by a Federally-licensed amateur radio station operator or are used exclusively for receive-only antennas. In order to reasonably accommodate licensed amateur radio operators as required by Federal Code of Regulations, 47 CFR Part 97, as amended, and Order and Opinion (PRB-1) of the Federal Communication Commission of September 1985, and RCW 35A.21.260, a licensed amateur radio operator may locate a tower not to exceed the height requirements of the applicable zoning district, provided the following requirements are met for such towers located in a residentially-zoned district:

a. The tower and any antennas located thereon shall not have any lights of any kind on it and shall not be illuminated either directly or indirectly by any artificial means;

b. The color of the tower and any antennas located thereon must all be the same and such that it blends into the sky, to the extent allowed under requirements set forth by the Federal Aviation Administration;

c. No advertising logo, trademark, figurine or other similar marking or lettering shall be placed on the tower or any wireless communication facilities mounted or otherwise attached thereto or any building used in conjunction therewith;

d. The tower shall be located a distance equal to or greater than its height from any existing residential structure located on adjacent parcels of property, including any attached accessory structures;

e. A tower must be at least three-quarters of its height from any property line on the parcel of property on which it is located, unless a licensed engineer certifies that the tower will not collapse or that it is designed in such a way that, in the event of collapse, it falls within itself, and in that event, it must be located at least one-third of its height from any property line;

f. No signs shall be used in conjunction with the tower, except for one sign not larger than 8½" high and 11" wide and as required by Federal regulations;

g. Towers shall not be leased or rented to commercial users, and shall not otherwise be used for commercial purposes; and

h. All towers must meet all applicable State and Federal statutes, rules and regulations, including obtaining a building permit from the City, if necessary.

6. Emergency communications equipment during a declared public emergency, when the equipment is owned and operated by an appropriate public entity.
7. Any wireless internet facility that is owned and operated by a government entity.
8. Antennas and related equipment no more than 3 feet in height that are being stored, shipped or displayed for sale.
9. Radar systems for military and civilian communication and navigation.
10. Small wireless facilities as defined by POMC Section 20.29.030.

20.27.040 Permits Required.

A. No person may place, construct or modify a wireless communication facility subject to this Chapter without first having in place a permit issued in accordance with this Chapter. Except as otherwise provided herein, the requirements of this Chapter are in addition to the applicable requirements of POMC Title 20.

B. Any application submitted pursuant to this Chapter shall be reviewed and evaluated by the Director for all projects located on public or private property. The Director of Public Works or his/her designee shall review all proposed wireless communication facilities that are totally within City right-of-way. If a project is both on private or public property and City right-of-way, the Community Development Director shall review the application. Regardless of whether the Community Development Director or the Director of Public Works is reviewing the application, all applications will be reviewed and evaluated pursuant to the provisions of this Chapter.

C. The applicant is responsible for obtaining all other permits from any other appropriate governing body (i.e., Washington State Department of Labor and Industries, Federal Aviation Administration, etc.).

D. This Chapter provides guidelines for the placement and construction of wireless communication facilities, not exempt as set forth in POMC Section 20.27.030 from its provisions and modification of wireless communication facilities.

E. No provision of this Chapter shall be interpreted to allow the installation of a wireless communication facility to reduce the minimum parking or landscaping on a site.

F. Wireless communication facilities that are governed under this Chapter shall not be eligible for variances under POMC Chapter 20.28. Any request to deviate from this Chapter shall be based on the exceptions or waivers set forth in this Chapter.

G. Third Party Expert Review. Applicants use various methodologies and analyses, including geographically-based computer software, to determine the specific technical parameters of the services to be provided utilizing the proposed wireless communication facilities, such as expected coverage area, antenna configuration, capacity, and topographic constraints that affect signal paths. In certain instances, a third party expert may be needed to review the engineering and technical data submitted by an applicant for a permit. The City may at its discretion require an engineering and technical review as part of a permitting process. The costs of the technical review shall be borne by the applicant.

H. The selection of the third-party expert may be by mutual agreement between the applicant and the City, or at the discretion of the City, with a provision for the applicant and

beneficially interested parties to comment on the proposed expert and review his/her qualifications. The third party expert review is intended to address interference and public safety issues and be a site-specific review of engineering and technical aspects of the proposed wireless communication facilities and/or a review of the applicants' methodology and equipment used, and is not intended to be a subjective review of the site which was selected by an applicant. Based on the results of the expert review, the City may require changes to the application. The expert review shall address the following:

1. The accuracy and completeness of submissions;
2. The applicability of analysis techniques and methodologies;
3. The validity of conclusions reached;
4. The viability of other sites in the City for the use intended by the applicant; and
5. Any specific engineering or technical issues designated by the City.

I. Any decision by the Community Development Director, Director of Public Works, or Hearing Examiner shall be given substantial deference in any appeal of a decision by the City to either approve, approve with conditions, or deny any application for a wireless communication facility.

J. No alterations or changes shall be made to plans approved by the Director, Director of Public Works, or Hearing Examiner without approval from the City. Minor changes which do not change the overall project may be approved by the Community Development Director as a minor modification.

20.27.050 Types of Permits--Priority--Restrictions.

A. Applications will be reviewed based on the type of wireless communication facilities requested to be permitted. Each wireless communication facility requires the appropriate type of project permit review, as shown in Table A. In the event of uncertainty on the type of a wireless facility, the Community Development Director shall have the authority to determine how a proposed facility is incorporated into Table A.

TABLE A			
Type of Permit Required, Based on Type of Wireless Communication Facility			
Type of Facility	Zoning(1)		
	Residential	Commercial	Industrial
Adding antennas to an existing tower or utility pole	Type 1 (2)	Type 1(2)	Type 1(2)
Eligible facilities modification	Type 1	Type 1	Type 1
Utility pole co-location	Type 2	Type 2	Type 2
Concealed building attached	Type 2 (3)	Type 2 (3)	Type 1

Non-concealed building attached	Type 2 (4)	Type 2	Type 1
New tower or height adjustment request	Type 3 (4)	Type 3	Type 3

- (1) Zoning for any private/public property or right-of-way: Residential – R1, R2, R3, R4, R5, R6, RMU. Commercial – NMU, BPMU, CMU, DMU, GMU, CC, CH, IF. Industrial – LI, HI.
- (2) Provided the height of the tower or utility pole does not increase and the square footage of the enclosure area does not increase.
- (3) An applicant may request to install a non-concealed building attached facility, under POMC Section 20.27.140.
- (4) LI or HI only.

B. The priorities for the type of wireless communication facility shall be based upon their placement in Table A; most-desirable facilities are located toward the top and least-desirable facilities toward the bottom. Any application for a wireless communication facility must follow the hierarchy of Table A. For example, an applicant must demonstrate by engineering evidence that using a transmission tower co-location is not possible before moving to a utility pole replacement for co-location, and so forth, with the last possible siting option being a new tower or waiver request.

C. The City's preferences for locating new wireless communication facilities are as follows:

1. Place antennas on existing structures, such as buildings, towers, water towers, or electrical transmission towers.

2. Place wireless communication facilities in non-residentially-zoned districts and non-residential property.

3. Place antennas and towers on public property and on appropriate rights-of-way if practical, provided that no obligation is created herein for the City to allow the use of City property or public right-of-way for this purpose.

4. City Property/Public Rights-of-Way. The placement of personal wireless communication facilities on City-owned property and public rights-of-way will be subject to other applicable sections of the Port Orchard Municipal Code and review by other departments (i.e., Public Works, Parks and Recreation, etc.) and may require a facilities lease.

5. Wireless communication facilities shall not be permitted on property designated as landmark or as part of a historic district.

D. Applicants shall submit all of the information required pursuant to POMC Section 20.24.030 and the following:

1. Type 1: Applicant shall submit:
 - a. A completed application form provided by the Department of Community Development.
 - b. Four sets of plans prepared by a design professional. The plans shall include a

vicinity map, site map, architectural elevations, method of attachment, proposed screening, location of proposed antennas, and all other information which accurately depicts the proposed project. Minimum size is 8.5" by 11". Plans shall be no greater than 24" x 36".

- a. A letter from the applicant outlining the proposed project and an evaluation from the applicant with regard to the City's Code requirements and whether the proposal qualifies for review under Section 6409 of the Spectrum Act.
 - b. Information sufficient to determine whether a proposed facilities modification per POMC Section 20.27.200 would be a substantial change to an existing eligible support structure.
 - c. Sensitive Area studies and proposed mitigation (if required).
 - d. If an outdoor generator is proposed, a report prepared by an acoustical engineer demonstrating compliance with Chapter 173-60 WAC and POMC 9.24.050.
 - e. SEPA Application (if required).
2. Type 2: Applicant shall submit all information required for a Type 1 application, plus the following:
- a. Four sets of photo simulations that depict the existing and proposed view of the proposed facility.
 - b. Materials board for the screening material.
 - c. If landscaping is proposed, four sets of a landscaping plan prepared by a Washington State-licensed landscape architect.
 - d. Letter from a radio frequency engineer that demonstrates that the facility meets Federal requirements for allowed emissions.
 - e. If the facility is located within a residential zone, a report from a radio frequency engineer explaining the need for the proposed wireless communication facility. Additionally, the applicant shall provide detailed discussion on why the wireless communication facility cannot be located within a commercial or industrial zone.
3. Type 3: The applicant shall submit all the information required for Type 1 and Type 2 applications, plus the following:
- a. All information required for new towers under POMC Section 20.27.060.
 - b. The radio frequency engineer report shall include a discussion of the information required under POMC Section 20.27.060. The report shall also explain why a tower must be used instead of any of the other location options outlined in Table A.
 - c. Provisions for mailing labels for all property owners and tenants/residents within 500 feet of the subject property.
 - d. Engineering plans for the proposed tower.
 - e. A vicinity map depicting the proposed extent of the service area.
 - f. A graphic simulation showing the appearance of the proposed tower and ancillary structures and ancillary facilities from five points within the impacted vicinity. Such points are to be mutually agreed upon by the Director of Community Development and applicant. All plans and photo simulations shall include the maximum build-out of the proposed facility.
 - g. Evidence of compliance with minimum Federal Communications Commission

(FCC) requirements for radio frequency emissions.

h. Evidence of compliance with Federal Aviation Administration (FAA) standards for height and lighting and certificates of compliance from all affected agencies.

i. Evidence that the tower has been designed to meet the minimum structural standards for wireless communication facilities for a minimum of three providers of voice, video or data transmission services, including the applicant, and including a description of the number and types of antennas the tower can accommodate.

20.27.060 New Towers.

A. New towers are not permitted within the City unless the Hearing Examiner finds that the applicant has demonstrated by a preponderance of the evidence that:

1. *Coverage objective:* There exists an actual (not theoretical) significant gap in service, and the proposed wireless communication facility will eliminate such significant gap in service; and

2. *Alternates:* No existing tower or structure, or other feasible site not requiring a new tower in the City, can accommodate the applicant's proposed wireless communication facility; and

3. *Least intrusive:* The proposed new wireless communication facility is designed and located to remove the significant gap in service in a manner that is, in consideration of the values, objectives and regulations set forth in this chapter, POMC Title 20, and the Comprehensive Land Use Plan, the least intrusive upon the surrounding area.

B. The Hearing Examiner shall be the reviewing body on the application to construct a new tower, and shall determine whether or not each of the above requirements are met. Examples of evidence demonstrating the foregoing requirements include, but are not limited to, the following:

1. That the tower height is the minimum necessary in order to achieve the coverage objective;

2. That no existing towers or structures or alternative sites are located within the geographic area required to meet the applicant's engineering requirements to meet its coverage objective (regardless of the geographical boundaries of the City);

3. That existing towers or structures are not of a sufficient height or could not feasibly be extended to a sufficient height to meet the applicant's engineering requirements to meet its coverage objective;

4. That existing structures or towers do not have sufficient structural strength to support the applicant's proposed antenna and ancillary facilities;

5. That the applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing structures would cause interference with the applicant's proposed antenna;

6. That the fees, costs or contractual provisions required by the owner or operator in order to share an existing tower or structure, or to locate at an alternative site, or to adapt an existing tower or structure or alternative site for sharing, are unreasonable. Costs exceeding new tower construction by 25% are presumed to be unreasonable;

7. The applicant demonstrates other limiting factors that render existing towers and structures or other sites unsuitable.

All engineering evidence must be provided and certified by a Washington registered and qualified professional engineer and clearly demonstrate the evidence required.

C. The Hearing Examiner, after holding a public hearing, shall either approve, approve with conditions, or deny the application, or remand the application back to staff for further investigation in a manner consistent with the Hearing Examiner order.

20.27.070 General Requirements.

The following shall apply to all wireless communication facilities regardless of the type of facility:

1. *Noise:* Any facility that requires a generator or other device which will create noise must demonstrate compliance with Chapter 173-60 WAC and POMC 9.24.050. A noise report, prepared by an acoustical engineer, shall be submitted with any application to construct and operate a wireless communication facility that will have a generator or similar device. The City may require that the report be reviewed by a third party expert at the expense of the applicant.

2. *Signage:* Only safety signs or those mandated by other government entities may be located on wireless communication facilities. No other types of signs are permitted on wireless communication facilities.

3. *Parking:* Any application must demonstrate that there is sufficient space for temporary parking for regular maintenance of the proposed facility.

4. *Finish:* A tower shall either maintain a galvanized steel finish or, subject to any applicable standards of the FM or FCC, be painted a neutral color so as to reduce its visual obtrusiveness.

5. *Design:* The design of all buildings and ancillary structures shall use materials, colors, textures, screening and landscaping that will blend the tower facilities with the natural setting and built environment.

6. *Color:* All antennas and ancillary facilities located on buildings or structures other than towers shall be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and ancillary facilities as visually unobtrusive as possible.

7. *Lighting:* Towers shall not be artificially lighted unless required by the FM, FCC or other applicable authority. If lighting is required, the reviewing authority shall review the lighting alternatives and approve the design that would cause the least disturbance to the surrounding areas. No strobe lighting of any type is permitted on any tower.

8. *Advertising:* No advertising is permitted at wireless communication facility sites or on any ancillary structure or facilities equipment compound.

9. *Equipment Enclosure:* Each applicant shall be limited to an equipment enclosure of 360 square feet at each site. However, this restriction shall not apply to enclosures located within an existing commercial, industrial, residential or institutional building or eligible facilities

modifications.

20.27.080 Specific Development Standards for Electrical Transmission Tower Co-Location.

The following requirements shall apply:

1. *Height*- There is no height requirement for antennas that are located on electrical transmission towers.
2. *Antenna aesthetics*: There are no restrictions on the type of antennas located on the electrical transmission tower. The antennas must be painted to match the color of the electrical transmission tower.
3. *Antenna intensity*: There is no limit on the number of antennas that may be located on an electrical transmission tower structure.
4. *Feed lines and coaxial cables*: Feed lines and coaxial cables shall be attached to one of the legs of the electrical transmission tower. The feed lines and cables must be painted to match the color of the electrical transmission tower.
5. *Cabinet equipment*: Cabinet equipment shall be located directly under the electrical transmission tower where the antennas are located or a concealed location. The wireless communication equipment compound shall be fenced; the fence shall have a minimum height of 6 feet and a maximum height of 8 feet. The fence shall include slats, wood panels, or other materials to screen the equipment from view. Barbed wire is not allowed.
6. *Setbacks*: Since the facility will be located on an existing electrical transmission tower, setbacks shall not apply.

20.27.090 Specific Development Standards for Adding Antennas to Existing WCF Tower.

The following requirements shall apply:

1. *Height*: The height must not exceed what was approved under the original application to construct the tower. If the height shall exceed what was originally approved, approval as a Type 2 decision is required.
2. *Antenna aesthetics*: Antennas shall be painted to match the color scheme of the tower.
3. *Antenna intensity*: There is no limit on the number of antennas that may be located on an existing tower.
4. *Feed lines and coaxial cables*: Feed lines and coaxial cables shall be located within the tower. Any exposed feed lines or coaxial cables (such as when extended out of the tower to connect to the antennas) must be painted to match the tower.
5. *Cabinet equipment*: A new cabinet shall be located within the equipment enclosure that was approved as part of the original application. If the applicant wishes to expand the equipment enclosure from what was approved by the City or County under the previous application, the applicant shall seek a wireless communication facility (Type 2) application for only the equipment enclosure increase.
6. *Setbacks*: Setbacks shall not apply when an applicant installs new antennas on an

existing tower and uses an existing equipment enclosure. If the equipment enclosure is increased, it must meet setbacks.

20.27.100 Concealed Building Mounted Development Requirements.

The following requirements shall apply:

1. *Height:* The proposed facility must meet the height requirement of the applicable zoning category. The antennas can qualify under POMC Section 20.127.360, "Roof-Mounted Mechanical Equipment", if the antennas are located in a church spire, chimney or fake chimney, elevator tower, mechanical equipment room, or other similar rooftop appurtenances usually required to be placed on a roof and not intended for human occupancy. Stand-alone antennas shall not qualify as rooftop appurtenances.

2. *Antennas aesthetics:* The antennas must be concealed from view by blending with the architectural style of the building. This could include steeple-like structures and parapet walls. The screening must be made out of the same material and be the same color as the building. Antennas shall be painted to match the color scheme of the building(s).

3. *Feed lines and coaxial cables:* Feed lines and cables should be located below the parapet of the rooftop.

4. *Cabinet equipment-* If cabinet equipment cannot be located within the building where the wireless communication facilities will be located, then the City's first preference is to locate the equipment on the rooftop of the building. If the equipment can be screened by placing the equipment below the parapet walls, no additional screening is required. If screening is required, then the proposed screening must be consistent with the existing building in terms of color, style, architectural style and material. If the cabinet equipment is to be located on the ground, the equipment must be fenced with a 6-foot-tall fence, and materials shall be used to screen the equipment from view. Barbed wire may not be used.

5. *Setbacks:* The proposed wireless communication facilities facility must meet the setback of the applicable zoning category where the facility is to be located.

20.27.110 Non-concealed Building Mounted Development Requirements.

The following requirements shall apply:

1. *Height:* The proposed facility must meet the height requirements of the applicable zoning category. If the building where the facility is located is at or above the maximum height requirements, the antennas are permitted to extend a maximum of 3 feet above the existing roof line. Non-concealed building mounted facilities shall not qualify as "Roof-Mounted Mechanical Equipment" under POMC Section 20.127.360.

2. *Antenna aesthetics:* The first preference for any proposed facility is to utilize flush-mounted antennas. Nonflush mounted antennas may be used when their visual impact will be negated by the scale of the antennas to the building. "Shrouds" are not required unless they provide a better visual appearance than exposed antennas. Antennas shall be painted to match the color scheme of the building(s).

3. *Feed lines and coaxial cables:* Feed lines and cables should be located below the parapet of the rooftop. If the feed lines and cables must be visible, they must be painted to match the color scheme of the building(s).

4. *Cabinet equipment-* If cabinet equipment cannot be located within the building where the wireless communication facilities will be located, then it must be located on the rooftop of the building. If the equipment can be screened by placing the equipment below the parapet walls, no additional screening is required. If screening is required, then the proposed screening must be consistent with the existing building in terms of color, style, architectural style and material. If the cabinet equipment is to be located on the ground, the equipment must be fenced with a 6-foot-tall fence and materials shall be used to screen the equipment from view. Barbed wire may not be used.

20.27.120 Utility Pole Co-location.

The following requirements shall apply:

1. *Height:* The height of a utility pole co-location is limited to 10 feet above the replaced utility pole, and may be not greater than 50 feet in height in residential zones. Within all other zones, the height of the utility pole is limited to 50 feet or the minimum height standards of the underlying zoning, whichever is greater.

2. *Replacement pole:* The replaced utility pole must be used by the owner of the utility pole to support its utility lines (phone lines or electric). A replaced utility pole cannot be used to provide secondary functions to utility poles in the area.

3. *Pole aesthetics-* The replaced utility pole must have the color and general appearance of the adjacent utility poles.

4. *Coaxial cables:* Coax cables limited to ½" in diameter may be attached directly to a utility pole. Coax cables greater than ½" must be placed within the utility pole. The size of the cables is the total size of all coax cables being utilized on the utility pole.

5. *Pedestrian impact:* The proposal shall not result in a significant change in the pedestrian environment or preclude the City from making pedestrian improvements. If a utility pole is being replaced, consideration must be made to improve the pedestrian environment if necessary.

6. *Cabinet equipment:* Unless approved by the Director of Public Works, all cabinet equipment and the equipment enclosure must be placed outside of City right-of-way. If located on a parcel that contains a building, the equipment enclosure must be located next to the building. The cabinet equipment must be screened from view. The screening must be consistent with the existing building in terms of color, style, architectural style and material. If the cabinet equipment is to be located on the ground, the equipment must be fenced with a 6-foot-tall fence and materials shall be used to screen the equipment from view. Barbed wire is not allowed.

7. *Setbacks:* Any portion of the wireless communication facilities located within City right-of-way is not required to meet setbacks. The City will evaluate setbacks on private property under the setback requirements set forth in POMC Section 20.27.170.

20.27.130 Towers-Specific Development Standards.

The following requirements shall apply:

1. *Height:* Any proposed tower with antennas shall meet the height standards of the zoning district where the tower will be located. Bird exclusionary devices are not subject to height limitations.

2. *Antenna and tower aesthetics:* The applicant shall utilize a wireless communication concealed facility and shall use such methods as to help the tower to blend with the natural and built environment. The choice of concealing the wireless communication facility must be consistent with the overall use of the site. For example, having a tower appear like a flagpole would not be consistent if there are no buildings on the site. If a flag or other wind device is attached to the pole, it must be appropriate in scale to the size and diameter of the tower.

3. *Setbacks:* The proposed wireless communication facilities must meet the setbacks of the underlying zoning district. If an exception is granted under POMC Section 20.27.170 with regards to height, the setback of the proposed wireless communication facilities will increase 2 feet for every foot in excess of the maximum permitted height in the zoning district.

4. *Color-* The color of the tower shall be based on the surrounding land uses.

5. *Feed lines and coaxial cables:* All feed lines and cables must be located within the tower. Feed lines and cables connecting the tower to the equipment enclosure, which are not located within the wireless communication facility equipment compound, must be located underground.

20.27.140 Request to Use Non-concealed Building Attached in Lieu of a Concealed Building Attached.

The use of concealed building facilities shall have first priority in all residential and commercial zones. However, an applicant may request to construct a non-concealed building attached wireless communication facility in lieu of a concealed wireless communication facility. The following criteria shall be used:

1. Due to the size of the building and the proposed location of the antennas, the visual impact of the exposed antennas will be minimal in relation to the building.

2. Cables are concealed from view and any visible cables are reduced in visibility by sheathing or painting to match the building where they are located.

3. Cabinet equipment is adequately screened from view.

4. Due to the style or design of the building, the use of a concealed facility would reduce the visual appearance of the building.

5. The building where the antennas are located is at least 200 feet from any body of water or waterway that is designated as either shoreline or critical area.

20.27.150 Landscaping/Screening.

A. The visual impacts of wireless communication facilities may be mitigated and softened

through landscaping or other screening materials at the base of the tower, facility equipment compound, equipment enclosures and ancillary structures, with the exception of wireless communication facilities located on transmission towers, or if the antenna is mounted flush on an existing building, or camouflaged as part of the building and other equipment is housed inside an existing structure. The Community Development Director, Director of Public Works or Hearing Examiner, as appropriate, may reduce or waive the standards for those sides of the wireless communication facility that are not in public view, when a combination of existing vegetation, topography, walls, decorative fences or other features achieve the same degree of screening as the required landscaping; in locations where the visual impact of the tower would be minimal; and in those locations where large wooded lots and natural growth around the property perimeter may be sufficient buffer.

B. Landscaping shall be installed on the outside of fences. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping or screening requirements. The following requirements apply:

1. Screening landscaping shall be placed around the perimeter of the equipment cabinet enclosure, except that a maximum 10-foot portion of the fence may remain without landscaping in order to provide access to the enclosure.

2. The landscaping area shall be a minimum of 5 feet in width around the perimeter of the enclosure.

3. The applicant shall utilize evergreens that shall be a minimum of 6 feet tall at the time of planting.

4. Applicant shall utilize irrigation or an approved maintenance schedule that will insure that the plantings are established after two years from the date of planting.

C. The applicant shall replace any unhealthy or dead plant materials in conformance with the approved landscaping development proposal, and shall maintain all landscape materials for the life of the facility. In the event that landscaping is not maintained at the required level, the Community Development Director, after giving 30 days advance written notice, may maintain or establish the landscaping at the expense of the owner or operator and bill the owner or operator for such costs until such costs are paid in full.

20.27.160 Zoning Setback Exceptions.

A. Generally, wireless communication facilities placed on private property must meet setbacks of the underlying zoning. However, in some circumstances, allowing modifications to setbacks may better achieve the goal of this Chapter of concealing such facilities from view.

B. The Community Development Director or Hearing Examiner, depending on the type of application, may permit modifications to be made to setbacks when:

1. An applicant for a wireless communication facility can demonstrate that placing the facility on certain portions of a property will provide better screening and aesthetic considerations than provided under the existing setback requirements; or

2. The modification will aid in retaining open space and trees on the site; or

3. The proposed location allows for the wireless communication facility to be located a greater distance from residentially-zoned properties.

C. This zoning setback modification cannot be used to waive/modify any required setback required under the State Building Code or Fire Code.

20.27.170 Height Waivers.

A. Where the Hearing Examiner finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the height limitations of the Zoning Code, or the purpose of these regulations may be served to a greater extent by an alternative proposal, it may approve an adjustment to these regulations; provided that the applicant demonstrates that the adjustments are consistent with the values, objectives, standards, and requirements of this Chapter, POMC Title 20, and the Comprehensive Land Use Plan, and demonstrate the following:

1. A particular and identifiable hardship exists or a specific circumstance warrants the granting of an adjustment. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:

- a. Topography and other site features;
- b. Availability of alternative site locations;
- c. Geographic location of property; and
- d. Size/magnitude of project being evaluated and availability of co-location.

B. In approving the adjustment request, the Hearing Examiner may impose such conditions as it deems appropriate to assure consistency with the values, objectives, standards and requirements of this Chapter, POMC Title 20, and the Comprehensive Land Use Plan and to ensure that the granting of the height adjustment will not be detrimental to the public safety, health or welfare, or injurious to other property, and will promote the public interest.

C. A petition for any such adjustment shall be submitted, in writing, by the applicant with the application for Hearing Examiner review. The petition shall state fully the grounds for the adjustment and all of the facts relied upon by the applicant.

20.27.190 Removal of Abandoned Wireless Communication Facilities.

Any antenna or tower that, after the initial operation of the facility, is not used for the purpose for which it was intended at the time of filing of the application for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove such abandoned tower shall result in declaring the antenna and/or tower a public nuisance. If there are two or more users of a single tower, then this section shall not become effective until all users cease using the tower.

20.27.200 Standards for Eligible Facilities Modifications.

A. This section implements § 6409 of the "Middle Class Tax Relief and Job Creation Act of 2012" (the "Spectrum Act", PL-112- 96; codified at 47 U.S.C. § 1455(a)), which requires the City to approve any eligible facilities request for a modification of an existing tower or base

station that does not substantially change the physical dimensions of such tower or base station. The intent is to exempt eligible facilities requests from zoning and development regulations that are inconsistent with or preempted by Section 6409 of the Spectrum Act, while preserving the City's right to continue to enforce and condition approvals under this chapter on compliance with generally applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety.

B. Definitions.

1. *"Base station"* shall mean and refer to the structure or equipment at a fixed location that enables wireless communications licensed or authorized by the FCC, between user equipment and a communications network. The term does not encompass a tower as defined in this chapter or any equipment associated with a tower.

a. The term includes, but is not limited to, 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.

b. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).

c. The term includes any structure other than a tower that, at the time an eligible facilities modification application is filed with the City under this chapter, supports or houses equipment described in subparagraphs (a) and (b) of POMC Section 20.27.200.B, and that has been reviewed and approved under the applicable zoning or siting process, or under another State, county or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

d. The term does not include any structure that, at the time a completed eligible facilities modification application is filed with the City under this section, does not support or house equipment described in subparagraphs (a) and (b) of POMC Section 20.27.200.B.

2. *"Eligible facilities modification"* shall mean and refer to any proposed facilities modification that has been determined pursuant to the provisions of this chapter to be subject to this chapter and that does not result in a substantial change in the physical dimensions of an eligible support structure.

3. *"Eligible support structure"* shall mean and refer to any existing tower or base station as defined in this chapter, provided it is in existence at the time the eligible facilities modification application is filed with the City under this chapter.

4. *"Existing"* shall mean and refer to a constructed tower or base station that was reviewed and approved under the applicable zoning or siting process and lawfully constructed.

5. *"Proposed facilities modification"* shall mean and refer to a proposal submitted by an applicant to modify an eligible support structure the applicant asserts is subject to review under Section 6409 of the Spectrum Act, and involving:

- a. collocation of new transmission equipment;
- b. removal of transmission equipment; or
- c. replacement of transmission equipment.

6. "Site" shall mean and refer to the current boundaries of the leased or owned property surrounding a tower (other than a tower in the public rights-of-way) and any access or utility easements currently related to the site and, for other eligible support structures, shall mean and be further restricted to, that area in proximity to the structure and to other transmission equipment already deployed on the ground.

7. "Substantial Change". A proposed facilities modification will substantially change the physical dimensions of an eligible support structure if it meets any of the following criteria:

a. For towers not 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 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than 10 feet, whichever is greater.

Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.

b. For towers not 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 20 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 6 feet.

c. 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 4 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.

d. For any eligible support structure:

(1) it entails any excavation or deployment outside the current site;

(2) it would defeat the concealment elements of the eligible support structure; or

(3) 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 this section.

8. "Tower" shall mean and refer to any structure built for the sole or primary purpose of supporting any antennas and their associated facilities, licensed or authorized by the FCC, 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.

9. "Transmission Equipment" shall mean and refer to equipment that facilitates transmission for any wireless communication service licensed or authorized by the FCC, 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.

C. Proposed facilities modification applications are not subject to the application requirements set forth in POMC Section 20.24.020 but may still require construction permits such as grading, street excavation, and building permits, and will also require approval of traffic control plans if traffic will be impacted.

D. City decisions on eligible facilities modifications shall be issued within 60 days from the date the application is received by the City, subtracting any time between the City's notice of incomplete application or request for additional information and the applicant's resubmittal. Following a supplemental submission, the City will respond to the applicant within 10 days, stating whether the additional information is sufficient to complete review of the application. This timing supersedes Chapter 20.24 POMC.

E. If the City fails to approve or deny an eligible facilities modification within the time frame for review, the applicant may notify the City in writing that the review period has expired, and that the application has therefore been deemed granted. In such case, all performance standards contained in this chapter shall be considered conditions of such approval.

F. Applicants and the City may bring claims related to Section 6409 (a) to any court of competent jurisdiction.

20.27.210 Expiration of Wireless Facility Permits.

A wireless facility permit shall automatically expire one year after a Notice of Decision approving the permit is issued unless a building permit conforming to plans for which the wireless facility permit was granted is obtained within that period of time. If a building permit is not required for the proposed work, such as changing antennas on an existing tower, then the substantial construction of the proposed work shall be completed within one year after a Notice of Decision approving the permit is issued. The Director of Community Development may authorize a longer period for completion of work if the applicant can demonstrate why additional time is required and submits a written request for extension prior to expiration of the wireless facilities permit.

Amend Section 20.39.270 POMC as follows:

20.39.270 Communications facilities.

(1) “Wireless telecommunication facility” means a facility for the provision of radio waves or wireless telephone or data services and includes the following:

(a) “Amateur radio operator tower” means a facility used for personal, noncommercial radio licensed by the Federal Communications Commission.

(b) “Small cell wireless telecommunication facility” is a facility that meets the definition contained in POMC 20.29.030. ~~means a wireless telecommunication facility that meets both of the following qualifications:~~

~~(i) Each antenna is located inside an antenna enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and~~

~~(ii) All other equipment associated with the facility (excluding antennas) is cumulatively no more than 28 cubic feet in volume.~~

(c) “Wireless telecommunication tower” means any mast, pole, monopole, lattice tower or other structure designed and primarily used to support antennas as further defined in POMC 20.27.200.B and 20.29.030.

(2) Small cell wireless telecommunication facilities shall be installed in accordance with the city’s adopted Public Works and Engineering Standards and Specifications (PWESS) and shall meet the requirements of Chapter 20.29 POMC.

(3) Wireless communication facilities shall be installed in accordance with the requirements of Chapter 20.27 POMC.

Adopt a new Chapter 20.29 POMC as follows:

CHAPTER 20.29
SMALL WIRELESS COMMUNICATION FACILITIES

Sections:

20.29.010	Purpose and Scope
20.29.020	Exemptions
20.29.030	Definitions
20.29.040	Federal regulatory requirements
20.29.050	Small wireless facility application process
20.29.060	Small wireless facility application requirements
20.29.070	Small wireless facility review criteria and process
20.29.080	Small wireless facility permit requirements
20.29.090	Small wireless facility modification
20.29.100	Small wireless facility aesthetic, concealment, and design standards
20.29.110	Removal of abandoned small wireless facility
20.29.120	Revocation of permit

20.29.10 Purpose and Scope

A. The purpose of this chapter, in addition to implementing the general purposes of the Comprehensive Plan and development regulations, is to regulate the activities of permitting, placement, construction and modification of small wireless facilities in order to protect the health, safety and welfare of the public while not unreasonably interfering with the development of a competitive wireless telecommunications marketplace within the City.

B. This chapter provides permitting and review regulations as well as aesthetic, design and concealment standards for the construction of small wireless facilities both inside and outside of the public right-of-way. It also provides siting options at appropriate locations within the City to support existing communications technologies, to adapt to new technologies as needed, and to minimize associated safety hazards and visual impacts. The siting of small wireless facilities on existing buildings and structures, colocation of facilities on a single support structure and visual mitigation strategies are encouraged to preserve neighborhood aesthetics and reduce visual clutter in the City.

20.29.020 Exemptions

The following facilities are exempt from the provisions of this chapter and shall be permitted consistent with the applicable development standards outlined in the Land Uses Table in POMC 20.39.040:

1. Wireless Communications Facilities (WCFs) used for temporary emergency communications in the event of a disaster, or emergency preparedness, and for any other public health or safety purpose, including, by way of illustration and not limitation, any communications systems utilized by first responders such as police or fire.

2. Industrial processing equipment and scientific or medical equipment using frequencies regulated by the FCC.
3. Citizen band radios or antennas operated by federal licensing amateur (“ham”) radio operators.
4. Satellite dish antennas less than two meters in diameter, including direct-to-home satellite services, when used as secondary use of the property.
5. Automated meter reading (“AMR”) facilities for collecting utility meter data for use in the sale of utility services, except for WIP and other antennas greater than two feet in length, so long as the AMR facilities are within the scope of activities permitted under a valid franchise agreement between the utility service provider and the city.
6. Eligible facilities requests. See POMC Section 20.27.200.

20.29.030 Definitions

For the purposes of this chapter, the following terms shall have the meaning ascribed to them below.

1. **“Antenna(s)”** in the context of small wireless facilities and consistent with 47 CFR 1.1320(w) and 1.6002(b) means an apparatus designed for the purpose of emitting radiofrequency (“RF”) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of personal wireless and any commingled information services. For the purposes of this definition, the term “antenna” does not include an unintentional radiator, mobile station, or device authorized by 47 CFR Title 15.
2. **“Antenna equipment,”** consistent with 47 CFR 1.1320(d), means equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with an antenna, located at the same fixed location as the antenna, and when collocated on a structure, are mounted or installed at the same time as the antenna.
3. **“Applicant”** means any person submitting an application for a small wireless facility permit pursuant to this Chapter.
4. **“Collocation”** means:
 - a. Mounting or installing antenna equipment on a preexisting structure; and/or
 - b. Modifying a structure for the purpose of mounting or installing antenna equipment on that structure.
5. **“Director”** means the Community Development Director or designee.
6. **“Equipment enclosure”** means a facility, shelter, cabinet, or vault used to house and protect electronic or other associated equipment necessary for processing wireless communication signals. “Associated equipment” may include, for example, air conditioning, backup power supplies, and emergency generators.
7. **“FCC”** or **“Federal Communications Commission”** means the federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

8. **“Permittee”** means a person who has applied for and received a small wireless facility permit pursuant to this chapter.

9. **“Personal wireless services”** means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

10. **“Person”** includes corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, other entities, and individuals.

11. **“Public right-of-way”** or **“right-of-way”** means land acquired or dedicated for public roads and streets but does not include:

- a. State highways;
- b. Land dedicated for road, streets, and highways not opened and not improved for motor vehicle use by the public;
- c. Structures, including poles and conduits, located within the right-of-way;
- d. Federally granted trust lands or forest board trust lands;

- e. Lands owned or managed by the state parks and recreation commission; or
- f. Federally granted railroad rights-of-way acquired under 43 U.S.C. 912 and related provisions of federal law that are not open for motor vehicle use.

12. **“Service provider”** shall be defined in accord with RCW 35.99.010(6). “Service provider” shall include those infrastructure companies that provide telecommunications services or equipment to enable the construction of wireless communications.

13. **“Small wireless facility”** shall mean a wireless telecommunication facility that meets both of the following qualifications:

- a. Each antenna is located inside an antenna enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and

- b. All other equipment associated with the facility (excluding antennas) is cumulatively no more than 28 cubic feet in volume.

Provided, however, if there is a conflict between this definition and the definition contained under federal law (47 CFR 1.6002(l)) then the federal law definition shall apply.

14. **“Stealth Technique”** means stealth techniques specifically designated as such at the time of the original approval of the small wireless facility for the purposes of rendering the appearance of the small wireless facility as something fundamentally different than a small wireless facility including but not limited to the use of nonreflective materials, appropriate colors, and/or a concealment canister.

15. **“Structure”** means a pole, tower, base station, or other building, whether or not it has an existing antenna equipment, that is used or to be used for the provision of personal wireless service (on its own or commingled with other types of services).

16. **“Telecommunications service”** shall be defined in accord with RCW 35.99.010(7).

17. **“Tower”** means 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 communication 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.

18. **“Traffic signal pole”** means any structure designed and used primarily for support of traffic signal displays and equipment, whether for vehicular or nonmotorized users.

19. **“Transmission equipment”** means 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 communication 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.

20. **“Unified enclosure”** means a small wireless facility providing concealment of antennas and equipment within a single enclosure.

21. **“Utility pole”** means a structure designed and used primarily for the support of electrical wires, telephone wires, television cable, or lighting for streets, parking lots, or pedestrian paths.

22. **“Wireless communications facilities”** or **“WCF”** means facilities used for personal wireless services.

23. **“Wireline”** means services provided using a physically tangible means of transmission including, without limitation, wire or cable, and the apparatus used for such transmission.

20.29.040 Federal Regulatory Requirements

A. These provisions shall be interpreted and applied in order to comply with the provisions of federal law. By way of illustration and not limitation, any small wireless facility that has been certified as compliant with all FCC and other government regulations regarding the human exposure to radio frequency emissions will not be denied on the basis of RF radiation concerns.

B. Small wireless facilities shall be subject to the requirements of this Code to the extent that such requirements:

1. Do not unreasonably discriminate among providers of functionally equivalent services; and
2. Do not prohibit or have the effect of prohibiting wireless service within the City.

20.29.050 Small Wireless Facility Application Process

A. **Applicability.** Any application for a small wireless facility both inside and outside of the public right-of-way shall comply with the application requirements for a small wireless facility permit described in this chapter. For small wireless facilities inside the right-of-way, the applicant must also comply with the requirements pursuant to Title 12 POMC.

B. Completeness. An application for a small wireless facility is not complete until the applicant has submitted all the applicable items required by POMC Section 20.29.060 and, to the extent relevant, has submitted all the applicable items in POMC Section 20.29.050.C and the City has confirmed that the application is complete. Franchisees with a valid franchise for small wireless facilities may apply for a small wireless permit for the initial or additional phases of a small wireless facilities deployment at any time subject to the commencement of a new completeness review time period for permit processing.

C. Application Components. The Director is authorized to establish franchise and other application forms to gather the information required from applicants to evaluate the application and to determine the completeness of the application as provided herein. The application shall include the following components as applicable:

1. **Franchise.** If any portion of the applicant's facilities are to be located in the right-of-way, the applicant shall apply for, and receive approval of a franchise, consistent with the requirements in Title 12 POMC. An application for a franchise may be submitted concurrently with an application for small wireless facility permit(s).

2. **Small Wireless Facility Permit.** The applicant shall submit a small wireless facility permit application as required in the small wireless facility application requirements established in POMC Section 20.29.060 and pay the applicable permit fee as set forth in the fee schedule adopted by resolution of the City Council and which may be amended by the City Council from time to time.

3. **Associated Application(s) and Checklist(s).** Any application for a small wireless permit which contains an element not categorically exempt from SEPA review shall simultaneously apply under Chapter 43.21C RCW and POMC Title 20. Further, any application proposing small wireless facilities in a shoreline area (pursuant to POMC Chapter 20.164) or in any critical area (pursuant to POMC Chapter 20.162) shall indicate why the application is exempt or comply with the review processes in such codes. Applications for small wireless facilities for new poles shall comply with the requirements in POMC Section 20.29.100.E.

4. **Leases.** An applicant who desires to attach a small wireless facility on any utility pole, light pole, or other structure or building owned by the City shall obtain a lease as a component of its application. Utility poles and the use of other public property, structures or facilities including, but not limited to any park land or facility, any utility land or facility, require City Council approval of a lease or master lease agreement.

20.29.060 Small Wireless Facility Application Requirements

The following information shall be provided by all applicants for a small wireless permit.

A. The application shall provide specific locational information including GIS coordinates of all proposed small wireless facilities and specify where the small wireless facilities will utilize existing, replacement or new poles, towers, existing buildings and/or other structures. The applicant shall specify ground-mounted equipment, conduit, junction boxes and fiber and power connections necessary for and intended for use in the small wireless facilities system regardless of whether the additional facilities are to be constructed by the applicant or leased from a third party. The applicant shall provide detailed schematics and visual renderings of the small wireless facilities, including engineering and design standards. The application shall

have sufficient detail to identify:

1. The location of overhead and, to the extent applicable, underground public utilities, telecommunication, cable, water, adjacent lighting, sewer drainage and other lines and equipment within 50 feet of the proposed project area (which the project area shall include the location of the fiber source and power source). Further, the applicant shall include all existing and proposed improvements related to the proposed location, including but not limited to poles, driveways, ADA ramps, equipment cabinets, street trees and structures within 50 feet of the proposed project area.

2. The specific trees, structures, improvements, facilities, lines and equipment, and obstructions, if any, that applicant proposes to temporarily or permanently remove or relocate and a landscape plan for protecting, trimming, removing, replacing, and restoring any trees or significant landscaping to be disturbed during construction. The applicant is discouraged from cutting/pruning, removing or replacing trees, and if any such tree modifications are proposed the applicant must comply with applicable provisions of Chapter 20.129 POMC.

3. The applicant's plan for fiber and power service, all conduits, cables, wires, handholes, junctions, meters, disconnect switches and any other ancillary equipment or construction necessary to construct the small cell facility, to the extent to which the applicant is responsible for installing such fiber and power service, conduits, cables, and related improvements. Where another party is responsible for installing such fiber and power service, conduits, cables, and related improvements, applicant's construction drawings shall include such utilities to the extent known at the time of application, but at a minimum applicant must indicate how it expects to obtain power and fiber service to the small cell facility.

4. A photometric analysis of the roadway and sidewalk within 150 feet of the existing light if the site location includes a new or replacement light pole.

5. Compliance with the applicable aesthetic requirements pursuant to POMC Section 20.29.100.

B. The applicant must show written approval from the owner of any pole or structure for the installation of its small wireless facilities on such pole or structure. Such written approval shall include approval of the specific pole, engineering and design specifications for the pole, as well as assurances that the specific pole can withstand wind and seismic loads as well as assurances in accordance with POMC Section 20.29.060.F, from the pole owner, unless the pole owner is the City. For City-owned poles or structures, the applicant shall obtain a lease from the City prior to or concurrent with the small wireless facility permit application so the City can evaluate the use of a specific pole.

C. The applicant is encouraged to batch the small wireless facility sites within an application in a contiguous service area and/or with similar designs.

D. The applicant shall submit a sworn affidavit signed by a Radio Frequency (RF) engineer with knowledge of the proposed project affirming that the small wireless facility will be compliant with all FCC and other governmental regulations in connection with human exposure to radio frequency emissions for every frequency at which the small wireless facility will operate. If facilities that generate RF radiation necessary to the small wireless facility are to be provided by a third party, then the small wireless permit shall be

conditioned on an RF certification showing the cumulative impact of the RF emissions from the entire installation. The applicant may provide one emissions report for the entire batch of small wireless facility applications if the applicant is using the same small wireless facility configuration for all installations within that batch or may submit one emissions report for each subgroup installation identified in the batch.

E. The applicant shall provide proof of FCC or other regulatory approvals required to provide the service(s) or utilize the technologies sought to be installed.

F. A professional engineer licensed by the State of Washington shall certify in writing, over his or her seal, that construction plans of the small wireless facilities and structure or pole and foundation are designed to reasonably withstand wind and seismic loads as required by applicable codes.

G. A right-of-way use permit application as required by POMC Section 12.04.030.

H. Proof of a valid City of Port Orchard business license.

I. Recognizing that small wireless facility technology is rapidly evolving, the Director is authorized to adopt and publish standards for the structural safety of City-owned poles and structures, and to formulate and publish application questions for use when an applicant seeks to attach to City-owned poles and structures.

J. Such other information as the Director, in his/her reasonable discretion, shall deem appropriate to effectively evaluate the application based on technical, engineering and aesthetic considerations.

20.29.070 Small Wireless Facility Review Criteria and Process

A. The following provisions relate to the review of applications for a small wireless facility permit:

1. In any zone, upon application for a small wireless permit, the City will permit small wireless facilities only when the application meets the criteria of Chapter 20.29 POMC.
2. Vertical clearance shall be reviewed by the Director to ensure the small wireless facilities will not pose a hazard to other users of the rights-of-way.
3. Replacement poles, new poles, and ground-mounted equipment shall only be permitted pursuant to the applicable standards in POMC Section 20.29.100.
4. No equipment shall be operated so as to produce noise in violation of POMC 9.24.050 or Chapter 173-60 WAC.
5. Small wireless facilities may not encroach onto or over private property or property outside of the right-of-way without the property owner's express written consent pursuant to POMC Section 20.29.100.A.1.

B. **Decision.** All small wireless facility applications shall be reviewed and approved or denied by the Director. The Director's decision shall be final and is not subject to appeal under City code or further review by the City.

C. **Eligible Facilities Requests.** Small wireless facilities may be expanded pursuant to an eligible facility request so long as the expansion:

1. does not defeat the specifically designated stealth techniques; and
2. incorporates the aesthetic elements required as conditions of approval set forth in the original small wireless facility approval in a manner consistent with the rights granted

an eligible facility; and

3. does not exceed the conditions of a small wireless facility as defined by 47 CFR 1.6002(l).

D. Public Notice. The City shall provide notice of a complete application for a small wireless permit on the City's website with a link to the application. Prior to construction, the applicant shall provide notice of construction to all impacted property owners within 100 feet of any proposed small wireless facility via a doorhanger that shall include an email contact and telephone number for the applicant. Notice is for the public's information and is not a part of a hearing or part of the land use appeal process.

E. Withdrawal. Any applicant may withdraw an application submitted at any time, provided the withdrawal is in writing and signed by all persons who signed the original application or their successors in interest. When a withdrawal is received, the application shall be deemed null and void. If such withdrawal occurs prior to the Director's decision, then reimbursement of fees submitted in association with said application shall be reduced to withhold the amount of actual and objectively reasonable City costs incurred in processing the application prior to time of withdrawal. If such withdrawal is not accomplished prior to the Director's decision, there shall be no refund of all or any portion of such fee.

F. Supplemental Information. Failure of an applicant to provide supplemental information as requested by the Director within 60 days of notice by the Director shall be grounds for denial of that application unless an extension period has been approved by the Director. If no extension period has been approved by the Director, the Director shall notify the applicant in writing that the application is denied.

G. Consolidated Permit. The issuance of a small wireless permit grants authority to construct small wireless facilities in the rights-of-way in a consolidated manner to allow the applicant, in most situations, to avoid the need to seek duplicative approval by both the Public Works and the Community Development departments. As an exercise of police powers pursuant to RCW 35.99.040(2), the small wireless facility permit is not a right-of-way use permit, but instead a consolidated public works and land use permit and the issuance of a small wireless facility permit shall be governed by the time limits established by federal law for small wireless facilities. The general standards applicable to the use of the rights-of-way described in Chapter 12.04 POMC shall apply to all small wireless facility permits.

20.29.080 Small Wireless Facility Permit Requirements

A. Permit Compliance. The permittee shall comply with all of the requirements within the small wireless facility permit.

B. Post-Construction As-Builts. Upon request, the permittee shall provide the City with as-builts of the small wireless facilities within 30 days after construction of the small wireless facility, demonstrating compliance with the permit, visual renderings submitted with the permit application and any site photographs taken.

C. Construction Time Limit. Construction of the small wireless facility must be completed within 12 months after the approval date by the City. The permittee may request one extension of no more than six months, if the permittee provides an explanation as to why the small wireless facility cannot be constructed within the original 12-month period.

D. Site Safety and Maintenance. The permittee must maintain the small wireless facilities in safe and working condition. The permittee shall be responsible for the removal of any graffiti or other vandalism of the small wireless facility and shall keep the site neat and orderly, including but not limited to following any maintenance or modifications on the site.

E. Operational Activity. The permittee shall commence operation of the small wireless facility no later than six months after installation. The permittee may request one extension for an additional six-month period if the permittee can show that such operational activity is delayed due to inability to connect to electrical or backhaul facilities.

20.29.090 Small Wireless Facility Modification

A. If a permittee desires to modify their small wireless facilities, including but not limited to expanding or changing the antenna type, increasing the equipment enclosure, placing additional pole-mounted or ground-mounted equipment, or modifying the stealth techniques, then the permittee shall apply for a new small wireless permit.

B. A small wireless permit shall not be required for routine maintenance and repair of a small wireless facility within the rights-of-way, or the replacement of an antenna or equipment of similar size, weight, and height; provided, that such replacement does not defeat the stealth techniques used in the original small wireless facility and does not impact the structural integrity of the pole. Further, a small wireless permit shall not be required for replacing equipment within the equipment enclosure or reconfiguration of fiber or power to the small wireless facilities. An annual blanket right-of-way permit will be required for such routine maintenance, repair, or replacement and can cover all facilities owned by the applicant.

C. Even if a modification is exempt under this Section, any work on a small wireless facility in or near the right of way which will impact traffic will require an approved traffic management plan prior to commencing work.

20.29.100 Small Wireless Facility Aesthetic, Concealment, and Design Standards

A. All small wireless facilities shall conform with the following general aesthetic, concealment, and design standards, as applicable:

1. Except for locations in the right-of-way, small wireless facilities are prohibited on any property containing a residential use in a residential zone; provided that where small wireless facilities are intended to be located more than 400 feet from a right-of-way and within an access easement over residential property, the location may be allowed if:

a. the applicant affirms they have received an access easement from the property owner to locate the facility in the desired location; and

b. the property owner where the facility will be installed has authority to grant such permission to locate the facility and related equipment at the designated location pursuant to the terms of the access easement; and

c. the installation is allowed by, and consistent with, the access easement; and

d. such installation will not frustrate the purpose of the easement or create any access or safety issue; and

e. the location is in compliance with all land use regulations such as, but not

limited to, setback requirements.

2. In the event power is later undergrounded in an area where small wireless facilities are located above ground on utility poles, the small wireless facilities shall be removed and may be replaced with a facility meeting the design standards for new poles in POMC Section 20.29.100.E.

3. Ground-mounted equipment in the rights-of-way is prohibited, unless such facilities are placed underground, or the applicant can demonstrate that pole-mounted or undergrounded equipment is technically infeasible. If ground-mounted equipment is necessary, then the applicant shall submit a stealth technique plan substantially conforming to the applicable standards in POMC Section 20.29.100.E.3 and comply with the Americans with Disabilities Act (“ADA”), City construction standards, and state and federal regulations in order to provide a clear and safe passage within the public rights-of-way. Generators located in the rights-of-way are prohibited.

4. No signage, message, or identification other than the manufacturer’s identification or identification required by governing law is allowed to be portrayed on any antenna or equipment enclosure. Any permitted signage shall be located on the equipment enclosures and be of the minimum amount possible to achieve the intended purpose (no larger than four by six inches); provided, that signs may be permitted as stealth technique where appropriate and safety signage as required by applicable laws, regulations, and standards is permitted.

5. Antennas and related equipment shall not be illuminated except for security reasons, required by a federal or state authority, or unless approved as part of the stealth techniques requirements pursuant to POMC Section 20.29.100.E.3.

6. The design standards in this chapter are intended to be used solely for the purpose of concealment and siting. Nothing contained in this chapter shall be interpreted or applied in a manner which dictates the use of a particular technology. When strict application of these requirements would render the small wireless facility technically infeasible or otherwise have the effect of prohibiting wireless service, alternative forms of aesthetic design or concealment may be permitted which provide similar or greater protections from negative visual impacts to the streetscape.

B. General Pole Standards. In addition to complying with the applicable general standards in POMC Section 20.29.100.A, all small wireless facilities on any type of utility pole shall conform to the following general pole design requirements as well as the applicable pole specific standards:

1. The preferred location of a small wireless facility on a pole is the location with the least visible impact.

2. The City may consider the cumulative visual effects of small wireless facilities mounted on poles within the rights-of-way when assessing proposed siting locations so as to not adversely affect the visual character of the City. This provision shall neither be applied to limit the number of permits issued when no alternative sites are reasonably available nor to impose a technological requirement on the applicant.

3. Small wireless facilities are not permitted on traffic signal poles unless denial of the siting could be a prohibition or effective prohibition of the applicant’s ability to provide

telecommunications service in violation of 47 USC 253 and 332.

4. Replacement poles and new poles shall comply with the Americans with Disabilities Act, City construction and sidewalk clearance standards, City development standards, City ordinances, and state and federal laws and regulations in order to provide a clear and safe passage within the rights-of-way. Further, the location of any replacement or new pole must: be physically possible, comply with applicable traffic warrants, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect the public welfare, health, or safety.

5. Replacement poles shall be located as near as possible to the existing pole, but in no event further than five feet from the existing pole, and the existing pole shall be removed.

6. Side arm mounts for antennas or equipment must be the minimum extension necessary, and for wooden poles may be no more than 12 inches off the pole, and for non-wooden poles no more than six inches off the pole.

7. The use of the pole for the siting of a small wireless facility shall be considered secondary to the primary function of the pole. If the primary function of a pole serving as the host site for a small wireless facility becomes unnecessary, the pole shall not be retained for the sole purpose of accommodating the small wireless facility and the small wireless facility and all associated equipment shall be removed.

C. Non-wooden Pole Design Standards. In addition to complying with the applicable general standards in POMC Section 20.29.100.A and POMC Section 20.29.100.B, small wireless facilities attached to existing or replacement non-wooden poles inside or outside the right-of-way shall conform to the following design criteria:

1. Upon adoption of a City standard small wireless facility pole design(s) within the City's Infrastructure Design and Construction Standards, an applicant shall first consider using or modifying the standard pole design to accommodate its small wireless facility without substantially changing the outward visual and aesthetic character of the design. The applicant, upon a showing that use or modification of the standard pole design is either technically or physically infeasible, or that the modified pole design will not comply with the City's ADA or sidewalk clearance requirements and/or would violate electrical or other safety standards, may deviate from the adopted standard pole design and use the design standards as described in this POMC Section 20.29.100.C., subsections 2 through 8. In addition, if the City has not yet adopted such Infrastructure Design and Construction Standards, then subsection 2 through 8 will apply.

2. Antennas and the associated equipment enclosures (including disconnect switches and other appurtenant devices) shall be fully concealed within the pole, unless such concealment is technically infeasible, or is incompatible with the pole design, then the antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the pole or flush-mounted to the pole, meaning no more than six inches off of the pole, and must be the minimum size necessary for the intended purpose, not to exceed the volumetric dimensions of small wireless facilities. If the equipment enclosure is permitted on the exterior of the pole, the applicant is required to place the equipment enclosure behind any banners or road signs that may be on the pole; provided, that such location does not interfere with the operation of the banners or signs, or the small wireless facility.

For purposes of this section, “incompatible with the pole design” may include a demonstration by the applicant that the visual impact to the pole or the streetscape would be reduced by placing the antennas and equipment exterior to the pole.

3. The farthest point of any antenna or equipment enclosure may not extend more than 28 inches from the face of the pole.

4. All conduit, cables, wires, and fiber must be routed internally in the pole. Full concealment of all conduit, cables, wires, and fiber is required within mounting brackets, shrouds, canisters, or sleeves if attaching to exterior antennas or equipment.

5. An antenna on top of an existing pole may not extend more than 6 feet above the height of the existing pole and the diameter may not exceed 16 inches, measured at the top of the pole, unless the applicant can demonstrate that more space is needed. The antennas shall be integrated into the pole design so that they appear as a continuation of the original pole, including colored or painted to match the pole, and shall be shrouded or screened to blend with the pole except for canister antennas, which shall not require screening. To the extent technically feasible, all cabling and mounting hardware/brackets from the bottom of the antenna to the top of the pole shall be fully concealed and integrated with the pole.

6. Any replacement pole shall substantially conform to the design of the pole it is replacing (including but not limited to color, shape and style) or the neighboring pole design standards utilized within the contiguous right-of-way.

7. The height of any replacement pole and antenna(s) may not extend more than 10 feet above the height of the existing pole or the minimum additional height necessary; provided, that the height of the replacement pole cannot be extended further by additional antenna height.

8. The diameter of a replacement pole shall comply with the City’s setback and sidewalk clearance requirements and shall, to the extent technically feasible, not be more than a 25 percent increase of the existing pole measured at the base of the pole, unless additional diameter is needed in order to conceal equipment within the base of the pole.

D. Wooden Pole Design Standards. In addition to complying with the applicable general standards in POMC Section 20.29.100.A and POMC Section 20.29.100.B, small wireless facilities attached to existing or replacement wooden utility poles and other wooden poles inside or outside the right-of-way shall conform to the following design criteria:

1. The wooden pole at the proposed location may be replaced with a taller pole for the purpose of accommodating a small wireless facility; provided, that the replacement pole shall not exceed a height that is a maximum of 10 feet taller than the existing pole, unless a further height increase is required and confirmed in writing by the pole owner and that such height extension is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wireline facilities.

2. A pole extender may be used instead of replacing an existing pole, but may not increase the height of the existing pole by more than 10 feet, unless a further height increase is required and confirmed in writing by the pole owner and that such height increase is the minimum extension possible to provide sufficient separation and/or clearance from electrical and wireline facilities.

A “pole extender” as used herein is an object affixed between the pole and the antenna for the purpose of increasing the height of the antenna above the pole. The pole extender shall be painted to approximately match the color of the pole and shall substantially match the diameter of the pole measured at the top of the pole.

3. Replacement wooden poles must either match the approximate color and materials of the replaced pole or shall be the standard new wooden pole used by the pole owner in the City.

4. The diameter of a replacement pole shall comply with the City’s setback and sidewalk clearance requirements and shall not be more than a 25 percent increase of the existing utility pole measured at the base of the pole or the otherwise standard size used by the pole owner.

5. All cables and wires shall be routed through conduits along the outside of the pole. The outside conduit shall be colored or painted to match the pole. The number of conduits shall be minimized to the number technically necessary to accommodate the small wireless facility.

6. Antennas, equipment enclosures, and all ancillary equipment, boxes and conduit shall be colored or painted to match the approximate color of the surface of the wooden pole on which they are attached.

7. Antennas shall not be mounted more than 12 inches from the surface of the wooden pole.

8. Antennas should be placed in an effort to minimize visual clutter and obtrusiveness. Multiple antennas are permitted on a wooden pole; provided, that each antenna shall not be more than three cubic feet in volume.

9. A canister antenna may be mounted on top of an existing or replacement wooden pole, which may not exceed the height requirements described in POMC Section 20.29.100.D.1. A canister antenna mounted on the top of a wooden pole shall not exceed 16 inches in diameter, measured at the top of the pole and, to the extent technically feasible, shall be colored or painted to match the pole. The canister antenna must be placed to look as if it is an extension of the pole. In the alternative, the applicant may install a side-mounted canister antenna, so long as the inside edge of the antenna is no more than 12 inches from the surface of the wooden pole. All cables shall be concealed either within the canister antenna or within a sleeve between the antenna and the wooden pole.

10. The farthest point of any antenna or equipment enclosure may not extend more than 28 inches from the face of the pole.

11. An omnidirectional antenna may be mounted on the top of an existing wooden pole, provided such antenna is no more than four feet in height and is mounted directly on the top of a pole or attached to a sleeve made to look like the exterior of the pole as close to the top of the pole as technically feasible. All cables shall be concealed within the sleeve between the bottom of the antenna and the mounting bracket.

12. All related antenna equipment, including but not limited to ancillary equipment, radios, cables, associated shrouding, microwaves, and conduit which are mounted on wooden poles, shall not be mounted more than six inches from the

surface of the pole, unless a further distance is technically required and is confirmed in writing by the pole owner.

13. Equipment for small wireless facilities must be attached to the wooden pole, unless otherwise permitted to be ground mounted pursuant to POMC Section 20.29.100.A.3. The equipment must be placed in the smallest enclosure possible for the intended purpose. The equipment enclosure and all other wireless equipment associated with the utility pole, including wireless equipment associated with the antenna, and any preexisting associated equipment on the pole, may not exceed 28 cubic feet. Multiple equipment enclosures may be acceptable if designed to more closely integrate with the pole design and do not cumulatively exceed 28 cubic feet. The applicant is encouraged to place the equipment enclosure(s) behind any banners or road signs that may be on the pole; provided, that such location does not interfere with the operation of the banners or signs, or the small wireless facility.

14. An applicant who desires to enclose both its antennas and equipment within one unified enclosure may do so; provided, that such enclosure is the minimum size necessary for its intended purpose and the enclosure and all other wireless equipment associated with the pole, including wireless equipment associated with the antenna and any preexisting associated equipment on the pole, do not exceed 28 cubic feet. The unified enclosure may not be placed more than six inches from the surface of the pole, unless a further distance is required and confirmed in writing by the pole owner. To the extent possible, the unified enclosure shall be placed so as to appear as an integrated part of the pole or behind banners or signs; provided, that such location does not interfere with the operation of the banners or signs.

E. Standards for small wireless facilities on new poles in the rights-of-way. In addition to complying with the applicable general standards in POMC Section 20.29.100.A and POMC Section 20.29.100.B, small wireless facilities proposed to be attached to new poles shall comply with the following:

1. New poles within the rights-of-way are only permitted if the applicant can establish that:

a. The proposed small wireless facility cannot be located on an existing utility pole, electrical transmission tower, or on a site outside of the public rights-of-way such as a public park, public property, building, transmission tower or in or on a nonresidential use in a residential zone, whether by roof or panel mount or separate structure; and

b. The proposed small wireless facility receives approval for a stealth technique design, as described in POMC Section 20.29.100.E.3; and

c. The proposed small wireless facility also complies with the Shoreline Management Act, Growth Management Act, and State Environmental Policy Act, if applicable; and

d. No new poles shall be located in a critical area or associated buffer required by the City's Critical Areas ordinance, Chapter 20.162 POMC, except when determined to be exempt pursuant to said ordinance.

2. An application for a new pole is subject to administrative review by the Director.
3. All new poles shall conform to the City's standard pole design adopted in the City's Infrastructure Design and Construction Standards. If no existing metered service is available, the applicant shall provide new metered electrical service. If the City's standard pole design is technically infeasible, or such standards have not yet been adopted by the City, then the new pole shall meet the following:
 - a. The stealth technique design shall include the design of the screening, fencing, or other concealment technology for the pole, equipment enclosure, and all related transmission equipment or facilities associated with the proposed small wireless facility, including but not limited to fiber and power connections.
 - b. The stealth technique design should seek to minimize the visual obtrusiveness of the small wireless facility. The proposed pole or structure should have similar designs to existing neighboring poles in the rights-of-way, including similar height to the extent technically feasible. If the proposed small wireless facility is placed on a replacement pole in an area with design standards, then the replacement pole shall be of the same general design as the pole it is replacing, unless the Director otherwise approves a variation due to aesthetic or safety concerns. Any stealth technique design for a small wireless facility on a decorative pole should attempt to mimic the design of such pole and integrate the small wireless facility into the design of the decorative pole. Other stealth technique methods include, but are not limited to, integrating the installation with architectural features or building design components; utilization of coverings or concealment devices of similar material, color, and texture—or the appearance thereof—as the surface against which the installation will be seen or on which it will be installed; landscape design; or other camouflage strategies appropriate for the type of installation. Applicants are required to utilize designs in which all conduit and wires are installed internally within the structure. Further, applicant designs should, to the extent technically feasible, comply with the generally applicable design standards adopted pursuant to POMC Section 20.29.100.A and POMC Section 23.100.B.
 - c. If the Director has already approved a stealth technique design either for the applicant or another small wireless facility along the same public right-of-way or for the same pole type, then the applicant shall utilize a substantially similar stealth technique design, unless it can show that such stealth technique design is not technically feasible, or that such design would undermine the generally applicable design standards adopted pursuant to POMC Section 20.29.100.A and POMC Section 23.100.B.
 - d. Even if an alternative location is established pursuant to POMC Section 20.29.100.E.1.a, the Director may determine that a new pole in the right-of-way is in fact a superior alternative based on the impact to the City, the stealth technique design, the City's Comprehensive Plan and the added benefits to the community.
 - e. Prior to the issuance of a permit to construct a new pole or ground-mounted equipment in the right-of-way, the applicant must obtain a master lease agreement from the City to locate such new pole or ground-mounted equipment. This

requirement also applies to replacement poles that are taller than the replaced pole, when the overall height of the replacement pole and the proposed small wireless facility is more than 60 feet.

F. Standards for small wireless facilities attached to cables. In addition to complying with the applicable general standards in POMC Section 20.29.100.A, all small wireless facilities mounted on existing cables strung between existing utility poles shall conform to the following standards:

1. Each strand-mounted facility shall not exceed three cubic feet in volume;
2. Only one strand-mounted facility is permitted per cable between any two existing poles on an existing cable;
3. The strand-mounted devices shall be placed as close as feasible to the nearest utility pole, in no event more than five feet from the pole unless that location is technically infeasible or is not allowed by the pole owner for safety clearance;
4. No strand-mounted device shall be located in or above the portion of the roadway open to vehicular traffic;
5. Ground-mounted equipment to accommodate a shared mounted facility is not permitted except when placed in preexisting equipment cabinets or required by a third party electrical service provider; and
6. Pole-mounted equipment shall comply with the requirements of POMC Section 20.29.100.A and POMC Section 20.29.100.B.
7. Such strand-mounted devices must be installed to cause the least visual impact and without excess exterior cabling or wires (other than the original strand).

G. Standards for small wireless facilities attached to existing buildings. In addition to complying with the applicable general standards in POMC Section 20.29.100.A, all small wireless facilities attached to existing buildings shall conform to the following design criteria:

1. Small wireless facilities may be mounted to the sides of a building if the antennas do not interrupt the building's architectural theme.
2. The interruption of architectural lines or horizontal or vertical reveals is discouraged.
3. New architectural features such as columns, pilasters, corbels, or other ornamentation that conceal antennas may be used if it complements the architecture of the existing building.
4. Small wireless facilities shall utilize the smallest mounting brackets necessary in order to provide the smallest offset from the building.
5. Skirts or shrouds shall be utilized on the sides and bottoms of antennas in order to conceal mounting hardware, create a cleaner appearance, and minimize the visual impact of the antennas. Exposed cabling/wiring is prohibited.
6. To the extent technically feasible, small wireless facilities shall be painted and textured to match the adjacent building surfaces.

20.29.110 Removal of Abandoned Small Wireless Facility

Any small wireless facility that, after the initial operation of the facility, is not used for the purpose for which it was intended at the time of filing of the application for a continuous period of 12 months shall be considered abandoned, and the owner of such facility shall remove same within 90 days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove such abandoned facility shall result in the City declaring the facility a public nuisance. If there are two or more users of a single pole or structure, then this section shall not become effective as to require removal of the pole/structure/tower itself until all users cease using the pole/structure/tower.

20.29.120 Revocation of Permit

A permit issued under this chapter may be revoked, suspended or denied for any one or more of the following reasons:

1. Failure to comply with any federal, state, or local laws or regulations.
2. Failure to comply with the terms and conditions imposed by the City on the issuance of a permit.
3. When the permit was procured by fraud, false representation, or omission of material facts.
4. Failure to comply with federal standards for RF emissions.

2022 Comprehensive Plan Update – Preliminary Docket

Pursuant to Port Orchard Municipal Code Section (POMC) 20.04.050, the City's Community Development Director has initiated the process for the 2022 annual amendments to the Port Orchard Comprehensive Plan. The City prepared applications for three text amendments prior to the January 31, 2022 deadline.

In compliance with POMC 20.04.060(3), the Director is required to compile and maintain for public review a recommended final comprehensive plan amendment agenda (docket). The Director has based the docket recommendations on a preliminary evaluation of the need, urgency, and appropriateness of the suggested comprehensive plan amendments, as well as the staff and budget availability to accommodate the public review process.

The following preliminary docket is provided for the 2022 update to the Port Orchard Comprehensive Plan:

Comprehensive Plan Amendments for Consideration in 2022:

City-Initiated Text Amendment Package

- Capital Facilities Element. Adopt the 2020 Amendment to the Water System Plan.
- Parks Element. Update the Parks Element and adopt the Parks, Recreation and Open Space Plan by reference.
- Transportation Improvement Program (TIP). Updates to the 6-year and 20-year TIP which generally includes prioritizing projects, adjusting budgets and the inclusion of a TIB-funded complete street grant project into the 6-year TIP

Review Process:

The final comprehensive plan amendment agenda shall be determined by the City Council no later than April 30, 2022. When the final agenda is approved, a public notice and comment period will be provided in compliance with the Type V (legislative) permit process requirements in POMC 20.22.070 and 20.25.040. A public hearing will also be held per POMC 20.22.070(2), and a notice of the hearing will be issued in compliance with POMC 20.25.050. The Planning Commission shall make its recommendations regarding the proposed comprehensive plan amendments to the City Council no later than June 30, 2022. The City Council shall make a final decision on each proposed amendment by December 15, 2022.

A summary of each amendment application, including maps for the site-specific amendments, are available for review on the City's website at: <https://www.cityofportorchard.us/2022-comprehensive-plan-amendment/>

Comments regarding the 2022 update to the City's Comprehensive Plan should be mailed to the City of Port Orchard, Community Development Department, 720 Prospect Street, Port Orchard, WA 98366, planning@cityofportorchard.us. For more information, email or call 360 874-5533.