



**PLANNING COMMISSION SPECIAL MEETING  
THURSDAY, JUNE 25, 2020**

THE PLANNING COMMISSION WILL HOLD THIS MEETING USING A VIRTUAL, ZOOM WEBINAR PLATFORM, PER GOVERNOR INSLEE'S "STAY HOME, STAY HEALTHY" ORDERS. MEMBERS OF THE PUBLIC WHO DO NOT WISH TO VIEW THE MEETING VIA THE BKAT BROADCAST OR THE CITY'S WEBSITE STREAMING WILL BE ABLE TO CALL IN TO THE ZOOM MEETING.

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**AGENDA**

1. **CALL TO ORDER/ROLL CALL - 5:00 PM**
2. **RECOGNITION OF COMMISSIONER PEARL'S NINE YEARS OF SERVICE TO THE PLANNING COMMISSION - 5:05 PM**
3. **PUBLIC COMMENT - 5:15 PM**  
Public comment on off-agenda items.
4. **PLANNING COMMISSION MEETING MINUTES - 5:25 PM**
  - 4.a **June 11, 2020 Meeting Minutes** 5 Minutes  
[Planning Commission Minutes DRAFT 061120.pdf](#)
5. **UNFINISHED BUSINESS - 5:30 PM**

- 5.a **5:30 PM - Ordinance No. 2020-04, Adopting Small Wireless Facility Design Standards** 30 Minutes  
Ordinance No. 2020-04, Adopting Small Wireless Facility Design Standards - 6-11-20 - Clean Copy  
Commissioner McCormick Osmond's Discussion Points from June 11, 2020  
Draft Small Wireless Code Revisions Memo from Daniel Kenny 061920.pdf

6. **NEW BUSINESS - 6:00 PM**

- 6.a **Recap of City Council/Planning Commission joint session on June 22, 2020**

**.UNFINISHED BUSINESS CONTINUED - 6:30 PM**

**6:30 PM - Ordinance 2020-16 Amending Bonus Floor Area Ratio (FAR) Options, BIMC 18.12.030.E.**  
60 Minutes  
06112020 Planning Commission Recommendations on Bonus FAR.pdf  
Ordinance\_No.\_2020-16\_Revising\_Bonus\_FAR\_program.docx  
MUTC Zoning Districts Map.pdf  
BIMC\_Table\_18.12.020-3.pdf

7. **PLANNING DIRECTOR'S REPORT - 7:15 PM**

8. **ADJOURNMENT- 7:25 PM**

## **GUIDING PRINCIPLES**

**Guiding Principle #1** - Preserve the special character of the Island, which includes downtown Winslow's small town atmosphere and function, historic buildings, extensive forested areas, meadows, farms, marine views and access, and scenic and winding roads supporting all forms of transportation.

**Guiding Principle #2** - Manage the water resources of the Island to protect, restore and maintain their ecological and hydrological functions and to ensure clean and sufficient groundwater for future generations.

**Guiding Principle #3** - Foster diversity with a holistic approach to meeting the needs of the Island and the human needs of its residents consistent with the stewardship of our finite environmental resources.

**Guiding Principle #4** - Consider the costs and benefits to Island residents and property owners in making land use decisions.

**Guiding Principle #5** - The use of land on the Island should be based on the principle that the Island's environmental resources are finite and must be maintained at a sustainable level.

**Guiding Principle #6** - Nurture Bainbridge Island as a sustainable community by meeting the needs of the present without compromising the ability of future generations to meet their own needs.

**Guiding Principle #7** - Reduce greenhouse gas emissions and increase the Island's climate resilience.

**Guiding Principle #8** - Support the Island's Guiding Principles and Policies through the City's organizational and operating budget decisions.



Planning Commission meetings are wheelchair accessible. Assisted listening devices are available in Council Chambers. If you require additional ADA accommodations, please contact the Planning & Community Development Department at (206) 780-3750 or [pcd@bainbridgewa.gov](mailto:pcd@bainbridgewa.gov) by noon on the day preceding the meeting.

Public comment may be limited to allow time for the Commissioners to deliberate. To provide additional public comment, email your comment to [pcd@bainbridgewa.gov](mailto:pcd@bainbridgewa.gov) or mail it to Planning and Community Development, 280 Madison Avenue North, Bainbridge Island, WA 98110.



CITY OF  
BAINBRIDGE ISLAND

## Planning Commission Special Meeting Agenda Bill

**MEETING DATE:** June 25, 2020

**ESTIMATED TIME:** 5 Minutes

**AGENDA ITEM:** June 11, 2020 Meeting Minutes

**AGENDA CATEGORY:** Minutes

**PROPOSED BY:** Jane Rasely

**PREVIOUS PLANNING COMMISSION  
REVIEW DATE(S):**

**PREVIOUS COUCIL REVIEW DATE(S):**

**RECOMMENDED MOTION:**  
Review and approve.

**SUMMARY:**

**BACKGROUND:**

**ATTACHMENTS:**



## **Planning Commission Special Meeting June 11, 2020**

### **Meeting Minutes**

#### **1) CALL TO ORDER/AGENDA REVIEW/CONFLICT DISCLOSURE**

#### **2) PLANNING COMMISSION MEETING MINUTES**

2.a May 28, 2020

[Cover Page](#)

[Planning Commission Minutes DRAFT 052820.pdf](#)

**Motion: I move we approve the minutes for the Special meeting of the Planning Commission on May 28, 2020 as distributed in the agenda packet.**

**Quitslund/Paar: Passed Unanimously**

#### **3) PUBLIC COMMENT**

3.a DRB Liaison Update

[Cover Page](#)

None. DRB Chair Joe Dunstan

#### **4) UNFINISHED BUSINESS**

4.a [Police & Court Facility Major Adjustment to Site Plan Review and Conditional Use Permit \(PLN51524 SPRA CUPA\)](#)

[Cover Page](#)

[PLN51524 SPRA CUPA Revised Staff Report to Planning Commission.pdf](#)

[1. PLN51524 SPRA CUPA Site Plan.pdf](#)

[2. PLN51524 SPRA CUPA Floor Plans.pdf](#)

[3. PLN51524 SPRA CUPA Renderings and Sketches.pdf](#)

[4. PLN51524 SPRA CUPA Planting Plan.pdf](#)

[5. PLN51524 SPRA CUPA Parking Space Needs Validation.pdf](#)

[6. PLN51524 SPRA CUPA Trip Generation Analysis from Transpo Group.pdf](#)

[7. PLN51524 SPRA CUPA Traffic Impact Assessment Memo from Project Manager.pdf](#)

[8. PLN51524 SPRA CUPA SEPA Checklist.pdf](#)

[9. PLN51524 SPRA CUPA Issued MDNS and Adoption of Existing Document.pdf](#)

[10. PLN51524 SPRA CUPA Design Review Board Review and Recommendation Agenda and Notes dtd 12.02.2019.pdf](#)

[11. PLN51524 SPRA CUPA Design Review Board Transcript from 6.3.2019 Meeting.pdf](#)

[12. Planning Commission Preliminary Recommendation for Police & Court Facility Major Adjustment to Site Plan Review and Conditional Use Permit February 13, 2020.pdf](#)

- 13. [PLN51524 SPRA CUPA Design Review Board Final Design Review Worksheet.pdf](#)
- 14. [PLN51524 SPRA CUPA Critical Area Report from Wetland Resources Environmental Consulting.pdf](#)
- 15. [PLN51524 SPRA CUPA Supplemental Site Plan with Critical Areas.pdf](#)

Associate Planner Ellen Fairleigh provided a brief update on the previous review accomplished by the Planning Commission. See attached Recorded Motion for recommendation.

#### 4.b [Ordinance No. 2020-04, Adopting Small Wireless Facility Design Standards](#) [Cover Page](#)

[Memo - Changes to Ordinance No 2020-04 Since May 28, 2020 PCM](#)

[Ordinance No. 2020-04, Adopting Small Wireless Facility Design Standards - 6-11-20 - Track Changes](#)

[Commissioner Osmond - Discussion Points from 5-28-2020 PCM](#)

[Ordinance No. 2020-04, Adopting Small Wireless Facility Design Standards - 6-11-20 - Clean Copy](#)

[Small Wireless Facilities - Sample Photos of Actual Deployments](#)

Deputy City Attorney Robbie Sepler provided a brief overview of the actions taken since the May 28, 2020 Planning Commission meeting. The Commissioners asked to have the excerpts of Kitsap County Code from Commissioner McCormick Osmond's memo incorporated into the ordinance for the small wireless facility design standards.

#### 4.c [Bonus Floor Area Ratio \(FAR\) Options, BIMC 18.12.030.E.](#)

[Cover Page](#)

[BIMC\\_1812.030\\_FAR\\_BONUS\\_OPTIONS.pdf](#)

[RES\\_2003-](#)

[25\\_FULL\\_CITY\\_COUNCIL\\_FOR\\_DECISION\\_MAKING\\_RE\\_FLOOR\\_AREA\\_RATIO\\_BONUS ES.pdf](#)

[RES\\_2001-](#)

[54\\_DISTRIBUTION\\_OF\\_FUNDS\\_FROM\\_PURCHASE\\_OF\\_FLOOR\\_AREA\\_RATIO\\_BONUS S.pdf](#)

[MUTC Zoning Districts Map.pdf](#)

[Planning Commission Minutes and Addendum DRAFT 031220.pdf](#)

[20200424\\_CC\\_Staff\\_Memo \(10\).docx](#)

[FAR\\_USAGE\\_BY\\_PROJECT.pdf](#)

[FAR Usage Winslow Hotel](#)

[Quitslund request for Info in the PC Packet FAR Discussion 5.12.2020.docx](#)

[P C Subcommittee Recommendations on FAR Policies, 4.27.2020.docx](#)

[Comp\\_Plan\\_Goals\\_\\_\\_Policies\\_Related\\_to\\_FAR.pdf](#)

[Chapter 2 WMP.pdf](#)

[Admin Manual .pdf](#)

[Ordinance\\_No.\\_2020-10\\_Adopting\\_Interim\\_Zoning\\_Control\\_Related\\_to\\_Bonus\\_Density](#)

[BIMC Table 18.12.020-3.docx](#)

[Subcommittee Recommendation - Changes to Base & Bonus FAR policies, 5.22.2020.docx](#)

[Subcommittee Recommendations on FAR 6.5.2020.pdf](#)

Commissioner Quitslund presented the Sub-Committee's recommendations to the Planning Commission.

**Motion: I move to adopt the recommendations from the Subcommittee (Chester/Paar/Quitslund) for discussion at the Planning Commission's meeting on June the 11th, 2020 as recommendations from the Planning Commission regarding FAR Bonus Density to be submitted to the City Council.**

Amendment to Motion: First, I would like to change the name of the Subcommittee Report to Planning Commission Recommendations on FAR Bonus Density Provisions in the Bainbridge Island Municipal Code. Second, I'd like to add the following opening sentence: In response to the City Council's request for Planning Commission evaluation of existing FAR bonus density provisions in the Bainbridge Island Municipal Code, the Planning Commission makes the following recommendations for immediate revisions to those code provisions. The third part of my motion is in subparagraph 2.a., the sentence would be changed to read: Parking alternatives to reduce or eliminate the need for parking on the street or in a dedicated surface lot.

**McCormick Osmond/Pearl: Passed Unanimously**

**5) PLANNING DIRECTOR'S REPORT**

**6) ADJOURNMENT**

Meeting was adjourned at 7:08 PM.

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William Chester, Chair

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Jane Rasely, Administrative Specialist



## PLANNING COMMISSION RECORDED MOTION

<b>Planning Commission Meeting Date:</b>	<b>June 11, 2020</b>
<b>Project Proposal Name and Number:</b>	<b>Police &amp; Court Facility – PLN51524 SPRA CUPA</b>
<b>Documents available at:</b>	Online Permit Portal
<b>Public Hearing Date:</b>	<b>N/A</b>
<b>Decision Maker:</b>	<b>Hearing Examiner</b>

**Purpose:** The purpose of the Planning Commission's review and recommendation is to determine if a proposed project is consistent with the comprehensive plan and applicable design guidelines, BIMC Titles 17 and 18.

**Consideration:** The Planning Commission shall consider the project application at a public meeting where public comment will be taken. The Planning Commission shall recommend approval, approval with conditions, or denial of the proposed project.

The Planning Commission will adopt written findings of facts and conclusions and determine if the project is consistent with Bainbridge Island Municipal Code and the comprehensive plan. This motion will be included in the staff report transmitted to the reviewing bodies and decision maker.

### Findings of Fact and Reasons for Action

1. The project, as conditioned, is found to meet all the applicable decision criteria.
2. The project, as conditioned, is found to be compliant and consistent with the comprehensive plan.
3. The project, as conditioned, is found to meet all other applicable laws.
4. The project is either :

  X   Found to meet the recommendations by the Design Review Board; **OR**

           Recommended for deviation from the Design Review Board's recommendation for the following reasons:

- a.
- b.
- c.





## PLANNING COMMISSION RECORDED MOTION

### Recommendation:

The Planning Commission recommends the Hearing Examiner:

  X   Approve the proposal as recommended.


### Recorded motion on June 11, 2020:

I move that we approve the Bainbridge Island Police and Court Facility as proposed for approval.  
Motion/Second: Paar/Pearl


### Planning Commission Record of Vote:

Commissioner	Support	Oppose	Absent	Abstain
Chester	X			
McCormick Osmond	X			
Pearl	X			
Quitslund	X			
Macchio				X
Doman			X	
Paar	X			
<b>Total</b>	<b>5</b>		<b>1</b>	<b>1</b>

### CITY OF BAINBRIDGE ISLAND PLANNING COMMISSION

  
Chair

Date: 6/16/2020

  
Administrative Specialist Planning and Community Development

Date: 6-18-2020

## **Planning Commission Recommendations on FAR Bonus Density Provisions in the Bainbridge Island Municipal Code**

In response to the City Council's request for Planning Commission evaluation of existing FAR bonus density provisions in the Bainbridge Island Municipal Code, the Planning Commission makes the following recommendations for immediate revisions to those code provisions.

1. We recommend reducing reliance on Bonus FAR and limiting the use of this incentive to projects that will achieve specific community benefits. The amounts of Base and Bonus FAR currently allowed in the several MUTC and HSR zoning districts should be studied and revised where appropriate. A project that is well suited to its zoning overlay context, and that meets our design guidelines and standards, should be feasible within the limits set by Base FAR allowances.
2. Within limits yet to be determined, Bonus FAR should be allocated in order to achieve, within the project itself, specific community benefits that would otherwise not be feasible. Such community benefits may include:
  - a. Parking alternatives to reduce or eliminate the need for parking on the street or in a dedicated surface lot.
  - b. Housing for income-qualified tenants, combined with moderately priced market-rate housing.
  - c. Preservation of a historic structure in such a way that it becomes a functional part of the re-development.
3. Re: BIMC 18.12.030.E, most of the current provisions for Bonus Density (i.e., Bonus FAR) in this subsection should be discontinued.
4. Re: 030.E.1.a (Optional Affordable Housing FAR Bonus) and Table 18.12.030, these provisions, revised, may become part of BIMC 18.21 (Affordable Housing) when that chapter is revised; provisions in BIMC 18.12 and 18.21 will complement one another.
5. Re: 030.E.1.b (Preservation of the Islander Mobile Home Park), we recommend that any remaining units of value held by the owner(s) of the mobile home park be purchased by COBI and transferred to a "development bank" account, to be used in a T D R program.
6. Re: 030.E.2 (Purchase of Development Rights), noting that current provisions in BIMC 18.27 have seen very little use, we support instituting an effective T D R program, which may be pertinent to development in some parts of the Winslow Study Area.
7. Re: 030.E.3.a & .b (Public Amenities and/or Infrastructure), we recommend discontinuing a policy that awards Bonus FAR for meeting a requirement.
8. Re: 030.E.4 (Community Open Space in the ferry terminal district), we recommend, again, discontinuing a policy that awards Bonus FAR for meeting a requirement.
9. Re: 030.E.5 (FAR Transfers), we don't believe that any "development potential" in parcels that contain critical areas should be converted into Bonus FAR.
10. Re: 030.E.6 (Historic Structure Preservation), we recommend that when a historic structure is preserved and incorporated in redevelopment of the site, that structure's floor area shall be, in effect, Bonus FAR.
11. Re: 030.E.7 (Under-building Parking in the Ferry Terminal District), we recommend retaining this provision, subject to change in revised Bonus FAR regulations.
12. After revision, in BIMC 18.12 and its Table of FAR-Based Dimensional Standards, the allowances for Base and Bonus FAR should not be regarded as permanent, or as conferring a right to develop to the limit. They should be reviewed periodically and revised in the light of experience, as circumstances in the community and the built environment change.
13. Next steps in the implementation of these recommendations remain to be determined. Further work can be done in the Planning Commission on the basis of policy guidance from the City Council. An Ad Hoc Committee or a Task Force might be formed. A consultant might contribute expertise that is not available within our community.



## Planning Commission Special Meeting Agenda Bill

**MEETING DATE:** June 25, 2020

**ESTIMATED TIME:** 30 Minutes

**AGENDA ITEM:** 5:30 PM - Ordinance No. 2020-04, Adopting Small Wireless Facility Design Standards

**AGENDA CATEGORY:** Ordinance

**PROPOSED BY:** Robbie Sepler

### PREVIOUS PLANNING COMMISSION

**REVIEW DATE(S):** September 12, 2019, October 24, 2019, December 12, 2019, January 23, 2020, May 28, 2020, and June 11, 2020.

**PREVIOUS COUCIL REVIEW DATE(S):** May 14, 2019; June 11, 2019; August 13, 2019; October 8, 2019; October 22, 2019; April 14, 2020; and April 28, 2020.

### RECOMMENDED MOTION:

I move to request that staff schedule a public hearing on Ordinance No. 2020-04 for the next available Planning Commission Meeting.

### SUMMARY:

Continued review of proposed small wireless facility design standards to govern the deployment and modification of small wireless facilities on Bainbridge Island.

In previous Planning Commission discussions, this ordinance was numbered as "Ordinance No. 2019-38." As it is now 2020, the ordinance has been renumbered to be "Ordinance No. 2020-04."

**BACKGROUND:** Under federal law, the Federal Communications Commission ("FCC") is granted extensive powers to regulate telecommunication services in the United States. On September 5, 2018, the FCC issued an order ("FCC Order") that dramatically changed how local governments can regulate deployments of small wireless facilities ("SWFs"). Some of the order came into effect on January 14, 2019, while the rest of the order came into effect on April 14, 2019. The FCC Order imposes limitations on local municipalities, including the City of Bainbridge Island ("City"), regarding processing and review of all permits associated with the deployment of SWFs, and permanent regulations are needed to ensure that the City is in compliance with what Federal law requires.

The purpose of SWFs is to augment capacity for wireless data traffic in dense areas (primarily downtown cores and residential neighborhoods). SWFs typically consist of an antenna less than 3 cubic feet in volume, an equipment box, and

wiring or "fiber." SWFs are typically mounted on utility or light poles in the right-of-way, or on an existing building or structure located outside of the right-of-way.

On May 14, 2019, in response to the FCC Order, the City Council approved Ordinance No. 2019-15, adopting an interim official control that: created a new Chapter 18.10A, establishing interim small wireless facility design standards; amended Table 18.09.020, BIMC 18.09.030, and BIMC 18.10.010; and repealed and replaced Chapter 18.11 BIMC ("Interim SWFs Design Standards").

On June 11, 2019, the City Council held a public hearing on Ordinance No. 2019-15 to receive public comment on the Interim SWFs Design Standards adopted by Ordinance No. 2019-15.

On August 13, 2019, the City Council directed the Planning Commission to begin work on permanent regulations to replace the Interim SWFs Design Standards adopted by Ordinance No. 2019-15.

On September 12, 2019, the Planning Commission began consideration of permanent regulations to replace the Interim SWFs Design Standards adopted by Ordinance No. 2019-15.

The Interim SWFs Design Standards, adopted by Ordinance No. 2019-15, took effect on May 14, 2019, and were initially set to expire on November 14, 2019. On October 8, 2019, the Council set a public hearing on Ordinance No. 2019-31, proposing to extend the Interim SWFs Design Standards for an additional six-month period. On October 22, 2019, the Council approved Ordinance No. 2019-31, extending the Interim SWFs Design Standards for an additional six-month period, unless terminated earlier by the City Council.

On October 24, 2019, the Planning Commission discussed Ordinance No. 2019-38 and reviewed comments submitted by industry. The Commission requested the following five items from staff:

- (1) A table outlining industry comments;
- (2) Pictures of actual SWFs deployments;
- (3) Map of design zones;
- (4) An option for the placement of SWF equipment on the ground in the right-of-way; and
- (5) An option to allow SWFs on private drives/access easements, which would otherwise be prohibited as a residential use in a residential zone.

On December 12, 2019, the Planning Commission reviewed the items requested on October 24, 2019, and subsequently provided by staff for the meeting. The Planning Commission requested several changes be made to the draft ordinance.

On January 23, 2020, the Planning Commission continued its review of Ordinance No. 2020-04 and requested several minor changes to the proposed ordinance, which are summarized in the attached staff memo. The Planning Commission then indicated its desire to hold a public hearing on the proposed ordinance.

Before a public hearing could be held, the COVID-19 public health emergency began. On February 29, 2020, Governor Jay Inslee declared a state of emergency in response to the spread of COVID-19 in Washington State. On March 9, 2020, the City Manager, as the executive head of the City for purposes of emergency management, issued a Proclamation of Emergency in response to the COVID-19 public health emergency, which proclamation was affirmed by the City Council on March 10, 2020. The COVID-19 public health emergency has significantly disrupted City operations and led to the cancellation of multiple meetings of the Planning Commission.

The Interim SWFs Design Standards, as extended by Ordinance No. 2019-31, were set to expire on May 14, 2020, unless extended by Council. To preserve the City's rights under federal law, on April 14, 2020, the City Council set a public hearing on Ordinance No. 2020-11, proposing to extend the Interim SWFs Design Standards for an additional six-month period. On April 28, 2020, the Council approved Ordinance No. 2020-11, extending the Interim SWFs Design Standards for an additional six-month period to November 14, 2020, unless terminated earlier by the City Council, to provide the Planning Commission time to finalize its recommendation on Ordinance No. 2020-04 and for the City Council to review the recommendation.

Due to the delay caused by COVID-19, on May 28, 2020, the Planning Commission resumed its discussion of Ordinance No. 2020-04 in order to refamiliarize itself with the ordinance prior to the public hearing. At this meeting, the Planning Commission generally considered discussion points raised by Commissioner McCormick Osmond regarding Ordinance No. 2020-04. The Planning Commission requested an updated draft of Ordinance No. 2020-04 addressing, to the extent possible, the discussion points raised by Commissioner McCormick Osmond.

On June 11, 2020, the Planning Commission discussed an updated draft of Ordinance NO. 2020-04 and a memo summarizing the changes made to Ordinance No. 2020-04 since the May 28, 2020 meeting as well as responding to the discussion points raised by Commissioner McCormick Osmond. The Commission considered additional discussion points raised by Commissioner McCormick Osmond and requested that staff review the new discussion points with the City's consultant.

Attached are Commissioner McCormick Osmond's suggestions discussed at the June 11, 2020 meeting; the current working draft of Ordinance No. 2020-04 as discussed on June 11, 2020; and a memo from Daniel Kenny, the City's consultant, responding to Commissioner McCormick Osmond's suggestions.

Before finalizing its recommendation, the Planning Commission is required to hold a public hearing on Ordinance No. 2020-04.

#### **ATTACHMENTS:**

## **ORDINANCE NO. 2020-04**

**AN ORDINANCE** of the City of Bainbridge Island, Washington, concerning telecommunications facilities; Amending Title 18 of the Bainbridge Island Municipal Code; Adding a new Chapter 18.10A BIMC, authorizing and establishing design and concealment standards for small wireless facilities; Amending BIMC 18.10.020 and BIMC 18.36.030 regarding definitions; Revising BIMC 18.10.010 to adopt applicability section; Repealing and replacing in full Chapter 18.11 BIMC concerning eligible facilities requests; Amending Table 18.09.020, BIMC 18.09.030, BIMC 18.10.030, and BIMC 2.16.040 to correct drafting errors; Repealing interim official control established by Ordinance No. 2019-15 and extended by Ordinance No. 2019-31 and Ordinance No. 2020-11.

**WHEREAS**, the Federal Communications Commission (“FCC”) recently adopted a Declaratory Ruling, Order, and Regulation (“FCC Order”), which imposes limitations on local municipalities including the City of Bainbridge Island (“City”) regarding processing and review of all permits associated with the deployment of small wireless facilities; and

**WHEREAS**, the adoption of aesthetic standards for deployment of small wireless facilities and utilization of a concurrent process emphasizing administrative review enables compliance with the federal presumptively reasonable time limits for review; and

**WHEREAS**, the City was required to enact administrative procedures and process to comply with the new presumptive federal safe harbors on or before January 14, 2019; and

**WHEREAS**, separately, federal law and regulation sets time limits on the processing of applications for eligible facility requests to expand existing structures which do not substantially change the height or profile of the structures used to collocate wireless communications facilities, and which regulations will replace Chapter 18.11 BIMC; and

**WHEREAS**, the City Council found that the existence of the federal regulations requires the immediate enactment of administrative procedures and processes which can comply with the FCC Order; and

**WHEREAS**, the City is authorized by state law, including RCW 36.70A.390, to expeditiously adopt interim official control ordinances due to a public emergency for the protection of the public peace, safety, or health while permanent regulations are developed, vetted, and processed through the City’s standard legislative procedures; and

**WHEREAS**, the City Council found that the adoption of this interim official control ordinance allowed the City to put in place standards to come into compliance with the FCC Order, while providing a meaningful opportunity for its citizens to provide input regarding design, concealment, and other aesthetic standards within the longer timeframe permitted by use of an interim official control ordinance; and

**WHEREAS**, on May 14, 2019, in response to the FCC Order, the City Council approved Ordinance No. 2019-15, adopting an interim official control that: created a new Chapter 18.10A, establishing interim small wireless facility design standards; amended Table 18.09.020, BIMC 18.09.030, and BIMC 18.10.010; and repealed and replaced Chapter 18.11 BIMC; and

**WHEREAS**, on May 14, 2019, the City Council also enacted amendments to its existing master permit code provisions contained in Title 19 BIMC and adopted a new Chapter 19.10 BIMC in order to provide a clear permitting procedure for the deployment of small wireless facilities; and

**WHEREAS**, on June 11, 2019, the City Council held a public hearing on Ordinance No. 2019-15 to receive public comment on the interim official control; and

**WHEREAS**, on August 13, 2019, the City Council directed the Planning Commission to begin work on permanent regulations to replace the interim official control adopted by Ordinance No. 2019-15; and

**WHEREAS**, on September 12, 2019, and October 24, 2019, the Planning Commission considered permanent regulations to replace the interim official control adopted by Ordinance No. 2019-15;

**WHEREAS**, the interim official control, adopted by Ordinance No. 2019-15, took effect on May 14, 2019, and would expire on November 14, 2019, unless extended by the City Council; and

**WHEREAS**, on October 8, 2019, the City Council set a public hearing for October 22, 2019, on Ordinance No. 2019-31, extending the interim official control originally adopted by Ordinance No. 2019-15 until May 14, 2020; and

**WHEREAS**, on October 22, 2019, the City Council held a public hearing on Ordinance No. 2019-31 and adopted the ordinance following the close of the public hearing; and

**WHEREAS**, on October 24, 2019, the Planning Commission considered Ordinance No. 2019-38 and reviewed comments submitted by industry representatives; and

**WHEREAS**, on December 12, 2019, the Planning Commission further considered Ordinance No. 2019-38; and

**WHEREAS**, on January 1, 2020, draft Ordinance No. 2019-38 was renumbered to be Ordinance No. 2020-04; and

**WHEREAS**, on January 23, 2020, the Planning Commission further considered Ordinance No. 2020-04; and

**WHEREAS**, on February 29, 2020, Governor Jay Inslee declared a state of emergency in response to the spread of COVID-19 in Washington State; and

**WHEREAS**, on March 8, 2020, the Kitsap Public Health District was notified of the first Kitsap County resident testing positive for COVID-19, an individual residing on Bainbridge Island; and

**WHEREAS**, on March 9, 2020, the City Manager, as the executive head of the City for purposes of emergency management, issued a Proclamation of Emergency in response to the COVID-19 public health emergency; and

**WHEREAS**, on March 10, 2020, the City Council adopted Resolution No. 2020-06, affirming the Proclamation of Emergency; and

**WHEREAS**, the COVID-19 public health emergency has significantly disrupted City operations and led to the cancellation of multiple meetings of the Planning Commission; and

**WHEREAS**, on April 14, 2020, the City Council set a public hearing for April 28, 2020, on Ordinance No. 2020-11, extending the interim official control originally adopted by Ordinance No. 2019-15 until November 14, 2020; and

**WHEREAS**, on April 28, 2020, the City Council held a public hearing on Ordinance No. 2020-11 and adopted the ordinance following the close of the public hearing; and

**WHEREAS**, on May 28, 2020, the Planning Commission resumed consideration of Ordinance No. 2020-04; and

**WHEREAS**, on June 11, 2020, the Planning Commission further considered Ordinance No. 2020-04 and directed staff to schedule a public hearing on Ordinance No. 2020-04 at the next available meeting of the Planning Commission; and

**WHEREAS**, on [insert date of public hearing], the Planning Commission held a public hearing on Ordinance No. 2020-04 and [insert outcome of Planning Commission consideration]; and

**WHEREAS**, on [insert date], the City Council considered the Planning Commission's recommendation and [insert outcome of Council consideration].

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1. Repeal of Interim Official Control.** The interim official control, originally adopted under Ordinance No. 2019-15 and subsequently extended by Ordinance No. 2019-31 and Ordinance No. 2020-11, is hereby repealed in its entirety and shall no longer be in force or effect.

**Section 2. Amendment of BIMC 18.10.010.** Section 18.10.010 of the Bainbridge Island Municipal Code is hereby amended to read as follows:



### **18.10.010 – Purpose. General Provisions.**

A. This chapter addresses the issues of location and appearance associated with wireless communication facilities (“WCFs”). It provides adequate siting opportunities through a wide range of locations and options which minimize safety hazards and visual impacts sometimes associated with wireless communications technology. The chapter encourages siting of facilities on existing buildings or structures, co-location of several providers’ facilities on a single support structure, and visual mitigation measures to maintain neighborhood appearance and reduce visual clutter in the city.

#### **B. Applicability**

1. Applicability. The provisions of this chapter shall apply to all new WCFs located within the boundaries of the City, and for any modification to an existing WCF that is not governed by Chapter 18.11 BIMC, provided that this chapter shall not apply to small wireless facilities permitted under Title 19 BIMC and are subject to Chapter 18.10A BIMC.
2. Permit Required. Any person who desires to place any WCF within the boundaries of the city must apply to the city for the appropriate wireless communication facility permit.
3. Lease Required. In addition to the requirement of obtaining the appropriate wireless communication facility permit, if all or a portion of the WCF will be located upon a city-owned structure, or upon non-right-of-way property which is either city-owned or city-leased, the applicant shall be required to enter into a lease agreement with the city for the use of the city property.
4. Master Permit Required. In addition to the requirement of obtaining the appropriate wireless communication facility permit, if all or a portion of the WCF will be located within the city’s right-of-way, the applicant shall be required to obtain a master permit, consistent with Title 19 BIMC, from the city for the use of the city’s right-of-way.

**Section 3. Amendment of BIMC 18.10.020.** Section 18.10.020 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

For the purpose of this chapter, the following terms, phrases, words, and abbreviations shall have the meanings given herein. Words not otherwise defined shall have their common and ordinary meaning:

A. “Antenna(s)” means any system of electromagnetically tuned wires, poles, rods, reflecting discs or similar devices used to transmit or receive electromagnetic waves between terrestrial and/or orbital based points, including, but not limited to:

1. Omni-directional (or “whip”) antenna(s), which transmits and receives radio frequency signals in a 360-degree radial pattern;

2. Directional (or “panel”) antenna(s), which transmits and receives radio frequency signals in a specific directional pattern of less than 360 degrees;

3. Parabolic antenna(s) (or “dish” antenna(s)), which is a bowl-shaped device for the reception and/or transmission of communications signals in a specific directional pattern; and

4. Ancillary antenna(s), which is an antenna less than 12 inches in its largest dimension and is not directly used to provide personal wireless communications services, such as a global positioning satellite (GPS) antenna.

B. “Co-location” means placing and arranging multiple providers’ antennas and equipment on a single support structure or equipment pad area.

C. “Electromagnetic field” or “EMF” means the field produced by the operation of equipment used in transmitting and receiving radio frequency signals.

D. “Equipment facility” means any structure used to house electronic equipment, cooling systems and back-up power systems associated with a WCF, including shelters, enclosures, cabinets and other similar structures.

E. “Facility I” means a wireless communication facility consisting of an antenna that is either: (1) four feet or less in height and with an area of not more than 580 square inches in the aggregate; or (2) if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

F. “Facility II” means a wireless communication facility consisting of up to three antennas, each of which is a microcell with associated equipment facilities six feet or less in height and no more than 48 square feet in floor area.

G. “Lattice tower” means a wireless communication support structure that consists of metal crossed strips or bars to support antennas and related equipment.

H. “Monopole” means a wireless communication facility that consists of a support structure, the height of which shall not exceed 120 feet in height not including antennas.

~~G~~I. “Support structure” means any structure, designed and constructed specifically to support an antenna array, including a monopole, self-supporting (lattice) tower, guy-wire support tower and any other similar structures. Any device (attachment device) used to attach a WCF to an existing structure or building (attachment structure) shall be excluded from the definition of and regulations applicable to support structures.

~~H~~J. “Wireless communication facility” or “WCF” means an unstaffed facility for the transmission and/or reception of radio frequency, microwave or other signals for commercial communications purposes, including and typically consisting of antennas, ~~equipment shelter or~~

~~cabinet equipment facilities~~, transmission cables, a support structure required to achieve the necessary elevation, and reception and transmission devices and antennas.

~~H~~K. “Wireless communication services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

**Section 4. Amendment of BIMC 18.10.030.** Subsection 18.10.030.B.1 of the Bainbridge Island Municipal Code to read as follows:

1. A facility I or II, or a monopole or lattice tower located in a nonresidential zone that does not exceed the maximum building height of the zone established in Chapter 18.12 BIMC; or

**Section 5. Amendment of Table 18.09.020.** The Utility and Telecommunications section of Table 18.09.020 of the Bainbridge Island Municipal Code is hereby amended to read as shown on attached **Exhibit A**.

**Section 6. Amendment of BIMC 18.09.030.** Section 18.09.030 of the Bainbridge Island Municipal Code is hereby amended to include a new Subsection 18.09.030.B.5, to read as follows:

5. Small wireless facilities. Small wireless facilities are prohibited on any property containing a residential use in the residential zones except where allowed under BIMC 18.10A.040.E.12.

**Section 7. Amendment of BIMC 18.09.030.** Section 18.09.030 of the Bainbridge Island Municipal Code is hereby amended to include a new Subsection 18.09.030.F.4, to read as follows:

4. In accordance with Chapter 18.10 BIMC, the department of planning and community development may grant permit approval for:

a. A facility I or II, or a monopole or lattice tower located in a nonresidential zone that does not exceed the maximum height of the zone; or

b. A facility I or II in a multifamily, business, commercial, or town center zone on an existing building or structure; provided, that the facility is no higher than 15 feet above the existing building or structure or the permitted height for the zone, whichever is higher; or

c. A facility I or II in a residential zone on a nonresidential building or structure; provided, that the facility is no higher than 15 feet above the permitted height in the zone.

d. All other WCFs require conditional use permit review and approval by the city hearing examiner.

e. For the purposes of this subsection and Table 18.09.020, the terms “Facility I” and “Facility II” and “Monopole” and “Lattice Tower” and “WCF” and “Wireless Communication Facility” shall have the same meaning as defined in Chapter 18.10 BIMC.

**Section 8. Adoption of New Chapter 18.10A BIMC.** Title 18 of the Bainbridge Island Municipal Code is hereby amended to include a new Chapter 18.10A BIMC, to read as follows:

**Chapter 18.10A**  
**USE REGULATIONS - SMALL WIRELESS FACILITIES**

- 18.10A.010 Purpose.
- 18.10A.020 Applicability.
- 18.10A.030 Definitions.
- 18.10A.040 Design and Concealment standards for small wireless facilities.
- 18.10A.050 New poles for small wireless facilities.

**18.10A.010 Purpose.**

The purposes of this chapter are to set forth regulations for the placement and development of small wireless facilities. Among the purposes included are to:

- A. Manage reasonable access to the right-of-way of the City for communication purposes on a nondiscriminatory basis.
- B. Conserve the limited physical capacity of the public rights-of-way held in public trust by the City.
- C. Ensure that all service providers maintaining facilities or providing services within the City comply with the ordinances, rules, and regulations of the City.
- D. Reduce unnecessary local regulation of providers and services.
- E. Ensure that the City can continue to fairly and responsibly protect the public health, safety, and welfare.
- F. Encourage the provision of advanced and competitive telecommunications, on the widest possible basis to the businesses, institutions, and residents of the City.
- G. Encourage the design of such small wireless facilities to be aesthetically and architecturally compatible with the surrounding built and natural environments where possible.
- H. Encourage the collocation or attachment of small wireless facilities on existing support structures to help minimize the total number and impact of such structures throughout the community.

I. Reserve to the City and provide for the fullest exercise possible of the authority and discretion of the City to require that:

1. Facilities are installed and maintained within the public rights-of-way in such manner and at such points so as not to inconvenience the public use of the public rights-of-way or to adversely affect the public safety and welfare; and
2. All non-City users of the rights-of-way shall be required to reimburse and hold harmless the City for the actual costs incurred by the City by reason of the construction or presence in the public rights-of-way of the facilities of such other users.
3. Potential adverse visual, aesthetic, and safety impacts of small wireless facilities be minimized.

#### **18.10A.020 Applicability.**

Any application for a small wireless facility both inside and outside of the right-of-way shall comply with the following application requirements for a small wireless facility permit described in this chapter. Applications must also comply with the small wireless facility permit requirements of Title 19 BIMC. For small wireless facilities inside the right-of-way, the applicant must also obtain a master permit as may be required under Title 19 BIMC.

#### **18.10A.030 Definitions.**

For the purpose of this chapter, the following terms, phrases, words, and abbreviations shall have the meanings given herein. Words not otherwise defined shall have their common and ordinary meaning:

- A. “Antenna” 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 service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 CFR Part 15.
- B. “Applicant” means any person submitting an application for a small wireless facility permit.
- C. “City property” means any real property owned by the City, whether in fee or other ownership estate of interest.
- D. “Collocation” means (1) mounting or installing an antenna facility on a pre-existing structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure.
- E. “Director” means the Director of Planning and Community Development or their designee.

F. “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.

G. “Grantee” means a person holding a master permit.

H. “Light Pole” means a pole used primarily for lighting streets, parking areas, parks, or pedestrian paths.

I. “Master Permit” means the authorization granted by the City to an operator of a telecommunications system, under Title 19 BIMC, giving the operator the nonexclusive right to occupy the space, or use facilities upon, across, beneath, or over any public right-of-way in the City, to provide a specified service within a master permit area. Such master permit shall not include or be a substitute for:

1. Any other permit or authorization required for the privilege of transacting and carrying on a business within the City required by the ordinances and laws of the City;

2. Any permit, agreement, or authorization required in connection with operations on or in public streets or property, including, by way of example and not limitation, street cut permits;

3. Any permits or agreements for occupying any other property of the City or private entities to which access is not specifically granted by the master permit including, without limitation, permits and agreements for placing devices on or in poles, conduits, other structures, or railroad easements, whether owned by the City or a private entity; or

4. The right to place devices in the right-of-way, such as pay telephones, for end user use in terminating or originating transmissions.

By way of example, and without limiting the foregoing, this title shall not be read to diminish or in any way affect the authority of the City to control the use of the City’s real estate, fixtures, or personal property. Therefore, any person who desires to use such property must obtain additional approvals, or agreements for that purpose, as may be required by the City.

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

1. State highways;

2. Land dedicated for road, streets, and highways not opened and not improved for motor vehicle use by the public;

3. Structures, including poles and conduits, located within the right-of-way;

4. Federally granted trust lands or forest board trust lands;

5. Lands owned or managed by the state parks and recreation commission; or

6. Federally granted railroad rights-of-way acquired under 43 U.S.C. Sec 912 and related provisions of federal law that are not open for motor vehicle use.
- K. “Service provider” is defined consistently with RCW 35.99.010(6). Service provider shall include those infrastructure companies that provide telecommunications services or equipment to enable the deployment of telecommunication services.
- L. “Small wireless” and “small wireless facility” shall have the same meaning as a “small wireless facility” as set forth in 47 CFR 1.6002.
- M. “Structure” means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of telecommunications service (whether on its own or comingled with other types of services).
- N. “Telecommunications facilities” means the plant, equipment, and property including, but not limited to, cables, wires, conduits, ducts, pedestals, electronics, and other appurtenances used or to be used to transmit, receive, distribute, provide, or offer wireline or wireless telecommunications service.
- O. “Telecommunications service” means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for hire, sale, or resale to the general public. For the purpose of this subsection, “information” means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. For the purpose of this chapter, telecommunications service excludes the over-the-air transmission of broadcast television or broadcast radio signals.
- P. “Traffic Signal Poles” means a pole that supports equipment used for controlling traffic, including but not limited to traffic lights, rapid flashing beacons, speed radar, and school zone flashers.
- Q. “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 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.
- R. “Unified enclosure” means a small wireless facility providing concealment of antennas and equipment within a single enclosure.

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

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

#### **18.10A.040 Design and Concealment standards for small wireless facilities.**

Small wireless facility deployments permitted inside or outside the right-of way shall conform to the following design standards:

A. Small wireless facilities attached to existing or replacement non-wooden light poles or utility poles in the right-of-way or non-wooden light poles or utility poles outside of 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 Design and Construction Standards, an applicant is encouraged to 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, 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 adopted in this subsection A.
2. The applicant shall minimize to the extent possible the antenna and equipment space and shall use the smallest amount of enclosure possible to fit the necessary equipment. The antennas and equipment shall be located consistent with BIMC 18.10A.040.E.1.
3. The furthest point of any equipment enclosure may not extend more than twenty-eight (28) inches from the face of the pole. Any equipment or antenna enclosures must meet WSDOT height clearance requirements.
4. All conduit, cables, wires, and fiber must be routed internally in the non-wooden 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 six (6) feet above the height of the existing pole and the diameter may not exceed sixteen (16) inches, measured at the top of the pole, unless the applicant can demonstrate that more space is technically needed. The antennas shall be integrated into the pole design so that it appears 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. 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 non-wooden pole shall substantially conform to the design of the pole it is replacing or the neighboring pole design standards utilized within the contiguous right-of-way, unless the Department of Planning and Community Development otherwise approves a variation due to aesthetic or safety concerns. Any replacement non-wooden pole located in the right-of-way shall be placed as close to the original pole as possible, but no more than five (5) feet from the existing pole location.

7. The height of any replacement pole may not extend more than six (6) feet above the height of the existing pole or the minimum additional height technically 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 twenty (20) inches measured at the base of the pole, unless additional diameter is needed in order to conceal equipment within the base of the pole, and shall comply with the requirements in subsection E.6 below.

9. 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.

B. Wooden pole design standards. Small wireless facilities located on existing or replacement wooden poles shall conform to the following design criteria:

1. The wooden pole at the proposed location may be replaced with a wooden 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 ten (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 wooden pole but may not increase the height of the existing wooden pole by more than ten (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, unless the Department of Planning and Community Development otherwise approves a variation due to aesthetic or safety concerns.
4. Antennas, equipment enclosures, and all ancillary equipment, boxes, and conduit shall be colored, tinted, or painted to match the approximate color of the surface of the wooden pole on which they are attached.
5. Antennas shall not be mounted more than twelve (12) inches from the surface of the wooden pole.
6. 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 enclosure shall not be more than three (3) cubic feet in volume.
7. A canister antenna may be mounted on top of an existing wooden pole, which may not exceed the height requirements described in subsection B.1 above. A canister antenna mounted on the top of a wooden pole shall not exceed sixteen (16) inches in diameter, measured at the top of the pole, and 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 propose a side mounted canister antenna, so long as the inside edge of the antenna is no more than twelve (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.
8. The furthest point of any antenna or equipment enclosure may not extend more than twenty-eight (28) inches from the face of the pole. Any equipment or antenna enclosures must meet WSDOT height clearance requirements.
9. An omni-directional antenna may be mounted on the top of an existing wooden pole, provided such antenna is no more than four (4) 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.
10. All related 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 (6) inches from the surface of the pole, unless a further distance is technically required, and is confirmed in writing by the pole owner.
11. Equipment for small wireless facilities shall be located consistent with BIMC 18.10A.040.E.1. If equipment is allowed to be placed on the wooden pole, the equipment must be placed in the smallest enclosure possible for the intended purpose. The visual effect of the small wireless facility on all other aspects of the appearance of the wooden pole shall be minimized to the greatest extent possible.

12. The use of the wooden 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 wooden 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.

13. The diameter of a replacement wooden pole shall comply with the City's setback and sidewalk clearance requirements and shall not be more than a 25% increase of the existing wooden pole measured at the base of the pole, unless additional diameter is needed for structural integrity of the pole, and shall comply with the requirements in subsection E.5 below.

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

C. 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. Small wireless facilities shall be colored, painted, and textured to match the adjacent building surfaces, unless otherwise technically infeasible.

7. Small wireless facilities must meet the height requirement of the underlying zoning district.

8. Feed lines and coaxial cables shall be located below the parapet of the rooftop.

9. If a cabinet enclosure cannot be located within the building where the wireless communication facilities will be located, then the City's first preference is for the wireless telecommunication carrier to locate the equipment on the roof 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, the proposed screening must be consistent with the existing building in terms of color, design, architectural style, and material. If the cabinet equipment cannot be located on the roof or within the building then it shall be located underground consistent with BIMC 18.10A.040.E.1.

D. Small wireless facilities mounted on cables strung between existing utility poles shall conform to the following standards.

1. Each strand mounted facility shall not exceed four (4) cubic feet in volume.
2. Only one strand mounted facility is permitted between any two existing poles.
3. The pole must be able to support the necessary load requirements of the strand mounted facility.
4. The strand mounted devices shall be placed as close as possible to the nearest utility pole, in no event more than five (5) feet from the pole unless a greater distance technically necessary or is required by the pole owner for safety clearance.
5. No strand mounted device shall be located in or above the portion of the roadway open to vehicular traffic.
6. Ground mounted equipment to accommodate a shared mounted facility is not permitted except when placed in pre-existing equipment cabinets.
7. Pole mounted equipment shall comply with the requirements of subsections A or B above, as applicable.
8. 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).
9. Strand mounted facilities are only permitted on poles that have existing overhead wirelines.

E. General requirements for all installation types.

1. All equipment, except antennas and conduit, associated with installations in the R-0.4 zoning district shall be ground mounted, placed underground, completely concealed within the pole, or placed on private property consistent with the regulations identified in (a), (c), (d), and (e) below unless the applicant can demonstrate that each of those possible locations are technically infeasible, in which case the equipment may be placed in accordance with (b) below. All equipment associated with installations in the Mixed Use Town Center, High School Road I and II, and Neighborhood Center zoning districts shall be located on the pole, completely concealed within the pole, or placed on private property consistent with the regulations identified in (a), (b), and (d) below unless the applicant can demonstrate that each of those allowed locations are technically infeasible, in which case the equipment may be placed in accordance with (c) or (e) below. All equipment associated with installations in any other zone not identified above may be installed consistent with one of the methods identified in (a) through (e) below.

(a). Concealed completely within the pole or pole base. If antennas and associated equipment enclosures (including disconnect switches and other appurtenant devices) are located within the pole or pole base, they shall be fully concealed within the pole. Further, if located within the pole base, the base shall meet the ADA requirements and not impact the pedestrian access route.

(b). Located on a pole. If located on a pole, antennas and the associated equipment enclosures (including disconnect switches and other appurtenant devices) must be colored, tinted, or painted to match the approximate color of the surface of the pole and appear as an integral part of the pole or flush mounted to the pole, meaning for antennas no more than twelve (12) inches off of the pole and for associated equipment no more than six (6) inches off the pole, and must be the minimum size necessary for the intended purpose, but in no event shall any antenna exceed three (3) cubic feet in volume. The equipment enclosure and all other wireless equipment associated with the pole (including but not limited to conduit), including wireless equipment associated with the antenna and any pre-existing associated equipment on the pole, may not exceed twenty-eight (28) cubic feet. Multiple equipment enclosures may be acceptable if designed to more closely integrate with the pole design and does not cumulatively exceed twenty-eight (28) cubic feet. 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 equipment itself. The applicant may propose a side mounted canister antenna, so long as the inside edge of the antenna is no more than six (6) inches from the surface of the pole. All cables shall be concealed either within the canister antenna or within a sleeve between the antenna and the pole.

(c). Underground in a utility vault. If located underground, the access lid to the equipment enclosure shall be located outside the footprint of any pedestrian curb ramp and shall have a nonskid surface meeting ADA requirement if located

within an existing pedestrian access route. Antennas are not subject to this paragraph due to technological limitations of such placement.

(d). On private property. If located on private property, the applicant shall submit a copy of a letter of authority from the private property owner prior to the small wireless facility permit issuance. Any such installation on private property must conform to all applicable regulations, including but not limited to zoning regulations, that apply to that property.

(e). On the ground in the right-of-way. If the equipment is located on the ground in the right-of-way, the equipment enclosure on the ground and all other wireless equipment associated with the pole (including but not limited to conduit), including wireless equipment associated with the antenna and any pre-existing associated equipment on the pole, may not exceed twenty-eight (28) cubic feet. The equipment located on the ground shall be placed within one enclosure not to exceed four (4) feet in height. Such enclosure must be colored and designed in a manner that minimize the visual impact of the enclosure. The location of the equipment on the ground must comply with all applicable setback and access requirements including ADA requirements. Prior to the issuance of any permit related to a facility which includes ground mounted equipment in the right-of-way, the applicant must obtain a site-specific agreement from the City to locate such ground mounted equipment.

2. Even if one of the designated equipment locations is technically feasible under BIMC 18.10A.040.E.1, the Director may determine that equipment located in a non-preferred location is in fact a superior alternative if the non-preferred location:

(a). Provides equal or greater protection to public vantage points, view corridors, and scenic vistas to support Bainbridge Island's sense of place, identity, and orientation; and

(b). Satisfies one or more of the following criteria:

- i. Has a greater natural resource conservation value;
- ii. Less adverse impact to adjoining properties; or
- iii. Results in a more practical design because of topography, critical area, or other extenuating circumstances.

3. 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 pre-existing associated equipment on the pole does not exceed twenty-eight (28) cubic feet. The unified enclosure may not be placed more than twelve (12) inches from the surface of the pole. 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 or the equipment itself. Requirements related to the location of equipment as outlined in BIMC 18.10A.050.E.1 do not apply if the antennas and equipment are located within one unified enclosure

4. No equipment shall be operated so as to produce noise in violation of Chapter 16.16 BIMC.

5. 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.

6. Replacement poles and new poles shall comply with the Americans with Disabilities Act (ADA), City construction and sidewalk clearance standards, City ordinance, 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.

7. 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 4x6 inches); provided, that signs are permitted as concealment element techniques where appropriate.

8. 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 a concealment element plan.

9. Side arm mounts for antennas or equipment must be the minimum extension necessary and may not create a gap of more than twelve (12) inches for wooden poles and no more than six (6) inches for non-wooden poles between the pole and the antennas or equipment.

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

11. Antennas, equipment enclosures, and ancillary equipment, conduit, and cable, shall not dominate the structure or pole upon which they are attached.

12. Small wireless facilities are prohibited on any property containing a residential use in the residential zones, with the following two exceptions.

(a). Small wireless facilities may be located within the right-of-way within residential zones; and

(b). Small wireless facilities may be located on property containing a

residential use in the residential zones where:

- i. The location of the small wireless facility is more than 400 feet from the right-of-way and within an access easement over residential property;
- ii. The owner of the residential property upon which the small wireless facility will be located has granted permission in writing to locate the facility in the desired location and has provided proof of authority to grant such permission;
- iii. The terms of the access easement allow the installation of the small wireless facility in the proposed location;
- iv. The installation of the small wireless facility in the proposed location does not create any access or safety issues;
- v. Any new pole complies with the requirements of BIMC 18.10A.050;
- vi. Any new structure complies with all applicable requirements of the City Code;
- vii. Any covenants or easements recorded on the property allow the deployment of the small wireless facility on the property;
- viii. The proposed small wireless facility complies with all applicable land use regulations, including but not limited to: Chapter 19.10 BIMC, Chapter 18.10A.BIMC, Chapter 16.20 BIMC, and Chapter 16.12 BIMC.

13. 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 not 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.

14. These design standards are intended to be used solely for the purpose of concealment and siting. Nothing herein shall be interpreted or applied in a manner which dictates the use of a particular technology. When strict application of these requirements would effectively prohibit the applicant from providing a wireless service, alternative forms of concealment or deployment may be permitted which provide similar or greater protections from negative visual impacts to the streetscape.



#### **18.10A.050 New poles for small wireless facilities.**

A. New poles for small wireless facilities are only permitted if the applicant can establish that:

1. The proposed small wireless facility cannot be located on an existing utility pole or light pole, electrical transmission tower, or on a site outside of the public rights of way such as public non-park property, a building, a transmission tower, or in or on a non-residential use in a residential zone whether by roof or panel-mount or separate structure;
2. The proposed small wireless facility complies with the applicable requirements of BIMC 18.10A.040;
3. The proposed small wireless facility receives approval for a concealment element design, as described in subsection C below;
4. The proposed small wireless facility also complies with Shoreline Management Act, SEPA, and any other relevant law or regulation if applicable; and
5. No new poles shall be located in a critical area or associated buffer or setback required by Chapter 16.20 BIMC except when determined to be exempt pursuant to Chapter 16.20 BIMC.

B. An application for a new pole is subject to review and approval or denial by the Director.

C. The concealment element design shall include the design of the screening, fencing, or other concealment technology for the pole and all related transmission equipment or facilities associated with the proposed small wireless facility, including but not limited to fiber and power connections.

1. The concealment element 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, then the replacement pole shall be of the same general design as the pole it is replacing, unless the Department of Planning and Community Development otherwise approves a variation due to aesthetic or safety concerns. Any concealment element design for a small wireless facility should attempt to mimic the design of such pole and integrate the small wireless facility into the design of the pole. Other concealment 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 wirelines are installed internally in the structure.

2. If the Director has already approved a concealment element 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 concealment element design, unless it can show that such concealment element design is not physically or technologically feasible, or that such deployment would undermine the generally applicable design standards.

D. Even if an alternative location is established pursuant to BIMC 18.10A.050.A.1, the Director may determine that a new pole in the right-of-way is in fact a superior alternative if the new pole:

1. Satisfies the other requirements of BIMC 18.10A.050.A;
2. Provides equal or greater protection to public vantage points, view corridors, and scenic vistas to support Bainbridge Island's sense of place, identity, and orientation; and
3. Satisfies one or more of the following criteria:
  - (a) Has a greater natural resource conservation value;
  - (b) Less adverse impact to adjoining properties; or
  - (c). Results in a more practical design because of topography, critical area, or other extenuating circumstances.

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 site-specific agreement from the City to locate such new pole or ground mounted equipment. The requirement also applies to the placement of replacement poles when the replacement is necessary for the installation or attachment of the small wireless facility, the replacement structure is higher than the replaced structure, and the overall height of the replacement structure and the wireless facility is more than sixty (60) feet.

F. These design standards are intended to be used solely for the purposes identified in BIMC 18.10A.010. Nothing herein shall be interpreted or applied in a manner which dictates the use of a particular technology. When strict application of these requirements would unreasonably impair the function of the technology chosen by the applicant, alternative forms of concealment or deployment may be permitted which provide similar or greater protections of the street scape.

**Section 9. Repeal and Replacement of Chapter 18.11 BIMC.** Chapter 18.11 of the Bainbridge Island Municipal Code is hereby repealed in its entirety and replaced by the following:

**Chapter 18.11  
Eligible Facilities Requests**

- 18.11.010 Definitions.
- 18.11.020 Application.
- 18.11.030 Qualification as an Eligible Facilities Request.
- 18.11.040 Timeframe for Review.
- 18.11.050 Tolling of the Time Frame for Review.
- 18.11.060 Determination That Application Is Not an Eligible Facilities Request.
- 18.11.070 Failure to Act.
- 18.11.080 Enforcement

**18.11.010 Definitions**

The following definitions shall apply to Eligible Facilities Requests only as described in this Chapter 18.11 BIMC.

A. “Base Station”: A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein nor any equipment associated with a tower. Base Station includes, without limitation:

1. Equipment associated with wireless communications services as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems (“DAS”) and small wireless networks).
3. Any structure other than a tower that, at the time the relevant application is filed (with jurisdiction) under this section, supports or houses equipment described in subparagraph (i) and (ii) above that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.
4. The term does not include any structure that, at the time the Eligible Facilities Request application is filed with the City, does not support or house equipment described in subparagraph 1.a and 1.b above.

B. “Collocation”: The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communication purposes.

C. “Eligible Facilities Request”: Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

1. Collocation of new transmission equipment;
2. Removal of transmission equipment; or
3. Replacement of transmission equipment.

D. “Eligible support structure”: Any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the City.

E. “Existing”: A constructed tower or base station is existing if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

F. “Substantial Change”: A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

1. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten (10) feet, whichever is greater;
2. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (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 six (6) feet;
3. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
4. It entails any excavation or deployment outside the current site;
5. It would defeat the concealment elements of the eligible support structure; or

6. 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 above.

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

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

#### **18.11.020 Application.**

The Director shall prepare and make publicly available an application form used to consider whether an application is an Eligible Facilities Request. The application may not require the applicant to demonstrate a need or business case for the proposed modification. Prior to the issuance of an Eligible Facilities Request permit, the applicant shall pay a permit fee in an amount as determined by the City Council and adopted by resolution.

#### **18.11.030 Qualification as an Eligible Facilities Request.**

Upon receipt of an application for an Eligible Facilities Request, the Director shall review such application to determine whether the application qualifies as an Eligible Facilities Request.

#### **18.11.040 Timeframe for Review.**

A. Within sixty (60) days of the date on which an applicant submits an Eligible Facilities Request application, the Director shall approve the application unless it determines that the application is not covered by 47 CFR §1.40001 and this Chapter 18.11 BIMC.

B. A permit issued pursuant to this chapter, and any applications deemed granted under BIMC 18.11.070, shall be valid for a term of 12 months from the date of issuance or the date the application has been deemed granted under BIMC 18.11.070.

#### **18.11.050 Tolling of the Time Frame for Review.**

A. The sixty (60) day review period begins to run when the application is filed and may be tolled only by mutual agreement by the Director and the applicant or in cases where the Director determines that the application is incomplete. .

1. To toll the timeframe for incompleteness, the Director shall provide written notice to the applicant within thirty (30) days of receipt of the application, clearly and specifically delineating all missing documents or information required in the application.
2. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the Director's notice of incompleteness.
3. Following a supplemental submission, the Director will notify the applicant within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this subsection. Second or subsequent notice of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

**18.11.060 Determination That Application Is Not an Eligible Facilities Request.**

If the Director determines that the applicant's request does not qualify as an Eligible Facilities Request, the Director shall deny the application.

**18.11.070 Failure to Act.**

In the event the Director fails to approve or deny an application for an Eligible Facilities Request within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed granted application does not become effective until the applicant notifies the Director in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

**18.11.080 Enforcement.**

Compliance with the provisions of this chapter is mandatory. Any violation of this chapter shall be enforced, and penalties assessed, in accordance with Chapter 1.26 BIMC.

**Section 10. Amendment to BIMC 18.36.030.** Subsections 18.36.030.7 ("Accessory antenna device"), 18.36.030.32 ("Attached wireless communication facility"), 18.36.030.53 ("Co-location"), 18.36.030.273 ("Wireless communication facility"), 18.36.030.273.a ("Facility I"), 18.36.030.273.b ("Facility II"), and 18.36.030.273.c ("Facility III") of the Bainbridge Island Municipal Code are hereby repealed.

**Section 11. Amendment to BIMC 18.36.030.** Subsection 18.36.030.276 (“Wireless communication support structure”) of the Bainbridge Island Municipal Code is hereby amended to read as follows:

“Wireless communication support structure” means the structure erected to support wireless communication antennas and connecting appurtenances. Support structure types include, but are not limited to, stanchions, monopoles, lattice towers, wood poles or guyed towers. “Monopoles” and “lattice towers” shall have the same meaning as defined in Chapter 18.10 BIMC.

**Section 12. Amendment to BIMC 18.36.030.** Subsection 18.36.030.249 (“Structure”) of the Bainbridge Island Municipal Code is hereby amended to read as follows:

“Structure” means any manmade assemblage of materials extending above or below the surface of the earth and affixed or attached thereto. “Structure,” for the purposes of this title, except for BIMC 18.09.030.F.1, does not include “wireless communications communication facilities” as that term is defined in Chapter 18.10 BIMC.

**Section 13. Amendment to BIMC 2.16.040.** Subsection 2.16.040.B.1.d of the Bainbridge Island Municipal Code is hereby amended to read as follows:

d. The construction of new wireless ~~communications~~ communication support structures (but not the location of wireless facilities on existing buildings).

**Section 14. Amendment to BIMC 19.10.020.D.3.** Subsection 19.10.020.D.3 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

3. Associated Permit(s). The applicant shall attach all associated permit requirements, such as applications or checklists required under the critical areas, shoreline, or SEPA ordinances. Applications for ~~deployment of small wireless facilities in design zones or for new poles~~ shall comply with the requirements in Chapter 18.10A BIMC 18.10A.060.

**Section 15. Amendment to BIMC 19.10.020.E.1.d.** Subsection 19.10.020.E.1.d of the Bainbridge Island Municipal Code is hereby amended to read as follows:

d. Compliance with the aesthetic requirements of Chapter 18.10A BIMC.

**Section 16. Amendment to BIMC 19.10.030.D.** Subsection 19.10.030.D of the Bainbridge Island Municipal Code is hereby amended to read as follows:

~~D. Review of Facilities Compliance with Federal Law.~~ Review of the site locations proposed by the applicant shall be governed by the provisions of 47 U.S.C. Sections 253 and 332 and other applicable statutes, regulations, and case law. Applicants for master permits and small wireless facility permits shall be treated in a competitively neutral and nondiscriminatory manner with other service providers, utilizing supporting infrastructure that is functionally equivalent, that is, service providers whose facilities are similarly situated in terms of structure, placement, or cumulative impacts. Small wireless facility permit review under this chapter shall neither prohibit nor have the effect of prohibiting the ability of an applicant to provide telecommunications services.

**Section 17. Corrections.** The City Clerk and codifiers of the ordinance are authorized to make necessary corrections to this Ordinance or to the City Code including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 18. Severability.** If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

**Section 19. Effective Date.** This ordinance shall take effect and be in force five (5) days from its passage and publication as required by law.

PASSED by the City Council this \_\_\_\_ day of \_\_\_\_\_ 2020.

APPROVED by the Mayor this \_\_\_\_ day of \_\_\_\_\_ 2020.

\_\_\_\_\_  
Leslie Schneider, Mayor



ATTEST/AUTHENTICATE:

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Christine Brown, CMC, City Clerk

FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NUMBER:

2020-04

Exhibit A

DRAFT

**Exhibit A**  
**Amendments to Utility and Telecommunications Section of Table 18.09.020**

UTILITY AND TELECOMMUNICATIONS																				
Note: Utility and telecommunications uses may be subject to additional requirements in BIMC 16.12.030.C.7.																				
ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center				HSR I and II	NC	B/I	WD-1	Use-Specific Standards BIMC 18.09.030	
USE CATEGORY/TYPE											CC	MA	EA	Gate	Ferry [1]					
Monopole or Lattice Tower	<u>P/C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>F-4</u>
Small Wind Energy Generator	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>F-1</u>	
Utility, Primary	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>C</u>	<u>F-2</u>	
Public Communications Tower	<u>P</u>	<u>P</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>P</u>	<u>A</u>	<u>F-3</u>	
Wireless Communication Facilities, Facility I	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>F-4</u>	
Wireless Communication Facilities, Facility II	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>F-4</u>	
All Other Wireless Communication Facilities, Facility III	<u>P/C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P/C</u>	<u>P/C</u>	<u>F-4</u>	
Small Wireless Facilities	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>B-5</u>	

## Suggested New Language For Small Wireless Regulations

### Commissioner Kim McCormick Osmond

I am proposing the following language be added to Ordinance No. 2020-04 and BIMC 18.10A because I believe it strengthens the Bainbridge Island Municipal Code in favor of Bainbridge Islanders and the City and places on the applicant the burden of establishing whether a proposed design and pole location meets applicable BIMC provisions.

Much of the following suggested language is taken from the Kitsap County Code (Kitsap County Code sections are retained for easy reference, but changes to the text have been made to reflect applicability to Bainbridge Island rather than Kitsap County). Kitsap County spent more than a year working on its code regulations for small wireless, with an emphasis on preserving the visual character of the rural areas of the County. I believe these code provisions are particularly applicable to Bainbridge's rural areas and provide specific criteria and guidance for the construction and installation of small wireless in a way that reduces visual and other adverse impacts on the island. They also provide specific guidance and decision criteria to City planning staff and the Planning Director in determining whether applicable standards have been satisfied.

#### 1. Definitions.

The Kitsap County Code (KCC) provides a definition of "wireless communication facility" that includes "small wireless facility" as a subsection of "wireless communication facility." This provides clarity in determining when code provisions that reference "wireless communication facility" also apply to a "small wireless facility."

KCC 17.110.770 Wireless communication facility.

"Wireless communication facility" means the antennas, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics and other related equipment used for the purpose of transmitting, receiving, distributing, providing, or accommodating wireless communications services.

A. A "small wireless facility" means a facility that meets each of the following conditions:

1. The facility:

a. Is mounted on a structure fifty feet or less in height, with the height including any antennas; or

b. Is mounted on a structure no more than ten percent taller than other adjacent structures; or

c. Does not extend an existing structure on which it is to be located to a height of more than fifty feet or by more than ten percent, whichever is greater;

2. Each antenna associated with the facility, excluding associated antenna equipment, is no more than three cubic feet in volume; and

3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any preexisting associated equipment on the structure, is no more than twenty-eight cubic feet in volume; and

4. The facility is not required to be registered with the FCC under 47 CFR Part 17; and

5. The facility does not result in human exposure to radio frequency radiation in excess of the applicable FCC safety standards in 47 CFR 1.1307(b).

B. A "nontower wireless facility" means a facility that is not a small wireless facility and does not involve, as part of the initial installation or construction, a wireless support structure. The term includes antennas, data collection units, and related equipment, but shall not include any wireless

support structure. Except as allowed for small wireless facilities, the need to construct a wireless support structure will transform the nontower facility into a tower-based facility.

C. A “tower-based wireless facility” means a facility installed or constructed with a tower as defined in Section 17.110.721. Unless a DAS hub facility meets the definition of a small wireless facility, the DAS hub shall be considered a tower-based facility.

KCC 17.110.775 Wireless communication support structure.

“Wireless communication support structure” means a freestanding structure, such as a tower based wireless communication facility, or any other support structure that could (or does) support the placement or installation of a facility.

## 2. Prohibitions on locations and structures.

The Kitsap County Code is specific about prohibitions on locations and structures and clearly states that a location may be prohibited if the visual analysis required to be done by an applicant demonstrates that the visual impact is more than moderate and cannot be mitigated. This clarity in the code provides a solid basis for decisions made by the Planning Director.

KCC Section 17.530.010(C) – Prohibited locations and structures:

1. A facility shall not be located:
  - a. On single-family residences or on any residential accessory structure.
  - b. On real property or structures listed, or eligible for listing, on the:
    - i. National or Washington Registers of Historic Places.
    - ii. Official historic structures or historic districts lists maintained by the City.
  - c. Where the visual impacts analysis required by KCC Section 17.530.040(B) concludes that a more than moderate visual impact will occur and cannot be mitigated.

## 3. Permitting

KCC 17.530.030(A)(2)(c) requires an Administrative Conditional Use Permit to construct a small wireless facility on a new structure, with a decision required to be made within 90 days of submittal of a complete application. KCC 17.530.030(H).

KCC 17.530.030(D)(6) requires all applications for an Administrative Conditional Use Permit (ACUP) to include a visual impact analysis as described in 17.530.040(B)(1).

These requirements place the burden on the applicant to analyze the visual impact of the proposed facility and to demonstrate that the proposed project meets both the general development standards and specific small wireless standards within the 90-day decision timeframe.

I also continue to propose that BIMC 19.10.070 be revised to include an administrative appeal from the Planning Director’s decision on an ACUP to either the Hearing Examiner or the City Council, rather than limiting the appeal to the Kitsap County Superior Court. The burden is on the applicant to ensure that an ACUP is complete before the 90-day decision period begins to run, which should provide ample time for thorough review of the application by the Planning Department, decision by the Planning Director and any administrative appeal of that decision. The federal laws pertaining to small wireless do not override local land use laws and a 90-day decision period is not unreasonable.

#### 4. General Development Standards

Kitsap County requires all wireless communication facilities to use the most current stealth technology to be the least visually and physically intrusive. There is no reason that Bainbridge should expect less of telecommunications companies seeking to install small wireless on the island. The Kitsap County Code provisions also include specific standards that must be met for new small wireless structures.

KCC 17.530.040 General Development Standards:

B. Visual appearance. All facilities shall employ the most current stealth technology to be the least visually and physically intrusive. All facilities shall be aesthetically and architecturally compatible with the surrounding environment and shall be designed to blend with the existing surroundings.

1. Visual Impact Analysis.

a. Compatibility and visual impact shall be determined through a visual impact analysis.

The analysis must use maps, photographs, photo simulation, and other appropriate methods to show the existing topographical contours of the area and areas within a one-mile radius where any portion of the proposed facility can be seen. Line of sight includes from the ground to the rooftop of adjacent buildings.

b. When more than a moderate visual impact is likely, the visual impact analysis shall include a visual demonstration, such as the erection of a crane, a balloon in a color similar to that of the proposed structure and of a size not less than four feet and not to exceed six feet, or similar device, used to simulate the proposed dimensions and height of the structure. Ten working days prior to the demonstration, the applicant shall notify:

i. The department.

ii. All properties within eight hundred feet of the parcel where the demonstration will occur. The department shall provide the list of properties within eight hundred feet.

2. More than Moderate Visual Impact. A small wireless facility shall not be considered aesthetically compatible with the surrounding land uses if, within a one-mile radius, it results in more than a moderate visual impact. A "more than moderate" visual impact occurs when one or more of the following exist:

a. The facility becomes a predominant feature in the viewscape.

b. The facility disrupts a largely intact and unobstructed view of visually sensitive areas, which are those locations that provide views of one or more of the following: Puget Sound, lakes, large wetland complexes, major streams, valleys and ravines, large tracts of forested land, Mount Rainier, the Cascade mountain range or the Olympic mountain range. These views are particularly sensitive from certain places of Bainbridge Island, including residential areas, commercial areas, major transportation corridors and arterials in rural areas.

c. The facility is not designed and painted to blend in with the surrounding environment.

d. The facility is sited above visually predominant ridge lines.

e. The facility extends forty feet or more above the tree line determined by an analysis of site potential tree height at fifty years (SPTH (50)), based on soil types.

f. A facility is proposed in a visually sensitive area and cannot be completely enclosed within the existing structure or camouflaged as another structure compatible with the surrounding environment.

#### 5. Specific Development Standards for Small Wireless

KCC 17.530.050(A) – these regulations are in addition to the KCC 17.530.040 general development standards and apply to small wireless facilities for which an ACUP is required.

KCC 17.530.050(A)(2) – Height. The total height of any facility after installation shall not exceed the maximum height permitted in the underlying zoning district, except where the following are met:

- a. The height will not exceed twenty feet above the roof surface.
- b. No visual impacts to surrounding properties occurs. Visual impact is measured from the ground or roof of an adjacent building.

KCC 17.530.050(B) – Development Regulations in the Public Right-of-Way (ROW).

The following regulations apply to all small wireless facilities located in the ROW and for which an ACUP is required. If any conflict exists between these regulations and those elsewhere in this chapter, the regulations herein shall control.

1. Location.
  - a. All facilities located in the ROW shall be located, designed, and installed to match the pole placement and bolt pattern identified by the Bainbridge Island public works design standards.
  - b. All facilities and related equipment in the ROW shall not cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or inconvenience public use of the ROW.
  - c. All equipment more than four inches above the ground shall be placed outside of the clear zone or mitigated in accordance with the current edition of the Bainbridge Island Road Standards. Ground-mounted related equipment, walls, or landscaping shall be located at least eighteen inches from the face of the curb, sidewalk, or paved pathway.
2. Height. Related equipment located above ground, not mounted to the facility support structure, in the public ROW shall be:
  - a. Compatible in scale and proportion to the structures upon which they are mounted.
  - b. The smallest and least visibly intrusive as determined by the visual impact analysis.
  - c. A height not to exceed four feet from finished grade.
3. Construction Time, Place and Manner. The City shall determine the time, place and manner of construction, maintenance, repair and/or removal of all facilities in the public ROW based on public safety, traffic management, physical burden on the public ROW, and related considerations. All work shall be performed at the applicant's expense.
4. Tree Trimming. Tree trimming around facilities shall comply with industry standards and Code provisions. Tree trimming activities that impact traffic require a traffic control plan approved by the department of public works. Trimming that involves a wireless support structure requires submittal of written permission from the owner of the structure to the City. The City shall not be liable for any damages, injuries, or claims arising from the applicant's actions under this subsection.

## MEMORANDUM

DATE: June 19, 2020

TO: City of Bainbridge Island Planning Commission

FROM: Daniel P. Kenny – Ogden Murphy Wallace

RE: Draft Small Wireless Code Revisions

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I was asked to provide the Planning Commission with two things. First, a refresher on some core concepts that the City must account for in this process. And, second, a response to the proposed changes identified by Commissioner Kim McCormick Osmond.

First, it is important for the Commission and staff to keep in mind a few legal principles that will come into play during these discussions.

- The City has some authority to outline aesthetic standards for the rollout of small wireless facilities, but the **City does not have authority to dictate technology**. Any standard being considered that would regulate the technology should be avoided.
- **Regulations that effectively prohibit the rollout of the technology should not be considered.** The FCC has generally determined that this technology should be allowed and regulations adopted by a local jurisdiction that effectively prohibit the technology are impermissible.
- The FCC has adopted presumptively reasonable shot clocks within which the City must comply. These **shot clocks are 60 days for an installation on an existing structure and 90 days for new poles**. These shot clocks cover all necessary city approvals, which may include a franchise (these already require two readings before City Council), small wireless permits, public works related permits, and anything else that might be required by the City.
- The City should treat all similarly situated applicants the same. This is called **competitive equity**. Regulations and approvals should not vary depending on who comes in the door.

Second, I was provided a detailed proposal from Commissioner Kim McCormick Osmond with 5 numbered requests. I've provided a response below to each request.

**1. Request to change the definition of small wireless facility so that it is entirely written out.**

- BIMC 18.10A.030's definition of "Small Wireless Facility" cross references to 47 CFR 1.6002 to avoid the need to update the City code should the Federal Government change the definition of small wireless facility. Once adopted by the City Council, the Code Reviser will provide a hyperlink to 47 CFR 1.6002, allowing the reader to easily find the definition of "Small Wireless Facility." By proceeding with a cross reference, the City is minimizing staff resources needed to monitor the definition of Small Wireless Facility to determine if there have been any changes. In addition, the cross reference minimizes Planning Commission and Council time needed to review updated definitions should Federal law change.<sup>1</sup>

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<sup>1</sup> This is the same information provided by Mr. Sepler in the agenda packet for the June 11, 2020 meeting.

**2. Request to add outright prohibited locations as well as location prohibited if a visual analysis results in “more than a moderate visual impact.”**

- Consistent with our prior discussions pertaining to the Kitsap County Code, I do not advise that the City use the Kitsap code as a model. Pursuant to the FCC’s order, the City is prohibited from effectively prohibiting the rollout of the small wireless facility technology. Adding code language which creates outright prohibited locations could be viewed as an effective prohibition.
- The request to use a visual impact analysis will be discussed in detail in #4 below. I do not recommend using any visual impact analysis and instead encourage the City to rely upon established aesthetic criteria like those that are included in the draft.

**3a. Request to add an administrative conditional use permit for the construction of small wireless facilities on a new structure.**

- As Mr. Sepler explained in the last meeting, there are a number of reasons to avoid an administrative conditional use permit process for new small wireless facility installations.
  - o First, the timeline for new structures is 90 days according to the FCC. This includes all necessary approvals – the franchise, the ACUP, the site-specific agreement, public works permits, encroachment permits, etc. The administrative conditional use permit process would put a severe time strain on staff if it were added to that list.
  - o Second, all similarly situated telecommunications companies should be treated with competitive equity. The point of the code as drafted is to put all industry players on the same field with the same opportunities, restricted by the code requirements, to install within the City. The FCC specifically allowed aesthetic requirements but required them to be published in advance. An administrative conditional use process could be viewed as not in conformance with such requirement.
  - o One of the primary components of the administrative conditional use application for a new small cell installation in Kitsap is the visual impact analysis. This will be discussed in detail in #4 below. I do not recommend using any visual impact analysis and instead encourage the City to rely upon established aesthetic criteria like those that are included in the draft.

**3b. Request to modify the appeal process so that a planning director’s decision on an ACUP would be appealed to the hearing examiner or city council.**

- Industry takes the position that a required internal appeal process to either the hearing examiner or council must be completed within the shot clock (90 days for new poles) required by the FCC. So, for a new pole installation, that means that all related approvals (franchise, ACUP, site specific agreement, public works permits, encroachment permits, etc.) plus an appeal filing window, the appeal hearing, decision, and reconsideration period must all fit within the 90 window. In my experience, in nearly all scenarios the approvals alone, without even getting to the appeals related timelines, would struggle to be completed within the 90-day window. Adding an appeal filing window, the actual appeal process, and a reconsideration period to the approval process would be impossible. Once the administrative decision is reached and the appeal filing window passes, the appeal itself would require a staff report and administrative record to be generated. The hearing examiner and parties would need to coordinate an available time for the hearing. Then, following the hearing, the



examiner would need to issue a decision. Following the hearing examiner's decision there is then normally a reconsideration period. All of this process would very likely push the City beyond the FCC shot clock.

- I do not recommend changing the appeal body for small wireless permit decisions.

**4. Request that all wireless communication facilities use the most current stealth technology and be the least visually and physically intrusive. This includes the use of a visual impact analysis.**

- "The most current stealth technology" would mean something different to everyone. Industry will argue for stealth technology that looks different than the City would want in place. There is also an entire industry that manufactures poles with different "stealth" options. The goal of having published aesthetic standards that are not tied to specific stealth products is to facilitate the application of the technology to different installations within the City. The Kitsap code does not further articulate its stealth requirement and entirely kicks to the visual impact analysis as the basis for the requirement. So, even Kitsap does not follow through on the stealth requirement other than to go through a visual assessment.
- Importantly, the current draft code already includes detailed aesthetic requirements for all elements of a small cell installation. When these requirements are applied to a proposal, the aesthetics of the site should be addressed. The general requirements (18.10A.040(E)) include the following regulations:
  - o The installation of all equipment must conform to the requirements of Section 18.10A.040(E)(1). The location of the small wireless facility within the City will dictate where the equipment must be installed at each location. Each equipment installation location (a through e) has detailed aesthetic requirements.
    - For example, if the equipment is located on the pole, "antennas and the associated equipment enclosures (including disconnect switches and other appurtenant devices) must be **colored, tinted, or painted to match the approximate color of the surface of the pole and appear as an integral part of the pole or flush mounted to the pole...**" To effectuate this, there are restrictions on the distance conduit and equipment can be mounted off the pole. There are limitations on the size of antennas and all other equipment (consistent with the FCC requirement).
  - o "The preferred location of a small wireless facility on a pole is the location with the least visible impact." 18.10A.040(E)(10).
  - o "Antennas, equipment enclosures, and ancillary equipment, conduit, and cable, shall not dominate the structure or pole upon which they are attached." 18.10A.040(E)(11).
  - o "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 not 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." 18.10A.040(E)(13).
- The new pole section (18.10A.050) also includes numerous aesthetic requirements in addition to all of the general requirements in .040.

- The core requirement for all new poles is the concealment element design, which seeks “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, then the replacement pole shall be of the same general design as the pole it is replacing, unless the Department of Planning and Community Development otherwise approves a variation due to aesthetic or safety concerns.
- The small wireless component on a new pole should mimic the design of the pole and integrate the small wireless facility into the design of the pole.
- The city and applicant can also look to other concealment methods including, but 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 wirelines are installed internally in the structure.
- As you can see, the draft code has a lot already built into it to directly address the City’s desire to protect the aesthetics of the community.
- I do not recommend using a visual impact analysis for new small wireless deployments such as that which Kitsap uses.
  - This analysis uses the vague standard of “more than a moderate visual impact.” This standard looks at the visual impacts of a proposed installation from all points within a one-mile radius. According to the Kitsap code, more than a moderate visual impact occurs when the facility “disrupts” a largely intact view of: any viewscape, visually sensitive area, ridge line view, sound, lake, wetland complex, stream, valleys, ravines, forested land, Mountain Rainier, Cascade range, Olympic range, etc. anywhere within one mile of the installation. Or is sited “above visually predominant ridge lines”, as well as other vague criteria. This is an overly broad visual impact analysis that could very likely result in broad prohibitions on new pole installations throughout the City. Processes like this will be considered by industry as a mechanism to effectively prohibit the rollout of their technology.
  - Instead, the City can use the numerous aesthetic standards outlined above and included in the draft code to ensure that all installations are completed with aesthetics in mind.

**5. Request to include specific development standards for small wireless facilities including height, location, tree trimming, construction time, place, and manner.**

- It is unclear what is desired through this comment as all of the areas listed are already included within the code. Further, the draft code outlines extensive regulations on the development of small wireless facilities throughout the City.

- Height – the definition of small wireless facility include height criteria (18.10A.030); height of antennas on top of existing poles(18.10A.040(A)(5); height of replacement poles (18.10A.040(A)(6), .040(B)(1); .040(B)(2); and 18.10A.050(E)) -- and elsewhere throughout the code.
- Location – The current draft has detailed requirements for the location of equipment for all installations. See 18.10A.040(E)(1). There are restrictions on any new pole - new poles are not allowed to be installed unless “The proposed small wireless facility cannot be located on an existing utility pole or light pole, electrical transmission tower, or on a site outside of the public rights of way such as public non-park property, a building, a transmission tower, or in or on a nonresidential use in a residential zone whether by roof or panel-mount or separate structure.” Then, there are numerous aesthetic considerations that will dictate both the location of a pole and the location of equipment and antennas on the pole. These are discussed above and are detailed in the draft code.
- Tree trimming and Construction Standards are fully outlined in the City code and would not need to be added again to the small wireless facility code chapter. Any construction project must be completed with appropriate permitting for things like traffic control and right-of-way encroachment as well as footings and load bearing on the pole. Further, any right-of-way tree trimming must comply with code and public works standards as well as state law.



CITY OF  
BAINBRIDGE ISLAND

## Planning Commission Special Meeting Agenda Bill

**MEETING DATE:** June 25, 2020

**ESTIMATED TIME:**

**AGENDA ITEM:** Recap of City Council/Planning Commission joint session on June 22, 2020

**SUMMARY:**

**AGENDA CATEGORY:** Discussion

**PROPOSED BY:** Planning & Community Development

**RECOMMENDED MOTION:** Discussion

**STRATEGIC PRIORITY:**

**FISCAL IMPACT:**

**Amount:**

**Ongoing Cost:**

**One-Time Cost:**

**Included in Current Budget?**

**BACKGROUND:**

**ATTACHMENTS:**

**FISCAL DETAILS:**

**Fund Name(s):**

**Coding:**



CITY OF  
BAINBRIDGE ISLAND

## Planning Commission Special Meeting Agenda Bill

**MEETING DATE:** June 25, 2020

**ESTIMATED TIME:** 60 Minutes

**AGENDA ITEM:** 6:30 PM - Ordinance 2020-16 Amending Bonus Floor Area Ratio (FAR) Options, BIMC 18.12.030.E.

**AGENDA CATEGORY:** Ordinance

**PROPOSED BY:** Jennifer Sutton

### PREVIOUS PLANNING COMMISSION

**REVIEW DATE(S):** February 27, March 12, May 14 and 28, June 11, 2020

NOTE: Joint City Council/ Planning Commission meeting scheduled for Monday June 22, 2020.

**PREVIOUS COUCIL REVIEW DATE(S):** February 4, 11, 25, March 3, 10, & April 14 & 28, 2020

### RECOMMENDED MOTION:

Discuss Bonus FAR changes in draft Ordinance 2020-16. Confirm scheduling public hearing on July 16 or later.

### SUMMARY:

Prior to the enactment of Ordinance No. 2020-10, the provision of the Bainbridge Island Municipal Code (“BIMC”) that the ordinance primarily impacts, BIMC 18.12.030.E., described various options for achieving bonus density in the Winslow Mixed Use Town Center and High School Road Districts. For example, 100% density could be achieved by providing affordable housing or purchasing development rights, whereas a portion of density could be achieved by providing public amenities and/or infrastructure, and/or by preserving heritage trees on site, and/or via a transfer of development rights. The Ferry Terminal District had two additional options related to providing community open space and ferry related parking.

As a result of the interim zoning control enacted via Ordinance No. 2020-10, Floor Area Ratio (“FAR”) bonus density can only be obtained or used currently under the following circumstances:

- o Providing affordable housing as defined in Chapter 18.36 BIMC in accordance with BIMC 18.12.030.E.1.;
- o Transferring unused FAR from the Islander Mobile Home Park to another parcel or parcels in the Mixed Use Town Center District for residential development in accordance with BIMC 18.12.030.E.1.; or
- o Preserving an historic structure located on a state, local, or federal register in accordance with BIMC 18.12.030.E.6. such that, when an historic structure is preserved, the square footage of that structure will not count toward the FAR calculation.

In addition to the exclusions described above in the bulleted items, Ordinance No. 2020-10 also includes an exclusion recognizing development rights that were purchased from the City or otherwise acquired prior to the effective date of the ordinance, as well as a provision recognizing vested rights. The ordinance also suspends the applicability and use of BIMC 18.27.080 and footnote three to Table 18.12.020-3 because those provisions relate directly to the provisions that are suspended in BIMC 18.12.030.E.

At the June 11 meeting, the full Planning Commission came to consensus on changing the Bonus FAR program. These

changes are captured in DRAFT Ordinance 2020-16. Additional changes to Ordinance 2020-16 will likely be made following the June 22 joint City Council Planning Commission meeting.

**BACKGROUND:** The City Council has engaged in multiple discussions regarding bonus FAR density options. The following is a chronological legislative history summary of discussions and decisions made by the Council and the Planning Commission thus far related to Ordinance No. 2020-10, as well as related to consideration of FAR density options more generally. The summary is based on the agenda packet materials and the minutes of the meetings as below described.

At the February 4, 2020 City Council study session, Councilmembers expressed an interest in discussing whether to eliminate the option to purchase bonus FAR. The fees for FAR have been established by resolution (Resolution Nos. 2001-02 & 2006-50) and are included within the City's Fee Schedule. The fees are \$18 per square foot for residential development, \$25 per square foot for mixed use development, and \$34 per square foot for commercial development. The funds are split between public amenities (40%) and farm/agriculture (60%).

Options considered by the Council at the February 4 meeting included pursuing a suspension of the bonus FAR regulations via adoption at a future meeting of an interim control ordinance that would be effective immediately (if adopted on an emergency basis) or five days after passage and publication (if enacted on a non-emergency basis). The Council also discussed the option of seeking to otherwise consider revisions to or elimination of the FAR bonus option by referring the matter to the Planning Commission for review and recommendation, and the Council would then consider that recommendation before taking action.

At the February 11, 2020 City Council business meeting, the Council passed a motion directing the City Manager to pursue an interim zoning control related to BIMC 18.12.030.E. to suspend that section (relating to bonus FAR). A motion to direct the Planning Commission to review Chapter 18.12 BIMC relating to FAR and Chapter 18.21 BIMC relating to affordable housing was tabled. Following further discussion, the Council decided to revisit the first motion and approved a motion to reconsider that motion relating to the development of an interim control ordinance at the Council's February 25, 2020 meeting.

At the February 25, 2020 City Council meeting, the Council reconsidered the motion directing the City Manager to develop an interim control ordinance related to suspending BIMC 18.12.030.E. regarding use of FAR for bonus density. That motion failed. Other motions also failed related to directing the City Manager to pursue an interim zoning control that would suspend BIMC 18.12.030.E. in different ways. However, the Council passed unanimously (6-0, with Councilmember Pollock absent) the following motion:

I move to direct the City Manager to work with the Planning Commission and any other appropriate City committees or commissions to bring back to Council as quickly as possible an ordinance that will reform the City's bonus FAR programs so as to only allow bonus FAR in relation to Affordable Housing, Historic Preservation, and Transfer of Development Rights.

At the February 27, 2020 Planning Commission meeting, City staff briefly discussed with the Planning Commission the City Council's action directing the City Manager to work with the Planning Commission to bring back to the Council as quickly

as possible an ordinance to reform the City's bonus FAR programs so as to only allow bonus FAR in relation to affordable housing, historic preservation, and transfer of development rights.

At the March 3, 2020 City Council meeting, Councilmember Medina was absent and Councilmember Pollock, who was absent for the February 25 meeting, was present. Councilmember Pollock moved and Councilmember Deets seconded a motion to add a discussion regarding an interim zoning control related to BIMC 18.12.030.E. to that night's agenda under Unfinished Business. The Council approved the agenda as amended. The Council then unanimously passed a motion to suspend the rules for the purpose of taking up this motion again after having voted on it at the last meeting on February 25. The Council then unanimously passed the following motion:

I move to direct the City Manager to prepare an interim zoning control ordinance for consideration at the Council's March 10 meeting related to BIMC 18.12.030.E. to suspend the applicability and use of that Section E., except that subsections E.1. (related to Optional Affordable Housing) and E.6. (related to Historic Structure Preservation) would not be suspended and waiving any procedural requirements that would otherwise apply to the motion that was passed.

At the March 10, 2020 City Council meeting, the Council considered the interim control ordinance that was prepared as directed by the Council at its March 3, 2020 meeting related to suspending the applicability and use of BIMC 18.12.030.E., except that subsections E.1. (related to Optional Affordable Housing) and E.6. (related to Historic Structure Preservation) would not be suspended. The ordinance was prepared as an emergency ordinance, meaning that it would be effective immediately upon passage. The ordinance also included suspension of the applicability and use of BIMC 18.27.080 and footnote three of Table 18.12.020-3 because those provisions relate directly to the provisions that were being suspended in BIMC 18.12.030.E.

As part of that March 10, 2020 Council meeting, the Council passed various motions to revise the ordinance as drafted. The first such motion was to add an additional exclusion to the interim zoning control as follows:

I move to amend Ordinance No. 2020-10, Section 2.B., to add an exclusion to the interim zoning control for development projects that filed a complete land use permit application with the City and have purchased from the City or otherwise acquired development rights, including related to bonus floor area ratio, through an executed covenant, development agreement, or contract, prior to the effective date of this ordinance.

The Council then adopted motions to remove two recital "Whereas" clauses in the draft ordinance. The Council then voted unanimously to approve Ordinance No. 2020-10 with the following motion:

I move to approve Ordinance No. 2020-10, relating to an interim zoning control to hereby suspend BIMC 18.12.030.E. and related provisions as described in the ordinance regarding floor area ratio bonus density options, except for Sections E.1. and E.6. of BIMC 18.12.030.E. as amended.

At the March 12, 2020 Planning Commission meeting, the Planning Commission ("Commission") had an item on their agenda entitled "FAR Discussion." Included as part of the materials for that agenda item was the February 27, 2020 memorandum written by Planning Director Heather Wright that is referenced above in relation to the Commission's February 27 meeting. Under the "Council Action" section of the memorandum, it states:

On February 25, 2020, the City Council approved a motion that the City Manager work with the Planning Commission and appropriate City Committees or Commissions to bring back to Council as quickly as possible an Ordinance that will reform the City's bonus FAR programs so as to only allow bonus FAR in relation to Affordable Housing, Historic Preservation and Transfer of Development Rights.

Based on the draft minutes for this Commission meeting on March 12, 2020 (attached as Attachment B below), Planning Director Heather Wright introduced the interim zoning control ordinance. Following, there was public comment, including from Councilmember Pollock. After the public comment, the Commission unanimously passed a motion (attached):

At the April 14, 2020 City Council meeting, the Council scheduled a public hearing regarding Ordinance No. 2020-10 for April 28, 2020. The Council took action to set the public hearing pursuant to RCW 35A.63.220 and RCW 36.70A.390, which require the Council to hold a public hearing within 60 days of adoption of Ordinance No. 2020-10 (i.e., by May 10, 2020) in order to take public testimony and to consider adopting further findings of fact.

On April 28, 2020, the City Council held a public hearing on Ordinance 2020-10 and no changes to the Ordinance were made.

The Planning Commission formed a subcommittee of 3 members (Chester, Paar, Quitslund) to begin working on a revised FAR ordinance. The Planning Commission discussed Subcommittees information and recommendations on changes to bonus FAR regulations on at their May meetings and on June 11.

#### **ATTACHMENTS:**



## **Planning Commission Recommendations on FAR Bonus Density Provisions in the Bainbridge Island Municipal Code**

In response to the City Council's request for Planning Commission evaluation of existing FAR bonus density provisions in the Bainbridge Island Municipal Code, the Planning Commission makes the following recommendations for immediate revisions to those code provisions.

We recommend reducing reliance on Bonus FAR and limiting the use of this incentive to projects that will achieve specific community benefits. The amounts of Base and Bonus FAR currently allowed in the several MUTC and HSR zoning districts should be studied and revised where appropriate. A project that is well suited to its zoning overlay context, and that meets our design guidelines and standards, should be feasible within the limits set by Base FAR allowances.

Within limits yet to be determined, Bonus FAR should be allocated in order to achieve, within the project itself, specific community benefits that would otherwise not be feasible. Such community benefits may include:

- a. Parking alternatives to reduce or eliminate the need for parking on the street or in a dedicated surface lot.
  - b. Housing for income-qualified tenants, combined with moderately priced market-rate housing.
  - c. Preservation of a historic structure in such a way that it becomes a functional part of the re-development.
3. Re: BIMC 18.12.030.E, most of the current provisions for Bonus Density (i.e., Bonus FAR) in this subsection should be discontinued.
  4. Re: 030.E.1.a (Optional Affordable Housing FAR Bonus) and Table 18.12.030, these provisions, revised, may become part of BIMC 18.21 (Affordable Housing) when that chapter is revised; provisions in BIMC 18.12 and 18.21 will complement one another.
  5. Re: 030.E.1.b (Preservation of the Islander Mobile Home Park), we recommend that any remaining units of value held by the owner(s) of the mobile home park be purchased by COBI and transferred to a "development bank" account, to be used in a T D R program.
  6. Re: 030.E.2 (Purchase of Development Rights), noting that current provisions in BIMC 18.27 have seen very little use, we support instituting an effective T D R program, which may be pertinent to development in some parts of the Winslow Study Area.
  7. Re: 030.E.3.a & .b (Public Amenities and/or Infrastructure), we recommend discontinuing a policy that awards Bonus FAR for meeting a requirement.
  8. Re: 030.E.4 (Community Open Space in the ferry terminal district), we recommend, again, discontinuing a policy that awards Bonus FAR for meeting a requirement.
  9. Re: 030.E.5 (FAR Transfers), we don't believe that any "development potential" in parcels that contain critical areas should be converted into Bonus FAR.
  10. Re: 030.E.6 (Historic Structure Preservation), we recommend that when a historic structure is preserved and incorporated in redevelopment of the site, that structure's floor area shall be, in effect, Bonus FAR.
  11. Re: 030.E.7 (Under-building Parking in the Ferry Terminal District), we recommend retaining this provision, subject to change in revised Bonus FAR regulations.
  12. After revision, in BIMC 18.12 and its Table of FAR-Based Dimensional Standards, the allowances for Base and Bonus FAR should not be regarded as permanent, or as conferring a right to develop to the limit. They should be reviewed periodically and revised in the light of experience, as circumstances in the community and the built environment change.
  13. Next steps in the implementation of these recommendations remain to be determined. Further work can be done in the Planning Commission on the basis of policy guidance from the City Council. An Ad Hoc Committee or a Task Force might be formed. A consultant might contribute expertise that is not available within our community.

## **ORDINANCE NO. 2020-16**

**AN ORDINANCE** of the City of Bainbridge Island, Washington, relating to bonus floor area ratio and amending Section 18.12.030.E of the Bainbridge Island Municipal Code.

**WHEREAS**, within the express terms of the Growth Management Act, the Washington State Legislature has specifically conferred upon the governing bodies of Washington cities the right to establish and adopt interim zoning controls related to land uses; and

**WHEREAS**, the City Council of the City of Bainbridge Island (“City”) updated the City’s Comprehensive Plan in February of 2017; and

**WHEREAS**, balancing affordable housing, historic preservation, growth management, and sustainable development continues to be a local, regional, and national challenge due to many social and economic factors; and

**WHEREAS**, the City has encouraged affordable housing construction by adopting “bonus density” programs that allow for increases in density above the underlying zoning if the additional density creates affordable homes; and

**WHEREAS**, the intent of the Comprehensive Plan is to place residential density, inclusive of affordable housing, in the Winslow core area near infrastructure such as transportation hubs (e.g., ferry service, bus service, highway access), sewer, water, reliable electrical power, and retail stores; and

**WHEREAS**, the intent of such policies is to manage growth consistent with the Growth Management Act, reduce infrastructure costs, and follow general principles of sustainable community development; and

**WHEREAS**, the City Council is interested in evaluating the applicability, use, and effectiveness of the bonus density options provided for and as described in BIMC 18.12.030.E. including related to the purchase of development rights, the provision of public amenities and/or infrastructure, the provision of community open space, floor area ratio transfers related to the Mixed Use Town Center and High School Road districts, and ferry-related parking; and

**WHEREAS**, on February 25, 2020, the City Council directed the City Manager to work with the Planning Commission to draft an ordinance that suspended use and applicability of bonus FAR options; and

**WHEREAS**, on March 10, the City Council approved an interim zoning control ordinance related to Floor Area Ratio (“FAR”) density bonus options ( Ordinance 2020-10); and

**WHEREAS**, the Planning Commission discussed these policies on February 27 and March 12, and formed a subcommittee of Commissioners Chester, Paar and Quitslund to work on this topic; and

**WHEREAS**, the subcommittee brought back their recommendations to the full Planning Commission for discussion on May 14 and 28, met again, and brought back revised recommendations for the June 11, 2020 Commission meeting and the full Planning Commission came to consensus on a set of amendments to bonus FAR regulations; and

**WHEREAS**, the Planning Commission and City Council held a joint meeting on June 22, 2020 to discuss the bonus FAR regulations and how they are interrelated with other land use issues such as improving affordable housing and transfer of development rights programs; and

**WHEREAS**, the Planning Commission discussed Ordinance 2020-16 on June 25, 2020 and made additional revisions to the ordinance prior to holding a public hearing on XXXX, 2020; and

**WHEREAS**, after closing the public hearing on XXXX, 2020, the Commission recommended of approval of Ordinance 2020-16 to the City Council; and

**WHEREAS**, notice was given on XXXX, 2020, to the Office of Community Development at the Washington State Department of Commerce in conformance with RCW 36.70A.106; and

**WHEREAS**, the City Council considered Ordinance 2020-16 at its meeting on June 23, 2020; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1.** Section 18.12.030.E of the Bainbridge Island Municipal Code is hereby amended to read as follows:

**BIMC 18.12.030**

E. Bonus Density in Winslow Mixed Use and High School Road Districts. Eligible properties may achieve a maximum level of development above the base FAR, as provided for in Table 18.12.020-3, by using one, or a combination of, the following FAR bonus provisions. The FAR bonus provisions may be combined to achieve the maximum level of development established for each district. In no case shall the total commercial, residential or mixed use FAR exceed the maximum FAR as provided for in Table 18.12.020-3.

**NOTE: THIS AFFORDABLE HOUSING SECTION WOULD LIKELY BE UPDATED AFTER THE JUNE 22 JOINT PLANNING COMMISSION CITY COUNCIL MEETING**

1. Optional Affordable Housing.

a. FAR Bonus. Up to 100 percent of the maximum residential FAR bonus may come from providing affordable housing as defined in Chapter 18.36 BIMC; provided, that the difference between the base residential FAR and the maximum residential FAR shall be dedicated to affordable housing. A portion of the total floor area that is of common use and benefit to the entire residential development (for example, interior halls, stairwells, laundry rooms, exercise rooms) may be included in the calculation of the affordable housing component. This portion shall be the same percentage as the affordable housing provided. For example, if 20 percent of the living unit floor area is for affordable housing, then 20 percent of the common floor area may be included in the total affordable housing calculation. Development of the optional affordable housing shall be in accordance with Chapter 18.21 BIMC and Table 18.12.030.

**Table 18.12.030: Optional Affordable Housing Bonus Summary Table**

Size of Development	Residential development less than 10,000 sq. ft.	Residential development of 10,000 sq. ft. but less than 60,000 sq. ft.	Residential development more than 60,000 sq. ft.
<b>Affordable Housing FAR Bonus</b>	Must provide 100 percent of bonus square footage for extremely low, very low, or moderate income groups.	Must comply with following ratios: (a) 100 percent of bonus for all moderate; OR (b) 0.2 of bonus for extremely low, very low, or low income groups;	Must comply with following ratios: 0.1 of bonus for extremely low, very low or low income groups; 0.6 of bonus for moderate income group; and

**Table 18.12.030: Optional Affordable Housing Bonus Summary Table**

Size of Development	Residential development less than 10,000 sq. ft.	Residential development of 10,000 sq. ft. but less than 60,000 sq. ft.	Residential development more than 60,000 sq. ft.
		0.5 of bonus for moderate income group; and 0.3 of bonus for middle income group.	0.3 of bonus for middle income group.

**NOTE: ELIMINATING THIS SOURCE OF BONUS FAR IN THE WAY RECOMMENDED BY THE COMMISSION (WITH THE CITY BUYING THE BALANCE OF MOBILE HOME PARK FAR AND PUTTING IN DEVELOPMENT BANK) REQUIRES LEGAL REVIEW AND BUDGET ANALYSIS BY STAFF AND CITY COUNCIL**

~~b. Preservation of the Islander Mobile Home Park. Preservation of the Islander Mobile Home Park as an existing park site for manufactured homes shall be encouraged through the following provisions.~~

~~i. Unused FAR from the parcel on which the mobile home park is located may be transferred to another parcel or parcels within the Mixed Use Town Center. For example, the base FAR for the mobile home park would be calculated, less the FAR of the mobile homes. In exchange for permanently preserving the mobile home park, the owner of the property may transfer the unused FAR to another parcel or parcels in the Mixed Use Town Center, where it may be used as bonus FAR above the base FAR for that district.~~

~~ii. Permanent preservation of the mobile home park may be used as an affordable housing bonus on another parcel or parcels within the Mixed Use Town Center. For example, in exchange for preserving the mobile home park, the owner of the property would be deemed to have met the affordable housing bonus provisions of subsection A.1 of this section, and could achieve the maximum FAR bonus for~~

residential development on another parcel or parcels in the Mixed Use Town Center. The owner of the mobile home park may either apply the FAR bonus to another parcel(s) he or she owns, or transfer or sell the bonus to another property owner in the Mixed Use Town Center.

**NOTE: THIS TDR SECTION WOULD LIKELY BE UPDATED AFTER THE JUNE 22 JOINT PLANNING COMMISSION CITY COUNCIL MEETING**

2. Purchase of Development Rights. Up to 100 percent of the maximum residential, commercial or mixed use FAR bonus may come from the a purchase or transfer of development rights as provided for in Chapter 18.27 BIMC. ~~The cost of development rights shall be established by resolution of the city council.~~

3. ~~Public Amenities and/or Infrastructure. At the applicant's option, a portion of the bonus may be earned through the provision of public amenities, infrastructure, and/or preservation of a heritage tree(s) on site, pursuant to an adopted city council resolution clarifying the amount of credit awarded for different provision of different public amenities and/or infrastructure, as follows:~~

a. ~~Up to 40 percent of the maximum residential, commercial or mixed use FAR bonus may come from monetary contributions toward public amenities and/or infrastructure beyond that required for SEPA mitigation. The amount of the contribution shall be established by resolution of the city council. Funds contributed to the public amenities and/or infrastructure shall be used exclusively in the Mixed Use Town Center or High School Road districts, for projects identified in the six year capital facilities program, or approved by the city.~~

b. ~~In lieu of the contribution of funds as provided for in subsection E.3.a of this section, and subject to approval by the director or designee, the public amenities FAR bonus may be achieved by the preservation of a heritage tree(s) on site, construction of public amenities and/or infrastructure beyond that required to mitigate the impacts of development. Public amenities and/or infrastructure projects shall be located in the Mixed Use Town Center or High School Road districts, and shall be chosen from projects identified in the six year capital facilities program, or approved by the city.~~

4. ~~Community Open Space. In the ferry terminal district, up to 60 percent of the maximum residential, commercial or mixed use FAR bonus may be achieved by providing community open space of one acre, or 20 percent of the parcel area, whichever is greater.~~

~~The community open space shall be located in or in the immediate vicinity of locations identified in Figure 4.1 of the Winslow master plan. The open space must be located on the same parcel that is being developed, and must be on land that would be otherwise buildable. Adequate public access to the community open space must be provided. The city shall consider approving the bonus, taking into consideration the configuration, public use and accessibility of the proposed open space. In cases where a development project utilizes the community open space bonus provision in conjunction with the purchase of development rights bonus provision, all funds collected from the purchase of development rights shall go toward the preservation of agricultural lands fund.~~

~~5. Winslow Town Center Mixed Use/High School Road FAR Transfers. Up to 20 percent of the maximum residential, commercial or mixed use FAR bonus may come from transfers of FAR from parcels within the Mixed Use Town Center and the High School Road districts. The transfer shall create permanent open space through open space preservation covenants on sending parcels that contain critical areas as defined in Chapter 16.20 BIMC. For example, development potential in the ravine of the gateway district may be shifted to the upland area; provided, that the requirements of Chapter 16.20 BIMC are satisfied.~~

6. Historic Structure Preservation. When an historic structure is preserved on site, the FAR of that historic structure shall not be included in the calculation of total FAR for the site. The historic structure must be included on a state, local or federal register.

7. Ferry-Related Parking. In the ferry terminal district, an additional 0.2 FAR may be achieved by relocating existing legal surface ferry commuter parking on site (as shown on Figure 6.2 of the Winslow master plan) to under-building or below-grade parking. The percentage of the additional FAR that is achieved shall be dependent upon the percentage of parking that is relocated. For example, if 50 percent of existing surface ferry commuter parking on site is relocated under-building or below grade, then 50 percent of the total additional FAR (or 0.1 FAR) may be achieved.

**NOTE: SPECIFICS OF 6/11 COMMISSION SURFACE PARKING REDUCTION  
TBD**

X. Reducing Surface Parking Demand: Bonus FAR may be earned through:

- a. The provision of underbuilding and/or underground parking to serve a proposed development; or

- b. Bonus FAR may also be earned if a development builds more underbuilding and/or underground than needed for the development, and designates the extra spaces for public parking or downtown employee parking; or

**Section 2.** Section 18.27.080 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

**NOTE: THIS TDR CHAPTER AND SECTION WOULD LIKELY BE UPDATED AFTER THE JUNE 22 JOINT PLANNING COMMISSION CITY COUNCIL MEETING AND FURTHER IMPROVEMENTS TO CITY TDR PROGRAM**

**BIMC 18.27.080**

A. In order to use development rights to increase floor area ratio within the Mixed Use Town Center or High School Road districts as provided in BIMC 18.12.030.E, an applicant must demonstrate that they have secured development rights from a valid sending site through the City's Transfer of Development rights program ~~fill out an application in a form approved by the city. The application shall include the amount of the requested increase in floor area ratio, and the fee, if any, of the increased floor area ratio. The fee for development rights to increase floor area ratio shall be established by resolution of the city council.~~

B. The approved application to utilize development rights to increase floor area ratio within the receiving area must be part of a site plan and design review application or other relevant land use permit under BIMC Title 2. ~~The site plan land use permit~~ must indicate the increase in floor area ratio (FAR).

C. The use of development rights shall be reviewed for conformance with all applicable development standards and design standards and guidelines of Title 18 ~~the design review provisions of BIMC 18.18.030.~~

**Section 3.** This ordinance shall take effect and be in force five (5) days from its passage and publication as required by law.

PASSED BY THE CITY COUNCIL this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED BY THE MAYOR this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Leslie Schneider, Mayor



ATTEST/AUTHENTICATE:

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Christine Brown, City Clerk

FILED WITH THE CITY CLERK: XXX, 2020

PASSED BY THE CITY COUNCIL:

PUBLISHED:

EFFECTIVE DATE:

ORDINANCE NUMBER: 2020-16

# MUTC & HS Zoning Districts

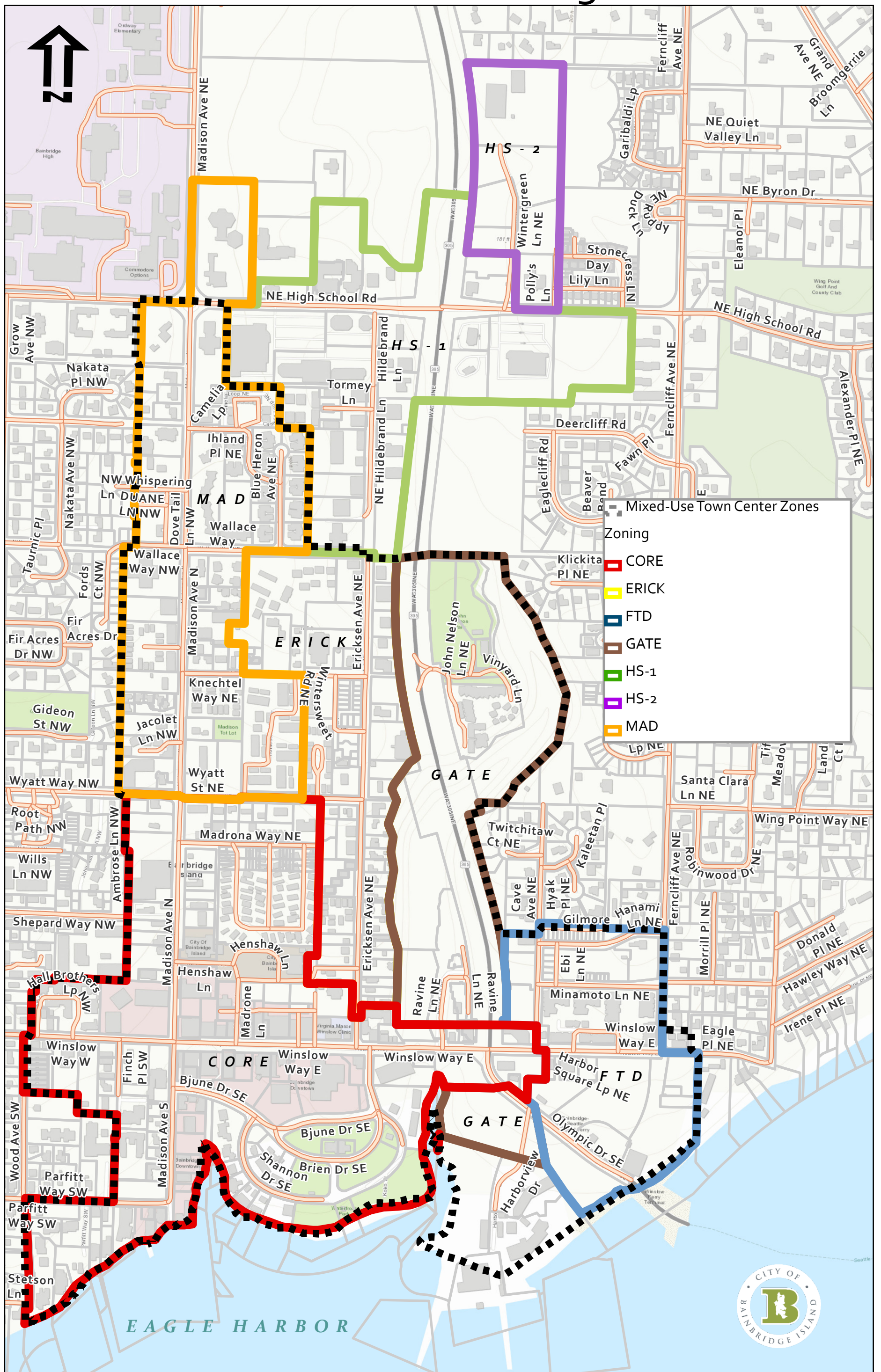


Table 18.12.020-3 Dimensional Standards for Mixed Use Town Center and “Other” Zone Districts

ZONING DISTRICT	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I
	Central Core Overlay	Madison Avenue Overlay	Ericksen Avenue Overlay	Gateway Overlay	Ferry Terminal Overlay [See BIMC <a href="#">18.12.030.C</a> ]				
DIMENSIONAL STANDARD									
MAXIMUM FAR (Floor Area Ratio) [1]									
Basic Maximum									
Commercial and Other Nonresidential Uses	0.6	0.4	0.3	0.15	0.1	0.3	No max.; limited by other standards		
Residential	0.4	0.4	0.3	0.5	0.4	0.3	No FAR limit: R-2 standards apply		
Mixed Use [2]	1.0	0.5	0.5	0.5	0.5	0.3	No max.; limited by other standards		
Maximum with Bonus	Bonus densities require compliance with BIMC <a href="#">18.12.030.E</a>								
Commercial and Other Nonresidential Uses	1.0	0.6	0.6	0.3	0.2	0.6	Bonus densities require compliance with BIMC <a href="#">18.12.030.D</a>	N/A	N/A
Residential	1.0	0.6	0.6	1.0	1.1	0.6		N/A	N/A
Mixed Use [2]	1.5	1.0	1.0	1.0	1.3 (1.5 pursuant to note [3])	1.0		N/A	N/A

Table 18.12.020-3 Dimensional Standards for Mixed Use Town Center and “Other” Zone Districts

ZONING DISTRICT	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I
	Central Core Overlay	Madison Avenue Overlay	Ericksen Avenue Overlay	Gateway Overlay	Ferry Terminal Overlay [See BIMC <a href="#">18.12.030.C</a> ]				
DIMENSIONAL STANDARD									
MINIMUM LOT DIMENSIONS									
Area	N/A	N/A	N/A	N/A	N/A	N/A	N/A	20,000 sq. ft.	20,000 sq.ft.
Depth	N/A	N/A	N/A	N/A	N/A	N/A	80	N/A	N/A
Width	N/A	N/A	N/A	N/A	N/A	N/A	80	N/A	N/A
MAXIMUM LOT COVERAGE									
	100%, excluding setbacks	35%	35% 2,500 sq. ft. max. building footprint south of Wyatt, excluding parking structures located below predevelopment and finished grade	35%	75%	50%	35%	35%	50%

Table 18.12.020-3 Dimensional Standards for Mixed Use Town Center and “Other” Zone Districts

ZONING DISTRICT	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I
DIMENSIONAL STANDARD	Central Core Overlay	Madison Avenue Overlay	Ericksen Avenue Overlay	Gateway Overlay	Ferry Terminal Overlay [See BIMC <a href="#">18.12.030.C</a> ]				
SETBACKS (Minimum required unless otherwise noted) [4]									
Note: Landscaped areas may serve as setbacks and, in some cases, may exceed the setback requirements.									
Note: Additional setbacks may be required by:									
(a) Chapter <a href="#">16.12</a> BIMC, Shoreline Master Program; or									
(b) Chapter <a href="#">16.20</a> BIMC, Critical Areas; or									
(c) BIMC <a href="#">16.28.040</a> , mining regulations; or									
(d) BIMC <a href="#">18.09.030</a> , Use Specific Standards; or									
(e) BIMC <a href="#">18.12.030.F</a> , Shoreline Structure Setbacks.									
Front									
	Commercial: 5 ft. max. from sidewalk; Residential: 10 ft. min. and 20 ft. max. from	10 ft. min., 20 ft. max.	15 ft. min., 20 ft. max.	5 ft. max. from sidewalk	5 ft. max. from sidewalk except as modified by transition standards in BIMC <a href="#">18.12.030.C</a>	10 ft. max. from sidewalk	0 ft. min., 20 ft. max from any street, planned right-of-way or road easement, unless otherwise provided under	50 ft. min. along any public right-of-way	40 ft. min. from property in residential districts; 10 ft. min. for all other



Table 18.12.020-3 Dimensional Standards for Mixed Use Town Center and “Other” Zone Districts

ZONING DISTRICT	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I
	Central Core Overlay	Madison Avenue Overlay	Ericksen Avenue Overlay	Gateway Overlay	Ferry Terminal Overlay [See BIMC <a href="#">18.12.030.C</a> ]				
	Madison Ave. sidewalk						special planning area provisions		
Side									
	0 ft.; 5 ft. min. when property abuts the Madison Avenue or Ericksen Avenue overlay districts	0 ft.; 5 ft. min. when property abuts the central core overlay district	5 ft. min.	0 ft.	0 ft.	0 ft.	0 ft. when property abuts another NC zone; 15 ft. when property abuts a residential zone	10 ft.; 50 ft. when abutting a residentially zoned property. The city may increase this to a maximum of 100 ft. depending on the type, scale, and intensity of	40 ft. min. from property in residential districts; 10 ft. min. for all other

Table 18.12.020-3 Dimensional Standards for Mixed Use Town Center and “Other” Zone Districts

ZONING DISTRICT	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I
	Central Core Overlay	Madison Avenue Overlay	Ericksen Avenue Overlay	Gateway Overlay	Ferry Terminal Overlay [See BIMC <a href="#">18.12.030.C</a> ]				
								the proposed use, subject to site plan review.	
Rear									
	0 ft.; 5 ft. min. when property abuts the Madison Avenue or Ericksen Avenue overlay districts	0 ft.; 5 ft. min. when property abuts the Central Core or Ericksen Avenue overlay districts	0 ft.; 5 ft. min. when property abuts the central core or Madison Avenue overlay districts	0 ft.	0 ft.	0 ft.	0 ft. when property abuts another NC zone; 15 ft. when property abuts a residential zone	15 ft. min.; 50 ft. min. when abutting a residential district. City may increase to a maximum of 100 ft. based on type, scale, and	40 ft. min. from property in residential districts; 10 ft. min. for all other

Table 18.12.020-3 Dimensional Standards for Mixed Use Town Center and “Other” Zone Districts

ZONING DISTRICT	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I
	Central Core Overlay	Madison Avenue Overlay	Ericksen Avenue Overlay	Gateway Overlay	Ferry Terminal Overlay [See BIMC <a href="#">18.12.030.C</a> ]				
DIMENSIONAL STANDARD								intensity of proposed use, subject to site plan review.	
Shoreline Jurisdiction	See Table <a href="#">16.12.030</a> -2, Dimensional Standards Table, and BIMC <a href="#">18.12.030</a> .F, Shoreline Structure Setback Lines								
MAXIMUM BUILDING HEIGHT [5]									
Note: Bonus may not be available in the shoreline jurisdiction									
Base	35 ft.; 25 ft. max. south of Parfitt	25 ft.; 35 ft. north of High School Road	25 ft.	35 ft.	BIMC <a href="#">18.12.030.C</a> standard height north of Winslow Way; 35 ft. south of Winslow Way	35 ft.	35 ft.	35 ft.	35 ft. except that Chapter <a href="#">16.12</a> BIMC applies within shoreline jurisdiction
Bonus 1 if parking under building [6]	45 ft.; 35 ft. south of Parfitt	35 ft.; 45 ft. north of	35 ft.	45 ft.	BIMC <a href="#">18.12.030.C</a> optional height north of Winslow	45 ft.			



Table 18.12.020-3 Dimensional Standards for Mixed Use Town Center and “Other” Zone Districts

ZONING DISTRICT	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I
	Central Core Overlay	Madison Avenue Overlay	Ericksen Avenue Overlay	Gateway Overlay	Ferry Terminal Overlay [See BIMC <a href="#">18.12.030.C</a> ]				
		High School Road			Way; 45 ft. south of Winslow Way				
Bonus 2 for Nonresidential Uses with Major Conditional Use Permit							45 ft.	45 ft.	45 ft.
Bonus 3 Structure Height	Alternative height limits may apply if the conditional use permit provisions of BIMC Title <a href="#">2</a> are met. Some encroachments through height limits are permitted under BIMC <a href="#">18.12.040</a> .								

[1] If the existing FAR for a developed property as of May 21, 1998, is higher than the base FAR for that district, then the existing FAR will be considered the base FAR for that developed property. Total FAR may not be exceeded.

[2] In mixed use development, the established FAR in the residential and commercial components shall not be exceeded. For the residential FAR bonus provisions for qualifying housing design demonstration project, refer to the bonus density provisions in BIMC [2.16.020.S.8](#).

[3] In mixed use development in the ferry terminal district, an additional 0.2 FAR is permitted in accordance with BIMC [18.12.030.E.7](#). The additional FAR may be applied to either the residential or commercial component of the mixed use development.

[4] When property adjoins a single-family residential zone, building setback shall be in accordance with the landscape ordinance perimeter landscaping requirements.

[5] When property adjoins a lower density residential zone, except in the ferry terminal district, north of Winslow Way, for the first 30 feet of the building from the property line of an adjoining lower density residential zone, the building height shall be the building height of the adjoining lower density residential zone. Optional building height allowed in the adjoining lower density residential district through a conditional use permit may be requested for projects within the Mixed Use Town Center and High School Road zones through the site plan review process. For building height requirements in the ferry terminal district, north of Winslow Way, reference BIMC [18.12.030.C](#).

[6] The bonus height is only available for the entire building if parking is located under more than 50 percent of the building footprint. If parking is located under 50 percent or less of the building footprint, the bonus may only be used for a portion of the building footprint twice as large as the area with parking located beneath.

(Ord. 2019-03 § 8, 2019; Ord. 2017-02 §§ 1, 22 (Exh. B), 2017; Ord. 2013-25 § 6 (Exh. B), 2013; Ord. 2012-10 § 1, 2012; Ord. 2011-02 § 2 (Exh. A), 2011)