

(DRAFT) AGENDA
Regular Meeting – Bremerton Planning Commission
(Subject to PC approval)
June 21, 2016
5:30 P.M.
345 – 6th Street
Meeting Chamber – First Floor

- I. CALL TO ORDER**
 - II. ROLL CALL (quorum present)**
 - III. APPROVAL OF THE AGENDA**
 - IV. APPROVAL OF MINUTES:**
 - o April 19, 2016 meeting.
-

V. PUBLIC MEETING

- A. Call to the Public:** Public comments on any item not on tonight’s agenda
 - B. Public Workshop:**
 - 1. Bremerton Municipal Code Sign Regulations (BMC 20.52)
-

VI. BUSINESS MEETING

- A. Chair Report:** Nick Wofford
 - B. Director Report:** Andrea Spencer
 - C. Old Business:**
 - D. New Business:**
-

VII. ADJOURNMENT:

The next regular meeting of the Planning Commission is July 19, 2016

Planning Commission meeting packets are available on-line at
<http://www.BremertonWA.gov/AgendaCenter/Planning-Commission-4>

DRAFT

Subject to June 21, 2016 Approval

CITY OF BREMERTON

PLANNING COMMISSION MINUTES OF REGULAR MEETING April 19, 2016

CALL TO ORDER:

Chair Wofford called the regular meeting of the Bremerton Planning Commission to order at 5:30 p.m.

ROLL CALL

Commissioners Present

Chair Wofford
Vice Chair Nethery
Commissioner Goodnow
Commissioner Nerf
Commissioner Strube
Commissioner Tift

Staff Present

Andrea Spencer, Director, Department of Community Development
Allison Satter, Senior Planner, Department of Community Development

Quorum Certified

APPROVAL OF AGENDA

COMMISSIONER TIFT MOVED TO APPROVE THE AGENDA AS PRESENTED. COMMISSIONER STRUBE SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

APPROVAL OF MINUTES

COMMISSIONER NERF MOVED TO APPROVE THE MINUTES OF MARCH 15, 2016 AS AMENDED. COMMISSIONER STRUBE SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

PUBLIC MEETING

Call to the Public (public comments on any item not on the agenda)

Chair Wofford asked if there were any comments from citizens.

Terry Fessner, Bremerton, read the Commission a letter he sent to Mayor Lent voicing concern that the City's tenant, Admiral Theater, frequently blocks the alley parking at 532 – 5th Street. He noted that during the weekdays over the past two weeks, Admiral Theater has parked two, 18-wheel semi-trucks in the alley way parking lot, causing three people who pay to park in parking lots accessed only from the alley to have to park on the street. He explained that 532 -5th Street recognizes that street parking is for customers, so they try to manage their nine parking spaces for business owner parking. The semi-truck impacted 33% of their parking capability. In addition to creating parking problems, a loud tractor is often parked next to a massage therapist room. He briefly reviewed the numerous parking areas that use the alley for access and summarized

that there is a minimum of 199 cars accessing the alley daily. The Admiral Theater blocks these parking areas off because there is only one way in and out, and 532 – 5th Street, which is located adjacent to the theater, is severely impacted by the alley being blocked. While he recognized that the theater needs to have the ability to unload semi-trucks, they should not be allowed to block the alley. He concluded that it is the City’s responsibility to address this issue, as Admiral Theater is a tenant of the City.

Public Hearing: Zoning Code Amendments Related to the 2016 Comprehensive Plan Periodic Update

Ms. Satter explained that the public hearing will focus on amendments to the Zoning Code, Zoning Maps and Subarea Plans. If the Planning Commission forwards a recommendation following the hearing, they will go forward to the City Council for consideration at a Public Hearing on May 18th. She reviewed that the Growth Management Act (GMA) requires the City to complete a major update of its Comprehensive Plan every eight years, and the City’s major update must be completed by no later than June 30, 2016 in order to be compliant. She recalled that the Commission provided a recommendation to the City Council relative to the Comprehensive Plan Update in November of 2015.

Ms. Satter further reviewed that the Comprehensive Plan represents a vision for how the City should grow over the next 20 years. It must address current conditions, as well as the anticipated growth targets. In addition to planning for Bremerton, the Comprehensive Plan must also ensure compliance with the State’s GMA, the Puget Sound Regional Council’s (PSRC) Vision 2040 and Transportation 2040, and the Kitsap Countywide Planning Policies. Two main goals of the Comprehensive Plan Update were to standardize the document format and streamline the process. The update carried forward the fundamental principles of the 2004 plan, which included the “Centers” growth strategy, recognizing Bremerton as the metropolitan City of Kitsap County, and emphasizing the need for residents to be able live, work and play in the City.

Ms. Satter provided a map to illustrate the centers (Downtown Regional Center, Charleston District Center, Wheaton Way/Sheridan District Center, Wheaton Way/Riddell District Center, Eastside Employment Center, Puget Sound Industrial Center, and Manette Neighborhood Center) that are proposed in the Comprehensive Plan Update, as well as the growth assumptions for each one. She explained that the growth assumptions indicate that Bremerton must plan for 14,000 more residents and 18,000 more jobs by 2036. It is anticipated that more than half of the population growth will occur within the centers, with the remainder being accommodated in the Low-Density, Medium-Density and Multifamily Residential Zones. More than half of the job growth is anticipated to occur in the Puget Sound Industrial Center of Bremerton. The remainder of the job growth is expected to occur in the centers, as well as the General Commercial, Freeway Corridor and Industrial Zones.

Ms. Satter explained that the Comprehensive Plan outlines goals and policies that help the City plan for population and job growth, and the Zoning Code controls the physical development of land and the kinds of uses to which each individual property may be put. She referred to the work program that was adopted by City Council in November of 2014, which started with District Profiles in the summer of 2014 and included a public participation process. She noted that the Commission has held 18 public meetings to date pertaining to the Comprehensive Plan Update and applicable Zoning Code Amendments. In addition, public outreach was done via mass mailings, notices on Bremerton Kitsap Access Television, and presentations to the City Council. Public outreach will continue as the process moves forward.

Ms. Satter reminded the Commission that they recommended a draft Comprehensive Plan Update to the City Council that is compliant with the GMA, PSRC and the Kitsap Countywide Planning Policies. Since that time, the Commission has been reviewing potential Zoning Code Amendments to implement the vision, goals and policies contained in the Comprehensive Plan. She reviewed the amendments as follows:

- **Provide consistency and clarity and streamline the process for both the staff and developers.** This was done by reducing the number of commercial zones and making the Zoning Code consistent with new regulations. For example, the regulations pertaining to Wireless Communications Facilities were updated to be compliant with the Middle Class Tax Relief and Job Creation Act, and the Critical Areas Ordinance (CAO) was updated to be consistent with Best Available Science (BAS), including the Department of Ecology’s (DOE) Wetland Rating System. Additions were also made to the Stormwater Manual to make the Low-Impact Development (LID) regulations consistent with the requirements of the National Pollutants Discharge Elimination Systems (NPDES) Permit.

- **Remove Impediments.** This was done by providing more opportunities for transitional uses within the centers for mixed-use buildings, removing the bald eagle reference consistent with State requirements, and eliminating the off-street parking evaluation for existing buildings that are being reoccupied after long vacancies.
- **Reduce Nonconformities.** This was done by expanding opportunities for adaptive reuse to include existing commercial buildings in addition to public buildings, allowing duplexes and townhomes in areas that are predominately developed as such, and correcting mapping errors.
- **Reduce Vacancies and Provide More Economic Opportunities.** This was done by expanding the outright and accessory use provisions, which includes allowing stand-alone multifamily structures in the General Commercial Zone, allowing mini storage as either an accessory and/or permitted use, adding the Mineral Resource Overlay to very specific areas, and expanding the uses in the General Commercial Zoning District to include auto dealerships. In addition, the Institutional Zone (around Olympic College) was expanded to allow for potential dormitories.
- **Make Zoning Maps Consistent with Comprehensive Plan Land Use Maps.** The zoning maps were updated to be consistent with the Comprehensive Plan Land Use Designation Maps.

Ms. Satter explained that subarea plans are supporting documents to the Comprehensive Plan and Zoning Code, and subarea plans are plans for specific areas. An extensive public process occurred when each of the subarea plans were adopted. Staff believes that the proposed amendments are relatively minor in nature and consistent with the Comprehensive Plan. While the East Park and Gorst Subarea Plans would be adopted as is, the other subarea plans would be amended to:

- Expand the Downtown Subarea Plan to provide more economic opportunities and better transition of uses into the core
- Provide clarity and fix errors
- Better acknowledge the built environment
- Rename the South Kitsap Industrial Area (SKIA) to the Puget Sound Industrial Center (PSIC) - Bremerton
- Repeal the Manette Subarea Plan because the development regulations are consolidated into the BMC.

Ms. Satter reported that 85 public comments have been received to date pertaining to the Comprehensive Plan & Zoning Code amendments. Amendments 83 through 85 were provided to the Commissioners just prior to the meeting. The testimony provided at public meetings was also included as part of the public record, and all comments can be seen at www.bremerton2035.com. The City encourages comments, both pro and con, until the process is completed.

Ms. Satter announced that three more meetings regarding the Comprehensive Plan Update and associated Zoning Code Amendments are scheduled before the City Council. A Comprehensive Plan briefing related to the City Service Chapter is scheduled for April 20th, and the Zoning Code Amendments will be presented on May 4th. A public hearing is scheduled for May 18th. The Commission will complete its work on both the Comprehensive Plan and the Zoning Code by forwarding a recommendation to the City Council.

Ms. Satter concluded her presentation stating that staff believes the proposed Zoning Code Amendments are unified with the growth vision of the Comprehensive Plan.

Steve Guiberson, Bremerton, asked if auto dealership uses would be expanded to include the Downtown District Centers. **Ms. Satter** clarified that, as proposed, auto dealerships would be allowed in the General Commercial Zones, but not in the District Centers.

Jay Kneib, Bremerton, commented that Bremerton is growing, and even booming. He complimented the Commission, as well as a number of public/private ventures that are helping to make development occur. He referred to BMC 20.48.060, which would require 0.5 parking spaces per unit. He pointed out that on-street parking is already bad, and the proposed change would result in a parking deficit. While it is a noble goal to encourage pedestrian and transit modes of transportation, the City is not there yet. There are still so many car-centric things that people must be able to do, such as grocery shopping and doctors' visits. The transit service is not available on Sundays and only minimally on weekends, and transit routes have

been cut for lack of riders. He asked the Commission to consider that automobiles will still be viable and necessary for anyone who lives downtown. He suggested that the requirement be increase to at least 1 parking space per unit. He noted that even assisted living development requires one parking space per unit,

Steve Guiberson, Bremerton, said he owns property on Wheaton Way and his concern is related to the Wheaton Way/Sheridan District Center. He said he purchased the land 12 years ago from the Bremerton School District after meeting with his consultant and City staff to ensure that a car dealership would be allowed. A year later, the property was rezoned, and he did not receive any notification that a change was even being considered. He said he has been paying \$3,250 per month for a piece of property he cannot do anything with. His proposed car dealership would employ about 20 people and generate about \$150,000 in additional tax revenue. The site would be landscaped and lit in a pedestrian-friendly way. He asked that the Commission reconsider their recommendation to exclude auto dealerships as an allowed use in the center.

Rick Cadwell, Bremerton, said he spoke at the Commission's last meeting in favor of reducing the parking requirement for multifamily development in the centers. At the time, his understanding was that the reduction in parking would actually take place in the centers beyond the Downtown Regional Center where the current parking problems exist. Since the last meeting, he drove around lower Wheaton Way and learned from the Kitsap Business Journal that Harrison Hospital will vacate in three years. He said the area has already become a bit of a ghost town, and he encouraged the City to do more to incentivize development. He advised that the vacancy rate for apartments in Bremerton as of June 2015 was 0.9%, and that was before it was announced that a new carrier would be homeported at Bremerton. The current average rent for an apartment in the County is \$1,000. He said he supports the Commission's previous recommendation to reduce the parking requirement in the centers outside of the downtown. He also encouraged them to consider other incentives that will attract more bodies and businesses, such as extending some of the tax abatement zones.

No one else in the audience indicated a desire to speak, and Chair Wofford closed the public hearing.

COMMISSIONER TIFT MOVED THAT THE COMMISSION RECOMMEND THAT FOR THE GROWTH MANAGEMENT ACT 2016 PERIODIC UPDATE, THE CITY COUNCIL ADOPT THE DRAFT BREMERTON MUNICIPAL CODE TITLE 20: LAND USE AS SHOWN IN ATTACHMENT A AND THE OFFICIAL ZONING MAPS SHOWN IN ATTACHMENT B OF THE STAFF REPORT, BASED ON FINDINGS AND CONCLUSIONS PRESENTED IN ATTACHMENT F. COMMISSIONER GOODNOW SECONDED THE MOTION.

Ms. Satter clarified that the motion on the floor would approve the amendments as shown for Bremerton Municipal Code Title 20 (BMC 20.02 to BMC 20.98) and Zoning Maps.

Commissioner Tift referred to the proposed amendment that would change the requirement from 1 tree per 20 parking stalls to 1 tree per 10 parking stalls. **Ms. Satter** recalled that the City hired a consultant to review the code and recommend LID improvements that can incentivize stormwater infrastructure improvements consistent with the DOE's new NPDES Permit requirements. The consultant recommended that 1 tree should be required for every 6 or 7 parking spaces, which is consistent with what a metropolitan city typically requires. Staff recognized that landscaping does help with stormwater improvements and suggested that a compromise would be to change the standard to 1 tree for every 10 parking stalls.

Commissioner Goodnow asked if the parking reduction would be considered a modification that must be justified. **Ms. Satter** answered that, as proposed, the .5 parking spaces per unit would apply to all multifamily structures in all centers. **Director Spencer** emphasized that the parking reduction would only apply in the centers where the City is trying to incentivize more development and revitalization. The change would not require an amendment to the Downtown Subarea Plan since it already includes varied parking standards.

Commissioner Strube asked staff to clarify its recommendation relative to automobile dealerships. **Ms. Satter** said staff is not supportive of having automobile dealerships within the district centers based on the analysis provided in the Staff Report. She reminded the Commission that the General Commercial Zones were opened to allow the use, which almost doubles the area in which the use can occur by today's zoning regulations. Indoor car dealerships would be allowed in the Centers, but allowing seas of parked cars is inconsistent with the intent of the district center designations. Staff is suggesting that if the Commission believes that further consideration is needed, the issue can be added as a future work program item. **Director Spencer** said this is consistent with the debate the Commission had at a previous study session. **Ms. Satter** added that staff

researched other examples, but it was very difficult to find other cities who had centers plans that allow auto dealerships. If the Commission is interested in pursuing the change, staff requested that it be added to the work program to allow for additional research and discussion before a change is made.

Chair Wofford clarified that because Curbside Motors is located within a building, it would be allowed in the Downtown District Center. **Ms. Satter** confirmed that car dealerships that are contained solely inside a building would be allowed, but that is not what Mr. Guiberson is interested in doing. He would like his cars to be seen from Wheaton Way.

Vice Chair Nethery voiced support for automobile sales as a permitted use along the thoroughfare where dealerships are already located, particularly since the use is allowed on the other side of the street. Using the definition of “District Center” as a reason to prohibit automobile sales does not fit within the landscape of the street, which is a major arterial through the town.

Commissioner Strube agreed with Vice Chair Nethery. While he respects the intent of the district goals, the properties are located on the edge of the zone. He has a hard time supporting a change that prohibits a property owner from having an auto dealership along the thoroughfare when it is already allowed across the street.

Commissioner Nerf voiced concern that if they open up the edge for a potential car dealership, there would be nothing to keep the use from expanding further into the center. However, he agreed that there is inconsistency in that one side of the street is zoned differently. He expressed his view that the Commission has presented a plan. If the plan needs to be amended, the elected officials need to step up and make the final decision.

Director Spencer suggested that a minority report could be attached to the Commission’s recommendation to Council to specifically note that the Commission did not have clarity on whether or not auto dealerships should be permitted uses in the Wheaton/Sheridan District Center. The report could request that the Council debate the issue and make the final decision. **Ms. Satter** clarified that the Commission is only talking about allowing automobile dealerships in the one area within the Wheaton/Sheridan District Center that is across the street from property that is already zoned to allow the use.

COMMISSIONER NERF MOVED THAT THE MAIN MOTION BE AMENDED TO ALLOW AUTOMOBILE SALES WITHIN THE WHEATON/SHERIDAN DISTRICT CENTER ON PARCELS THAT FRONT ON AND ARE COMPLETELY ACCESSED FROM WHEATON WAY. VICE CHAIR NETHERY SECONDED THE MOTION. THE MOTION TO AMEND FAILED BY A VOTE OF 3-3, WITH COMMISSIONERS NETHERY, STRUBE AND WOFFORD VOTING IN FAVOR AND COMMISSIONERS GOODNOW, NERF AND TIFT VOTING IN OPPOSITION.

THE MAIN MOTION WAS UNANIMOUSLY APPROVED AS PRESENTED.

COMMISSIONER STRUBE MOVED TO RECOMMEND THAT FOR THE GROWTH MANAGEMENT ACT 2016 PERIODIC UPDATE, THE CITY COUNCIL ADOPT THE PROPOSED AMENDMENTS FOR THE DOWNTOWN SUBAREA PLAN AS SHOW IN ATTACHMENT C OF THE STAFF REPORT, BASED ON THE FINDINGS AND CONCLUSIONS PRESENTED IN ATTACHMENT F. COMMISSIONER TIFT SECONDED THE MOTION.

Director Spencer clarified that the amendment would expand the Downtown Subarea Plan Boundaries slightly to add some residential zoning. **Ms. Satter** added that minor scrivener’s errors were also corrected and some clarifying updates were added.

THE MOTION CARRIED UNANIMOUSLY.

COMMISSIONER STRUBE MOVED TO RECOMMEND THAT FOR THE GROWTH MANAGEMENT ACT 2016 PERIODIC UPDATE, THE CITY COUNCIL ADOPT THE PROPOSED AMENDMENTS FOR THE BAY VISTA SUBAREA PLAN AS SHOW IN ATTACHMENT D OF THE STAFF REPORT, BASED ON THE FINDINGS AND CONCLUSIONS PRESENTED IN ATTACHMENT F. VICE CHAIR NETHERY SECONDED THE MOTION.

Ms. Satter clarified that the proposed amendments make reference to the 2016 plan. As the zoning designations were consolidated to eliminate the Commercial Corridor Zone, the plan was updated with a new designation. Some minor tweaks were also made to make the plan compliant with the Americans with Disabilities (ADA) standards for sidewalk size. The amendments are also supportive of LID technologies for landscaping.

THE MOTION CARRIED UNANIMOUSLY.

COMMISSIONER STRUBE MOVED TO RECOMMEND THAT FOR THE GROWTH MANAGEMENT ACT 2016 PERIODIC UPDATE, THE CITY COUNCIL ADOPT THE PROPOSED AMENDMENTS FOR THE SOUTH KITSAP INDUSTRIAL AREA SUBAREA PLAN AS SHOW IN ATTACHMENT E OF THE STAFF REPORT, BASED ON THE FINDINGS AND CONCLUSIONS PRESENTED IN ATTACHMENT F. COMMISSIONER NERF SECONDED THE MOTION.

Ms. Satter explained that the proposed amendment would change all references to the South Kitsap Industrial Area (SKIA) Subarea Plan to Puget Sound Industrial Center-Bremerton. In addition, one parcel would be removed to bring it into low-density residential due to the topography and wetlands that separate it from the industrial area.

THE MOTION CARRIED UNANIMOUSLY.

Public Hearing: Limited Amendments to the Shoreline Master Program for the 2016 Comprehensive Plan Periodic Update

Ms. Satter reviewed that the Shoreline Master Program (SMP) was adopted in December of 2013 after an extensive three-year process that involved the Planning Commission and City Council and required approval from the Washington State Department of Ecology (DOE). All properties within 200 feet of the shoreline must comply with the provisions in the Zoning Code, as well as the SMP. Because all functional plans must be consistent with the City's Comprehensive Plan, the City hired a consultant in 2015 to complete a GAP Analysis for compliance with Best Available Science (BAS) and consistency with the Critical Areas Ordinance (CAO). In addition, redundant and unnecessary sections were eliminated. For example, because the CAO was adopted in 2006, it does not utilize current BAS. Therefore, the SMP that was adopted in 2013 actually superseded the CAO for developments along the shoreline with wetlands. To make everything consistent, the intent is to move the BAS wetland buffers from the SMP to the CAO. Lastly, the amendment fixes a mapping error that identifies a commercial designation for a property in the downtown that is actually zoned multifamily, recognizes the Comprehensive Plan Map amendment that up-zoned properties to allow for medium-density or multifamily residential uses, and updates the matrix chart to allow single-family residential uses consistent with the SMP policy that supports single-family uses in all shoreline designations.

Ms. Satter summarized that staff believes the proposed amendments are consistent with the Comprehensive Plan. If the Commission provides a recommendation on the limited amendments, they will go before the City Council on May 18th. DOE review is required before the City Council can formally adopt the amendments, which is anticipated to occur in late summer of 2016.

Jay Kneib, Bremerton, said he owns a home on Shorewood Drive but was unaware of the changes. He requested that staff provide a brief synopsis. **Ms. Spencer** provided a map to illustrate the proposed amendments, which would change some existing single-family designations to multifamily or medium-density. Because the properties are already developed as multifamily, the impact would be minimal.

No one else in the audience indicated a desire to speak, and Chair Wofford closed the public hearing.

COMMISSIONER STRUBE MOVED TO RECOMMEND THAT FOR THE GROWTH MANAGEMENT ACT 2016 PERIODIC UPDATE, THAT THE CITY COUNCIL ADOPT THE PROPOSED LIMITED AMENDMENTS FOR THE SHORELINE MASTER PROGRAM AS SHOWN IN ATTACHMENT I OF THE STAFF REPORT, BASED ON THE FINDINGS AND CONCLUSIONS PRESENTED IN ATTACHMENT II. COMMISSIONER TIFT SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

BUSINESS MEETING

Chair Report

Chair Wofford did not have any items to report.

Director Report

Director Spencer commended Ms. Satter and the Commission for doing a tremendous job on the Comprehensive Plan Update and accompanying Zoning Code Amendments. The process has been long and arduous and a lot of thought and consideration was required for the task.

Director Spencer said the Commission’s May meeting was held in reserve in case the Commissioners needed more time to formulate their recommendations to the City Council. She proposed that the May meeting be cancelled to allow staff time to prepare for the public hearings before the City Council. She encouraged Commissioners to attend the May 18th public hearing before the City Council to provide their perspective.

Old Business

There was no old business to come before the Commission.

New Business

Commissioner Tift noted there is a vacancy on the Commission. He encouraged citizens to apply for the position and participate in the opportunity to mold the City of the future. **Director Spencer** announced that the City has received a few applications but the application period is still open.

ADJOURNMENT

The meeting was adjourned at 6:45 p.m.

Respectively Submitted by:

Andrea L Spencer, AICP
Executive Secretary

Nick Wofford, Chair
Planning Commission

**CITY OF BREMERTON, WASHINGTON
PLANNING COMMISSION AGENDA ITEM**

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|----------------------|---|
| AGENDA TITLE: | Workshop: Discussion on the Bremerton Municipal Code Sign Regulations (BMC 20.52). |
| DEPARTMENT: | Community Development |
| PRESENTED BY: | Allison Satter, Senior Planner, (360) 473.5845 Kylie Purves, Assistant City Attorney, (360) 473.2345 |

TOPIC OVERVIEW

The United States Supreme Court’s decision in *Reed v. Town of Gilbert* has dramatically changed the landscape for drafting constitutionally defensible sign regulations.

The following sections include a brief overview of the Court’s ruling in *Reed*; followed by Staff’s analysis regarding how to best apply the *Reed* decision; and a final section guiding general policy considerations and direction needed to inform the next steps staff will take in drafting revisions to the City’s sign code. For the Planning Commission’s convenience, the existing sign regulations has been included as **Attachment A**.

ATTACHMENT

- **Attachment A:** Bremerton Municipal Code Chapter 20.52

OVERVIEW OF REED v. TOWN OF GILBERT

Good News Community Church is a small church located in Gilbert, Arizona. The church rented space in temporary locations for its weekly service. It used small, temporary signs to invite and direct the community to its services. The Town of Gilbert’s sign code imposed strict limits on the size, location, number, and duration of religious event signs, but did not impose the same restrictions on political, ideological, and homeowners’ association signs. The church filed suit against the town in 2007, arguing that the town’s sign code—both as written and as applied—regulated signs based on what they say and therefore violated the Free Speech Clause of the First Amendment and the Equal Protection Clause of the Fourteenth Amendment.

The district court found that the town’s sign code was constitutional because they found it to be content-neutral and reasonable in light of the government’s interests. The U.S. Court of Appeals for the Ninth Circuit affirmed and held that, even though an official would have to read a sign to determine what provisions of the sign code applied, the restrictions were not based on the content of the signs, and the sign code left open other channels of communication. The town petitioned the United States Supreme Court (USSC) for a writ of review and the Court granted the town’s writ and heard oral arguments on the case.

On June 18, 2015, in a 9-0 majority opinion, the USSC overturned the Ninth Circuit and held that the town’s sign restrictions were subject to strict scrutiny because they were content-based restrictions—restrictions that were applied differently depending on the message of the sign. Because these restrictions were content-based on their face, the Court need not examine justifications or the town’s motives in determining whether the restrictions are subject to strict scrutiny. Despite the town’s argument that the restrictions do not single out a specific nonprofit or church but rather restrict all such signs for events, the Court stated that the First Amendment prohibits censorship of all speech on a whole topic. The Court also held that the restrictions cannot survive strict scrutiny because they had no compelling interest in adopting restrictions to only a certain type of sign.

In his concurring opinion, Justice Alito wrote that the Court's decision does not preclude cities from continuing to regulate signs, but it does stop them from restricting signs in an unconstitutional manner. Justice Kennedy and Justice Sotomayor joined in the concurrence.

Justice Breyer wrote a separate concurring opinion in the judgment in which he argued that content discrimination should have been the consideration and legal analysis, and that this case did not trigger strict scrutiny. He further argued that the presumption against constitutionality is too strong to use automatically and was unnecessary in this case as there was another, more appropriate method of analysis available.

In her separate opinion concurring in the judgment, Justice Kagan wrote that constantly using strict scrutiny to judge government-regulated communication is too restrictive and would water down the meaning of strict scrutiny. She reasoned that the risk that the government will limit the public's ability to debate ideas with these regulations is very low and does not warrant strict scrutiny. In this case, the restrictions were not brought on by any reason or need, therefore all the Justices concurred that they did not pass any level of scrutiny (according to Kagan, they didn't even pass a "laugh test"). Justices Ginsburg and Breyer joined in Kagan's concurring opinion.

APPLYING AND IMPLEMENTING REED

The legal, planning, and development communities all agree that the Court's decision in Reed affects every local government in the country that regulates signs and has made many current sign codes, either in full or in part, unconstitutional. Pursuant to the Court's majority decision, sign regulations that are content-based on their face—by category, subject matter, speaker, viewpoint, or the like—face strict scrutiny by the court. To survive strict scrutiny a regulation must be narrowly tailored to advance a *compelling* government interest. As the Court has frequently opined, regulations seldom survive a strict scrutiny analysis.

Even though a regulation may be content-neutral on its face (i.e. as written), the Court's analysis does not end there. The regulation will then be subject to intermediate scrutiny by the Court. To survive an intermediate scrutiny analysis a regulation must be narrowly tailored to advance a substantial government interest. The Court will indeed look at the government's justification and intent for the regulation and if the underlying motive is ultimately content-based the regulation will be found unconstitutional (e.g. if a city prohibits a certain type of structural sign, and there is only one type of business or organization or person that uses that type of structural sign, the city would bear the burden of demonstrating how the regulation is not intended to target only that category and/or speaker).

What is clear from the Court's ruling in Reed (not only in the majority opinion, but also in the commentary included in the concurring opinions) is that cities must develop regulations and a legislative record that robustly support the objectives of a sign regulation and how the regulation specifically supports and/or advances that objective. The Town of Gilbert had no discernable reason for the sign regulations it had enacted other than standard objectives of traffic safety and aesthetics, and had no record to speak of to demonstrate how the subject regulations advanced those generalized objectives—again, as the Court stated, the regulations at issue didn't even pass a laugh test.

Accordingly, the standard objectives of traffic safety and aesthetics will no longer pass muster with the Court on their own. A city must develop specific purposes for why they are seeking to adopt certain regulations, and then the city must also create a record to demonstrate how those regulations actually specifically address the city's stated objectives and purposes (to either survive strict or intermediate scrutiny from the Court). Sign regulations that do not support a compelling or substantial government interest will not pass the court's scrutiny, nor will regulations that are over-broad, under-inclusive, or

are not narrowly tailored to support and advance the objectives of the regulation. In short, local governments must draft a sign code and create a record that “shows their work”.

The Court’s decision in *Reed* presents a marked change and restriction on how cities may regulate signs. However, the regulation of signs should be viewed not as a land use regulation, but rather a regulation of speech, and under that framing the Court’s decision in *Reed* arguably becomes exponentially more palatable to implement and enforce.

INITIAL CODE REVIEW

City staff must review the city’s entire sign code (BMC 20.52) to determine what provisions, as currently adopted, would pass strict or intermediate scrutiny by the Court under *Reed* and which would be found unconstitutional. Upon completion of this review, staff will recommend whether to redraft the entire sign code or limited sections.

JUNE’S WORKSHOP FOCUS: POLICY CONSIDERATIONS AND INITIAL DIRECTION

As noted above, given the Court’s ruling in *Reed*, the foundation of a constitutional sign code must include specific objectives and a substantial purpose. The purpose and objectives then guide the development of the sign standards and specifications and the administration and enforcement of the code.

Therefore, staff would like to take the opportunity to lead a series of brainstorming exercises to determine the Planning Commissioner’s general core objectives and values for the city that will then be used by staff to update the purpose provision for the city’s new sign code.

NEXT STEPS

Staff will take the comments and feedback gathered from the Planning Commissioners and the public and combine them with the city’s vision and planning goals to develop a detailed purpose provision to serve as the foundation of the new sign code. Staff will then schedule an additional workshop to review the revised purposes and objectives and to present staff recommended sign standards (BMC 20.52) and specifications that support the revised purposes and objectives.

Chapter 20.52 SIGN STANDARDS

Sections:

- 20.52.010 INTENT.**
- 20.52.020 APPLICABILITY.**
- 20.52.030 SIGN PERMIT.**
- 20.52.040 EXEMPT SIGNS.**
- 20.52.050 PROHIBITED SIGNS.**
- 20.52.060 SIGN MEASUREMENTS.**
- 20.52.070 SIGN PLACEMENT REQUIREMENTS.**
- 20.52.080 TEMPORARY SIGNS.**
- 20.52.085 POLITICAL SIGNS.**
- 20.52.090 GENERAL SIGN REGULATIONS.**
- 20.52.100 COMMERCIAL DISTRICTS SIGN REGULATIONS.**
- 20.52.110 AUTO DEALERSHIP SIGN REGULATIONS.**
- 20.52.120 RESIDENTIAL DISTRICT SIGN REGULATIONS.**
- 20.52.130 SPECIAL PURPOSE SIGN REGULATIONS.**
- 20.52.140 DOWNTOWN AND CENTERS SIGN REGULATIONS.**
- 20.52.150 VARIATIONS TO SIGN REGULATIONS.**
- 20.52.160 PORTABLE SIGNS.**
- 20.52.180 NONCONFORMING SIGNS.**
- 20.52.190 GOVERNMENT ACQUISITION OF PROPERTY FOR RIGHT-OF-WAY.**
- 20.52.200 REMOVAL OF SIGNS.**

20.52.010 INTENT.

The intent of the sign requirements chapter is to recognize the importance of signs in the community and establish regulations to protect the public from damage or injury attributable to distractions and obstructions caused by poorly designed or improperly located signs. These regulations are also intended, in part, to stabilize or enhance the overall appearance of the community, and to protect property values. This chapter is intended to regulate the number, size, placement and physical characteristics of signs and sign structures. These regulations are not intended to and do not restrict, limit or control the content of any sign message.

20.52.020 APPLICABILITY.

These regulations shall apply in all zoning districts and may be subject to additional requirements of certain districts, or to state regulations. In cases of conflict, the most stringent requirement shall prevail.

20.52.030 SIGN PERMIT.

- (a) Permit Required. No sign shall be placed, erected, or displayed without first obtaining a sign permit unless exempt under BMC [20.52.040](#).
- (b) Removal of Nonconforming Signs. A property containing a nonconforming sign shall not be allowed a new or additional sign on the property until the nonconforming sign is removed or brought into conformance with the requirements of this chapter and the underlying zone.
- (c) Permit Application. An application for a sign permit shall include the following:
 - (1) Signature of the property owner or their designated agent;
 - (2) Site plan drawn to scale showing existing buildings, streets, freestanding and building signs, utility poles, and other structures within fifty (50) feet of the proposed sign;

- (3) Elevation drawings of the structural details of the proposed sign including dimensions, height, illumination methods and structure supports; and
- (4) Landscaping plan showing planting materials and patterns.

20.52.040 EXEMPT SIGNS.

The following signs are exempt from the provisions of this chapter, but may be subject to other provisions of the zoning code or building code:

- (a) Traffic signs, signals, wayfinding signs, and other traffic control devices erected by the City or other public authority.
- (b) Public notices pertaining to public health or safety issues, or for notification of legal or legislative action erected by the City or other public authority, of a temporary nature.
- (c) Permanent plaques, cornerstones, nameplates, and other building identification markings attached to or carved into the building materials and which are integral parts of the structure.
- (d) Signs within buildings, provided they do not include moving, flashing or animated signs that are visible from any private or public roadway, or from adjacent properties.
- (e) Legal nonconforming signs.
- (f) Incidental signs intended for public information or convenience and which consist of no more than ten (10) square feet for a combination of such signs. These may include restroom signs, hours of operation signs, address numbers, help wanted, credit card signs, and similar.
- (g) The American flag, State of Washington flag, and other political or special purpose flags that are not intended to contribute to a commercial advertising display.
- (h) Wall graphics of an artistic nature and that do not conform to the definition of "sign."
- (i) Public information/identification approved through a conditional use permit process pursuant to [BMC 20.58.020](#).
- (j) Real estate signs for sale of single-family dwelling units.
- (k) Temporary construction and on-site real estate development marketing signs, provided they are removed prior to occupancy approval of the building.
- (l) Political signs meeting the provisions in [BMC 20.52.090](#).
- (m) Signs not readable from public or private right-of-way or waterway.
- (n) Signs intended to for general public information, such as bulletin board/kiosk, that accommodates changeable copy such as private or public notices, special event information, and other short-term messages, at a scale suitable for pedestrians and not intended to be read by passing motorists, and not for commercial advertising purposes.

20.52.050 PROHIBITED SIGNS.

The following signs are prohibited within the City limits of Bremerton and shall be subject to removal through amortization or other means:

- (a) Strobe lights or any other flashing, moving, video or animated features that are visible beyond any property line. Readerboard or message center signs that change copy no more frequently than at two (2) second intervals are exempt from this provision.
- (b) Pole signs in all zones except the freeway corridor (FC) zone and the industrial (I) zone.
- (c) Private signs placed within a public right-of-way, except a projecting sign may be permitted over a sidewalk if a clearance of at least eight (8) feet is maintained between the sidewalk and the bottom of the sign.
- (d) Any sign that is determined by the City Engineer to be a hazard to public safety due to its design, materials, physical condition, or placement.
- (e) Signs painted, attached to, or otherwise supported by rock formations, utility poles, trees or other plant materials.

- (f) Bench signs, when installed within the public right-of-way. When on private property, the size of a bench sign will be counted toward the total allowable sign area.
- (g) Portable signs within the public right-of-way except portable signs per BMC [20.52.160](#).
- (h) Off-premises signs including billboards, but not including co-op signs or portable signs where permitted.

20.52.060 SIGN MEASUREMENTS.

- (a) The area of sign faces shall be measured as the area bounded by any six (6) straight lines intersecting at right angles, and shall include any surrounding frames or cabinet edges.
- (b) Sign area does not include supports, foundations or structures that are not part of the sign.
- (c) Only one (1) side of a double-faced sign is counted in the sign's total area.
- (d) Multiple copy signs or shopping center signs consisting of several individual signs on the same support structures are calculated as the total of all individual sign components.
- (e) A round or cylindrical sign is calculated as the maximum area that can be seen at one (1) time from one (1) position, or fifty (50) percent of the total area, whichever is greater.
- (f) The height of a sign is measured from grade, as defined, to the highest point of the sign.
- (g) Sign clearances are measured from grade directly below the sign to the bottom of the sign or sign frame.
- (h) Street corner signs (at an intersection) shall be assigned to one (1) of the frontages by the applicant and shall conform to the requirements of that frontage only.
- (i) Portable signs shall be calculated as part of the total freestanding sign area available to the site.

20.52.070 SIGN PLACEMENT REQUIREMENTS.

- (a) All signs, including supporting structures, shall be erected or placed totally within the boundaries of the site and not within any public right-of-way, except for the following:
 - (1) Public authority and other traffic-related signs;
 - (2) Temporary banner signs advertising a public event, which meet City approval;
 - (3) Approved signs overhanging public walkways; and
 - (4) Approved portable signs per BMC [20.52.160](#).
- (b) Intersections standard. A vision clearance setback shall be maintained of at least fifteen (15) feet from the edge of all private and public roadways, alleys and driveway intersections.
- (c) General road standard. A vision clearance setback shall be maintained of at least ten (10) feet from the edge of existing or planned roadways. Signs may be allowed within the clear-vision setback if:
 - (1) A pole sign is allowed by the zone;
 - (2) The top of the sign is three (3) feet or less above the grade;
 - (3) The bottom of the sign is eight (8) feet or greater above the grade; or
 - (4) The posts and support structure have a diameter no greater than twelve (12) inches within this area.
- (d) A pedestrian clearance is required for any projecting sign (8) feet above grade or sidewalk as measured to the bottom of the sign.
- (e) A projecting sign may extend over a public right-of-way or public pedestrian walkway up to six (6) feet past the property line, but in no case shall the sign extend over a street or other area used by motor vehicles.
- (f) The setbacks for freestanding signs may be reduced to zero (0), provided the applicant provide justification and documented proof that the sign's placement will not hinder vision clearance for existing and future development on the site.
- (g) Freestanding signs shall not extend beyond property lines.

20.52.080 TEMPORARY SIGNS.

All temporary signs are subject to the placement, size, and height requirements of this chapter, and the requirements set forth in the underlying zone. Additionally, the following requirements shall apply:

- (a) The sign area of individual temporary signs shall not exceed thirty-two (32) square feet; except a banner may be permitted with a sign area of up to one hundred (100) square feet.
- (b) The maximum height of a temporary sign is six (6) feet, except a banner may be allowed a maximum height of twenty (20) feet.
- (c) Signs may be displayed for a period not to exceed sixty (60) days. Any time a temporary sign is removed by a business, it shall not be replaced by the same or other temporary sign for a period of not less than ninety (90) consecutive days.
- (d) Temporary signs meeting the following standards are exempt from the requirements of BMC [20.52.030](#) and BMC [20.52.090](#) through [20.52.140](#):
 - (1) The sign is displayed for a period of seven (7) days or less;
 - (2) The area of the sign is twenty-four (24) square feet or less; and
 - (3) The height of the sign is six (6) feet or less.
- (e) Temporary signs shall not be permanently attached to the ground, a building, or to any other structure, other than what is necessary to secure it to prevent theft, wind damage or safety problems.
- (f) Advertising wind signs or devices that flutter, wave, sparkle, or otherwise move from the pressure of the wind are permitted for specific promotions or events but shall not be permanently displayed.

20.52.085 POLITICAL SIGNS.

Political signs identify candidates or issues in upcoming elections and/or they may express noncommercial speech such as religious, political, social, or other philosophical messages. The content of such signs are not regulated, but are subject to the following requirements:

- (a) The sign area of political signs shall not exceed thirty-two (32) square feet.
- (b) The maximum height of a political sign shall be six (6) feet.
- (c) Political signs advertising a candidate or issue in an upcoming election shall be removed within fourteen (14) days after the general election.
- (d) Political signs that do not comply with the requirements of this section shall be subject to the permit requirements, sign area, setback and other provisions of this chapter.

20.52.090 GENERAL SIGN REGULATIONS.

The following regulations apply to signs in all zone districts:

- (a) Vision Clearance. Signs shall conform to the clearance requirements of BMC [20.52.060](#).
- (b) Extension Above Rooftop. No sign that is attached to a building shall extend above the highest point of the roof except for commercial and center zones up to fifty (50) percent of the area of a wall sign that is integrated into an architectural facade design element to define the primary entry to the premises may project above the parapet of a flat roof; provided, that all components of the sign are only visible to public view on the primary entry side of the building.
- (c) Window Signs. Signs placed on the inside of windows and directed toward the outside of a building shall be included in the total sign area calculations.
- (d) Canopies and Awnings. Signs placed on projecting canopies and awnings, whether lighted or not, shall be calculated only for the area of the canopy or awning taken up by the sign itself.
- (e) Landscaping. All freestanding signs shall have a landscaped island at the base of the sign equal to, or greater than, the sign area.

20.52.100 COMMERCIAL DISTRICTS SIGN REGULATIONS.

The following standards shall apply to signs placed on property zoned commercial:

- (a) Freestanding Signs.
 - (1) No use or combination of uses on a single lot or building shall have more than one (1) freestanding sign per street frontage, with the following exceptions:
 - (i) Parcels with five hundred (500) feet of continuous frontage may have one (1) additional sign.
 - (ii) Co-Op Signs. See subsection (d) of this section.
 - (2) Maximum Height and Design. Freestanding signs shall comply with the height and design requirements set forth in Figure 20.52(a).
- (b) Building Signs.
 - (1) Commercial Uses. The building sign standards shall be in accordance with the following:
 - (i) Sign Area. Signs attached to a building may have an aggregated area that shall not exceed two (2) square feet for each one (1) lineal foot of building facade width.
 - (ii) Maximum Sign Size. A building sign attached individually shall not exceed one hundred (100) square feet in area, except it may exceed the maximum if the total sign area is less than ten (10) percent of the total building facade area of the side with the signage.
 - (2) Industrial Uses. The building sign standards for industrial uses and other uses not engaged in the sale of goods or services to the public shall be in accordance with the following:
 - (i) Sign Area. The maximum aggregated area for all building signs attached to a single building shall be one hundred (100) square feet.
 - (3) Number of Signs. There is no limit to the number of individual building signs, provided the maximum aggregated sign area is not exceeded.
 - (4) Illumination. Signs may be illuminated directly, indirectly, or internally, provided the lighting is directed away from other land uses, and away from oncoming traffic.
- (c) Shopping Center or Professional Complex. A shopping center, professional office complex, or similar large multiple-occupancy development may have an identification sign to a maximum size of three hundred (300) square feet placed along one (1) street frontage, provided the parcel has an area of at least eight (8) acres, and the sign is no closer than one hundred (100) feet from an adjacent property on the same side of the street.
- (d) Co-Op Signs. A co-op sign is intended to permit businesses that do not have street frontages on Kitsap Way or Wheaton Way a reasonable opportunity to advertise. A co-op sign transfers the right to place a freestanding sign from the nonfronting parcel to the parcel with street frontage on Kitsap Way or Wheaton Way. Co-op signs may be permitted in the following circumstances:
 - (1) The parcel fronting Wheaton Way or Kitsap Way shall have at least one hundred (100) feet of continuous street frontage on Wheaton Way or Kitsap Way; and
 - (2) The parcels (fronting and nonfronting) must share a property line; and
 - (3) The nonfronting business shall not have a property line fronting Wheaton Way or Kitsap Way; and
 - (4) A parcel fronting Kitsap Way or Wheaton Way shall be permitted one co-op sign, not to exceed one hundred (100) square feet; however, the co-op sign may contain signage for more than one (1) nonfronting business; and
 - (5) In the event that the fronting and nonfronting parcel(s) elect to share a single freestanding sign, a twenty-five (25) percent bonus in square footage is permitted, provided:
 - (i) The shared sign is the only permitted freestanding sign on the fronting and nonfronting parcels, except as provided in subsection (d)(7)(i) of this section.
 - (ii) The sign does not exceed the fifteen (15) foot maximum height.
 - (6) The nonfronting parcel is limited to one (1) co-op sign on Kitsap Way or Wheaton Way; and

- (7) The nonfronting parcel will transfer the right to develop a freestanding sign on the nonfronting parcel to the parcel fronting Kitsap Way or Wheaton Way;
 - (i) The nonfronting parcel may place a directional sign at each entrance, not to exceed ten (10) square feet in size.
- (8) The owners of both the fronting parcel and the nonfronting parcel shall record a "Notice to Title" prepared by the Department recognizing the presence of a co-op sign with the Kitsap County Auditor when required by the Department. The notice shall be notarized and the applicant must submit proof that the notice has been legally recorded before the sign permit is issued.

20.52.110 AUTO DEALERSHIP SIGN REGULATIONS.

This section applies within the freeway commercial zone designation.

- (a) No provisions under this section shall be interpreted to preclude other provisions of this chapter that are applicable to a given property or proposal.
- (b) In addition to the other standards prescribed in this chapter, a dealership group may erect one (1) automobile dealership district sign subject to the following requirements:
 - (1) A dealership group is two (2) or more franchises under common ownership;
 - (2) The automobile dealership district sign shall be limited to identifying the dealership group and the brands of vehicles sold in the group;
 - (3) The total area of the sign shall not exceed fifty (50) square feet for each dealer franchise in the group (example: a dealership group with two (2) dealer franchises would be allowed an automobile dealership district sign of up to one hundred (100) square feet);
 - (4) The maximum total sign area in no case shall exceed one hundred fifty (150) square feet if the sign is a pole sign, or two hundred (200) square feet if it is a monument sign;
 - (5) The square footage of the sign shall be deducted from the total aggregated signage allotted to the parcel on which the sign is placed;
 - (6) The sign can only front on a City arterial street;
 - (7) A master signage plan is required to be submitted prior to issuance of the sign permit showing the location and area of all signage of all the dealerships within the dealership group.

20.52.120 RESIDENTIAL DISTRICT SIGN REGULATIONS.

The following regulations apply to properties in residential zones:

- (a) Freestanding Signs.
 - (1) Entrance Signs. One (1) freestanding sign may be permitted at each street entrance to a neighborhood, subdivision, manufactured park, apartment/condominium complex, or other homogeneous residential area, provided:
 - (i) The sign specifically identifies the development only;
 - (ii) The sign area is fifty (50) square feet or less.
 - (2) Multiple-Family Developments. A residential development having four (4) or more dwelling units may have one (1) permanent freestanding sign per street frontage, provided the total sign area does not exceed four (4) square feet.
 - (3) Individual Properties. Each residential property may have one (1) freestanding permanent sign that shall not exceed two (2) square feet in sign area.
 - (4) Height. Freestanding signs shall have a maximum height of six (6) feet as measured from grade directly below the sign to the highest point on the sign or its support structure.
- (b) Building Signs.
 - (1) The freestanding sign limitations prescribed in subsections (a)(1) through (3) of this section may be applied to building signs in lieu of freestanding signs.
- (c) Resident name plaques and address numbers shall not be included in total sign area calculations, but shall be limited to a size and character of other such signs in the immediate neighborhood.

(d) Advertising wind signs or devices that flutter, wave, revolve, or sparkle, or are otherwise moved by the wind are prohibited.

20.52.130 SPECIAL PURPOSE SIGN REGULATIONS.

. When a sign that is not otherwise regulated by this title and is located in a residential zone, the special purpose sign regulations shall apply. Specifically, special purpose signs are signs located in a residential zone that are for either (1) commercial uses, such as an adaptive reuse, or legally established nonconforming commercial use, or (2) noncommercial signs such as signs for churches, schools and parks. The following shall apply:

- (a) Freestanding Signs.
 - (1) Sign Area. The maximum area of a freestanding sign shall be limited to fifty (50) square feet.
 - (2) Number of Signs. Only one (1) freestanding sign is allowed per each street frontage.
 - (3) Height. The height of a freestanding sign shall not exceed six (6) feet.
- (b) Building Signs.
 - (1) Sign Area. The aggregate area of all building signs, projecting signs, and other signs attached to buildings shall not exceed one hundred (100) square feet.
 - (2) Number of Signs. There is no limit to the number of individual building signs, provided the maximum aggregated sign area is maintained.
- (c) Illumination. When located within a residential zone, the sign shall not be illuminated between the hours of 10:00 p.m. and 7:00 a.m.

20.52.140 DOWNTOWN AND CENTERS SIGN REGULATIONS.

The following standards shall apply to signs located in a center:

- (a) Freestanding Signs.
 - (1) Sign Area. The requirements prescribed in BMC [20.52.100\(a\)](#)(1) shall apply, except wide parcels shall be limited to only one (1) freestanding sign not to exceed one hundred (100) square feet.
 - (2) Spacing. Freestanding signs shall be no closer than twenty-five (25) feet from adjacent properties, except this may be modified by the Director where such factors as the width of the lot or the driveway access makes compliance impossible.
 - (3) Maximum Height and Design. Freestanding signs shall comply with the height and design requirements set forth in Figure 20.52(a).
- (b) Building Signs. The requirements prescribed in BMC [20.52.100\(b\)](#) shall apply.
- (c) Moving, flashing, or animated signs are prohibited in downtown and centers zones.

20.52.150 VARIATIONS TO SIGN REGULATIONS.

- (a) The Director shall have the authority to grant administrative approval for minor adjustments to sign heights, numbers of signs, sign placement, and sign size, provided:
 - (1) The adjustments do not exceed ten (10) percent of the basic requirement; and
 - (2) The adjustment is based on a hardship or problem with the site, existing building placements, or poor site visibility, and not based on economic factors or personal design preference.
- (b) A request for adjustments beyond ten (10) percent shall be processed as a variance pursuant to BMC [20.58.030](#).

20.52.160 PORTABLE SIGNS.

Portable signs may be placed on sidewalks or portions of the pedestrian public right-of-way subject to the following conditions:

- (a) A minimum four (4) feet of unobstructed sidewalk or pedestrian path must be maintained. A portable sign shall not be allowed on sidewalks with less than four (4) feet in width.

- (b) Portable signs may not be placed in the driving lanes of a public street or in parking stalls on the public right-of-way.
- (c) One (1) portable sign is allowed for any licensed business. The sign must be displayed immediately adjacent to the main entrance of the business employing the sign.
- (d) Portable signs shall not exceed thirty-two (32) inches in width or thirty-six (36) inches in height as displayed.
- (e) Portable signs shall be professionally lettered, neatly painted or assembled, and remain in good repair.
- (f) Portable signs shall be constructed to avoid being blown from their intended location and to avoid tipping or falling.
- (g) Portable signs shall not be internally lit, not have moving parts, nor shall any attachment or portion of the sign extend beyond the thirty-two (32) by thirty-six (36) inch maximum dimensions established in subsection (d) of this section.
- (h) Portable signs shall be displayed during daylight hours only and shall be removed by the business owner immediately after dusk each day.
- (i) Any site landscaping required by the City shall not be altered to accommodate a portable sign.
- (j) Portable signs shall not block intersections or otherwise constitute a public safety hazard.
- (k) Pursuant to Chapter [47.42](#) RCW and Chapter [468-66](#) WAC, placement of portable signs on the public right-of-way of SR 3, SR 303, SR 304, and SR 310 is prohibited.
- (l) Placement of portable signs on the public right-of-way in violation of this section will result in immediate removal of the sign from the public right-of-way by City personnel.

20.52.180 NONCONFORMING SIGNS.

- (a) Applicability. This section applies to the maintenance, repair, as appropriate, and removal of nonconforming signs. "Nonconforming sign" means a sign that was legally established, but no longer conforms to the current sign standards of this title.
- (b) Maintenance and Repair of Off-Premises Signs. Any nonconforming off-premises sign shall immediately lose its legal nonconforming designation, and be removed or brought into conformity with the provisions of this chapter, when one (1) or more of the following events occur:
 - (1) Alterations to Sign.
 - (i) Any structural alteration to an off-premises sign shall result in the loss of its nonconforming status. This does not include replacing the sign's message or painting.
 - (ii) In no case shall an off-premises sign be permitted to be expanded or enlarged. Adding electronic components that move, flash, or change copy is not permitted.
- (c) Maintenance and Repair of On-Premises Signs. Any nonconforming on-premises sign shall immediately lose its legal nonconforming designation, and be removed or brought into conformity with the provisions of this chapter, when one (1) or more of the following events occur:
 - (1) Alterations to Sign.
 - (i) If alterations are made to the sign that exceed twenty-five (25) percent of the replacement cost of the sign, it shall lose its nonconforming status; or
 - (ii) For freestanding signs, refacing the sign with a new message is permitted; however, if the cabinetry housing the sign is removed, or is intended to be replaced, the sign shall lose its nonconforming status; or
 - (iii) In no case shall an on-premises sign be permitted to be expanded or enlarged.
 - (2) Alteration to Associated Business or Site. Should a business with a nonconforming sign undergo remodel or site improvements, unless the structure was damaged by fire or other casualty not intentionally caused by the owner and/or tenant and a permit is applied for within one (1) year of such fire or casualty, the sign shall lose its nonconforming status under any of the following circumstances:

- (i) The on-site renovation, construction, or other site improvements exceed seventy-five (75) percent of the assessed improvement value of the site; or
- (ii) On-site construction/improvements costs exceed fifty thousand dollars (\$50,000).

20.52.190 GOVERNMENT ACQUISITION OF PROPERTY FOR RIGHT-OF-WAY.

(a) A sign that becomes nonconforming with respect to its setback from the edge of a public right-of-way as a result of a local, state, or federal government acquisition of property for right-of-way expansion shall be characterized as a legal nonconforming sign and shall be allowed subject to the requirements of this section.

(b) The City may allow, by a Type II permit as prescribed in Chapter [20.02](#) BMC, the placement of a new sign or relocation of an existing sign within a required setback if it meets all of the following criteria:

- (1) The enforcement of this code would result in substantial hardship to the applicant because no feasible location exists to place a sign on the subject property other than in a required setback, and such hardship was created solely by local, state, or federal government acquisition of property for right-of-way expansion and not by any action of the applicant.
- (2) The sign is not prohibited by BMC [20.52.050](#) and, except for location within a required setback, complies with all other requirements of this chapter.
- (3) The sign complies with the City’s minimum sight distance at intersection requirements pursuant to BMC [20.52.070](#).
- (4) Location of the sign within a required setback is otherwise consistent with the public health, safety, and welfare.

20.52.200 REMOVAL OF SIGNS.

The sign user, owner and/or owner of the property on which an abandoned, dangerous, defective, illegal, or prohibited sign is located shall remove or cause to be removed any such sign as required in this chapter. Failure to comply shall subject the sign user, owner and/or owner of the property on which the sign located to the remedies and penalties of BMC [20.40.200](#).

**Figure 20.52(a)
Freestanding Signs: Zone-Specific Size and Design Requirements**

| Commercial Zones | Freestanding Sign Type | Max. Height | Max. Size^{1, 3, 4} |
|-----------------------------------|-------------------------------|--------------------|------------------------------------|
| General Commercial (GC) | Monument only | 8' | 60 sq. ft. |
| Neighborhood Business (NB) | Monument only | 6' | 60 sq. ft. |
| Freeway Corridor (FC) | Any | 35' | 100 sq. ft. ² |
| Industrial (I) | Any | 25' | - |
| Institutional (INST) | Monument only | 8' | 60 sq. ft. |
| Downtown and Centers Zones | Freestanding Sign Type | Max. Height | Max. Size |
| District Center Core (DCC) | Monument only | 8' | 60 sq. ft. |
| Downtown Core (DC) | Monument only | 8' | 60 sq. ft. |
| Downtown Waterfront (DW) | Monument only | 8' | 60 sq. ft. |
| Business Core (BC) | Monument only | 8' | 60 sq. ft. |

Attachment A

| | | | |
|------------------------|---------------|----|------------|
| Employment Center (EC) | Monument only | 8' | 60 sq. ft. |
|------------------------|---------------|----|------------|

1. Larger signs for shopping centers or office complexes are allowable per BMC [20.52.100\(c\)](#).
2. Larger signs for auto dealerships are allowed per BMC 20.52.110.
3. Freestanding sign size for special purpose zones not listed in this table are subject to the requirements of BMC 20.52.130.
4. Freestanding signs fronting Wheaton Way and Kitsap Way may increase the maximum height to fifteen (15) feet, and maximum area to one hundred (100) square feet per BMC 20.52.100(d), which is a permissible departure from the requirements listed in Figure 20.52(a).