

**PLANNING COMMISSION
MEETING**

**November 4, 2015
6:30 p.m.**

AGENDA



"Where Dreams Can Soar"

The City of Bonney Lake's Mission is to protect the community's livable identity and scenic beauty through responsible growth planning and by providing accountable, accessible and efficient local government services.

www.ci.bonney-lake.wa.us

Location: Justice & Municipal Center, 9002 Main Street East, Bonney Lake.

Planning Commission Members:

Grant Sulham – Chair
David Baus – Vice Chair
L. Winona Jacobsen
Brad Doll
Dennis Poulsen
Craig Sarver
Debbie Strous-Boyd

City Staff:

Jason Sullivan, Senior Planner - ABSENT
Debbie McDonald, Planning Commission Clerk
Ryan Harriman, Associate Planner

- I. Call to Order**
- II. Roll Call & Next Meeting Poll** *(November 18, 2015)*
- III. Approval of Minutes**
- IV. Public Comments and Concerns**
- V. Public Hearing**
 - A. Ordinance D15-104: Telecommunication Code Amendments
- VI. New Business**
- VII. Old / Continuing Business**
- VIII. For the Good of the Order**
 - A. Correspondence
 - B. Staff Comments
 - C. Commissioner Comments
- IX. Adjournment**

Next Meeting: November 18, 2015

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PLANNING
COMMISSION MEETING

OCTOBER 21, 2015
6:30 p.m.

APPROVED MINUTES



"Where Dreams Can Soar"

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Location: Justice & Municipal Center, 9002 Main Street East, Bonney Lake.

- I. Call to Order:** The meeting was called to order at 6:31 P.M.
- II. Roll Call:** Planning Commissioners in attendance were Grant Sulham – Chair, Dave Baus – Vice Chair, Dennis Poulsen, Debbie Strous-Boyd, Brad Doll, Winona Jacobsen and Craig Sarver

Staff members in attendance were Senior Planner Jason Sullivan, Associate Planner Ryan Harriman and Planning Commission Clerk Debbie McDonald

III. Approval of Minutes:

Motion was made by Commissioner Doll and seconded by Commissioner Sarver to approve the minutes from the September 2, 2015 meeting.

Motion approved 7-0

IV. Public Hearing:

- A. Ordinance D15-92: Subdivision Code Amendments – Right-of-Way Standards**

Chair Sulham opened Public Hearing at 6:31

Senior Planner Sullivan presented the ordinance on Subdivision Code Amendments – Right-of-Way Standards. This is just housekeeping to clean-up the ordinance.

Chair Sulham closed the Public Hearing with no public comments at 6:33.

Motion was made by Commissioner Doll and seconded by Vice-Chair Baus to recommend that the City Council adopt Ordinance D15-92 amending section 17.20.010 of the Bonney Lake Municipal Code updating the right-of-way standards for subdivisions.

Motion approved 7-0

V. Public Comment and Concerns: NONE

VI. New Business:

- A. Telecommunication Code Amendments**

Senior Planner Sullivan introduced Associate Planner Harriman to explain the updates to the wireless communication ordinance.

Associate Planner Harriman gave an overview of the updates with there still being some additional changes that will be emailed out to the Commissioners soon. The Public Hearing is set for November 4th.

Senior Planner Sullivan commented there is language to preserve view corridors.

VII. Old/Continuing Business: NONE

VIII. For the Good of the Order:

A. Correspondence: NONE

B. Staff Comments:

Senior Planner Sullivan commented that since he will miss the November 4th, meeting he wanted to distribute the Planning Commission Work Plan for the Commissioners to examine. He explained the changes to the work plan and reminded Commissioners they will take their recommendations to the joint meeting with City Council in January. He also distributed a memo on the Regional Growth Center Framework Update – Work Session. This is just in the beginning phase and wanted the Commissioners updated.

C. Commissioner Comments: NONE

IX. Adjournment:

Motion was made by Commissioner Jacobsen and seconded by Commissioner Doll to adjourn.

Motion approved 7-0

Meeting adjourned at 6:59

Debbie McDonald Planning Commission Clerk



Community Development Department Briefing Memorandum

Date: October 15, 2015
To: Planning Commission
From: Ryan Harriman, AICP Planner
Re: **Ordinance D15-104– Wireless Communication Facilities**

PURPOSE:

The Washington Cities Insurance Authority (WCIA) performs an annual review and audit of the City of Bonney Lake, and in 2014 this entailed a land use liability audit. In sum, this resulted in several recommendations for code and policy changes for consistency with recent court and Growth Management Hearings Board decisions, and new statutory provisions. Staff has also identified portions of code which would benefit from an update, mostly to clarify and streamline the review, approval, and appeal processes. In this instance, Staff has proposed amending Bonney Lake Municipal Code (BLMC), to reflect changes to Wireless Telecommunications Facilities.

ATTACHMENTS:

1. Ordinance D15-104

BACKGROUND:

The tremendous growth in personal wireless services has created an increased demand for new wireless antennas and equipment. It is expected that carriers will continue to roll out new facilities in Bonney Lake to accommodate the rapidly growing need for increased capacity and speed. Wireless telecommunications facilities (WCF) are regulated by federal, state and local laws. Federal law significantly limits the City's ability to regulate WCFs. Under federal law, a local agency's decisions cannot have the effect of prohibiting the provision of wireless service or unreasonably discriminating among wireless service providers. Also, under federal law, the City may not regulate the placement, construction or modification of wireless communications facilities on the basis of radio frequency (RF) emissions, so long as the facilities comply with the Federal

Communications Commission (FCC) regulations concerning such emissions. Despite federal limitations, cities historically have retained ability to regulate the aesthetic of WCFs, including factors such as height and property line setbacks. However, federal law developments continue to erode that ability.

The Spectrum Act

The latest federal law governing WCFs was adopted in 2012 as part of the 2012 Middle Class Tax Act. This federal legislation contained Section 6409, now referred to as the Spectrum Act, Page 2 and codified at 47 U.S.C. § 1455. The Spectrum Act was intended to facilitate the telecommunication industry's rapid deployment of wireless infrastructure by requiring local governments to approve any application that seeks to modify an existing wireless telecommunication facility that does not "substantially change" the existing facility.

As the Spectrum Act did not contain specific definitions, the implementation of this Section initially was open to interpretation by each local government. Furthermore, while the Act states that a local government cannot deny and shall approve an eligible facility request, it provides no guidance as to the required process or time limits in which a local government has to act. To bridge this gap, the FCC recently promulgated rules which include necessary definitions, processing requirements, timelines and remedies for applications that seek to modify an existing wireless telecommunication facility in accordance with the Spectrum Act.

The FCC's procedural rules went into effect on April 9, 2015. The FCC rules are subject to several legal challenges, though it appears they will remain in effect during the litigation. These FCC rules are binding on local governments, unless and until a court orders otherwise.

DISCUSSION

Section 6409 of the Spectrum Act provides that the City "may not deny, and shall approve any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station." (47 U.S.C.

§1455(a)(1).) Section 6409 defines "eligible facilities request" as "any request for modification of an existing wireless tower or base station that involves –

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

(47 U.S.C. § 1455 (a)(2).) The statute does not define any of the other terms, most importantly "substantially change", nor does it explain the process the City may use to evaluate whether an application qualifies for federal protection under this section.

On December 17, 2014, the FCC adopted regulations implementing Section 6409, codified at 47 C.F.R. § 1.40001, which took effect on April 9, 2015. The regulations were intended to clarify which types of WCF projects are covered by the Spectrum Act. The regulations define terms that were used but not defined in the Spectrum Act, including “eligible support structure”, “existing”, “substantial change” and “wireless tower”. The regulations give applicants the right to assert in writing that a project is covered by the Spectrum Act.

If the project falls within the definition of an eligible facilities request, the City must act on it within 60 days from the date an application is submitted, unless the City determines the request is not covered by the Spectrum Act. The 60 day time frame may be tolled by the City for incomplete applications, provided the City notifies applicant within 30 days of submittal. Failure of the City to act on the application within the allowed timeframe results in the automatic approval of such application.

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ORDINANCE D15-104

AN ORDINANCE OF THE CITY OF BONNEY LAKE, WASHINGTON, AMENDING CHAPTER 18.50 OF THE BONNEY LAKE MUNICIPAL CODE RELATING TO THE REGULATION OF PERSONAL WIRELESS TELECOMMUNICATIONS FACILITIES

WHEREAS, the City Council of the City of Bonney Lake wishes to regulate wireless communications facilities within the City in full compliance with the laws and regulations of the State of Washington and the United States, including the State Environmental Policy Act, the Telecommunications Act of 1996, and the Middle Class Tax Relief and Job Creation Act of 2012.

WHEREAS, in 1934, Congress enacted the Communications Act of 1934, creating the Federal Communications Commission (the “FCC”) and granting it authority over common carriers engaged in the provision of interstate or foreign communications services; and

WHEREAS, in 1996 Congress enacted Pub. L. No. 104-104, 110 Stat. 70 (the “1996 Act”), amending the Communications Act of 1934 and implementing regulations applicable to both wireless and wireline communications facilities for the purpose of removal of barriers to entry into the telecommunications market while preserving local government zoning authority except where specifically limited under the 1996 Act; and

WHEREAS, in the 1996 Act, Congress imposed substantive and procedural limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of wireless facilities and incorporated those limitations into the Communications Act of 1934; and

WHEREAS, the City has adopted regulations that have been codified as part of the Municipal Code of the City establishing local requirements for the location, construction, and modification of wireless facilities; and

WHEREAS, in 2012 Congress passed the “Middle Class Tax Relief and Job Creation Act of 2012” (the “Spectrum Act”) (PL-112-96; codified at 47 U.S.C. § 1455(a)); and

WHEREAS, Section 6409 (hereafter “Section 6409”) of the Spectrum Act implements additional substantive and procedural limitations upon state and local government authority to regulate modification of existing wireless antenna support structures and base stations; and

WHEREAS, Congress through its enactment of Section 6409 of the Spectrum Act, has mandated that local governments approve, and cannot deny, an application requesting modification of an existing tower or base station if such modification does not substantially change the physical dimensions of such tower or base station; and

WHEREAS, the 1996 Act empowers the FCC to prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of the 1996 Act, and subsequently added portions of the 1996 Act such as Section 6409; and

WHEREAS, the FCC, pursuant to its rule making authority, adopted and released a Notice of Proposed Rulemaking in September of 2013 (In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 13-122) which focused in part upon whether or not the FCC should adopt rules regarding implementation of Section 6409; and

WHEREAS, on October 21, 2014, the FCC issued its report and order, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153, in the above described proceeding (the “Report and Order” or “Order”) clarifying and implementing statutory requirements related to state and local government review of infrastructure siting, including Section 6409, with the intent of facilitating and expediting the deployment of equipment and infrastructure to meet the demand for wireless capacity; and

WHEREAS, the rules adopted by the FCC in its Report and Order implementing Section 6409 are intended by the FCC to spur wireless broadband deployment, in part, by facilitating the sharing of infrastructure that supports wireless communications through incentives to collocate on structures that already support wireless facilities; and

WHEREAS, the Report and Order also adopts measures that update the FCC’s review processes under the National Environmental Policy Act of 1969 (“NEPA”) and section 106 of the National Historic Preservation Act of 1966 (“NHPA”), with a particular emphasis on accommodating new wireless technologies that use smaller antennas and compact radio equipment to provide mobile voice and broadband service; and

WHEREAS, on January 5, 2015, the FCC released an Erratum to the Report and Order making certain amendments to the provisions of the Report and Order related to NEPA and Section 106 of the NHPA; and

WHEREAS, that part of the Report and Order related to implementation of Section 6409, amends 47 C.F.R. Part 1 (PART 1 – PRACTICE AND PROCEDURE) by adding new Subpart CC § 1.40001 and establishing both substantive and procedural limitations upon local government application and development requirements applicable to proposals for modification to an existing antenna support structure or an existing base station (“Eligible Facility Request Rules”); and

WHEREAS, the Order, among other things, defines key terms utilized in Section 6409, establishes application requirements limiting the information that can be required from an applicant, implements a 60 shot clock and tolling provisions, establishes a deemed approved remedy for applications not timely responded to, requires cities to approve a project permit application requesting modification of an existing tower or base station that does not substantially

change the physical dimensions of such tower or base station, and establishes development standards that govern such proposed modifications; and

WHEREAS, the Report and Order provides that the Eligible Facility Request Rules will be effective 90 days following publication in the Federal Register; and

WHEREAS, the Order was published in the Federal Register on Thursday, January 8, 2015, Federal Register; Vol. 80; No. 5, resulting in the Eligible Facility Request Rules becoming effective on April 8, 2015; and

WHEREAS, the Order is subject to appeal, however, even if an appeal is filed, the appeal will not automatically result in delay of implementation of the Eligible Facility Request Rules; and

WHEREAS, the Bonney Lake City Council finds that it is required under Section 6409 of the Spectrum Act and the Eligible Facility Request Rules established in the Order, to adopt and implement local development and zoning regulations that are consistent with Section 6409 and the Order; and

WHEREAS, an Environmental Checklist for a non-project action was prepared under the State Environmental Policy Act (RCW Chapter 43.21.C), pursuant to Washington Administrative Code Chapter 197-11, and a determination of Non-Significance (“DNS”) was issued on the 19th day of October, 2015; and

WHEREAS, in accordance with RCW 36.70A.106 and WAC 365-196-630, a notice of intent to adopt the proposed new development regulations was sent to the State of Washington Department of Commerce and to other state agencies to allow for a 60-day review and comment period, which comment period ended prior to adoption of this ordinance; and

WHEREAS, on the 4th day of November 2015 the Planning Commission held a duly noticed public meeting related to the proposed interim development and zoning regulations set forth in the proposed ordinance; and

WHEREAS, on the 1st day of October 2015 the State of Washington Department of Commerce issued notification that the City met the state agency notification requirements of the Growth Management Act per RCW 36.70A.106; and

WHEREAS, the City Council considered the proposed development and zoning regulations on the ___ day of _____, 20____; and

WHEREAS, the City Council finds that the proposed development and zoning regulations are reasonable and necessary in order bring the City’s development regulations into compliance with the mandate imposed upon the City by Congress pursuant to Section 6409 and the regulations

imposed upon the City by the FCC pursuant to its Report and Order, and are therefore in the public interest;

NOW, THEREFORE, be it ordained by the City Council of the City of Bonney Lake:

Section 1. Section 18.50.018 of the Bonney Lake Municipal Code is hereby recodified as “Eligible Facilities Modification.”

18.50.018 Eligible Facilities Modification

- A. The City shall review an eligible facilities modification application and will issue an eligible facilities modification permit, upon determination by the City that the proposed modification does not constitute a substantial change as defined in BLMC 18.50.018(J).
- B. An eligible facilities application shall be denied upon determination by the City that the proposed facilities modification will constitute a substantial change as defined in BLMC 18.50.018(G).
- C. An eligible facilities modification permit that has been deemed granted, pursuant to BLMC 14.40.080.B, shall be subject to generally applicable enforcement and compliance requirements in the same manner as an eligible facilities modification permit issued pursuant to this chapter.
- D. Any eligible facilities modification permit shall comply with generally applicable building, structural, electrical, and safety codes and other laws codifying objective standards reasonably related to health and safety. Violation of any such applicable code or standard shall be a violation of the eligible facilities modification permit.
- E. An eligible facilities modification permit issued shall be valid for a term of 180 days from the date of issuance or the approval date.
- F. Notwithstanding any other provisions in the City code, no administrative appeal process is provided for review of a decision to condition, deny or approve an application. The applicant and the City retain any and all remedies that are available at law or in equity, including by way of example and not limitation, those remedies set forth in the FCC Eligible Facilities Request Rules and remedies available under the Land Use Petition Act. In the event no other time period is provided in law for bringing an action for a remedy, any action challenging a denial of an application or notice of a deemed approved remedy, shall be brought within thirty (30) days following the date of denial or following the date of notification of the deemed approved remedy.
- G. Substantial Change Criteria.

1. A proposed facilities modification will substantially change the physical dimensions of an eligible support structure if it meets any of the following criteria:
 - a. Increasing the height of the tower by more than 10%;
 - b. Increasing tower height with the addition of one additional antenna array greater than twenty (20) feet;
 - c. Increasing the height of other eligible support structures by more than 10% or more than ten (10) feet, whichever is greater;
 - d. Adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet (20), or more than the width of the tower structure at the level of the appurtenance, whichever is greater;
 - e. Adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet; or
 - f. 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:
 - i. it entails any excavation or deployment outside the current site;
 - ii. it would defeat the concealment elements of the eligible support structure; or
 - iii. 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 noncompliant only in a manner that would not exceed the thresholds identified in this chapter.
2. Changes in height shall be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height shall be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.

Section 2. Section 3.68.010, “Land use fees” of the Bonney Lake Municipal Code and Ordinance No. 1515 § 1 are each hereby amended to read as follows:

3.68.010 Land use fees.

There are hereby established various fees to defray the costs incurred in administering various land use permits which shall be paid by the applicants to the city, based upon the type of land use application. Fees for the following land use applications shall be as set forth in the schedule below. A copy of the fee schedule shall at all times be maintained in the office of the city clerk and displayed in the permit center of the department of planning and community development.

Type of Permit	Fee
A. ACCESSORY DWELLING UNITS	\$500
B. AMENDMENTS	
1. Comprehensive Plan Amendment	
a. Less Than One Acre	\$500
b. One to Three Acres	\$1,500
c. More than Three Acres	\$3,000
2. Minor Change to a Permit	\$300
C. ANNEXATION PETITION	\$400
D. APPEALS	
1. Appeal of Administrative Decision	\$1,000
2. Appeal of Hearing Examiner’s Decision	\$3,000
E. SEPA ENVIRONMENTAL REVIEW	
1. Environmental Checklist Review	\$750
2. Environmental Impact Statement	\$1,000 plus cost of EIS. If the mayor authorizes city staff or a city consultant to prepare the EIS, the director(s) shall estimate the cost, which amount the applicant shall pay as a deposit plus the \$1,000 processing and review fee. After the EIS is complete,

	the city shall bill the applicant (or remit as the case may be) for the city's total EIS preparation cost, including overhead, minus the deposit.
3. Addendum Review	\$250
F. ENVIRONMENTAL AND INFRASTRUCTURE REVIEW AND INSPECTION	
1. City Processing and Review of Critical Area Reports (Wetlands, Hydrogeologic, Geologic Hazard, Habitat Conservation, Etc.).	\$500 per report for city processing and review. The applicant shall obtain the report from a qualified professional per BLMC 16.20.090(A).
2. City Review of Traffic Impact Analysis (TIA)	
a. Level I – Scoping	\$500 for city processing and review.
b. Level II – Analysis	\$1,500 for city processing and review of up to five intersections impacted by a project. For all additional intersections required to be analyzed beyond five, the city engineer shall estimate the additional review fee which shall be paid as a deposit, billed at \$100.00 per hour. The applicant shall obtain the TIA from a qualified professional transportation planner or engineer.
3. Infrastructure Reviews and Permits	

a. Water Booster Pump Station	
i. Engineering review	\$8,000
ii. Permit	\$500
b. Sewer Lift Station	
i. Engineering review	\$8,000
ii. Permit	\$500
c. Civil Infrastructure Engineering Review (Water, Sewer, Stormwater, Street)	
i. Short plat 2 – 3 lots	
A. Inside City of Bonney Lake	\$1,500
B. Outside City of Bonney Lake - water and sewer only	\$500
ii. Short plat 4 – 9 lots	
A. Inside City of Bonney Lake	\$3,500
B. Outside City of Bonney Lake - water and sewer only.	\$2,250
iii. Long plat	
A. Inside City of Bonney Lake	\$4,000 plus \$40 per lot
B. Outside City of Bonney Lake - water and sewer only	\$2,000 plus \$40 per lot
iv. Commercial with fire flows up to 2,500 gpm	
A. Inside City of Bonney Lake	\$4,500
B. Outside City of Bonney Lake - water only	\$3,000
v. Commercial with fire flows greater than 2,500 gpm	
A. Inside City of Bonney Lake	\$12,000
B. Outside City of Bonney Lake - water only	\$9,000
vi. Civil infrastructure permit	\$500
vii. Connection to public systems (includes review, permit and inspection)	

A. Inside City of Bonney Lake	\$250
B. Outside City of Bonney Lake	\$500
viii. Grease interceptors (includes review, permit and inspection)	
A. Inside City of Bonney Lake	\$250
B. Outside City of Bonney Lake	\$500
ix. Retrofit underground automatic fire extinguishing systems (includes review, permit and inspection)	
A. Inside City of Bonney Lake	\$250
B. Outside City of Bonney Lake	\$500
x. Traffic Signal Light	
A. Engineering Review	\$8,000
B. Permit	\$500
d. Resubmittals	
i. First resubmittal	\$100
ii. Second resubmittal	\$200
iii. Third and subsequent resubmittal	\$500
e. Inspection Fees	Inspection fees shall be three percent of infrastructure development costs, including lift stations and booster pumps. The public works director is authorized to establish reasonable unit costs for various water, sewer, stormwater, street, retaining wall, and miscellaneous improvement components upon which the inspection fee shall be based. Said inspection fee schedule shall be periodically reviewed and updated.

4. Critical Area Permit	\$750
5. Critical Areas Variance	\$1,500
B. HEARING EXAMINER'S COSTS NOT OTHERWISE SPECIFIED	\$100 plus actual hearing examiner costs
C. LAND DISTURBANCE	
1. Clearing, Vegetation and Tree Removal	\$250
2. Grading, Cut and Fill	
a. 0 – 249 cubic yards outside of the jurisdiction of Shoreline Code – Chapter 16 Article III BLMC	\$0
b. 0 – 249 cubic yards within the jurisdiction of Shoreline Code – Chapter 16 Article III BLMC	\$500
c. 250 – 999 cubic yards	\$1,500
d. 1,000 to 49,999 cubic yards	\$2,500
e. 50,000 cubic yards or more	\$2,500 plus the cost of any special monitoring and inspection. The city engineer shall estimate the preliminary monitoring and inspection fee, calculated at \$100 per hour, which shall be paid in advance as a deposit against the final total fee.
D. PRE-APPLICATION MEETINGS	
1. First Meeting	\$200
2. Subsequent Meetings	\$400
E. DESIGN REVIEW PROCESSING	
1. Projects Exempt from SEPA	\$1,000
2. Projects Not Exempt from SEPA (Fee Does not include SEPA Review)	\$5,000
F. RIGHT-OF-WAY VACATION	\$1,400
G. SHORELINE PERMITS AND EXEMPTIONS	
1. Shoreline Substantial Development Permit	\$2,200

2. Shoreline Conditional Use Permit	\$3,000
3. Shoreline Variance	\$3,000
4. Shoreline Letter of Exemption (SEPA Required)	\$200
5. Shoreline Letter of Exemption (SEPA Exempt)	\$50
H. SITE PLAN REVIEW – COMMERCIAL AND MULTIFAMILY	\$400
I. SIGNS	
1. Sign Permit	\$150
2. Temporary Sign	\$50
J. SUBDIVISIONS	
1. Boundary Line Adjustments	\$1,450
2. Lot Combinations	\$250
3. Shore Plat (2 to 9 Lots)	\$1,200 plus \$50 per lot
4. Long Plat (10 or More Lots)	
a. Preliminary Plat	\$2,000 plus \$80 per lot
b. Final Plat	\$1,500 plus \$80 per lot
5. Plat Alteration or Vacation	\$1,500
K. APPLICATION/PERMIT TIME EXTENSIONS	\$500
L. ZONING	
1. Conditional Use Permit	\$1,500 <u>\$2,000</u>
2. Temporary Use Permit	
a. Event	\$100
b. Business	\$200
c. Residence/Travel Trailer	\$250
3. Variance	
a. Single-Family Residence	\$250 plus hearing examiner cost
b. All Other Variances	\$250 plus hearing examiner cost
4. Zoning Reclassification/Map Amendment	\$1,500 plus \$100.00 per acre

5. Zoning Code Interpretation	\$200
M. WIRELESS COMMUNICATION FACILITIES	
1. Remodel & Co-location Eligible Facilities Modification	\$500
2. New Facility Installation Administrative Wireless Permit	\$2,000 \$1,000

Section 3. BLMC Section 14.30.010, “Permits by Type” of the Bonney Lake Municipal Code and corresponding portion of Ordinance No. 1505 § 3 is hereby amended to read as follows:

14.30.010 Permits by Type

Type 1	Type 2	Type 3	Type 4
Building Permits	Sign Variances	Variances	Zoning Reclassifications
Temporary Permits	Short Plats	Conditional Use Permits	Plat Alterations
Sign Permits	SEPA Review	Preliminary Plats	Plat Vacations
Land Clearing Permits	Commercial Site Plan	Shoreline Conditional Use Permit	
Accessory Dwelling Unit Permits	Shoreline Substantial Development Permits	Shoreline Variances	
Boundary Line Adjustments	Environmental Critical Area Permits		
Wireless Communication Facility Co- Location Permits	Design Review		

<u>Wireless Communication Facility – Eligible Facility Modification</u>			
<u>Wireless Communication Facility</u>			
Shoreline Letters of Exemption			

Section 4. BLMC Section 14.40.080, “Decision” of the Bonney Lake Municipal Code and corresponding portion of Ordinance No. 1505 § 4 is hereby amended to read as follows:

BLMC 14.40.080 Decision.

A. The decision maker shall determine if the application is consistent with the development code and the policies of the comprehensive plan and notify the applicant within 120 days of the determination of completeness, except as provided in section B below, as calculated pursuant to BLMC 14.10.070 subject to the following:

1. ~~A.~~ The decision maker may include in a decision any conditions of approval that are necessary to ensure that the proposal complies with all applicable development code and comprehensive plan policies.

2. ~~B.~~ If the proposal is not exempt from design review, the decision maker shall not issue a final decision until the design commission has reviewed the applications and made recommendations to the director; unless the design commission delegates its design review on a specific application to the director pursuant to BLMC 14.95.030.

3. ~~C.~~ No building permit shall be issued until all related, necessary permits are final, including appeals to the hearing examiner, unless the director(s) waives this prohibition based on the applicant signing a statement acknowledging the appeal period and agreeing to remove or modify the permitted work at the applicant’s expense should an appeal result in revocation or modification of the appealed permit.

4. ~~D.~~ Short plats shall not be recorded until after the appeal period has lapsed.

B. Eligible Wireless Communication Facility Modifications

1. The City will act on the application, together with any other City permits required for a proposed modification, within 90 days; provided that:
 - a. If the City determines that the application does not qualify as an Eligible Facilities Modification, the City will notify the applicant of that determination in writing and will process the application as a WCF Permit application, as applicable.
 - b. To the extent federal law provides a “deemed granted” remedy applications not timely acted upon by the City, no such application shall be deemed granted until the Applicant provides notice to the City, in writing, that the application has been deemed granted after the time period provided in BLMC 14.40.080(B)(1) has expired.

Section 5. Section 18.04.010, “A” of the Bonney Lake Municipal Code and the corresponding portions of Ordinance No. Ord. 988 § 2 is hereby amended to read as follows:

18.04.010 “A”.

“Abandonment” means to:

- A. Cease operation for a period of 60 or more consecutive days;
- B. Reduce the effective radiated power of an antenna by 75 percent for 60 or more consecutive days;
- C. Relocate an antenna at a point less than 80 percent of the height of an antenna support structure; or
- D. Reduce the number of transmissions from an antenna by 75 percent for 60 or more consecutive days.

“Accessory building” is a building secondary to the primary building on the premises upon the lot and not attached thereto.

“Accessory dwelling unit” is a second dwelling unit either in or added to an existing single-family detached dwelling, or in a separate structure on the same lot as the primary dwelling for use as a complete, independent living facility with provision within the accessory unit for cooking, eating, sanitation, sleeping and entry separate from that of the main dwelling. Such a dwelling is an accessory use to the main dwelling. Accessory units are also commonly known as “mother-in-law” units or “carriage houses.”

“Adult arcade” means a commercial establishment containing individual viewing areas or booths, where, for any form of consideration, including a membership fee, one or more still or motion picture projectors, slide projectors, or other similar image-producing machines are used to show films, motion pictures, video cassettes, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.

“Adult cabaret” means a nightclub, bar, restaurant, tavern, or other similar commercial establishment, whether or not alcoholic beverages are served, that regularly features adult entertainment.

“Adult entertainment” means:

A. Any exhibition, performance or dance conducted in an adult entertainment facility where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas; or

B. Any exhibition, performance or dance intended to sexually stimulate any patron and conducted in an adult entertainment facility where such exhibition, performance or dance is performed for, arranged with, or engaged in with fewer than all patrons in the adult entertainment facility at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance. For purposes of example and not limitation, such exhibitions, performances or dances are commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.

“Adult entertainment facility” means a commercial establishment defined as an adult arcade, adult cabaret, adult motel, adult motion picture theater, adult retail store, or other adult entertainment facility.

“Adult entertainment facility, other” means any commercial establishment not defined herein where adult entertainment is regularly conducted or where sexually oriented materials are regularly displayed, or available in any form, for on-site consumption or use for any type of consideration; provided, however, that a public library, and a school, university, or similar educational or scientific/ medical facility shall not be considered an adult entertainment facility. In addition, a commercial establishment that offers access to telecommunications networks as a principal business purpose shall not be considered an adult entertainment facility unless the access is provided for the primary purpose of displaying or presenting visual images that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.

“Adult family home” is a regular family abode of a person or persons providing personal care, special care, room, and board to more than one but not more than six adults who are not related by

blood or marriage to the person or persons providing the services, which is licensed pursuant to Chapter 70.128 RCW.

“Adult motel” means a hotel, motel, or similar commercial establishment which:

A. Offers sleeping accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas, and that has a sign visible from the public right-of-way that advertises the availability of this type of sexually oriented materials; or

B. Offers a sleeping room for rent for a rental fee period of time that is less than 10 hours; or

C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 12 hours.

“Adult motion picture theater” means a commercial establishment where, for any form of consideration, motion pictures, films, video cassettes, slides, or other similar visual representations are regularly shown that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.

“Adult retail store” means a commercial establishment such as a bookstore, video store, or novelty shop which as one of its principal business purposes offers for sale or rent, for any form of consideration, any one or more of the following:

A. Books, magazines, periodicals or other printed materials, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas; or

B. Instruments, devices, or paraphernalia designed for use in connection with any specified sexual activities.

“Alternative tower structure” means a man-made tree, clock tower, bell steeple, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

“Antenna” means any existing poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals, including:

A. “Directional antenna” (also known as “panel” antenna) means an antenna which transmits and receives radio frequency signals in a specific directional pattern of less than 360 degrees.

B. “Omni-directional antenna” (also known as a “whip” antenna) means an antenna which transmits and receives radio frequency signals in a 360-degree radial pattern. Does not include antenna utilized specifically for television reception.

C. “Parabolic antenna” (also known as a “dish” antenna) means an antenna which is a bowl-shaped device for the reception and/or transmission of radio frequency communication signals in a specific directional pattern.

D. “Stealth antenna” means an antenna installed inside a non-antenna structure, or camouflaged to appear as a non-antenna structure.

“Antenna height” means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the parcel. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

“Antenna support structure” means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

“Applicant” means any provider or any person, partnership, or company who files an application for any permit necessary to install, maintain, relocate or remove a personal wireless communication service facility within the city.

“Arcade” is a place of business devoted primarily to the use of pinball and electronic games by patrons.

“Attached wireless communication facility” means a wireless communication facility that is affixed to an existing structure and is not considered simply a component of an attached wireless communications facility.

“Automobile and trailer sales area” means an open, off-street area used for the display, sale or rental of new or used automobiles or trailers and where no repair work is done.

“Automobile service station” means a building or portion thereof and land used for dispensing automobile fuel, oil and accessories, and services in connection therewith.

Section 6. Section 18.04.020, “B” of the Bonney Lake Municipal Code and the corresponding portions of Ordinance No. 1364 § 3 is hereby amended to read as follows:

18.04.020 “B”.

“Bar” means a portion of a full food menu restaurant premises wherein alcoholic beverages are sold at retail for consumption on the premises and minors are excluded therefrom by law.

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

A. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

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

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

“Beer and wine specialty shop” is a shop that sells beer, strong beer and/or wine for off-premises consumption in bottles, cans, or original containers. May offer samples for purposes of sales promotion.

“Boarding home” is any home or other institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing board and domiciliary care to three or more aged persons not related by blood or marriage to the operator. It shall not include adult family homes or independent senior housing.

“Brewpub” means a restaurant-brewery that has a full food menu and sells at least 50 percent of its beer on the premises. The beer is brewed for sale and consumption in the adjacent restaurant and/or bar. The beer is often dispensed directly from the brewery’s storage tanks.

“Building” means a structure with a foundation, supports or walls and a roof.

“Building height” of a structure with a flat roof shall be measured from the grade plane to the highest roof surface. The “building height” for a sloped roof shall be defined as the average height of the highest roof between the roof eave and the roof ridge to the grade plane, regardless of the shape of the roof. For lots within 200 feet of the shoreline, “building height” shall be determined by using WAC 173-27-030(9).

“Bulk regulation” refers to the relationship of the area of a lot, the setback regulations and the portion of a lot which may be covered by building.

Section 7. Section 18.04.030, “C” of the Bonney Lake Municipal Code and Ordinance No. 1502 § 1 is hereby amended to read as follows:

18.04.030 “C”.

“Camouflaged” means a personal wireless communication service facility that is disguised, hidden, or integrated with an existing structure that is not a monopole or tower, or a personal wireless service facility that is placed within an existing or proposed structure or new structure, tower, or mounted within trees so as to be significantly screened from view or camouflaged to appear as an alternative tower non-antenna structure (i.e., man-made tree, flagpole with flag, bell steeples, clock towers, light poles, or other similar alternative design structures. etc-).

“Cell site” or “site” means a tract or parcel of land that contains ~~personal~~ wireless communication service facilities including any antenna, support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to ~~personal~~ wireless communication facilities services.

“City” means and refers to the City of Bonney Lake.

“City center ~~and~~ view corridor ~~area~~” means an area defined by the boundaries of the city center and the view corridor for Mt. Rainier along SR 410 from approximately 500 feet northwest of the intersection with Sumner/Buckley Highway (Bonney Lake Main Street to the dip in SR 410 just west of Angeline Road undercrossing (the point where Mt. Rainier disappears from view)).

“Co-location” means the use of a personal wireless communication service facility or cell site by more than one personal wireless service provider.

“Conceal” or “Concealment” means and refer to eligible support structures and transmission facilities designed to look like some feature other than a wireless tower or base station.

“Conditional use” means a use permitted in one or more classifications as defined by this title but which use because of characteristics peculiar to it, or because of size, technological processes, or type of equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demand upon public facilities, requires a special degree of control to

make such uses consistent with and compatible to other existing or permissible uses in the same zones or zones, and to assure that such use shall not be harmful to the public interest.

“Conditional use permit” or “CUP” means the documented evidence of authority granted by the hearing examiner to locate a conditional use at a particular location.

“Condominium” means a multiple-family dwelling and its accessory uses and grounds in which each dwelling unit is individually owned, and all or any part of the dwelling structure, accessory uses and grounds are owned cooperatively by the owners of said dwelling units, and maintenance functions are performed by required subscriptions from said owners.

Convalescent Home. See “Nursing home.”

“COW” means “cell on wheels.”

Section 8. Section 18.04.040, “D” of the Bonney Lake Municipal Code and the corresponding portions of Ordinance No. Ord. 746 § 19 is hereby amended to read as follows:

18.04.040 “D”.

“Day care center” means:

A. Person(s) who regularly provides care for 13 or more children for periods of less than 24 hours.

B. In addition to the regulations set forth in this chapter, day care centers/family day care homes shall be state-licensed and conform to all federal and state regulations applicable.

“Design” means the appearance of personal wireless communication service facilities, including such wireless communications facility features as their materials, colors, and shapes.

“Design centerline” shall be the center of the street right-of-way. However, if land for streets has been dedicated unevenly, the design centerline shall be the line on which both properties met before any dedication occurred.

“Dwelling unit” means one or more rooms designed or occupied by one family for living or sleeping purposes, and containing kitchen and bath facilities for use solely by one family. A bachelor apartment constitutes a dwelling unit within the meaning of this zoning code.

Section 9. Section 18.04.060, “F” of the Bonney Lake Municipal Code and the corresponding portions of Ordinance No. 746 § 19, is hereby amended to read as follows:

18.04.060 “F”.

“FAA” means the Federal Aviation Administration.

“Family” is one or more individuals sharing a common household.

“Family day care home” means:

A. A person regularly providing care during part of the 24-hour day to six or fewer children in the family abode of the person or persons under whose direction the children are placed.

B. In addition to the regulations set forth in this chapter, day care centers/family day care homes shall be state-licensed and conform to all federal and state regulations applicable.

“FCC” means the Federal Communications Commission or its successor.

“FCC Eligible Facilities Request Rules” shall mean and refer to 47 C.F.R. Part 1 (PART 1 – PRACTICE AND PROCEDURE), Subpart CC § 1.40001 as established pursuant to its Report and Order in, *In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153, or as may be thereafter amended.

“Floor area” is the sum of the gross floor areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerlines or walls separating two buildings, whichever is applicable.

“Floor area ratio” is the ratio of the total floor area of a building on a lot, divided by the lot area of that lot.

Section 10. Section 18.04.070, “G” of the Bonney Lake Municipal Code and Ordinance No. 1302 § 2, is hereby amended to read as follows:

18.04.070 “G”.

“Governing authority” means the city council of the city of Bonney Lake.

“Grade” or “grade plane” is a reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the lot line is more than six feet from the building the average finished ground level shall be measured between the building and a point six feet from the building. Lots within 200 feet of the shoreline shall use WAC 173-27-030(3) to determine grade.

“Guyed tower” means a wireless communication support structure which is usually over one hundred feet tall, which consists of metal crossed strips or bars and is steadied by wire guys in a radial pattern around the tower.

Section 11. Section 18.04.130, “M” of the Bonney Lake Municipal Code and Ordinance No. 1502 § 2, is hereby amended to read as follows:

18.04.130 “M”.

“Macro facility” is an attached wireless communication facility which consists of antennas equal to or less than fifteen feet in height or a parabolic antenna up to one meter (thirty-nine and thirty-seven-one-hundredths inches) in diameter and with an area not more than one hundred square feet in the aggregate as viewed from any one point.

“Manufactured home” means a structure constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes, which:

- A. Is comprised of at least two fully enclosed parallel sections each of not less than 12 feet wide by 36 feet long;
- B. Was originally constructed and now has a composition of wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch;
- C. Has exterior siding similar in appearance to siding materials commonly used on conventional site-built Uniform Building Code single-family residences;
- D. Is built on a permanent chassis and designed solely for the purpose of human habitation.

“Marijuana” means all parts of the plant Cannabis, whether growing or not, with a THC (tetrahydrocannabinol) concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

“Marijuana collective garden” (also referred to as “medical marijuana collective garden,” “cannabis collective garden,” and “medical cannabis collective garden”) means a location where “qualifying patients,” as defined in RCW 69.51A.010(4), may engage in the production, processing, and/or delivery of marijuana for medical use, as described in RCW 69.51A.090.

“Marijuana concentrates” means products consisting wholly or in part of the resin extracted from any part of the plant Cannabis and having a THC concentration greater than 60 percent.

“Marijuana dispensary” (also referred to as “medical marijuana dispensary,” “cannabis dispensary,” and “medical cannabis dispensary”) means any facility where marijuana or marijuana products are grown, produced, manufactured, sold or otherwise made available and/or distributed that is not licensed by the Washington State Liquor Control Board.

“Marijuana-infused products” means products that contain marijuana or marijuana extracts, are intended for human use, and have a THC concentration greater than 0.3 percent and no greater than 60 percent. The term “marijuana-infused products” does not include either usable marijuana or marijuana concentrates.

“Marijuana processor” means a person, business, or organization licensed by the Washington State Liquor Control Board to process marijuana into usable marijuana and marijuana-infused products, package and label usable marijuana, marijuana concentrates, and marijuana-infused products for sale in retail outlets, and sell usable marijuana, marijuana concentrates, and marijuana-infused products at wholesale to marijuana retailers.

“Marijuana producer” means a person, business, or organization licensed by the Washington State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

“Marijuana retailer” means a person, business, or organization licensed by the Washington State Liquor Control Board to sell usable marijuana, marijuana concentrates, and marijuana-infused products in a retail outlet.

“Massage therapy/spa” means a scientific or skillful manipulation of soft tissue for therapeutic or remedial purposes, specifically for improving muscle tone and circulation and promoting health and physical well-being. The term includes, but is not limited to, manual and mechanical procedures for the purpose of treating soft tissue only, the use of supplementary aids such as rubbing alcohol, liniments, oils, antiseptics, powders, herbal preparations, creams or lotions, procedures such as oil rubs, salt glows and hot or cold packs or other similar procedures or preparations commonly used in this practice. This term specifically excludes manipulation of the spine or articulations and excludes sexual contact.

“Medical-dental clinic” means an establishment for the treatment of outpatients, and providing no overnight care for patients.

“Microbrewery” means a facility that produces beer and sells it to the public by one or more of the following methods: through the traditional three-tier system (brewer to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and in some cases, directly to the consumer through carry-outs or on-site taproom sales. Microbreweries shall

have a production capacity not to exceed 15,000 U.S. barrels per year and shall have a full food menu.

“Microcell” means a wireless communication facility consisting of an antenna that is either equal to or less than four feet in height and with an area of not more than five hundred eighty square inches; or if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

“Mini-day care center” means a person or agency providing care during part of the 24-hour day to 12 or fewer children in a facility other than the family abode of the person or persons under whose direct care the children are placed, or for the care of seven through 12 children in the family abode of such person or persons.

“Mini facility” is an attached wireless communication facility which consists of antennas equal to or less than ten feet in height or a parabolic antenna up to one meter (thirty-nine and thirty-seven-one-hundredths inches) in diameter and with an area not more than fifty square feet in the aggregate as viewed from any one point.

“Mobile home” means a single-family prefabricated residential unit manufactured according to the standards of the statutes of the state and federal government, capable of being moved upon the public roads and highways, so designed and equipped as to be served by a sanitary sewer or septic tank system, supported by leveling jacks or blocks.

“Mobile home park” is a tract of land used or designated for the use of two or more mobile homes.

“Modification” means the changing of any portion of a facility such as a ~~personal wireless communication service~~ facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design.

“Modular home” means any structure other than a mobile or manufactured home designed primarily for human occupancy, which is either entirely or substantially prefabricated or assembled at a place other than a building site and which has been approved pursuant to RCW 43.22.455 and bears the insignia of the Washington State Department of Labor and Industries.

Monopole I” is a wireless communication facility which consists of a support structure, the height of which shall not exceed sixty feet.

“Monopole II” is a wireless communication facility, which consists of a wireless communications support structure, greater than sixty feet in height erected to support wireless communication antennas and connecting appurtenances.

~~“Mount” means the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts:~~

~~A. Building Mounted. A personal wireless service facility mount fixed to the roof or side of a building.~~

~~B. Ground Mounted. A personal wireless service facility mount fixed to the ground, such as a tower.~~

~~C. Structure Mounted. A personal wireless service facility fixed to a structure other than a building, such as light standards, electrical transmission towers, utility poles, and bridges.~~

Section 12. Section 18.04.180, “R” of the Bonney Lake Municipal Code and the corresponding portions of Ordinance No. 1364 § 3, is hereby amended to read as follows:

18.04.180 “R”.

“Related equipment” is all equipment ancillary to the transmission and reception of voice and data via radio frequencies. Such equipment may include, but is not limited to, cable, conduit and connectors.

“Residence” is a building containing dwelling units or rooming units, including single-family mobile homes or two-family houses, multiple dwellings, boarding or roominghouses.

“Residential care facility” means a facility that cares for at least five, but not more than 15, functionally disabled persons.

“Retail shop” means uses principally engaged in retail sale or rental of consumer or household goods, including ancillary repair services. These retail uses are characterized by face-to-face transactions conducted by both the buyer and seller on the business premises. Retail businesses that conduct a majority of their sales (over 50 percent) via the Internet or other means of telecommunications are not considered “retail” for the purposes of this section.

“Retirement homes/homes for the aged” includes any home which is maintained for the purpose of providing board and domiciliary care to three or more persons not related by blood or marriage to the operator.

Section 13. Section 18.04.200, “T” of the Bonney Lake Municipal Code and the corresponding portions of Ordinance No. 1355 § 1, is hereby amended to read as follows:

18.04.200 “T”.

~~“Tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term encompasses personal wireless service facilities including radio and~~

~~television transmission towers, microwave towers, common carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like.~~

“Tower” shall mean and refer to any structure built for the sole or primary purpose of supporting any antennas and their associated facilities, licensed or authorized by the FCC, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. Examples include, but are not limited to, monopoles, lattice towers and guyed towers.

“Townhouse” or “townhome” means a type of attached dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

“Toxic or noxious matter” is any solid, liquid, or gaseous matter or any combination of these containing properties which by their nature tend to impair the health and safety or welfare of individuals or to be destructive of property.

“Tract of land,” see “Lot.”

“Trailer” means a prefabricated living unit of less than 550 square feet in floor area capable of being moved by towing upon the public roads and highways.

Section 14. Section 18.04.230, “W” of the Bonney Lake Municipal Code and the corresponding portions of Ordinance No. 746 § 19, is hereby amended to read as follows:

18.04.230 “W”.

“WCF” means wireless communications facilities.

“Wireless communication facility” is an unstaffed facility for the transmission and reception of low-power radio signals consisting of an equipment shelter or cabinet, a support structure, antennas (e.g., omni-directional, panel/directional or parabolic) and related equipment.

“Wireless communication support structure” is 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.

“Wireless services” are wireless data and telecommunications services, including commercial mobile services, commercial mobile data services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Mobile/manufactured home parks in existence as of annexation into the city							P				
Nursing homes and Continuing care communities (NAICS 623110 and NAICS 623311)							P	C			C
Senior assisted living facilities (NAICS 623312)			P	P		C	P	C	P ³	P	
Private docks, mooring facilities and boathouses; provided the project complies with Title 16 Division III BLMC - Shoreline Code	A	A	A	A							P
Residences in connection with a business establishment					P	C	A	C	P ³	P	
Residential care facilities				P							
Single-family residences, detached	P	P	P		P						

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Townhouses			P	P	C	C	P	C			
Educational Uses											
Dancing, music, art, drama and instructional/vocational schools					P	P	P	P	P ³	P	P
Elementary school		C	P	P	P	C		C			P
Junior high, high schools and junior colleges, public or private		C	C	C	C	C		C			P
Preschool		C	P	P	P	P		P			
Cultural, Religious, Recreational, and Entertainment Uses											
Adult entertainment facilities subject to the provisions of Chapter 18.32 BLMC							P				
Amphitheater						P	P	P			

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Campgrounds							P	C			C
Galleries					P	P		P	P	P	
Golf courses	C										C
Golf driving range							P				C
Government buildings and facilities		C	C	C	P	P	P	P	P	P	P
Gymnasiums and fitness centers, public or commercial						P	P	P			P
Libraries				P	P	P	P	P	P	P	P
Museums	C	C			P	P	P	P	P	P	P
Parks, open space and trails	P	P	P	P	P	P	P	P	P	P	P
Pocket park	P	P	P	P	P	P	P	P	P	P	P
Private meeting halls	A	A	C	P	P	P	P	P			P

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Public meeting halls			C	P	P	P	P	P			P
Recreation facilities, outdoor	C						P				P
Recreational vehicle parks							P				
Religious institutions	P ⁴	P ⁴	P ⁴	P ⁴	P	P		P	P ³	P	C
Swimming pools, public or private	A	A	A	A	A	P	P	P			P
Theaters						P	P	P	P	P	
Industrial Uses											
Assembly or processing of previously prepared materials in a fully enclosed building							C ¹				
Junk, salvage or wrecking yard; provided a solid fence and/or solid screening hedge at least eight feet high is built and maintained to screen from view the open storage use.							C				

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
On-site treatment and storage facility as an accessory use to a permitted use which generates a hazardous waste subject to compliance with the state siting criteria adopted pursuant to the requirements of Chapter 17.105 RCW and issuance of state hazardous waste management facility permit						A	A				
Storage or distribution of sand, gravel, top soil, or bark; provided a solid fence and/or solid screening hedge at least eight feet high is built and maintained to screen from view the storage area							P				
Storage or processing of any hazardous waste as defined in Chapter 70.105 RCW is not permitted as a principal use							C				
Trailer-mix concrete plant; provided a solid fence and/or solid screening hedge at least eight feet high is built and maintained to screen from							C				

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Electric Vehicle Charging Stations – Level 3	C ²	C ²	C ²	C ²	P ⁵						
Parking garages						C	P	C	C		
Public utility facility; provided the requirements of BLMC 18.22.050 are met	P		P	P	P	P	P	P			
Commercial Uses											
Ambulance service						C	P	C			
Antique shops					C	P	P	P	P	P	
Arcade							P	P			
Automatic teller machines (ATMs)						P	P	P		P	
Automatic teller machines (ATMs) with no drive-through					P	P	P	P	P	P	

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Automobile fuel and recharging stations and car washes						P	P	P			
Automobile, boat and trailer sales							P	C			
Automobile, boat and trailer repair						P	P	P			
Bakery, retail					P	P	P	P	P	P	
Bakery, wholesale							P				
Banks, savings and loan associations						P	P	P			
Banks, savings and loan associations with no drive-through					P	P	P	P	P	P	
Barber shops and beauty shops					P	P	P	P	P	P	
Bars					C	P	P	P	P	P	

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Bed and breakfast houses; provided the criteria in BLMC 18.22.030 are met	A	C	C	C	P						
Beer and wine specialty shops					P	P	P	P	P	P	
Bookstores				A	P	P	P	P	P	P	
Bowling alley											
Brewpubs and microbreweries					C	P	P	P	P	P	
Cabinet and carpenter shop						C	P	C			
Candy shop					P	P	P	P			
Cart vendors					P	P	P	P			
Cinema						P	P	P			
Coffee shops, cafes, no drive-through					P	P	P	P	P	P	A

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Coffee stand, drive-through						P	P	P			
Commercial, professional and service uses associated with a residential complex, including banks, savings and loan associations, barber and beauty shops, business and professional offices, medical and dental clinics and neighborhood grocery, coffee shops, or restaurants, provided such uses occupy no more than 10 percent of the land area of the parcel or parcels within the residential complex and no individual commercial, professional or service use exceeds 5,000 square feet of floor area				A			P				
Commercial uses associated with a permitted use, such as a snack bar or gift shop, provided the commercial activity is open for business no more than 150 days per year or is within the same building as the permitted use							P				A

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Contractor yards, provided a solid fence and/or solid screening hedge at least eight feet high is built and maintained to screen from view the open storage use							P				
Day care centers				C	P	P	P	P			P
Department store						P	P	P			
Dry cleaning						P	P	P	P	P	
Food markets, delicatessen and meat markets (beer and wine may be sold)					P	P	P	P	P	P	
Furniture and small household appliance repair shops					C	P	P	C			
Furniture building, repair and upholstering							P				
Hardware stores						P	P	P	P	P	
Horticultural nursery and garden supply, indoor or outdoor						P	P	P	P	P	

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Hospitals		C	C	C		P	P	P			C
Hotels, motels						C	P	C	P	P	
Kennels	C		C	C	A	A	P	A			
Laundromats					P	P	P	P			
Liquor stores					C	P	P	P			
Locksmiths and security alarm shops					P	P	P	P			
Machine shops						C	P	C			
Massage therapy/spas					P	P	P	P	P	P	
Medical-dental clinics						P	P	P	P ³	P	
Medical offices					P	P	P	P	P ³	P	
Mini day care center				C	P	A	P	A	P	P	
Mini-storage facilities						C	C	C			

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Nail salons					P	P	P	P	P	P	
Nightclub							P				
Open storage yards, including storage and sale of building materials and heavy equipment, provided a solid fence and/or solid screening hedge at least eight feet high is built and maintained to screen from view the open storage use							P				
Outdoor storage and sale of building materials and nursery stock, provided such use is accessory to a permitted use and enclosed within a sight-obscuring fence						A	A	A			
Pet shop, grooming and supplies					P	P	P	P	P	P	
Pharmacies						P	P	P	P	P	
Photographic processing and supply						P	P	P	P	P	

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Photography studios					P	P	P	P	P	P	
Plumbing shops, electricians, heating, air conditioning sales or repair						C	P	C			
Pool hall						P	P	P			
Printing, copying and mailing services					P	P	P	P	P	P	
Professional offices					P	P	P	P	P ³	P	
Restaurants, including drive-in restaurants					C	P	P	P			
Restaurants, no drive-through					C	P	P	P	P	P	
Retail shops					C	P	P	P	P	P	
Roadside produce stands	P				P	P	P	P			P
Shoe repair					P	P	P	P	P	P	

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Shopping center						P	P	P			
Skating rink						P	P	P			
Stables and riding schools	P										P
Tailor shops					P	P	P	P	P	P	
Tanning salon					P	P	P	P	P	P	
Tavern					C	P	P	P	P	P	
Veterinary clinics, animal hospitals						P	P	P			
Veterinary clinics with no outdoor kennel space or dog runs						P	P	P	P ³	P	
Wireless communications facilities are permitted as principal or accessory uses provided the requirements of Chapter 18.50 BLMC are met	P	-	P	P	A	A	P	A	-	-	-

Wireless Communication Facilities

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
<u>WCF Microcell</u>	<u>P</u>										
<u>WCF Mini</u>					<u>P</u>						
<u>WCF Macro</u>					<u>P</u>						
<u>WCF Monopole I</u>	<u>C⁵</u>										
<u>WCF Monopole II and Lattice Tower</u>						<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
Essential public facilities											
Airports (NAICS 481)							C				
Colleges and Universities (NAICS 6112 and 6113)						P	P	P	P ³	P	P
State Transportation Facilities							P ⁶				
Transit Facilities		C ³	C ³	P ⁷							
Correctional Institutions (NAICS 922140)							C				C

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
Solid Waste Handling Facilities (NAICS 5621 and NAICS 5622)							C				
Psychiatric and Substance Abuse Hospitals (NAICS 622210)							P	C			
Group homes	P	P	P								
Secure Community Transition Facilities							C ⁴				

P = Permitted

C = Conditional use

A = Accessory use

P1 = No accessory dwelling units are allowed in conjunction with a duplex

P2 = Subject to the commercial design standards of Chapter 18.31 BLMC

P3 = Allowed outright on second floor, requires a CUP if on the first floor

P4 = Subject to the provisions of BLMC 18.22.040

Zone Use	RC-5	R-1	R-2	R-3	C-1	C-2	E	MC	DC	DM	PF
<p>P5 = Subject to the limitations and provisions of Chapter 18.40 BLMC</p> <p>P6 = As defined in RCW 47.06.140</p> <p>P7 = As defined in RCW 81.112.020</p> <p>C1 = Exclusions are listed in BLMC 18.29.040</p> <p>C2 = Subject to the limitations and provisions of Chapter 18.40 BLMC</p> <p>C3 = As defined in RCW 81.112.020</p> <p>C4 = As defined in RCW 71.09.020</p> <p><u>C5 = Subject to the provisions of BLMC 18.50.007(B)(2). Camouflaged monopole I are exempt from conditional use permit.</u></p>											

Section 16. BLMC Section 18.50.001, “Purpose” of the Bonney Lake Municipal Code and the corresponding portion of Ordinance No. 952 § 4 is hereby amended to read as follows:

18.50.001 Purpose.

~~A. These standards were developed to~~ The purpose of this chapter is to:

- A. Protect the public health, safety, and welfare, to protect property values and minimize visual impact while furthering the development of enhanced telecommunications services in the city; ~~These standards were designed to~~

- B. Comply with the Telecommunications Act of 1996, which requires the City's development regulations do not ~~The provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services and do not~~ Ensure this chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services;
- B. ~~To the extent that any provision of this chapter is inconsistent or conflicts with any other city ordinance, this chapter shall control. Otherwise, this chapter shall be construed consistently with the other provisions and regulations of the city.~~
- C. ~~In reviewing any application to provide personal wireless service or to install personal wireless service facilities, the city shall act within a reasonable period of time, taking into account the nature and scope of the application. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The city shall approve, approve with conditions, or deny the application in accordance with this title and in accordance with the general purpose of the adopted Bonney Lake comprehensive plan and other applicable ordinances~~
- C. Provide for a wide range of locations and options for wireless communication providers while minimizing the unsightly characteristics associated with wireless communication facilities;
- D. Encourage creative approaches in locating wireless communication facilities which will blend in with the surroundings of such facilities;
- E. Preserve the City's right to continue to enforce and condition approvals under this chapter on compliance with generally applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety; and
- F. Implement Section 6409 of the Middle Class Tax Relief & Job Creation Act of 2012, commonly referred to as Spectrum Act, which requires the City to approve modifications to existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

Section 17. BLMC Section 18.50.003, "Exemptions" of the Bonney Lake Municipal Code and the corresponding portions of Ordinance No. Ord. 952 § 4 are hereby amended to read as follows:

18.50.003 Exemptions.

The following are exempt from the provisions of this chapter and shall be permitted in all zones:

- A. Industrial processing, ~~equipment and~~, scientific or medical equipment using frequencies regulated by the FCC;
- B. Antennas and related equipment no more than three feet in height that are being stored, shipped, or displayed for sale;
- C. Radar systems for military and civilian communication and navigation;
- D. Wireless radio utilized for temporary emergency communications in the event of a disaster;
- ~~E. Licensed amateur (ham) radio station antenna, subject to height regulations as per Wireless Communication Facilities located in RC 5, R 1, R 2, R 3 and C 1 Zones, Figure 1, Appendix, Page 28 of Ordinance 746, available in the office of the city clerk.~~
- ~~F. Satellite dish antennas less than two meters in diameter, including direct to home satellite services, when used as a secondary use of the property.~~
- E. Routine maintenance or repair of a personal wireless communication service facility and related equipment in compliance with the standards of this chapter. Maintenance and repair (excluding ~~excludes~~ structural work or changes in height or dimensions of antennas, towers, or buildings); ~~provided, that compliance with the standards of this chapter are maintained;~~
- F. Emergency repair and maintenance of a wireless communication facility. Subject to compliance with all other applicable standards of this chapter, a building permit application ~~need not~~ shall be filed for emergency repair or maintenance of a personal wireless service facility ~~until~~ within 14 calendar days after the completion of such emergency activity;
- G. A COW or other temporary ~~personal wireless communication telecommunications~~ facility shall be permitted for a maximum of 30 days or during the time of an emergency declared by the city;
- H. Structures and facilities maintained and operated by public entities for emergency, police or fire communication, or for public utility operations;
- I. An antenna that is designed to receive or send direct broadcast satellite service and or broadband signals or other means for providing internet service including direct to home satellite services and that is 1 meter or less in diameter or diagonal measurement and when the antenna is attached to the residence or business that is utilizing the service;

- J. An antenna that is designed to receive video programming services via multipoint distribution services including multi-channel multipoint distribution services instructional television fixed services and local multipoint distribution services and that is one (1) meter or less in diameter or diagonal measurement;
- K. An antenna that is designed to receive television broadcast signals;
- L. Antennas for the receiving and sending of amateur radio devices (HAM radios) provided that the antennas meet the height requirements of the applicable zoning district and are owned and operated by a Federally licensed amateur radio station operator subject to the following standards:
1. The tower and any antennas located thereon shall not have any lights of any kind on it and shall not be illuminated either directly or indirectly by any artificial means;
 2. The color of the tower and any antennas located thereon must all be the same and such that it blends into the sky to the extent allowed under requirements set forth by the Federal Aviation Administration;
 3. No advertising logo trademark figurine or other similar marking or lettering shall be placed on the tower or any wireless communication facilities mounted or otherwise attached thereto or any building used in conjunction therewith;
 4. The tower shall be located a distance equal to or greater than its height from any existing residential structure located on adjacent parcels of property including any attached accessory structures;
 5. A tower must be at least 100% of its height from any property line on the parcel of property on which it is located unless a licensed engineer certifies that the tower will not collapse or that it is designed in such a way that in the event of collapse it falls within itself and in that event it must be located at least one third of its height from any property line;
 6. No signs, symbols, flags, or banners shall be attached to, painted, or inscribed on the antenna; provided that one sign measuring 18 inches by 12 inches may be placed upon or near the WCF which:
 - a. states that trespassers will be prosecuted (if applicable);
 - b. lists the names and telephone numbers of persons to be contacted in the event of an emergency;
 - c. identifies the permittee or person responsible for operating the WCF; and/or

- d. contains information necessary and convenient for the permittee or person operating the WCF to identify the WCF.
 7. Nothing in this section shall be construed to prohibit the placement of safety or warning signs upon any portion of the WCF which are required by law or which are designed to apprise emergency response personnel and the employees and agents of WCF providers of particular hazards associated with equipment located upon the WCF;
 8. Towers shall not be leased or rented to commercial users and shall not otherwise be used for commercial purposes;
 9. All towers must meet all applicable State and Federal statutes rules and regulations including obtaining a building permit from the City.
- M. Any wireless internet facility that is owned and operated by a government entity; and

Section 18. BLMC Section 18.50.007 “Priority of locations and application submittal requirements” of the Bonney Lake Municipal Code and corresponding section of Ordinance No 1416 § 9 is hereby amended to read as follows:

18.50.007 Priority of locations and application submittal requirements.

- A. Priority of Locations. The priorities for locating new personal wireless service facilities shall be as follows:
1. Place antennas and towers on public property if practical.
 2. Place antennas on appropriate rights-of-way and existing structures, such as buildings, towers, water towers, smokestacks and electrical transmission towers.
 3. Place antennas and towers in C-2, E, MC and public facility zones ~~outside Mt. Rainier view corridors and the city center area.~~
 4. Place antennas and towers on other nonresidential property.
- B. Application Submittal Requirements.

The information submitted by the applicant shall include:

1. A map of the area to be served by the tower or antenna;

2. A map showing the proposed facility location in relationship to other cell sites in the applicant's network;
3. An evaluation of existing buildings and/or structures taller than 30 feet within one-quarter mile of the proposed tower or antenna which from a location standpoint could provide part of a network to provide transmission of signals;
4. Computerized accurate photo simulations of proposed location of the WCF as visually seen from appropriate public locations and nearby residents shall be provided when requested;
5. Photo simulations of the proposed facility from affected residential properties and public rights-of-way at varying distances;
6. A site elevation and landscaping plan indicating the specific placement of the facility on the site, the location of existing structures, trees, and other significant site features, the type and location of plant materials used to screen the facility, and the proposed color(s) of the facility;
7. A signed statement indicating that (a) the applicant and landowner agree they will diligently negotiate in good faith to facilitate co-location of additional personal wireless service facilities by other providers on the applicant's structure or within the same site location and (b) the applicant and/or landlord agree to remove the facility within 60 days after abandonment;
8. Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by FCC Paragraph 1.1307, or, in the event that an FCC environmental assessment is not required, a statement that described the specific factors that obviate the requirement for an environmental assessment;
9. A site plan clearly indicating the location, type and height of the proposed tower and antenna, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower, and any other proposed structures;
10. A current map and aerial photograph showing the location of the proposed tower, a map showing the locations and service areas of other personal wireless service facilities operated by the applicant and those proposed by the applicant that are close enough to impact service within the city;
11. Legal description of the parcel, if applicable;

12. The approximate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties;
 13. A landscape plan showing specific landscape materials;
 14. Method of fencing, and finished color, and, if applicable, the method of camouflage and illumination;
 15. A letter signed by the applicant stating the tower will comply with all FAA regulations and EIA standards and all other applicable federal, state and local laws and regulations;
 16. A statement by the applicant as to whether construction of the tower will accommodate co-locations of additional antennas for future users;
 17. Certification that the antenna usage will not interfere with other adjacent or neighboring transmission or reception functions;
 18. The telecommunications company must demonstrate that it is licensed by the FCC if required to be licensed under FCC regulations;
 19. The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with an FCC-licensed telecommunications provider if such telecommunications provider is required to be licensed by the FCC;
 20. A full site plan shall be required for all sites, showing the tower, antenna, antenna support structure, building, fencing, buffering, access, and all other items required in this chapter. The site plan shall not be required if the antenna is to be mounted on an existing structure; and
 21. At the time of site selection, the applicant shall demonstrate how the proposed site fits into its overall network within the city.
 22. As a condition the service provider of the WCF will need to provide information regarding the dB reading associated with the structure as measured from the nearest property line.
- ~~2. A conditional use permit (CUP) is required for all personal wireless facilities over 35 feet in height located in a residential zone and for monopoles taller than 60 feet in height but less than 110 feet in height in PF, C-2, E, MC, DC and DM zones, unless they are camouflaged facilities. A CUP shall be required for a camouflaged wireless communications facility when the structure is more than 110 feet in height.~~

Section 19. BLMC Section 18.50.008 “Siting priority on public property” of the Bonney Lake Municipal Code and the corresponding portion of Ordinance No 952 § 4 is hereby amended to read as follows:

18.50.008 Siting priority on public property.

- A. Where public property is sought to be utilized by an applicant, priority for the use of city-owned land for wireless antennas and towers will be given to the following entities in descending order:
1. City of Bonney Lake;
 2. Public safety agencies, including law enforcement, fire and ambulance services, which are not part of the city of Bonney Lake and private entities with a public safety agreement with the city of Bonney Lake;
 3. Other governmental agencies, for uses which are not related to public safety; ~~and~~
 4. Entities providing licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), data, internet, paging, and similar services that are marketed to the general public.
- B. Minimum Requirements. The placement of ~~personal~~ wireless service facilities on city-owned property must comply with the following requirements:
1. The facilities will not interfere with the purpose for which the city-owned property is intended;
 2. The facilities will have no significant adverse impact on surrounding private property;
 3. The applicant is willing to obtain adequate liability insurance and commit to a lease agreement, which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The city shall establish fees after considering comparable rates in other cities, potential expenses, risks to the city, and other appropriate factors;
 4. The applicant will submit a letter of credit, performance bond, or other security acceptable to the city to cover the costs of removing the facilities after abandonment;
 5. The antennas or tower will not interfere with other users who have a higher priority as discussed in this section;

6. The lease shall provide that the applicant must agree that, in the case of a declared emergency or documented threat to public health, safety or welfare and following reasonable notice, the city may require the applicant to remove the facilities at the applicant's expense;
7. The applicant must reimburse the city for any related costs which the city incurs because of the presence of the applicant's facilities;
8. The applicant must obtain all necessary land use approvals; and
9. The applicant must cooperate with the city's objective to encourage co-locations and thus limit the number of cell sites requested, or camouflage the site and/or facility.

C. Special Requirements for Parks. The use of city-owned parks for ~~personal~~-wireless service facilities brings with it special concerns due to the unique nature of these sites. The placement of ~~personal~~ wireless communication service facilities in a park will be allowed only when the following additional requirements are met:

1. The park board reviewed and made a recommendation regarding proposed ~~personal~~ wireless communication service facilities to be located in the park and this recommendation must be forwarded to the city council for consideration;
2. In no case shall ~~personal~~ wireless communication service facilities be allowed in designated critical areas; (except aquifer recharge areas,) ~~unless they are co-located on existing facilities;~~
3. Before ~~personal~~ wireless communication service facilities may be located in public parks, consideration shall be given to visual impacts and disruption of normal public use;
4. ~~Personal~~ Wireless communication service facilities may be located in public parks that are adjacent to an existing commercial or industrial zone;
5. ~~Personal~~ Wireless communication service facilities may be located in park maintenance facilities; and
6. ~~Public~~ Wireless communication service-facilities shall not be permitted on property designated as landmark or as part of a historic district.

~~D. Required Submittals. Application for conditional use permit, administrative use permit, building permit, and other related requests may include any combination of site plans, surveys, maps, technical reports, or written narratives necessary to convey the following~~

information in addition to the requirements of this chapter and other applicable regulations:

- ~~1. Photo simulations of the proposed facility from affected residential properties and public rights of way at varying distances;~~
- ~~2. A site elevation and landscaping plan indicating the specific placement of the facility on the site, the location of existing structures, trees, and other significant site features, the type and location of plant materials used to screen the facility, and the proposed color(s) of the facility;~~
- ~~3. A signed statement indicating that (a) the applicant and landowner agree they will diligently negotiate in good faith to facilitate co-location of additional personal wireless service facilities by other providers on the applicant's structure or within the same site location and (b) the applicant and/or landlord agree to remove the facility within 60 days after abandonment;~~
- ~~4. Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by FCC Paragraph 1.1307, or, in the event that an FCC environmental assessment is not required, a statement that described the specific factors that obviate the requirement for an environmental assessment;~~
- ~~5. A site plan clearly indicating the location, type and height of the proposed tower and antenna, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower, and any other proposed structures;~~
- ~~6. A current map and aerial photograph showing the location of the proposed tower, a map showing the locations and service areas of other personal wireless service facilities operated by the applicant and those proposed by the applicant that are close enough to impact service within the city;~~
- ~~7. Legal description of the parcel, if applicable;~~
- ~~8. The approximate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties;~~
- ~~9. A landscape plan showing specific landscape materials;~~
- ~~10. Method of fencing, and finished color, and, if applicable, the method of camouflage and illumination;~~

- ~~11. A letter signed by the applicant stating the tower will comply with all FAA regulations and EIA standards and all other applicable federal, state and local laws and regulations;~~
- ~~12. A statement by the applicant as to whether construction of the tower will accommodate co-locations of additional antennas for future users;~~
- ~~13. Certification that the antenna usage will not interfere with other adjacent or neighboring transmission or reception functions;~~
- ~~14. The telecommunications company must demonstrate that it is licensed by the FCC if required to be licensed under FCC regulations;~~
- ~~15. The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with an FCC licensed telecommunications provider if such telecommunications provider is required to be licensed by the FCC;~~
- ~~16. A full site plan shall be required for all sites, showing the tower, antenna, antenna support structure, building, fencing, buffering, access, and all other items required in this chapter. The site plan shall not be required if the antenna is to be mounted on an existing structure; and~~
- ~~17. At the time of site selection, the applicant shall demonstrate how the proposed site fits into its overall network within the city.~~

Section 20. BLMC Section 18.50.009 “Co-location” of the Bonney Lake Municipal Code and the corresponding portion of Ordinance No 988 § 2 is hereby amended to read as follows:

18.50.009 Co-location.

To minimize adverse visual impacts associated with the proliferation of towers, co-location of ~~personal~~ wireless communication service facilities on existing or new towers is encouraged as follows:

- ~~A. Proposed facilities may, and are encouraged to, co-locate onto existing towers. Such co-location is permitted outright and a new or additional conditional use permit approval is not required, except that any other permit, license, lease, or franchise requirements must be satisfied, and the co-location must be accomplished in a manner consistent with the policy, site criteria, and landscape/screening provisions contained in this chapter.~~
- ~~B. The director(s) may determine that a conditional use permit is not required for an antenna on an existing structure or an existing tower in a nonresidential zone. The director(s) may make this determination by means of an administrative WCF permit (Type 1 permit—see~~

~~Chapter 14.30 BLMC). To apply, the applicant must submit detailed plans to the planning and community development department. The approval criteria shall be in conformance with this chapter and in conformance with the applicable goals and policies of the comprehensive plan. No building permit will be issued until approval is granted by an administrative WCF permit or conditional use permit.~~

~~C. A.~~ The city may deny an application to construct new facilities if the applicant has not shown by substantial evidence that it has made a diligent effort to mount the facilities on an existing structure or tower;

~~D. B.~~ To reduce the number of antenna support structures needed in the city in the future, new proposed support structures shall be designed to accommodate antennas for one or more users, unless the applicant demonstrates why such design is not feasible for economic, technical or physical reasons; and;

~~E. C.~~ ~~Unless co-location is not feasible:~~ When co-location is feasible:

1. (a) ~~A~~an applicant's site plan shall reserve an area for other providers' equipment near the base of the applicant's tower. A first right-of-refusal (which is either executed or maintained while the provider's personal wireless facilities and services are in use) to lease the area at the base of the tower or mount for other providers will meet the reservation requirement; and

2. (b) ~~T~~he site plan for towers in excess of 100 feet above ground level must propose space for a minimum of two comparable providers, while the site plan for towers 100 feet or less must propose space for one or more comparable providers. ~~To provide further incentive for co-location, an existing tower may be modified as a matter of right to accommodate co-location without new or additional CUPs, provided the additional antenna shall be of the same type as that on the existing tower unless additional height requires a conditional use permit and the following conditions are met:~~

~~1. Height. An existing tower may be modified or rebuilt to a taller height, not to exceed 20 feet over the tower's existing height and subject to the other provisions of this chapter, including by way of example and not limitation any applicable requirements or conditional use and building permits. The height change may occur only once per tower;~~

~~2. Except as set forth herein, no signs, banners or similar devices or materials may be attached to the tower, antenna support structures or antennas.~~

~~F. While co-location and the requirements herein are encouraged, co-location shall not take precedence over the construction of shorter towers with appropriate screening.~~

Section 21. BLMC Section 18.50.012 “Design criteria” of the Bonney Lake Municipal Code and Ordinance No 1034 § 1 is hereby amended to read as follows:

18.50.012 Design criteria.

A. As provided in BLMC 18.50.009 ~~above~~, new facilities shall be designed to accommodate co-location, unless the applicant demonstrates why such design is not feasible for economic, technical, or physical reasons.

B. Monopole I, Monopole II, and Lattice Towers shall comply with the following additional design standards:

~~1. B-~~ Facilities shall be architecturally compatible with the surrounding buildings and land uses in the zoning district and screened or otherwise integrated, through location and design, to blend in with the existing characteristics of the site;-

~~2.-1. Setback.~~ A tower’s setback shall be measured from the base of the tower to the property line of the parcel on which it is located. Towers shall be set back a distance equal to four times the height of the wireless communication support structure from all public schools. In residential zoning districts ~~and residential land use areas~~, where permitted, towers shall be set back from all property lines a distance equal to 100 percent of tower height as measured from ground level, except for unusual geographic limitations or other public policy considerations, as determined in the city’s sole discretion. All other towers shall comply with the minimum setback requirements of the area in which they are located in all other zoning districts, unless there are unusual geographical limitations or other public policy considerations as determined in the sole and absolute discretion of the city. Such considerations shall include by way of illustration and not limitation, but are not limited to:

- a. Impact on adjacent properties;
- b. Alternative sites for personal wireless facilities; and
- c. The extent to which screening and camouflaging will mitigate the effects of the personal wireless facilities.

~~3.-2. Right of Way Setback Exception.~~ The setback requirement may be waived if the antenna and antenna support structure are located in the city right-of-way.

~~4.-3. View Corridors.~~ Due consideration shall be given so that placement of towers, antenna, and ~~personal~~ wireless service facilities do not obstruct or significantly diminish public views of Mt. Rainier, or the Olympic Mountains, from public view corridors established in section 7-5 of the Comprehensive Plan and illustrated in figure 2-17, or the

city center view corridor:- (See figure titled “City Center and View Corridor” in Appendix, Page 29 of Ordinance 746.)~~;~~;

~~5. 4. Color~~:- Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA~~;~~:-

~~6. 5. Lights, Signals and Signs~~:- No signals, lights, or signs shall be permitted on towers unless required by the FCC or the FAA. Lighting utilized for emergency needs shall be limited for on-site projection. No off-site direct lighting shall be allowed~~;~~:-

~~7. 6. Equipment Structures~~:- Ground level equipment, buildings, and the tower base shall be screened from public view. The standards for the equipment buildings are as follows:

a. The maximum floor area is 300 square feet and the maximum height is 12 feet. Except in unusual circumstances or for other public policy considerations the equipment building may be located no more than 250 feet from the tower or antenna. Depending upon the aesthetics and other issues, the city, in its sole discretion, may approve multiple equipment structures or one or more larger structures~~;~~:-

b. Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in other city ordinances~~;~~:-

c. Equipment buildings mounted on a roof shall have a finish similar to the exterior building walls. Equipment for a roof-mounted antenna may also be located within the building on which the antenna is mounted~~;~~:-

d. In instances where equipment buildings are located in residential zones, equipment buildings shall comply with setback requirements and shall be designed so as to conform in appearance with nearby residential structures~~;~~:-

e. Equipment buildings, antennas, and related equipment shall occupy no more than 25 percent of the total roof area of the building the facility is mounted on, which may vary in the city’s sole discretion if co-location and an adequate screening structure is used. The use must be approved on a site plan or final development plan, as applicable; and:-

f.-e. In instances where equipment structures are located in residential zones or adjacent to existing residential land uses, and if the equipment structure houses motorized or electronic equipment, airborne sound transmission control in the form of acoustical insulation may be required to abate sound transmission for all exterior walls and roof-ceiling assemblies.

~~8. 7. Federal Requirements.~~ All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If those standards and regulations are changed, then personal wireless service providers governed by this chapter shall bring their towers and antennas into compliance with the revised standards and regulations within three months of their effective date or the timelines provided by the revised standards and regulations, whichever time period is longer. The revised standards and regulations are not retroactively applicable to existing providers, unless otherwise provided or permitted by federal law. Failure to bring towers and antennas into compliance with the revised standards and regulations shall constitute grounds for the city to remove a provider's facilities at the provider's expense;:-

~~9. 8. Building Codes — Safety Standards.~~ To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable city building codes and the applicable standards for towers that are published by the Electronic Industries Association (EIA), as amended from time to time. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring the tower into compliance with such standards. If the owner fails to bring its tower into compliance within 30 days, the city may remove the tower at the owner's expense;:-

~~10. 9. Structural Design.~~ Towers shall be constructed to the EIA standards, which may be amended from time to time, and to all applicable construction/building codes. Further, any improvements or additions to existing towers shall require submission of plans stamped by a professional engineer which demonstrate compliance with the EIA standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested;:-

~~11. 10. Fencing.~~ A well-constructed wall or wooden fence not less than six feet in height from the finished grade shall be provided around each personal wireless service facility. Access to the tower shall be through a locked gate. The use of chain link, plastic, vinyl, or wire fencing is prohibited unless it is fully screened from public view by a minimum eight-foot-wide landscaping strip. All landscaping shall meet the standards of Chapter ~~16.14~~ ~~16.12~~ BLMC, ~~Land Clearing and Landscaping~~;:-

~~11. Tower and Antenna Height.~~ The applicant shall demonstrate that the tower and antenna are the minimum height required to function satisfactorily. No tower or antenna that is taller than this minimum height shall be approved. No tower or mount shall exceed 50 feet in R-3 multiple-family residences and C-1 neighborhood combined zones and a maximum of 110 feet in the PF, C-2, C-3, C-2/C-3 combined and M-1 manufacturing zone unless they are approved as a camouflaged facility. See Figure 2, ~~Wireless Communication Facilities Height Limits for Freestanding Antenna Facilities.~~*

12. ~~Antenna Support Structure Safety.~~ The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris or interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers;:-

13. ~~Required Parking.~~ If the cell site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, arrangements for adequate off-street parking shall be made and documentation thereof provided to the city. Security fencing should be colored or should be of a design which blends into the character of the existing environment;:-

14. ~~Tower Separation.~~ Cell towers shall not be located closer than one-half mile from another tower whether it is owned or utilized by the applicant or another provider. Multi-use communication towers such as the tower at the public safety building are to be considered as towers. Camouflaged towers such as flagpoles over 30 feet in height shall also be considered towers. The city council may designate areas where multiple towers can be located in closer proximity;:-

15. Aesthetics. Towers and antennas shall meet the following requirements:

a. Applicants must provide camouflaging as defined by the term "camouflaged" or provide documentation as to why camouflage is not feasible;:-

b. The tower shall either maintain a galvanized steel finish or meet the applicable standards of the FAA. If the tower is not to be camouflaged by an alternative tower structure, the tower is to be painted a neutral color so as to reduce visual obtrusiveness;:-

c. Whether a tower is camouflaged or not at a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings; and-

d. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

16. Monopole II and lattice tower facilities are only permitted if the wireless communications support structure is designed to accommodate two or more wireless communications facilities;

17. Macro facilities are the largest permitted wireless communication facilities allowed on a monopole II or lattice tower. Antennas which extend above the lattice tower wireless communications support structure shall not be calculated as part of the height of the wireless communications support structure;
18. A distance equal or greater than one thousand three hundred twenty feet shall separate all towers from each other;
19. Antennas equal to or less than sixteen feet in height or up to four inches in diameter may be a component of a monopole I facility. Antennas which extend above the wireless communications support structure shall not be calculated as part of the height of the monopole I wireless communications support structure;
20. All towers and wireless communication facilities shall be subject to design review per Chapter 14.95; and

C.-15. Microcell, Mini Facilities, and Macro Facilities Antenna Criteria. Antenna on or above a structure shall be subject to the following:

1.a. The antenna shall be architecturally compatible with the building and wall on which it is mounted, and shall be designed and located so as to minimize any adverse aesthetic impact;:-

2.b. The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless it must be for technical reasons. An antenna may be located on buildings and structures; provided, that the interior wall or ceiling immediately adjacent to the facility is not designated residential space. Panel antennas may exceed the height limitation if affixed to the side of an existing building and if they blend in architecturally with the building. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure. In no event shall an antenna project more than 16 feet above the roof line including parapets;:-

3.c. The antenna shall be constructed, painted, or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted;:-

4.d. The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than the enclosure;:-

5.e. If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color;:-

~~6.f.~~ The structure must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures, vegetation, and uses. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facility;

~~7.g.~~ Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by the city, in the city's sole discretion;

~~h.~~ For installations on buildings greater than 30 feet in height, see other applicable provisions of this chapter. In addition to the other requirements of this chapter, on buildings 30 feet or less in height, the antenna may be mounted on the roof if the following additional criteria are satisfied (refer to Figure 2, page 28 in Appendix, Ordinance 746, for height limitations)*:

~~i.~~ The city finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall.

~~ii.~~ No portion of the antenna or base station causes the height of the building to exceed the limitations set forth herein.

~~iii.~~ The antenna or antennas and related base stations cover no more than an aggregate total of 25 percent of the roof area of a building, which may vary in the city's sole discretion, if co-locating and an adequate screening structure are used.

~~iv.~~ Roof-mounted antenna and related base stations are completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.

~~v.~~ No portion of the antenna may exceed 16 feet above the roof line of the existing building.

8. The antenna and associated support structure are not located within any required landscaped setbacks, front or side yard setback, or in the area located between the front setback line and the front of the building;

~~i.~~ If a proposed antenna is located on a building or a lot subject to a site review, approval is required prior to the issuance of a building permit.

9.j. No ~~personal~~ wireless service provider or lessee or agent thereof shall fail to cooperate in good faith to accommodate co-location with competitors. If a dispute arises

about the feasibility of co-locating, the city administrator may require a third party technical study, at the expense of either or both parties, to resolve the dispute;:-

10.-k. No ~~personal~~ wireless service provider or lessee shall fail to assure that its antenna complies at all times with the current applicable FCC standards. After installation, but prior to putting the antenna in service, each provider shall submit a certification by an independent professional engineer to that effect. In the event that an antenna is co-located with another antenna, the certification must provide assurances that FCC approved levels of electromagnetic radiation will not be exceeded by the co-location;:-

11.-l. No antenna shall cause localized interference with the reception of any other communications signals including, but not limited to, public safety, television, and radio broadcast signals.

12.-m. No person shall locate an antenna or tower for wireless communications services upon any lot or parcel except as provided in this chapter;:-

13. Structures which are nonconforming with respect to height, may be used for the placement of omni-directional antennas; provided the antenna does not extend more than six feet above the existing structure. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure;

14. Antenna, antenna arrays, and support structures not on publicly owned property shall not extend more than 16 feet above the highest point of the structure on which they are mounted. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to withstand a wind force of 100 miles per hour without the use of supporting guy wires. The antenna, antenna array, and their support structure shall be a color that blends with the structure on which they are mounted;

15. Unless there are unusual geographic limitations or other public policy considerations, as determined in the city's sole discretion, no such antenna, antenna array, or its support structure shall be erected or maintained closer to any street than the minimum setback for the zone in which it is located unless otherwise waived or exempt;

16. No guy or other support wires shall be used in connection with such antenna, antenna array, or its support structure except when used to anchor the antenna, antenna array, or support structure to an existing building to which such antenna, antenna array, or support structure is attached;

17. The antenna and associated support structure shall be set back two feet from any exterior building wall for every one foot of height measured from the surface of the roof, except when incorporated as an architectural feature of the building or screened from view from any public right-of-way or residential zone;

18. The shelter or cabinet used to house radio electronic equipment shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground;

Section 22. BLMC Section 18.50.013, “Permits Required” of the Bonney Lake Municipal Code and the corresponding portion of Ordinance No 952 § 4 is hereby renamed “Other Permits Required” and amended to read as follows:

18.50.013 Other Permits required.

~~Where a tower or antenna support structure will be 60 feet or less in height, in addition to the other provisions of this chapter, an applicant will be required to obtain an administrative WCF permit. In the event that a proposed tower or antenna support structure will be more than 60 feet in height, in addition to the other provisions of this chapter, an applicant will be required to obtain a conditional use permit unless a camouflaged wireless communications facility is approved less than 110 feet in height. No CUP will be required of camouflaged structures less than 110 feet in height. Facilities taller than 100 feet shall be required to obtain a CUP. With respect to the placement of an antenna on a tower or antenna support structure, the requirements for a conditional use permit or an administrative WCF permit will be applicable based on the height of the tower and antenna or mount and antenna unless this chapter provides other requirements to the contrary.~~

The following table specifies ~~the~~ additional permits required for the various types of personal wireless service facilities that meet the standards of this chapter:

<u>TYPE OF ADDITIONAL PERMIT FOR WIRELESS TOWERS REQUIREMENTS</u>				
Type of Facility	Building	CUP	Right-of-Way Use	Administrative WCF
Monopole I, Monopole II, and Lattice Towers Towers less than 60 feet in height	X BLMC 18.50.008	X ¹ (if over 35 feet in residential zone) BLMC 18.50.007(B)(2)	X (if applicable)	X BLMC 18.50.013

Structure mounted wireless facilities	X BLMC 18.50.008	X (unless waived) BLMC 18.50.009(A)(2)	X (if applicable)	X (unless waived) BLMC 18.50.013(B)
Building mounted wireless facilities	X (if applicable) BLMC 18.50.008	X (unless waived) BLMC 18.50.009(A)(2)	X (if applicable)	X (unless waived) BLMC 18.50.013(B)
Noncamouflaged towers more than 60 feet in height	X (if applicable) BLMC 18.50.008	X BLMC 18.50.013 18.50.007(B)(2)	X (if applicable)	-
Camouflaged towers 60 feet to 100 feet in height	X BLMC 18.50.008	-	X (if applicable)	X
Camouflaged towers more than 110 feet in height	X BLMC 18.50.008	X BLMC 18.50.013 18.50.007(B)(2)	X (if applicable)	-

[†] See BLMC 18.50.007 for requirements in residential zones.

See Height Limits Per Freestanding Antenna Facilities by Zone, Figure 2, Appendix, Ordinance 746, Page 28.*

*Referenced figures and tables are available in the office of the city clerk.

To meet the standards of this chapter, a personal wireless service facility must also comply with the other requirements under this chapter and with the following:

For antenna attached to the roof or sides of a building at least 30 feet in height, an existing tower, a water tank, or a similar structure:

A. The antenna must be either:

1. An omni directional or whip antenna no more than seven inches in diameter and extending no more than 16 feet above the structure to which they are attached; or
2. A panel antenna no more than two feet wide and six feet long, extending above the structure to which they are attached by no more than 10 16 feet.

B. Camouflaged antennas mounted as part of an existing structure do not require an administrative WCF permit but may be permitted following an administrative review with this chapter and other city regulations.

C. Antenna, antenna arrays, and support structures not on publicly owned property shall not extend more than 16 feet above the highest point of the structure on which they are mounted. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to withstand a wind force of 100 miles per hour without the use of supporting guy wires. The antenna, antenna array, and their support structure shall be a color that blends with the structure on which they are mounted.

D. Setback from Street. Unless there are unusual geographic limitations or other public policy considerations, as determined in the city's sole discretion, no such antenna, antenna array, or its support structure shall be erected or maintained closer to any street than the minimum setback for the zone in which it is located unless otherwise waived or exempt.

Exemption: C-2 commercial shall be a 25-foot setback from right of way for wireless communications facility installation unless an existing structure is utilized.

E. Guy Wires Restricted. No guy or other support wires shall be used in connection with such antenna, antenna array, or its support structure except when used to anchor the antenna, antenna array, or support structure to an existing building to which such antenna, antenna array, or support structure is attached.

~~F. To the extent that antennas are attached to electric, telephone or similar existing streetlight poles and such antennas are no more than two feet in height beyond the height of their supporting pole, administrative WCF and building permit review will be required, but such antennas shall not be subject to setbacks and screening requirements.~~

Section 23. Repealer. The previously codified provisions of Chapter 18.22.120 BLMC and section 6 of Ordinance No. 746 are hereby repealed.

Section 24. Repealer. The previously codified provisions of Chapter 18.31.040 BLMC and section 10 of Ordinance No. 1155 and section 13 of Ordinance No. 746 are hereby repealed.

Section 25. Repealer. The previously codified provisions of Chapter 18.50.010 BLMC and section 2 of Ordinance No. 1131, the corresponding portion of section 4 of Ordinance No. 952, and section 15 and the corresponding portion of section 17 of Ordinance No. 746 are hereby repealed.

Section 26. Repealer. The previously codified provisions of Chapter 18.50.010 BLMC and section 12 of Ordinance No. 1155, the corresponding portion of section 4 of Ordinance No. 952, and section 16 and the corresponding portion of section 17 of Ordinance No. 746 are hereby repealed.

Section 27. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 28. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

PASSED by the City Council and approved by the Mayor this _____ day of _____, 2015.

Neil Johnson, Mayor

ATTEST:

Harwood T. Edvalson, MCC, City Clerk

APPROVED AS TO FORM:

Kathleen Haggard, City Attorney

Passed:

Valid:

Published:

Effective Date:



Memo

Date : November 4, 2015
To : Mayor and City Council
From : Grant Sulham, Planning Commission Chair
Re : **Ordinance D15-104.**

The Washington Cities Insurance Authority (WCIA) performs an annual review and audit of the City of Bonney Lake, and in 2014 this entailed a land use liability audit. In sum, this resulted in several recommendations for code and policy changes for consistency with recent court and Growth Management Hearings Board decisions, and new statutory provisions. Staff has also identified portions of code which would benefit from an update, mostly to clarify and streamline the review, approval, and appeal processes. In this instance, Staff has proposed amending Bonney Lake Municipal Code (BLMC), to reflect changes to Wireless communications Facilities (WCF).

BACKGROUND:

The tremendous growth in personal wireless services has created an increased demand for new wireless antennas and equipment. It is expected that carriers will continue to roll out new facilities in Bonney Lake to accommodate the rapidly growing need for increased capacity and speed. WCFs are regulated by federal, state and local laws. Federal law significantly limits the City's ability to regulate WCFs. Under federal law, a local agency's decisions cannot have the effect of prohibiting the provision of wireless service or unreasonably discriminating among wireless service providers. Also, under federal law, the City may not regulate the placement, construction or modification of wireless communications facilities on the basis of radio frequency (RF) emissions, so long as the facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions. Despite federal limitations, cities historically have retained ability to regulate the aesthetic of WCFs, including factors such as height and property line setbacks. However, federal law developments continue to erode that ability.

The latest federal law governing WCFs was adopted in 2012 as part of the 2012 Middle Class Tax Act. This federal legislation contained Section 6409, now referred to as the Spectrum Act, Page 2 and codified at 47 U.S.C. § 1455. The Spectrum Act was intended to facilitate the telecommunication industry's rapid deployment of wireless infrastructure by requiring local

governments to approve any application that seeks to modify an existing WCF that does not “substantially change” the existing facility.

As the Spectrum Act did not contain specific definitions, the implementation of this Section initially was open to interpretation by each local government. Furthermore, while the Act states that a local government cannot deny and shall approve an eligible facility request, it provides no guidance as to the required process or time limits in which a local government has to act. To bridge this gap, the FCC recently promulgated rules which include necessary definitions, processing requirements, timelines and remedies for applications that seek to modify an existing WCF in accordance with the Spectrum Act.

The FCC’s procedural rules went into effect on April 9, 2015. The FCC rules are subject to several legal challenges, though it appears they will remain in effect during the litigation. These FCC rules are binding on local governments, unless and until a court orders otherwise.

Section 6409 of the Spectrum Act provides that the City “may not deny, and shall approve any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.” (47 U.S.C. §1455(a)(1).) Section 6409 defines “eligible facilities request” as “any request for modification of an existing wireless tower or base station that involves –

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

(47 U.S.C. § 1455 (a)(2).) The statute does not define any of the other terms, most importantly “substantially change”, nor does it explain the process the City may use to evaluate whether an application qualifies for federal protection under this section.

On December 17, 2014, the FCC adopted regulations implementing Section 6409, codified at 47 C.F.R. § 1.40001, which took effect on April 9, 2015. The regulations were intended to clarify which types of WCF projects are covered by the Spectrum Act. The regulations define terms that were used but not defined in the Spectrum Act, including “eligible support structure”, “existing”, “substantial change” and “wireless tower”. The regulations give applicants the right to assert in writing that a project is covered by the Spectrum Act.

If the project falls within the definition of an eligible facilities request, the City must act on it within 60 days from the date an application is submitted, unless the City determines the request is not covered by the Spectrum Act. The 60 day time frame may be tolled by the City for incomplete applications, provided the City notifies applicant within 30 days of submittal. Failure of the City to act on the application within the allowed timeframe results in the automatic approval of such application.

Planning Commission concludes that the amendments to the City's development regulations contained in this Ordinance ensure consistency between *Bonney Lake 2035* and the City's adopted development regulations in the BLMC.

The Planning Commission voted X-X-X to recommend that the City Council _____ Ordinance D15-104.

As required by BLMC 14.40.100, the Planning Commission adopts the following findings of fact in support of its recommendation:

- 1) The City of Bonney Lake Planning Commission held a public hearing on November 4, 2015 to consider the amendments to the City's development regulations contained in this Ordinance as required by BLMC 14.140.080.
- 2) Pursuant to BLMC 14.140.090.B, the approval criterion for amendments to the City's development regulation is consistent with the comprehensive plan and the laws of the state of Washington
- 3) The City published a notice of the public hearing on October 20, 2015 in the Bonney Lake Herald Courier as required by BLMC 14.140.040.D.
- 4) The notice for the public hearing was provided twenty days prior to the hearing consistent with the requirements of BLMC 14.140.040.D.
- 5) The City posted notice of the public hearing at the City's official posting locations on October 20, 2015.
- 6) As provided in WAC 365-196-800(1), the City's development regulations must be consistent with and implement the City's comprehensive plan.
- 7) As provided in further in WAC 365-196-800(1), the term "implement" connotes not only a lack of conflict but also a sufficient scope to fully carry out the goals, policies, standards and directions contained in the comprehensive plan.
- 8) The adoption of this Ordinance is considered a non-project action as defined in WAC 197-11-704(2)(b) under the State Environmental Policy Act (SEPA).
- 9) The Community Development Director acting as the SEPA Responsible Official issued a determination of nonsignificance on October 19, 2015
- 10) As required by RCW 36.70A.106 and BLMC 14.140.070, the City provided this Ordinance to the Department of Commerce for review and comment by the Department and other State agencies.

- 11) As authorized by RCW 36.70.106(3)(b), the City requested that the Department of Commerce grant expedited review of the proposed amendments to the City's development regulation contained in this Ordinance.
- 12) The Department of Commerce granted expedited review and the review period concluded on October 1, 2015.