



**Meeting Location:**  
Council Chambers, 3<sup>rd</sup> Floor  
216 Prospect Street  
Port Orchard, WA 98366

**Contact us:**  
Phone (360) 876-4407  
[cityhall@portorchardwa.gov](mailto:cityhall@portorchardwa.gov)  
[www.portorchardwa.gov](http://www.portorchardwa.gov)

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**City of Port Orchard City Council  
Work Study Session Agenda  
April 16, 2024  
6:30 p.m.**

*Pursuant to the Open Public Meetings Act, Chapter 42.30 RCW, the City Council is conducting its public meeting in a hybrid format with options for in-person attendance in the Council Chambers at City Hall or remote viewing and participation via Zoom (link below). The meeting is streamed live on the City's YouTube channel, click [here](#).*

**Remote access**

**Link:** <https://us02web.zoom.us/j/82651589851>

**Zoom Meeting ID:** 826 5158 9851

**Zoom Call-In:** 1.253.215.8782

**Guiding Principles**

- Are we raising the bar?
- Are we honoring the past, but not living in the past?
- Are we building connections with outside partners?
- Is the decision-making process positively impacting diversity, equity, and inclusion?

**1. CALL TO ORDER**

**A. Pledge of Allegiance**

**2. DISCUSSION ITEMS**

**A. POMC 5.60 Fireworks (Bond) Page 3**

Estimated Time: 25 minutes

**B. Storm Drainage Rate and Capital Facility Charges (Archer) Page 33**

Estimated Time: 15 minutes

**C. Proposed 2024 Zoning Map (Bond) Page 51**

Estimated Time: 20 minutes

**D. Middle Housing Options-Implementation of WA State Department of Commerce Middle Housing Grant (Bond) Page 60**

Estimated Time: 30 minutes

**3. CITY COUNCIL GOOD OF THE ORDER**

**4. ADJOURNMENT**

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ADA Requirements: In compliance with the Americans with Disabilities Act, if you need accommodations to participate in this meeting, please contact the City Clerk's office at (360) 876-4407. Notification at least 48 hours in advance of meeting will enable the City to make arrangements to assure accessibility to this meeting.

**REMINDER: Please silence all electronic devices while City Council is in session.**

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**Robert (Rob) Putaansuu**  
**Mayor**  
Administrative Official

**Eric Worden**  
**Councilmember Position 4**  
Land Use Committee  
Utilities/Sewer Advisory Committee  
KRCC-alt

Brandy Wallace, MMC, CPRO  
**City Clerk**  
  
Matt Brown  
**Police Chief**

**Mark Trenary**  
**Councilmember Position 1**  
Finance Committee, **Chair**  
Transportation Committee  
KRCC  
PSRC-alt

**Heidi Fenton**  
**Councilmember Position 5**  
Utilities/Sewer Advisory Committee  
E/D & Tourism Committee  
Transportation Committee

Debbie Lund, CEBS SPHR SHRM-SCP  
**Human Resources Director**  
  
Nicholas Bond, AICP  
**Community Development Director**

**Jay Rosapepe**  
**Councilmember Position 2**  
Utilities/Sewer Advisory Committee, **Chair**  
Land Use Committee, **Chair**  
KEDA-alt

**Fred Chang**  
**Councilmember Position 6**  
**(Mayor Pro-Tempore)**  
E/D & Tourism Committee  
Kitsap Community Resources  
Finance Committee

Noah Crocker, M.B.A.  
**Finance Director**  
  
Denis Ryan, CPWP-M, CPRP  
**Public Works Director**

**Scott Diener**  
**Councilmember Position 3**  
Land Use Committee  
Transportation Committee  
Kitsap Public Health District

**John Morrissey**  
**Councilmember Position At-Large**  
Finance Committee  
E/D & Tourism Committee  
Lodging Tax, **Chair**  
Kitsap Economic Development Alliance  
PSRC EDD-alt  
Tim Drury  
**Municipal Court Judge**





## Work Study Session Executive Summary

Issue Title.: 2A POMC 5.60 Fireworks  
Time Required: 25 Minutes

Meeting Date: April 16, 2024  
Attendees: Nick Bond

Action Requested:

Discussion on whether to revisit the proposed 2022 Ordinance to restrict firework use and sales within city limits.

**Issue:** The Land Use Committee has recommended that the City Council discuss the rules and regulations concerning the sale and use of fireworks under POMC 5.60. In 2022, the City Council considered, but did not adopt an ordinance that would ban the sale and use of fireworks in Port Orchard. The existing code and the 2022 proposed ordinance are attached for review and discussion.

**Background:** Currently the city allows for fireworks sales and private use of approved fireworks in the city under Port Orchard Municipal Code (POMC) Section 5.60. Under the existing code, fireworks sales are permitted the Commercial Heavy (CH) and Industrial Flex (IF) zones and fireworks may be discharged within the city limits in accordance with POMC 5.60.

The proposed 2022 ordinance would have banned the sale, possession, use, and discharge of fireworks within the city, but would not have changed the rules concerning public fireworks displays which would have continued to be allowed. As part of considering the 2022 ordinance, the City Council conducted public outreach and received public comments in a public hearing. The comments and survey results from 2022 are attached to this staff report.

**Alternative:** Request that the proposed 2022 ordinance be brought back for consideration at a future meeting, conduct additional public outreach, proposed alternative code changes, do nothing.

**Recommendation:** Land Use Committee recommends that the City Council discuss the draft fireworks ordinance proposed in 2022 and review the previous public comments received on the issue and provide direction to staff.

**Relationship to Comprehensive Plan:** N/A

**Attachments:** POMC 5.60, The previous 2022 ordinance is attached to accompany this staff report, previously reviewed public comments, 2022 Survey Results.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO FIREWORKS; AMENDING CHAPTER 5.60 OF THE PORT ORCHARD MUNICIPAL CODE (“POMC”), AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the State of Washington regulates the sale, discharge, and display of fireworks under Chapter 70.77 RCW; and

**WHEREAS**, for many years the City and its elected officials have received numerous complaints regarding the discharge of both legal and illegal fireworks; and

**WHEREAS**, the City Council believes that prohibiting fireworks, with a limited exception for large-scale display shows subject to a City-issued permit, would enhance the health, safety, and welfare of the public; and

[Insert additional findings once survey is complete]

**WHEREAS**, chapter 70.77 RCW authorizes cities to adopt fireworks ordinances that are more restrictive than state law, but such ordinances may only become effective one year after their adoption; now, therefore,

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**SECTION 1.** Port Orchard Municipal Code 5.60.010 is hereby amended to read as follows

**5.60.010      ~~Permit and state license required – Fee Sales, possession, use, and discharge of fireworks unlawful.~~**

It is unlawful for any ~~No~~ person, firm or corporation ~~shall~~ to import, manufacture, transport (except as a public carrier delivering to a licensee), possess, store, sell or offer to sell at retail or wholesale or discharge fireworks inside the city limits of the city of Port Orchard ; provided, that this prohibition shall not apply to duly authorized public displays. Any item of fireworks which does not meet the State of Washington Fire Marshal’s approval in conformity with RCW Chapter 70.77, as amended shall be deemed dangerous and is prohibited by this chapter. ~~without first obtaining a permit from the city and a license from the state of Washington. The fee for obtaining a city permit shall be \$100.00 per year payable in advance.~~

**SECTION 2.** Port Orchard Municipal Code 5.60.015 is hereby amended to read as follows

**5.60.015 Public display of fireworks Fireworks permits required – Forms and deadlines.**

(1) It is unlawful for any person to hold, conduct, or engage in any public display of fireworks within the city without first having obtained and being the holder of a valid permit under the provisions of this chapter.

~~(1)~~ (2) Applications for permits required by this chapter shall be submitted in such form and detail as prescribed by the Cityfire authority. A separate application shall be required for each site and activity. Applications shall include, at a minimum:

(a) The application fee;

(b) Copy of appropriate state licenses;

(c) A site or discharge plan;

(d) The names, addresses and telephone numbers of the applicant(s) and responsible party(ies); and

(e) When applicable, a description of the proposed activity detailing how it satisfies the conditions set forth under POMC 5.60.020.

~~(2)~~ (3) Permit applications shall be received by the DCD permit center for review by the Cityfire authority:

~~(a) No later than 4:30 p.m. on the last official city work day in May for retail sales;~~

~~(b) No~~ no later than 4:30 p.m. at least 40 business days prior to the date of an intended public display; and

~~(c) Prior to commencing a permitted activity for all other uses.~~

~~(3)~~ (4) Pursuant to RCW 70.77.280, the city council hereby designates the Director of the Department of Community Development ~~chief of the fire authority~~ or his or her designee as the person with the authority to grant or deny permits that are sought pursuant to this chapter.

~~(4)~~ (5) Permits issued pursuant to this chapter are nontransferable.

**SECTION 3.** Port Orchard Municipal Code 5.60.020 is hereby amended to read as follows

**5.60.020 Conditions for sales of fireworks and public display – Permit issuance.**

A permit for the ~~sale of fireworks or for~~ public display of fireworks shall be issued only upon the following terms and conditions:

(1) The applicant shall have a valid and subsisting license issued by the state of Washington authorizing the holder thereof to engage in the fireworks business, a copy of which shall be filed with the DCD permit center.

~~(2) For sales of fireworks, the applicant shall obtain a business license from the city.~~

~~(2)(3)~~ The applicant shall have and keep in full force and effect a policy of insurance approved by the city attorney saving the city harmless for any acts of the licensee in the following amounts: \$500,000 or more for injury to any one person in one accident or occurrence, \$1,000,000 for injury to more than one person for any one accident or occurrence, \$300,000 for injury to property in any one accident or occurrence. Proof of insurance coverage shall be included with the application for a permit and shall be filed with the DCD permit center.

~~(4) For sales of fireworks, the location of the proposed place of business shall comply with the zoning ordinances of the city.~~

~~(5) Applicant shall post a \$50.00 deposit conditioned upon the prompt removal of the temporary stand and/or the cleaning up of all debris from the site. If the applicant removes such temporary stand and cleans up all the debris before the tenth day of July each year, he shall be entitled to the return of his \$50.00 deposit.~~

~~(3)(6)~~ Public displays of fireworks shall comply with the provisions of RCW 70.77.280 in that the fire authority shall determine whether the proposed display would pose a hazard to property or a danger to persons. The fire authority shall prepare a written report detailing the findings and recommendations for or against the issuance of the permit. The fire authority report shall be filed with the DCD permit center.

**SECTION 4.** New Section 5.60.025 of the Port Orchard Municipal Code is hereby enacted to read as follows

**5.60.025      Permit Fees.**

The annual fee for a “public display” permit for the public display of fireworks shall be \$100, payable in advance.

**SECTION 5.** Port Orchard Municipal Code 5.60.030 is hereby repealed.

**SECTION 6.** Port Orchard Municipal Code 5.60.040 is hereby repealed.

**SECTION 7.** Port Orchard Municipal Code 5.60.050 is hereby repealed.

**SECTION 8.** Port Orchard Municipal Code 5.60.055 is hereby amended to read as follows

**5.60.055 Prohibition due to extreme fire danger.**

The mayor, after consulting with ~~at~~ the fire authority, and other officials as may be deemed appropriate, may prohibit the discharge of all fireworks during periods of extreme fire danger. ~~In addition, the city council may, after conducting a public hearing, adopt by resolution emergency limitations or prohibitions on the sale of fireworks during periods of extreme fire danger.~~ Such emergency limitations or prohibitions shall be temporary and the reasons necessitating the emergency limitations or prohibitions shall be clearly defined in the resolution.

**SECTION 9. Ratification.** All acts taken pursuant to the authority of this Ordinance but prior to its effective date are hereby ratified.

**SECTION 10. Severability.** If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

**SECTION 11. Savings Clause.** Those portions of Chapter 5.60 of the Port Orchard Municipal Code which are repealed by this ordinance shall remain in force and effect until the effective date of this ordinance. Such repeals shall not be construed as affecting any existing right acquired under the laws repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder.

**SECTION 12. Effective Date.** This ordinance shall be in full force and effect twelve (12) months after posting and publication as required by law. A summary of this Ordinance may be published in lieu of the entire ordinance, as authorized by State Law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this \_\_\_ day of \_\_\_\_\_ 2024.

\_\_\_\_\_  
Robert Putansuu, Mayor

ATTEST:

\_\_\_\_\_  
Brandy Wallace, MMC, City Clerk

APPROVED AS TO FORM:

SPONSORED BY:

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Charlotte A. Archer, City Attorney

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Scott Diener, Councilmember

## Ordinance Relating to Fireworks – Redline of Existing Code

### 5.60.010 ~~Permit and state license required – Fee Sales, possession, use, and discharge of fireworks unlawful.~~

~~It is unlawful for any~~ ~~No~~ person, firm or corporation ~~shall~~ to import, manufacture, transport (except as a public carrier delivering to a licensee), possess, store, sell or offer to sell at retail or wholesale or discharge fireworks inside the city limits of the city of Port Orchard ; provided, that this prohibition shall not apply to duly authorized public displays. Any item of fireworks which does not meet the State of Washington Fire Marshal’s approval in conformity with RCW Chapter 70.77, as amended shall be deemed dangerous and is prohibited by this chapter. ~~without first obtaining a permit from the city and a license from the state of Washington. The fee for obtaining a city permit shall be \$100.00 per year payable in advance.~~

### 5.60.015 ~~Public display of fireworks~~ Fireworks permits required – Forms and deadlines.

(1) It is unlawful for any person to hold, conduct, or engage in any public display of fireworks within the city without first having obtained and being the holder of a valid permit under the provisions of this chapter.

~~(1)~~ (2) Applications for permits required by this chapter shall be submitted in such form and detail as prescribed by the City fire authority. A separate application shall be required for each site and activity. Applications shall include, at a minimum:

(a) The application fee;

(b) Copy of appropriate state licenses;

(c) A site or discharge plan;

(d) The names, addresses and telephone numbers of the applicant(s) and responsible party(ies); and

(e) When applicable, a description of the proposed activity detailing how it satisfies the conditions set forth under POMC 5.60.020.

~~(2)~~ (3) Permit applications shall be received by the DCD permit center for review by the City fire authority:

~~(a) No later than 4:30 p.m. on the last official city work day in May for retail sales;~~

~~(b) No~~ no later than 4:30 p.m. at least 40 business days prior to the date of an intended public display; and

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~~(3) (4)~~ Pursuant to RCW 70.77.280, the city council hereby designates the Director of the Department of Community Development ~~chief of the fire authority~~ or his or her designee as the person with the authority to grant or deny permits that are sought pursuant to this chapter.

~~(4) (5)~~ Permits issued pursuant to this chapter are nontransferable.

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**5.60.055 Prohibition due to extreme fire danger.**

The mayor, after consulting with ~~the~~ the fire authority, and other officials as may be deemed appropriate, may prohibit the discharge of all fireworks during periods of extreme fire danger. ~~In addition, the city council may, after conducting a public hearing, adopt by resolution emergency limitations or prohibitions on the sale of fireworks during periods of extreme fire danger.~~ Such emergency limitations or prohibitions shall be temporary and the reasons necessitating the emergency limitations or prohibitions shall be clearly defined in the resolution.

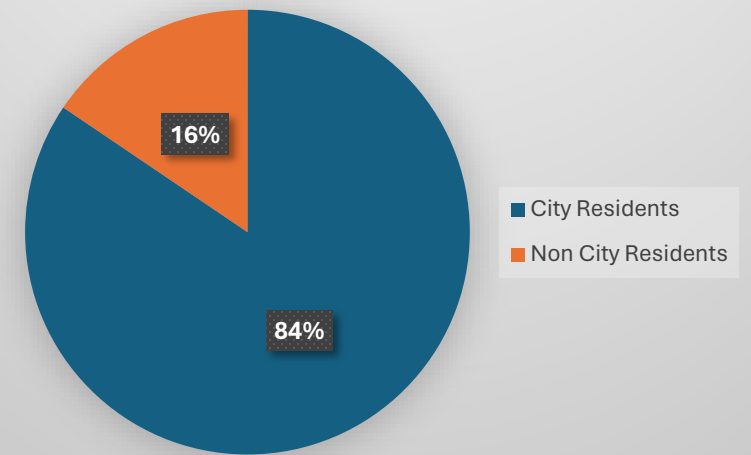
# Fireworks Survey Results

2022 Survey Results

# 2022 Survey Results

- The City received 367 completed survey responses.
- An additional 186 people started the survey but failed to complete the survey.
- 84% of completed responses were completed by City residents.

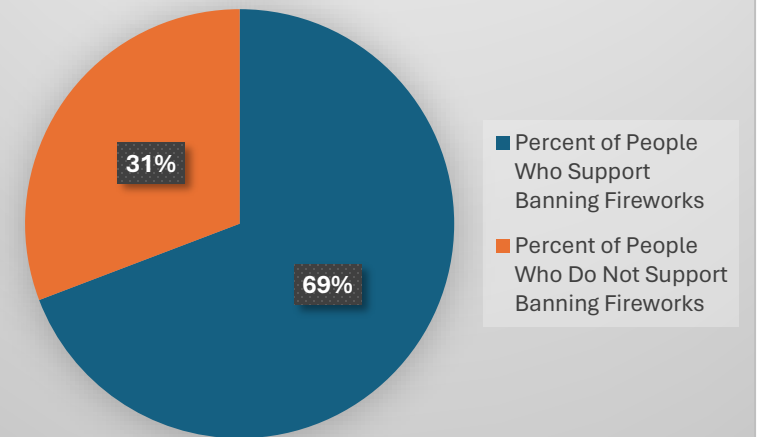
Percentage of Survey Respondents Who Live in the City



# 2022 Survey Results

- 69% of respondents supported a ban on fireworks.
- 69% of residents supported a ban on fireworks.

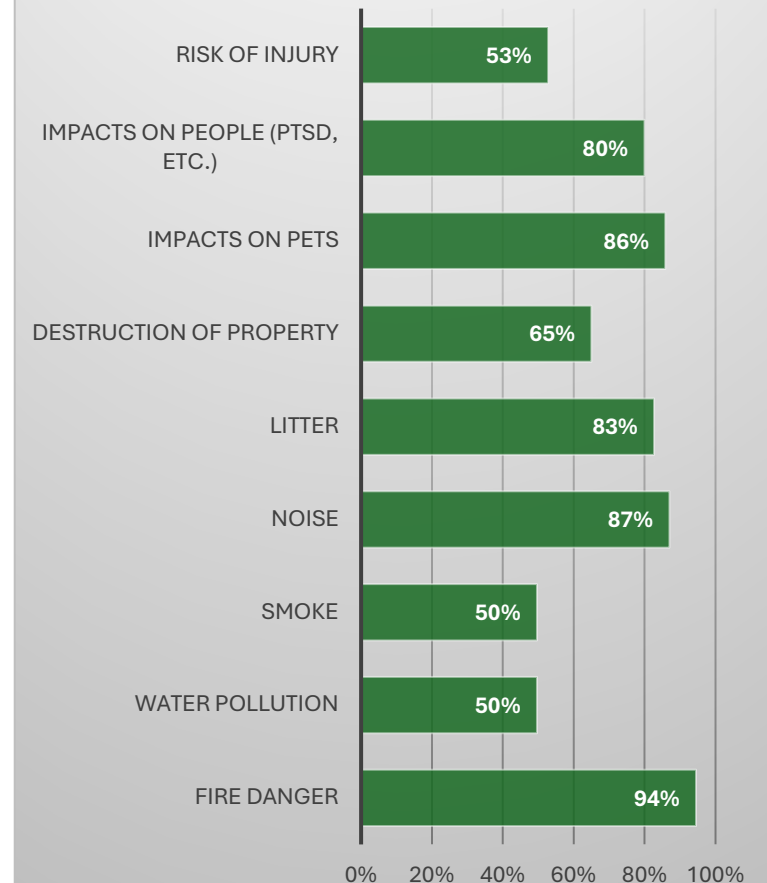
## Percentage Support for Fireworks Ban Among Respondents And Residents Who Completed Survey



# 2022 Survey Results

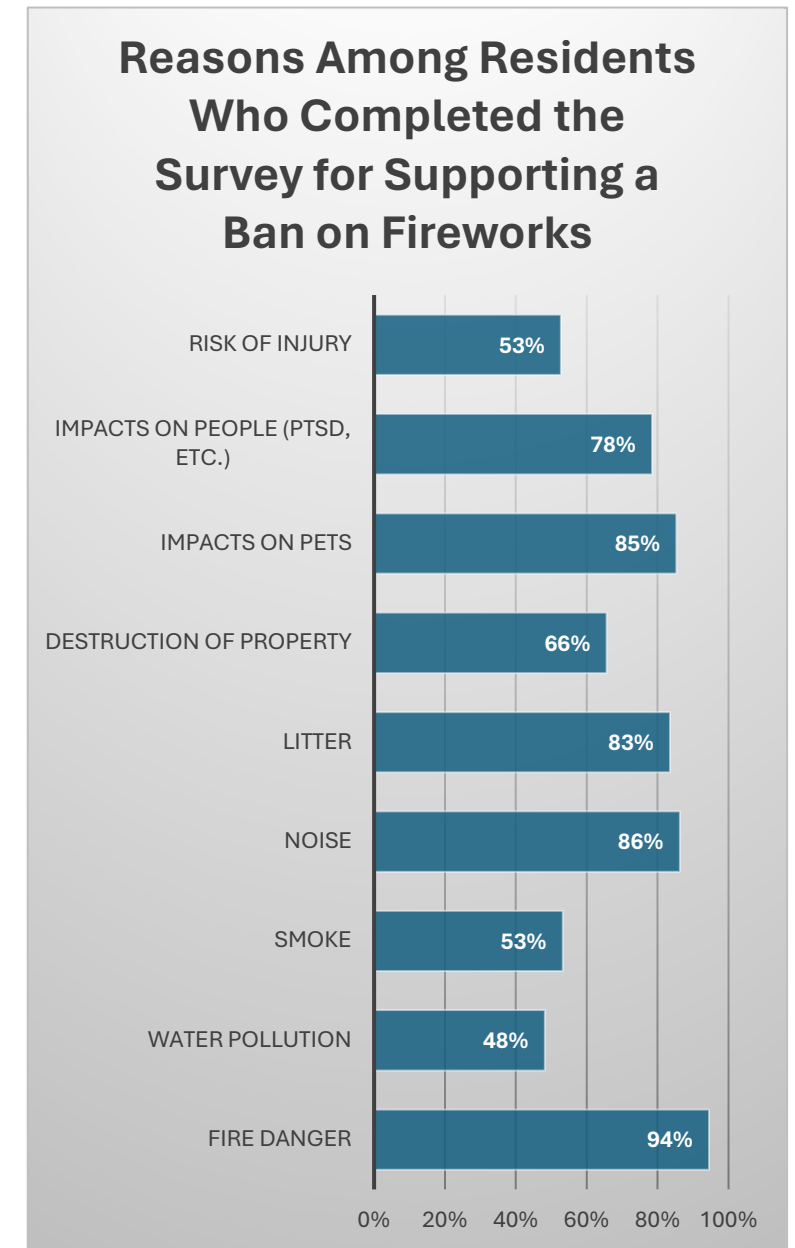
- Of the respondents who completed the survey, a variety of reasons were provided in support of a ban on fireworks.
- Fire danger, noise, and impacts on pets were the top reasons given.

## Reasons for Supporting a Ban on Fireworks from People Who Completed Survey and Indicated Support for a Ban



# 2022 Survey Results

- Of the respondents who are residents and completed the survey, a variety of reasons were provided in support of a ban on fireworks.
- Fire danger, noise, and impacts on pets were the top reasons given.



**From:** [cory holmberg](#)  
**To:** [Planning Mailbox](#)  
**Subject:** Fireworks  
**Date:** Thursday, March 10, 2022 11:06:53 AM

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Good morning/ afternoon/ evening,

The Banning of fireworks inside Port Orchard City limits

To whom it may concern on this topic.

Let's think and be logical and not think on this topic emotionally.

Limiting freedoms...

Is this something you, the City of Port Orchard really want to do? Something you want to do during a pandemic where people are already stressed, wanting more things to do? Do you really want to incite a ban on fireworks and not have it go through a vote of the people? (We have seen the public outrage on the tab fee ordinance, people voted and the state did the opposite.)

Public Safety...

Instead of banning fireworks in the City of Port Orchard, the city should put out public safety flyers and or have the stands put out flyers when selling to customers on how to do fireworks safely. The state has a firework safety program through the WSP. Maybe you could ask them how they do it. I have attended a meeting with the guy they have who is in charge of their firework safety program. He is very knowledgeable and would say that he too would be against a ban.

Provided below is a link to one of the WSP informational pages on safety.

<https://www.wsp.wa.gov/2021/07/01/fireworks-safety-tips-for-independence-day-celebrations/>

I understand that some years are dryer then others. And those years you could use the emergency temporary ban. But years where it's not an issue. I do not see why this should be enacted.

Sending revenue to other towns/cities...

Let's say you ban fireworks in Port Orchard. You, the City of Port Orchard are only hurting yourselves and its local businesses. You are now going to send all of those potential firework customers to other towns/city's or the tribe to buy there fireworks. I would say most of these people are going to not just go buy fireworks when they are going out to buy them in a different town. They will buy lunch or dinner out (loss of revenue), they may do there grocery shopping in that town for convince while buying there fireworks elsewhere (loss of revenue). Is the city really ok with losing revenue from the impact of banning fireworks in the city of Port Orchard? Yes it's only for a week, but that is a week of potential losses for the city of Port Orchard to take. Banning fireworks will cause a domino effect. Again, this will only hurt the City of Port Orchard and its businesses due to revenue losses.

Local groups and teams...

If you do ban them you are hurting local citizens. There are local citizens who go out on a limb to pre purchase these fireworks to sell to the community. You would be sticking them with a huge amount of debt

by doing this. Your stands like TNT, these stands are all ran by local youth groups to fundraise for their groups and teams. A portion of their proceeds go towards these groups to help raise funds for stuff like new gear, or fuel, etc. Stuff that they normally could not afford to do if they did not have this extra income. It is one of the quickest and easiest ways for these groups to raise money for their organization. Banning fireworks would be detrimental to these local groups.

They're going to do it anyways whether you ban the sale and discharge or not.

No matter if you ban them or not, people are going to go buy there fireworks and discharge them. You do not have a police force large enough to even police this. The state of WA has made sure of that. All that banning fireworks will do is piss off more and more people. The state is already trying to pass through new laws and or mandates restricting people's freedoms. Do you want to be a local government who does the same?

Here is an example for you. This is the state of California, in Los Angeles, where fireworks are also banned. <https://youtu.be/tIvdcdogC6k>

Here is another example for those of you who have kids, this will make sense.

Your kid asks you (Mom) can I have a cookie. Mom says no. what does the kid do in return? Do they listen to what Mom said? Probably not, what do they actually do? They go ask dad if they can have a cookie. Dad being dad, of course you can have a cookie.

See where I'm going with this? Same concept applies to adults. You tell them no you can't do that, they are going to do the opposite of what you say. Especially when it comes to one of their freedoms.

I believe if you ban fireworks you will be receiving the inverse reaction to what you want. You are going to make the dude who goes to the stand to buy 200\$ worth want to go buy 500\$ now. Just out of spite because you decided to take away one of their freedoms. When you have stands in your local community you also have more control over what fireworks come into your town. If you ban them, people are still going to do it, most likely even more people, and those people are going to spend even more money buying them. Now they will go to a different town to buy them or even the tribe (which carries some of the illegal fireworks in our state.) By allowing fireworks to be sold in our town you are also limiting the amount of people who go to the tribe to buy these fireworks. Most people don't want to be bothered to go from Port Orchard all the way to Tacoma or Suquamish to buy regular fireworks, but if you ban the sale of them in Port Orchard that feeling of not wanting to travel to those places might just happen.

If you do for some reason decide to stick with the banning of consumer fireworks in Port Orchard, then I would highly suggest making your 4th of July show on the waterfront a much bigger and extravagant show. The city will need to help supplement this show. People want to see a good show. Have a good time. Be with friends. By limiting yet another freedom that only happens once a year you are stripping away yet another part of the community. A vast majority of our citizens love fireworks. Not all of them are ones to set them off but most like to see them safely go off in the night sky and celebrate our nation's independence.

I sincerely hope that you really hear the community and get them involved on this topic not just barely put out any effort into notifying the community over it. Let's get people involved and have the end result be what's best for the majority of its citizens not the few.

Thank you for hearing me out,

Cory



**From:** [Rob Putaansuu](#)  
**To:** [Nick Bond](#)  
**Cc:** [Brandy Wallace](#)  
**Subject:** FW: Fireworks Survey  
**Date:** Sunday, March 13, 2022 10:15:16 AM

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Nick, I believe you're collecting the comments for our public process? If not let me know.

[Rob Putaansuu](#)  
City of Port Orchard Mayor

Please be aware that e-mails which pertain to City business may be considered public records and may be subject to public disclosure laws. If you think that you have received this e-mail message in error, please notify the sender via e-mail or telephone at 360.876.4407.

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**From:** M Neiner <mneiner@gmail.com>  
**Sent:** Friday, March 11, 2022 7:36 PM  
**To:** Rob Putaansuu <rputaansuu@cityofportorchard.us>  
**Subject:** Fireworks Survey

Dear Mayor,

I recently took the survey.

The first question is problematic

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Do I support the City banning or restricting fireworks in the City?

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The City already restricts / Bans the sale and use of fireworks to certain days and times of the year. I support those current City ordinances. So I answered Yes.

This bounced me to a second question which I answered and the survey was over.

The survey never got to my concerns nor did it really address the new Total Ban.

Honestly, I am not opposed to a new Ban on sales and use. My concern is the impact on non profits.

It's hard enough to raise money. Car washes , a once rather uncomplicated event, has evolved due to environmental concerns. Not worth the effort. I think a robust discussion and understanding of the impact to fund raising should be had before the city does the ban. If the City taketh away, what are they doing to mitigate the impact.

I recommend you take a look at that first survey question. It is posed as if the City doesn't restrict fireworks already.

Respectfully

Mike Neiner  
PORT ORCHARD.

**From:** [MARK BEECHER](#)  
**To:** [Planning Mailbox](#); [Shawn Cucciardi](#); [Jay Rosapepe](#); [Scott Diener](#); [John Clauson](#); [Cindy Lucarelli](#); [Fred Chang](#); [Mark Trenary](#)  
**Subject:** Comments for Public Hearing on Fireworks Ordinance  
**Date:** Wednesday, March 16, 2022 6:25:07 PM

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To Port Orchard City Council,

I am writing regarding the upcoming city council meeting discussion about revisions to Port Orchard Municipal Code Section 5.60. I would like to voice opposition to any more restrictive laws regarding the sale and use of consumer fireworks. While I do not currently live within Port Orchard City Limits, I frequent the area, and purchase my fireworks from licensed retailers that operate within and around Port Orchard.

I support sensible and regulated use of all consumer fireworks. Restricting the sale and/or use of consumer fireworks will drive retailers out of City limits, into areas of Unincorporated Kitsap County or surrounding cities. This will have an obvious impact on seasonal employment, potential tax revenue, as well as permit fees. Additionally, a majority of the fireworks retailers are operated for non-profits and charity organizations for fundraising.

According to WSP State Fire Marshall's Office (latest data available):  
Approximately 1.5% of fires in our region (Region 1) over five years were caused by explosives and fireworks (104 out of 6,627 total fires). This is less than the statewide average (approximately 2.4%). This category includes non-fireworks explosive devices, further reducing the number of firework-only fires.  
Over 11% of the injuries last year were from illegal fireworks (27 of 237 total injuries). There was a 2.7% decrease of fireworks-related incidents over the last year, and a 12% decrease in fireworks related injuries.  
Kitsap county only accounted for 30 of the 537 fireworks related incidents from last year (9 fires and 21 injuries, less than 6% of the statewide total).

This data reflects that the use of fireworks is generally safe, with a trend towards less injuries and fires than previous years. This is despite the fact that prior to the last year data was available, there were partial bans across much of our region due to dry/hazardous conditions. This shows that responsible and safe fireworks use is obtainable without restricting the sale or use of consumer fireworks.

John Adam's suggested, of celebrating our nations independence, that "It ought to be commemorated, as the Day of Deliverance by solemn Acts of Devotion to God Almighty. It ought to be solemnized with Pomp and Parade, with Shews, Games, Sports, Guns, Bells, Bonfires and Illuminations from one End of this Continent to the other from this Time forward forever more." I support the sentiment of his writing. I would encourage enforcement of the current laws, and focusing on educating the public on safe fireworks use before any outright bans or restrictions were put into place.

I would request that you not vote to make any existing laws regarding the sale and

use of consumer fireworks more restrictive than what the state currently allows.

Respectfully,  
Mark Beecher

**From:** [Jenine Floyd](#)  
**To:** [Council Members](#)  
**Cc:** [Rob Putaansuu](#); [Nick Bond](#)  
**Subject:** FW: Fireworks public comment for City Council meeting \*DO NOT REPLY TO ALL\*  
**Date:** Tuesday, March 22, 2022 9:31:30 AM

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Good morning,

Please see below email regarding fireworks.

Jenine Floyd, CMC | Deputy City Clerk  
City of Port Orchard | 216 Prospect Street, Port Orchard, WA 98366  
360.876.7024 | [www.cityofportorchard.us](http://www.cityofportorchard.us) | [Click here to visit our Facebook page](#)



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**From:** [artistrybyelissa@wavecable.com](mailto:artistrybyelissa@wavecable.com) <[artistrybyelissa@wavecable.com](mailto:artistrybyelissa@wavecable.com)>  
**Sent:** Monday, March 21, 2022 12:08 PM  
**To:** CityClerk Mailbox <[CityClerk@cityofportorchard.us](mailto:CityClerk@cityofportorchard.us)>  
**Subject:** Fireworks public comment for City Council meeting

To Whom It May Concern,

We strongly support the elimination of residential fireworks. It has been a constant concern in our neighborhood for decades.

Fire hazard is of greatest concern. Continued dryness at the time of the 4<sup>th</sup> is a constant worry. Scenes of what has happened in other neighborhoods due to errant fireworks are haunting. Not only is it dangerous, but comes with unassignable liability and puts the burden of restoration on innocent parties.

Enforcement is practically impossible under the current ordinances and over taxes our systems put into place to protect the public. The war zone like atmosphere in our neighborhood is a prime example of this.

Debris clean up is expensive for the City, the Port and Kitsap Transit. The residual is also hugely annoying for property owners and pet walkers. Case in point: 2 grocery bags of debris were

collected from our yard alone as a result of fireworks being set off at the adjoining intersection of our home. We do not engage in fire work usage, so none of it was due to our celebration.

The frequent misuse of fireworks combined with alcohol consumption increases the potential for injury to people and property. The stress to combat veterans and pets is uncompassionate and offers them little comfort in the face of random explosions that are unpredictable. Limiting fireworks to a public display could insure those suffering from PTSD would provide an opportunity to prepare accordingly for a predictable duration of explosion activity.

The present use of fireworks, both legal and not, has turned our neighborhood into a chaotic mess that has deleted our tradition of a friends and family parade down our street. It is no longer safe to venture out like we used to. We feel like prisoners in our own home. Even our guests have a difficult time trying to watch the public display from our own yard as those who are lighting off fireworks are having their own unleashed celebration in the street.

We really feel celebrating our country's birth should have more respect for all that it is and should not endanger people and property. The paramount concern is fire. Putting our communities at risk during these arid times seems incredibly reckless, stressful and a matter of keeping one's fingers crossed in hopes that nothing happens. The time for change has come, as many other cities have recognized.

Thank you so very much for addressing changes to our current policies. It is our hope this could bring a sense of joy and celebration back into our 4<sup>th</sup> of July celebration.

Sincerely,

Nick and Elissa Whittleton

**From:** [davepyro@wavecable.com](mailto:davepyro@wavecable.com)  
**To:** [Planning Mailbox](#); [Shawn Cucciardi](#); [Jay Rosapepe](#); [Scott Diener](#); [John Clauson](#); [Cindy Lucarelli](#); [Fred Chang](#); [Mark Trenary](#)  
**Cc:** [Dave Douglas](#); [melchase@live.com](mailto:melchase@live.com); [Lisa Stone](#)  
**Subject:** My input for City of Port Orchard fireworks restriction  
**Date:** Monday, March 21, 2022 4:33:55 PM  
**Attachments:** [PO Ban input from Dave Douglas.docx](#)

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All,

Please find attached my brief input for the city fireworks measure.

I have provided just the highlights in order to keep it brief.

Please read the entire file, and try to realize the full impact before you vote on this restriction.

Please understand there are a number of points I have not included in order to be brief.

I will very much welcome any discussion of the numbers or points I have included.

Please call me if you wish to discuss this measure. I am usually available between 10:00 am and 11:00 pm every day.

I would also like to hear from any of the addressees that have shopped at either of my fireworks stands.

How were you treated, and do you have any suggestions to make?

Thank-you for your due diligence and your honest consideration,

Dave Douglas

Pyro Dave's Fireworks

cell 360-621-7719

To whom it may concern,

I wish to provide input for due consideration for the public input into the Port Orchard city council measure to ban consumer fireworks within the city limits.

**FINANCIAL IMPACT TO THE CITY IF MEASURE IS PASSED:**

- There were 13 permitted stands in 2019; 10 permitted stands in 2020; and 9 permitted stands in 2021 within the Port Orchard city limits.
- In the years from 2019 to 2021 I paid a total of \$400.00 to the city for local stand permits.
- In the years from 2019 to 2021 I paid a total of \$9,700.00 to lease my Port Orchard site for 3 weeks each year.
- In 2019 I paid \$857.06 in state “local use sales” tax to locality #1802 which was the city of Port Orchard. For 2020 I paid \$1,438.16 and for 2021 I will be paying \$1,776.17.
- Without this income the city will still need to find funds to pay the law enforcement and fire fighters responding to the 911 calls. You will still need to respond to the irresponsible and careless people that will visit the reservations and the Internet to procure their own extreme and illegal pyrotechnics. Also, someone will still have to clean up the public areas.
- During the 2021 fireworks season I paid out \$16,624.05 to my employees for their labor. \$7,796.70 of these funds were paid for my Port Orchard stand. If I am forced to close my Port Orchard stand, then how are these people going to be able to replace this income?

**MY BACKGROUND:**

- I am the sole owner of local Pyro Dave’s Fireworks stands. My Port Orchard stand is located on Bethel Avenue across from US post Office.
- I have owned and managed consumer fireworks stands for the last 33 years.
- I have been a Washington state licensed Pyrotechnic Operator (license number P-04112) since 1998. As part of my annual license renewal I am required to participate in at least one display fireworks show or training class every year.
- I operate an Internet web page for my business and for my customers at [www.kitsapfireworks.com](http://www.kitsapfireworks.com). I provide instructions for safety, pet care, preparations, fire risk reduction, and clean up and disposal. On this web page I also provide videos for most of my stand inventory, and my recent Veteran’s Appreciation fireworks shows.

**FIREWORKS REALITY:**

- It has been my experience that about 95% of all fireworks problems are caused by a small minority of irresponsible people. These are the people that manufacture or buy illegal fireworks. This minority are the people that do not clean up their mess; that shoot late when allowed; and ignite fireworks on New Year’s Eve.
- The City Council needs to recognize that the people that do these activities will continue to keep doing whatever they want regardless of any new regulations. No one can legislate against stupid (as a friend of mine once said). This new restriction will only penalize the law-abiding citizens.
- For example: Take a look at what happens on New Year’s Eve in Kitsap County. Every law-abiding citizen knows that ALL fireworks are illegal on New Year’s Eve. Yet it is almost as



noisy as the 4<sup>th</sup> of July. No one is ever made to stop, and the local ordinances are not enforced. It is quite obvious that the local reservations are doing a booming business for New Years Eve, but legal stand operators are not allowed to open even though it is allowed by state law.

- In all of my years of talking fireworks with the public at large (as well as my customers) I have never ever met a single person was given a citation for a fireworks violation! It makes absolutely no sense to penalize the law-abiding residents of Port Orchard when the local regulations are not and will not be enforced.
- As was pointed out to me: If local law enforcement cannot stop a car theft and ramming a police car, then how are they going to enforce a local fireworks ban?
- Without the legal stands how are citizens going to receive pet and safety instructions? How are the educational handouts going to get into citizen's hands?

### **LOCAL EXPERIENCES:**

- Please note that each of my employees carefully explains how each firework functions (when asked), and how to be safe. Also, I have videos on a tablet in each of my stands so each customer can learn what they are buying. Then they can plan their purchases and show in a safe manner.
- In 2018 and 2019 my family used the Vanzee Park basketball court near Sidney and Tremont to watch our family fireworks. The fact that the city provided a public place and a safe area with garbage bags and city cleaning for us to watch our fireworks was very greatly appreciated.
- A significant percentage of my customers are confused about local fireworks ordinances. It would greatly reduce the confusion if the local entities would simply adopt the Washington state fireworks laws.

### **OUR NEIGHBORHOOD:**

- What kind of message are you sending to our military families? If the city passes this measure, then we are devaluing the personal costs paid by our military families. The 4<sup>th</sup> of July is the celebration of our country's birthday, and of the people that serve our country. It has always been celebrated with public and private fireworks. Denying our veterans and our military the right to celebrate their service is a huge slap in the face of each one of these fine people and their families.
- Port Orchard has always been a great community for our families. I know many of my customers are grateful to live in a community where fireworks are allowed. Many families that move here (a lot of them are current military) are excited to learn about consumer fireworks.

### **POINT OF CONTACT:**

If any Port Orchard employees or officials would like to request fireworks information from me, or if they should have any questions, then please contact me.

Dave Douglas

Pyro Dave's Fireworks

2540 Lori Linda CT SE

Port Orchard, WA 98366

Cell: 360-621-7719

FAX: 360-895-9146

Email: [davepyro@wavecable.com](mailto:davepyro@wavecable.com)

## Chapter 5.60 FIREWORKS

Sections:

**5.60.005 Definitions.**

**5.60.010 Permit and state license required – Fee.**

**5.60.015 Fireworks permits – Forms and deadlines.**

**5.60.020 Conditions for sales of fireworks and public display – Permit issuance.**

**5.60.030 Temporary stands.**

**5.60.040 Number of licenses and stands limited.**

**5.60.050 Exploding fireworks legal period designated.**

**5.60.055 Prohibition due to extreme fire danger.**

**5.60.060 Chapter supplementary to state law.**

**5.60.070 Violations – Penalty.**

**5.60.080 Enforcement.**

### **5.60.005 Definitions.**

(1) “Fireworks” means any composition or device designed to produce a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of “articles pyrotechnic” or “consumer fireworks” or “display fireworks” as set forth in Chapter [70.77](#) RCW.

(2) “Consumer fireworks” means smaller fireworks designed primarily for use by consumers, as further defined by RCW [70.77.136](#) and WAC [212-17-025](#).

(3) “Display fireworks” means larger fireworks designed primarily for display and classified as such by the U.S. Department of Transportation, as further defined by RCW [70.77.131](#) and WAC [212-17-025](#).

(4) “Public display” means an entertainment feature where the public is or could be invited, admitted and/or permitted to view the display or discharge of display fireworks.

(5) “Extreme fire danger” means a period of hot, dry weather accompanied by low fuel moistures. It is during this period that wildland fires can be expected, and fire growth will be accelerated.

(6) “Fire authority” means the city of Port Orchard department of community development’s fire code official or their designee for the purposes of this chapter.

(7) “Retail sales” means any person who, at a fixed location or place of business, offers for sale, sells, or exchanges for consideration consumer fireworks to a consumer or user. (Ord. 035-23 § 2; Ord. 017-23 § 1 (Exh. A); Ord. 066-21 § 4 (Exh. C); Ord. 013-16 § 2).

#### **5.60.010 Permit and state license required – Fee.**

No person, firm or corporation shall import, manufacture, transport (except as a public carrier delivering to a licensee), possess, store, sell or offer to sell at retail or wholesale fireworks inside the city limits of the city of Port Orchard without first obtaining a permit from the city and a license from the state of Washington. The fee for obtaining a city permit for fireworks sales shall be \$100.00 per year payable in advance. The fee for fireworks display shall be set by city council resolution in the fee schedules for departments of community development and public works. (Ord. 035-23 § 3; Ord. 066-21 § 4 (Exh. C); Ord. 038-08 § 2; Ord. 026-08 § 2; Ord. 1706 § 1, 1998).

#### **5.60.015 Fireworks permits – Forms and deadlines.**

(1) Applications for permits required by this chapter shall be submitted to the city in such form and detail as prescribed by the city’s fire code official. A separate application shall be required for each site and activity. Applications shall include, at a minimum:

- (a) The application fee;
- (b) Copy of appropriate state licenses;
- (c) A site or discharge plan;
- (d) The names, addresses and telephone numbers of the applicant(s) and responsible party(ies); and
- (e) When applicable, a description of the proposed activity detailing how it satisfies the conditions set forth under POMC [5.60.020](#).

(2) Permit applications shall be received by the DCD permit center for review by the fire authority:

- (a) No later than 4:30 p.m. on the last official city work day in May for retail sales;

(b) No later than 4:30 p.m. at least 40 business days prior to the date of an intended public display; and

(c) Prior to commencing a permitted activity for all other uses.

(3) Permits issued pursuant to this chapter are nontransferable. (Ord. 035-23 § 4; Ord. 066-21 § 4 (Exh. C); Ord. 032-17 § 2; Ord. 013-16 § 3; Ord. 038-08 § 3).

#### **5.60.020 Conditions for sales of fireworks and public display – Permit issuance.**

A permit for the sale of fireworks or for public display shall be issued only upon the following terms and conditions:

(1) The applicant shall have a valid and subsisting license issued by the state of Washington authorizing the holder thereof to engage in the fireworks business, a copy of which shall be filed with the DCD permit center.

(2) For sales of fireworks, the applicant shall obtain a business license from the city.

(3) The applicant shall have and keep in full force and effect a policy of insurance approved by the city attorney saving the city harmless for any acts of the licensee in the following amounts: \$500,000 or more for injury to any one person in one accident or occurrence, \$1,000,000 for injury to more than one person for any one accident or occurrence, \$300,000 for injury to property in any one accident or occurrence. Proof of insurance coverage shall be included with the application for a permit and shall be filed with the DCD permit center.

(4) For sales of fireworks, the location of the proposed place of business shall comply with the zoning ordinances of the city.

(5) Public displays of fireworks shall comply with the provisions of RCW [70.77.280](#) in that the city's fire code official shall determine whether the proposed display would pose a hazard to property or a danger to persons. The city's fire code official shall prepare a written report detailing the findings and recommendations for or against the issuance of the permit. The fire authority report shall be filed with the DCD permit center. (Ord. 035-23 § 5; Ord. 017-23 § 1 (Exh. A); Ord. 066-21 § 4 (Exh. C); Ord. 032-17 § 3; Ord. 013-16 § 4; Ord. 038-08 § 4; Ord. 026-08 § 3; Ord. 1706 § 2, 1998).

#### **5.60.030 Temporary stands.**

All safe and sane consumer fireworks shall be sold only from temporary stands and must conform to the written rules and regulations of the city's fire code official. (Ord. 035-23 § 6; Ord. 066-21 § 4 (Exh. C); Ord. 013-16 § 5; Ord. 1706 § 3, 1998).

**5.60.040 Number of licenses and stands limited.**

(1) Fourth of July Holiday Period. Each permittee shall be issued a fireworks permit annually and is entitled to only one retail sales outlet. (Ord. 066-21 § 4 (Exh. C); Ord. 013-16 § 6; Ord. 016-09 § 1; Ord. 038-08 § 5; Ord. 026-08 § 4; Ord. 1706 § 4, 1998).

**5.60.050 Exploding fireworks legal period designated.**

No person shall use or explode any fireworks within the city except from 11:00 a.m. to 11:00 p.m. on the fourth day of July of any year and except where public displays are authorized pursuant to the laws of the state of Washington. (Ord. 066-21 § 4 (Exh. C); Ord. 026-08 § 5; Ord. 1706 § 5, 1998).

**5.60.055 Prohibition due to extreme fire danger.**

The mayor, after consulting with the fire authority, and other officials as may be deemed appropriate, may prohibit the discharge of all fireworks during periods of extreme fire danger. In addition, the city council may, after conducting a public hearing, adopt by resolution emergency limitations or prohibitions on the sale of fireworks during periods of extreme fire danger. Such emergency limitations or prohibitions shall be temporary and the reasons necessitating the emergency limitations or prohibitions shall be clearly defined in the resolution. (Ord. 066-21 § 4 (Exh. C); Ord. 015-16 § 1; Ord. 013-16 § 7).

**5.60.060 Chapter supplementary to state law.**

This chapter is intended to implement Chapter [70.77](#) RCW and shall be construed in connection with the law and any and all rules or regulations issued pursuant thereto. (Ord. 066-21 § 4 (Exh. C); Ord. 1706 § 6, 1998).

**5.60.070 Violations – Penalty.**

(1) Any person failing to comply with Chapter [70.77](#) RCW or any rules or regulations of the State Fire Marshal or the city's fire code official shall be guilty of a violation of this chapter.

(2) Any person violating any of the provisions or failing to comply with the mandatory requirements of this chapter shall be guilty of a misdemeanor. Any person convicted of a misdemeanor shall be punished by a fine not to exceed \$1,000 or by imprisonment not to exceed 90 days, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation or any provision of this chapter is committed, continued or permitted by any such person. (Ord. 035-23 § 6; Ord. 066-21 § 4 (Exh. C); Ord. 1706 § 7, 1998).

**5.60.080 Enforcement.**

The city fire code official or duly authorized representative is designated as the enforcing officer of this chapter. (Ord. 035-23 § 7; Ord. 066-21 § 4 (Exh. C); Ord. 1706 § 8, 1998).

The Port Orchard Municipal Code is current through Ordinance 003-24, passed February 13, 2024.

Disclaimer: The city clerk's office has the official version of the Port Orchard Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: <https://www.cityofportorchard.us/>

City Telephone: (360) 876-4407

[Code Publishing Company](#)



## Work Study Session Executive Summary

Issue Title.: 2B Storm Drainage Rates and Capital  
Facility Charges

Meeting Date: April 16, 2024

Time Required: 15 Minutes

Attendees: Charlotte Archer  
Nick Bond

Action Requested:

Adoption of an Ordinance Repealing and Replacing Port Orchard Municipal Code Section 13.06.160, and Amending POMC Sections 13.06.060, 13.06.080, and 13.06.100

**Issue:** Following adoption and in preparing to implement Ordinance No. 038-23, which amended the City's monthly service charge for storm drainage and adopted a capital facility charge for the storm drainage utility, staff identified additional modifications to the code language to facilitate implementation. Staff worked to provide suggested amendments to redress these issues, along with the delayed implementation date to ensure additional public outreach.

**Background:** In 2023, the City Council adopted the City's 2023 Stormwater and Watersheds Comprehensive Plan following a multi-year collaborative effort to evaluate the City's stormwater drainage system and its impact on the community. Concurrently with the development of the Comprehensive Plan, the City commissioned a rate study conducted by FCS Group to evaluate the City's existing monthly base rate for storm drainage, as well as the need for a capital facility charge to fund the construction of additional facilities to support growth. The results of this effort were memorialized in Ordinance No. 038-23, which was adopted by the City Council in late 2023. The Ordinance adopted a capital facility charge, as well as updated the base charge into the future, based on the evaluated needs set forth in the rate study. The Ordinance set an effective date of April 1, 2024, for the implementation of the updated base rate and the capital facilities charge. Port Orchard Municipal Code Chapter 13.06 contains all codified regulations governing the City's Storm Drainage Utility.

Following adoption and in preparing to implement Ordinance No. 038-23, staff identified three issues for remediation prior to implementation:

1. An error in Section 4 of Ordinance No. 038-23, wherein one portion of the section adopted the Capital Facility Charge in the code chapter for Storm Drainage Utility (at POMC 13.06.160), while another sentence purported to adopt the Capital Facility Charge into the existing fee schedule embedded in the POMC chapter for the City's Water/Sewer Utilities (at POMC 13.04.025).

To remedy this confusion, staff propose to repeal and replace POMC 13.06.160 and Section 4 of Ordinance No. 038-23 and re-adopt the language in the correct location: POMC 13.06.160.

2. An inspection fee and procedures for an inspection to occur at the time the capital facility charge is paid was included in both amended POMC 13.06.160 and POMC 13.06.150, but staff determined that the inspection and associated fee was not necessary. The associated inspections occur as a component of existing permitting; thus the inspection added at POMC 13.06.150 and the associated fee added at POMC 13.06.160 were duplicative and unnecessary.

To remedy this duplication, staff propose to remove the language referencing the inspection in POMC 13.06.150 and remove the associated fee through the repeal and replacement of POMC 13.06.160 and Section 4 of Ordinance No. 038-23 (discussed above).

3. A requested clarification regarding the measurement of “Impervious surface unit (ISU)” for residential structures containing more than one dwelling unit. Under the existing regulations, the City charges for storm drainage is based on the ISU count for the parcel for the purposes of calculating the monthly utility service charge. An ISU is defined as “3,000 square feet of impervious ground cover and is the measure of impervious ground cover to be used by the utility in assessing service charges.” The City utilizes a flat rate charge for single-family residential (which is presumed to be one ISU), multiplied the flat rate charge by the number of dwelling units for duplexes and triplexes, and calculated the number of ISUs for multi-family (defined as and commercial accounts based on the measured impervious surface area of those particular uses. In order to ensure that duplex, triplex, as well as single-family residential with ADU(s) were charged in accordance with their impervious surface area, the recommendation was to utilize the measurement approach for all non-single-family residential properties, rather than a multiplier of the base rate. Staff identified less than 100 potentially impacted accounts. If this ordinance is adopted, staff will utilize the measurement methodology to evaluate the ISU count for these properties and assign a new base rate for these properties. It is estimated that the base rate is likely to reduce for many of these accounts, based on initial review of impacted parcel sizes. This calculation method is utilized by neighboring jurisdictions, including Kitsap County.

The ordinance makes the necessary amendments to the definitions applicable to this chapter (at POMC 13.06.060), as well as amendments to the calculation methodology set out in POMC 13.06.080 and POMC 13.06.100.

**Alternative:** Take no action and provide alternative guidance.

**Recommendation:** Staff recommends adoption of an ordinance repealing and replacing Port Orchard Municipal Code Section 13.06.160, and amending POMC Sections 13.06.060, 13.06.080, and 13.06.100.

**Relationship to Comprehensive Plan:** Chapter 7 - Utilities

**Attachments:** (1) Draft Ordinance Repealing and Replacing Port Orchard Municipal Code Section 13.06.160, and Amending POMC Sections 13.06.060, 13.06.080, and 13.06.100; (2) redline of proposed POMC amendments; and (3) copy of Ordinance No. 038-23



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO THE STORM DRAINAGE RATES AND CAPITAL FACILITY CHARGES (CFC); REPEALING AND REPLACING A PORT ORCHARD MUNICIPAL CODE (POMC) SECTION 13.06.160; AMENDING POMC SECTIONS 13.06.060, 13.06.080, AND 13.06.100; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council recently amended the City’s utility rates and fees via Ordinance No. 038-23; and

**WHEREAS**, in the process of implementing the amendments set out in Ordinance No. 038-23, staff identified additional necessary amendments to refine and clarify the City’s implementation of the recently amended rates and fees; and

**WHEREAS**, this effort also identified additional amendment to enables more accurate and equitable measurement of the base rate for the monthly service charge; and

**WHEREAS**, the City Council finds that that the amendments herein are consistent with goals and policies of the City's 2023 Stormwater and Watersheds Comprehensive Plan and related regulations, and serve the public health, safety, and general welfare of the citizens of Port Orchard; now, therefore,

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**SECTION 1. Repealer.** Section 13.06.160, as adopted by Ordinance No. 038-23 at Section 4, is hereby repealed.

**SECTION 2. Adoption.** New Section 13.06.160 of the Port Orchard Municipal Code is hereby adopted to read as follows:

13.06.160 Fee schedule.

(1) The fees set forth below are referenced in POMC 13.06.150.

<b>Storm Drainage Capital Facility Charge</b>	<b>See POMC 13.06.150</b>
Per ISU	\$3,087

\*\*\*

**SECTION 3. Amendment.** Section 13.06.060 of the Port Orchard Municipal Code is hereby amended to read as follows:

13.06.060 Definitions.

The following words when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

(1) "City" shall mean the city of Port Orchard, Washington, a municipal corporation created and existing under the laws of the state of Washington.

(2) "Commercial/multifamily" shall mean all property which is not defined as single-family residential in subsection (6) of this section, including but not limited to those residential structures accommodating two, three or four dwelling units.

(3) "Developed" shall mean that condition of real property altered from its natural state by the addition to or construction on such property of impervious ground cover or other manmade physical improvements (such as clearing or grading) such that the hydrology of the property or portion thereof is materially affected.

(4) "Impervious ground cover" shall mean those hard surfaces which either prevent or retard the entry of water into the soil in the manner that such water entered the soil under natural conditions preexistent to development, or which cause water to run off the surface in greater quantities or at an increased rate of flow than that present under natural conditions preexistent to development, including, without limitation, such surfaces as rooftops, asphalt or concrete sidewalks, paving, driveways and parking lots, walkways, patio areas, storage areas, and gravel, oiled macadam or other surfaces which similarly affect the natural infiltration or runoff patterns existing prior to development. Excluded, however, are all lawns, agricultural areas, and landscaped areas.

(5) "Impervious surface unit (ISU)" shall mean 3,000 square feet of impervious ground cover and is the measure of impervious ground cover to be used by the utility in assessing service charges.

(6) "Single-family residential" shall mean any residential structure designated for occupancy by one dwelling unit. Single-family residential includes "home business" pursuant to POMC Title 20; provided, that the commercial activity remains incidental to the residential use and does not interfere with the residential character of the neighborhood through noise, traffic, safety hazards, or other public nuisances that may be generated by the commercial activity.

(7) "Service charge" shall mean the monthly fee levied by the utility.

(8) "Undeveloped" shall mean that condition of real property unaltered by the construction on or addition to such property of impervious ground cover or physical manmade improvements of any kind that change the hydrology of the property from its natural state.

(9) "Utility" means the storm drainage utility established by Ordinance No. 036-08, passed on October 14, 2008.

**SECTION 4. Amendment.** Section 13.06.080 of the Port Orchard Municipal Code is hereby amended to read as follows:

(1) Three thousand square feet of impervious ground cover shall be equal to one impervious surface unit (ISU).

(2) All single-family residential uses are deemed to contain one equivalent ISU for purposes of the monthly storm drainage utility service charge.

(3) The utility shall determine the actual number of ISUs contained on all other property, including but not limited to duplex, single-family residential with accessory dwelling unit(s), triplex, multifamily, and commercial properties and these accounts shall pay a service charge to be calculated as follows: actual impervious ground cover/3,000 square feet multiplied by the single-family residential rate. In making the calculation of the actual number of ISUs, fractions shall be rounded to the nearest whole number but not less than one.

**SECTION 5. Amendment.** Section 13.06.100 of the Port Orchard Municipal Code is hereby amended to read as follows:

13.06.100 Storm drainage service charges.

In accordance with the basis for a rate structure set forth in POMC 13.06.070 and 13.06.080, there is levied upon all developed real property within the boundaries of the utility the following service charges which shall be collected from the owners of such properties:

(1) Effective June 1, 2024, the storm drainage charges are shown below:

(a) For all single-family residential uses, including mobile homes, the monthly service charge shall be \$18.34.

(b) For all other developed property, including but not limited to duplex, single-family residential with accessory dwelling unit(s), triplex, multifamily, and commercial accounts, the monthly service charge shall be \$18.34, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

(2) Effective January 1, 2025, the storm drainage charges are shown below:

(a) For all detached house accounts, including mobile homes, the monthly service charge shall be \$24.03.

(b) For all other developed property, including but not limited to duplex, single-family residential with accessory dwelling unit(s), triplex, multifamily and commercial accounts, the monthly service charge shall be \$24.03, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

(3) Effective January 1, 2026, the storm drainage charges are shown below:

(a) For all detached houses accounts, including mobile homes, the monthly service charge shall be \$31.47.

(b) For all other developed property, including but not limited to duplex, single-family residential with accessory dwelling unit(s), triplex, multifamily and commercial accounts, the monthly service charge shall be \$31.47, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

(4) Effective January 1, 2027, the storm drainage charges are shown below:

(a) For all detached houses, including mobile homes, the monthly service charge shall be \$32.42.

(b) For all other developed property, including but not limited to duplex, single-family residential with accessory dwelling unit(s), triplex, multifamily and commercial accounts, the monthly service charge shall be \$32.42, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

(5) Effective January 1, 2028, the storm drainage charges are shown below:

(a) For all detached houses, including mobile homes, the monthly service charge shall be \$33.39.

(b) For all other developed property, including but not limited to duplex, single-family residential with accessory dwelling unit(s), triplex, multifamily and commercial accounts, the monthly service charge shall be \$33.39, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

**SECTION 6. Amendment.** Section 13.06.150 of the Port Orchard Municipal Code is hereby amended to read as follows:

13.06.150 Storm drainage capital facilities charge.

(1) The storm drainage capital facility charge is designed to mitigate the impact of new demands on the existing storm drainage system and to require new or expanded development

to pay its fair share of the value of the storm drainage system including, but not limited to, storm drainage transmission, storage, management, filtration, and dispersal facilities in compliance with the City's NPDES permit. The storm drainage capital facility charge applies to new construction, changes in use, and building modifications which modify the ISU count for the property. Prior to constructing any impervious surface and obtaining either a land disturbing activity permit/stormwater drainage permit and/or building permit, the property owner shall pay, in addition to other applicable charges, the applicable stormwater drainage capital facility charge. The storm drainage capital facility charge for a residential or nonresidential connection is based on a set fee per ISU which is set forth in POMC 13.06.160.

(2) Storm drainage Capital Facility Charge - Exception for Redevelopment or Change of Use. Property owners may apply to receive a partial or a full exception to the assessment of the storm drainage capital facility charge, provided all of the following requirements are met:

(a) Property owners must submit an application for a partial or a full exception on the city's application form prior to the issuance of any land use or development permits which change the use or development of the property; and

(b) A nonresidential or residential account has continuously paid a minimum base fee as applicable; and

(c) The property owner decides to construct a new building, change the original use, or modify the original building; and

(d) For a full exception, after the building improvements are completed, or new use implemented, the total calculated ISU for the account will be equal to or less than the ISU number calculated by the city under the prior use or development consistent with this section. A partial exception is applicable when the new ISU calculation is larger than the existing ISU calculation. In such case the city will establish the prior calculated ISU which will be used as the basis for a credit toward the storm drainage capital facility charge.

**SECTION 7. Severability.** Should any portion of this ordinance be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

**SECTION 8. Savings Clause.** Those portions of the Port Orchard Municipal Code which are amended by this ordinance shall remain in force and effect as set out prior to this ordinance until the effective date of this ordinance. Such amendments shall not be construed as affecting any existing right acquired under the laws repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder.

**SECTION 9. Publication.** This Ordinance shall be published by an approved summary consisting of the title.

**SECTION 10. Effective Date.** This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this \_\_ day of February 2024.

\_\_\_\_\_  
Robert Putansuu, Mayor

ATTEST:

SPONSOR:

\_\_\_\_\_  
Brandy Wallace, MMC, City Clerk

\_\_\_\_\_  
, Councilmember

APPROVED AS TO FORM:

\_\_\_\_\_  
Charlotte A. Archer, City Attorney

PUBLISHED:

EFFECTIVE DATE:

13.06.060 Definitions.

The following words when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

(1) “City” shall mean the city of Port Orchard, Washington, a municipal corporation created and existing under the laws of the state of Washington.

(2) “Commercial/multifamily” shall mean all property which is not defined as single-family residential in subsection (6) of this section, including but not limited to those residential structures accommodating two, three or four dwelling units.

(3) “Developed” shall mean that condition of real property altered from its natural state by the addition to or construction on such property of impervious ground cover or other manmade physical improvements (such as clearing or grading) such that the hydrology of the property or portion thereof is materially affected.

(4) “Impervious ground cover” shall mean those hard surfaces which either prevent or retard the entry of water into the soil in the manner that such water entered the soil under natural conditions preexistent to development, or which cause water to run off the surface in greater quantities or at an increased rate of flow than that present under natural conditions preexistent to development, including, without limitation, such surfaces as rooftops, asphalt or concrete sidewalks, paving, driveways and parking lots, walkways, patio areas, storage areas, and gravel, oiled macadam or other surfaces which similarly affect the natural infiltration or runoff patterns existing prior to development. Excluded, however, are all lawns, agricultural areas, and landscaped areas.

(5) “Impervious surface unit (ISU)” shall mean 3,000 square feet of impervious ground cover and is the measure of impervious ground cover to be used by the utility in assessing service charges.

(6) “Single-family residential” shall mean any residential structure designated for occupancy by one dwelling unit. three or less family households (single-family, duplex and triplex), including those uses which may Single-family residential includes “home business” pursuant to POMC Title 20; provided, that the commercial activity remains incidental to the residential use and does not interfere with the residential character of the neighborhood through noise, traffic, safety hazards, or other public nuisances that may be generated by the commercial activity.

(7) “Service charge” shall mean the monthly fee levied by the utility.

(8) “Undeveloped” shall mean that condition of real property unaltered by the construction on or addition to such property of impervious ground cover or physical manmade improvements of any kind that change the hydrology of the property from its natural state.

(9) “Utility” means the storm drainage utility established by Ordinance No. 036-08, passed on October 14, 2008.

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POMC 13.06.080 Storm drainage service charge calculation is hereby amended as follows:

(1) Three thousand square feet of impervious ground cover shall be equal to one impervious surface unit (ISU).

(2) All single-family residential ~~accounts-uses~~ (including mobile homes) are deemed to contain one equivalent ISU for purposes of the monthly storm drainage utility service charge.

(3) The utility shall determine the actual number of ISUs contained on all other property, including but not limited to duplex, single-family residential with accessory dwelling unit(s), triplex, multifamily and commercial properties and these accounts shall pay a service charge to be calculated as follows: actual impervious ground cover/3,000 square feet ~~multiplied~~ by the single-family residential rate. In making the calculation of the actual number of ISUs, fractions shall be rounded to the nearest whole number but not less than one.

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POMC 13.06.100 Storm drainage service charges.

In accordance with the basis for a rate structure set forth in POMC 13.06.070 and 13.06.080, there is levied upon all developed real property within the boundaries of the utility the following service charges which shall be collected from the owners of such properties:

(1) Effective June 1, 2024, the storm drainage charges are shown below:

(a) For all detached houses, including mobile homes, the monthly service charge shall be \$18.34.

~~(b) For all duplexes, or for detached houses with an accessory dwelling unit, the monthly service charge shall be \$9.17 per residential unit.~~

~~(c) For all triplexes, for a duplex with an ADU, or for detached house with two ADUs, the monthly service charge shall be \$6.12 per residential unit.~~

~~(d)~~ For all other developed property, including but not limited to duplex, single-family residential with accessory dwelling unit(s), triplex, multifamily and commercial accounts, the monthly service charge shall be \$18.34, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

(2) Effective January 1, 2025, the storm drainage charges are shown below:

(a) For all detached house accounts, including mobile homes, the monthly service charge shall be \$24.03.

~~(b) For all duplexes, or for detached houses with an accessory dwelling unit, the~~



~~monthly service charge shall be \$12.02 per residential unit.~~

~~(c) For all triplexes, for a duplex with an ADU, or for detached houses with two ADUs, the monthly service charge shall be \$8.01 per residential unit.~~

~~(b)~~ For all other developed property, including but not limited to duplex, single-family residential with accessory dwelling unit(s), triplex, multifamily and commercial accounts, the monthly service charge shall be \$24.03, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

(3) Effective January 1, 2026, the storm drainage charges are shown below:

(a) For all detached houses accounts, including mobile homes, the monthly service charge shall be \$31.47.

~~(b) For all duplexes, or for detached houses with an accessory dwelling unit, the monthly service charge shall be \$15.74 per residential unit.~~

~~(c) For all triplexes, for a duplex with an ADU, or for detached houses with two ADUs, the monthly service charge shall be \$10.49 per residential unit.~~

~~(b)~~ For all other developed property, including but not limited to duplex, single-family residential with accessory dwelling unit(s), triplex, multifamily and commercial accounts, the monthly service charge shall be \$31.47, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

(4) Effective January 1, 2027, the storm drainage charges are shown below:

(a) For all detached houses, including mobile homes, the monthly service charge shall be \$32.42.

~~(b) For all duplexes, or for detached houses with an accessory dwelling unit, the monthly service charge shall be \$16.21 per residential unit.~~

~~(c) For all triplexes, for a duplex with an ADU, or for detached houses with two ADUs, the monthly service charge shall be \$10.81 per residential unit.~~

~~(b)~~ For all other developed property, including but not limited to duplex, single-family residential with accessory dwelling unit(s), triplex, multifamily and commercial accounts, the monthly service charge shall be \$32.42, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

(5) Effective January 1, 2028, the storm drainage charges are shown below:

(a) For all detached houses, including mobile homes, the monthly service charge shall be \$33.39.

~~(b) For all duplexes, or for detached houses with an accessory dwelling unit, the monthly service charge shall be \$16.70 per residential unit.~~

~~(c) For all triplexes, for duplexes with an ADU, or for detached houses with two ADUs, the monthly service charge shall be \$11.12 per residential unit.~~

~~(bd)~~ For all other developed property, including but not limited to duplex, single-family residential with accessory dwelling unit(s), triplex, multifamily and commercial accounts, the monthly service charge shall be \$33.39, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

\*\*\*

13.06.150 Storm drainage capital facilities charge.

(1) The storm drainage capital facility charge is designed to mitigate the impact of new demands on the existing storm drainage system and to require new or expanded development to pay its fair share of the value of the storm drainage system including, but not limited to, storm drainage transmission, storage, management, filtration, and dispersal facilities in compliance with the City's NPDES permit. The storm drainage capital facility charge applies to new construction, changes in use, and building modifications which modify the ISU count for the property. Prior to constructing any impervious surface and obtaining either a land disturbing activity permit/stormwater drainage permit and/or building permit, the property owner shall pay, in addition to other applicable charges, the applicable stormwater drainage capital facility charge. ~~Prior to connecting to the city's storm drainage system and obtaining either a building permit or certificate of occupancy, the property owner shall pay, in addition to other applicable charges, the applicable storm drainage capital facility charge.~~ The storm drainage capital facility charge for a residential or nonresidential connection is based on a set fee per ISU which is set forth in POMC 13.06.160.

(2) Storm drainage Capital Facility Charge - Exception for Redevelopment or Change of Use. Property owners may apply to receive a partial or a full exception to the assessment of the storm drainage capital facility charge, provided all of the following requirements are met:

(a) Property owners must submit an application for a partial or a full exception on the city's application form prior to the issuance of any land use or development permits which change the use or development of the property; and

(b) A nonresidential or residential account has continuously paid a minimum base fee as

applicable; and

(c) The property owner decides to construct a new building, change the original use, or modify the original building; and

(d) For a full exception, after the building improvements are completed, or new use implemented, the total calculated ISU for the account will be equal to or less than the ISU number calculated by the city under the prior use or development consistent with this section. A partial exception is applicable when the new ISU calculation is larger than the existing ISU calculation. In such case the city will establish the prior calculated ISU which will be used as the basis for a credit toward the storm

~~(3) At the time the storm drainage capital facility charge is paid, a storm drainage inspection fee shall be paid. The storm drainage inspection fee is set forth in POMC 13.06.160.~~

\*\*\*

POMC 13.06.160 Fee schedule.

(1) The fees set forth below are referenced in POMC 13.06.150.

<b>Storm Drainage Capital Facility Charge</b>	<b>POMC 13.06.150</b>
Per ISU	\$3,087

\*\*\*

**ORDINANCE NO. 038-23**

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO THE STORM DRAINAGE RATES AND CAPITAL FACILITY CHARGES (CFC); AMENDING PORT ORCHARD MUNICIPAL CODE (POMC) SECTION 13.06.100 TO UPDATE STORM DRAINAGE RATES THROUGH 2028; ADDING NEW SECTIONS 13.06.150 AND 13.06.160 TO THE POMC TO ADOPT STORM DRAINAGE CAPITAL FACILITY CHARGES AND INSPECTION FEES; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City has been in the process of updating its Stormwater and Watersheds Comprehensive Plan; and

**WHEREAS**, on November 28, 2023, the City Council adopted the 2023 Stormwater and Watersheds Comprehensive Plan by resolution; and

**WHEREAS**, in coordination with the 2023 Stormwater and Watersheds Comprehensive Plan, the City reviewed storm drainage rates and the need for a capital facilities fee for new or expanded buildings and/or development that impact the storm drainage system; and

**WHEREAS**, in order to implement these rate changes and fees, amendments to Chapter 13.06 "Storm Drainage Utility" are needed; and

**WHEREAS**, the City Council finds that the amendments herein are consistent with goals and policies of the City's 2023 Stormwater and Watersheds Comprehensive Plan and related regulations, and serve the public health, safety, and general welfare of the citizens of Port Orchard; **now, therefore,**

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**SECTION 1.** The above recitals are adopted as findings for this Ordinance.

**SECTION 2.** Section 13.06.100 of the Port Orchard Municipal Code is hereby amended to read as follows:

**13.06.100 Storm drainage service charges.**

In accordance with the basis for a rate structure set forth in POMC 13.06.070 and 13.06.080, there is levied upon all developed real property within the boundaries of the utility the following service charges which shall be collected from the owners of such properties:

- (1) ~~Effective January 1, 2009, the storm drainage charges are shown below:~~
  - (a) ~~For all single family residential accounts, including mobile homes, the monthly~~

~~service charge shall be \$7.00.~~

~~(b) For all duplexes and triplexes, the monthly service charge shall be \$7.00 for each residential unit.~~

~~(c) For all other developed property, including but not limited to multifamily and commercial accounts, the monthly service charge shall be \$7.00, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.~~

~~(2) Effective January 1, 2015, the storm drainage charges are shown below:~~

~~(a) For all single-family residential accounts, including mobile homes, the monthly service charge shall be \$9.70.~~

~~(b) For all duplexes and triplexes, the monthly service charge shall be \$9.70 for each residential unit.~~

~~(c) For all other developed property, including but not limited to multifamily and commercial accounts, the monthly service charge shall be \$9.70, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.~~

~~(3) Effective June 1, 2015~~2024, the storm drainage charges are shown below:

~~(a) For all single-family residential accounts, including mobile homes, the monthly service charge shall be \$14.00~~18.34.

~~(b) For all duplexes and triplexes, the monthly service charge shall be \$14.00~~18.34 for each residential unit.

~~(c) For all other developed property, including but not limited to multifamily and commercial accounts, the monthly service charge shall be \$14.00~~18.34, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

(2) Effective January 1, 2025, the storm drainage charges are shown below:

(a) For all single-family residential accounts, including mobile homes, the monthly service charge shall be \$24.03.

(b) For all duplexes and triplexes, the monthly service charge shall be \$24.03 for each residential unit.

(c) For all other developed property, including but not limited to multifamily and commercial accounts, the monthly service charge shall be \$24.03, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

(3) Effective January 1, 2026, the storm drainage charges are shown below:

(a) For all single-family residential accounts, including mobile homes, the monthly service charge shall be \$31.47.

(b) For all duplexes and triplexes, the monthly service charge shall be \$31.47 for each residential unit.

(c) For all other developed property, including but not limited to multifamily and commercial accounts, the monthly service charge shall be \$31.47, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

(4) Effective January 1, 2027, the storm drainage charges are shown below:

(a) For all single-family residential accounts, including mobile homes, the monthly service charge shall be \$32.42.

(b) For all duplexes and triplexes, the monthly service charge shall be \$32.42 for each residential unit.

(c) For all other developed property, including but not limited to multifamily and commercial accounts, the monthly service charge shall be \$32.42, multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

(5) Effective January 1, 2028, the storm drainage charges are shown below:

(a) For all single-family residential accounts, including mobile homes, the monthly service charge shall be \$33.39.

(b) For all duplexes and triplexes, the monthly service charge shall be \$33.39 for each residential unit.

(c) For all other developed property, including but not limited to multifamily and commercial accounts, the monthly service charge shall be \$33.39 multiplied by the number of ISUs determined by the utility to be contained in such parcel pursuant to POMC 13.06.080.

**SECTION 3.** A new Section 13.06.150 is hereby added to the Port Orchard Municipal Code to read as follows:

**13.06.150 Storm drainage capital facilities charge.**

(1) The storm drainage capital facility charge is designed to mitigate the impact of new demands on the existing storm drainage system and to require new or expanded development to pay its fair share of the value of the storm drainage system including, but not limited to, storm drainage transmission, storage, management, filtration, and dispersal facilities in compliance with the City's NPDES permit. The storm drainage capital facility charge applies to new construction, changes in use, and building modifications which modify the ISU count for the property. Prior to connecting to the city's storm drainage system and obtaining either a building permit or certificate of occupancy, the property owner shall pay, in addition to other applicable charges, the applicable storm drainage capital facility charge. The storm drainage capital facility charge for a residential or nonresidential connection is based on a set fee per ISU which is set forth in POMC 13.06.160.

(2) Storm drainage Capital Facility Charge – Exception for Redevelopment or Change of Use. Property owners may apply to receive a partial or a full exception to the assessment of the storm drainage capital facility charge, provided all of the following requirements are met:

(a) Property owners must submit an application for a partial or a full exception on the city's application form prior to the issuance of any land use or

development permits which change the use or development of the property; and

(b) A nonresidential or residential account has continuously paid a minimum base fee as applicable; and

(c) The property owner decides to construct a new building, change the original use, or modify the original building; and

(d) For a full exception, after the building improvements are completed, or new use implemented, the total calculated ISU for the account will be equal to or less than the ISU number calculated by the city under the prior use or development consistent with this section. A partial exception is applicable when the new ISU calculation is larger than the existing ISU calculation. In such case the city will establish the prior calculated ISU which will be used as the basis for a credit toward the storm

(3) At the time the storm drainage capital facility charge is paid, a storm drainage inspection fee shall be paid. The storm drainage inspection fee is set forth in POMC 13.06.160.

**SECTION 4.** A new Section 13.06.160 is hereby added to the Port Orchard Municipal Code to read as follows:

**13.04.025 Fee schedule.**

(1) The fees set forth below are referenced in POMC 13.06.160.

<b>Storm Drainage Fees</b>	
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<b>Storm Drainage Capital Facility Charge</b>	<b>POMC 13.06.150</b>
Per ISU	\$3,087

<b>Storm Drainage Inspection Fee</b>	<b>POMC 13.06.155</b>
Per Connection	\$111.37



**SECTION 5. Severability.** If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause, or phrase of this ordinance.

**SECTION 6. Corrections.** Upon the approval of the city attorney, the city clerk and/or code publisher is authorized to make any necessary technical corrections to this Ordinance, including but not limited to the correction of scrivener's/clerical errors, references, Ordinance numbering, section/subsection numbers, and any reference thereto.

**SECTION 7. Effective Date.** This ordinance shall be posted and published as required by law and shall be effective and in full force five (5) days following publication, provided, however, that the rates and fees described in Sections 2 through 4 above, shall be effective April 1, 2024. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor Pro-Tem and attested by the Clerk in authentication of such passage this 12<sup>TH</sup> day of December 2023.

DocuSigned by:  
*Mark Trenary*  
AFF15B026C3E4DB  
\_\_\_\_\_  
Mark Trenary, Mayor Pro-Tem

ATTEST:

*Jenine Floyd*  
\_\_\_\_\_  
Jenine Floyd, CMC, Deputy City Clerk

APPROVED AS TO FORM:

DocuSigned by:  
*[Signature]*  
203701E25E20A57  
\_\_\_\_\_  
Charlotte A. Archer, City Attorney

SPONSOR:

*Cindy Lucarelli*  
\_\_\_\_\_  
Cindy Lucarelli, Councilmember

PUBLISHED: December 15, 2023  
EFFECTIVE DATE: December 20, 2023







## Work Study Session Executive Summary

Issue Title.: 2C Proposed 2024 Zoning Map  
Time Required: 20 Minutes

Meeting Date: April 16, 2024  
Attendees: Nick Bond

Action Requested:

Review and discuss the Zoning Map that is proposed in conjunction with the 2024 Comprehensive Plan.

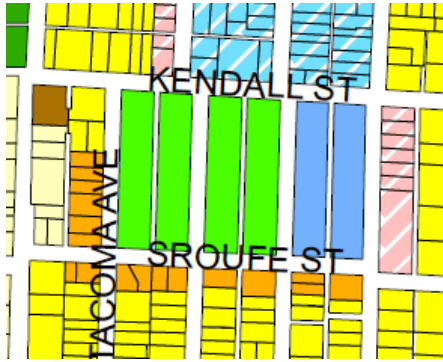
**Issue:** The City is in the middle of its 2024 Periodic Update to the Comprehensive Plan. An updated Comprehensive Plan must be adopted by December 31, 2024, and is required to plan for the City through 2044. Port Orchard currently has more than enough residential land capacity to accommodate its 2044 population targets. Its employment land capacity is slightly below that which is needed to accommodate the 2044 employment targets. Very minor zoning map changes have been proposed as part of the 2024 Comp Plan Periodic Update process to address the employment land shortage and other issues.

**Growth Targets and Land Capacity:** The Kitsap Countywide Planning Policies require that Port Orchard plan, as part of the 2024 Periodic Update to the Comprehensive Plan, accommodate 10,500 additional residents and 5,400 more jobs between 2020 and 2044. The 2019 Kitsap County Buildable Lands Report showed that the City has land capacity to accommodate an additional 16,250 residents and 5,243 more jobs. The City needs to convert a small amount of residential land to land that supports employment to make up the employment land capacity deficit of 157 jobs.

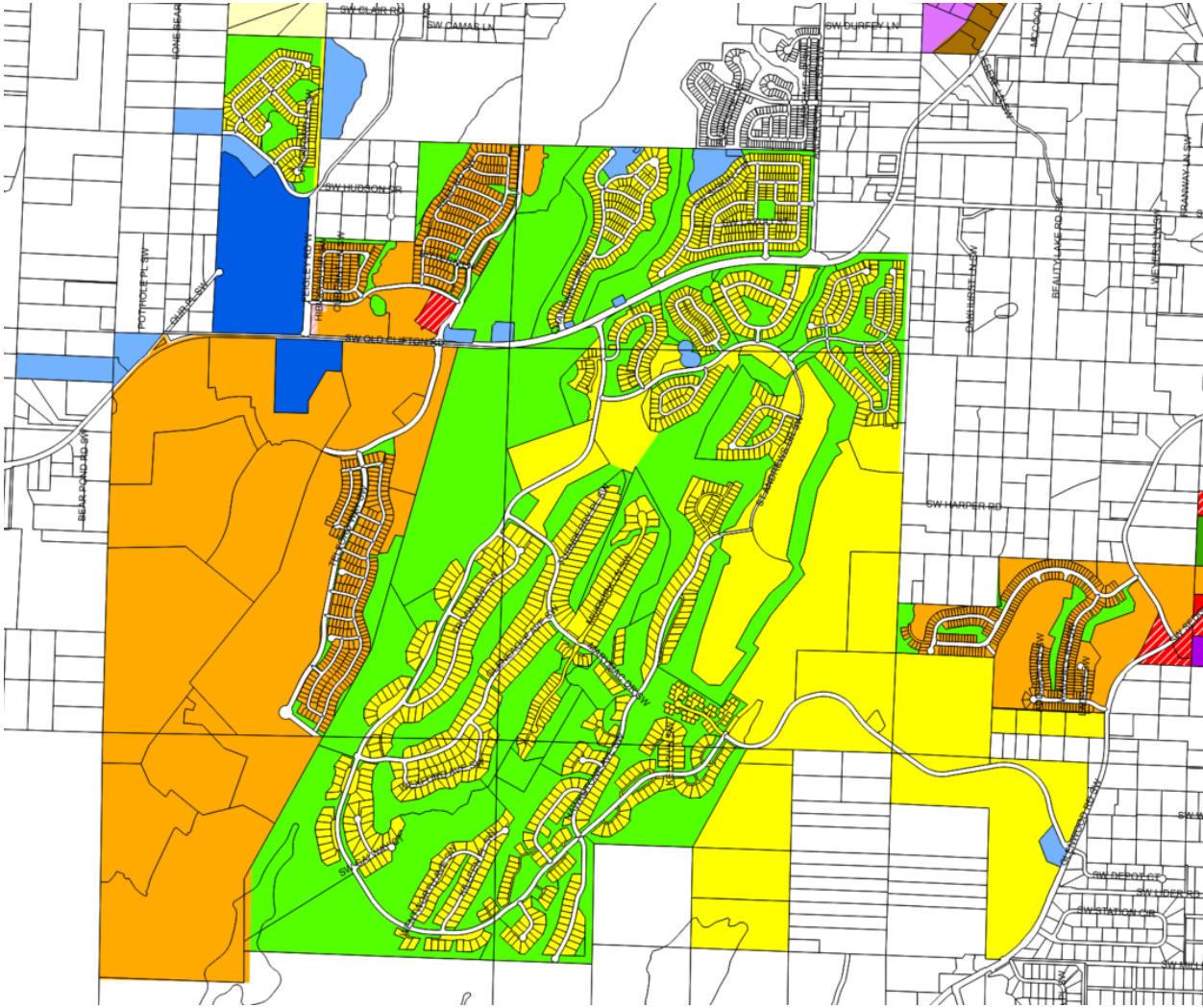
Recently, Port Madison Enterprises, the development arm of the Suquamish Tribe, purchased lands located south of Sedgwick near Bravo Terrace and Geiger Avenue comprising 56.95 acres. Port Madison Enterprises has applied to the Department of the Interior to have these lands recognized as tribal land. As tribal land, the City's zoning code will no longer apply to the property. However, the zoning in our plan should still reflect the likely use of the land if Port Madison Enterprises were to develop the land. Port Madison Enterprises has indicated that they solely develop commercial property and do not develop residential projects. As such, this land is proposed to be changed from Commercial Mixed-Use (3.44 acres) and R4 (53.51 acres) to Commercial Heavy. These changes create more than enough additional employment capacity to correct our deficit of employment capacity relative to our employment target. The Port Madison Enterprises-owned land proposed for Commercial Heavy CH zoning is shown below:



**Park Oriented Development:** The Port Orchard Housing Action Plan (HAP), completed in 2023, contained some additional recommendations for minor zoning changes concerning “Park Oriented Development.” The HAP suggested that rezoning from residential low density (Residential 2 -R2) to neighborhood mixed-use be considered in the vicinity of Givens Park, McCormick Village Park, and Central (Clayton) Park. Park oriented development was previously approved as part of the McCormick Village Subarea Plan and is currently under development. DCD is recommending that the City consider the recommended zoning changes in proximity to Givens Park at this time but forgo any changes surrounding Central Park. Areas north of Givens Park are currently zoned Business Professional Mixed-Use (blue with white cross hatching in the map below) in support of the County Courthouse Campus. Areas along Sidney Avenue across from the Givens Center and areas on the West side of Cline are currently zoned Neighborhood Mixed-Use (pink with white cross hatching on the map below). Areas to the northwest, west, and south of Givens Park are currently zoned R2. Rather than opening the door to commercial development on these frontages consistent with the Housing Action Plan, staff suggests instead changing some of the R2 properties to be zoned R3 in the hopes of stimulating some interest in Park Oriented Residential Development. This action would also rectify an existing non-conforming use along Sroufe Street. The properties in solid orange on the image below are proposed for a change from R2 to R3 zoning:



**Parks and Recreation/Public Facilities Zoning:** The other proposed zoning changes that have been initiated intend to correctly identify parks and open space lands as well as public facilities. Currently all residential open space tracts conveyed as part of a subdivision are zoned residential (primarily R1, R2, and R3). Likewise, the 18-hole McCormick Woods Golf Course is zoned residential. This is misleading to someone viewing the zoning map the idea that these areas are to be developed residentially, rather than showing these lands as dedicated open space or as a golf course. Likewise, there are numerous stormwater ponds in the city that are shown as residential on the zoning map rather than as public facilities. The map is proposed to be updated to correct these designations. As open space gets dedicated as part of future subdivisions, the zoning map will need to be updated to correctly identify open space tracts as being in a parks and recreation designation. It is important to note that these changes will not impact the City's population targets or land capacity as these areas were considered not to have residential capacity in the 2019 Buildable Land Report. Prior to the proposed map changes, all of the bright green that is on the proposed zoning map as shown below was zoned R2 or R3 (except for McCormick Village Park):



**Alternative:** The only change that the City is required to make at this time is to address the shortage of employment land available to accommodate our employment target. There are many ways to do this, but the proposal concerning the Land owned by Port Madison Enterprises is a simple and easy solution. The Council could direct staff not to proceed with the other two proposed changes if desired. The City intends to notify affected property owners of the proposed changes as part of the Comprehensive Plan Periodic Update process. There are other ways to address the employment capacity issue, but exploring alternatives could risk the city missing its December 31, 2024 deadline and could threaten the City’s ability to seek state and federal (PSRC) funding.

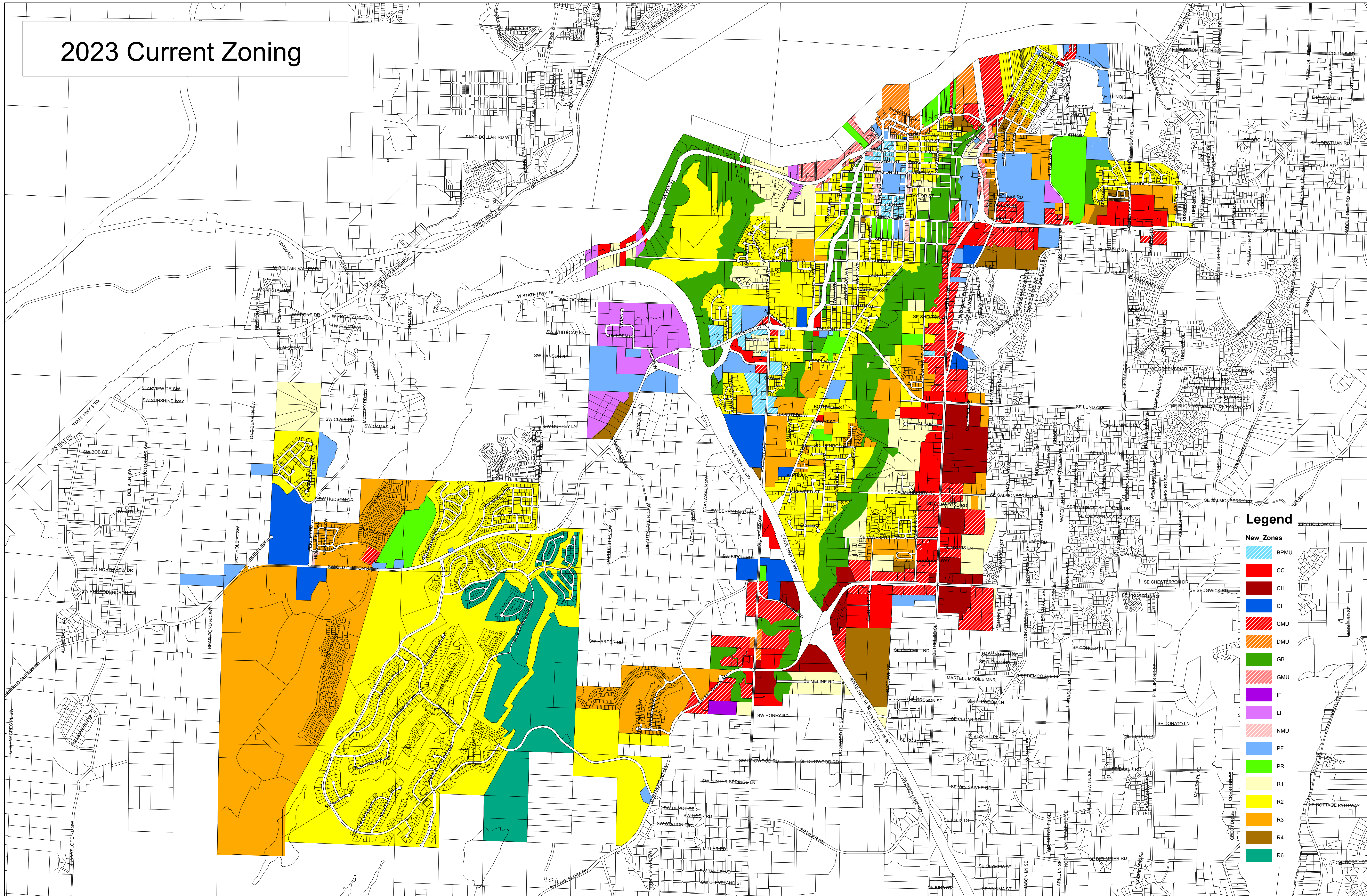
**Recommendation:** Staff recommends that the City Council discuss the proposed zoning changes and provide staff with direction on the proposed changes as described herein.

**Relationship to Comprehensive Plan:** The proposed changes are being made as part of the City’s Periodic Update to the Comprehensive Plan and Development Regulations.

**Attachments:** Housing Action Plan section 4.2.3, Existing Zoning Map, Proposed Zoning Map.



# 2023 Current Zoning



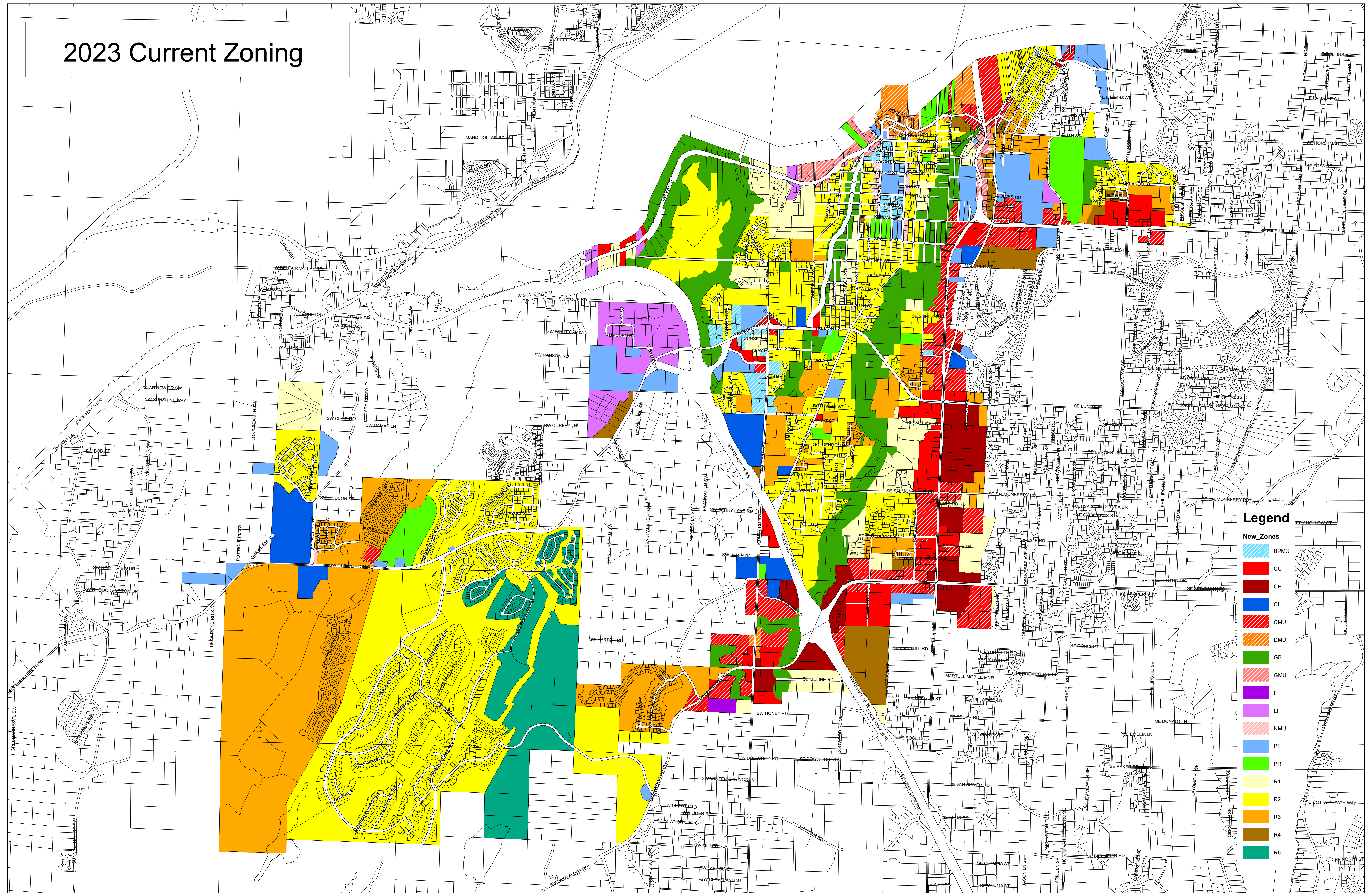
## Legend

### New\_Zones

- ▨ BPMU
- ▨ CC
- ▨ CH
- ▨ CI
- ▨ CMU
- ▨ DMU
- ▨ GB
- ▨ GMU
- ▨ IF
- ▨ LI
- ▨ NMU
- ▨ PF
- ▨ PR
- ▨ R1
- ▨ R2
- ▨ R3
- ▨ R4
- ▨ R6



# 2023 Current Zoning



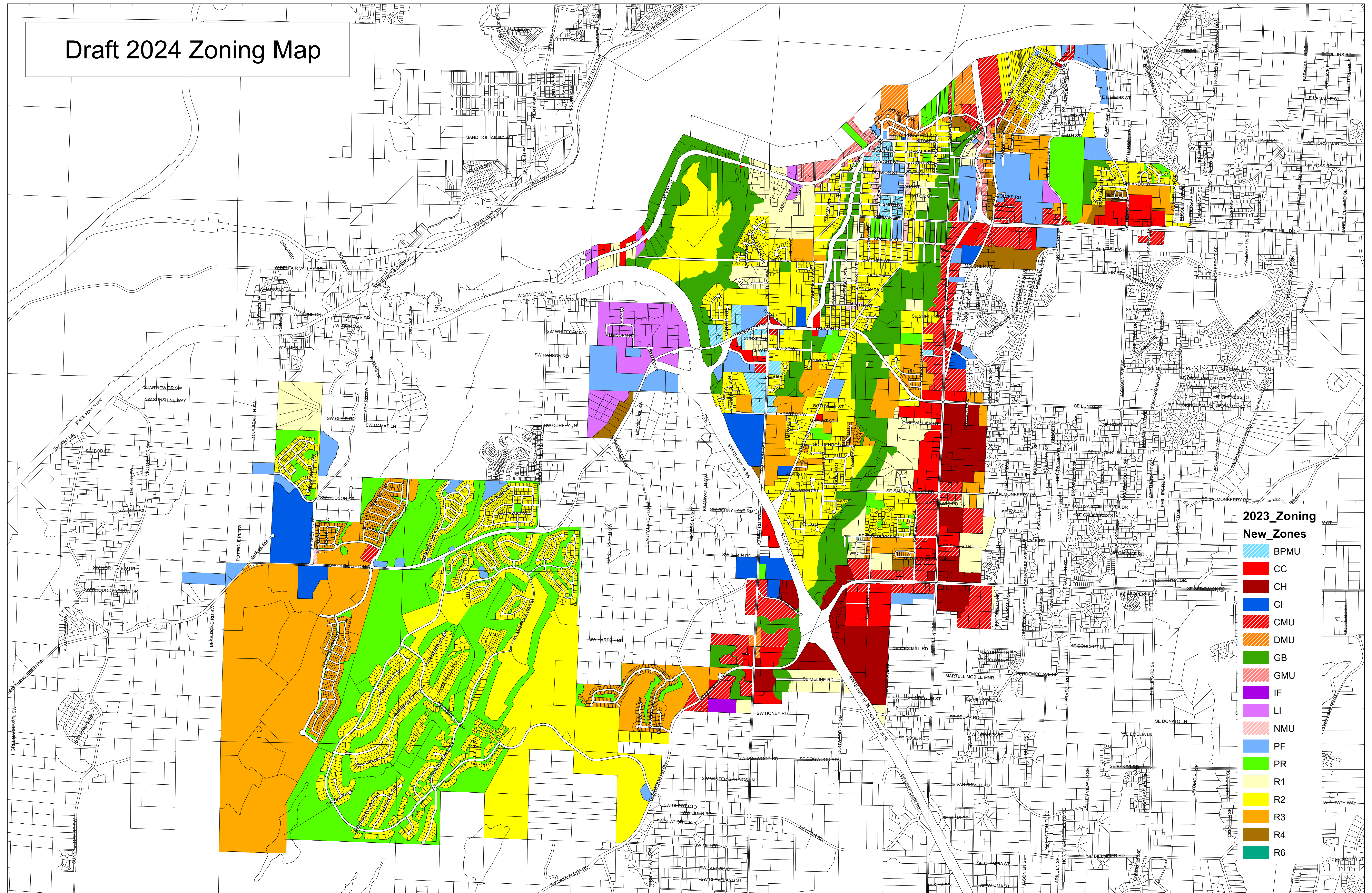
## Legend

### New\_Zones

- ▨ BPMU
- ▨ CC
- ▨ CH
- ▨ CI
- ▨ CMU
- ▨ DMU
- ▨ GB
- ▨ GMU
- ▨ IF
- ▨ LI
- ▨ NMU
- ▨ PF
- ▨ PR
- ▨ R1
- ▨ R2
- ▨ R3
- ▨ R4
- ▨ R6



# Draft 2024 Zoning Map



## 2023\_Zoning New\_Zones

- BPMU
- CC
- CH
- CI
- CMU
- DMU
- GB
- GMU
- IF
- LI
- NMU
- PF
- PR
- R1
- R2
- R3
- R4
- R6



### 4.2.3 – Park-Oriented Development

**Action:** Consider increasing zoning capacity around Port Orchard’s major parks.

Port Orchard’s parks are major assets of the community, and access to outdoor recreation is important for public health and well-being. Allowing more housing near major parks and recreation uses (such as within a quarter-mile) can have several benefits, including allowing more people to walk and bike to parks for healthy recreation and encouraging a long-term increase in park users and community ownership of parks. Park access is particularly important for families with children. Notable rezoning opportunities are in the areas around Givens Playfield (which is also adjacent to a community center), McCormick Village Park, and Clayton Park. Most parks are also near transit stops.

Part of the area north of Givens Playfield is also near the Kitsap County campus and zoned BPMU. This area consists mostly of detached homes and some vacant lots. The zoning encourages a transition to commercial uses over time, though little such activity has occurred. Rezoning this area for park-oriented development could also have the dual benefits of increasing the feasibility of mixed-use development with commercial space and multifamily housing.



Figure 17. The vicinity of Givens Playfield (Google Maps)



Another large park which Port Orchard residents utilize is South Kitsap Regional Park. This is currently outside the city limits but contained in the urban growth area. When this area is annexed the City should consider park-oriented zoning that allows for a wider range of housing types near the park.

Recently adopted development regulations for the area near the planned west entrance to McCormick Village Park allow middle housing development and a proposed mixed housing neighborhood is in permitting review. However, there are other unentitled properties near McCormick Village Park and the golf course clubhouse that may be candidates for multifamily and middle housing uses. These changes would ensure that all areas of the city provide opportunities for people of different economic means with the opportunity to live and work (see further discussion in the introduction to Strategy 2.1).



Figure 18. A concept for a mix of housing including middle housing from the recently adopted McCormick Village Subarea Plan in a location adjacent to McCormick Village Park.



Figure 19. Examples of parcels highlighted in green that could be zoned for multifamily or middle housing due to their proximity to parks and recreation amenities.



## Work Study Session Executive Summary

Issue Title.: 2D Middle Housing Options - Implementation of  
WA State Department of Commerce Middle  
Housing Grant

Meeting Date: April 16, 2024

Attendees: Nick Bond

Time Required: 30 Minutes

Action Requested:

Review and discuss the Middle Housing Options Memo prepared as part of the Department of Commerce Middle Housing Grant.

**Issue:** The Washington State Legislature passed House Bill 1110 in 2023, followed by ESHB 2321 in 2024, which significantly impacted housing planning for cities like Port Orchard. These laws mandate that cities of certain sizes and locations permit multiple dwelling units per lot in a middle housing form. The attached memorandum was prepared as a requirement of the City's Washington State Department of Commerce Middle Housing Grant as described in the Scope of Work for C087-23. The Memorandum outlines the requirements of HB 1110 and ESHB 2321 and references the City of Port Orchard Housing Action Plan and is intended to serve as a guide for the City Council.

Middle housing, as defined in RCW 36.70A.030, includes various building types that harmonize with single-family houses but offer multiple units within a single structure, such as duplexes, triplexes, and townhouses. It plays a crucial role in addressing housing needs by providing diverse housing options, promoting affordability, supporting efficient land use, and enhancing walkability and accessibility in neighborhoods.

Port Orchard's zoning designations subject to middle housing requirements include R1, R2 and R3 zones, primarily dedicated to single-family use. However, Port Orchard is required to allow for at least two units per lot in residential zones, with the potential to require more as the population grows, which requires adjustments to our current zoning regulations.

Port Orchard's current regulations offer flexibility in accommodating various housing types, including those required by HB 1110 and ESHB 2321. However, code amendments are necessary to meet state mandates. Those amendments include permitting duplexes within the R1 designation, redesignating properties to R2 districts and creating additional building types.

Alternative 1 proposes a straightforward code amendment to permit duplexes in the R1 designation, ensuring compliance with HB 1110. Alternative 2 is a proactive approach which suggests redesignating properties to R2 zoning districts, repealing existing R1 zoning standards, and implementing middle housing building types mandated by state law. Alternative 2 is in anticipation of Port Orchard's population exceeding the 25,000-population threshold and becoming a Tier Two city. These alternatives aim to achieve compliance with state mandates, promote affordability, and plan effectively for future growth in Port Orchard.

**Alternative:** The City Council could choose a streamlined approach to middle housing implementation by focusing solely on addressing the requirements of HB 1110 and ESHB 2321 through Alternative 1. This alternative suggests including duplexes as a permitted building type within the R1 zone, thereby meeting the minimum requirement of allowing two units per lot.

The Council may choose not to pursue the other proposed changes related to middle housing in the R2 district and direct staff to prioritize the inclusion of duplexes in the R1 zone postponing any work related to middle housing in the R2 district until the population threshold is exceeded.

**Recommendation:** Staff recommends that the City Council discuss the proposed alternatives and provide staff with direction on the proposed changes as described herein.

**Relationship to Comprehensive Plan:** The memo outlines the new requirements of the Growth Management Act which must be implemented through the City's Comprehensive Plan and Development Regulations.

**Attachments:** Memorandum- Middle Housing Options



**CITY OF PORT ORCHARD**  
Department of Community Development  
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Port Orchard, WA 98366  
Phone (360) 874-5533 • Fax (360) 876-4980

# Memorandum

**To:** The Port Orchard City Council

**From:** Nicholas Bond, AICP

**Date:** April 1, 2024

**Re:** Middle Housing Options - Implementation of Washington State Department of Commerce Middle Housing Grant

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## **At Issue:**

In 2023, the Washington State Legislature passed House Bill 1110, requiring significant changes to housing planning for many Washington cities. This legislation mandates that cities of specific sizes and locations permit multiple dwelling units per lot in areas that historically are exclusive to detached homes. In 2024, the Legislature passed Engrossed Substitute House Bill 2321, which modified the requirements created under HB 1110.

This memorandum has been prepared as a requirement of the City's Washington State Department of Commerce Middle Housing Grant, which funds the City's efforts to implement regulations to comply with these new laws. The City Council accepted the grant in 2023 (Department of Commerce Interagency Agreement with the City of Port Orchard, Department of Commerce Contract Number 24-63326-132 and City Contract Number 087-23).

This memorandum provides the City Council with the tools needed to evaluate the available options for compliance with these new laws by outlining the requirements of HB 1110 and ESHB 2321 and summarizing the City of Port Orchard Housing Action Plan (accepted by the City Council on June 13, 2023 and accepted by Commerce in June 2023) and associated 2023 community survey results, as well as Middle Housing guidance provided by the Washington State Department of Commerce. Finally, it serves as a guide for City decision-makers to implement the new middle housing laws by providing a menu of options intended to increase the availability of middle housing types, while considering the recommendations outlined in the City of Port Orchard Housing Action Plan.

## **What is Middle Housing?**



As defined in RCW 36.70A.030, "Middle housing" is a term used to refer to homes that offer an option that is in the *middle* between detached single-family houses and large multifamily complexes. Ideally, these buildings harmonize in scale, form, and character with traditional single-family houses. Most commonly the term is used to encompass two or more attached, stacked, or clustered homes such as duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing.

These housing types typically offer multiple units within a single structure, providing a variety of living arrangements and densities within neighborhoods.

Middle housing is important in addressing housing needs for several reasons as it promotes:

- **Diverse Housing Options:**

Middle housing diversifies the housing stock within a community, catering to a broader range of household sizes, incomes, and preferences. This variety accommodates individuals and families at different stages of life, from young professionals to empty nesters, and promotes inclusive and vibrant neighborhoods.

- **Affordability:** Middle housing often offers more affordable options than single-family homes or large apartment complexes. By allowing for the development of smaller, more compact units, middle housing helps increase housing affordability, particularly in high-demand urban areas where land costs are prohibitive.
- **Density and Efficient Land Use:** Middle housing promotes higher residential densities, which can lead to more efficient land use and support transit-oriented development. By accommodating more housing units within existing neighborhoods, middle housing reduces urban sprawl, preserves green space, and fosters sustainable growth patterns.
- **Walkability and Accessibility:** Middle housing encourages walkable neighborhoods by increasing housing density and supporting mixed-use development. This, in turn, enhances access to amenities, services, and public transportation, reducing reliance on cars and promoting healthier, more active lifestyles.



Examples of the nine middle housing types. Source: MAKERS

## Where is Middle Housing Required?

The Legislature has adopted middle housing requirements that target zones designated for predominantly residential use, unless zoning already exists to permit higher densities or intensities. Port Orchard has six residential zoning designations subject to the middle housing requirements of HB 1110 and ESHB 2321. The Port Orchard Municipal Code (POMC) describes the impacted designations as follows:

- **Residential 1 (R1):** The R1 district is intended to accommodate single-family detached houses with a minimum lot size of 5,000 to 6,000 square feet. (Cottage court developments may have individual lots as small as 1,200 square feet, as indicated below.) R1 may be applied in areas designated as residential low or residential medium in the Port Orchard comprehensive plan. Uses and building types that would substantially interfere with the single-family residential nature of the district are not allowed. (POMC 20.34.010)
- **Residential 2 (R2):** The R2 district is primarily intended to accommodate detached house, duplex, and townhouse development with a minimum lot size that varies based on building type. The R2 district is intended to implement the residential medium density comprehensive plan designation. Additional building types that are allowed include backyard cottage (detached accessory dwelling unit), cottage court, duplex and attached house. Uses that would substantially interfere with the residential nature of the district are not allowed. (POMC 20.34.020)
- **Residential (R3):** The R3 district is intended to accommodate a variety of residential options limited to three stories in height. The R3 zone should be applied in areas designated as residential medium density in the Port Orchard comprehensive plan. Uses that would substantially interfere with the residential nature of the district are not allowed. (POMC 20.34.030)
- **Residential (R4):** The R4 district is intended to accommodate a variety of multifamily residential options at heights of 45 feet or less. Uses that would substantially interfere with the residential nature of the district are not allowed. (POMC 20.34.040)
- **Residential (R5):** The R5 district is intended to accommodate a variety of multifamily residential options at heights of 55 feet or less. Uses that would substantially interfere with the residential nature of the district are not allowed. (POMC 20.34.050)
- **Residential (R6):** The R6 district is primarily intended to accommodate detached house development with a minimum lot size that varies based on building type. The R6 district is intended to implement the residential medium density comprehensive plan designation in selected parts of the McCormick Woods master planning area. Additional building types that are allowed include backyard cottage (detached accessory dwelling unit), cottage court, duplex and attached house. Uses that would substantially interfere with the residential nature of the district are not allowed. (POMC 20.34.060)

The R3, R4, and R5 zones allow for apartments and thus these zones allow densities that are higher and more intense than what is required for middle housing and are not impacted by the middle housing legislation. The City's R1 zone allows for detached houses and ADUs, while the City's R2 zone allows for Detached Houses, ADUs, Cottage Courts, Duplexes, and Townhomes (which can contain 3-4 units). The R1 and R2 zones are primarily dedicated to Single Family use. The R6 zone is like R1 and R2 and is proposed for elimination (changing to R2) in the 2024 Comprehensive Plan Update.

Port Orchard residents recognize the importance of flexibility in integrating a variety of housing options to expand housing supply and land capacity. The Housing Action Plan (HAP) community survey revealed strong support, with 70% of respondents endorsing the idea of "[a]llow more housing types like duplexes, cottages, and townhouses in single-family neighborhoods if they're compatibly sized and designed."

A summary of the basic requirements for Cities subject to HB 1110 and ESHB 2321 are provided in Table 1:

Table 1

	Minimum number of middle housing units that must be allowed per lot in predominately residential zones	NEAR A MAJOR TRANSIT STOP: Minimum number of middle housing units that must be allowed per lot within ¼ mile walking distance of major transit stop in predominately residential zones	WITH AFFORDABLE HOUSING: Minimum number of middle housing units that must be allowed per lot with affordable housing in predominately residential zones where density in applicable zone does not otherwise allow this number (See also HB 1110, Sec. 3(2))	Requires allowance for six of nine middle housing types in zones predominantly for middle housing.
<b>TIER ONE: Cities with population of at least 75,000 E2SHB 1110, Sec. 3(1)(b)</b>	4 du/lot, unless zoning permits higher densities	6 du/ lot, unless zoning permits higher densities	6 du/lot if at least 2 units are affordable, unless zoning permits higher densities	Yes
<b>TIER TWO: Cities with population of at least 25,000 but less than 75,000 E2SHB 1110, Sec. 3(1)(a)</b>	2 du/lot unless zoning permits higher densities	4 du/lot, unless zoning permits higher densities	4 du/lot if at least 1 unit is affordable, unless zoning permits higher densities	Yes
<b>TIER THREE: Cities with population under 25,000 that are contiguous with a UGA that includes the largest city in a county with a population over 275,000 E2SHB 1110, Sec. 3(1)(c)</b>	2 du/lot, unless zoning permits higher densities	N/A	N/A	No *Amended by HB 2321 passed in 2024.



As a Tier Three city, Port Orchard is required to allow for at least two units per lot in zones predominantly for residential use, unless the residential zone already allows for higher densities or intensities. This means that every R1 and R2 lot will need to allow for at least two units per lot, but the City is not yet required to meet the requirements identified for Tier 1 and Tier 2 cities. However, Port Orchard is rapidly growing and could surpass 25,000 residents in the next few years and even sooner if it were to annex additional lands. This would mean that, upon reaching this population threshold, the City would move into Tier 2 and would be required to provide for six of the nine middle housing types in the R1 and R2 zones.

In anticipation of the likely move into Tier 2, the City may need to make additional preemptive modifications to R1 and R2 (beyond those required for Tier 3). For example, the R2 zone, as it currently exists, may satisfy some of the Tier 2 requirements, but some minor amendments to create distinctive building types (for instance, permitting and creating a distinct “triplex” building type – currently the city lumps triplex and fourplex types together) are warranted to ensure full compliance. Additionally, the R1 zone as adopted would not satisfy the minimum requirements for a Tier Two city.

### **Port Orchard’s Current Middle Housing Regulations:**

In 2019, the City of Port Orchard adopted POMC Title 20 – Unified Development Code which is a form-based code<sup>1</sup> (Ord. 011-19) offering several advantages in promoting middle housing development. POMC Title 20 prioritizes the physical characteristics and design of buildings and streets over strict land use regulations. This allows for more flexibility in accommodating a variety of housing types, including middle housing like duplexes, triplexes, and townhouses, within existing neighborhoods. POMC Title 20 also allows the City to be more responsive and flexible to changing demographic and market trends. As housing needs evolve, Port Orchard can adjust the regulations to encourage the development of middle housing types that meet the demands of residents, such as smaller units for aging populations or affordable options for young families.

POMC 20.32, Building Types, addresses the differentiation of building types and provides standards for the construction of different building types. The focus of POMC 20.32 is the physical form of development rather than just land use emphasizing the design and layout of buildings, streets, and public spaces to create a cohesive and visually appealing built environment.

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<sup>1</sup> Form-based zoning is an approach to zoning that emphasizes built form over land use. This emphasis distinguishes it from conventional (Euclidean) zoning, which prioritizes a separation of potentially incompatible land uses, and performance zoning, which prioritizes mitigating the potential negative effects of new land uses or development. Over the past several decades, hundreds of cities and counties have adopted form-based zoning regulations (i.e., form-based codes) to foster or protect a pedestrian-oriented development pattern. American Planning Association.

POMC 20.32 provides a framework to facilitate the development of middle housing in Port Orchard in a manner that is compatible with the city's overall urban design goals and vision for sustainable growth including middle housing types as described in HB 1110. Title 20 currently incorporates many of the identified housing types in HB 1110 and permits them in all Residential zoning districts as shown in Table 2. POMC 20.32 establishes specific requirements and standards for building types in Port Orchard and identifies where those building types are appropriate.

Table 2

Building Type	R1	R2	R3	R4	R5	R6
Detached House	P	P	P	--	--	P
Backyard Cottage	P	P	P	--	--	P
Cottage Court	P	P	P	--	--	P
Duplex: Side-by-Side	--	P	P	--	--	--
Duplex: Back-to-Back	--	P	P	--	--	--
Attached House	--	P	P	--	--	--
Fourplex	--	--	P	P	P	--
Townhouse	--	P*	P	P	P	--
Apartment	--		P	P	P	--

\*Restricted to three units in the R2 zone.

As illustrated in Table 2, POMC 20.32 currently includes several building types that satisfy the requirements of HB 1110 and ESHB 2321, which encourages the development of middle housing options. These include backyard cottages (Accessory Dwelling Units), cottage courts, duplexes (both side-by-side and back-to-back configurations), attached houses, fourplexes, and townhouses. These building types are permitted in the appropriate zoning designations.

However, to align more closely with the requirements of HB 1110 and ESHB 2321 and in anticipation of exceeding the 25,000-population threshold which would require Port Orchard to have at least six of the nine required middle housing types and to provide clarity and distinction between different types of housing, the City could make minimal amendments as described in Alternative 2 in the following section.

By adopting certain amendments, Port Orchard's Municipal Code 20.32 would better align with the requirements of HB 1110 and ESHB 2321, supporting the development of diverse middle housing options while providing clear and coherent regulations for developers, residents, and city officials.

### Middle Housing Alternatives

HB 1110 and ESHB 2321 allow for alternatives in its implementation. The following three alternatives have been identified by staff, in consultation with the Department of Commerce and review of the Middle Housing Bills as solutions to compliance with the mandates. In Alternatives 1 and 2, it is assumed the R6 district will be eliminated through the 2024 Comprehensive Plan Periodic Update process. Those properties currently designated R6 would be redesignated to R2.

Historically, most middle housing types have been rental units without the opportunity for fee simple ownership. The "unit lot subdivision" process provides a solution to this issue. This process allows for singular ownership of individual housing units while enabling common ownership of shared facilities and lands. RCW 58.17.060 mandates that cities, including Port Orchard, incorporate provisions for unit lot subdivisions into their short plat regulations and procedures. To comply with this mandate and address the need for fee simple ownership opportunities in middle housing, amendments to the Port Orchard Municipal Code are necessary. These amendments will ensure compliance with state law while facilitating the implementation of unit lot subdivisions within Port Orchard, providing residents with greater flexibility and ownership options in the middle housing market. These amendments will be necessary in the implementation of Alternatives 1 and 2.

**Alternative 1:** To ensure compliance with the mandates outlined in RCW 36.70A.635(1)(c) regarding middle housing, Port Orchard must allow for a minimum of two dwelling units per lot. Currently, the Port Orchard Municipal Code accommodates several middle housing types as required. However, to fully align with the requirements of HB 1110, a straightforward code amendment permitting duplexes within the Residential 1 designation is warranted. This adjustment will effectively meet Port Orchard's existing obligations and ensure full compliance with HB 1110 and ESHB 2321.

**Alternative 2:** Alternative 2 proposes the redesignation of properties from R1 to R2 zoning districts to comply with HB 1110. This involves repealing existing R1 zoning standards and implementing middle housing building types mandated by HB 1110 in the R2 district. Port Orchard anticipates population growth, prompting compliance with density requirements outlined in RCW 36.70A.635(1)(a), allowing for at least two units per lot and higher densities near major transit stops and for affordable housing units. Though lacking Major Transit Stops, the City recognizes the importance of increased densities near transit for equitable access to transportation. By analyzing existing regulations and identifying suitable areas for higher-density development, Port Orchard aims to plan effectively for growth, promote affordability, and encourage sustainability.

**Alternative 3:** RCW 36.70A. provides relief from the requirements of HB 1110 where certain criteria can be met and demonstrated. The Department of Commerce was directed to establish a process for cities to seek approval of alternative local actions to meet the HB 1110 requirements. Approval may be granted for cities that

have adopted comprehensive plans and development regulations substantially similar to the requirements of HB 1110 by January 1, 2023.

Port Orchard could potentially seek approval of alternative local action under 36.70A.636(3)(a) if the City can demonstrate that its adopted form-based code is substantially similar to the requirements of HB 1110. This would involve showing that the code results in an overall increase in housing units allowed in single-family zones, allows for middle housing throughout the city, and permits additional density near major transit stops, although Port Orchard does not have any major transit stops, and for projects with dedicated affordable housing. If the Department of Commerce approves such action, the City's implementation efforts would be exempt from appeals, providing a streamlined path for compliance. However, careful consideration and documentation of how the form-based code aligns with the specified criteria would be essential to support any exemption request.

## **Middle Housing Alternatives Implementation**

### **Alternative 1**

Alternative 1 proposes the inclusion of duplex building types within the R1 district. This adjustment aligns with the mandates of HB 1110 and ESHB 2321, advocating for increased density and housing diversity while addressing the demand for affordable housing options. By allowing at least two dwelling units, through the inclusion of duplexes, on all lots primarily designated for single-family residential use, the proposed amendment ensures full compliance with the Middle Housing Bills.

Alternative 1 represents a strategic response to housing needs and the legislative mandates outlined in HB 1110. By permitting duplex building types within the R1 zoning district, compliance with state directives is achieved with minimal disruption to property owners. Zoning designations and currently allowed uses would remain largely unchanged; the amendment would simply introduce another building type to the R1 designation.

However, it's important to acknowledge potential negative impacts. Established single-family neighborhoods currently designated as R1 would now have redevelopment potential that includes duplexes, which may alter the character of these areas. Approximately 17.38% of properties, which currently allow detached housing but not duplex building types, would be affected by this change. It's worth noting that the remaining 82.62% of properties already allow for duplexes in addition to other middle housing types such as townhouses or cottage courts. It is important to note that the R6 district would be redesignated as R2 through the 2024 Comprehensive Plan Periodic Update process. Alternative 1 limits change to the minimum necessary to comply with HB 1110 and ESHB 2321 mandates.

Table 3 describes the current area and the percentage of the whole of Residential zones that permit detached houses.

Table 3

Zone	Area in Acres	Percent
R1	309.01	8.69%
R2	1929.21	54.25%
R3	1008.97	28.37%
R6	308.95	8.69%
Total	3556.14	100.00%

Furthermore, except for eliminating the R6 zone, this amendment would not necessitate alterations to the currently adopted Zoning Map or change a property’s zoning designation; it would simply broaden the scope of allowable building types within the R1 district. The affected properties are identified in Attachment A.

**Alternative 2**

The following analysis provides a functional path for compliance with HB 1110 and ESHB 2321 as described in Alternative 2 above. To ensure compliance with HB 1110, Alternative 2 involves the redesignation properties currently within the R1 district to R2 and requires the repeal of the currently adopted R1 zoning designation development standards. The amended R2 district would include the required middle housing building types mandated by HB 1110.

Port Orchard anticipates surpassing the minimum population threshold outlined in RCW 36.70A.635(1)(a) within the next five years, driven by historic growth rates and potential annexations. In anticipation of this increase, the city will comply with RCW 36.70A.635(1)(a) by allowing for at least two units per lot on residential-zoned lots, with higher density requirements near major transit stops and for affordable housing units.

Although Port Orchard lacks Major Transit Stops as defined in RCW 81.104.015, the City should recognize the importance of increasing densities near transit stops to promote equitable access to transportation and sustainable growth. While not mandated by the law, the City would acknowledge the benefits of such actions.

By taking proactive measures, Port Orchard will effectively plan for anticipated population growth, promote housing affordability, and encourage sustainable development in line with the requirements of HB 1110.

Currently, Port Orchard operates under a form-based code established in 2019, which largely aligns with the requirements of HB 1110. However, certain adjustments to the code are necessary to effectively integrate the new mandates outlined in HB 1110. City staff has conducted a thorough examination of the relevant regulations within the Port Orchard Municipal Code, particularly those related to zoning designations and building types. Through this review, modifications

necessary for compliance have been identified, while also considering the recommendations suggested in Port Orchard's June 2023 Housing Action Plan.

The R2 zone as currently written mostly complies with the impending requirements for allowing middle housing pursuant to HB 1110 and ESHB 2321. As such, the City would designate all residential land in the City where middle housing is required as R2. This means that properties currently zoned R1 would be changed to R2. The elimination of the R6 district through the 2024 Comprehensive Plan Periodic Update process would result in those properties being designated Residential 2 prior to any amendments to achieve compliance with the Middle Housing Bills.

It is important to note that while the proposed zoning change and middle housing allowances would be permitted by city code, there may be instances where compliance with these regulations is restricted by existing conditions such as restrictive covenants (CC&Rs) established prior to the enactment of HB 1110. In addition, privately owned stormwater facilities serving neighborhoods could pose limitations on the development of middle housing, unless additional measures are taken to manage stormwater impacts on the lots where middle housing is proposed. These caveats underscore the need for thorough analysis and consideration of site-specific factors when implementing middle housing strategies, ensuring that regulatory compliance is balanced with practical constraints and environmental considerations.

The required amendments to the POMC would introduce one new building type (stacked flat) and create distinction in requirements of existing building types to achieve at least six of the nine building types required by HB 1110 and ESHB 2321 through the following actions:

- **Combine Duplex Types:** Combine the three types of duplexes (attached house, side-by-side, and back-to-back) into a singular type. This consolidation simplifies the regulations and eliminates unnecessary distinctions between these similar housing types.
- **Create a Stacked Flat building type:** To further consistency with HB 1110 and enhance the diversity of housing options in Port Orchard, a suggested code amendment to POMC 20.32 could be considered to introduce a new building type termed "stacked flat." The stacked flat would be similar in nature to a duplex but would offer a distinct configuration and characteristics, providing additional flexibility for housing development.
- **Permit and Create Distinction Between Triplex and Fourplex:** Currently, the fourplex building type in the Municipal Code may be three to four units which would include both the triplex and fourplex configurations required by HB 1110. To create clarity and distinguish between these housing options, and to further compliance with HB 1110, the City could amend the fourplex building type to divide the fourplex category into two distinct building types: triplex and fourplex. This revision ensures that each housing type is clearly defined and

regulated separately within the code, facilitating easier compliance and enforcement.

- Create Infill Cluster Housing: Create a housing type that allows a mix of up to nine residential units within compact detached and/or duplexes on unit lots with common areas and private open space. It may be allowed in R2 and R3 districts. The specifications should include provisions for lot size, setbacks, building height, private usable open space, parking location, shared driveway materials and design, landscaping requirements among other site-design issues. The Infill Cluster Housing aims to provide a flexible and efficient housing option within the R2 and R3 districts.

Table 4 depicts the minimum resultant permitted building types required of HB 1110 and ESHB 2321 in Alternative 2. The amendments are illustrated where additions are identified in **bold text** and deletions with *italicized text*. The R6 district, depicted with black fill, would be repealed in its entirety and properties currently designated R6 would be redesignated as R2. The amendments identified below would be the minimum necessary to comply with HB 1110 and ESHB 2321 as currently adopted.

Table 4

Building Type	R1	R2	R3	R4	R5	R6
Detached House	P	P	P	--	--	<i>P</i>
Backyard Cottage	P	P	P	--	--	<i>P</i>
Cottage Court	P	P	P	--	--	<i>P</i>
<i>Duplex: Side-by-Side</i>	--	<i>P</i>	<i>P</i>	--	--	--
<i>Duplex: Back-to-Back</i>	--	<i>P</i>	<i>P</i>	--	--	--
<b>Duplex</b>	<b>P</b>	<b>P</b>	<b>P</b>			
<b>Stacked Flat</b>	<b>P</b>	<b>P</b>	<b>P</b>			
Attached House	--	P	P	--	--	--
<b>Triplex</b>		<b>P</b>	<b>P</b>			
Fourplex	--	<b>P</b>	P	P	P	--
Townhouse	--	P*	P	P	P	--
Apartment	--		P	P	P	--

- \*The current restriction of three units in the R2 zone would be repealed.

It is important to note that the Housing Action Plan provides guidance promoting middle housing and some of those recommendations have been incorporated into the implementation of HB 1110 and ESHB 2321. Some amendments would include the elimination of the Residential 5 zoning designation which is currently in the Port Orchard Municipal Code but has not been utilized since adoption, and the redesignation of R6 properties to R2.

### Alternative 3

To analyze Port Orchard Municipal Code (POMC) Title 20 in relation to middle housing implementation and its alignment with the requirements of HB 1110, the City must examine key provisions of Title 20 and evaluate how they address the following criteria:

- Overall Increase in Housing Units Allowed in Single-Family Zones: The City must assess whether Title 20 facilitates an increase in housing units within single-family zones compared to previous regulations. As demonstrated in the Kitsap County 2014 and 2021 Buildable Lands Reports, the City of Port Orchard increased its residential density in all residential zones. This is demonstrated by a significant increase in platted lots from 288 in 2013 to 503 in 2019. The maximum allowed densities permitted in the form-based code also increased significantly as illustrated in the R2 district, formerly the R8 district, to a maximum allowed density at 21.7 du/acre from 8 du/acre.
- Allowance for Middle Housing Throughout the City: The City has determined that Title 20 permits various types of middle housing, such as duplexes, triplexes, and townhouses, in residential areas beyond just specific zones or targeted locations. The Residential 1 district allows for Accessory Dwelling Units in a zoning designation that otherwise only permits detached houses. The inclusion of ADUs in all residential zones may create consistency with the requirement that all districts allow at least two dwelling units per lot. The current residential zoning districts which primarily allow single family housing (R1, R2, R3 and R6) comprise approximately 3,556.14 acres within Port Orchard, of which only 17.38% within the R1 and R6 districts does not permit some sort of middle housing.

Zone	Area in Acres	Percent
R1	309.01	8.69%
R2	1929.21	54.25%
R3	1008.97	28.37%
R6	308.95	8.69%
Total	3556.14	100.00%

- Additional Density near Major Transit Stops and for Projects with Dedicated Affordable Housing: While Title 20 does not specifically allow densities bonuses, the lack of major transit stops makes compliance with this requirement moot. The City should consider discussion regarding the former multifamily tax exemption process to be revisited and potentially expanded to include middle housing types.

By conducting a thorough review of Title 20 of the Port Orchard Municipal Code, particularly sections related to zoning, development standards, and housing regulations, we can assess its compliance with the stated requirements. However, initial review of the mandates of HB 1110 and ESHB 2321 and the 2019 Unified Development Code is likely to satisfy the exemption allowance.



## **Additional Steps**

To achieve success in meeting the Middle Housing Bill requirements, additional steps for implementation include:

- **Stakeholder Engagement:** Port Orchard's Housing Action Plan included a robust outreach process which engaged community stakeholders, including property owners, residents, and developers to gather input and provides a guide to the community's needs and preferences. Allow an opportunity for the public to review and comment on proposed zoning changes, as described in Alternative 2 Implementation, through the Department of Community Development Viewer.
- **Public Outreach and Education:** The Land Use Workshop and potential outreach efforts at the Port Orchard Farmer's Market offer an opportunity to residents about the benefits and implications of middle housing, fostering understanding and support for the proposed changes.
- **Policy Development:** Formulate policies and guidelines to regulate the design, density, and compatibility of middle housing developments, ensuring they enhance neighborhood character and quality of life.
- **Incentive Programs:** Explore incentive programs, such as density bonuses or fee reductions or property tax exemptions, to encourage the development of middle housing and facilitate affordability.
- **Zoning Code Amendments:** Draft and propose amendments to the Port Orchard Municipal Code to introduce the new building types and revise existing regulations to facilitate middle housing development.

By incorporating these additional steps into the City's process, we can ensure a complete approach to middle housing that addresses community needs, promotes sustainable growth, and enhances the overall livability of Port Orchard while meeting the requirements of HB 1110 and ESHB 2321.

## **Conclusion**

This memorandum outlines the implementation of the Washington State Department of Commerce Middle Housing Grant in accordance with the Middle Housing Bills (HB 1110 and ESHB 2321) with consideration to the City of Port Orchard Housing Action Plan. It provides guidance for City decision-makers to align zoning regulations with the objectives of promoting middle housing and affordable housing within Port Orchard, consistent with the requirements of the Middle Housing Bills.

To implement middle housing effectively, Port Orchard is reviewing its zoning regulations, considering critical areas, and proposing amendments to align with HB 1110 and ESHB 2321 requirements. Additional steps for implementation include stakeholder engagement, public outreach, policy development, potential incentive programs, and zoning code amendments.

Alternatives 1 and 2 are the minimum necessary in the short-term as a Tier 3 city and proactively addressing the requirement of becoming a Tier 2 city. These Alternatives offer the most direct solution to the Middle Housing compliance with minimal impact to most property owners. Port Orchard has taken proactive steps to foster development of middle housing through the adoption of the 2019 Unified Development Code. Alternative 3 offers a path to compliance but comes with risk as it is subject to a qualitative assessment by others.

Port Orchard aims to meet the requirements of the Middle Housing Bills through a comprehensive approach to middle housing, and community needs, promote sustainable growth, and enhance the livability of Port Orchard fostering a vibrant and inclusive community for all residents.

## Housing Action Plan Recommendations Summary

The Housing Action Plan presents a comprehensive approach to addressing various challenges and opportunities within the housing landscape of Port Orchard. While the Plan encompasses a wide range of issues, the significant barriers related to middle housing are highlighted below. Alternatives 1 and 2 are proposed as key strategies to address them through the development regulation framework. These alternatives aim to expand allowed uses, streamline building type standards, adjust form and intensity standards, and revise other development regulations to promote the production of diverse middle housing options while enhancing affordability. Although the HAP provides suggested solutions, the City Council may utilize other means to meet the statutory requirements than what is noted in the HAP summary below.

- 1) **Expand Allowed Uses.** These proposed changes aim to create a more inclusive and diversified housing landscape within the City of Port Orchard by evaluating and updating zoning regulations to permit a broader range of housing types in various zones, facilitating the development of middle housing and enhancing affordability.
  - a) Allow more housing types in more zones to promote middle housing and affordable housing.
    - i) R5 Zone: Considering the absence of current mapped R5 zones and the proposed changes to R4, this section recommends eliminating the R5 zone from the code. Proposed changes to the R6 zone, including a potential renaming to R5, aim to ensure a seamless zoning framework.
    - ii) NMU Zone: To address inconsistencies in the use table, it is recommended to allow the apartment building type in Neighborhood Mixed Use (NMU) zones, correcting the existing disparity.
    - iii) Congregate Living Housing: Streamlining standards for congregate living housing, acknowledging its historical significance as an affordable housing option, is proposed. Specific recommendations include:
      - (1) Moving land use standards from the definition to POMC 20.39.100.
      - (2) Allowing congregate living housing in some non-residential zones, particularly in the CMU zone.
      - (3) Clarifying parking requirements in POMC 20.124.130 and Table 20.124.140.
      - (4) Amending standards for more flexible lease arrangements.
    - iv) Adult Family Homes: In response to new state legislation (RCW 70.128.066), it is recommended to update standards and definitions under POMC 20.39.100(10) to accommodate adult family homes with seven or eight beds.
    - v) Supportive Housing: Acknowledging state legislation (RCW 35A.21.430, 2021) and ensuring compliance, recommendations include providing definitions referencing state law for emergency housing, emergency shelter, permanent supportive housing, and transitional housing. Operational plans and information-sharing requirements, inspired by examples from other jurisdictions, are also suggested to enhance oversight and community engagement.
- 2) **Streamline the Building Types.** These modifications aim to simplify and streamline building type standards, reducing complexity and encouraging the production of diverse middle housing options.
  - a) Adjust Cottage Court Standards:

- i) Option 1: Remove or Reduce Minimum Site Size
  - (1) Building footprints, setbacks, parking, and open space largely dictate land requirements. Eliminate the minimum site size. Alternatively, consider 12,000 sq. ft. for standard lots and 10,000 sq. ft. for lots with alley access.
- ii) Option 2: Reduce Minimum Number of Cottages
  - (1) Lower minimum from five to four, aligning with standards in other regions. Enhances flexibility for cottage court design on smaller sites.
- iii) Option 3: Adjust Minimum Courtyard Size Standards.
  - (1) Replace complex standards with a simpler approach: Require a minimum of 400 sq. ft. of common courtyard space per cottage cluster. Set minimum dimensions at 15-20 feet for greater alignment with regional practices.
- iv) Option 4: Allow Duplex Cottages in All Zones
  - (1) Enable efficient land and material use. May require a clear code statement due to current impracticality with a 1,200 sq. ft. maximum building footprint.
- b) Consolidate Duplex Types:
  - i) Option 1: Merge "Duplex: Side-by-Side" and "Duplex: Back-to-Back" into "Duplex"
    - (a) Simplify duplex standards to encourage greater production. Suggest replacing "Two-family" with "Duplex" for naming consistency in Chapter 20.39 POMC.
    - (b) Consider further consolidation by providing a comprehensive duplex building type definition.
- c) Rename the Fourplex Type:
  - i) Option: Change "Fourplex" to "Triplex/Fourplex"
    - (1) Clarify that this building type allows 3-4 units.
    - (2) Avoid misleading interpretations and promote triplexes as a viable middle housing option.
- d) Adjust Townhouse Type Standards:
  - i) Option: Remove Minimum Site Size and Width
    - (1) Allow other zoning standards and market factors to determine land area needed for townhouse development.
    - (2) Enhance flexibility without compromising necessary standards like open space, parking, setbacks, and landscaping.
- e) Consolidate the Live-Work Type:
  - i) Option: De-emphasize Live-Work Type
    - (1) Recognize limited feasibility outside strong urban markets.
    - (2) Acknowledge the rarity of households with self-employed businesses suitable for live-work spaces.
    - (3) Consider de-emphasizing live-work in the code due to its infrequent occurrence and potential cost implications.
- f) Adjust Shopfront House Standards:
  - i) Option: Allow a Range of 2-4 Units per Lot
    - (1) Provide flexibility in configuration options by permitting 2-4 units per lot for the Shopfront House building type.
- g) Building Height:
  - i) Option: Remove Maximum Building Height, Except for Backyard Cottages and Cottage Courts
    - (1) Ensure clear and consistent standards by eliminating maximum building height from all building types, excluding backyard cottages and cottage courts.
    - (2) Regulate accessory structure height limits in zoning chapters.

- h) Minimum Private Usable Open Space:
  - i) Option: Introduce Minimum Private Usable Open Space Requirements
    - (1) Address the need for usable open space in middle housing types.
      - (a) Recommended standards:
        - (i) Minimum 300 sq. ft. per unit.
        - (ii) Dimensions: 10 feet per unit (6 feet for rooftop patio or balcony).
        - (iii) Shared open spaces permitted, subject to specific dimensions.
        - (iv) Front yard usage allowed with a demarcating low fence.
        - (v) Prohibit parking or driving, except for emergency access.
  - i) Ground Floor Elevation:
    - i) Option: Apply Elevation Standard to Detached Houses and Duplex Types Only
      - (1) Reduce minimum elevation from two feet to 16 inches.
      - (2) Align with block frontage standards for improved transition and privacy.
  - j) Blank Walls:
    - i) Option: Remove Blank Wall Standards for Selected Building Types
      - (1) Eliminate or adjust standards for blank walls in apartment, single-story shopfront, mixed-use shopfront, and general building types.
      - (2) Consider applying a standard consistent with POMC 20.127.460 for smaller building types where applicable.
  - k) Transparency:
    - i) Option: Move Transparency Standards to Chapter 20.32 POMC for Consistency
      - (1) Shift the minimum transparency standard of 8% from POMC 20.139.025(3) to Chapter 20.32 POMC for uniformity among building types.
      - (2) Retain the measurement method of transparency in Chapter 20.139.

### 3) Adjust Form & Intensity Standards.

- a) To reduce barriers to "middle" housing/building types, consider the following recommendations for adjusting minimum lot dimensions:
  - i) R2 Zone:
    - (1) Retain current minimum lot dimensions for detached houses.
    - (2) For cottage courts, refer to Strategy 2.2.1 for updated suggestions on minimum site area.
    - (3) Exempt other "middle" building types (duplexes, attached houses, triplexes/fourplexes, and townhouses) from minimum lot area and width standards.
  - ii) R3 Zone:
    - (1) Retain current minimum lot dimensions for detached houses.
    - (2) For cottage courts, refer to Strategy 2.2.1 for updated suggestions on minimum site area.
    - (3) Exempt other "middle" building types (backyard cottages, duplexes, attached houses, fourplexes, and townhouses) from minimum lot area and width standards.
    - (4) For apartments, consider reducing the current 10,000 sq. ft. lot size minimum to 7,000 sq. ft., with the option for 5,000 sq. ft. lots where alley access is available. Reduce minimum lot width from 80 feet to 70 feet, with the option for 50-foot wide lots where alley access is available.
  - iii) R4 Zone:
    - (1) Consider eliminating lot dimension standards entirely, especially as detached houses are not allowed, relying on other standards to meet community objectives.
  - iv) R5 Zone:

- (1) If not eliminating this zone (refer to Strategy 2.1.6), consider removing lot dimension standards for the same reasons as in the R4 zone.
- v) R6 Zone:
  - (1) Retain the current 4,000 sq. ft. minimum lot size and 40-foot lot width for a detached house.
  - (2) Exempt other "middle" building types from minimum lot area and width standards (duplexes, attached houses, triplexes/fourplexes, and townhouses).
- vi) Commercial and Mixed-Use Zones:
  - (1) Retain existing minimum lot size and width provisions for detached houses.
  - (2) Eliminate such standards for all other building types to maximize flexibility, including the McCormick Village Overlay District. Rely on existing standards to ensure integration in a compatible manner.
- b) To address housing affordability and economic feasibility, consider the following recommendations for adjusting height limits and introducing affordable housing bonuses:
  - i) Base Height Limit Adjustments:
    - (1) Explore modest changes to base height limits (up to one floor) in key multifamily and commercial zones.
    - (2) Enhance economic feasibility for multifamily and mixed-use development.
  - ii) Bonus Height Limits for MFTE Participants:
    - (1) Introduce bonus height limits allowing up to two additional floors for developments participating in the City's Multifamily Tax Exemption (MFTE) program.
    - (2) Incentivize greater production of multifamily housing, especially affordable (subsidized) housing.
    - (3) Limit the MFTE bonus to the Type 1, 12-year affordability program, with potential expansion to the 20-year program if adopted by the City.
  - iii) Consideration of TDR Program Impact:
    - (1) Acknowledge the existing Transfer-of-Development-Rights (TDR) program in place since 2019.
    - (2) Recognize that proposed height changes may impact the attractiveness of the TDR program, but highlight the tradeoff of incentivizing affordable housing.
    - (3) Emphasize that TDR remains the exclusive way to achieve the tallest allowed buildings in certain locations (up to eight stories or 88 feet).
  - iv) Mitigation through Design Standards:
    - (1) Emphasize that increased height limits and potentially larger buildings will be mitigated by existing multifamily and commercial design standards.
    - (2) Highlight existing standards for building massing, light and air access, usable open space, attractive materials, windows and entries, ensuring high-quality development.
- c) To align with Comprehensive Plan policies and state law, consider the following options for adjusting minimum residential density standards:
  - i) Citywide Minimum Density Requirements:
    - (1) Implement citywide minimum residential density requirements in alignment with Comprehensive Plan policies LU-11, HS-9, and HS-16.
    - (2) Mandate a minimum of 15 units per acre in locations eligible for the Multifamily Tax Exemption (MFTE) 12-year and 20-year programs.
  - ii) Thresholds for Application:

- (1) Apply minimum density requirements only to new developments on sites above a specified size, such as ¼ acre or ½ net acre.
- (2) Define "net acre" as per the MFTE chapter, excluding critical areas, buffers, and undevelopable land like shoreline buffers and tidelands.
- (3) Aim to reduce complications for small infill development and promote economies of scale.
- iii) Centers-Focused Density Standards:
  - (1) Consider applying minimum density standards exclusively to sites within designated centers, directing growth more intensely in these areas.
  - (2) Align with the City's goal of promoting compact and walkable development in specific zones.
- iv) Limited Zoning Application:
  - (1) Propose minimum residential density standards for a limited number of zones based on public feedback and the typical application of the MFTE program.
  - (2) Tailor the application to zones where the City seeks to encourage growth and development.
- d) To address the religiously owned land density bonus mandated by state law (RCW 35A.63.300), consider the following options:
  - i) Zoning Update or Overlay Zone:
    - (1) Explore updating underlying zoning or creating a new overlay zone to accommodate the density bonus for religiously-owned land.
    - (2) Assess the impact on residential and mixed-use neighborhoods with existing churches.
  - ii) Development Agreements:
    - (1) Prefer development agreements as the implementation option, considering the potential rarity of utilizing this density bonus.
    - (2) Provide flexibility for religious organizations seeking to develop affordable housing.
  - iii) Comprehensive Plan Policy Addition:
    - (1) Introduce a Comprehensive Plan policy specific to religiously owned affordable housing.
    - (2) Specify a minimum density requirement, such as 30 dwelling units per net acre, ensuring alignment with state law.
  - iv) Proactive Engagement:
    - (1) Proactively engage with religious organizations to gauge their interest in developing affordable housing on their properties.
    - (2) Consider assigning responsibilities for this outreach to a Housing Coordinator staff position.
- 4) **Adjust Other Standards.** Adjust other development regulations to help reduce barriers to housing production by identifying and revising additional development regulations that may pose obstacles to housing production, ensuring a streamlined process for middle housing projects.
  - a) To refine the residential design standards outlined in Chapter 20.139 POMC, consider the following options:
    - i) Enhance Cross-References:
      - (1) Include additional cross-references in Chapter 20.32 POMC, connecting building type standards with residential design standards for improved code navigation.
    - ii) Consolidate Garage Configuration Standards:
      - (1) Consolidate duplex garage configuration standards (20.139.015).

- (2) Utilize the 40-foot lot width threshold for all configurations to streamline and simplify standards.
  - iii) Transparency Standards Placement:
    - (1) Place transparency standards (20.139.025(3)) for specific building types directly within the building type standards for consistency.
  - iv) Roof Pitch Modification:
    - (1) Modify the minimum 4:12 roof pitch standard (20.139.045(2)) to allow for modern architectural styles with flat roofs and roof decks.
    - (2) Consider deleting the first sentence and maintaining the roof elements standard without the term "pitched."
  - v) Resolve Duplex Standards Conflicts:
    - (1) Resolve conflicting transparency standards and repetitive driveway standards in Section 20.139.055 for duplexes.
    - (2) Address duplication of porch projection standards (subsection (2)) by aligning with POMC 20.122.060 to avoid redundancy.
- 5) **Adjust Significant Tree Standards:** To address challenges associated with significant tree standards in Port Orchard, consider the following options:
- a) Explore Alternative Approaches:
    - i) Investigate alternative approaches for tree standards that are easier to administer and have a reduced impact on soft costs and housing capacity.
  - b) Canopy Coverage Requirement:
    - i) Consider shifting the focus from individual trees to requiring a minimum tree canopy coverage at the time of tree species maturity.
    - ii) Allow both newly planted and existing trees to contribute to the required canopy coverage.
  - c) Align with McCormick Village Overlay District Method:
    - i) Align with the method applied in the McCormick Village Overlay District (POMC 20.38.280), where tree removal for new development is managed by considering overall tree canopy coverage.
  - d) Exemption for Middle Housing Developments:
    - i) In the near term, consider exempting middle housing developments or mixed housing developments with a significant number of middle housing types (duplexes, cottage housing, townhouses, triplexes/fourplexes) from the requirement to prepare a significant tree retention plan.
  - e) Balance Benefits and Costs:
    - i) Weigh the benefits and costs of the existing significant tree code to ensure a balanced approach that addresses environmental considerations without imposing excessive costs on development.
- 6) **Adjusting Family Definition:** To align with state law and address family definition in Port Orchard, consider the following options:
- a) Amend Definition to Reflect State Law:
    - i) Amend the definition of "family" under POMC 20.12.010 to align with state law RCW 35A.21.314 (2021).
    - ii) Ensure that the definition does not regulate or limit the number of unrelated persons occupying a household or dwelling unit.
  - b) Simplified Family Definition:
    - i) Adopt a simplified family definition, such as:

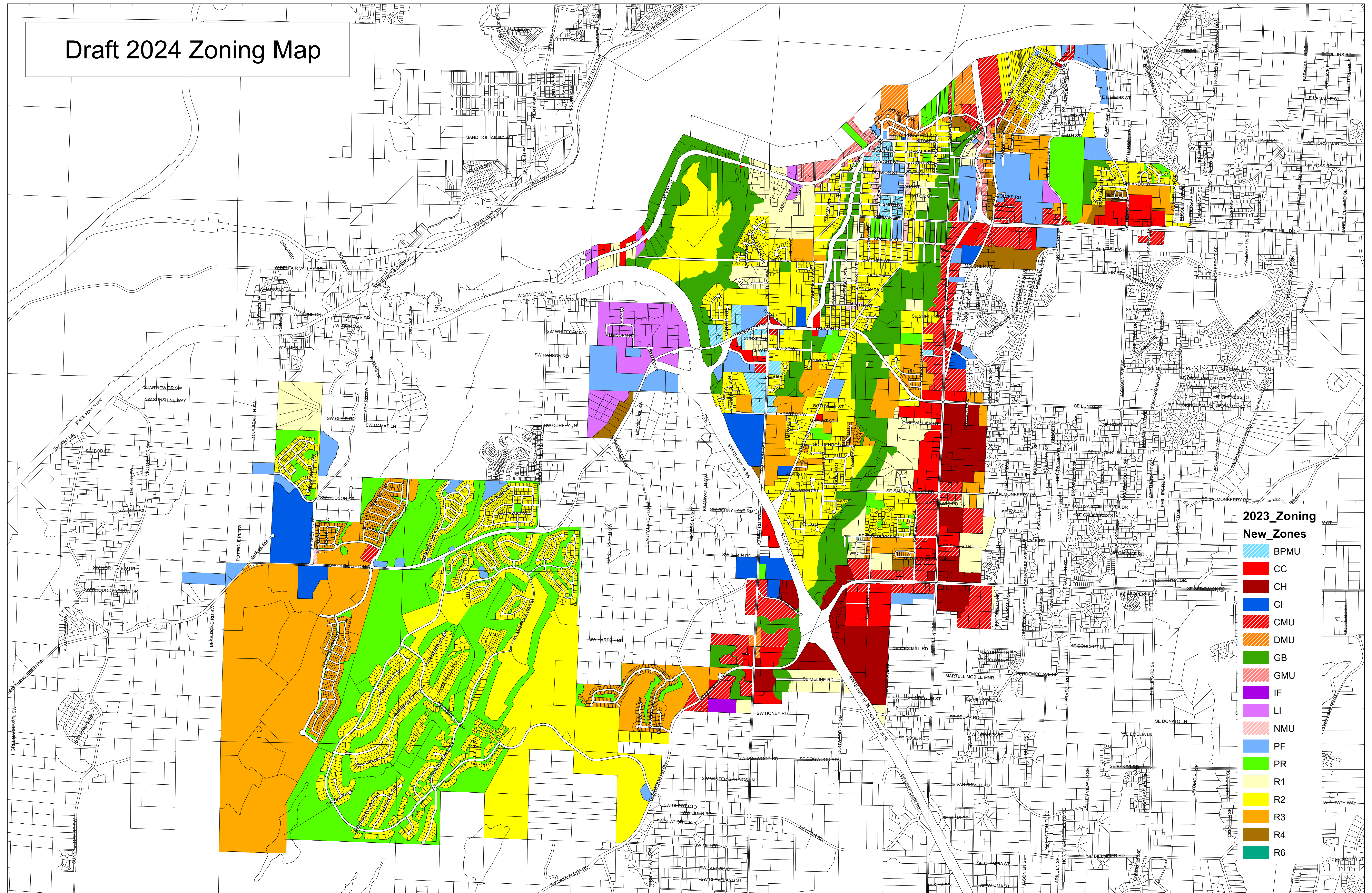


- (1) "Family" means any number of persons related by blood, marriage, or legal adoption, including foster children and exchange students living together as a single housekeeping unit.

- 7) **Adjusting Elevator Penthouse Standards:** To enhance the functionality and livability of multifamily and mixed-use housing in Port Orchard, consider the following options related to elevator penthouses:
  - a) Increase Height Allowance for Elevator Penthouse:
    - i) Amend POMC 20.40.050(2)(c)(i) to increase the allowable height for structures screening elevators, particularly when providing access to roof decks.
    - ii) Consider raising the height allowance from the current limit of 10 feet to 17 feet to accommodate modern elevator designs and facilitate features like 10-foot tall elevator cabs and elevator-accessible roof decks.
  - b) Adapt Standards to Evolving Elevator Technology:
    - i) Recognize advancements in elevator technology, such as the "Machine Room-Less" design, which offers cost-effective options for taller buildings.
    - ii) Adjust code provisions to accommodate the unique characteristics of modern elevator designs, allowing for increased overrun above the roof level.
  - c) Flexible Design Considerations:
    - i) Introduce flexibility in standards to account for evolving design trends and resident preferences.
    - ii) Ensure that the code provides sufficient leeway for incorporating features like 10-foot tall elevator cabs and rooftop decks without compromising structural integrity or violating height restrictions.
  
- 8) **Adjusting Parking Lot Landscaping Standards:** To enhance the efficiency of land use in smaller lots, particularly for infill multifamily and townhouse development, consider the following options related to parking lot landscaping:
  - a) Reduce Minimum Planting Area Widths:
    - i) Amend POMC 20.128.070(3) to reduce the minimum width requirements for planting areas along public streets and internal lot lines.
    - ii) Consider a uniform minimum width of 7.5 feet for landscaping along public streets and five feet along internal lot lines, promoting more efficient land utilization.
  - b) Simplify Planting Area Standards:
    - i) Streamline and simplify the planting area standards to facilitate easier interpretation and compliance.
    - ii) Ensure that the revised standards align with the purpose of parking lot landscaping while accommodating the constraints of smaller lots.
  - c) Create a Dedicated Code Section:
    - i) Establish a separate code section specifically addressing parking lot landscaping standards for better organization and accessibility.
    - ii) Consider renumbering or creating a new section, such as 20.128.075, to specifically address parking lot landscaping, making it more visible and user-friendly in code documents.



# Draft 2024 Zoning Map





# Residential 1 Properties





