

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON,
ESTABLISHING A MIXED-USE PILOT PROGRAM AND
DEVELOPMENT REGULATIONS, PROVIDING FOR SEVERABILITY
AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.**

WHEREAS, the City desires to promote transit oriented mixed-use development in its downtown and local centers in accordance with the Comprehensive Plan goals and policies; and

WHEREAS, a pilot program can provide the city with examples of mixed use projects and proof of concept for the viability of mixed use development in Port Orchard; and

WHEREAS, Port Orchard has not seen a mixed use (residential over commercial) project developed locally since the passage of the growth management act; and

WHEREAS, mixed-use development is currently allowed in the City's existing mixed-use (permitted outright) and commercial zones (permitted by conditional use permit); and

WHEREAS, Port Orchard has had zoning in place allowing for mixed-use development for more than 15 years however these regulations have not yielded any mixed-use projects despite significant residential growth within the city; and

WHEREAS, anecdotal evidence suggests that the existing development regulations and zones in which mixed-use development would be allowed do not produce economically viable mixed-use projects and are barriers to mixed use development. (For instance, in some areas of the city, the code allows a 55-foot building and 100% lot coverage but doesn't allow a sufficient residential density to fill the upper stories of the building with residential dwellings of a typical square footage.); and

WHEREAS, the 2016 Port Orchard Comprehensive Plan and Kitsap County Countywide Planning Policies call for the City of Port Orchard to accommodate an addition 8,235 people and 3,132 additional jobs (over the period from 2010-2036); and

WHEREAS, Port Orchard is growing at a rate slightly below its population allocation as expressed in a linear projection; and

WHEREAS, Port Orchard's Comprehensive Plan calls for 2.1% annual population growth to meet its 2036 population allocation target however from 2016-2017, the Office of Financial Management projects that the city only grew at 1.3%; and

WHEREAS, Port Orchard's Commercial and Mixed-Use zones are underperforming as it pertains to residential development in support of the city's growth allocation (targets); and

WHEREAS, the City's 2016 update to its comprehensive plan included a local centers approach to planning and called for mixed-use development and increased densities within local centers; and

WHEREAS, the proposed Mixed-Use Pilot Program implements numerous comprehensive plan policies and goals including:

Land Use Element Policies and Goals

- Policy LU-23 Enable land use patterns that allow all residents to safely and efficiently access commercial services, especially grocery stores and healthcare facilities, without an automobile.

Land Use Element General Center Policies and Goals:

- Policy CN-5 Support pedestrian and transit uses by promoting compact, mixed-use areas with appropriate infrastructure that provide a variety of activities.
- Policy CN-2 The City should support employment growth, the increased use of non-automobile transportation options, and the preservation of the character of existing built-up areas by encouraging residential and mixed-use development at increased densities in designated Centers. (Centers Goals 1,2,3,4,5,6; Housing, Parks, Economic Development, Transportation, and Capital Facilities Elements)
- Goal 10. Update the existing Downtown Development Regulations (currently known as the Downtown Overlay District) to better define design guidelines, the design review process, and to encourage a balance between historic preservation and redevelopment in accordance with the following purposes:
 - Provide for the development of an integrated mixed use downtown district that contains office, service, retail, residential and recreational uses within close proximity to one another.
- Goal 13. Encourage mixed use development within the Downtown and Gateways.
- Policy CN-19 Encourage residential use above commercial and retail ground floor developments, including incentives and public amenities.
- Goal 14. Encourage facilities that will draw local residents and tourists to Downtown and the Gateways.

Housing Policies and Goals:

- Goal 1. Ensure that the City's housing stock responds to changes in desired housing types based on demographic trends and population

growth.

- Policy HS-2 Support the development of a variety of housing types, including apartments, townhomes, mixed-use (residential and other uses) and live-work development, small-lot and zero lot line single-family homes, and manufactured homes, as well as traditional single-family homes, through innovative planning, efficient and effective administration of land and building codes, and, where available, applicable financial assistance.
- Goal 2. Ensure that housing is affordable and available to all socioeconomic levels of Port Orchard residents.
- Policy HS-4 Adopt zoning and development regulations that will have the effect of minimizing housing costs and maximizing housing options.
- Goal 3. Encourage the clustering of new housing developments in designated mixed-use Centers where residential uses are co-located with commercial uses
- Policy HS-9 Implement minimum residential density requirements in centers of local importance in order to increase land and infrastructure efficiency.
- Policy HS-10 Encourage the development of vertical multi-family housing above ground floor commercial uses within centers of local importance.
- Policy HS-11 Encourage the development of a mix of housing types within walking and bicycling distance of public schools, parks, transit service, and commercial centers.
- Goal 4. Promote the efficient provision of municipal infrastructure and services to new housing developments.
- Policy HS-12 Require that new housing developments occur concurrently with necessary infrastructure investments.
- Goal 5. Promote the efficient use of residential land in order to maximize development potential.
- Policy HS-14 Implement zoning and development regulations which encourage infill housing on empty and redevelopable parcels.
- Goal 9. Ensure that future residential development protects and maintains natural ecosystems and critical areas, including wetlands, streams, and wildlife habitats.
- Policy HS-26 Prioritize residential growth in centers of local importance.

Economic Development Policies and Goals:

- Goal 2. Encourage new commercial development to occur within designated centers of activity near housing, multi-modal transportation connections, and urban services.
- Policy ED-6 The City shall encourage residential and commercial growth in mixed-use local centers where job opportunities and a diverse mix of retail and office activities are concentrated.

- Policy ED-7 The City shall prioritize economic development and redevelopment in local centers.
- Goal 5. Increase residents' ability to enjoy a high quality of life and access to healthy living opportunities, such as locally produced food, nearby grocery stores, parks and open space, and safe streets for walking and bicycling.
- Goal 6. Provide a diverse mix and appropriate range of commercial, industrial, and business park uses within Port Orchard and South Kitsap area that will provide living wage jobs.
- Policy ED 25 The City shall ensure that local mixed-use centers allow for neighborhood scale grocery stores and restaurants to ensure that the City's residents have access to healthy food options.
- Policy ED-27 The City shall, through changes to the land use code, encourage mixed use developments within centers of local importance that will enhance the visual, economic, and environmental quality of these areas and improve the transition between commercial and residential districts;

WHEREAS, downtown Port Orchard is a designated local center in the 2016 Comprehensive Plan and as designated in appendix F of the Kitsap County Countywide Planning Policies; and

WHEREAS, successful mixed-use projects are needed in Port Orchard to demonstrate project viability and market demand for mixed use retail space and apartments (or condos); and

WHEREAS, barriers to mixed-use development have been identified including maximum zoning density that doesn't fit allowable building heights, conflicting height limit measurement methods, height restrictions that don't justify the cost of underground parking, excessive minimum parking standards, a nebulous design review process lacking clear written standards, a conditional use permit process required for both mixed use development in commercial zones and for height bonuses, and numerous and sometimes contradictory overlay districts; and

WHEREAS, retail sales patterns resulting from online sales growth and changing generational preferences are disrupting the commercial real estate market; and

WHEREAS, the Kitsap County Buildable Lands Report showed a surplus of commercial land within the city limits of Port Orchard; and

WHEREAS, the areas targeted under this mixed-use pilot program are currently designated commercial in the comprehensive plan with either a Commercial, Business

Professional, or Mixed-use zoning designation; and

WHEREAS, in designating areas under this program, the city has identified sites within walking distance of downtown, the Bay Street Pedestrian Pathway (segments 1-6), and the Kitsap Transit Downtown Foot Ferry terminal; and

WHEREAS, the city is not seeking to redevelop the core of downtown Port Orchard (from Frederick to Harrison) under this ordinance, but rather undeveloped and underdeveloped properties near the downtown core which when developed could contribute to downtown economic development and vitality; and

WHEREAS, Kitsap County and Port Orchard suffer from a lack of affordable housing; and

WHEREAS, increasing the number of available housing units and providing for alternative housing types is one way to increase the supply of affordable housing; and

WHEREAS, apartment vacancy rates in Kitsap County remain low at 4.6% countywide and 3.5% in Port Orchard as of January 2017; and

WHEREAS, the construction cost of parking represents a significant cost of housing development and rent; and

WHEREAS, ground floor retail uses abutting Bay Street are not currently required to provide parking due to the presence of on Street Parking within the Bay Street Right of Way; and

WHEREAS, uses occupying spaces above the ground floor on sites abutting Bay Street are currently required to provide dedicated off-street parking; and

WHEREAS, few opportunities exist in Port Orchard for car free living to limited transit services and a lack of non-motorized pedestrian facilities; and

WHEREAS, the areas identified for mixed-use transit oriented development in this pilot program potentially allow for car free living due to the availability of the new high-speed passenger ferry from Bremerton to Seattle, the Kitsap Transit foot ferry connecting Port Orchard and Bremerton, Kitsap Transit bus services, as well as car sharing services such as Uber and Lyft, zip car, car-to-go which are becoming increasingly available throughout the region; and

WHEREAS, transit oriented development and car free living further the city's greenhouse gas emission policies; and

WHEREAS, the Port Orchard Chamber of Commerce conducted a downtown parking study and found that there is ample parking available in and around downtown Port Orchard with 926 available parking spaces in the immediate downtown area; and

WHEREAS, the City continues to improve pedestrian infrastructure along the waterfront including the construction of the Bay Street Pedestrian Pathway which by 2019 will extend from more than 1 mile along the downtown waterfront and provide accessible connectivity to the Kitsap Transit bus and ferry services; and

WHEREAS, the basic building block of a community is the neighborhood; and

WHEREAS, a neighborhood is limited in physical size, with a well-defined edge and center; and

WHEREAS, a neighborhood should comprise a fine-grained mix of land uses, providing opportunities for all segments of the population to find places to live, shop and be entertained; and

WHEREAS, the neighborhood should be based on the distance a person can walk within five minutes from the center to the edge of the neighborhood; and

WHEREAS, buildings should be in portion to human scale; and

WHEREAS, infill development has significant advantage to greenfield development and can leverage existing infrastructure; and

WHEREAS, dense mixed-use development reduces the financial burden of maintaining public infrastructure and services; and

WHEREAS, a SEPA Determination of Non-Significance was issued on this proposed ordinance on October 20, 2017; and

WHEREAS, the City submitted a request for expedited review of the proposed ordinance to the Department of Commerce on October 17, 2017; and

WHEREAS, the Planning Commission held a public hearing on this proposed ordinance on November 7, 2017 and voted to recommend that the City Council of Port Orchard approve the proposed mixed-use pilot program and adopted the above whereas statement as findings in support of their recommendation;

now, therefore,

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

SECTION 1. The City Council hereby adopts the above recitals as findings in support of this ordinance.

SECTION 2. An alternative set of development regulations known as the Transit Oriented Mixed-Use Pilot Program is hereby adopted to read as follows:

Transit Oriented Mixed-Use Development Pilot Program

1. Purpose. To promote transit oriented form based mixed-use development near downtown Port Orchard and the City's passenger ferry terminal, while ensuring that such development demonstrates high quality building and site design that enhances the downtown business environment while complementing existing downtown development. In addition, the Pilot Program is intended to develop a body of successful, well-regarded examples of mixed use buildings to inform a later Council decision whether to finalize and/or refine development regulations and design standards for future mixed-use projects in Port Orchard.

2. Term. The Pilot Program shall commence on the effective date, April 2, 2018. Applications for development agreements to be submitted under the terms of this program shall not be accepted until both of the following dates have occurred: 1) the effective date of this ordinance; and 2) the effective date of the new architectural and site design standards applicable to mixed use development, which standards are still under development as of the date of adoption of this ordinance. The Pilot Program shall expire and its effectiveness shall cease on June 30, 2019, or, once the city has received development agreement applications for the construction of 200 residential dwelling units under the terms of this program, whichever occurs first. Once an application for a development agreement submitted under the terms of this program has been submitted, that application and development agreement and any needed project approval(s) may continue to be processed accordingly even if the effectiveness of the pilot program has ceased. Once the City has received a counter complete application for a project that would yield the 200th dwelling unit under the terms of this program, no additional applications submitted pursuant to this chapter may be accepted and any applications submitted under this pilot program after that threshold is reached shall be added to a waitlist. The project application that proposes the 200th dwelling unit as described herein, may propose a number of dwelling units that causes the total number of units proposed under this program to exceed 200 units, but may not cause the total number of units proposed under the pilot program to exceed 250 dwelling units under any circumstances. (For instance, if development agreement applications for 3 projects totaling 175 units have been accepted, a 4th project could be accepted bringing to total number of units allowed under the program to 230 units. While the city seeks 200 units to be constructed under this program, the city wishes to be

flexible (allowing up to 250 total units) to ensure project viability.) If a development agreement application is rejected, substantially modified, withdrawn, or deemed withdrawn due to lack of responsiveness on the part of the applicant, that application may be replaced with the next application on the waitlist.

3. Submittal of Development Agreement Application and Development Agreement Approval Required.

A. A development agreement substantially similar to the form attached to this ordinance as Exhibit A shall be required as a prerequisite to participation in this program. The development agreement shall reserve any requested and available residential capacity as allowed under this program as described in Section 2 and include a provision requiring that a counter complete building permit application submitted pursuant to this program be submitted within one year of the date of development agreement approval.

B. Development agreement application window and selection process. The City shall accept development agreement applications pursuant to this program during an initial application window that begins on the effective date and ends on April 30, 2018. During the initial application window, if development agreement applications for fewer multifamily dwelling units than allowed under this program are received, then the applications will be processed on a first-come first-serve basis and any subsequent applications submitted will be processed on a first-come first-serve basis. If development agreement applications totaling more than 250 units are submitted during the initial application window, then the city will utilize the competitive selection process described in Section 15 of this chapter to determine which applications will be selected for processing. In such a case, the city will not accept any additional development agreement applications under this program.

C. Additional development agreement application requirements. Regardless of whether the pilot program is administered on a first-come first-serve basis or through a competitive process as derived in Section B above, the following materials shall be submitted with an application for a development agreement:

- i. A site plan.
- ii. Building elevations of all sides.
- iii. A massing study which shows a three-dimensional axonometric view of the structure from at least 4 vantage points (the four corners of a 4-sided building) and also shows all other buildings, above-ground structures, and roadways within at least 300 feet of the project boundaries. See an example of a massing study in Figure 1 below.
- iv. A minimum 24x36 inch color project rendering showing the proposed structure, associated public improvements, and landscaping. See an example of a project rendering in figure 2 below.
- v. A narrative describing how the project will be consistent with the pilot program's purpose.

- vi. Project details including the total number of residential units proposed, the proposed building height, the location of proposed parking, and the total number of parking spaces proposed.
- vii. Details concerning any proposed projections of balconies and weather protection into the right of way.
- viii. Details and/or preliminary drawings of proposed improvements within the public right of way.

Figure 1: An Example of a massing study.



Figure 2: An Example of a color project rendering.



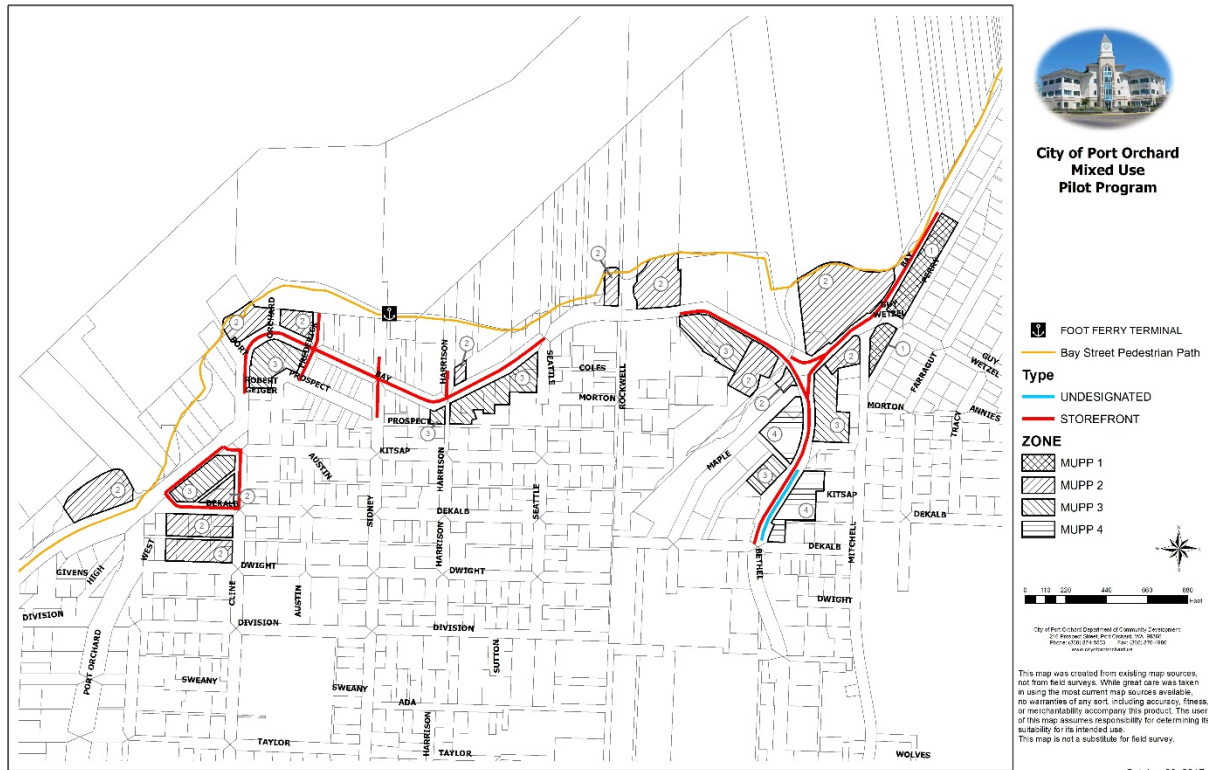
4. Applicability.

- A. This program provides alternative development standards for the specially

designated areas shown on the maps in section 4(B) below. Any such property shown in section 4(B) Figure 3 below may still be developed under the normally applicable development regulations as if this pilot program didn't exist, in accordance with all other provisions of the POMC and state law.

B. The provisions of this pilot program only apply to areas shown designated as MUPP-1, MUPP-2, MUPP-3, or MUPP-4 on Figure 3 below and only until the pilot program expires as described above.

Figure 3: MUPP Map and Height Limits.



C. The following POMC code sections as existing now or hereafter amended shall not apply to development in the areas described in subsection B above when accepted into this pilot program:

- POMC 20.30 Zoning Map
- POMC 20.34 Zoning Districts (excluding 20.34.220)
- POMC 20.38 Overlay Districts
- POMC 20.46 Designated Land Uses
- POMC 20.54 Nonconforming Uses
- POMC 20.120 Development Standards
- POMC 20.122 Common Development Standards
- POMC 20.124 Parking and Circulation

POMC 20.128 Landscaping Standards

D. Minimum Project Size. Projects proposed under this pilot program shall have a minimum building footprint of 5,000 square feet and a minimum of 10 residential units.

5. Mixed-Use Pilot Program Zones. The Mixed-use pilot program consists of one zone that allows four (4) different building height limits depending on where that property is in relation to upland development and topographic features as designated on the map above. This zone, designated Mixed Use Pilot Program (MUPP) is accompanied by a number (1, 2, 3, or 4) that directs one to the corresponding maximum height limit. Building height is the only difference between these four (4) designations under the pilot program.

- A. MUPP-1
- B. MUPP-2
- C. MUPP-3
- D. MUPP-4

6. Permitted Uses. The following uses are the only uses permitted in the MUPP (1-4) zone. See definitions in section 16. The uses permitted under the MUPP are categorized as either (A) storefront uses or (B) general uses. Storefront uses are permitted in outright all locations within the MUPP zone (as designated 1-4). General uses shall be permitted in all areas designated under the MUPP zone (as designated 1-4) except in ground floor spaces within 40 feet of the right-of-way line of a storefront street. Exceptions to the ground floor use requirements may be granted for building access such as a residential apartment lobby or office lobby or a parking garage access, provided that the ground floor area appears to consist primarily storefronts when viewed from the street. Storefront street/block frontages are shown on figure 3 above. :

A: Storefront Uses:

- i. Commercial Childcare
- ii. Commercial Entertainment
- iii. Library.
- iv. Lodging, level 3
- v. Museum
- vi. Parking Access Point (not to exceed 20 feet in width).
- vii. Product Services Level 1
- viii. Restaurants Levels 1, 2, and 3
- ix. Sales, Ancillary
- x. Sales, Level 1
- xi. Tavern

B. General (non-storefront) Uses

- i. Dwelling, Multiple Family
- ii. Accessory Uses and Structures
- iii. Home Occupations

- iv. Home Profession
- v. Government administrative office
- vi. Public/Private Services
- vii. Community Recreation Hall
- viii. Parks
- ix. Electric (rapid) vehicle charging station
- x. Conference Centers
- xi. Personal Services
- xii. Business Services
- xiii. Professional Services.
- xiv. Healthcare Services
- xv. Ancillary Services
- xvi. Commercial Recreation
- xvii. Parking Lot, Commercial (Parking structures, underground parking, and parking under a building permitted, uncovered surface parking prohibited).

7. Building Height.

A. Building Heights shall be measured in accordance with the definition of “building height” found in POMC 20.12 Definitions, except that when a proposed site is located within areas regulated for minimum flood elevations under POMC 20.170, building height may be measured from the minimum flood elevation, whichever method results in the more permissive building height. Building Heights in the MUPP zone (as designated MUPP 1, 2, 3, or 4) shall be limited to a maximum height as follows:

MUPP-1: 37 feet, not to exceed 3 stories

MUPP-2: 48 feet not to exceed 4 stories

MUPP-3: 58 feet not to exceed 5 stories

MUPP-4: 68 feet not to exceed 6 stories

B. A ten-foot (one story) height bonus not to exceed 20,000 feet in area may be granted to exceed the applicable maximum height provided in 7 (A) if the applicant agrees to construct and operate (or lease to an operator) a grocery store in the same building for which the bonus is sought, with the grocery store space measuring at least 10,000 square feet in area. In addition to the 20,000-square foot bonus limit, the area of this additional ten feet of building height shall not exceed 95% of the area of the floor immediately below this bonus height (floor). A letter of interest from a grocer shall be required at the time of application for participation in the MUPP expressing an interest in operating a store in the proposed location. The grocery store space constructed shall be restricted by a covenant with the city such that the space’s primary use be the sale of unprepared foods for a period of fifteen (15) years. In addition, projects receiving the bonus shall be designed and constructed to include structural, electrical, and mechanical systems consistent with the planned operation of a grocery store.

C. Projections above the height limits in sections A and B are permitted for mechanical systems and their associated screening, turrets, unoccupied towers, spires, antennas,

elevator shafts, rooftop patios and decks, landscaping, and other similar features typically found on a flat roof.

8. Mix of Uses required in buildings constructed pursuant to this ordinance.

A. A mix of commercial and residential uses in at least one building on a site proposed for development under this program shall be a requirement of this program. The ground floor portions of any building within 40 feet of the right-of-way line of a storefront street as designated on figure 3 shall only be occupied by a storefront use as listed in section 6 (A) (restaurants, retail, etc.). General uses under section 6 (B) (multifamily dwellings, live/work dwelling units, personal service uses, etc.) may be located on the ground floor in portions of a building which are more than 40 feet from the right-of-way line of a designated storefront street. Exceptions to the ground floor use requirements may be granted for building access such as a residential apartment lobby or office lobby or a parking garage access, provided that the ground floor area appears to consist primarily storefronts when viewed from the street.

9. Parking. Parking shall be provided in accordance with the minimum standards listed below. Parking may be located on-site. Parking may be located on private property off-site provided that the property boundary containing the required parking is within 1,000 feet of the property on which the project is proposed under this program and provided that adequate controls are established to guarantee the availability of that parking in perpetuity unless parking requirements are reduced at a future date, or, if alternative parking facilities are provided subject to City Council acceptance. The conditions under which offsite required parking may be reduced or relocated shall be established in the development agreement between the City and the applicant prior to building permit issuance.

A. Commercial uses for ground floor storefronts abutting Bay Street between Robert Geiger Street and Harrison: Parking is not required.

B. Dwelling Units: 0.5 vehicle spaces per dwelling unit.

C. Other Commercial Uses not located on the ground floor: Parking not required.

D. Total on-site parking for any project shall not exceed 1.5 automotive spaces per proposed dwelling (including any parking intended to support commercial uses), however projects qualifying for a grocery store height bonus shall be allowed additional parking at 1 stall per 300 square feet of grocery store area.

E. Bicycle parking shall be provided at a ratio of 1 bicycle parking space per 3,000 square feet of gross commercial floor area in a constructed building with a minimum of 3 bicycle parking spaces provided.

10. Required Landscaping. All areas of sites developed pursuant to this program which are not to be covered by proposed hard surfaces or building structure shall be fully landscaped in accordance with this section. In addition, street frontages (including areas in the adjacent right of way) and public plazas shall be designed with landscaping in accordance with this subsections C and D below.

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- A. All areas which are not covered by building or hardscape shall be landscaped using one or a combination of the following techniques:
- i. Landscaping consisting of dense shrubs, trees, flowers is provided in accordance with an approved landscape planting plan;
 - ii. Environmental restoration plan provided and implemented using native indigenous species.
 - iii. Installation of lawn areas for use of residents and/or the public.
 - iv. Low Impact Development stormwater facilities
- B. Landscape plans as prepared by a licensed landscape architect shall be provided for review and approval in accordance with this section. Low Impact Development stormwater facilities shall be designed by a licensed civil engineer.
- C. Street trees, planters, hanging baskets, or some other landscaping appropriate for placement within the abutting right of way shall be provided at a regular interval ranging between 20 and 50 feet, as determined by the Director. (Provide Illustration)
- D. Any public spaces and plazas developed as part of a project proposal shall include landscape areas measuring at least 10% of the total public space and plaza area. (Provide Illustration).
- E. Permanent irrigation shall be provided for all landscape areas.

11. Frontage and Sidewalk Improvements. The City may require as a provision of the development agreement that concrete (other decorative surfaces allowed with Director approval) sidewalks, curbs, landscaping, pedestrian ways, and (asphalt or concrete) parking lanes immediately abutting a project developed under this program be improved or enhanced. At a minimum, sidewalks and ADA ramps shall be improved to current City standards. Alternative materials or patterns (such as pavers, brick, or stamped concrete) may be required as a provision of the development agreement to coordinate with the design and materials proposed for a proposed project. In addition, continuous ADA compliant pedestrian ways measuring at least 6-feet in width shall be required for all projects constructed under this program to connect the proposed project with either the Bay Street Pedestrian Pathway (segments 1-6) or the Port Orchard Passenger Ferry Terminal. (see map). All pedestrian ways shall be designed using guidance found in the National Association of Transportation Officials Urban Street Design Guide.

12. Lot Coverage. One-Hundred Percent (100%) lot coverage shall be allowed in MUPP (1-4) areas above, except for portions of properties located within areas controlled by the Shoreline Master Program which shall comply with lot coverage requirements as adopted under the shoreline master program. The critical areas code may also limit lot coverage or require setbacks in some instances.

13. Balconies and weather protection (awnings or canopies) may be proposed to project over the sidewalk or other pedestrian right of way. Such projections shall be limited to 75% of the width of the sidewalk/landscape portion of the right-of-way, provided that no projection shall

extend to within two feet of the vertical curb face along a street or parking lane. Projections shall be approved under a street use permit (for removable projections) or by partial street vacation approved by the City Council (for permanent projections). A removable projection is one that could be removed from the right-of-way at a later date without substantial cost and without adversely affecting the integrity of the building. Weather protection shall be required along all building façades adjacent to a public right of way. In no case shall a balcony or weather protection project more than 8 feet into the abutting right-of-way.

14. All development proposed under this pilot program shall comply with the applicable sections of POMC Title 20 and any Architectural and Site Design standards in effect at the time of building permit application or as approved through a development agreement. Note that these standards are currently under development and will only apply if adopted prior to project vesting. The chapters that will apply are tentatively numbered and titled as follows:

20.128 Introduction

20.129 Block Frontage Standards

20.130 Site Planning and Design Elements

20.131 Building Design

20.135 Outdoor Lighting

15. Competitive Selection Process (if required). If prior to April 30, 2018, development agreement applications collectively expressing an intent to construct more than 250 dwelling units are submitted, then a competitive project selection process under this section shall commence.

A. Review process. The Mayor will convene a special advisory review body which shall function in an advisory capacity to provide a recommendation prior to the City Council taking action to determine which projects should be included within the program. The City Council shall determine which projects may proceed under this program. The Open Public Meetings Act and the Appearance of Fairness Doctrine shall apply to all meetings of the advisory review body and the city council for the purposes of evaluating and ranking the projects in the competition.

B. The special advisory review body shall consist of:

i. The Community Development Director or designee;

ii. The Public Works Director;

iii. An architect or urban design professional appointed by the mayor;

iv. Two (2) other design professionals with urban design experience as appointed by the mayor;

C. The special advisory review body will assess the consistency of the proposal with the following criteria and scoring. Each member of the body shall score the project individually, but not anonymously, and the averaged result shall be used to determine a final score. All proposals submitted under the provisions of this section shall be evaluated based on the applicant's demonstration of the following according to the

materials submitted as of April 30, 2018:

- i. Responsiveness to the following basic downtown patterns established by existing development in the area (up to 30 points).
 - a. Street frontage characteristics.
 - b. Rhythm of development along the street.
 - c. Building orientation on the site and in relation to the street.
 - d. Street setback patterns.
 - e. Landscaping and trees.
 - f. Architectural features.
 - g. Historic character, if located within a designated Historic District.
- ii. Pedestrian-friendly design (up to 20 Points). The degree to which the proposed development provides exceptional pedestrian access between proposed buildings and adjacent public rights of way and emphasizes pedestrian connectivity. The quality of the pedestrian experience within the site and in the abutting public right-of-way shall be high.
- iii. De-emphasize parking (up to 10 points). The degree to which the project meets minimum parking requirements while concealing or effectively screening required parking from view along public streets and rights of way.
- iv. Create useable outdoor public and private spaces (10 points). The degree to which the project provides usable and functional public and private outdoor spaces.
- v. Other special project amenities (up to 10 points). The degree to which the project provides other special amenities to its residents. Examples include but are not limited to exercise facilities, pools, common areas, public art, etc.
- vi. Affordable Housing (up to 10 points). The degree to which the project will provide affordable housing.
- vii. Sustainable features (up to 10 points). The degree to which the project incorporates sustainability features through one of the following certification programs:
 - a. Built Green
 - b. LEED
 - c. Greenroads
- viii. Economic Development (up to 10 points). The type of commercial tenant spaces created and the degree to which those spaces can support businesses that will further enhance downtown Port Orchard as a desirable place to live and work, create synergies with the existing business mix in and around downtown, and support tourism.

D. The special advisory committee shall score the proposed projects based on the points system and scoring criteria in section C above and forward its recommendation to the City Council for approval of the project rankings. The City Council shall review the advisory committee rankings using the same criteria without being obligated to give deference to the committee and shall make the final ranking determination. Upon the

City Council's final determination of the project rankings, the City Council may consider the development agreement applications for the projects that were selected to proceed forward pursuant to this program.

16. Definitions. The definitions in POMC 20.12 shall apply to the pilot program except as follows:

"Accessory uses and structures" shall mean a use or a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. means caretaker dwelling units associated with nonresidential uses, residential garages, sheds, similar outbuildings associated with the principal residential uses on the site and temporary buildings for and during construction.

"Ancillary services" means services primarily for the employees of a primary permitted use. Examples of such uses include day care centers, cafeterias and exercise facilities for the benefit of the employees.

"Business services" means an establishment engaged in providing services to individuals, business and professional office uses. Examples of such uses include: postal services, financial institutions, photocopying and reproduction services, janitorial services, graphic design services, advertising services, data processing services, employment agencies.

"Commercial child care" means a state-licensed business that provides child care on a daily basis outside of the provider's dwelling.

"Community recreation hall" means a facility provided by a nonprofit organization or government agency, for the purposes of community gatherings, classes, meetings, etc. Such a facility may include a commercial grade kitchen.

"Conference center" shall mean an establishment developed primarily as a meeting facility, including facilities for recreation, overnight lodging, and related activities provided for conference participants.

"Dwelling Unit – Multifamily" means

"Entertainment, Commercial" means any passive recreational activities including but not limited to movie theaters, performing arts theaters, concert halls, and arcades. Does not include adult entertainment facilities.

"Food truck" means a vehicle or trailer located on private property from which a vendor prepares and/or serves food for sale to the general public.

"Government administrative office" means a facility for the executive, legislative, judicial, administrative, and regulatory activities of local, state, federal, and international governments

that may perform public services and work directly with citizens. Typical facilities include courthouses, human and social service offices, health offices, and government offices.

Health Services: Includes offices, patient clinics, and medical dental laboratories.

“Home occupation” means any activity conducted for financial gain or profit in a dwelling unit by persons residing therein, and which activity is not generally or customarily characteristic of activities for which dwelling units are intended or designed and such activity is clearly incidental or secondary to the residential use of a dwelling unit.

“Home Profession” means a limited-scale activity undertaken for financial gain with no on-site fabrication, service or sales, which occurs in a dwelling unit or accessory building and is subordinate to the primary use of the premises as a residence in accordance with the provisions of Chapter 20.60 POMC.

“Lodging, level 1” means a single-family residence which provides overnight lodging for guests, and may provide meals for overnight guests, not to exceed seven guest rooms.

“Lodging, level 2” means an establishment providing sleeping accommodations with a majority of all guest rooms having direct access to the outside without the necessity of passing through the main lobby of the building, with or without food services, and may include conference facilities.

“Lodging, level 3” means an establishment providing sleeping accommodations with a majority of all guest rooms having direct access through the main lobby of the building, with or without food services, and may include conference facilities.

“Museum” means a building or place for the acquisition, conservation, study, assembly and public display and/or exhibition, and educational interpretation of objects having historical, cultural, scientific, or artistic value.

“Parking Lot Commercial” means an off-street parking area, a majority of which is available to the public, and such parking is the primary use of the site.

“Parks” means land used for active and passive recreation including, but not limited to, local and regional parks, playgrounds, ballfields, water access facilities and nonmechanical boat launches.

“Personal services” means an establishment engaged in providing services involving nonmedical care of a person and/or his or her personal goods or apparel. Examples of such uses include: laundromats, drycleaners, barbers, hairstyling salons, spa services, indoor pet grooming salons, photography studios, dance schools, karate schools, and indoor fitness centers no more than

20,000 square feet in size.

“Product services, level 1” means businesses engaged in servicing, repair or maintenance of small personal items such as shoes, small appliances, computers, watches and clocks, jewelry, and clothing, etc.

“Product services, level 2” means all product services, level 1 uses plus large appliance repair, auto repair, boat repair and garden equipment repair.

“Professional services” means specialized services or skills provided in an office setting, such as lawyers, licensed health care providers, architects, engineers, consultants, accountants and financial advisors.

“Public/private services” means uses such as libraries, fire stations, police stations, government and school maintenance and storage facilities, and public parking lots.

“Recreation - Indoor commercial” means any indoor active recreational use, including but not limited to tennis centers, fitness centers greater than 20,000 square feet in size, bowling, skating, and swimming.

“Recreation - Outdoor commercial” means any outdoor active recreational use, including but not limited to tennis, golf, outdoor fitness centers, skating and swimming.

“Restaurant Level 1” establishment provided the Restaurant 1 use does not exceed 1,200 square feet in size.

“Restaurant Level 2” means an establishment that prepares and serves food and nonalcoholic beverages.

“Restaurant Level 3” means an establishment that prepares and serves food and alcoholic beverages.

Sales, Ancillary “Ancillary sales” means sales directed towards the employees or patrons of a primary permitted use with no exterior signage.

“Sales, level 1” means general sales including grocery stores, hardware stores, variety stores, nurseries, pharmacies, bakeries, flower shops, and similar general retail uses.

“Sales, level 2” means automobiles, trucks, motorcycles, recreational vehicles, boats and trailer sales.

“Sales, level 3” means heavy equipment sales and rentals, and including outdoor bulk sales of

building and landscaping supplies.

“Tavern” means an establishment that serves alcoholic beverages as its primary use.

SECTION 3. The development agreement template as attached hereto as Exhibit A is adopted by reference.

SECTION 4. Severability. If any section, sentence, clause or phrase of this Ordinance should 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 5. Publication. This Ordinance shall be published by an approved summary consisting of the title.

SECTION 6. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title, PROVIDED THAT this ordinance shall not take effect any earlier than April 2, 2018 regardless of the publication date.

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 _____ 2018.

Robert Putansuu, Mayor

ATTEST:

SPONSOR:

Brandy Rinearson, CMC, City Clerk

, Councilmember

APPROVED AS TO FORM:

City Attorney

PUBLISHED:

EFFECTIVE DATE: