



CITY OF PORT ORCHARD
Planning Commission

216 Prospect Street, Port Orchard, WA 98366
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PLANNING COMMISSION MEETING AGENDA

Tuesday, September 4, 2018
City Council Chambers, 3rd Floor City Hall

- 1. Call to Order: 6:00 p.m.**
Pledge of allegiance

- 2. Audience Comments – Not on the Agenda**
Please limit comments to **3 minutes**.

- 3. Business Items**
 - A. Public Hearing: Revisions to Chapters 20.22 and 20.96 POMC (Correcting Code Inconsistencies for Vacation and Alteration of Subdivisions)

 - B. Discussion and Recommendation: Revisions to Chapters 20.22 and 20.96 POMC (Correcting Code Inconsistencies for Vacation and Alteration of Subdivisions)

- 4. Approval of Minutes from August 7, 2018**

(Recess: Move Meeting to DCD Conference Room, 720 Prospect Street)

- 5. Business Items (Contd.)**
 - C. Discussion: Draft Zoning Code: Zoning Map, Nonconformities (Chapter 20.54)

- 6. Adjourn**

The public is invited to speak and give testimony on any item under discussion by the Planning Commission. Please sign in prior to speaking, walk to the podium, and after receiving recognition by the Chairman, state your name, address and purpose for appearing. Please use the microphone for all of your testimony or comments.



CITY OF PORT ORCHARD
DEPARTMENT OF COMMUNITY DEVELOPMENT

216 Prospect Street, Port Orchard, WA 98366
Ph.: (360) 874-5533 • FAX: (360) 876-4980

PLANNING COMMISSION STAFF REPORT

Agenda Item No:	<u>3A, 3B</u>	Meeting Date:	<u>9/4/2018</u>
Subject:	<u>Correction of Code Inconsistencies for Vacation and Alteration of Subdivisions</u>	Prepared by:	<u>Nick Bond, Development Director</u>

Issue: City staff have become aware of inconsistencies and conflicts between Chapter 20.22 (Permit Process Types), Chapter 20.94 (Binding Site Plans), and Chapter 20.96 (Vacation and Alteration of Final Plats) of Title 20 POMC, with regard to the correct permit type classifications for vacation and alteration of subdivisions, short subdivisions and binding site plans. Staff have therefore prepared revisions to Chapters 20.22 and 20.96 POMC to resolve the identified inconsistencies and conflicts between these chapters, and also between these chapters and Chapter 20.94 POMC, as provided in the attached draft ordinance.

Recommended Motion: “I move that the Planning Commission recommend that the City Council adopt the proposed revisions to Chapters 20.22 and 20.96 POMC, as presented in the draft ordinance.”

Attachments: Draft Ordinance

ORDINANCE NO. __ -18

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ADOPTING REVISIONS TO CHAPTER 20.22 (PERMIT PROCESS TYPES) AND CHAPTER 20.96 (VACATION AND ALTERATION OF FINAL PLATS) OF THE PORT ORCHARD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on June 13, 2017, the Port Orchard City Council adopted ordinance 019-17 establishing a new unified development code (Title 20 POMC); and

WHEREAS, City staff have become aware of inconsistencies and conflicts between Chapter 20.22 (Permit Process Types), Chapter 20.94 (Binding Site Plans) and Chapter 20.96 (Vacation and Alteration of Final Plats) of Title 20 POMC, with regard to the correct permit type classifications for vacation and alteration of subdivisions, short subdivisions and binding site plans; and

WHEREAS, the City may adopt amendments to the City's development regulations pursuant to RCW 36.70A.106; and

WHEREAS, City staff have prepared revisions to Chapters 20.22 and 20.96 POMC to resolve the identified inconsistencies and conflicts between these chapters, and also between these chapters and Chapter 20.94 POMC; and

WHEREAS, on August 1, 2018, the City submitted to the Department of Commerce a request for an expedited 14-day review of the proposed revisions to Chapters 20.22 and 20.96 POMC, pursuant to RCW 36.70A.106(3)(b); and

WHEREAS, on August 24, 2018, the City's SEPA official issued a determination of non-significance for the proposed revisions to Chapters 20.22 and 20.96 POMC, and there have been no appeals; and

WHEREAS, on September 4, 2018, the Planning Commission held a duly-noticed public hearing on the proposed revisions to Chapters 20.22 and 20.96 POMC, and public testimony was received, and the Planning Commission recommended approval of the proposed adoption; **NOW, THEREFORE**

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

SECTION 1. The City Council adopts all of the “Whereas” sections of this ordinance as findings in support of this ordinance.

SECTION 2. Chapter 20.22 POMC is revised to read as follows:

CHAPTER 20.22

PERMITTING & DEVELOPMENT APPROVAL—PERMIT PROCESS TYPES

Sections:

20.22.010 Permit Process Types—Classification.

20.22.020 Permit Process Types—Determination of types—Table.

20.22.030 Permit Process Types—Type I.

20.22.040 Permit Process Types—Type II.

20.22.050 Permit Process Types—Type III.

20.22.060 Permit Process Types—Type IV.

20.22.070 Permit Process Types—Type V.

20.22.010 Permit Process Types—Classification.

The review and approval of land use and development permit applications shall be classified as either Type I, II, III, IV, or V based on who makes the decision, the amount of discretion exercised by the decision maker, the level of impact associated with the decision, the amount and type of public input sought, and the type of appeal opportunity. The types of decisions are set forth in this chapter. The application procedures identified in this chapter shall be pursuant to Chapter 20.24 POMC.

20.22.020 Permit Process Types—Determination of types—Table.

- (1) Determination of proper decision type. The director shall determine the proper review procedure for all land use and development permit applications and actions. If there is a question as to the appropriate type of process, the director shall resolve it in favor of the higher process type number.
- (2) Optional Consolidated Permit Processing. An application that involves two or more procedures may be processed collectively under the highest numbered procedure required for any part of the application or processed individually under each of the procedures identified by the code. The applicant may determine whether the application shall be processed collectively or individually. If the application is processed under the individual procedures option, the highest numbered type procedure must be processed prior to the subsequent lower numbered procedure. If the individual procedure option is chosen, the applicant will be eligible for any fee reduction contained in the current fee schedule.

Table 20.22.020 – Permit Review Type Classifications

Type I Director Decision Judicial Appeal	Type II Director Decision HE Appeal	Type III HE Decision Judicial Appeal	Type IV City Council Decision Judicial Appeal	Type V City Council Decision GMHB Appeal
Building Permit ¹ (Subtitle X of this title) Binding Site Plan, Final (Chapter 20.94 POMC) Preliminary Plat – Minor Modifications (Chapter 20.88 POMC) Land Disturbing Activity Permit (Chapter 20.140 POMC and POMC 20.150.100) Boundary Line Adjustment (Chapter 20.84 POMC) Code Interpretation (Chapter 20.10 POMC)	Short Plat, Preliminary, Alteration of Preliminary, Alteration of Final, Vacation of Final (Chapter 20.86 and 20.96 POMC) Temporary Use Permit (Chapter 20.58 POMC) Binding Site Plan – Preliminary, Alteration of Preliminary, Alteration of Final, Vacation of Final (Chapter 20.94 POMC) Stormwater Drainage Permit (Chapter 20.150 POMC) Sign Permit (if SEPA required)	Preliminary Plat, Preliminary Plat Major Modifications, Alteration of Final, Vacation of Final (Chapter 20.88 and 20.96 POMC) Variance (Chapter 20.28 POMC) Conditional Use Permit (Chapter 20.50 POMC) Shoreline Substantial Development Permit, Conditional Use Permit, and Nonadministrative Variance (Chapter 20.164 POMC) Planned Residential Developments	Final Plat (Chapter 20.90 PO MC) Site-Specific Rezone without Comprehensive Plan Amendment (Chapter 20.42 POMC)	Development Agreement (Chapter 20.26 PO MC) Comprehensive Plan Amendment – Land Use Map Amendment, Text Amendment (Chapter 20.04 POMC) Legislative Zoning Map Amendment (Chapter 20.06 POMC) Title 20 Code Amendment (Chapter 20.06 POMC)

Table 20.22.020 – Permit Review Type Classifications

Type I Director Decision Judicial Appeal	Type II Director Decision HE Appeal	Type III HE Decision Judicial Appeal	Type IV City Council Decision Judicial Appeal	Type V City Council Decision GMHB Appeal
Legal Nonconforming Permit (Chapter 20.54 POMC) Short Plat, Final (Chapter 20.86 POMC) Sign Permit (if SEPA not required) (Chapter 20.132 POMC) Sign Variance (Chapter 20.132 POMC) Shoreline Permit Exemption (Chapter 20.164 POMC) Temporary Use Permit, Extension	(Chapter 20.132 POMC) Shoreline Substantial Development Permit, Administrative (Chapter 20.164 POMC) Variance – Administrative (Chapter 20.28 POMC)	Comprehensive Sign Design Plan Permits Final Plat – Alteration or Vacation (Chapter 20.96 POMC) View Protection Overlay District (VPOD) Variance (POMC 20.38.713)		Annexations

Table 20.22.020 – Permit Review Type Classifications

Type I Director Decision Judicial Appeal	Type II Director Decision HE Appeal	Type III HE Decision Judicial Appeal	Type IV City Council Decision Judicial Appeal	Type V City Council Decision GMHB Appeal
(Chapter 20.58 POMC)				

Untyped review and decision actions: preapplication meeting (Chapter 20.24 POMC), design review board review and recommendation (POMC 20.38.228), tax exemption for multifamily development (Chapter 3.48 POMC), capacity reservation certificate (Chapter 20.180POMC), public works design variation, right-of-way permit (Chapter 12.04 POMC), street use permit (Chapter 12.24 POMC), water/sewer connection permit (Chapter 13.04 POMC).

¹ If a building permit application does not require SEPA review, no public notice is required. If a building permit application requires SEPA review, public notice shall be provided consistent with the requirements for Type II applications pursuant to Chapter 20.25 POMC.

20.22.030 Type I (administrative decision, judicial appeal).

- (1) General. Type I applications are defined pursuant to POMC 20.22.020. All Type 1 actions must meet all applicable requirements of the POMC in addition to the requirements specified in this subtitle.
- (2) Preapplication Conference. Type I applications do not require a preapplication conference.
- (3) Notice of Application. Type I applications do not require a Notice of Application; unless environmental review is required under SEPA pursuant to Chapter 20.160 POMC.
- (4) Review of Application.

- (a) The director shall commence permit review pursuant to Chapter 20.24 POMC. The director shall determine which city departments are responsible for reviewing or commenting on an application and shall ensure the affected departments receive a copy of the application, or appropriate parts of the application.
 - (b) Following a determination of technical completeness and determination of consistency pursuant to POMC 20.24.090, the director shall approve, deny, or approve with conditions all Type I applications. Conditions may be imposed directly on the plans (red-lining) or through other documentation reflected on the plans to ensure the requirements of city codes and regulations are met without going through another correction cycle before permit issuance.
- (5) Decision.
- (a) Type I applications are subject to the maximum 120-day timeline pursuant to POMC 20.24.100, but in most cases review may be complete within a much shorter time period. If no correction cycles are required, review should be complete within approximately 30 calendar days from the date of technical completeness. Correction cycles will extend review time in proportion to the time the city must wait for an applicant to submit additional or corrected information.
 - (b) The decision of the director may be reflected on the plans or permit itself or may be documented in a written report or letter of approval.
- (6) Notice of Decision. Public notice of a Type I decision is not required. The applicant shall be notified in writing or by email that the permit is ready to issue or the application is approved.
- (7) Administrative Appeal. There is no administrative appeal of a Type I decision except for decisions that are appealable to the building board of appeals in accordance with this title and the International Codes as adopted by the City.
- (8) Judicial Appeal. A Type I decision not appealable to the building board of appeals may be appealed directly to superior court.

20.22.040 Type II (administrative decision, hearing examiner appeal).

- (1) General. Type II applications are defined pursuant to POMC 20.22.020. All Type II applications must meet all applicable requirements of the POMC in addition to the requirements specified below.
- (2) Preapplication Conference. Type II actions are required to participate in a preapplication conference pursuant to POMC 20.24.010. A limited preapplication conference may be allowed for projects that do not require substantial review by other departments such as variances and design review without SEPA or street improvement requirements.

- (3) Notice of Application. Type II applications require a notice of application pursuant to Chapter 20.25 POMC.
- (4) Review of Application.
 - (a) The director shall commence permit review pursuant to Chapter 20.24 POMC. The director shall determine which city departments are responsible for reviewing or commenting on an application and shall ensure the affected departments receive a copy of the application, or appropriate parts of the application.
 - (b) Following a determination of technical completeness and determination of consistency pursuant to POMC 20.24.090, the director shall approve, approve with conditions, or deny all Type II applications. Conditions may be imposed directly on the plans (red-lining), through other documentation reflected on the plans, or in a written staff report or other decision document, to ensure the requirements of city codes and regulations are met without going through another correction cycle before permit issuance.
- (5) Public Hearing. No public hearing is required for Type II decisions.
- (6) Decision. Type II decisions are subject to the maximum 120-day timeline requirement pursuant to POMC 20.24.100. A decision for a Type II action shall be made in writing by the director and shall include the following information:
 - (a) A description of the proposal and a listing of permits or approvals included in the application;
 - (b) A statement of the applicable criteria and standards in this code and other applicable law;
 - (c) A statement of background information and facts relied upon by the department which show the application does or does not comply with the approval criteria;
 - (d) A summary of public comment received and how the department or applicant responded to the public comments or concerns; and
 - (e) The decision to deny or approve the application and, if approved, any conditions of approval necessary to ensure the proposed development will comply with applicable law.
- (7) Notice of Decision. Public notice of a Type II decision shall be provided pursuant to Chapter 20.24.100. Notice of a short plat or binding site plan shall be provided in the same manner as notice of application as set forth in Chapter 20.25 POMC.
- (8) Administrative Appeal. A Type II decision, except for shoreline substantial development permits and shoreline variances, may be appealed to the hearing examiner within 14 calendar days of the Notice

of Decision. A decision on a shoreline substantial development permit or shoreline variance may be appealed to the State Shorelines Hearings Board pursuant to Chapter 20.164 POMC. Shoreline appeal procedures and information are available from the department or from the State Department of Ecology. Administrative appeals of director decisions to the hearing examiner are to be made on forms provided by the city and shall include the following information:

- (a) A brief statement regarding how the appellant is significantly affected by or interested in the matter appealed;
 - (b) A specific clear and comprehensible statement of the appellant's issues on appeal, noting appellant's specific exceptions and objections to the decision or action being appealed;
 - (c) The specific relief requested, such as reversal or modification; and
 - (d) Signature, address, and phone and fax number of the appellant, and name and address of appellant's designated representative, if any.
- (9) Judicial Appeal. The decision of the hearing examiner on a Type II appeal may be appealed to superior court.

20.22.050 Type III (hearing examiner decision, judicial appeal).

- (1) General. Type III applications are defined pursuant to POMC 20.22.020. All Type III applications must meet all applicable requirements of the POMC in addition to the requirements specified below.
- (2) Preapplication Conference. Type III applications are required to have a preapplication conference pursuant to POMC 20.24.010.
- (3) Notice of Application. Type III applications require a notice of application pursuant to Chapter 20.25 POMC.
- (4) Review of Application.
 - (a) The director shall commence permit review pursuant to Chapter 20.24 POMC. The director shall determine which city departments are responsible for reviewing or commenting on an application and shall ensure the affected departments receive a copy of the application or appropriate parts of the application.

- (b) Following a determination of technical completeness and determination of consistency pursuant to POMC 20.24.090, the director shall prepare a written recommendation to the hearing examiner. The director's recommendation shall provide a description of the proposal, a listing of the permits or approvals included in the application, a statement of the criteria and standards applicable to the proposal, and a review of the background information and facts relied upon by the director for the recommendation. The recommendation shall enumerate any conditions needed to ensure the application meets each of the applicable decision criteria.
 - (c) If a director recommendation is not available to the hearing examiner as provided in this section, the hearing examiner may reschedule or continue the hearing upon his or her own motion or upon the motion of a party, or the hearing examiner may decide the matter without the recommendation.
 - (d) The director's recommendation, and any additional staff reports, shall be consistent with RCW 36.70B.060(5).
- (5) Public Hearing. A Type III action requires an open record hearing before the hearing examiner.
- (a) At least fifteen (14) calendar days before the date of the hearing, public notice of the hearing shall be provided consistent with the requirements of POMC 20.25.050.
 - (b) The director's recommendation shall be made available on the date the hearing notice is issued.
 - (c) SEPA appeals for type III decisions may be consolidated with a public hearing as provided for in POMC 20.160.240(5).
 - (d) The burden of proof shall be on the applicant to demonstrate that the proposal conforms to applicable codes and standards; except that for any SEPA DNS appeal, the burden of proof is on the appellant.
 - (e) The public hearing shall be conducted pursuant to the hearing examiner's adopted rules and procedures and shall be recorded on audio or audiovisual tape. The hearing examiner may remand an application to staff at his or her discretion to allow staff to administratively address an issue or irregularity with the application or the processing thereof.
- (6) Decision.
- (a) A written decision for a Type III action shall be issued by the hearing examiner within 14 calendar days after the date the record closes, unless the applicant has consented in writing to an extension of this time period. The hearing examiner's decision shall include the following information:

- (i) A description of the proposal and a listing of permits or approvals included in the application;
 - (ii) A statement of the applicable criteria and standards in the municipal code and other applicable law;
 - (iii) A statement of background information and facts relied upon by the hearing examiner which show the application does or does not comply with the approval criteria and standards;
 - (iv) A summary of public testimony and public comment received and how the department or the applicant responded to the public testimony and public comments; and
 - (v) The decision to deny or approve the application and, if approved, any conditions of approval necessary to ensure the proposed development will comply with applicable law.
- (b) Notice of Decision. Public notice of a Type III decision shall be provided pursuant to POMC 20.24.100.
- (7) Reconsideration.
- (a) The hearing examiner may reconsider a Type III decision if a written request for such administrative appeal is filed by a party of record within 14 calendar days of the date of the notice of decision. Grounds for requesting reconsideration shall be limited to the following:
 - (i) The decision or conditions of approval are not supported by facts in the record;
 - (ii) The decision contains an error of law;
 - (iii) There is newly discovered evidence potentially material to the decision which could not reasonably have been produced prior to the open record pre-decision hearing; or
 - (iv) The applicant proposes changes to the proposal in response to deficiencies identified in the decision.
 - (b) Any request for reconsideration shall be mailed to all parties of record on the same day as the request is mailed or delivered to the hearing examiner.
 - (c) A request for reconsideration shall stop the running of the judicial appeal period on a Type III decision for seven calendar days. During this time period, the hearing examiner shall decide whether reconsideration is appropriate. If the hearing examiner decides to reconsider the decision, the judicial appeal period will be placed on hold until the reconsideration process is

complete and a new decision is issued. If the hearing examiner decides to reconsider a decision, all parties of record shall be notified.

(d) The hearing examiner shall, by order, set a schedule for other parties of record to respond in writing to the reconsideration request and shall issue a decision no later than 14 calendar days following the due date for submittal of written responses. A new judicial appeal period shall commence from the date of the hearing examiner's decision on reconsideration.

(8) Judicial Appeal. Type III decisions, except shoreline conditional use permits and any associated shoreline permits, may be appealed to superior court. Shoreline decisions are appealable to the State Shorelines Hearings Board.

20.22.060 Type IV (city council decision, judicial appeal).

(1) General. Type IV applications are defined pursuant to POMC 20.22.020. All Type IV applications must meet all applicable requirements of the POMC in addition to the requirements specified below.

(2) Preapplication Conference. Type IV applications are required to have a pre-application conference pursuant to POMC 20.24.010.

(3) Notice of Application. Type IV applications require a Notice of Application pursuant to Chapter 20.25 POMC.

(4) Review of Application.

(a) The director shall commence review of the permit application pursuant to Chapter 20.24 POMC. The director shall determine which city departments are responsible for reviewing or commenting on an application and shall ensure the affected departments receive a copy of the application or appropriate parts of the application.

(b) Following a determination of technical completeness and determination of consistency pursuant to POMC 20.24.090, the director shall prepare a written recommendation to the hearing body. The director's recommendation shall provide a description of the proposal, a listing of the permits or approvals included in the application, a statement of the criteria and standards applicable to the proposal, and a review of the background information and facts relied upon by the director for the recommendation. The recommendation shall enumerate any conditions needed to ensure the application meets each of the applicable decision criteria.

(c) If a SEPA Determination of Nonsignificance (DNS) is issued for the proposal, the DNS will be issued in conjunction with the director's recommendation to the hearing body.

- (d) Within 14 calendar days of holding a public hearing, the hearing body shall issue a recommendation on the application to the city council.
- (5) Public Hearing. A Type IV action requires an open record hearing for a recommendation before either the hearing examiner or planning commission, pursuant to the requirements of the individual permit application requirements.
 - (a) At least 14 calendar days before the date of the hearing, public notice of the hearing shall be provided consistent with the requirements of POMC 20.25.050.
 - (b) The director's recommendation shall be made available on the date the hearing notice is issued.
 - (c) SEPA appeals for Type IV decisions may be consolidated with a public hearing as provided for in POMC 20.160.240(5). The burden of proof shall be on the applicant to demonstrate that the proposal conforms to applicable codes and standards; except that for any SEPA DNS appeal, the burden of proof is on the appellant.
 - (d) The public hearing shall be conducted pursuant to the hearing body's adopted rules and procedures and shall be recorded on audio or audiovisual tape.
- (6) Decision. Following receipt of a recommendation from the hearing body, the city council shall approve, approve with conditions, or deny a Type IV application by ordinance.
- (7) Administrative Appeal. There is no administrative appeal of Type IV decisions.
- (8) Judicial Appeal. A Type IV decision may be appealed to superior court.

20.22.070 Permit Process Types—Type V (legislative actions).

- (1) General.
 - (a) Type V actions are defined pursuant to POMC 20.22.020. All Type V proposals are legislative actions, but not all legislative actions are Type V decisions. Legislative actions involve the creation, amendment, or implementation of policy or law by ordinance. In contrast to other types of actions, legislative actions apply to large geographic areas and are of interest to many property owners and citizens.
 - (b) Type V actions are not subject to the application procedures in Chapter 20.24 POMC, unless otherwise specified.
- (2) Public Hearing.

- (a) The planning commission shall hold a public hearing and make recommendations to the city council on Type V actions. A notice for the public hearing shall be provided pursuant to POMC 20.25.050.
 - (b) The city council may hold a public hearing on Type V actions prior to passage of an ordinance or entry of a decision.
 - (c) The planning commission and/or city council may require more than one public hearing for Type V actions.
 - (d) Notice of a public hearing shall be provided to the public at least fifteen (15) calendar days prior to the hearing by publishing notice as provided for in POMC 20.25.050. In addition to publishing notice and posting notice at city hall, at least 15 calendar days prior to the hearing the city shall mail notice of the public hearing to the applicant, relevant government agencies, and other interested parties who have requested in writing to be notified of the hearing. If the legislative action is for a comprehensive plan amendment, notice of the public hearing shall also be posted and mailed pursuant to Chapter 20.04 POMC. The city may also provide optional methods of public notice as provided in Chapter 20.25 POMC.
- (3) Review. Review of Type V actions shall be pursuant to the applicable POMC chapter for each action.
 - (4) Decision. The city council shall issue a final decision on all Type V actions by passage of an ordinance.
 - (5) Appeals. A Type V decision may be appealed to the Growth Management Hearings Board pursuant to the regulations set forth in RCW 36.70A.290.
 - (6) Legislative Enactments Not Restricted. Nothing in this section, chapter, or Chapter 20.24 POMC shall limit the authority of the city council to make changes to the city's comprehensive plan, as part of a regular revision process, or to make changes to the city's municipal code.

SECTION 3. Chapter 20.96 POMC is revised to read as follows:

CHAPTER 20.96

VACATION AND ALTERATION OF FINAL PLATS AND SHORT PLATS

Sections:

20.96.010 Purpose.

20.96.020 Applicability.

20.96.030 Decision type.

20.96.040 Plat alteration—Application requirements.

20.96.050 Application requirements.

20.96.060 Additional notice of public hearing.

20.96.070 Criteria for Approval.

20.96.080 Time Limitation for Final Decision.

20.96.090 Recording.

20.96.010 Purpose.

The purpose of this chapter is to regulate and allow vacation or alteration of approved final subdivision plats (long subdivision plats) and approved final short plats (short subdivision plats). It does not allow modification or revision of preliminary plats or preliminary binding site plans. The procedure for vacation of final plats and final short plats does not apply to the vacation or alteration of any plat of state-granted tide or shore lands.

20.96.020 Applicability.

This chapter shall apply to all requests to alter or vacate long subdivision plats, or short subdivision plats. When an application under this chapter is submitted for the vacation of a plat together with roads/streets, the procedure for vacation in this chapter shall be used, except that vacations of streets subject to RCW 35.79.035 may not be made under this procedure.

20.96.030 Decision type.

A long subdivision plat vacation or plat alteration is a Type III land use decision and shall be subject to the requirements of and processed in accordance with the procedures for such applications and decisions as set forth in Chapter 20.22 POMC. A short subdivision plat vacation or plat alteration is a Type II land use decision and shall be subject to the requirements of and processed in accordance with the procedures for such applications and decisions as set forth in Chapter 20.22 POMC.

20.96.040 Application requirements—Plat alteration.

The following materials shall be submitted to the city for a complete application for the alteration of a final short subdivision or long subdivision:

- (1) Date, name, address and telephone number of the applicant and/or property owner;
- (2) The reason(s) for the proposed alteration;
- (3) Signatures of the majority of those persons having an ownership interest in the lots, tracts, parcels, sites or divisions in the subdivision proposed to be altered;
- (4) If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for the alteration would result in the violation of a covenant, the

application shall contain an agreement signed by all parties subject to the covenants, providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision;

- (5) A copy of the proposed plat sought to be altered, together with all plat amendments recorded;
- (6) Mailing labels for all owners of property within the plat boundaries; and
- (7) A recent title report (no more than 30 days old) for each property affected by the vacation, confirming that the title of the lands as described and shown in the proposed vacation area is in the name of the owner(s) signing the application.

20.96.050 Application requirements—Plat vacation.

The following materials shall be submitted to the city for a complete subdivision vacation application:

- (1) Date, name, address and telephone number of the applicant and/or property owner;
- (2) The reason(s) for the proposed vacation;
- (3) Signatures of all parties having an ownership interest in the subdivision or that portion of the subdivision proposed to be vacated;
- (4) If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for the vacation would result in the violation of a covenant, the application shall include an agreement signed by all parties subject to the covenants, which provides that the parties agree to terminate or alter the restrictive covenants to accomplish the purpose of the vacation of the subdivision or portion thereof;
- (5) Acknowledgement that if any street is included in the application for a vacation, that the applicant shall be required to pay the amount contemplated in RCW 35.79.030, if the vacation is granted;
- (6) A copy of the approved plat sought to be vacated, together with all plat amendments recorded since the date of the original approval;
- (7) Mailing labels for all owners of property within the plat boundaries;
- (8) A recent title report (no more than 30 days old) for each property affected by the vacation, confirming that the title of the lands as described and shown in the proposed vacation area is in the name of the owner(s) signing the application; and

- (9) If the vacation is for a portion of the subdivision the applicant must demonstrate that the partial vacation will not violate the terms of subdivision approval or this chapter.

20.96.060 Additional notice of public hearing.

In addition to the notice provided above, the city shall provide notice of an application for vacation or alteration to all owners of property within the subdivision (excluding the owners of property submitting the application), as provided for in Subtitle II of this Title, and as provided for in RCW 58.17.080 and 58.17.090. The notice shall establish the date of the public hearing.

20.96.070 Criteria for Approval.

- (1) Vacation Criteria. The plat vacation may be approved, approved with conditions, or denied after a written determination, with findings and conclusions, is made whether the public use and interest will be served by the vacation.
- (2) Dedications and Easements. If any portion of the land contained in the subdivision was dedicated to the public for public use and benefit, such land, if not already deeded to the city, shall be deeded to the city as a condition of approval, unless the city shall make findings that the public use would not be served in retaining title to those lands. Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat or other document creating the dedicated easement provides or an alternative method or methods to extinguish or alter the easement.
- (3) Street Vacations. When the vacation application is specifically for vacation of a city street, the city's street vacation procedures (and/or the procedures in chapter 35.79 RCW) shall be utilized. When the procedure is for the vacation of a plat together with the streets, the vacation procedure in this chapter shall be used, but vacation of streets may not be made that are prohibited under RCW 35.79.035 or the city's street vacation ordinance.
- (4) Title to Vacated Property. Title to the vacated property shall vest with the rightful owner as shown on the county records. If the vacated land is land that was dedicated to the public, for public use other than a road or street, and the legislative authority has found that retaining title to the land is not in the public interest, title thereto shall vest with the person(s) owning the property on each side thereof, as determined by the legislative authority. When the road or street that is to be vacated is contained wholly within the subdivision and is part of the boundary of the subdivision, title to the vacated road or street shall vest with the owner(s) of property contained within the vacated subdivision.

- (5) Alteration Criteria. The alteration may be approved, approved with conditions, or denied after a written determination, with findings and conclusions, is made whether the public use and interest will be served by the alteration. If any land within the alteration area is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels or tracts, or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.

20.96.080 Time Limitation for Final Decision.

A vacation or alteration application shall be approved, approved with conditions or denied within 120 days after the application has been determined to be complete pursuant to POMC 20.24.050, unless the applicant consents in writing to an extension of such time period.

20.96.090 Recording.

After approval of the alteration or vacation, the city shall order the applicant to produce a revised drawing of the approved alteration or vacation of the short plat or final plat. The council shall authorize the mayor to sign the approved short plat or final plat, and then the city shall file it with the county auditor at the applicant's cost, to become the lawful plat of the property (or to vacate the previously approved plat).

SECTION 4. 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 5. 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 6. Effective Date. This ordinance shall be published in the official newspaper of the city and shall take full force and effect five (5) days after the date of publication. A summary of this ordinance in the form of the ordinance title 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 and attested by the City Clerk in authentication of such passage this **th day of ** 2018.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

Sponsored by:

Sharon Cates, City Attorney

**, Councilmember

PUBLISHED:

EFFECTIVE DATE:

**CHAPTERS 20.22 AND 20.96 POMC
PROPOSED REVISIONS
(SHOWN AS ~~STRIKEOUT~~/UNDERLINE)**

CHAPTER 20.22

PERMITTING & DEVELOPMENT APPROVAL—PERMIT PROCESS TYPES

Sections:

- 20.22.010** **Permit Process Types—Classification.**
- 20.22.020** **Permit Process Types—Determination of types—Table.**
- 20.22.030** **Permit Process Types—Type I.**
- 20.22.040** **Permit Process Types—Type II.**
- 20.22.050** **Permit Process Types—Type III.**
- 20.22.060** **Permit Process Types—Type IV.**
- 20.22.070** **Permit Process Types—Type V.**

20.22.010 **Permit Process Types—Classification.**

The review and approval of land use and development permit applications shall be classified as either Type I, II, III, IV, or V based on who makes the decision, the amount of discretion exercised by the decision maker, the level of impact associated with the decision, the amount and type of public input sought, and the type of appeal opportunity. The types of decisions are set forth in this chapter. The application procedures identified in this chapter shall be pursuant to Chapter 20.24 POMC.

20.22.020 **Permit Process Types—Determination of types—Table.**

- (1) Determination of proper decision type. The director shall determine the proper review procedure for all land use and development permit applications and actions. If there is a question as to the appropriate type of process, the director shall resolve it in favor of the higher process type number.
- (2) Optional Consolidated Permit Processing. An application that involves two or more procedures may be processed collectively under the highest numbered procedure required for any part of the application or processed individually under each of the procedures identified by the code. The applicant may determine whether the application shall be processed collectively or individually. If the application is processed under the individual procedures option, the highest numbered type procedure must be processed prior to the subsequent lower numbered procedure. If the individual procedure option is chosen, the applicant will be eligible for any fee reduction contained in the current fee schedule.

Table 20.22.020 – Permit Review Type Classifications

Type I Director Decision Judicial Appeal	Type II Director Decision HE Appeal	Type III HE Decision Judicial Appeal	Type IV City Council Decision Judicial Appeal	Type V City Council Decision GMHB Appeal
Building Permit ¹ (Subtitle X of this title) Binding Site Plan, Final (Chapter 20.94 POMC) Preliminary Plat – Minor Modifications (Chapter 20.88 POMC) Land Disturbing Activity Permit (Chapter 20.140 POMC and POMC 20.150.100) Boundary Line Adjustment (Chapter 20.84 POMC) Code Interpretation (Chapter 20.10 POMC)	Short Plat, Preliminary, <u>Alteration of Preliminary, Alteration of Final, Vacation of Final</u> (Chapter 20.86 <u>and 20.96</u> POMC) Temporary Use Permit (Chapter 20.58 POMC) Binding Site Plan – Preliminary, Alteration of Preliminary, Alteration of Final, Vacation of Final (Chapter 20.94 POMC) Stormwater Drainage Permit (Chapter 20.150 POMC) Sign Permit (if SEPA required) (Chapter 20.132 POMC)	Preliminary Plat, and Preliminary Plat Major Modifications, <u>Alteration of Final, Vacation of Final</u> (Chapter 20.88 <u>and 20.96</u> POMC) Variance (Chapter 20.28 POMC) Conditional Use Permit (Chapter 20.50 POMC) Shoreline Substantial Development Permit, Conditional Use Permit, and Nonadministrative Variance (Chapter 20.164 POMC) Planned Residential Developments Comprehensive Sign Design Plan Permits	Final Plat (Chapter 20.90 POMC) Site-Specific Rezone without Comprehensive Plan Amendment (Chapter 20.42 POMC)	Development Agreement (Chapter 20.26 POMC) Comprehensive Plan Amendment – Land Use Map Amendment, Text Amendment (Chapter 20.04 POMC) Legislative Zoning Map Amendment (Chapter 20.06 POMC) Title 20 Code Amendment (Chapter 20.06 POMC) Annexations

Table 20.22.020 – Permit Review Type Classifications

Type I Director Decision Judicial Appeal	Type II Director Decision HE Appeal	Type III HE Decision Judicial Appeal	Type IV City Council Decision Judicial Appeal	Type V City Council Decision GMHB Appeal
Legal Nonconforming Permit (Chapter 20.54 POMC) Short Plat, Final (Chapter 20.86 POMC) Sign Permit (if SEPA not required) (Chapter 20.132 POMC) Sign Variance (Chapter 20.132 POMC) Shoreline Permit Exemption (Chapter 20.164 POM C) Temporary Use Permit, Extension (Chapter 20.58 POMC)	Shoreline Substantial Development Permit, Administrative (Chapter 20.164 POMC) Variance – Administrative (Chapter 20.28 POMC)	Final Plat – Alteration or Vacation (Chapter 20.96 POMC) View Protection Overlay District (VPOD) Variance (POMC 20.38.713)		

Untyped review and decision actions: preapplication meeting (Chapter 20.24 POMC), design review board review and recommendation (POMC 20.38.228), tax exemption for multifamily development (Chapter 3.48 POMC), capacity reservation certificate (Chapter 20.180POMC), public works design variation,

right-of-way permit (Chapter 12.04 POMC), street use permit (Chapter 12.24 POMC), water/sewer connection permit (Chapter 13.04 POMC).

¹ If a building permit application does not require SEPA review, no public notice is required. If a building permit application requires SEPA review, public notice shall be provided consistent with the requirements for Type II applications pursuant to Chapter 20.25 POMC.

20.22.030 Type I (administrative decision, judicial appeal).

- (1) General. Type I applications are defined pursuant to POMC 20.22.020. All Type 1 actions must meet all applicable requirements of the POMC in addition to the requirements specified in this subtitle.
- (2) Preapplication Conference. Type I applications do not require a preapplication conference.
- (3) Notice of Application. Type I applications do not require a Notice of Application; unless environmental review is required under SEPA pursuant to Chapter 20.160 POMC.
- (4) Review of Application.
 - (a) The director shall commence permit review pursuant to Chapter 20.24 POMC. The director shall determine which city departments are responsible for reviewing or commenting on an application and shall ensure the affected departments receive a copy of the application, or appropriate parts of the application.
 - (b) Following a determination of technical completeness and determination of consistency pursuant to POMC 20.24.090, the director shall approve, deny, or approve with conditions all Type I applications. Conditions may be imposed directly on the plans (red-lining) or through other documentation reflected on the plans to ensure the requirements of city codes and regulations are met without going through another correction cycle before permit issuance.
- (5) Decision.
 - (a) Type I applications are subject to the maximum 120-day timeline pursuant to POMC 20.24.100, but in most cases review may be complete within a much shorter time period. If no correction cycles are required, review should be complete within approximately 30 calendar days from the date of technical completeness. Correction cycles will extend review time in proportion to the time the city must wait for an applicant to submit additional or corrected information.
 - (b) The decision of the director may be reflected on the plans or permit itself or may be documented in a written report or letter of approval.
- (6) Notice of Decision. Public notice of a Type I decision is not required. The applicant shall be notified in writing or by email that the permit is ready to issue or the application is approved.

- (7) Administrative Appeal. There is no administrative appeal of a Type I decision except for decisions that are appealable to the building board of appeals in accordance with this title and the International Codes as adopted by the City.
- (8) Judicial Appeal. A Type I decision not appealable to the building board of appeals may be appealed directly to superior court.

20.22.040 Type II (administrative decision, hearing examiner appeal).

- (1) General. Type II applications are defined pursuant to POMC 20.22.020. All Type II applications must meet all applicable requirements of the POMC in addition to the requirements specified below.
- (2) Preapplication Conference. Type II actions are required to participate in a preapplication conference pursuant to POMC 20.24.010. A limited preapplication conference may be allowed for projects that do not require substantial review by other departments such as variances and design review without SEPA or street improvement requirements.
- (3) Notice of Application. Type II applications require a notice of application pursuant to Chapter 20.25 POMC.
- (4) Review of Application.
 - (a) The director shall commence permit review pursuant to Chapter 20.24 POMC. The director shall determine which city departments are responsible for reviewing or commenting on an application and shall ensure the affected departments receive a copy of the application, or appropriate parts of the application.
 - (b) Following a determination of technical completeness and determination of consistency pursuant to POMC 20.24.090, the director shall approve, approve with conditions, or deny all Type II applications. Conditions may be imposed directly on the plans (red-lining), through other documentation reflected on the plans, or in a written staff report or other decision document, to ensure the requirements of city codes and regulations are met without going through another correction cycle before permit issuance.
- (5) Public Hearing. No public hearing is required for Type II decisions.
- (6) Decision. Type II decisions are subject to the maximum 120-day timeline requirement pursuant to POMC 20.24.100. A decision for a Type II action shall be made in writing by the director and shall include the following information:
 - (a) A description of the proposal and a listing of permits or approvals included in the application;
 - (b) A statement of the applicable criteria and standards in this code and other applicable law;
 - (c) A statement of background information and facts relied upon by the department which show the application does or does not comply with the approval criteria;

- (d) A summary of public comment received and how the department or applicant responded to the public comments or concerns; and
 - (e) The decision to deny or approve the application and, if approved, any conditions of approval necessary to ensure the proposed development will comply with applicable law.
- (7) Notice of Decision. Public notice of a Type II decision shall be provided pursuant to Chapter 20.24.100. Notice of a short plat or binding site plan shall be provided in the same manner as notice of application as set forth in Chapter 20.25 POMC.
- (8) Administrative Appeal. A Type II decision, except for shoreline substantial development permits and shoreline variances, may be appealed to the hearing examiner within 14 calendar days of the Notice of Decision. A decision on a shoreline substantial development permit or shoreline variance may be appealed to the State Shorelines Hearings Board pursuant to Chapter 20.164 POMC. Shoreline appeal procedures and information are available from the department or from the State Department of Ecology. Administrative appeals of director decisions to the hearing examiner are to be made on forms provided by the city and shall include the following information:
- (a) A brief statement regarding how the appellant is significantly affected by or interested in the matter appealed;
 - (b) A specific clear and comprehensible statement of the appellant's issues on appeal, noting appellant's specific exceptions and objections to the decision or action being appealed;
 - (c) The specific relief requested, such as reversal or modification; and
 - (d) Signature, address, and phone and fax number of the appellant, and name and address of appellant's designated representative, if any.
- (9) Judicial Appeal. The decision of the hearing examiner on a Type II appeal may be appealed to superior court.

20.22.050 Type III (hearing examiner decision, judicial appeal).

- (1) General. Type III applications are defined pursuant to POMC 20.22.020. All Type III applications must meet all applicable requirements of the POMC in addition to the requirements specified below.
- (2) Preapplication Conference. Type III applications are required to have a preapplication conference pursuant to POMC 20.24.010.
- (3) Notice of Application. Type III applications require a notice of application pursuant to Chapter 20.25 POMC.
- (4) Review of Application.
 - (a) The director shall commence permit review pursuant to Chapter 20.24 POMC. The director shall determine which city departments are responsible for reviewing or commenting on an

application and shall ensure the affected departments receive a copy of the application or appropriate parts of the application.

- (b) Following a determination of technical completeness and determination of consistency pursuant to POMC 20.24.090, the director shall prepare a written recommendation to the hearing examiner. The director's recommendation shall provide a description of the proposal, a listing of the permits or approvals included in the application, a statement of the criteria and standards applicable to the proposal, and a review of the background information and facts relied upon by the director for the recommendation. The recommendation shall enumerate any conditions needed to ensure the application meets each of the applicable decision criteria.
- (c) If a director recommendation is not available to the hearing examiner as provided in this section, the hearing examiner may reschedule or continue the hearing upon his or her own motion or upon the motion of a party, or the hearing examiner may decide the matter without the recommendation.
- (d) The director's recommendation, and any additional staff reports, shall be consistent with RCW 36.70B.060(5).

(5) Public Hearing. A Type III action requires an open record hearing before the hearing examiner.

- (a) At least fifteen (14) calendar days before the date of the hearing, public notice of the hearing shall be provided consistent with the requirements of POMC 20.25.050.
- (b) The director's recommendation shall be made available on the date the hearing notice is issued.
- (c) SEPA appeals for type III decisions may be consolidated with a public hearing as provided for in POMC 20.160.240(5).
- (d) The burden of proof shall be on the applicant to demonstrate that the proposal conforms to applicable codes and standards; except that for any SEPA DNS appeal, the burden of proof is on the appellant.
- (e) The public hearing shall be conducted pursuant to the hearing examiner's adopted rules and procedures and shall be recorded on audio or audiovisual tape. The hearing examiner may remand an application to staff at his or her discretion to allow staff to administratively address an issue or irregularity with the application or the processing thereof.

(6) Decision.

- (a) A written decision for a Type III action shall be issued by the hearing examiner within 14 calendar days after the date the record closes, unless the applicant has consented in writing to an extension of this time period. The hearing examiner's decision shall include the following information:

- (i) A description of the proposal and a listing of permits or approvals included in the application;
- (ii) A statement of the applicable criteria and standards in the municipal code and other applicable law;
- (iii) A statement of background information and facts relied upon by the hearing examiner which show the application does or does not comply with the approval criteria and standards;
- (iv) A summary of public testimony and public comment received and how the department or the applicant responded to the public testimony and public comments; and
- (v) The decision to deny or approve the application and, if approved, any conditions of approval necessary to ensure the proposed development will comply with applicable law.

(b) Notice of Decision. Public notice of a Type III decision shall be provided pursuant to POMC 20.24.100.

(7) Reconsideration.

- (a) The hearing examiner may reconsider a Type III decision if a written request for such administrative appeal is filed by a party of record within 14 calendar days of the date of the notice of decision. Grounds for requesting reconsideration shall be limited to the following:
 - (i) The decision or conditions of approval are not supported by facts in the record;
 - (ii) The decision contains an error of law;
 - (iii) There is newly discovered evidence potentially material to the decision which could not reasonably have been produced prior to the open record pre-decision hearing; or
 - (iv) The applicant proposes changes to the proposal in response to deficiencies identified in the decision.
- (b) Any request for reconsideration shall be mailed to all parties of record on the same day as the request is mailed or delivered to the hearing examiner.
- (c) A request for reconsideration shall stop the running of the judicial appeal period on a Type III decision for seven calendar days. During this time period, the hearing examiner shall decide whether reconsideration is appropriate. If the hearing examiner decides to reconsider the decision, the judicial appeal period will be placed on hold until the reconsideration process is complete and a new decision is issued. If the hearing examiner decides to reconsider a decision, all parties of record shall be notified.
- (d) The hearing examiner shall, by order, set a schedule for other parties of record to respond in writing to the reconsideration request and shall issue a decision no later than 14 calendar days

following the due date for submittal of written responses. A new judicial appeal period shall commence from the date of the hearing examiner's decision on reconsideration.

- (8) Judicial Appeal. Type III decisions, except shoreline conditional use permits and any associated shoreline permits, may be appealed to superior court. Shoreline decisions are appealable to the State Shorelines Hearings Board.

20.22.060 Type IV (city council decision, judicial appeal).

- (1) General. Type IV applications are defined pursuant to POMC 20.22.020. All Type IV applications must meet all applicable requirements of the POMC in addition to the requirements specified below.
- (2) Preapplication Conference. Type IV applications are required to have a pre-application conference pursuant to POMC 20.24.010.
- (3) Notice of Application. Type IV applications require a Notice of Application pursuant to Chapter 20.25 POMC.
- (4) Review of Application.
 - (a) The director shall commence review of the permit application pursuant to Chapter 20.24 POMC. The director shall determine which city departments are responsible for reviewing or commenting on an application and shall ensure the affected departments receive a copy of the application or appropriate parts of the application.
 - (b) Following a determination of technical completeness and determination of consistency pursuant to POMC 20.24.090, the director shall prepare a written recommendation to the hearing body. The director's recommendation shall provide a description of the proposal, a listing of the permits or approvals included in the application, a statement of the criteria and standards applicable to the proposal, and a review of the background information and facts relied upon by the director for the recommendation. The recommendation shall enumerate any conditions needed to ensure the application meets each of the applicable decision criteria.
 - (c) If a SEPA Determination of Nonsignificance (DNS) is issued for the proposal, the DNS will be issued in conjunction with the director's recommendation to the hearing body.
 - (d) Within 14 calendar days of holding a public hearing, the hearing body shall issue a recommendation on the application to the city council.
- (5) Public Hearing. A Type IV action requires an open record hearing for a recommendation before either the hearing examiner or planning commission, pursuant to the requirements of the individual permit application requirements.
 - (a) At least 14 calendar days before the date of the hearing, public notice of the hearing shall be provided consistent with the requirements of POMC 20.25.050.

- (b) The director’s recommendation shall be made available on the date the hearing notice is issued.
 - (c) SEPA appeals for Type IV decisions may be consolidated with a public hearing as provided for in POMC 20.160.240(5).The burden of proof shall be on the applicant to demonstrate that the proposal conforms to applicable codes and standards; except that for any SEPA DNS appeal, the burden of proof is on the appellant.
 - (d) The public hearing shall be conducted pursuant to the hearing body’s adopted rules and procedures and shall be recorded on audio or audiovisual tape.
- (6) Decision. Following receipt of a recommendation from the hearing body, the city council shall approve, approve with conditions, or deny a Type IV application by ordinance.
- (7) Administrative Appeal. There is no administrative appeal of Type IV decisions.
- (8) Judicial Appeal. A Type IV decision may be appealed to superior court.

20.22.070 Permit Process Types—Type V (legislative actions).

(1) General.

- (a) Type V actions are defined pursuant to POMC 20.22.020. All Type V proposals are legislative actions, but not all legislative actions are Type V decisions. Legislative actions involve the creation, amendment, or implementation of policy or law by ordinance. In contrast to other types of actions, legislative actions apply to large geographic areas and are of interest to many property owners and citizens.
- (b) Type V actions are not subject to the application procedures in Chapter 20.24 POMC, unless otherwise specified.

(2) Public Hearing.

- (a) The planning commission shall hold a public hearing and make recommendations to the city council on Type V actions. A notice for the public hearing shall be provided pursuant to POMC 20.25.050.
- (b) The city council may hold a public hearing on Type V actions prior to passage of an ordinance or entry of a decision.
- (c) The planning commission and/or city council may require more than one public hearing for Type V actions.
- (d) Notice of a public hearing shall be provided to the public at least fifteen (15) calendar days prior to the hearing by publishing notice as provided for in POMC 20.25.050. In addition to publishing notice and posting notice at city hall, at least 15 calendar days prior to the hearing the city shall mail notice of the public hearing to the applicant, relevant government agencies, and other interested parties who have requested in writing to be notified of the hearing. If the legislative

action is for a comprehensive plan amendment, notice of the public hearing shall also be posted and mailed pursuant to Chapter 20.04 POMC. The city may also provide optional methods of public notice as provided in Chapter 20.25 POMC.

- (3) Review. Review of Type V actions shall be pursuant to the applicable POMC chapter for each action.
- (4) Decision. The city council shall issue a final decision on all Type V actions by passage of an ordinance.
- (5) Appeals. A Type V decision may be appealed to the Growth Management Hearings Board pursuant to the regulations set forth in RCW 36.70A.290.
- (6) Legislative Enactments Not Restricted. Nothing in this section, chapter, or Chapter 20.24 POMC shall limit the authority of the city council to make changes to the city's comprehensive plan, as part of a regular revision process, or to make changes to the city's municipal code.

CHAPTER 20.96

VACATION AND ALTERATION OF FINAL PLATS AND SHORT PLATS

Sections:

- 20.96.010 Purpose.**
- 20.96.020 Applicability.**
- 20.96.030 Decision type.**
- 20.96.040 Plat alteration—Application requirements.**
- 20.96.050 Application requirements.**
- 20.96.060 Additional notice of public hearing.**
- 20.96.070 Criteria for Approval.**
- 20.96.080 Time Limitation for Final Decision.**
- 20.96.090 Recording.**

20.96.010 Purpose.

The purpose of this chapter is to regulate and allow vacation or alteration of approved final subdivision plats (long subdivision plats) and approved final short plats (short subdivision plats)~~approved final binding site plans~~. It does not allow modification or revision of preliminary plats or preliminary binding site plans. The procedure for vacation of final plats and final short plats does not apply to the vacation or alteration of any plat of state-granted tide or shore lands.

20.96.020 Applicability.

This chapter shall apply to all requests to alter or vacate long subdivisions-plats, or short subdivisions-plats, or binding site plans. When an application under this chapter is submitted for the vacation of a

plat ~~or binding site plan~~ together with roads/streets, the procedure for vacation in this chapter shall be used, except that vacations of streets subject to RCW 35.79.035 may not be made under this procedure.

20.96.030 Decision type.

A long subdivision plat vacation or plat alteration is a Type III land use decision and shall be subject to the requirements of and processed in accordance with the procedures for such applications and decisions as set forth in Chapter 20.22 POMC. A short subdivision plat vacation or plat alteration is a Type II land use decision and shall be subject to the requirements of and processed in accordance with the procedures for such applications and decisions as set forth in Chapter 20.22 POMC.

20.96.040 Application requirements—Plat alteration.

The following materials shall be submitted to the city for a complete application for the alteration of a final short subdivision, or long subdivision, ~~or binding site plan~~:

- (1) Date, name, address and telephone number of the applicant and/or property owner;
- (2) The reason(s) for the proposed alteration;
- (3) Signatures of the majority of those persons having an ownership interest in the lots, tracts, parcels, sites or divisions in the subdivision proposed to be altered;
- (4) If the subdivision ~~or binding site plan~~ is subject to restrictive covenants which were filed at the time of the approval of the subdivision ~~or binding site plan~~, and the application for the alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants, providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision ~~or binding site plan~~;
- (5) A copy of the proposed plat sought to be altered, together with all plat amendments recorded;
- (6) Mailing labels for all owners of property within the plat boundaries; and
- (7) A recent title report (no more than 30 days old) for each property affected by the vacation, confirming that the title of the lands as described and shown in the proposed vacation area is in the name of the owner(s) signing the application.
- ~~(8) If the alteration is for a portion of the subdivision or binding site plan, the applicant must demonstrate that the alteration will not violate the terms of subdivision or binding site plan approval or this chapter.~~

20.96.050 Application requirements—Plat vacation.

The following materials shall be submitted to the city for a complete subdivision vacation application:

- (1) Date, name, address and telephone number of the applicant and/or property owner;

- (2) The reason(s) for the proposed vacation;
- (3) Signatures of all parties having an ownership interest in the subdivision or that portion of the subdivision proposed to be vacated;
- (4) If the subdivision ~~or binding site plan~~ is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for the vacation would result in the violation of a covenant, the application shall include an agreement signed by all parties subject to the covenants, which provides that the parties agree to terminate or alter the restrictive covenants to accomplish the purpose of the vacation of the subdivision or portion thereof;
- (5) Acknowledgement that if any street is included in the application for a vacation, that the applicant shall be required to pay the amount contemplated in RCW 35.79.030, if the vacation is granted;
- (6) A copy of the approved plat ~~or binding site plan~~ sought to be vacated, together with all plat ~~or binding site plan~~ amendments recorded since the date of the original approval;
- (7) Mailing labels for all owners of property within the plat boundaries;
- (8) A recent title report (no more than 30 days old) for each property affected by the vacation, confirming that the title of the lands as described and shown in the proposed vacation area is in the name of the owner(s) signing the application; and
- (9) If the vacation is for a portion of the subdivision ~~or binding site plan~~, the applicant must demonstrate that the partial vacation will not violate the terms of subdivision ~~or binding site plan~~ approval or this chapter.

20.96.060 Additional notice of public hearing.

In addition to the notice provided above, the city shall provide notice of an application for vacation or alteration to all owners of property within the subdivision (excluding the owners of property submitting the application), as provided for in Subtitle II of this Title, and as provided for in RCW 58.17.080 and 58.17.090. The notice shall establish the date of the public hearing.

20.96.070 Criteria for Approval.

- (1) Vacation Criteria. The plat ~~or binding site plan~~ vacation may be approved, approved with conditions, or denied after a written determination, with findings and conclusions, is made whether the public use and interest will be served by the vacation.
- (2) Dedications and Easements. If any portion of the land contained in the subdivision ~~or binding site plan~~ was dedicated to the public for public use and benefit, such land, if not already deeded to the city, shall be deeded to the city as a condition of approval, unless the city shall make findings that the public use would not be served in retaining title to those lands. Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner

or owners, unless the plat, ~~binding site plan~~ or other document creating the dedicated easement provides or an alternative method or methods to extinguish or alter the easement.

(3) Street Vacations. When the vacation application is specifically for vacation of a city street, the city's street vacation procedures (and/or the procedures in chapter 35.79 RCW) shall be utilized. When the procedure is for the vacation of a plat ~~or binding site plan~~ together with the streets, the vacation procedure in this chapter shall be used, but vacation of streets may not be made that are prohibited under RCW 35.79.035 or the city's street vacation ordinance.

(4) Title to Vacated Property. Title to the vacated property shall vest with the rightful owner as shown on the county records. If the vacated land is land that was dedicated to the public, for public use other than a road or street, and the legislative authority has found that retaining title to the land is not in the public interest, title thereto shall vest with the person(s) owning the property on each side thereof, as determined by the legislative authority. When the road or street that is to be vacated is contained wholly within the subdivision ~~or binding site plan~~ and is part of the boundary of the subdivision ~~or binding site plan~~, title to the vacated road or street shall vest with the owner(s) of property contained within the vacated subdivision ~~or binding site plan~~.

(5) Alteration Criteria. The alteration may be approved, approved with conditions, or denied after a written determination, with findings and conclusions, is made whether the public use and interest will be served by the alteration. If any land within the alteration area is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels or tracts, or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.

20.96.080 Time Limitation for Final Decision.














A vacation or alteration application shall be approved, approved with conditions or denied within 120 days after the application has been determined to be complete pursuant to POMC 20.24.050, unless the applicant consents in writing to an extension of such time period.


20.96.090 Recording.

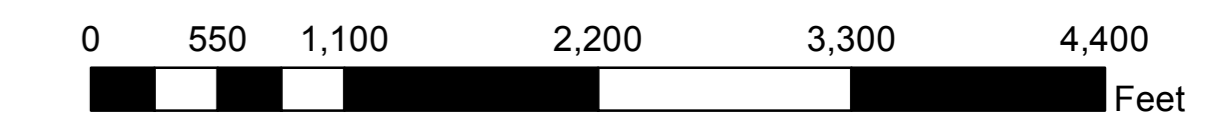
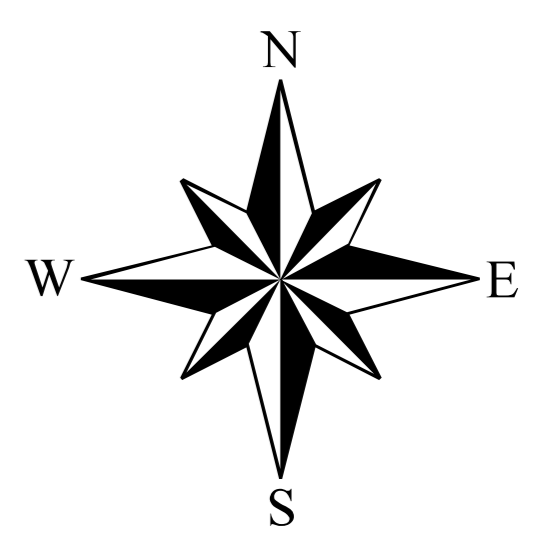
After approval of the alteration or vacation, the city shall order the applicant to produce a revised drawing of the approved alteration or vacation of the short plat, or final plat ~~or binding site plan~~. The council shall authorize the mayor to sign the approved short plat or final plat, and then the city shall file it with the county auditor at the applicant's cost, to become the lawful plat of the property (or to vacate the previously approved plat). ~~The Director shall sign the approved binding site plan and arrange for filing with the county auditor at the applicant's cost.~~



2018 Revised Zoning Categories Conversion of Existing Zones And Proposed Rezones

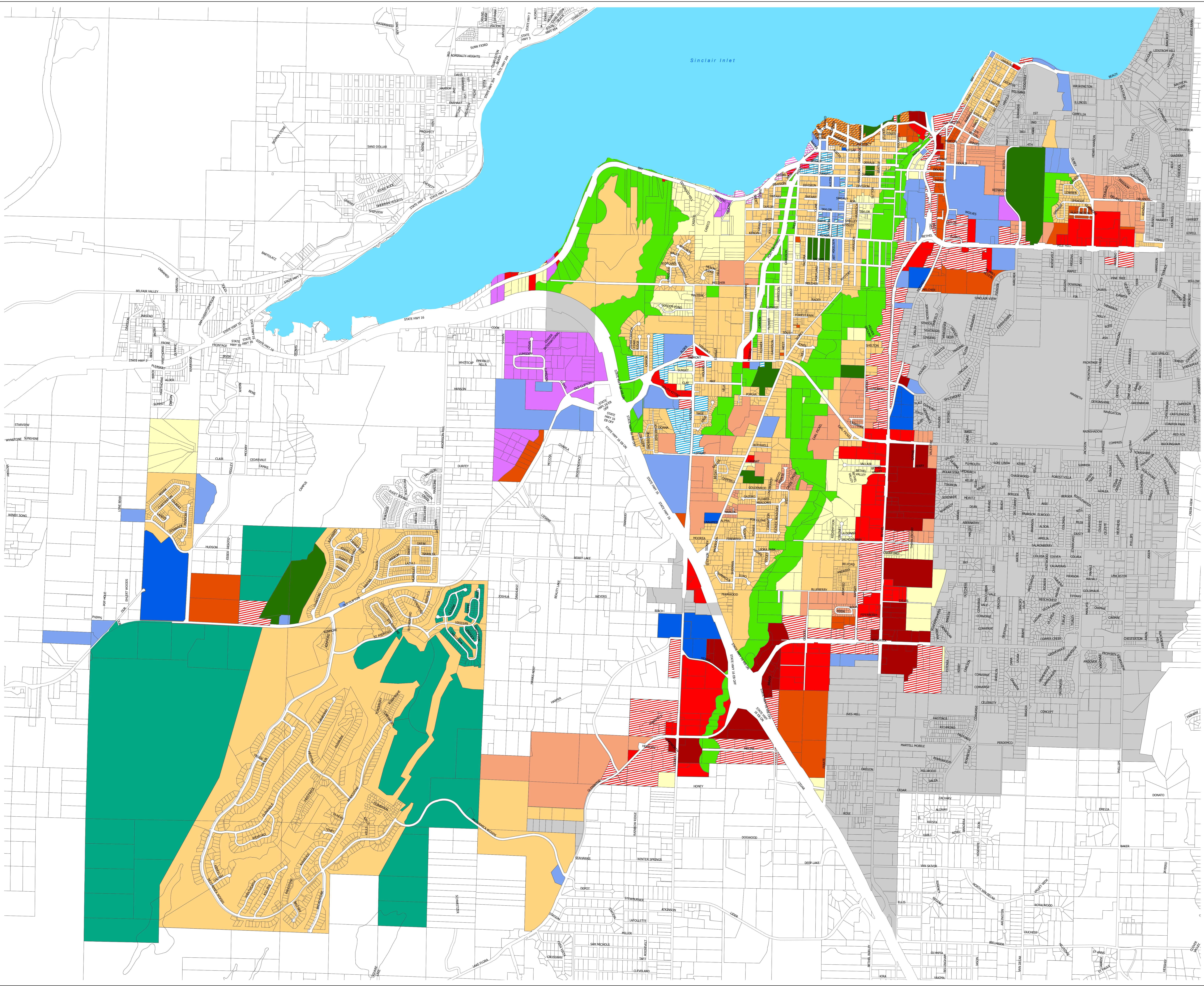
-  BPMU
-  CC
-  CH
-  CI
-  CMU
-  DMU
-  GB
-  GMU
-  LI
-  NMU
-  PF
-  PR
-  R1
-  R2
-  R3
-  R4
-  R6

Urban Growth Area
 Port Orchard UGA



City of Port Orchard Department of Community Development
216 Prospect Street, Port Orchard, WA 98366
Phone: (360) 874-5533 Fax: (360) 876-4980
www.cityofportorchard.us

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**Chapter 20.54
NONCONFORMITIES**

Sections:

20.54.010	Purpose.
20.54.020	Definitions.
20.54.030	Establishing a legal nonconforming building type, lot, use or structure for the record.
20.54.040	Establishing a legal nonconforming lot for the record.
20.54.050	Restrictions on legal nonconforming uses.
20.54.060	Restrictions on legal nonconforming building types and structures.
20.54.070	Restrictions on legal nonconforming lots.
20.54.080	Permit required.
20.54.090	Administration of nonconforming permits.
20.54.100	Requirements for a complete application.
20.54.110	Criteria for approval – Permit to establish legal nonconforming building type, use or structure for the record.
20.54.120	Criteria for approval – Permit to establish legal nonconforming lot for the record.
20.54.130	Final decision on nonconforming permit.
20.54.140	Appeal of nonconforming permit.
20.54.150	Nonconformities and Build-To-Zone Requirements

20.54.010 Purpose.

This chapter provides standards and procedures for identifying nonconforming situations, establishing restrictions on the alteration or expansion of a nonconforming situation, and it also specifies when a nonconforming situation must be brought into compliance with the code. In addition, this chapter also establishes an optional process for a property owner to obtain a determination that a building, use or lot is legally nonconforming so that the property owner may use such determination for purposes of property sale/transfer, or to defend in a code enforcement action. For properties within the city's shoreline zone, the standards of the city's shoreline master program also apply, including regulations for nonconforming uses and structures within the shoreline zone. For nonconforming signs, please also see Chapter 20.132 POMC.

20.54.020 Definitions.

(1) Nonconforming Building Type. A nonconforming building type is a building type which lawfully existed in a zoning district prior to the adoption of this zoning code, but which is not one of the building types allowed in the current zoning district pursuant to Chapter 20.32.

(2) Nonconforming Lot. A nonconforming lot is a lot which lawfully existed prior to the adoption of this zoning code, but which does not comply with one or more of the lot standards for the applicable zoning district in the current code, such as minimum lot size, minimum lot width or required access.

(3) Nonconforming Use. A nonconforming use is a use which lawfully existed in a zoning district prior to the adoption of this zoning code, but which is not one of the uses that is permitted or conditionally permitted in the current zoning district per Chapter 20.39.

(4) Nonconforming Structure. A nonconforming structure is a structure which lawfully existed in a zoning district prior to the adoption of this zoning code, but which does not comply with one or more requirements for the applicable zoning district in the current code for maximum height, minimum setbacks, maximum lot coverage or impervious surface coverage, or design standards.

20.54.030 Establishing a legal nonconforming building type, use or structure for the record.

(1) Permit Required. A landowner may establish that he/she has a legal nonconforming building type, use or structure for the record by obtaining the permit described in POMC 20.54.080 through 20.54.130. This process is optional in situations other than code enforcement actions (in which the landowner may choose to utilize the process in order to establish the legality of the nonconforming building type, use or structure).

(2) Abandonment or Discontinuance. In order to establish a legal nonconforming building type, use or structure, the use or structure must not have been abandoned or discontinued, under the criteria in POMC 20.54.050(4).

(3) Destruction. Should a nonconforming building type, structure or nonconforming portion of a structure be destroyed by any means to an extent more than 50 percent of its replacement cost at the time of its destruction, as determined by the city building official, it shall be reconstructed only in conformity with this code, and only under the following conditions: (a) a complete application for a building permit (or other applicable permit) is filed with the city within 12 months after the damage occurred, and the permit issues, with not more than one 180-day extension; (b) the cause of the damage or destruction was not the willful act of the owner or the owner's agent; (c) the cause of the damage or destruction was not due to the ongoing neglect of the owner or the owner's agent.

(4) Enforcement. If a landowner is not able to establish a legally nonconforming building type, use or structure, or, if the city proves that a legal nonconforming building type, use or structure was abandoned or discontinued, then the building type, use or structure may be subject to an enforcement action. In this enforcement action, the landowner will either be required to terminate the use, demolish the building or other structure or conform the building or other structure to the requirements of this code, including the provisions of Chapter 20.02 POMC, Administration and Enforcement.

(5) Applicability of New Regulations to Legal Nonconforming Building Types, Uses and Structures. Legal nonconforming building types, uses and structures have only a vested right not to have the building type, use or structure or other development immediately terminated when a new code provision is adopted that prohibits the building type, use or structure. The building type, use or structure may still be subject to newly adopted reasonable police power regulations.

A legal use of land does not become nonconforming because the zone in which it is located is changed to a zoning district which requires a conditional use permit for the use. However, any alteration, expansion or intensification of a use previously approved as a conditional use must follow the process in Chapter 20.50 POMC for approval of a new conditional use permit, unless that the zoning change is such that the use is now permitted outright.

20.54.040 Establishing a legal nonconforming lot for the record.

(1) Permit Required. A landowner may establish that he/she has a legal nonconforming lot for the record by obtaining the permit described in POMC 20.54.080 through 20.54.130. This process is optional in situations other than code enforcement actions (in which the landowner may choose to utilize the process in order to establish the legality of the nonconforming lot).

(2) Enforcement. If a landowner is not able to establish a legally nonconforming lot, then the lot may be subject to an enforcement action. In this enforcement action, the landowner will either be required to establish a legally conforming lot through subdivision, boundary line adjustment, legal adjudication or other legally-accepted method of lot creation, or else abandon the claim to ownership of a legal lot of record, subject to the requirements of this code.

(3) Applicability of New Regulations to Legal Nonconforming Lots. Legal nonconforming lots have only a vested right not to have any use, structure or other development immediately terminated when a new code provision is adopted which creates or increases the nonconformity of a lot. The lot may still be subject to newly adopted reasonable police power regulations.

20.54.050 Restrictions on legal nonconforming uses.

(1) Enlargement, Increase, Intensification and Extension Prohibited. A legal nonconforming use may not be enlarged, increased, intensified or extended to occupy a greater area of land or space, including air space, than was occupied at the effective date of adoption or amendment of this code. No additional structure, building or sign shall be constructed on the lot in connection with such nonconforming use of land.

(2) Use Cannot Be Moved to New Location. No legal nonconforming use shall be moved in whole or in part to any portion of the building or any lot other than that occupied by such use, except where that use is permitted outright at the effective date of adoption or amendment of this code.

(3) Change in Use. A nonconforming use cannot be changed to another nonconforming use. A change in tenancy or ownership is not considered a change to another nonconforming use, provided that the use itself remains unchanged.

(4) No Discontinuation or Abandonment. In order to retain its legally nonconforming status, the legal nonconforming use of land cannot be discontinued or abandoned for any reason for a period of more than 180 days, or for 18 months in a three-year period. For purposes of calculating the 180-day or 18-month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:

(a) On the date when the use of land is physically vacated;

(b) On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;

(c) On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or

(d) On the date a request for final reading of water and power meters is made to the applicable utility districts.

(5) Uses which vary seasonally (such as agricultural uses) shall be deemed abandoned if the seasonal use is not utilized during one full season, consistent with the traditional use.

(6) Application of Code Criteria and Standards. If the use is discontinued or abandoned for any reason (other than seasonal use as allowed by subsection (4) of this section) for a period of more than 180 days or for 18 months in a three-year period, any subsequent use of land shall conform to the applicable standards and criteria specified by this code for the land use zone in which such land is located.

20.54.060 Restrictions on legal nonconforming building types and structures.

(1) Alterations and Maintenance. A nonconforming building type or structure may not be enlarged or altered in a way that increases its nonconformity, but any structure or portion thereof may be enlarged or altered in a way that satisfies the current requirements of this code or in a way that will not increase its nonconformity. Ordinary maintenance and repair shall be permitted.

(2) Roadway Access. The owner of a nonconforming access connection (i.e., street or highway access) may be required to bring the nonconforming access into conformance with this code and other applicable standards as a condition of the city or other roadway authority approving a new access connection permit, or a landowner's requested change in land use.

(3) Relocation or Removal. Should the nonconforming building type or structure be moved for any reason and by any distance, it shall thereafter conform to the regulations of this code. However, a structure may be moved on the same site without full compliance if the movement reduces the building type or structure's degree of nonconformity with the code.

(4) Historic Buildings and Structures. Nothing in this chapter shall prevent the full restoration by reconstruction of a building or structure which is either listed on the National Register of Historic Places, the Washington State Register of Historic Places, or the Washington State Cultural Resource Inventory, as shown in a historical survey meeting the standards of the State Department of Archaeology and Historic Preservation. "Restoration" means reconstruction of the historic building or structure with as nearly the same visual design appearance and materials as is consistent with full compliance with the State Building Code and any code provisions adopted by the city on the subject of historic preservation. The reconstruction of all such historic buildings and structures shall comply with the life safety provisions of the State Building Code.

(5) Mobile Homes or Manufactured Homes. Any mobile home or manufactured home located in a residential district which is a legal nonconforming use may be replaced with an approved manufactured home that conforms to the applicable requirements of this title.

20.54.070 Restrictions on legal nonconforming lots.

(1) A nonconforming lot may not be altered in size or shape in any way that increases its nonconformity, but it may be altered in a way that satisfies the current requirements of this code or in a way that will not increase its nonconformity.

(2) Use of Legal Nonconforming Lot as a Building Site. A legal nonconforming lot may be used as a building site, provided that all other requirements of the applicable zoning district are met or a variance is obtained.

20.54.080 Permit required.

A property owner may obtain a nonconforming permit to establish a legal nonconforming building type, lot, use or structure for the record. This permit is not required, unless the city has brought a code enforcement action relating to the property, or if the property owner desires the permit for another purpose, such as to obtain a building permit consistent with the desired legal nonconforming building type, lot, use or structure. In such event, the property owner has the burden to follow the procedures set forth herein to establish that the condition of the property is legally nonconforming. In the case of a code enforcement action, the director may place the code enforcement action in abeyance for a reasonable time in order to allow a property owner to gather the necessary information to demonstrate that the property is legally nonconforming.

20.54.090 Administration of nonconforming permits.

(1) The following steps shall be followed in the processing of nonconforming permits:

- (a) Determination of complete application (POMC 20.24.050).
- (b) Determination of consistency (POMC 20.24.090).
- (c) Notice of decision by director (POMC 20.24.100).
- (d) Administrative appeal, if any (open record hearing, POMC 20.24.040(8)).

(2) Because the processing of these permit applications requires the submission of different information for approval, imposes different burdens on the applicant and the city, and varies in other material respects from the processing of a project permit application, these permits are exempt under RCW 36.70B.140 from all project permit processing requirements (identified in Chapters 20.22 POMC), other than those set forth in this chapter.

20.54.100 Requirements for a complete application.

A complete application for a nonconforming permit application shall include the following items as applicable to each classification of nonconformity (building type, lot, use, structure). Refer to the relevant city application form for numbers of copies of each item that must be included and the type of accompanying electronic submittal that is required (if relevant):

- (1) Completed application form;
- (2) Date, name, address, telephone number and email of the applicant;
- (3) Name, address, telephone number and email of the owner of the property identified in the application;
- (4) Legal description, street address and assessor's parcel number of the subject property;
- (5) A description and photographs of existing site conditions, any plans or permit approvals, and/or information relevant to the proposed applicant's demonstration of a legal nonconforming building type, lot, use or structure;

- (6) Information demonstrating that (a) the building type, structure or use is not permitted outright under the city's code, including, but not limited to, the use standards of the current zoning or applicable district; (b) the current zoning code or building code standards for the building type, lot, use or structure are not met; and (c) the use has not been abandoned or discontinued for the period identified in this chapter;
- (7) Proof of legal nonconforming status, including, but not limited to, planning permits/approvals, building permits, leases, aerial maps showing the structure and footprint, listings in business or phone directories (or directory with a list of businesses and residents referenced by address), etc.;
- (8) If the application is for a remodel, a complete description of the proposed remodeling relating to such section(s) of the structure or the entire structure;
- (9) The applicant's narrative statement describing the manner in which the application satisfies the criteria for approval in the applicable section of this chapter;
- (10) A SEPA checklist (unless categorically exempt);
- (11) The application fee established by the city;
- (12) Any other required information as indicated by city staff in a preapplication meeting.

20.54.110 Criteria for approval – Permit to establish legal nonconforming building type, use or structure for the record.

(1) Criteria. A permit will be approved establishing the legal nonconforming status of the building type, use or structure if the applicant provides sufficient evidence and demonstrates to the director's satisfaction:

(a) That the building type, use or structure satisfies the definition for a legal nonconforming building type, use or structure in this chapter; and

(b) That the building type, use or structure has been in existence and maintained continuously, with no interruption that would constitute abandonment or discontinuance under either former or current city codes.

(2) Acceptable Documentation. The evidence presented by the applicant may include, but is not limited to, the following as documentation of the existence of a building type, use or structure from a time when it would have been permitted outright and as documentation of its uninterrupted continuation:

(a) Signed written statements from persons having no financial interest in the property and who are not relatives of the applicant or property owner. Notarization is not required.

(b) Occupancy listing from the Polk directory or reverse telephone directories.

(c) Business and/or licensing records.

(d) County records showing the previous permitted use if the property was formerly not part of the city.

(e) Assessment records.

(f) Evidence of more than one electric or gas meter or sewer hookup.

(g) Other evidence that the director deems useful and reliable, based on the circumstances of the individual case. Examples include, but are not limited to, photographs, U.S. Census reports, and signed written statements of experts.

(3) It is the responsibility of the applicant to furnish at least two different types of documentation from the sources listed above. The city may, in its discretion, require further documentation if the documentation submitted by the applicant does not demonstrate the existence of the building type, use or structure from a time when it was permitted outright, or fails to show continuous, uninterrupted maintenance of the use. The city may also accept only one type of documentation from the sources listed above, if that documentation is particularly persuasive. Any number of written, signed statements, however, are not sufficient by themselves to document the existence of a building type, use or structure.

20.54.120 Criteria for approval – Permit to establish legal nonconforming lot for the record

(1) Criteria. A permit will be approved establishing the legal nonconforming status of a lot if the applicant provides sufficient evidence and demonstrates to the director’s satisfaction that the lot was lawfully created and recorded with the county auditor’s office.

(2) Acceptable Documentation. The evidence presented by the applicant may include, but is not limited to, a recorded subdivision, large lot subdivision, testamentary subdivision, short plat or binding site plan; a recorded boundary line adjustment approved by the City if such approval was required at the time of recording; or a legal adjudication requiring the creation of the lot with subsequent recording with the county auditor’s office.

20.54.130 Final decision on nonconforming permit.

Because this procedure is exempt under RCW 36.70B.140, there is no deadline for the city’s issuance of a final decision.

20.54.140 Appeals of nonconforming permit.

If an appeal is filed of the director’s decision, the procedures in POMC 20.24.072 shall be followed.

20.54.150 Nonconformities and Build To Zone Requirements.

“Build to zone” requirements may apply to certain development proposals in residential, commercial and mixed-use zoning designations. For information on build to zone requirements and their applicability to a proposal, refer to Chapters 20.34 and 20.35.

(1) Building Additions. When an existing building is being expanded and the building doesn’t meet the build-to requirement, the following provisions apply.

a. Front. Any addition to the front of the building must be placed in the build-to zone. The addition does not have to meet the build-to percentage for the lot.

b. Rear. Rear additions are allowed because the addition does not increase the degree of the nonconformity.

(c) Side. Side additions are not allowed because the extension increases the width that is not located in the build-to zone.

(2) New Buildings. When a new building is proposed on a site with an existing building that doesn't meet the build-to requirement, the following provisions apply:

a. Front: All new buildings must be placed in the build-to zone until the build-to percentage for the lot has been met.

b. Rear. New buildings located outside of the build-to zone are not allowed until the build-to percentage for the lot has been met.

c. Side. New buildings located outside of the build-to zone are not allowed until the build-to percentage for the lot has been met.