



**City of Port Orchard Council Work Study Session  
June 18, 2019  
6:30 p.m.**

**Mayor:**

Rob Putaansuu  
Administrative Official

**Councilmembers:**

Bek Ashby (Mayor Pro-Tempore)

**Chair:** ED/Tourism/LT Committee

**Staff:** Development Director

Finance Committee

KRCC / PSRC TransPol / KRCC TransPol

KRCC PlanPol-alt / PRTPO

Shawn Cucciardi

Finance Committee

Land Use Committee

PSRC EDD-alt

Fred Chang

Utilities Committee

Sewer Advisory Committee (SAC)

**Staff:** Public Works Director

Jay Rosapepe

ED/Tourism/LT Committee

Utilities Committee

**Chair:** Lodging Tax Committee

Sewer Advisory Committee (SAC)

KRCC-alt / KRCC TransPol-alt

Kitsap Transit-alt

John Clauson

**Chair:** Finance Committee

**Staff:** Finance Director

Kitsap Public Health District-alt

KEDA/KADA-alt

Cindy Lucarelli

**Chair:** Utilities and SAC Committee

**Staff:** Public Works Director

**Chair:** Chimes and Lights Committee

**Staff:** City Clerk

KEDA/KADA

Scott Diener

**Chair:** Land Use Committee

**Staff:** Development Director

ED/Tourism/LT Committee

PSRC Growth Mgmt-alt

**Department Directors:**

Nicholas Bond, AICP

Development Director

Mark Dorsey, P.E.

Director of Public Works/City Engineer

Tim Drury

Municipal Court Judge

Noah Crocker, M.B.A.

Finance Director

Geoffrey Marti

Police Chief

Brandy Rinearson, MMC, CPRO

City Clerk

**Contact us:**

216 Prospect Street

Port Orchard, WA 98366

(360) 876-4407

1. Human Services Update (Doug Washburn)  
Estimated Time: 15 Minutes
2. Plastic Bag Reduction (Council/Chris Piercy) **Page 3**  
Estimated Time: 20 Minutes
3. Code Enforcement Code Revisions (Bond)  
Estimated Time: 30 Minutes
  - a. POMC 20.39 and 20.58.140 – Regulations for Yard and Garage Sales  
**Page 15**
  - b. POMC 20.66 - Vehicle Repair Accessory to Residential Uses **Page 27**
  - c. POMC Title 20 – Enforcement Provisions and Penalties **Page 37**
4. POMC 10.08 Speed Limits – Resolution Update (Bond) **Page 51**  
Estimated Time: 15 Minutes
5. Vision 2050 Update (Bond) **Page 55**  
Estimated Time: 15 Minutes
6. Naming of Rockwell Park and Sign (Council)  
Estimated Time: 20 Minutes

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## City of Port Orchard Work Study Session Executive Summary

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**Issue Title:** Plastic Bag Reduction

**Meeting Date:** June 18, 2019

**Time Required:** 20 Minutes

**Attendees:** Chris Piercy, Program Supervisor, Kitsap County Public Works Solid Waste Division

**Action Requested at this Meeting:** Discussion of plastic bag ban reduction and an update from Kitsap County on their draft ‘Limiting the Distribution of Film Plastic Bags’ ordinance.

**Background/Issue:** The City’s Economic Development and Tourism Committee and Kitsap County have been coordinating efforts to have a unified ordinance for a plastic bag reduction throughout the County. Additionally, City Council and staff have held several discussions regarding plastic bag reduction with the City. Earlier this year, legislation to ban single use plastic bags failed.

The City’s lobbyist, Josh Weiss, Vice President of Gordon Thomas Honeywell Governmental Affairs, provided his comments on why the legislation did not pass: *“I don’t know for sure why the bill didn’t move forward, but my sense is that it was because of 1) some concern in the Democratic caucus about the other taxes they were already committed to adopting, and opposition to the paper-bag fee in the bill and 2) prioritization for the plastic packaging bill that was passed (SB 5397). I do know that Rep. Peterson, who sponsored the plastic bag ban bill, is an effective and determined legislator, and I wouldn’t be surprised if he is able to get the bill through next year. Ensuring that Port Orchard’s approach is consistent with HB 1205 makes sense to me.”*

The City of Bremerton adopted an ordinance on June 5, 2019, which regulates the distribution of single-use plastic and biodegradable carryout bags which is attached for reference.

**Alternatives:** N/A

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

**Recommendations:** N/A

**Attachments:** Draft Kitsap County Ordinance and City of Bremerton Ordinance.

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

**ESTABLISHING A NEW CHAPTER 9.XX IN KITSAP COUNTY CODE TITLE 9,  
LIMITING THE DISTRIBUTION OF FILM PLASTIC BAGS**

**WHEREAS**, the Washington State Legislature in chapters 70.93 and 70.95 RCW has established that waste reduction as a priority in the collection, handling, and managing of solid waste for the benefit of public health and for a healthful, clean and beautiful environment; and

**WHEREAS**, the Kitsap County Solid and Hazardous Waste Management Plan recommends that the County implement material bans or take-back ordinances to reduce the prevalence of commonly dumped, littered, or problematic items; and

**WHEREAS**, it is Kitsap County's desire to conserve resources, reduce greenhouse gas emissions, waste, litter, and marine pollution, and to protect the public health and welfare, including wildlife, all of which increase the quality of life for the residents of unincorporated Kitsap County, and

**WHEREAS**, the Department of Ecology's litter survey states that plastic bags and film are one of the ten most littered items in Washington State, by weight, and

**WHEREAS**, the United States Environmental Protection Agency estimates that 380 billion plastic bags and wraps are consumed in the United States, annually, and

**WHEREAS**, Kitsap County plastic bag consumption is estimated to be approximately 87 million, annually, and

**WHEREAS**, only approximately 0.5% of plastic bags and wraps are recycled, and

**WHEREAS**, decreased reliance on single-use carryout bags contributes toward the goals of conserving energy and natural resources while reducing greenhouse gases and litter, and

**NOW, THEREFORE, BE IT ORDAINED:**

Section 1. To further the benefit to all residents and visitors to Kitsap County, the County encourages all cities within the county to implement a policy or ordinance consistent herewith.

Section 2. The Kitsap County Department of Public Works is directed to provide public outreach and to implement an education campaign prior to the effective date of this ordinance.

**NEW SECTION. Section 3.** A new Chapter **9.XX**, “Distribution of single-use plastic carry-out bags” is added to Title 9 of Kitsap County Code, “Health, Welfare and Sanitation” as follows:

Sections:

- 9.XX.010 Definitions
- 9.XX.020 Regulations
- 9.XX.030 Exemptions
- 9.XX.040 Violations

**9.XX.010 Definitions.**

The following definitions shall apply in the interpretation and enforcement of the ordinance codified in this chapter:

1. “Compostable” means that the product will break down into, or otherwise become part, of usable compost in a safe and timely manner in an appropriate composting facility, or in a home compost pile or device, and has been certified as compostable by the Biodegradable Products Institute or similar national or international certification authority.
2. “Carryout bag” means any bag that is provided by a retail establishment at the check stand, cash register, point of sale, home delivery, or other point of departure to a customer for use to transport or carry away purchases such as merchandise, goods or food from the retail establishment. Carryout bags do not include:
  - (A) Bags used by consumers inside stores to package bulk items, such as fruit, vegetables, nuts, grains, candy, greeting cards or small hardware items such as nails, bolts or screws; to contain or wrap frozen foods, meat or fish regardless of whether they are prepackaged; to contain or wrap flowers, potted plants or other items where dampness may be a problem; to contain unwrapped prepared foods or bakery goods; or to contain prescription drugs; or
  - (B) A bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a recyclable paper bag or reusable bag, such as prepared take-out foods or prepared liquids intended for consumption away from the retail establishment; or
  - (C) Newspaper bags, door-hanger bags, tire bags, laundry-dry cleaning bags or bags sold in packages containing multiple bags for uses such as food storage, garbage, pet waste or yard waste.
  - (D) Paper bags with a capacity of eight pounds or less, that contain at least 20% postconsumer recycled material.
3. “Recycled paper carryout bag” means a paper carryout bag provided by a store to a customer at the point-of-sale that meets all of the following

requirements:

- (A) has a material weight of larger than eight-pounds and contains an average of 40% postconsumer recycled materials;
- (B) is accepted for recycling in curbside programs in a majority of households that have access to curbside recycling programs in the County;
- (C) is capable of composting in a commercial composting facility; and
- (E) is clearly labeled with the minimum percentage of postconsumer content.

4. "Retail establishment" means any person, corporation, partnership, business, facility, vendor, organization, or individual that sells or provides food, merchandise, goods, or materials directly to a customer including home delivery, temporary stores, or vendors at farmers markets, street fairs, and festivals.

5. "Reusable carryout bag" means a bag made of cloth or other material with handles that is specifically designed and manufactured for long term multiple reuse and meets all of the following requirements:

- (A) Has a minimum lifetime of 125 uses, which for purposes of this subsection, means the capacity of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet,
- (B) Is machine washable or made from a material that can be cleaned or disinfected, and
- (C) If made of film plastic, is a minimum of at least 2.25 mils thick.

6. "Single-use plastic carryout bag" means any bag that is less than 2.25 mils thick and is made from plastic or any nonrenewable resource.

7. "Pass-through charge" means a charge collected by retailers from their customers when providing plastic or recycled paper carryout bags, and retained by retailers to offset the cost of bags and other costs related to the pass-through charge.

#### **9.XX.020 Regulations.**

Except as provided by Section XX.XX.030, all retail establishments within unincorporated Kitsap County must comply with the following regulations:

1. Retail establishments shall not provide a single use plastic carryout bag to any customer.
2. Retail establishments shall not provide to any customer at the point-of-sale a paper bag or reusable carryout bag made of film plastic that does not meet recycled content requirements. For each recycled paper carryout bag provided by the retail establishment, it shall collect a pass-through charge of not less than \$0.08 and such shall be clearly indicated on the customer transaction receipt.

3. Retail establishments may make reusable carryout bags available to customers through sale.

4. Any film bags meeting the definition of compostable that retail establishments provide to customers for food or other products, such as vegetables bagged in stores prior to checkout, must be tinted green or brown and shall be clearly labeled "COMPOSTABLE," including language following the Federal Trade Commission's "Green Guides."

#### **9.XX.030 Exemptions.**

1. No retail establishment may collect a pass-through charge from anyone with a voucher or electronic benefits card issued under programs including, but not limited to, Women Infants and Children (WIC); Temporary Assistance to Needy Families (TANF); Federal Supplemental Nutrition Assistance Program (SNAP), also known as Basic Food; and the Washington State Food Assistance Program (FAP).

2. Food banks and other food assistance programs are exempt from the requirements for this chapter.

#### **9.XX.040 Violations.**

In addition to or as an alternative to any other penalty provided in this chapter or by law, the violation of any provision of this chapter shall constitute a Class I civil infraction. Each violation shall constitute a separate infraction for each and every day or portion thereof during which the violation is committed, continued, or permitted. Infractions shall be processed in accordance with the provisions of Chapter 2.116, as now or hereafter amended. Authority to enforce provisions of this chapter is granted to the public works director or designee, in addition to those authorized under KCC 2.116.030.

#### **9.XXX.050 Implementation.**

All retail establishments shall comply with the requirements of this section by January 1, 2020.

**Section 4. Severability.** If any provision of this ordinance or its application to any person or circumstance is held invalid or unconstitutional, the remainder of the ordinance or its application to other persons or circumstances shall not be affected.



Section 5. **Scrivener's Error.** Should any amendment to Kitsap County Code that was passed by the Board during its deliberations on this Ordinance be inadvertently left out upon publication, the explicit action of the Board as discussed and passed shall prevail upon subsequent review and verification by the Board.

Section 6. **Recitals.** The recitals herein shall be findings of fact and are incorporated herein by reference.

Section 7. **Effective Date.** This Ordinance shall take effect immediately.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2019

**KITSAP COUNTY  
BOARD OF COMMISSIONERS**

ATTEST:

\_\_\_\_\_  
ROBERT GELDER, Chair

\_\_\_\_\_  
EDWARD E. WOLFE, Commissioner

\_\_\_\_\_  
Dana Daniels, Clerk of the Board

\_\_\_\_\_  
CHARLOTTE GARRIDO, Commissioner

Approved as to form:

\_\_\_\_\_  
Deputy Prosecuting Attorney

**ORDINANCE NO. 5368**

**AN ORDINANCE** of the City Council of the City of Bremerton, Washington, adding a new chapter to the Bremerton Municipal Code, Chapter 6.20 BMC, regulating the distribution of single-use plastic and biodegradable carryout bags.

WHEREAS, the Washington State Legislature in chapters 70.93 and 70.95 RCW has established that waste reduction as a priority in the collection, handling, and managing of solid waste for the benefit of public health and for a healthful, clean and beautiful environment; and

WHEREAS, the City of Bremerton (“City”) desires to conserve resources, reduce greenhouse gas emissions, waste, litter, and marine pollution, and to protect the public health and welfare, including wildlife, all of which increase the quality of life for the residents of the City; and

WHEREAS, the Department of Ecology’s litter survey states that plastic bags and film are one of the ten most littered items in Washington State, by weight; and

WHEREAS, the United States Environmental Protection Agency estimates that 380 billion plastic bags and wraps are consumed in the United States, annually; and

WHEREAS, The City’s plastic bag consumption is estimated to be approximately 12 million, annually; and

WHEREAS, only approximately 0.5% of plastic bags and wraps are recycled; and

WHEREAS, decreased reliance on single-use carryout bags contributes toward the goals of conserving energy and natural resources while reducing greenhouse gases and litter; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BREMERTON, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1. Recitals.** The recitals set forth above are hereby adopted and incorporated as if set forth herein in full.

**SECTION 2.** A new chapter, Chapter 6.20 entitled “Carryout Bags”, is hereby added to Title 6 of the Bremerton Municipal Code to read as follows:

**Chapter 6.20  
CARRYOUT BAGS**

**6.20.010 DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of the

ordinance codified in this chapter:

(a) "Compostable" means that the product will break down into, or otherwise become part, of usable compost in a safe and timely manner in an appropriate composting facility, or in a home compost pile or device, and has been certified as compostable by the Biodegradable Products Institute or similar national or international certification authority.

(b) "Carryout bag" means any bag that is provided by a retail establishment at the check stand, cash register, point of sale or other point of departure to a customer for use to transport or carry away purchases such as merchandise, goods or food from the retail establishment. Carryout bags do not include:

(1) Bags used by consumers inside stores to package bulk items, such as fruit, vegetables, nuts, grains, candy, greeting cards or small hardware items such as nails, bolts or screws; to contain or wrap frozen foods, meat or fish regardless of whether they are prepackaged; to contain or wrap flowers, potted plants or other items where dampness may be a problem; to contain unwrapped prepared foods or bakery goods; or to contain prescription drugs; or

(2) A bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a recyclable paper bag or reusable bag, such as prepared take-out foods or prepared liquids intended for consumption away from the retail establishment; or

(3) Newspaper bags, door-hanger bags, tire bags, laundry-dry cleaning bags or bags sold in packages containing multiple bags for uses such as food storage, garbage, pet waste or yard waste.

(4) Paper bags with a capacity of eight pounds or less, that contain at least 20% postconsumer recycled material.

(c) "Recycled paper carryout bag" means a paper carryout bag provided by a store to a customer at the point-of-sale that meets all of the following requirements:

(1) Has a material weight of larger than eight-pounds and contains an average of 40% postconsumer recycled materials;

(2) Is accepted for recycling in curbside programs in a majority of households that have access to curbside recycling programs in the City;

(3) Is capable of composting in a commercial composting facility; and

(4) Is clearly labeled with the minimum percentage of postconsumer content.

(d) "Retail establishment" means any person, corporation, partnership, business, facility, vender, organization or individual that sells or provides food, merchandise, goods, or materials, directly to a customer including home delivery, temporary stores, or vendors at farmers markets, street fairs, and festivals.

(e) "Reusable carryout bag" means a bag made of cloth or other material with handles that is specifically designed and manufactured for long term multiple reuse and meets all of the following requirements:

(1) Has a minimum lifetime of 125 uses, which for purposes of this subsection, means the capacity of carrying a minimum of 22 pounds 125 times over a distance of at least 175 feet,

(2) Is machine washable or made from a material that can be cleaned or disinfected, and

(3) If made of film plastic, is a minimum of at least 2.25 mils thick.

(f) "Single-use plastic carryout bag" means any bag that is less than 2.25 mils thick and is made from plastic or any nonrenewable resource.

(g) "Pass-through charge" means a charge collected by retailers from their customers

when providing plastic or recycled paper carryout bags, and retained by retailers to offset the cost of bags and other costs related to the pass-through charge.

**6.20.020 REGULATIONS.**

Except as provided by Section 6.20.030 below, all retail establishments within the City must comply with the following regulations:

(a) Plastic Carryout Bags.

(1) Single-use Plastic Carryout Bags. Retail establishments shall not provide a single-use plastic carryout bag to any customer.

(2) Reusable Plastic Carryout Bags. Retail establishments may provide to any customer at the point-of-sale a reusable plastic carryout bag as defined in Section 6.20.010(e)(3) above. For each reusable plastic carryout bag provided by the retail establishment, it shall collect a pass-through charge of not less than \$0.08 and such shall be clearly indicated on the customer transaction receipt.

(b) Paper Carryout Bags. Retail establishments shall not provide to any customer at the point-of-sale a paper bag that is not a recycled paper carryout bag as defined in Section 6.20.010(c) above. For each recycled paper carryout bag provided by the retail establishment, it shall collect a pass-through charge of not less than \$0.08 and such shall be clearly indicated on the customer transaction receipt.

(c) Reusable Carryout Bags. Retail establishments may make reusable carryout bags available to customers through sale.

(d) Non-Carryout Bags.

(1) Non-Compostable Plastic Bags. Retail establishments shall not use or provide to any customer a polyethylene or other non-compostable plastic film bags tinted green or brown for customers to bag products in stores.

(2) Compostable Plastic Bags. Any film bags meeting the definition of compostable that retail establishments provide to customers for food or other products, such as vegetables bagged in stores prior to checkout, must be tinted green or brown and shall be clearly labeled "COMPOSTABLE," including language following the Federal Trade Commission's "Green Guides."

**6.20.030 EXEMPTIONS.**

No retail establishment may collect a pass-through charge from anyone with a voucher or electronic benefits card issued under programs including, but not limited to, Women Infants and Children (WIC); Temporary Assistance to Needy Families (TANF); Federal Supplemental Nutrition Assistance Program (SNAP), also known as Basic Food; and the Washington State Food Assistance Program (FAP).

**6.20.040 VIOLATIONS.**

In addition to any other violation set forth in this chapter, any violation of Section 6.20.020 above constitutes a civil violation under Chapter 1.04 BMC for which a monetary penalty may be assessed and enforcement may be required as provided therein.

**SECTION 3. Effective Date of Section 2.** The provisions of Chapter 6.20 of the Bremerton City Code as established in Section 2 of this ordinance shall be effective January 1, 2020.


**SECTION 4. Severability.** If any one or more sections, subsections, or sentences of this Ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance and the same shall remain in full force and effect.

**SECTION 5. Effective Date.** This ordinance shall take effect and be in force ten (10) days from and after its passage, approval and publication as provided by law.

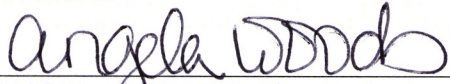
PASSED by the City Council the 5th day of June, 2019.

  
ERIC YOUNGER, Council President

Approved this 6th day of June, 2019.

  
GREG WHEELER, Mayor

ATTEST:

  
ANGELA WOODS, City Clerk

APPROVED AS TO FORM:

  
ROGER A. LUBOVICH, City Attorney

PUBLISHED the 11th day of June, 2019.  
EFFECTIVE the 21st day of June, 2019.  
ORDINANCE NO. 5368.

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## City of Port Orchard Work Study Session Executive Summary

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**Issue Title:** Residential Yard, Garage and Estate Sales; Charitable Auctions and Rummage Sales; and, Temporary Uses Exempt from Permit Requirements (POMC 20.39 and 20.58.140)

**Meeting Date:** June 18, 2019

**Time Required:** 10 minutes

**Attendees:** Nick Bond, Community Development Director

**Action Requested at this Meeting:** Provide feedback to staff on the proposed regulations.

**Issue:** Garage, yard, and estate sales can be a beneficial activity in the community, bringing neighbors together, recycling household goods, and helping people declutter, among other things. However, frequent or continuous sales can be harmful, disrupting neighborhoods, causing excessive traffic, and being a way of running a business without the costs and regulations borne by those who operate their businesses legally.

Though not a significant problem in Port Orchard, occasional abuses of such sales has revealed the need for regulation, as Port Orchard currently has no regulations for such activities. Following a survey of other jurisdictions in Washington, an ordinance has been drafted that does not require permits, but limits the frequency, duration, and operating hours, and certain other characteristics of sales events

The proposed ordinance also includes similar provisions for charitable auctions and rummage/jumble sales in residential zones. Such sales in non-residential zones are already addressed in a general provision regarding parking lot sales in the Temporary Uses chapter.

Finally, the proposed ordinance would remove a provision from the Temporary Uses chapter that effectively allows any use in any zone as long as it occurs for not more than three days, four times per year.

The Planning Commission has reviewed the proposed amendments, held a public hearing on June 4, 2019, and recommends the Council approve the proposed amendments.

**Alternatives:** Revise the proposed regulations; do not adopt regulations for residential yard, garage and estate sales.

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

**Recommendations:** Staff recommends that Council provide feedback to staff and review this item at the next regular Council meeting.

**Attachments:** Ordinance; Redline POMC 20.39; Redline POMC 20.58.140.



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

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO GARAGE, YARD, AND ESTATE SALES, AND CHARITABLE AUCTIONS AND RUMMAGE SALES IN RESIDENTIAL ZONES; REPEALING SECTION 20.58.140(2) OF THE PORT ORCHARD MUNICIPAL CODE; ADOPTING NEW SECTIONS IN CHAPTER 20.39 OF THE PORT ORCHARD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, residential garage, yard, and estate sales, and auctions and rummage sales for non-profit organizations can be a beneficial activity in the community, bringing neighbors together, recycling household goods, and helping people declutter, among other things; and

**WHEREAS**, frequent or continuous sales in residential areas can have a harmful effect, disrupting neighborhoods, causing excessive traffic, and being a way of running a business without the costs and regulations borne by those who operate businesses legally; and

**WHEREAS**, a current provision in POMC Chapter 20.58 (Temporary Uses) that could govern such uses is vague and could allow incompatible uses in all zones; and

**WHEREAS**, on March 25, 2019, the Land Use Committee of the City Council considered the issue of regulating such sales, and a variety of typical provisions based on a survey of other jurisdictions, and recommended drafting regulations containing selected provisions for consideration by the Planning Commission and the City Council; and

**WHEREAS**, on June 4, 2019, the City's Planning Commission held a public hearing on the proposed amendments and voted unanimously to recommend approval by the City Council; now, therefore,

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

**SECTION 1. POMC Subsection 20.58.140(2) Repealed.** Port Orchard Municipal Code, Subsection 20.58.140(2), is hereby repealed in its entirety.

**SECTION 2. New POMC Section 20.39.660 Adopted.** A new POMC Section 20.39.660 is hereby adopted as follows:

**20.39.660 Residential Yard, Garage, and Estate Sales.** Periodic, non-commercial sales of personal and household goods, and professional estate sales, at residential dwellings shall be allowed as an accessory use, provided such sale events conform to the following conditions:

- (1) A maximum of four events per residential address per calendar year.
- (2) A maximum of four consecutive days per event.
- (3) Limited to the hours of 8:00 am to 6:00 pm.
- (4) It shall be the responsibility of the resident and/or operator of the sale to ensure traffic is not obstructed.
- (5) Goods shall not be placed in the public right-of-way.
- (6) All goods, tables, canopies, tarps, and associated paraphernalia shall be removed from public view between sale events.
- (7) Goods shall be limited to the personal or household property of the estate, the residents of the sale location, and/or the participants in the sale. There shall be no sale of goods or products purchased or produced for resale or otherwise sold by the sale participants in a commercial enterprise.
- (8) Professional estate sale operators shall be properly licensed in accordance with POMC Chapter 5.12.

**SECTION 3. New POMC Section 20.39.670 Adopted.** A new POMC Section 20.39.660 is hereby adopted as follows:

**20.39.670 Charitable Auctions, Rummage, and Jumble Sales in Residential Zones.**

Periodic, non-commercial outdoor sales of donated goods for the benefit of charitable, non-profit organizations or non-commercial educational institutions shall be allowed as an accessory use according to the following conditions:

- (1) Shall be limited to a maximum of four events per location per year.
- (2) Limited to the hours of 8:00 am to 6:00 pm.
- (3) It shall be the responsibility of the resident and/or operator of the sale to ensure traffic is not obstructed.
- (4) All goods, tables, canopies, and associated paraphernalia shall be removed from public view between sale events.
- (5) Shall be conducted on the premises of charitable, non-profit organizations or non-commercial educational institutions.
- (6) Variance from these conditions, or events held at other locations, may be permitted subject to a Temporary Use Permit in accordance with POMC Chapter 20.58.

**SECTION 4. Severability.** If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

**SECTION 5. Publication.** This Ordinance shall be published by an approved summary consisting of the title.

**SECTION 6. Effective Date.** This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 25<sup>th</sup> day of June 2019.

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

ATTEST:

SPONSOR:

\_\_\_\_\_  
Brandy Rinearson, MMC, City Clerk

\_\_\_\_\_  
Scott Diener, Councilmember

APPROVED AS TO FORM:

\_\_\_\_\_  
Sharon Cates, City Attorney

PUBLISHED:

EFFECTIVE DATE:

## Chapter 20.39

### USE PROVISIONS

#### Sections:

#### Accessory Uses.

**20.39.600 Accessory Apartment**

**20.39.605 Backyard Cottage Dwelling**

**20.39.610 Drive-Thru Facility**

**20.39.615 Home Occupation**

**20.39.620 Home Business**

**20.39.625 Livestock Keeping**

**20.39.630 Outdoor Display**

**20.39.635 Outdoor Storage**

**20.39.640 Indoor Self-Storage as Accessory Use to Apartment Buildings**

**20.39.645 Vehicle Service and Repair Accessory to Residential Uses**

**20.39.650 Medical Marijuana Cooperative**

**20.39.660 Residential Yard, Garage, and Estate Sales**

**20.39.670 Charitable Auctions, Rummage, and Jumble Sales in Residential Zones**

#### Article VII. Accessory Uses

##### **20.39.600 Accessory Dwelling Units**

(1) Defined. An accessory dwelling unit (ADU) is a separate, complete dwelling unit attached to or contained within the structure of the primary home or use. An ADU may be either an accessory apartment (attached dwelling) or a backyard cottage dwelling.

(2) Requirements. Refer to Section 20.68 of this Title.

##### **20.39.610 Drive-Thru Facility.**

(1) Defined. A facility at which the customer is served while sitting in a vehicle, typically associated with drive-thru restaurants, banks and pharmacies.

(2) No drive-thru window, lane or order box is permitted within 50 feet of a ground floor residential use (measured from the residential lot line to the closest point of the drive-thru lane).

(3) In all drive-thru areas, including but not limited to menu boards, stacking lanes, trash receptacles, ordering box, drive up windows, and other objects associated with the drive-thru, must be located to the side or rear of the building. Drive-thru windows and lanes may not be placed between a public street (not including an alley) and the associated building.

(4) Queuing, landscaping and screening requirements are specified in Section 20.124.060 and Chapter 20.128.

##### **20.39.615 Home Occupation.**

(1) Defined. A home occupation provides a service or product that is conducted wholly within a dwelling unit. Customers and employees coming to the dwelling to conduct business are not allowed. A home occupation does not include a bed and breakfast or day care facility.

- (2) The use of the dwelling unit for a home occupation must be clearly incidental and subordinate to its use for residential purposes, and under no circumstances change the residential character of the building.
- (3) No business, storage or warehousing of materials, supplies or equipment is allowed outside.
- (4) No equipment or process may be used that creates excessive noise, vibration, glare, fumes, odors, or electrical interference.
- (5) No display of products may be visible from the street.
- (6) No persons other than members of the family residing on the premises may be engaged in the home occupation.
- (7) No more than one vehicle may be used in the conduct of the home occupation, and it must be parked on-site.
- (8) Storage space and the operation of the business cannot exceed twenty-five percent of the total floor area of the dwelling (including any accessory structures on the lot).
- (9) Customers and employees are not allowed.
- (10) The delivery of materials may not exceed more than two (2) deliveries of per day. No delivery may be by a vehicle larger than typical delivery van.
- (11) No signs advertising the home occupation are allowed.

#### **20.39.620 Home Business.**

- (1) Defined. A home business provides a service or product that is conducted wholly within a dwelling that requires employees, customers, clients or patrons to visit the dwelling. A home business does not include a bed and breakfast or day care facility.
- (2) The use of the dwelling unit for a home business must be clearly incidental and subordinate to its use for residential purposes, and under no circumstances change the residential character of the building.
- (3) No business, storage or warehousing of materials, supplies or equipment is allowed outside.
- (4) No equipment or process may be used that creates excessive noise, vibration, glare, fumes, odors, or electrical interference.
- (5) No display of products may be visible from the street.
- (6) The home business must be conducted by a person residing on the premises.
- (7) No employees of the business shall work on the premises.
- (8) No more than one vehicle may be used in the conduct of the home business, and the vehicle must be parked on-site.
- (9) Storage space and the operation of the business inside the dwelling cannot exceed twenty-five percent of the total floor area of the building (including any accessory structures on the lot).
- (10) Not more than six (6) clients a day are permitted to visit the home business.
- (11) The delivery of materials may not exceed more than two (2) deliveries of per day. No delivery may be by a vehicle larger than typical delivery van.
- (12) Retail sales of goods must be entirely accessory to any service provided on the site (such as hair care products sold as an accessory to hair cutting).
- (13) No mechanical equipment is installed or used except such that is normally used for domestic or professional purposes.

#### **20.39.625 Livestock Keeping.**

- (1) Defined. Livestock includes any animals of the equine, swine or bovine class, including goats, sheep, mules, cattle, hogs, pigs and other grazing animals, and all ratites, including, but not limited to, ostriches, emus and rheas.
- (2) Prohibited.

- (a) The keeping of any animal other than dogs, cats and other household domestic animals and those specifically allowed below is prohibited.
- (b) Roosters are not allowed.

(3) Rabbits, Turkeys, Ducks and Chickens.

- (a) One rabbit, turkey, duck or chicken is allowed per 1,500 square feet of lot area, provided that no more than five (5) rabbits, ducks or chickens, and no more than three (3) turkeys are located on a single parcel.
- (b) An area of at least twenty (20) square feet or at least four (4) square feet for each rabbit, turkey, duck or chicken, whichever is larger, must be provided. The area must be adequately fenced, cannot be located in a front yard, be at least twenty-five (25) feet from any dwelling on an abutting lot and be at least fifteen (15) feet from any side or rear lot line.
- (c) Coops or cages may not exceed 8 feet in height.

(4) Alpacas, Llamas, Goats and Sheep.

- (a) A lot least one half (1/2) acre in size is allowed one (1) alpaca, llama, goat or sheep per 10,000 square feet of lot area.
- (b) An area of at least five hundred (500) square feet or at least two hundred fifty (250) square feet for each alpaca, llama, goat or sheep, whichever is larger, must be provided.
- (c) The containment area must be adequately fenced, cannot be located in a front yard and must be at least fifteen (15) feet from any side or rear lot line.

**20.39.630 Outdoor Display.**

- (1) Defined: The outdoor display of products actively available for sale. The outdoor placement of propane gas storage racks, ice storage bins, soft drink or similar vending machines is considered outdoor display. Outdoor display does not include merchandise or material in boxes, in crates, on pallets or other kinds of shipping containers (see limited outdoor storage). Where allowed, the outdoor sale or rental of vehicles or equipment as part of a properly permitted use is not considered outdoor display.
- (2) Outdoor display is only allowed with a permitted nonresidential use.
- (3) Outdoor display must abut the primary façade with the principal customer entrance, and may not extend more than six (6) feet from the facade or occupy more than twenty-five percent of the horizontal length of the façade.
- (4) Outdoor display may not exceed six (6) feet in height.
- (5) Outdoor display must be removed and placed inside a fully-enclosed building at the end of each business day, except propane gas storage racks, ice storage bins, soft drink or similar vending machines may remain outside overnight.
- (6) Outdoor display may not encroach upon any public right-of-way or sidewalk. Outdoor display may not impair the ability of pedestrians to use the sidewalk. There must be a minimum of six (6) feet of clear distance of sidewalk at all times.

**20.39.635 Outdoor Storage.**

- (1) Defined.
  - (a) Low-Impact.

- (i) Low-impact outdoor storage includes, but is not limited to:
  - (A) The overnight outdoor storage of vehicles awaiting repair;
  - (B) The outdoor storage of merchandise or material in boxes, in crates, on pallets or other kinds of shipping containers;
  - (C) Outdoor sale areas for sheds, building supplies, garden supplies, plants, lawn movers, barbecue's and other similar items; and
  - (D) The outdoor storage of vehicles, boats, recreational vehicles or other similar vehicles at a self-service storage, mini warehouse facility.
- (ii) Use Standards:
  - (A) All material stored outdoors cannot be located in a required setback;
  - (B) All material stored outdoors may not be more than twelve (12) feet in height;
  - (C) All material stored outdoors must be fully screened from view from the public right-of-way and abutting properties using a Type A or B buffer (see Chapter 20.128.060); and
  - (D) Vehicles awaiting repair may only be stored up to fourteen (14) days within the screened storage area.
- (b) High-Impact.
  - (i) High-impact outdoor storage includes, but is not limited to:
    - (A) The outdoor storage of contractors equipment, lumber, pipe, steel or wood;
    - (B) The outdoor storage of salvage, recycled materials or scrap metal;
    - (C) The outdoor storage of impounded or inoperable vehicles;
    - (D) The outdoor storage or loading yard for vehicles, trailers or equipment;
    - (E) The outdoor storage of construction material; and
    - (F) The outdoor storage of domestic or construction waste or debris.
  - (ii) Use Standards.
    - (A) All material stored outdoors cannot be located in a required setback and must be located at least fifteen (15) feet from the public right-of- way; and
    - (B) All material stored outdoors must be fully screened from view from the public right-of-way and abutting properties using a Type C or D buffer (see Chapter 20.128.060).

**20.39.640 Indoor Self Storage as Accessory Use to Apartment Buildings.** Indoor self-storage may be permitted as an accessory use to a site containing one or more apartment buildings as defined in POMC 20.32, provided that the gross floor area of self-storage does not exceed twenty percent of the gross floor area of the residential living space located within apartment buildings on the site.

**20.39.645 Vehicle Service and Repair Accessory to Residential Uses.** Vehicle service and repair, as an accessory use to an existing residential use, is allowed pursuant to the requirements of Chapter 20.66 and the land use table in Chapter 20.39.

**20.39.650 Medical Marijuana Cooperatives.** Medical marijuana cooperatives, as an accessory use to an existing residential use, are allowed pursuant to the requirements of Chapter 20.64 and the land use table in Chapter 20.39.

**20.39.660 Residential Yard, Garage, and Estate Sales.** Periodic, non-commercial sales of personal and household goods, and professional estate sales, at residential dwellings shall be allowed as an accessory use, provided such sale events conform to the following conditions:

(1) A maximum of four events per residential address per calendar year.

(2) A maximum of four consecutive days per event.

(3) Limited to the hours of 8:00 am to 6:00 pm.

(4) It shall be the responsibility of the resident and/or operator of the sale to ensure traffic is not obstructed.

(5) Goods shall not be placed in the public right-of-way.

(6) All goods, tables, canopies, tarps, and associated paraphernalia shall be removed from public view between sale events.

(7) Goods shall be limited to the personal or household property of the estate, the residents of the sale location, and/or the participants in the sale. There shall be no sale of goods or products purchased or produced for resale or otherwise sold by the sale participants in a commercial enterprise.

(8) Professional estate sale operators shall be properly licensed in accordance with POMC Chapter 5.12.

**20.39.670 Charitable Auctions, Rummage, and Jumble Sales in Residential Zones.** Periodic, non-commercial outdoor sales of donated goods for the benefit of charitable, non-profit organizations or non-commercial educational institutions shall be allowed as an accessory use according to the following conditions:

(1) Shall be limited to a maximum of four events per location per year.

(2) Limited to the hours of 8:00 am to 6:00 pm.

(3) It shall be the responsibility of the resident and/or operator of the sale to ensure traffic is not obstructed.

(4) All goods, tables, canopies, and associated paraphernalia shall be removed from public view between sale events.

(5) Shall be conducted on the premises of charitable, non-profit organizations or non-commercial educational institutions.

(6) Variance from these conditions, or events held at other locations, may be permitted subject to a Temporary Use Permit in accordance with POMC Chapter 20.58.



## Chapter 20.58

### TEMPORARY USES

#### Sections:

**20.58.110 Temporary uses.**

**20.58.120 Temporary uses requiring permits.**

**20.58.130 Additional permit requirements.**

**20.58.140 Temporary uses exempt from permit requirements.**

#### **20.58.140 Temporary uses exempt from permit requirements.**

(1) The following uses shall be exempt from requirements for a temporary use permit when located in the CH, CC, DMU, GMU, CMU, IL, IH, CF, PR or CI zones for the time period specified below:

(a) Seasonal uses not to exceed a total of 30 days each calendar year, such as Christmas tree lots and produce stands.

(b) A special event not to exceed a total of 14 consecutive days, such as amusement rides, carnivals, or circuses, community festivals, and parking lot sales.

~~(2) Any use not exceeding a consecutive total of three days for a maximum of four events each calendar year shall be exempt from requirements for a temporary use permit.~~

~~(3) Any community event held in a public park or property and not exceeding a period of seven days shall be exempt from requirements for a temporary use permit.~~

~~(4) Temporary structures for tools storage, equipment, and for supervisory offices may be permitted for construction projects; provided, that such structures are:~~

~~(a) Allowed only during periods of active construction.~~

~~(b) Removed within 30 days of project completion or cessation of work.~~

~~(5) One temporary real estate office located on any new residential development; provided, that activities are limited to the initial sale or rental of property or units within the development. The office use shall be discontinued within 30 days of the issuance of a final certificate of occupancy of the last unit in the development.~~

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## City of Port Orchard Work Study Session Executive Summary

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**Issue Title:** Vehicle Service and Repair Accessory to Residential Uses (POMC 20.66)

**Meeting Date:** June 18, 2019

**Time Required:** 10 minutes

**Attendees:** Nick Bond, Community Development Director

**Action Requested at this Meeting:** Provide feedback to staff on the proposed regulations.

**Issue:** In June 2017, the City Council adopted regulations for vehicle service and repair accessory to residential uses, as part of the Unified Development Code, under POMC Chapter 20.66. Those regulations have been very helpful in dealing with such activity in cases where it has exceeded what is reasonable and common and become a public nuisance. However, further review and application have revealed the need for refinement of the regulations, including adding detail and definitions and extending the prohibition on work in the right-of-way to private roads.

The Planning Commission has reviewed the proposed amendments, held a public hearing on June 4, 2019, and recommends the Council approve the proposed amendments.

**Alternatives:** Revise the proposed regulations; do not adopt regulations for vehicle service and repair accessory to residential uses.

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

**Recommendations:** Staff recommends that Council provide feedback to staff and review this item at the next regular Council meeting.

**Attachments:** Ordinance; Redline POMC 20.66.

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

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON,  
AMENDING CHAPTER 20.66 OF THE PORT ORCHARD MUNICIPAL  
CODE; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND  
SETTING AN EFFECTIVE DATE.**

**WHEREAS**, in June 2017, the City Council adopted regulations for vehicle service and repair accessory to residential uses, as part of the Unified Development Code; and

**WHEREAS**, further review and application of the adopted regulations has revealed the need for refinement of the regulations, including adding detail and definitions and extending the prohibition on work in the right-of-way to private roads; and

**WHEREAS**, on March 25, 2019, the Land Use Committee of the City Council reviewed amendments proposed by City staff and recommended bringing them forward for consideration by the Planning Commission and the City Council; and

**WHEREAS**, on June 4, 2019, the City’s Planning Commission held a public hearing on the proposed amendments and voted unanimously to recommend approval by the City Council; now, therefore,

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

**SECTION 1.** POMC Chapter 20.66 Amended. POMC Chapter 20.66 is hereby amended to read as follows:

**Sections:**

**20.66.010 Definitions.**

**20.66.020 Service and Repair Standards.**

**20.66.010 Definitions.**

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

(1) “Driveway” and “Parking Pad” shall mean established driving and parking areas located on the property, not within the public right-of-way, private roadway, or ingress/egress easement.

(2) “Major Parts and Components” means and includes, but is not limited to: body panels, frame components, bumpers, hoods, doors, engines, transmissions, differentials, and

similar parts and assemblies.

(3) "Recreational, Sporting, and Utility Vehicles and Equipment" shall mean and include, without limitation: motorhomes, travel trailers, pickup truck campers, off-road vehicles, boats, jet skis, racing vehicles of all types, construction vehicles and equipment, boat and utility trailers, motorcycles, and all such similar vehicles and equipment, whether self-powered or unpowered.

(4) "Roadway" means and includes the paved or unpaved road surface and any associated sidewalk, improved or unimproved shoulder, parking strip, and landscaping.

(5) "Vehicle and Equipment Service and Repair Work," hereinafter referred to as "Work" means and includes, but is not limited to repair, service, maintenance, restoration, modification, assembly, disassembly, construction, reconstruction, testing, tune-up and other work on motor vehicles, non-motorized, recreational, sporting, utility, or other vehicles and related equipment of any type.

(6) "Work - Major" means and includes, but is not limited to: removal, installation, disassembly, or assembly of major parts and components; body or frame work; rebuilding engines and transmissions; testing of alarms and sound systems; and similar work.

(7) "Work - Minor" means routine, basic maintenance and repairs, including such work as changing tires, fluids, and filters, replacing wiper blades, light bulbs, brake pads/shoes, and other minor parts, diagnostics and tune-ups, and similar work.

#### **20.66.020 Service and Repair Standards.**

The repair, service, restoration, modification, assembly, disassembly, construction, reconstruction, tune-up, or other Work on motor, recreational, sporting, utility, or other vehicles on any residential premises in any non-residential zone, unless an integral part of a legal use in the zone, or on any property in any residential zone, unless an integral part of a legal non-conforming use, shall be subject to the following standards:

(1) Work shall be limited to the non-commercial service, repair, and maintenance of motor vehicles, recreational, sporting, or utility vehicles and vehicular equipment that are owned by or currently registered to residents of the premises on which the Work is being done.

(2) Major Work is prohibited in multi-family residential complexes of five (5) or more dwelling units on a parcel, unless entirely within an enclosed garage.

(3) Work shall not be done on a vacant lot or in or on any public or private roadway, public right-of-way, or ingress/egress easement, including those adjacent to the owner's

residence, except for emergency repairs necessary to enable the safe movement of a vehicle stranded on the roadway or right-of-way. Vehicles undergoing, awaiting, or otherwise associated with such Work shall not be stored on any vacant lot, roadway, easement, or public right-of-way.

(4) No more than one (1) vehicle may be undergoing or in any stage of service, repair, or other Work at any one time.

(5) Outdoor Work shall be conducted only between the hours of 7:00 AM and 7:00 PM on weekdays and 9:00 AM and 7:00 PM on weekends.

(6) Major Work, shall only be conducted within a fully enclosed garage or accessory building. Minor Work shall only be performed in a fully enclosed building, an open accessory structure, on a parking pad or in the driveway.

(7) Parts, equipment, tools, debris, excess materials or other supplies shall be stored within a fully enclosed structure such as a garage or accessory building when not in use.

(8) Work shall not create a nuisance to the neighbors or the public. Work shall not include the repeated or extended revving of engines, noises in violation of POMC 9.24.050 (Public Disturbance Noises), or the creation of smoke or noxious fumes or vapors that extend beyond the perimeter of the property, or create a fire hazard or other danger to the public health, safety, or welfare.

(9) Upon completion of any Work regulated by this section, the property shall be cleaned of all debris, oil, grease, gasoline, cloths or rags, and all other equipment or material used in the Work, and the property shall be left in such a condition that no hazard to persons or property shall remain.

(10) Oil, gasoline, antifreeze, and other automotive fluids, solvents, or other chemicals shall not be drained or allowed to spill on the ground. Spills of any such fluids or chemicals shall be cleaned up promptly and thoroughly and all fluids, chemicals, and contaminated soils or materials shall be disposed in a safe, legal, and proper manner, in accordance with all applicable state, federal, and local regulations, including but not limited to POMC Chapter 15.30 (Illegal Discharge Detection and Elimination). In the event of any leak, spill, or accumulation of such fluids, chemicals, or other hazardous or potentially-hazardous materials, which do or potentially may get into the municipal stormwater system or any surface water or groundwater, any person involved in or responsible for the Work and/or the property, or otherwise aware of such leak, spill, or accumulation shall notify the proper authorities as specified in POMC Chapter 15.30.120, as now written or as hereafter

amended or replaced.

(11) Storage, containment, and disposal of all waste products and hazardous materials shall be in accordance with all applicable state, federal, and local regulations.

(12) Painting of vehicles or equipment is prohibited, whether inside or outside of a building.

**SECTION 2. Severability.** If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

**SECTION 3. Publication.** This Ordinance shall be published by an approved summary consisting of the title.

**SECTION 4. Effective Date.** This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 25<sup>th</sup> day of June 2019.

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

ATTEST:

SPONSOR:

\_\_\_\_\_  
Brandy Rinearson, MMC, City Clerk

\_\_\_\_\_  
Scott Diener, Councilmember

APPROVED AS TO FORM:

\_\_\_\_\_  
Sharon Cates, City Attorney

PUBLISHED:

EFFECTIVE DATE:



**Chapter 20.66**  
**VEHICLE SERVICE AND REPAIR**  
**ACCESSORY TO RESIDENTIAL USES**

**Sections:**

**20.66.010** ~~Vehicle service and repair accessory to residential uses~~ Definitions.

**20.66.020** Service and Repair Standards.

**20.66.010** Definitions.

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

(1) “Driveway” and “Parking Pad” shall mean established driving and parking areas located on the property, not within the public right-of-way, private roadway, or ingress/egress easement.

(2) “Major Parts and Components” means and includes, but is not limited to: body panels, frame components, bumpers, hoods, doors, engines, transmissions, differentials, and similar parts and assemblies.

(3) “Recreational, Sporting, and Utility Vehicles and Equipment” shall mean and include, without limitation: motorhomes, travel trailers, pickup truck campers, off-road vehicles, boats, jet skis, racing vehicles of all types, construction vehicles and equipment, boat and utility trailers, motorcycles, and all such similar vehicles and equipment, whether self-powered or unpowered.

(4) “Roadway” means and includes the paved or unpaved road surface and any associated sidewalk, improved or unimproved shoulder, parking strip, and landscaping.

(5) “Vehicle and Equipment Service and Repair Work,” hereinafter referred to as “Work” means and includes, but is not limited to repair, service, maintenance, restoration, modification, assembly, disassembly, construction, reconstruction, testing, tune-up and other work on motor vehicles, non-motorized, recreational, sporting, utility, or other vehicles and related equipment of any type.

(6) “Work - Major” means and includes, but is not limited to: removal, installation, disassembly, or assembly of major parts and components; body or frame work; rebuilding engines and transmissions; testing of alarms and sound systems; and similar work.

(7) “Work - Minor” means routine, basic maintenance and repairs, including such work as changing tires, fluids, and filters, replacing wiper blades, light bulbs, brake pads/shoes, and other minor parts, diagnostics and tune-ups, and similar work.

**20.66.010–020** ~~Vehicle service and repair accessory to residential uses~~ Service and Repair Standards.

The repair, service, restoration, modification, assembly, disassembly, construction, reconstruction, tune-up, or other ~~work~~ Work on a motor, recreational, sporting, utility, or other vehicles on any residential premises in any non-residential zone, unless an integral part of a legal use in the zone, or on any property in any residential zone,

unless an integral part of a legal non-conforming use, shall be subject to the following standards:

(1) Work shall be limited to the non-commercial service, repair, and maintenance of motor vehicles, recreational vehicles, sporting, or utility vehicles and vehicular equipment that ~~is-are owned by or~~ currently registered to a residents of the premises on which the Work is being done ~~or a member of the residents' family, which shall be limited to parents, grandparents, spouse, or children related by blood, marriage or adoption.~~

(2) ~~Such work~~ Major Work is prohibited in multi-family residential complexes of ~~three (3)~~ five (5) or more dwelling units on a parcel, unless ~~totally~~ entirely within an enclosed garage.

(3) ~~Such work~~ Work shall not be done on a vacant lot or in or on any public or private roadway, public right-of-way, or ingress/egress easement, including those adjacent to the owner's residence, except for emergency repairs necessary to enable the safe movement of a vehicle stranded on the roadway or right-of-way. Vehicles undergoing, awaiting, or otherwise associated with such Work shall not be stored on any vacant lot, roadway, easement, or public right-of-way.

(4) No more than one (1) vehicle may be undergoing or in any stage of ~~service, or~~ repair, or other Work at any one time.

(5) ~~Such work~~ Outdoor Work shall be conducted only between the hours of 7:00 AM and 7:00 PM on weekdays and 9:00 AM and 7:00 PM on weekends.

(6) ~~Assembly, disassembly, bodywork, or other similar major repair work~~ Major Work, shall only be conducted within a fully enclosed garage or accessory building. ~~All other service and repair work may~~ Minor Work shall only be performed in a fully enclosed building, an open accessory structure, on a parking pad or in the driveway ~~directly adjacent to the garage, or carport. Such work shall not be performed in the public right-of-way nor shall vehicles be stored in the public right-of-way.~~

~~(7) The parking pad shall have an all-weather surface such as asphalt or concrete, paver stones, grasscrete or a minimum of three (3) inches packed gravel, which shall be maintained in such condition as to act as an impervious surface.~~

~~(8) Parts, equipment, tools, debris, excess materials or other supplies associated with vehicle service or repair shall be stored within a fully enclosed structure such as a garage or accessory building when not in use.~~

~~(9) The performance of such work~~ Work shall not create a nuisance to the neighbors or the public. Work shall not include the repeated or extended revving of engines, noises in violation of POMC 9.24.050 (Public Disturbance Noises), or the creation of smoke or noxious fumes or vapors that extend beyond the perimeter of the property, or create a fire hazard or other danger to the public health, safety, or welfare.

~~(10) Upon completion of any work~~ allowed Work regulated by this section, the property shall be cleaned of all debris, oil, grease, gasoline, cloths or rags, and all other equipment or material used in the ~~work~~ Work, and the property shall be left in such a condition that no hazard to persons or property shall remain.

~~(11) Oil, gasoline, antifreeze, and other automotive fluids, solvents, or other chemicals shall not be drained or allowed to spill on the ground. Spills of any such fluids or chemicals shall be cleaned up promptly and thoroughly and all fluids, chemicals, and contaminated soils or materials shall be disposed in a safe, legal, and proper manner, in accordance with all applicable state, federal, and local regulations, including but not limited to POMC Chapter~~

15.30 (Illegal Discharge Detection and Elimination). In the event of any leak, spill, or accumulation of such fluids, chemicals, or other hazardous or potentially-hazardous materials, which do or potentially may get into the municipal stormwater system or any surface water or groundwater, any person involved in or responsible for the Work and/or the property, or otherwise aware of such leak, spill, or accumulation shall notify the proper authorities as specified in POMC Chapter 15.30.120, as now written or as hereafter amended or replaced.

~~(1211)~~ Storage, containment, and disposal of all waste products and hazardous materials shall be in accordance with all applicable state, federal, and local regulations.

~~(13) Disposal of all waste products shall be in accordance with all applicable state and local regulations.~~

~~(1412)~~ Painting of vehicles or equipment is prohibited, whether inside or outside of a building.

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## City of Port Orchard Work Study Session Executive Summary

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**Issue Title:** POMC Title 20, Enforcement Provisions and Penalties

**Meeting Date:** June 18, 2019

**Time Required:** 10 minutes

**Attendees:** Nick Bond, Community Development Director

**Action Requested at this Meeting:** Provide feedback to staff on the proposed regulations.

**Issue:** The Port Orchard Unified Development Code contains various enforcement and penalty provisions in different chapters, some of which are inconsistent with others or with State law, and some of which are leftovers from an administrative civil penalty process that is no longer used in Port Orchard.

In addition, most sections contain only civil infraction penalties and include no option for criminal penalties. The lack of a criminal penalty option limits the penalties available in the case of very serious and/or intentional code violations and makes it impossible to obtain warrants to investigate violations that cannot be documented otherwise. In the State of Washington, courts can issue warrants only for criminal investigations, not for civil investigations.

In the interest of making all Development Code enforcement provisions internally consistent, and consistent with other Municipal Code regulations under the purview of the Code Enforcement Officer, putting them all in one place, and providing for criminal penalties and other legal options, a comprehensive revision of these provisions has been prepared. [Note: Special enforcement provisions related to State and Federal regulations, in certain chapters and subtitles, would remain in those chapters and subtitles.]

The Planning Commission has reviewed the proposed amendments, held a public hearing on June 4, 2019, and recommends the Council approve the proposed amendments.

**Alternatives:** Revise the proposed regulations; do not adopt additional regulations for enforcement provisions and penalties.

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

**Recommendations:** Staff recommends that Council provide feedback to staff and review this item at the next regular Council meeting.

**Attachments:** Ordinance; Redline POMC 20.02.060; Redline POMC 20.62; Redline POMC 20.82; Redline 20.140; Redline POMC 20.150

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

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, CONSOLIDATING AND STANDARDIZING ENFORCEMENT PROVISIONS WITHIN THE DEVELOPMENT CODE AND MAKING THEM CONSISTENT WITH OTHER MUNICIPAL CODE REGULATIONS UNDER THE PURVIEW OF THE CODE ENFORCEMENT OFFICER; PROVIDING FOR CRIMINAL PENALTIES AND OTHER LEGAL OPTIONS; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, the Port Orchard Unified Development Code contains various enforcement and penalty provisions in different chapters, some of which are inconsistent with others or with State law, and some of which are related to an enforcement process that is no longer used in Port Orchard; and

**WHEREAS**, most sections contain only civil infraction penalties and include no option for criminal penalties; and

**WHEREAS**, the lack of a criminal penalty option limits the penalties available in the case of very serious and/or intentional code violations and makes it impossible to obtain warrants, which in Washington State are only available for criminal investigations, to investigate violations that cannot be documented otherwise; and

**WHEREAS**, on March 25, 2019, the Land Use Committee of the City Council considered the proposed amendments and recommended bringing them forward for consideration by the Planning Commission and the City Council; and

**WHEREAS**, on June 4, 2019, the City's Planning Commission held a public hearing on the proposed amendments and voted unanimously to recommend approval by the City Council; now, therefore,

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

**SECTION 1.** POMC Sections Amended. POMC Title 20 - Unified Development Code, Sections 20.02.060, 20.62.110, 20.82.040, 20.140.180, 20.150.270, attached as Exhibit 1 hereto and incorporated fully herein by this reference, are hereby amended to read as shown in Exhibit 1.

**SECTION 2.** Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other

section, sentence, clause or phrase of this Ordinance.

**SECTION 3. Publication.** This Ordinance shall be published by an approved summary consisting of the title.

**SECTION 4. Effective Date.** This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 25<sup>th</sup> day of June 2019.

\_\_\_\_\_  
Robert Putaansuu, Mayor

ATTEST:

SPONSOR:

\_\_\_\_\_  
Brandy Rinearson, MMC, City Clerk

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Sharon Cates, City Attorney

PUBLISHED:

EFFECTIVE DATE:



**Ordinance \_\_\_\_**

**Exhibit 1, Revisions to POMC Chapters 20.02, 20.62, 20.82, 20.140 and 20.150**

**Subtitle I. General Provisions**

**Chapter 20.02 – Administration and Enforcement**

**20.02.060 Violations – Enforcement – Penalties.**

(1) Violations.

(a) It is a violation of this title for any person to initiate or continue or cause to be initiated or continued the use of any structure, land, or property within the city of Port Orchard without first obtaining the permits or authorizations required for the use by this title.

(b) It is a violation of this title for any person to use, construct, locate, alter, demolish, or cause to be used, constructed, located, altered, or demolished any structure, land, or property within the city of Port Orchard in any manner that is not permitted by this title or by the terms of any permit or approval issued pursuant to this title or previous codes, provided that the terms or conditions are explicitly stated on the permit or the approved plans.

(c) It is a violation of this title to remove, deface, or fail to comply with any sign, notice, complaint, or order required by or posted in accordance with this title.

(d) It is a violation of this title to misrepresent any material fact in any application, plans, or other information submitted to obtain any land use, building, or development permit or approval.

(e) It is a violation of this title for anyone to fail to comply with the requirements of this title.

(f) Any violation of this title shall constitute a public nuisance.

(2) Enforcement.

(a) It shall be the duty of the director, or his/her duly authorized designee, to enforce this title. The director may call upon the code enforcement officer, building official, police, fire, health, public works or other appropriate city departments to assist in enforcement.

(b) This title shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

(c) It is the intent of this title to place the obligation of complying with its requirements upon the owner, occupier, or other person in control of or responsible for the condition of the land and buildings within the scope of this title.

(d) Upon presentation of proper credentials, the director or duly authorized representative of the director may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued warrant, enter at reasonable times any building or premises subject to the consent or warrant to perform the enforcement duties under this chapter.

(e) No provision of or term used in this title is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action.

(3) Penalties. When the director determines that a violation of any provision of this title has occurred or is occurring the director may institute any of the following enforcement actions:

(a) Subject to the provisions of Chapter 2.64 POMC any business, agency, property owner, and/or other person who violates the standards set forth in this title or the more stringent standards imposed by the city engineer, hearing examiner, planning commission, and/or city council as allowed herein shall be guilty of a civil infraction.

(b) In addition to any remedy provided for in this title and Chapter 2.64 POMC, the director may issue a stop work order and/or notice to vacate and other lawful orders. Any person removing such sign without the

permission of the proper authority shall be guilty of a misdemeanor.

(c) In addition or alternative to any other penalty provided herein or by law, any violation of, or failure to comply with, any provision of this Title or any lawful order issued hereunder, shall constitute a misdemeanor, punishable by a fine of not more than \$1,000, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

(d) In addition or alternative to any other remedy provided by this title or under the Port Orchard Municipal Code, the city may initiate injunction or abatement proceedings or any other appropriate action in courts against any person or property in violation or failure to comply with any provision of this chapter, to prevent, enjoin, abate, and/or terminate violations of this chapter and/or to restore a condition which existed prior to the violation. In any such action or proceeding, the costs and reasonable attorneys' fees incurred by the city shall be recoverable as a personal obligation of the property owner and/or responsible party and/or a lien against the property. To the maximum extent allowed by law, such lien shall constitute a special assessment of equal rank with state, county, and municipal taxes.

(e) Each day in which a violation of this Title occurs or is allowed to continue shall constitute a separate offense and be subject to the enforcement and penalties provided herein.

#### **Subtitle IV. Supplemental Zoning Regulations**

##### **Chapter 20.62 – Mobile Home Regulations**

###### **20.62.110 Violation – Penalty.**

This chapter shall be enforced according to the regulations and provisions of Chapter 20.02 POMC, Administration and Enforcement.

#### **Subtitle V. Division of Land**

##### **Chapter 20.82 – Administration and Enforcement**

###### **20.82.040 Violations, enforcement, and penalties.**

(1) General. It is a violation of this subtitle for a person to divide, segregate, sell, or transfer, or offer to sell or transfer, real property in violation of this subtitle. It is a violation of this subtitle to do any other thing with respect to a lot, tract, parcel, or property in the city that violates this subtitle or violates a plat or short plat restriction imposed by the city.

(2) Enforcement. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this subtitle or of any notice or lawful order issued hereunder. Except as otherwise provided in this Section, any violation of this subtitle shall be subject to the enforcement and penalty provisions of Chapter 20.02 POMC, Administration and Enforcement.

(3) Any person or any agent thereof who divides land into lots, tracts, or parcels of land and sells or transfers, or offers or advertises for sale or transfer, any such lot, tract, or parcel without having a final plat, short plat, boundary line adjustment, or binding site plan filed for record, or who otherwise violates or fails to comply with any of the provisions of this subtitle shall be guilty of a gross misdemeanor. Each violation involving a separate lot, tract, or parcel of land is a separate and distinct offense; provided, an offer or agreement to sell, lease, or otherwise transfer a lot, tract, or parcel of land following preliminary plat approval is not a violation of this subtitle if performance of the offer or agreement is expressly conditioned on the recording of the final plat containing the lot, tract, or parcel. All payments on account of an offer or agreement conditioned as provided in this section shall be deposited in an escrow or other regulated trust account and no disbursement to the seller shall be permitted until the final plat is recorded.

(4) Whenever land within a subdivision granted final approval is used in a manner or for a purpose which violates any provision of this subtitle or any term or condition of plat approval prescribed for the plat, the city may commence an action to restrain and enjoin such use and compel compliance with the provision, terms, or conditions. The costs of such action may be taxed against the violator.

(5) Any person who violates any court order or injunction issued pursuant to this subtitle is guilty of a misdemeanor.

(6) No building permit, septic tank permit, or other development permit shall be issued for any lot, tract, or parcel of land divided in violation of this subtitle unless the authority authorized to issue such permit finds that the public interest will not be adversely affected thereby. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice. All purchasers' or transferees' property shall comply with provisions of this subtitle and each purchaser or transferee may recover his or her damages from any person, firm, corporation, or agent selling or transferring land in violation of this subtitle, including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of this subtitle as well as cost of investigation, suit, and reasonable attorneys' fees occasioned thereby. Such purchaser or transferee may, as an alternative to conforming their property to these requirements, rescind the sale, or transfer and recover costs of investigation, suit, and reasonable attorneys' fees occasioned thereby.

(7) The director of the department of community development has the authority to adopt rules and regulations to carry out the provisions of this subtitle and has the authority to administer and enforce this subtitle and any such rules and regulations.

## **Subtitle VI. Development Standards and Regulations**

### **Chapter 20.140 – Land Disturbing Activity**

#### **20.140.180 Permit Suspension/Revocation.**

The director may suspend work or revoke a land disturbing activity permit, as appropriate, whenever:

- (a) The work is not authorized by a valid permit;
- (b) The applicant requests such revocation or suspension;
- (c) The work does not proceed in accordance with the plans, as approved, or is not in compliance with the requirements of this chapter or other applicable city ordinances;
- (d) Entry upon the property for the purposes of investigation or inspection has been denied;
- (e) The applicant has made a misrepresentation of a material fact in applying for such permit;
- (f) The progress of the work indicates that the plan is or will be inadequate to protect the public, the adjoining property, the street, critical areas, the drainage system, or other utilities, or the work endangers or will endanger the public, the adjoining property, the street, protected areas, the drainage system or other utilities;
- (g) The required project security has expired or been expended to the point that it no longer provides assurance of completion of the project in compliance with the terms of the permit; or
- (h) The permit has not been acted upon or extended within the time allowed pursuant to this chapter.

## **Subtitle VII. Stormwater Drainage**

### **Chapter 20.150 – Stormwater Drainage**

#### **20.150.270 Enforcement.**

(1) Violations of this chapter. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter or of any notice or lawful order issued hereunder. Any violation of this chapter shall be subject to the enforcement and penalty provisions of Chapter 20.02 POMC, Administration and Enforcement.

(2) Emergency Access and Reparation. In the event the violation constitutes an immediate danger to public health or safety, the director is authorized to enter upon the subject private property, without giving prior notice, to take

any and all measures necessary to abate the violation and/or restore the property. Any expense related to such remediation undertaken by the city shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the city from seeking further relief or applying other penalties as provided in this chapter.

(7) Violation of Additional Laws. Any person who violates any provision of this chapter may also be in violation of the Federal Clean Water Act, NPDES Phase II permit, and/or Chapter 90.48 RCW and may be subject to sanctions associated with each, including civil and criminal penalties. Any enforcement action authorized under this chapter shall also include written notice to the violator of such potential liability.

**Subtitle I. General Provisions**  
**Chapter 20.02 – Administration and Enforcement**

**20.02.060 Violations – Enforcement – Penalties.**

(1) Violations.

(a) It is a violation of this title for any person to initiate or ~~maintain~~ continue or cause to be initiated or ~~maintained~~ continued the use of any structure, land, or property within the city of Port Orchard without first obtaining the permits or authorizations required for the use by this title.

(b) It is a violation of this title for any person to use, construct, locate, alter, demolish, or cause to be used, constructed, located, altered, or demolished any structure, land, or property within the city of Port Orchard in any manner that is not permitted by this title or by the terms of any permit or approval issued pursuant to this title or previous codes, provided that the terms or conditions are explicitly stated on the permit or the approved plans.

(c) It is a violation of this title to remove, ~~or~~ deface, or fail to comply with any sign, notice, complaint, or order required by or posted in accordance with this title.

(d) It is a violation of this title to misrepresent any material fact in any application, plans, or other information submitted to obtain any land use, building, or development permit or approval.

(e) It is a violation of this title for anyone to fail to comply with the requirements of this title.

~~(f) It is a violation of this title for any person to construct or use any structure or portion thereof in a manner contrary to a permit or approval term or condition.~~

(f) Any violation of this title shall constitute a public nuisance.

(2) Enforcement.

(a) It shall be the duty of the director, or his/her duly authorized designee, to enforce this title. The director may call upon the code enforcement officer, building official, police, fire, health, public works or other appropriate city departments to assist in enforcement.

(b) This title shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

(c) It is the intent of this title to place the obligation of complying with its requirements upon the owner, occupier, or other person in control of or responsible for the condition of the land and buildings within the scope of this title.

(d) Upon presentation of proper credentials, the director or duly authorized representative of the director may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued ~~inspection~~ warrant, enter at reasonable times any building or premises subject to the consent or warrant to perform the enforcement duties under this chapter.

(e) No provision of or term used in this title is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action.

(3) Penalties. When the director determines that a violation of any provision of this title has occurred or is

occurring the director may institute any of the following enforcement actions:

(a) Subject to the provisions of Chapter 2.64 POMC any business, agency, property owner, and/or other person who violates the standards set forth in this title or the more stringent standards imposed by the city engineer, hearing examiner, planning commission, and/or city council as allowed herein shall be guilty of a civil infraction.

(b) In addition to any remedy provided for in this title and Chapter 2.64 POMC, the director may issue a stop work order and/or notice to vacate and other lawful orders. Any person removing such sign without the permission of the proper authority shall be guilty of a misdemeanor.

(c) In addition or alternative to any other penalty provided herein or by law, any violation of, or failure to comply with, any provision of this Title or any lawful order issued hereunder, shall constitute a misdemeanor, punishable by a fine of not more than \$1,000, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

(ed) In addition or alternative to any other remedy provided by this title or under the Port Orchard Municipal Code, the city may initiate injunction or abatement proceedings or any other appropriate action in courts against any person or property in violation or failure to comply with any provision of this chapter, to prevent, enjoin, abate, and/or terminate violations of this chapter and/or to restore a condition which existed prior to the violation. In any such action or proceeding, the costs and reasonable attorneys' fees incurred by the city shall be recoverable as a personal obligation of the property owner and/or responsible party and/or a lien against the property. To the maximum extent allowed by law, such lien shall constitute a special assessment of equal rank with state, county, and municipal taxes.~~In addition to any remedy provided for in this title and Chapter 2.64 POMC, the city shall also have the right to abate any violation of this title by seeking injunctive relief in the Kitsap County superior court. The business, agency, property owner, and/or other person responsible for the violations shall be required to pay all the city's legal costs including reasonable attorney's fees accrued in bringing and enforcing such legal action.~~

(e) Each day in which a violation of this Title occurs or is allowed to continue shall constitute a separate offense and be subject to the enforcement and penalties provided herein.

#### **Subtitle IV. Supplemental Zoning Regulations** **Chapter 20.62 – Mobile Home Regulations**

##### **20.62.110 Violation – Penalty.**

~~(1) Any person, firm, or corporation violating or failing to comply with the provisions of these rules and regulations shall be guilty of a misdemeanor. Each person, firm or corporation is guilty of a separate offense for each and every day or portion thereof during which the violation of these regulations continue.~~

~~(2) Penalty upon conviction shall be punishable by a fine of not more than \$500.00, or by imprisonment for not more than 90 days or by both such fine and imprisonment.~~

~~(3) This chapter shall be enforced according to the regulations and provisions of Chapter 20.02 POMC, Administration and Enforcement.~~

#### **Subtitle V. Division of Land** **Chapter 20.82 – Administration and Enforcement**

##### **20.82.040 Violations, enforcement, and penalties.**

(1) General. It is a violation of this subtitle for a person to divide, segregate, sell, or transfer, or offer to sell or transfer, real property in violation of this subtitle. It is a violation of this subtitle to do any other thing with respect to a lot, tract, parcel, or property in the city that violates this subtitle or violates a plat or short plat restriction imposed by the city.

~~(2) Enforcement. The city shall use the applicable provisions of Chapter 20.02 POMC in the investigation, enforcement, and prosecution of the violations of this subtitle.~~

~~(3) Civil Infraction. Except as otherwise provided in this subtitle, no person shall violate or fail to comply with this subtitle. A violation of or failure to comply with this subtitle is a civil infraction.~~

~~(4) Criminal Penalty. Except as otherwise provided in this subtitle, in addition to or as an alternative to any other penalty provided in this subtitle or by law, a person convicted of a violation of this subtitle is guilty of a misdemeanor. Upon conviction a person may also be ordered to abate, discontinue, or correct a violation of this subtitle.~~

~~(5) Other Lawful Remedies. Nothing in this section shall limit the right of the city to pursue other lawful criminal, civil, or equitable remedies to abate, discontinue, or correct violations of this subtitle.~~

~~(6) It is unlawful to violate or fail to comply with any provision of this subtitle or any such rule or regulation. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this subtitle or of any notice or lawful order issued hereunder. Except as otherwise provided in this Section, any violation of this subtitle shall be subject to the enforcement and penalty provisions of Chapter 20.02 POMC, Administration and Enforcement.~~

(73) Any person or any agent thereof who divides land into lots, tracts, or parcels of land and sells or transfers, or offers or advertises for sale or transfer, any such lot, tract, or parcel without having a final plat, short plat, boundary line adjustment, or binding site plan filed for record, or who otherwise violates or fails to comply with any of the provisions of this subtitle shall be guilty of a gross misdemeanor. Each violation involving a separate lot, tract, or parcel of land is a separate and distinct offense; provided, an offer or agreement to sell, lease, or otherwise transfer a lot, tract, or parcel of land following preliminary plat approval is not a violation of this subtitle if performance of the offer or agreement is expressly conditioned on the recording of the final plat containing the lot, tract, or parcel. All payments on account of an offer or agreement conditioned as provided in this section shall be deposited in an escrow or other regulated trust account and no disbursement to the seller shall be permitted until the final plat is recorded.

(84) Whenever land within a subdivision granted final approval is used in a manner or for a purpose which violates any provision of this subtitle or any term or condition of plat approval prescribed for the plat, the city may commence an action to restrain and enjoin such use and compel compliance with the provision, terms, or conditions. The costs of such action may be taxed against the violator.

(95) Any person who violates any court order or injunction issued pursuant to this subtitle is guilty of a misdemeanor.

(106) No building permit, septic tank permit, or other development permit shall be issued for any lot, tract, or parcel of land divided in violation of this subtitle unless the authority authorized to issue such permit finds that the public interest will not be adversely affected thereby. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice. All purchasers' or transferees' property shall comply with provisions of this subtitle and each purchaser or transferee may recover his or her damages from any person, firm, corporation, or agent selling or transferring land in violation of this subtitle, including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of this subtitle as well as cost of investigation, suit, and reasonable attorneys' fees occasioned thereby. Such purchaser or transferee may, as an alternative to conforming their property to these requirements, rescind the sale, or transfer and recover costs of investigation, suit, and reasonable attorneys' fees occasioned

thereby.

(117) The director of the department of community development has the authority to adopt rules and regulations to carry out the provisions of this subtitle and has the authority to administer and enforce this subtitle and any such rules and regulations.

~~(12) In addition to the remedies prescribed in this section, the city may pursue any other enforcement authorized by law.~~

**Subtitle VI. Development Standards and Regulations**  
**Chapter 20.140 – Land Disturbing Activity**

**20.140.180 Enforcement, violations, and penalties.**

**~~(1) Permit Suspension/Revocation.–~~**

The director may suspend work or revoke a land disturbing activity permit, as appropriate, whenever:

- (a) The work is not authorized by a valid permit;
- (b) The applicant requests such revocation or suspension;
- (c) The work does not proceed in accordance with the plans, as approved, or is not in compliance with the requirements of this chapter or other applicable city ordinances;
- (d) Entry upon the property for the purposes of investigation or inspection has been denied;
- (e) The applicant has made a misrepresentation of a material fact in applying for such permit;
- (f) The progress of the work indicates that the plan is or will be inadequate to protect the public, the adjoining property, the street, critical areas, the drainage system, or other utilities, or the work endangers or will endanger the public, the adjoining property, the street, protected areas, the drainage system or other utilities;
- (g) The required project security has expired or been expended to the point that it no longer provides assurance of completion of the project in compliance with the terms of the permit; or
- (h) The permit has not been acted upon or extended within the time allowed pursuant to this chapter.

~~(2) Except as otherwise provided in this chapter, any violation of any provision of this chapter constitutes a civil-code violation subject to and enforced pursuant to the provisions of Chapter 2.64 POMC.~~

**Subtitle VII. Stormwater Drainage**  
**Chapter 20.150 – Stormwater Drainage**

**20.150.270 Enforcement.**

(1) ~~Failure to Comply~~ Violations of this chapter. It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter or of any notice or lawful order issued hereunder. Any violation of this chapter shall be subject to the enforcement and penalty provisions of Chapter 20.02 POMC, Administration and Enforcement.

(2) Emergency Access and Reparation. In the event the violation constitutes an immediate danger to public health or safety, the director is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. Any expense related to such remediation undertaken by the city shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the city from seeking further relief or applying other penalties



as provided in this chapter.

~~(3) Civil Infraction. Except as provided in subsection (4) of this section, conduct made unlawful by this chapter shall constitute a civil infraction and is subject to enforcement and fines as provided in Chapter 2.64 POMC. A civil infraction under this section shall be processed in the manner set forth in Chapter 2.64 POMC.~~

~~(4) Misdemeanor. Any person who again violates this chapter within 12 months after having been found to be in violation of this chapter commits a misdemeanor.~~

~~(5) Civil Penalty. In addition to any civil infraction fine, criminal penalty, and/or other available sanction or remedial procedure, any person engaging in conduct made unlawful by this chapter shall be subject to a cumulative civil penalty in the amount of \$1,000 per day for each violation from the date set for compliance until the date of compliance. Any such civil penalty shall be collected in accordance with Chapter 2.64 POMC.~~

~~(6) Additional Remedies. In addition to any other remedy provided by this chapter or under the Port Orchard Municipal Code, the city may initiate injunction or abatement proceedings or any other appropriate action in courts against any person who violates or fails to comply with any provision of this chapter to prevent, enjoin, abate, and/or terminate violations of this chapter and/or to restore a condition which existed prior to the violation. In any such proceeding, the person violating and/or failing to comply with any provisions of this chapter shall be liable for the costs and reasonable attorneys' fees incurred by the city in bringing, maintaining and/or prosecuting such action.~~

(7) Violation of Additional Laws. Any person who violates any provision of this chapter may also be in violation of the Federal Clean Water Act, NPDES Phase II permit, and/or Chapter 90.48 RCW and may be subject to sanctions associated with each, including civil and criminal penalties. Any enforcement action authorized under this chapter shall also include written notice to the violator of such potential liability.

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# City of Port Orchard Work Study Session Executive Summary

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**Issue Title:** POMC 10.08 Speed Limits – Resolution Update

**Meeting Date:** June 18, 2019

**Time Required:** 15 Minutes

**Attendees:** Nick Bond and Mark Dorsey

**Action Requested at this Meeting:** Review proposed speed limit revisions and provide direction on next steps.

**Background/Issue:** Pursuant to Port Orchard Municipal Code chapter 10.08 and in accordance with RCW 46.61.415, speed limits in Port Orchard are set by resolution. The City’s current speed limit resolution 1946 was adopted in August 27, 2001. Since that time the City has completed numerous annexations and has experienced significant population growth which requires that the City review and update Resolution 1946. Specifically, the city proposes two changes in speed limits from those that are indicated on the existing signs as follows:

1. Old Clifton Road from Anderson Hill Road to West City Boundary. This stretch of Old Clifton Road was annexed about 10 years ago. The area is signed with 45 MPH speed limit signage that preceded annexation. Recently, the City completed the McCormick Village Park Project and has seen several hundred new homes added to the area since annexation. Additional homes are under development and a future school site is also located in the corridor. Due to these changing conditions, the City Engineer has recommended that the speed limits in this corridor be reduced from 45 MPH to 35 MPH.
2. Glenwood Road/Sedgwick Road from West City Boundary to Sidney Ave SW. This stretch of Glenwood is now developing with Stetson Heights 300+ new single-family homes and has seen 200+ apartments constructed near Sedgwick and Sidney. Due to the increased growth and traffic, the City Engineer recommends that the speed limit in this corridor be reduced from 40 MPH to 30 MPH.
3. Sidney Road SW. Due to the planned growth center in this area along with the recent construction of apartments at Sidney and Sedgwick, the City Engineer recommends lower speed limit from 35 MPH to 30 MPH.

The Resolution also adopted speed limits reflecting a handful of existing signs that deviate from the standard 25 MPH limit, but which were annexed and thus had not been captured in the City Resolution 1946.

**Alternatives:** Review the recommended changes and choose a date for consideration of the resolution, ask the City Engineer to consider additional information in his recommendation. Taking action on speed limits.

**Relationship to Comprehensive Plan:** The implementation status chart provides information on the City's ongoing actions to implement the Comprehensive Plan goals. Note that RWC 46.61.415 allows the City Council to amend speed limits only when such a change is supported by an engineering and traffic study.

**Recommendations:** Staff recommends that Council discuss the proposed resolution and set a date to consider adoption.

**Attachments:** Resolution 1946.

**RESOLUTION NO. 1946**

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON AMENDING RESOLUTION NO. 1805 ESTABLISHING INCREASE AND/OR DECREASE OF SPEED LIMIT ON CITY STREETS OR INTERSECTIONS.

**WHEREAS**, RCW 46.61.415 as adopted by Ordinance No. 1479 authorized the City to alter maximum speed permitted by state law on City streets or intersections; and

**WHEREAS**, the City of Port Orchard desires to alter speed permitted by state law on city streets or intersections by resolution and posting of appropriate signs, now, therefore,

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD DOES HEREBY RESOLVE THAT RESOLUTION NO. 1805 IS HEREBY AMENDED TO READ AS FOLLOWS:**

**SECTION 1: DECREASE OF SPEED LIMIT.** When signs are erected by the City Engineer giving notice thereof, the speed permitted by state law within those streets and intersections described in this section should be decreased during the times specified:

(A) Dwight Street from Seattle Avenue to Harrison Avenue, twenty miles per hour, on days school is in session and when children are present;

(B) DeKalb Street from Seattle Avenue to Harrison Avenue, twenty miles per hour, on days school is in session and when children are present;

(C) Pottery Avenue from State Highway 16 to Lippert Drive, twenty miles per hour, on days school is in session and when children are present;

(D) Mitchell Avenue from Plisko Lane to DeKalb Street, twenty miles per hour, on days school is in session and when children are present;

(E) Sidney Avenue from Fireweed Street to one thousand feet north of Fireweed Street, twenty miles per hour, on days when school is in session and when children are present;

(F) Alleys and other narrow roads, ten miles per hour.

**SECTION 2: INCREASE OF SPEED LIMIT.** When signs are erected by the City Engineer giving notice thereof, the speed permitted by state law within those streets and intersections described in this section should be increased during the times specified:

(A) Tremont Street from its intersection with Old Clifton Road to the east city limits, thirty-five miles per hour at all times;

(B) Sidney Avenue from Tremont Street to primary State Highway 16, thirty miles per hour at all times, except during school hours;

(C) Port Orchard Boulevard, on all that portion five hundred feet from its intersection with primary State Highway No. 166 to five hundred feet from its intersection with Tremont Street thirty-five miles per hour at all times;

(D) Sedgwick Road from the west city limits to the east city limits, forty miles per hour at all times;

(E) Pottery Avenue from its intersection with Tremont Street to the south city limits, thirty miles per hour at all times except during school hours;

(F) On Bay Street (State Highway 166), beginning at the west city limits, easterly to a point 1.4 miles east of the west city limits, fifty miles per hour at all times;

(G) On Bay Street (State Highway 166), beginning at a point 1.4 miles east of the west city limits, to a point 0.29 miles west of the intersection of West Avenue and Bay Street (State Highway 166), thirty-five miles per hour at all times;

(H) Old Clifton Road from the westerly city limits to its intersection with Tremont Street, thirty-five miles per hour at all times;

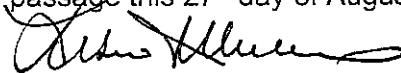
(I) On Mile Hill Drive (State Highway 166), beginning at the east city limits, westerly to the intersection of Bethel Avenue, thirty-five miles per hour at all times;

(J) Bethel Avenue, beginning at the southerly city limits to point 600 feet south of the intersection of Bay Street, thirty-five miles per hour at all times;

(K) Olney Avenue, from the north city limits to its intersection with Mile Hill Drive, thirty miles per hour at all times;

(L) Sidney Road, from 250 feet north of the Sedgwick intersection to 400 feet south of the Sedgwick intersection, thirty-five miles per hour at all times.

PASSED by the City Council of the City of Port Orchard, signed by the Mayor and attested by the Clerk in authentication of such passage this 27<sup>th</sup> day of August 2001.



LESLIE J. WEATHERILL, MAYOR

ATTEST:



Patricia Parks, City Clerk



## City of Port Orchard Work Study Session Executive Summary

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**Issue Title:** Vision 2050 Update

**Meeting Date:** June 18, 2019

**Time Required:** 15 Minutes

**Attendees:** Nick Bond

**Action Requested at this Meeting:** Review draft preferred alternative and implications; review comment letter sent 6/5/19

**Background/Issue:** PSRC is continuing its work on Vision 2050 as the region plans for an additional 1.8 million new residents in the region by 2050. The City previously provided comments to PSRC under the draft environmental impact statement, expressing support for the transit focused growth alternative. Based on the feedback that PSRC received, the transit focused alternative had broad support, and the draft preferred alternative largely resembles the transit focused alternative. However, the preferred alternative splits future growth between the four counties (King, Kitsap, Pierce and Snohomish) based on recent trends. Unfortunately, Kitsap County has been growing more slowly than anticipated under Vision 2040, and our proposed slice of the pie under the preferred alternative for Vision 2050 has been reduced to reflect these observed trends. In Vision 2040, Kitsap County and its jurisdictions were allocated 9% of the region's growth but only grew at 4%. In Vision 2050, it is proposed that Kitsap County and its jurisdictions be allocated 5% of the region's growth, which is more in line with the observed trends. This reduction raised a number of concerns, which resulted in a joint letter between Kitsap County and its jurisdictions that was sent to PSRC on June 5, 2019 (attached). The City Council should discuss the preferred alternative and the implications of this alternative.

**Alternatives:** Discuss our request to PSRC and whether our position should be revised or whether additional comment letters are required.

**Relationship to Comprehensive Plan:** Vision 2050 will result in growth allocations and targets that Port Orchard must plan for in its next comprehensive plan update (2024).

**Recommendations:** Staff recommends that Council discuss the preferred alternative and June 5th letter.

**Attachments:** Presentation to PlanPOL and June 5 letter to PSRC.

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# VISION 2050

## **Regional Growth Strategy Development of Preferred Alternative**

**May 21, 2019  
KRCC PlanPol**

  
Puget Sound Regional Council

# Overview

- Draft concept for the Preliminary Preferred Alternative
- Board and committee discussions
- Next steps



# Growth Alternatives

## Stay the Course

Growth focused in Metropolitan and Core cities

## Transit Focused Growth

More compact growth focused in high capacity transit (HCT) areas

## Reset Urban Growth

Growth more distributed throughout the urban growth area

## DSEIS Comments

- Strong support for Transit Focused Growth
  - Concerns about displacement, some growth allocations
  - Snohomish County Tomorrow and Pierce County numeric recommendations
- ➔ Draft Preferred Alternative Approach: Use Transit Focused Growth as starting point, make adjustments

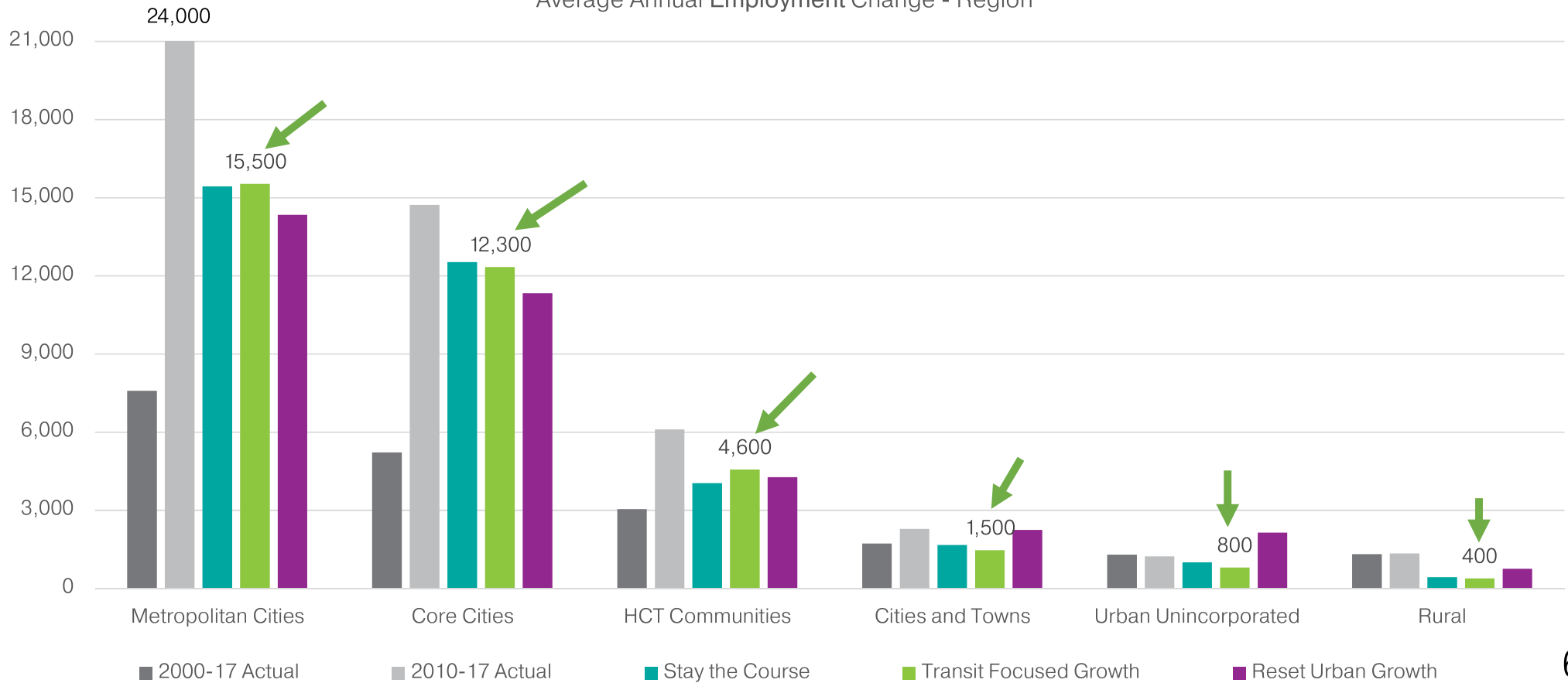
# Transit Focused Growth

Average Annual Population Change - Region



# Transit Focused Growth

Average Annual Employment Change - Region



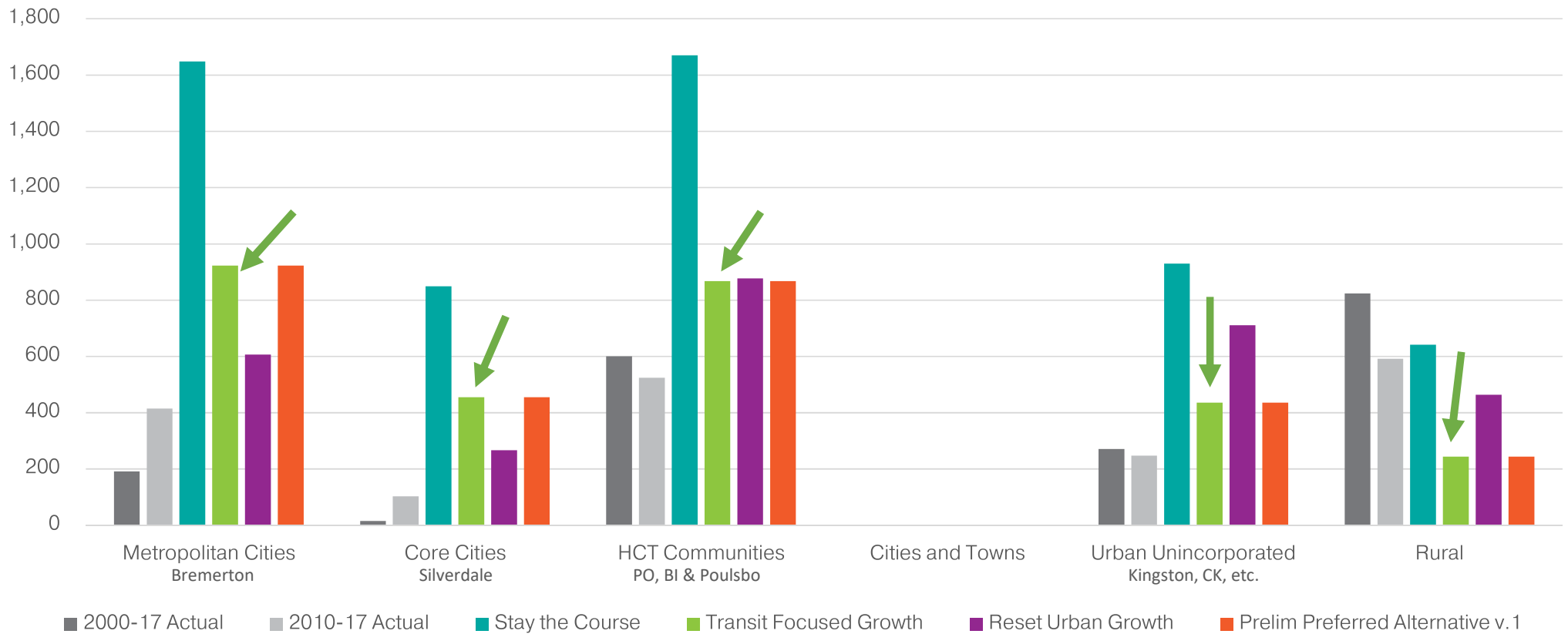
# TFG Population Adjusted

Average Annual Population Change - Region



# Population Growth

Average Annual Population Change - Kitsap County





# Modified Transit Focused Growth

Preliminary analysis:

- Provides most benefits of Transit Focused Growth
- Large portion of future growth occurs near transit and in compact, walkable communities
- Some worse outcomes from shifting growth to outlying areas
- Requests reflect trends, capacity, development

# Policy Discussion

- How much rural growth is appropriate and what steps can be taken to manage rural growth?
- What the relationship between urban unincorporated growth and VISION's policy focus on annexation/incorporation?
- How much flexibility do local governments have in implementing the Regional Growth Strategy?

# VISION 2050



## June 6<sup>th</sup> & 13<sup>th</sup>

- ✓ Review DSEIS comments
- ✓ Preferred RGS
- ✓ Outstanding policy issues

## July 11<sup>th</sup>

- ✓ Outstanding policy issues
- ✓ Finalize RGS
- ✓ Release draft plan for public comment

## July-Sept. 2019

- ✓ 60-day public comment period



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Paul Inghram, AICP  
Director of Growth Management  
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Thank you.





June 5, 2019

Josh Brown  
Executive Director  
Puget Sound Regional Council  
1011 Western Ave, Suite 500  
Seattle, WA 98104

RE: VISION 2050 Preferred Alternative – Population Targets for Kitsap County

Dear Executive Director Brown:

Thank you for all the work PSRC has done with the Central Puget Sound communities in the development of VISION 2050 and the Regional Growth Strategy. We as Kitsap jurisdictions support the Transit Focused Growth alternative, however after review of the Draft Supplemental Environmental Impact Statement and specifically the population targets, our cities and Kitsap County propose a revision to the population allocations within the Kitsap geographies to better direct our future planning.

To address our growth needs and support current growth strategies using the foundation of the Transit Focused Growth alternative, the Preferred Alternative for the Regional Growth Strategy must reflect the following:

- Population targets for our Metropolitan (Bremerton) and High Capacity Transit (Port Orchard, Poulsbo and Bainbridge Island) classifications must include both the incorporated City boundaries and their associated unincorporated UGAs.
- The Kingston UGA with its existing high capacity transit facilities (commuter and passenger-only ferries) must also be classified as a High Capacity Transit community.
- To accommodate these shifts, a portion of the Unincorporated UGA population target must be redirected to High Capacity Transit.

These revisions would affect the draft growth proportions within Kitsap County as shown below:

- Metropolitan remains at 32%.
- High Capacity Transit is increased from 30% to 38%.
- Unincorporated UGAs is reduced from 15% to 7%.

- All other geographies remain the percentages shown in the Transit Focused Growth alternative.

As the associated UGAs are all future city jurisdiction, our cities must be able to plan for them using the same assumptions as our existing city limits. The Growth Management Act intends to ensure logical transitions of urban areas through annexation, and these revisions promote that goal.

Additionally, the community has invested in frequent passenger-only ferry service to downtown Seattle and Washington State is increasing its commuter ferry investments regionwide. Due to this, Kingston will receive the growth pressures of a High Capacity Transit community and must have growth targets consistent with that future. We believe this is consistent and supports the Transit Focused Growth Alternative.

As a collaborative proposal from all Kitsap jurisdictions, we expect this proposal will receive the same consideration as Snohomish County Tomorrow and its efforts to better direct growth consistent with its local circumstances.

If you have any questions regarding these revisions, please contact us at your convenience.

Sincerely,



Greg Wheeler  
Bremerton Mayor



Bek Ashby  
Port Orchard Mayor Pro Tem



Morgan Smith  
Bainbridge Island City Manager



Becky Erickson  
Poulsbo Mayor



Edward E. Wolfe  
Kitsap County Commissioner

cc: PSRC Growth Management Policy Board members  
Paul Inghram, Puget Sound Regional Council