



**City of Port Orchard Council Meeting Agenda**  
**August 11, 2020**  
**6:30 p.m.**

**Mayor:**

Rob Putaansuu  
Administrative Official

**Councilmembers:**

Bek Ashby  
Finance Committee  
Economic Development & Tourism Committee  
Transportation Committee, **Chair**  
KRCC/KRCC PlanPol-alt /KRCC TransPol  
PSRC-alt/PSRC TransPOL-Alt/PRTPO

Shawn Cucciardi  
Finance Committee  
E/D & Tourism Committee, **Chair**  
Kitsap Economic Development Alliance

Fred Chang  
Economic Development & Tourism Committee  
Land Use Committee

Jay Rosapepe (Mayor Pro-Tempore)  
Utilities/Sewer Advisory Committee  
Land Use Committee  
Transportation Committee  
Lodging Tax Advisory Committee, **Chair**  
KRCC-alt

John Clauson  
Finance Committee  
Utilities/Sewer Advisory Committee  
Kitsap Public Health District-alt

Cindy Lucarelli  
Festival of Chimes & Lights Committee, **Chair**  
Utilities/Sewer Advisory Committee  
Kitsap Economic Development Alliance

Scott Diener  
Land Use Committee, **Chair**  
Transportation Committee

**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

Matt Brown  
Police Chief

Brandy Rinearson, MMC, CPRO  
City Clerk

**Meeting Location:**

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

**Contact us:**

(360) 876-4407  
cityhall@cityofportorchard.us

***Pursuant to the Governor’s “Stay Home - Stay Safe” Order, the City will take actions on necessary and routine business items.***

*The City is prohibited from conducting meetings unless the meeting is NOT conducted in-person and instead provides options for the public to attend through telephone, internet or other means of remote access, and also provides the ability for persons attending the meeting (not in-person) to hear each other at the same time. Therefore;*

**Remote access only**

**Link:** <https://us02web.zoom.us/j/87209344935>

**Zoom Meeting ID:** 872 0934 4935

**Zoom Call-In:** 1 253 215 8782

**1. CALL TO ORDER**

**A. Pledge of Allegiance**

**2. APPROVAL OF AGENDA**

**3. CITIZENS COMMENTS**

*(Please limit your comments to **3 minutes** for items listed on the Agenda and that are not for a Public Hearing. When recognized by the Mayor, please state your name for the official record)*

**4. CONSENT AGENDA**

*(Approval of Consent Agenda passes all routine items listed below, which have been distributed to each Councilmember for reading and study. Consent Agenda items are not considered separately unless a Councilmember so requests. In the event of such a request, the item is returned to Business Items.)*

**A. Approval of Vouchers and Electronic Payments**

**B. Approval of Payroll and Direct Deposits**

**C. Approval of the July 21, 2020, Council Work Study Meeting Minutes  
**Page 3****

**D. Approval of July 28, 2020, Council Meeting Minutes **Page 6****

**5. PRESENTATION**

**6. PUBLIC HEARING**

**7. BUSINESS ITEMS**

**A. Adoption of an Ordinance Accepting a Cash Donation from Rotary Club of South Kitsap for Etta Turner Park (Crocker) **Page 12****

**B. Adoption of an Ordinance Amending Port Orchard Municipal Code Chapter 20.68 Accessory Dwelling Units (Bond) **Page 16****

C. Approval of Amending Personnel Policy 4.2 and Adopt Personnel Policy 4.8 Related to Telecommuting (Lund) Page 29

**8. DISCUSSION ITEMS (No Action to be Taken)**

**9. REPORTS OF COUNCIL COMMITTEES**

**10. REPORT OF MAYOR**

**11. REPORT OF DEPARTMENT HEADS**

**12. CITIZEN COMMENTS**

*(Please limit your comments to 3 minutes for any items not up for Public Hearing. When recognized by the Mayor, please state your name for the official record)*

**13. EXECUTIVE SESSION:** Pursuant to RCW 42.30.110, the City Council may hold an executive session. The topic(s) and the session duration will be announced prior to the executive session.

**14. ADJOURNMENT**

**COMMITTEE MEETINGS**

	<b>Date &amp; Time</b>	<b>Location</b>
Finance	August 11, 2020; 5:00pm - 2 <sup>nd</sup> Tuesday of each month	Remote Access
Economic Development and Tourism	August 10, 2020; 9:30am - 2 <sup>nd</sup> Monday of each month	Remote Access
Utilities	August 18, 2020; 5:00pm - 3 <sup>rd</sup> Tuesday of each month	Remote Access
Sewer Advisory	September 16, 2020; 6:30pm	TBD
Land Use	August 24, 2020; 9:30am	Remote Access
Transportation	August 17, 2020; 9:30am	Remote Access
Lodging Tax Advisory	October, 2020	TBD
Festival of Chimes & Lights	August 17, 2020; 3:30pm - 3 <sup>rd</sup> Monday of each month	Remote Access
Outside Agency Committees	Varies	Varies

**CITY COUNCIL GOOD OF THE ORDER**

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Please turn off cell phones during meeting and hold your questions for staff until the meeting has been adjourned.  
 The Council may consider other ordinances and matters not listed on the Agenda, unless specific notification period is required.  
 Meeting materials are available on the City's website at: [www.cityofportorchard.us](http://www.cityofportorchard.us) or by contacting the City Clerk's office at (360) 876-4407.  
 The City of Port Orchard does not discriminate on the basis of disability. Contact the City Clerk's office should you need special accommodations.



**City of Port Orchard  
Council Meeting Minutes  
Work Study Session Meeting of July 21, 2020**

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**CALL TO ORDER AND ROLL CALL**

Mayor Putaansuu called the meeting to order at 6:30 p.m.

Roll call was taken by the City Clerk as follows:

Councilmember Ashby	Present via Remote Access
Councilmember Chang	Present via Remote Access
Councilmember Clauson	Present via Remote Access
Councilmember Cucciardi	Present via Remote Access
Councilmember Diener	Present via Remote Access
Councilmember Lucarelli	Present via Remote Access
Mayor Pro-Tem Rosapepe	Present via Remote Access
Mayor Putaansuu	Present via Remote Access

Staff present via Remote Access: Public Works Director Dorsey, Utility Manager Jacki Brown, Community Development Director Bond, Finance Director Crocker, City Attorney Archer, Police Chief Brown, and City Clerk Rinearson.

Mayor Putaansuu said pursuant to the Governor’s “Stay Home - Stay Safe” Order, the City will conduct the meeting through Zoom.

**Pledge of Allegiance**

**Mayor Putaansuu** led the audience and Council in the Pledge of Allegiance.

**1. Sanitary Sewer Capital Facility Charges (CFC’s)**

Public Works Director Dorsey spoke about sewer CFC charges as they relate to the recent modeling and activity in Basin 7, which is the Sedgwick/Sidney area. This is an opportunity to look at the Capital Improvement Plan (CIP) and to ensure we have the ability for developers to potentially get credits.

Utility Manager Brown said this will also pave the way for us, or developers, to do these projects through Department of Ecology with blanket approval rather than having to go through approval for each one.

Katy Isaksen with Katy Isaksen & Associates, provided a presentation on the Sewer CFC’s and provided an update, which included the previous CFC update; current CFC update; capital facility

charges; existing City sewer facilities; six-year sewer improvement projects; CFC alternatives; CFC with existing, future & 50% allowable interest; recommended sewer CFC; future updates; next steps; and sustainable utilities.

Discussions were held regarding the presentation, including interest on facilities and interest rates; cash flows; appreciation charges; current and future developments; financial modeling; project projections; and ERU analysis.

**Council Direction:** No direction was given.

## **2. Community Event Center - Contract with Rice Fergus Miller and Amendment to Interlocal Agreement**

Mayor Putaansuu noted the City went through a process to select a firm to help with outreach and confirm, or select, a site for the community event center and to get a partial design.

Community Development Director Bond discussed the proposed contract with Rice Fergus Miller and noted changes to some of the indemnification language. The contract includes a cost estimate for the first phase of the project of \$400,000; a project schedule; and scope of work. This is the first piece of a larger contract.

Steve Rice and Lori Limson Cook with Rice Fergus Miller discussed the scope of work and project schedule which included site selection and conceptual and schematic design.

Mayor Putaansuu said there is a meeting next week with the PFD [Public Facilities District] in hopes they approve the amendment to the ILA [Interlocal Agreement].

Finance Director Crocker discussed the proposed changes to the contract with the PFD.

**Council Direction:** No direction was given.

## **3. Kitsap Transit SR-16 Park and Ride Study**

Councilmember Clauson noted he is a Kitsap Transit employee, but as tonight is discussion only, he asked the City Attorney if he could still stay and listen.

City Attorney Archer had no objections.

Community Development Director Bond introduced Ed Coviello and Steffani Lillie with Kitsap Transit, and Sandy Glover with Parametrix, who has been hired by Kitsap Transit to do the study.

Ed Coviello provided a presentation, which included a need for more parking in South Kitsap; study locations from Tremont down to the county line; project priority to reduce congestion in downtown Port Orchard; stakeholders; evaluation criteria; screening; evaluation of 4 sites; major differences between sites; online open house; and next steps.

Discussions were held regarding the presentation; public participation study; current park and ride locations and capacity; and funding.

**Council Direction:** No direction was given.

#### **4. Council 2021-2022 Budget Kickoff**

Finance Director Crocker said this is a continuation of the budget kickoff discussion from last week and spoke about the financial implications of the reserve policies; working capital funds; and stabilization funds.

Discussions were held regarding the policies; city hall updates; and salary surveys.

When asked by Finance Director Crocker, the Council indicated they had no objection to him moving forward with what was presented.

**Council Direction:** No direction was given.

#### **GOOD OF THE ORDER**

Mayor Putaansuu reported on the current COVID-19 situation in Kitsap County and August council meeting schedule.

#### **ADJOURNMENT**

The meeting adjourned at 8:39 p.m. No other action was taken. Audio/Visual was successful.

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Brandy Rinearson, MMC, City Clerk

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Robert Putaansuu, Mayor



**City of Port Orchard  
Council Meeting Minutes  
Regular Meeting of July 28, 2020**

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**1. CALL TO ORDER AND ROLL CALL**

Mayor Putaansuu called the meeting to order at 6:30 p.m.

Roll call was taken by the City Clerk as follows:

Councilmember Ashby	Present via Remote Access
Councilmember Chang	Present via Remote Access
Councilmember Clauson	Present via Remote Access
Councilmember Cucciardi	Present via Remote Access
Councilmember Diener	Present via Remote Access
Councilmember Lucarelli	Present via Remote Access
Mayor Pro-Tem Rosapepe	Present via Remote Access
Mayor Putaansuu	Present via Remote Access

Staff present via Remote Access: Public Works Director Dorsey, Community Development Director Bond, City Attorney Archer, Police Chief Brown, and Deputy City Clerk Floyd.

Mayor Putaansuu stated pursuant to the Governor’s Stay at Home, Stay Safe order, the City Council will be conducting the meeting via Zoom.

**A. PLEDGE OF ALLEGIANCE**

Mayor Putaansuu led the audience and Council in the Pledge of Allegiance.

**2. APPROVAL OF AGENDA**

**MOTION:** By Councilmember Rosapepe, seconded by Councilmember Clauson, to approve the agenda as presented.

**The motion carried.**

**3. CITIZENS COMMENTS**

There were no citizen comments.

**4. CONSENT AGENDA**

**A.** Approval of Voucher Nos. 80054 through 80094 and 80102 through 80161, including bank drafts in the amount of \$703,776.92 and EFT’s in the amount of \$0 totaling \$703,776.92.

- B. Approval of Payroll Check Nos. 80095 through 80101 including bank drafts and EFT's in the amount of \$229,967.65; and Direct Deposits in the amount of \$173,155.36 totaling \$403,123.01.
- C. Approval of the July 14, 2020, Council Meeting Minutes

**MOTION:** By Councilmember Clauson, seconded by Councilmember Cucciardi, to approve the consent agenda as published.

**The motion carried.**

## **5. PRESENTATION**

There were no presentations.

## **6. PUBLIC HEARING**

There were no public hearings.

## **7. BUSINESS ITEMS**

### **A. Approval of Amendment No. 1 to Contract No. 082-19 with the Kitsap Public Facilities District for the South Kitsap Community Event Center**

Councilmember Cucciardi noted the company he works for provides ongoing support so he will recuse himself from this issue.

**MOTION:** By Councilmember Clauson, seconded by Councilmember Diener, to authorize the Mayor to execute an amended interlocal agreement with the Kitsap Public Facilities District, as presented.

**The motion passed. Councilmember Cucciardi was recused.**

### **B. Adoption of a Resolution Approving a Contract with Rice Fergus Miller for the South Kitsap Community Event Center**

Councilmember Ashby noted in Exhibit B, one of the bullets states *KRL* and she would like Kitsap Regional Library spelled out; the next bullet states *CH*, and she would like Columbia Hospitality spelled out; and under Stakeholders *KB* and *COPO* is listed and she would like Kitsap Bank and City of Port Orchard spelled out.

Community Development Director Bond said they will have Rice Fergus Miller update the contract before we sign.

Councilmember Cucciardi noted due to his employer, Columbia Hospitality being a party to this, he will recuse himself from this issue.

**MOTION:** By Councilmember Lucarelli, seconded by Councilmember Clauson, to adopt a Resolution approving a Contract with Rice Fergus Miller for phase 1 of the South Kitsap Community Events Center project, in an amount not to exceed \$400,000, and documenting the Professional Services procurement procedures.

**The motion passed. Councilmember Cucciardi was recused.  
(Resolution No. 032-20 and Contract No. 066-20)**

**C. Adoption of an Ordinance Authorizing an Additional Building Inspector Position**

**MOTION:** By Councilmember Diener, seconded by Councilmember Clauson, to adopt an ordinance approving an additional 1.0 FTE Building Inspector position for the Department of Community Development.

**The motion carried.  
(Ordinance No. 017-20)**

**D. Adoption of an Ordinance Approving a Revision to the Corporate Boundary of the City of Port Orchard Near the Intersection of Anderson Hill Road and Old Clifton Road**

**MOTION:** By Councilmember Diener, seconded by Councilmember Rosapepe, to adopt an ordinance to revise the corporate boundary of the City of Port Orchard near the intersection of Anderson Hill Road and Old Clifton Road.

**The motion carried.  
(Ordinance No. 018-20)**

**E. Adoption of an Ordinance Ratifying Use of Video Conferencing and Telephonic Meetings, and Amending POMC Chapter 2.04.010, Meeting Place**

**MOTION:** By Councilmember Clauson, seconded by Councilmember Diener, to adopt an Ordinance ratifying the City's use of video conferencing and telephonic meetings, and amending Port Orchard Municipal Code Section 2.04.010 to allow this practice to continue where authorized by the Open Public Meetings Act.

**The motion carried.  
(Ordinance No. 019-20)**

**F. Adoption of an Ordinance Ratifying Proclamation and Emergency Order Suspending POMC Chapter 6.20 Prohibiting Single-Use Plastic Bags**



**MAIN MOTION:** By Councilmember Cucciardi, seconded by Councilmember Ashby, to adopt an Ordinance ratifying the Mayor's Emergency Proclamation and Temporary Suspension of Chapter 6.20 of the POMC prohibiting single-use plastic bags during the COVID-19 pandemic.

In response to Mayor Putaansuu, City Attorney Archer noted if the proclamation ends in 90 days, we will have to bring this back again for adoption.

After discussion, City Attorney Archer noted this is not time sensitive so she can take this back and modify so the Council could suspend Chapter 6.20 of their own accord for any period of time.

**AMENDED MOTION:** By Councilmember Cucciardi, seconded by Councilmember Ashby, to withdraw the motion on Business Item 7F.

**The amended motion carried.**

**G. Adoption of a Resolution Approving Amendment No. 3 to Contract No. 054-18 with RH2 Engineering, Inc. for the 80% Marina Pump Station Rebuild Project and Documenting Procurement Procedures**

**MOTION:** By Councilmember Lucarelli, seconded by Councilmember Chang, to adopt Resolution No. 028-20, thereby approving Amendment No. 3 of Contract No. C054-18 with RH2 Engineering, Inc. for the Marina Pump Station Rebuild Project (80% Design & Permit Coordination) in an amount not to exceed \$750,000.00 and documenting the Professional Services procurement procedures.

**The motion carried.**

**(Resolution No. 028-20 and Amendment No. 3 to Contract No. 054-18)**

**H. Adoption of a Resolution Approving a Contract with Goldsmith Land Development Services, Inc. for the McCormick Ridge Dam Safety Upgrade Project**

**MOTION:** By Councilmember Rosapepe, seconded by Councilmember Diener, to adopt a Resolution, thereby authorizing the Mayor or designee to execute Contract No. 064-20 With Goldsmith Land Development Services Inc. for the McCormick Ridge Dam Safety Upgrades Project.

**The motion carried.**

**(Resolution No. 030-20 and Contract No. 064-20)**

**I. Adoption of a Resolution Approving a Contract with Terra Associates, Inc. for Geotechnical Assessment of the McCormick Ridge Dam Safety Upgrade Project**

**MOTION:** By Councilmember Chang, seconded by Councilmember Clauson, to adopt a Resolution, thereby authorizing the Mayor or designee to execute Contract No. 065-20 With Terra Associates Inc. for the McCormick Ridge Dam Safety Upgrades Project.

**The motion carried.**

**(Resolution No. 031-20 and Contract No. 065-20)**

**J. Adoption of a Resolution Approving the Award of the Low Bidder and Authorize the Mayor to Execute an Agreement for the City's Official Newspaper**

**MOTION:** By Councilmember Clauson, seconded by Councilmember Diener, to adopt a resolution awarding Kitsap Sun as the low bid, based on the single line rate, per day, and authorize the Mayor to execute an agreement with Kitsap Sun as the City's Official Newspaper in a form acceptable to the City Attorney.

**The motion carried.**

**(Resolution No. 033-20 and Contract No. 068-20)**

**8. DISCUSSION ITEMS (No Action to be Taken)**

There were no discussion items.

**9. REPORTS OF COUNCIL COMMITTEES**

Mayor Putaansuu reported the Finance Committee is scheduled to meet August 11<sup>th</sup>.

Councilmember Lucarelli reported on the July 21<sup>st</sup> Utilities Committee meeting. The next meeting is scheduled for August 18<sup>th</sup>. The Sewer Advisory Committee is scheduled to meet in September. She also reported on the July 20<sup>th</sup> Festival of Chimes & Lights meeting.

Councilmember Ashby reported the Transportation Committee is scheduled to meet August 17<sup>th</sup>.

Councilmember Diener reported the Land Use Committee is scheduled to meet August 24<sup>th</sup>.

Mayor Putaansuu reported on the Public Health Board and updates on COVID-19, and Association of Washington and the Maritime Washington National Heritage Steering Committee.

**10. REPORT OF MAYOR**

The Mayor reported on the following:

- August Council meetings;
- Sales tax numbers for May;
- Planning Commissioner attendance;
- Port Orchard Cares grant training and Review Committee;
- Sewer capital facility charges;
- Blackjack Creek cleanup video;

- Etta Turner Park improvements; and
- Docking station updates.

#### **11. REPORT OF DEPARTMENT HEADS**

Police Chief Brown reported they are starting their accreditation process and will have more significant announcements in the coming months.

Mayor Putaansuu thanked staff for working hard on updating the City's website.

#### **12. CITIZEN COMMENTS**

There were no citizen comments.

#### **13. EXECUTIVE SESSION**

There was no executive session.

#### **14. ADJOURNMENT**

The meeting adjourned at 7:41 p.m. No other action was taken. Audio/Visual was successful.

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Brandy Rinearson, MMC, City Clerk

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Robert Putaansuu, Mayor



## City of Port Orchard

216 Prospect Street, Port Orchard, WA 98366  
(360) 876-4407 • FAX (360) 895-9029

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### Agenda Staff Report

Agenda Item No.: Business Item 7A  
Subject: Adoption of an Ordinance Accepting a Cash  
Donation from Rotary Club of South Kitsap for  
Etta Turner Park

Meeting Date: August 11, 2020  
Prepared by: Noah Crocker  
Finance Director  
Atty Routing No.: Finance – Matter 7  
Atty Review Date: August 5, 2020

**Summary:** Per RCW 35.21.100, the City Council may accept donations of money or property by ordinance, and to acquiesce to any lawful terms or conditions imposed by the donor for the use of the money or property in the ordinance. Similarly, per Port Orchard Municipal Code 3.90.030, all monetary and nonmonetary donations with a current value greater than \$5,000 must be approved by the city council prior to acceptance.

The Rotary Club of South Kitsap desires to donate \$15,000 to the City for the purposes of improving the Etta Turner Memorial Park.

Additionally, during the mid-year review the City amended the biennial budget to contribute \$25,000 of Recreation Reserve funding to the Capital Construction fund for the Etta Turner Park improvements. With the acceptance of the \$15,000, and the authorized \$25,000, there will be \$40,000 available for the park improvements. A future budget amendment may be required to spend the full \$40,000 of funding.

**Recommendation:** Staff recommends the Council adopt the ordinance accepting the donation in the amount of \$15,000 from the Rotary Club of South Kitsap for the purposes of improving the Etta Turner Memorial Park.

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

**Motion for consideration:** I move to adopt an Ordinance accepting a donation in the amount of \$15,000 from the Rotary Club of South Kitsap for the purposes of improving the Etta Turner Memorial Park.

**Fiscal Impact:** \$15,000

**Alternatives:** Do not approve ordinance and provide alternative guidance.

**Attachments:** Ordinance and letter to the City.

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ACCEPTING A DONATION OF \$15,000 FROM ROTARY CLUB OF SOUTH KITSAP FOR ETTA TURNER MEMORIAL PARK IMPROVEMENTS; ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, RCW 35.21.100 authorizes the City Council to accept donations by ordinance and to execute any lawful terms or conditions associated therewith; and

**WHEREAS**, Rotary Club of South Kitsap desires to donate \$15,000 to the City for the purposes of improving the Etta Turner Memorial Park; and

**WHEREAS**, the Council desires to accept the donation, and accepts the terms and conditions he has placed on the City's use of the donation; now, therefore,

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

**SECTION 1. Findings and Recitals.** The recitals set forth above are hereby adopted and incorporated as findings in support of this Ordinance.

**SECTION 2. Acceptance of Donation.** The City Council hereby accepts the donation in the amount of \$15,000 from the Rotary Club of South Kitsap for the purpose of improving the Etta Turner Memorial Park. The Mayor is instructed to take all necessary actions consistent with this acceptance.

**SECTION 3. Corrections.** Upon the approval of the city attorney, the city clerk and/or code publisher is authorized to make any necessary technical corrections to this ordinance, including but not limited to the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

**SECTION 4. Severability.** If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

**SECTION 5. Effective Date.** This ordinance shall be published in the official newspaper of the city and shall take full force and effect five (5) days after the date of publication. A summary of this ordinance in the form of the ordinance title may be published in lieu of publishing the ordinance in its entirety.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this 11<sup>th</sup> day of August 2020.

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

ATTEST:

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

APPROVED AS TO FORM:

SPONSORED BY:

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

\_\_\_\_\_  
John Clauson, Councilmember

PUBLISHED:

EFFECTIVE DATE:



## Rotary Club of South Kitsap

*"Service Above Self"*

Club Est. 1996

December 17, 2019

Mayor Rob Putaansuu  
City of Port Orchard  
216 Prospect Street  
Port Orchard, WA 98366

Dear Mayor Putaansuu:

This letter is written to inform you of the Rotary Club of South Kitsap's commitment to partner with the city in the updating of Etta Turner Memorial Park. The Rotary Club of South Kitsap has agreed to fundraise and commit to a \$15,000.00 donation to the completion of this project.

It is our hope that this project will commence in the spring of 2020.

The Rotary Club of South Kitsap would like to ask that the city provide us with a current projected timeline and scope of work so that we can update our members and begin the grant application process with Rotary to help fund our monetary commitment. I do want the city to know that regardless of our grant request to Rotary, the Rotary Club of South Kitsap is committed to the completion of this project.

Please send your questions and communications to past club Presidents Mark Trenary and Chris Bock, who are the main point of contacts for this project and can be contacted via email at [mtrenary@ebs-nw.com](mailto:mtrenary@ebs-nw.com) and [jcbockmd@hotmail.com](mailto:jcbockmd@hotmail.com).

Sincerely,

A handwritten signature in cursive script that reads "Debbie Gurganious".

Debbie Gurganious

President

Rotary Club of South Kitsap



## City of Port Orchard

216 Prospect Street, Port Orchard, WA 98366  
(360) 876-4407 • FAX (360) 895-9029

### Agenda Staff Report

Agenda Item No.: Business Item 7B  
Subject: Adoption of an Ordinance Amending Port Orchard Municipal Code Chapter 20.68  
Accessory Dwelling Units

Meeting Date: August 11, 2020  
Prepared by: Nicholas Bond  
DCD Director  
Atty Routing No: Development-Matter 11  
Atty Review Date: July 28, 2020

**Summary:** In March 2019, the City Council adopted Ordinance 011-19, which created Chapter 20.68 POMC (Accessory Dwelling Units), to provide requirements for permit submittal, review criteria and conditions for approval of accessory dwelling units (ADUs). The City has now had a year of implementing this code, and after receiving feedback and suggestions for improvements from the City Council and the public, staff has prepared several clarifications and revisions to Chapter 20.68. These changes are intended to promote and assist the development of ADUs within a neighborhood, by removing potential hardships and obstacles to ADU development, while continuing to protect neighboring properties.

The proposed changes include:

- A new section is added to 20.68.100 to clarify that only one ADU is permitted on one lot.
- Section 20.68.100(4) is revised to clarify that although a property owner must maintain his/her legal residence in either the primary unit or the ADU for at least six months of the year, and the owner may not rent out both units at one time, the property owner may rent out a room(s) in his/her legal residence (i.e. have a roommate) while also renting out the ADU. (The change as proposed, however, would not prevent a property owner from leaving the property for up to six months, with the primary unit occupied by a roommate and the ADU occupied by a renter.)
- Section 20.68.100(9), which prevented a property owner from having separate utility meters and billing for the ADU, has been removed.
- Section 20.68.110(6) is revised to clarify that lot coverage calculation for a property with an ADU is required to include all buildings, including the ADU, the primary building(s), and accessory buildings. When an ADU is proposed, accessory buildings must meet the required setbacks for the relevant zone and building type.
- Section 20.68.110(10), which prohibited accessory buildings over 200 sq ft, has been removed.

**Recommendation:** Staff recommends that the City Council adopt an ordinance amending the accessory dwelling units code in POMC Chapter 20.68, as presented.

#### **Relationship to Comprehensive Plan:**

- Policy LU-1 Ensure that land use and zoning regulations maintain and enhance existing single-family residential neighborhoods, while encouraging that new development provides a mixed range of housing types.
- Policy LU-8 Provide a variety of housing types and employment opportunities that meet the needs of diverse socioeconomic interests.



- Policy HS-2 Support the development of a variety of housing types, including apartments, townhomes, mixed-use (residential and other uses) and live-work development, small-lot and zero lot line single-family homes, and manufactured homes, as well as traditional single-family homes, through innovative planning, efficient and effective administration of land and building codes, and, where available, applicable financial assistance.
- Policy HS-4 Adopt zoning and development regulations that will have the effect of minimizing housing costs and maximizing housing options.
- Policy HS-15 Allow the development of residential accessory dwelling units (ADUs) and detached accessory dwelling units (DADUs) in appropriate residential areas with sufficient public facilities to adequately serve additional residents.

**Motion for consideration:** “I move to adopt an ordinance amending the accessory dwelling units code in POMC Chapter 20.68, as presented.

**Fiscal Impact:** None

**Alternatives:** Do not adopt the ordinance; revise the ordinance.

**Attachments:** Redline Code Changes; Ordinance.

**TITLE 20 POMC  
PROPOSED REVISIONS TO CHAPTER 20.68  
ACCESSORY DWELLING UNITS**

**SHOWN AS RED STRIKEOUT/UNDERLINE PER SECTION  
August 2020**

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**20.68.100 General Requirements**

ADUs shall be subject to the following requirements, which shall not be subject to a variance:

(1) ADU permits may only be issued for a legal lot of record zoned for single-family use containing not more than one single-family dwelling.

(2) Number of ADUs per Lot. No more than one ADU, whether an accessory apartment (attached dwelling) or a backyard cottage dwelling, shall be permitted on one lot.

(3) Occupancy. The maximum number of occupants in any ADU shall be four persons. Maximum occupancy may be further limited by Section 1004 (Occupant Load) of the International Building Code.

(4) Composition. The ADU shall include facilities for cooking, living, sanitation, and sleeping.

(5) Ownership and Occupancy. The property owner must maintain his or her occupancy in the main residence or the ADU. For the purposes of this chapter, "occupancy" means that the property owner, as reflected in title records, makes his or her legal residence at the site, as evidenced by property tax, voter registration, vehicle registration, or similar means, and actually resides at the site more than six months out of any given year, and at no time ~~receives rents both units for the owner-occupied unit~~. Owners shall record a notice on title, as approved by the city, which attests to their occupancy and attests that, at no time, shall they ~~receive rent for both units for the owner-occupied unit~~. Falsely attesting owner-residency shall be a gross misdemeanor subject to a fine not to exceed \$5,000, including all statutory costs, assessments, and fees. In addition, ADUs shall not be subdivided or otherwise segregated in ownership from the main building. Nothing in this chapter shall be interpreted as prohibiting a property owner from renting out a room or rooms in their legal residence of occupancy (main residence or ADU) to another resident or resident, or from collecting rent from a roommate, as long as the property owner continues to maintain occupancy according to the terms of this subsection.

(6) Parking. No off-street parking is required for the ADU; provided, that the minimum required off-street parking per Chapter [20.124](#) POMC for the primary use (single-family residence, commercial or industrial development) is met on the lot or if on-street parking is provided on

both sides of the street(s) abutting the lot. One parking stall shall be provided per ADU if either of the preceding conditions is not satisfied. If additional ADU parking is provided, parking for a commercial or industrial ADU shall be located in the rear portion of the lot and shall not be accessed from the front if suitable access to the rear is available, such as an abutting right-of-way that is or can practicably be developed. Driveways shall comply with the vehicular access and driveway standards in the city's development guidelines.

(7) Home Businesses and Occupations. Home businesses and occupations shall be allowed, subject to existing regulations. However, for residential ADUs if both the main residence and the ADU contain home businesses, only one of the two is permitted to receive customers on the premises.

(8) Short-Term Rental. The use of an ADU as a short-term rental shall be allowed, subject to compliance with the bed and breakfast regulations in POMC [20.39.345](#).

(9) Legalization of Nonconforming ADUs. Existing ADUs that are made nonconforming by this ordinance, or ADUs legally existing prior to the enactment of these requirements, may be maintained as a legal nonconforming use in accordance with Chapter [20.54](#) POMC.

~~(9) Utilities. An ADU must be connected to the utilities of the main residence, or the associated commercial or industrial development, and may not have separately billed services, with the exception of telephone and cable television or internet.~~

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### **20.68.110 Bulk, Location and Design Requirements**

(1) In commercial or industrial developments, detached ADUs are not allowed, and the ADU shall be located on or above the second floor of the building in which it is located.

(2) For attached ADUs, the lot must meet the minimum lot dimensional and size requirements of the applicable zoning designation. Attached ADUs that do not increase the building envelope of an existing residential structure are exempt from this requirement.

(3) Size. For backyard cottage detached ADUs, refer to POMC [20.32.030](#). For an attached apartment ADU that is accessory to a detached residential dwelling, the ADU shall not exceed 40 percent of the total square footage of the residential dwelling and the ADU combined, after modification or construction, or 1,000 square feet, whichever is greater. For an attached apartment that is accessory to a commercial or industrial use, the ADU shall not exceed 1,000 square feet.

(4) Height. For a backyard cottage detached ADU, refer to POMC [20.32.030](#). For an attached apartment that is accessory to a commercial or industrial use, refer to the appropriate building type in Chapter [20.32](#) POMC.

(5) Location. A backyard cottage ADU shall be permitted as a second dwelling unit accessory to a detached dwelling unit and shall be located in the rear yard, in accordance with POMC [20.32.030](#). An accessory apartment ADU shall be permitted within a detached residential dwelling, or within a commercial or industrial building.

(6) Setbacks and Lot Coverage. For a backyard cottage ADU, refer to POMC [20.32.030](#). For an attached apartment that is accessory to a commercial or industrial use, refer to the appropriate building type in Chapter [20.32](#) POMC. The calculation of lot coverage shall include all buildings on the lot or site, including the ADU, the primary single-family dwelling (for residential properties), and accessory buildings. Existing and future accessory buildings, including an ADU, must meet required setbacks for the relevant zone and accessory building type.

(7) Design – Attached ADUs. An attached ADU shall be designed to maintain the architectural design, style, appearance, and character of the main building as a single-family residence. If an attached ADU extends beyond the current footprint or existing height of the main building, such an addition must be consistent with the existing facade, roof pitch, siding, and windows. Any exterior modification or addition to a single-family residence shall comply with the design standards in Chapter [20.139](#) POMC. Additionally, only one entrance is permitted to be located in the front facade of the dwelling. If a separate outside entrance is necessary for an attached ADU, it must be located either off the rear or side of the main building. Such entrance must not be visible from the same view of the building which encompasses the main entrance to the building and must provide a measure of visual privacy.

(8) Design – Attached ADUs Associated with a Commercial or Industrial Development. The ADU shall be part of an overall site and building design that complies with the requirements of Chapter [20.127](#) POMC (Design Standards), and shall be reviewed in conjunction with the underlying land use or building permit.

(9) Design – Detached ADUs. A detached ADU shall be designed to complement the architectural design, style, appearance, and character of the main building by utilizing complementary colors and finish materials, window styles, and roof design to the main building. The entrance door to a detached ADU shall not face the same property line as the entrance door to the main building except when the entrance door to the ADU is located behind the rear wall of the main building.

~~(10) Other Accessory Buildings. The detached ADU structure shall be the only accessory building allowed on the parcel, although it can be integrated into a structure that includes a garage or other nonhabitable space. Accessory buildings under 200 square feet in size may be exempted from this restriction; provided, that such buildings meet the relevant zoning requirements for height, setbacks and maximum lot coverage.~~

(11) Walkways. For ADUs with a separate exterior entrance, a pedestrian walkway shall be provided between the ADU and the nearest sidewalk, or where no sidewalk exists, the nearest street right-of-way. The walkway shall be composed of materials that are distinct from any adjacent vehicle driving or parking surfaces. The walkway may function as a shared

pedestrian/vehicle space; provided, that it is constructed of distinct materials, is located along an exterior edge of a driving surface, and vehicles are not permitted to park on the walkway so that pedestrian use is hindered or prevented.

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

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AMENDING CHAPTER 20.68 (ACCESSORY DWELLING UNITS) OF THE PORT ORCHARD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, Title 20 (Unified Development Code) of the Port Orchard Municipal Code (POMC) was adopted on June 13, 2017 (Ordinance 019-17); and

**WHEREAS**, on March 12, 2019, the City Council approved Ordinance 011-19, which created Chapter 20.68 POMC, Accessory Dwelling Units, to provide requirements for permit submittal, review criteria and conditions for approval of accessory dwelling units; and

**WHEREAS**, the City Council wishes to adopt clarifications and revisions to Chapter 20.68 to promote and assist the development of accessory dwelling units, and staff has prepared revisions as directed; and

**WHEREAS**, on June 30, 2020, the City submitted to the Department of Commerce a 60-day request for review of the proposed revisions to Chapter 20.68; and

**WHEREAS**, on July 17, 2020, the City's SEPA official issued a determination of non-significance for the proposed revisions to Chapter 20.68, and there have been no appeals; and

**WHEREAS**, on August 3, 2020, the City Council's Land Use Committee reviewed the revisions to Chapter 20.68, and recommended that they be forwarded to the full City Council for review and approval; and

**WHEREAS**, on August 4, 2020, the City's Planning Commission held a duly-noticed public hearing on the proposed revisions to Chapter 20.68, and the Planning Commission recommended approval of the proposed revisions; now, therefore

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

**SECTION 1.** Findings and Recitals. The recitals set forth above are hereby adopted and incorporated as findings in support of this Ordinance.

**SECTION 2.** Chapter 20.68 of the Port Orchard Municipal Code is hereby amended to read as follows:

**Chapter 20.68****ACCESSORY DWELLING UNITS**

## Sections:

- 20.68.010 Accessory dwelling units – Defined.
- 20.68.020 Accessory dwelling units – Purpose.
- 20.68.030 Accessory dwelling units – Decision type.
- 20.68.040 Accessory dwelling units – Administration.
- 20.68.050 Accessory dwelling units – Property ownership.
- 20.68.060 Accessory dwelling units – Commercial and industrial development – Code applicability.
- 20.68.070 Accessory dwelling units – Application procedures.
- 20.68.080 Inspection.
- 20.68.090 Violations.
- 20.68.100 General requirements.
- 20.68.110 Bulk, location and design requirements.

**20.68.010 Accessory dwelling units – Defined.**

An accessory dwelling unit is a separate, complete dwelling unit associated with, 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.

**20.68.020 Accessory dwelling units – Purpose.**

- (1) Intent. Accessory dwelling units (hereinafter referred to as “ADUs”) are intended to:
- (a) Provide homeowners with a means of providing for companionship and security.
  - (b) Add affordable units to the existing housing supply.
  - (c) Make housing units within the city available to moderate income people.
  - (d) Provide an increased choice of housing that responds to changing needs, lifestyles (e.g., young families, retired), and modern development technology.
  - (e) Protect neighborhood stability, property values, and the single-family residential appearance by ensuring that ADUs are installed in a compatible manner under the conditions of this chapter.
  - (f) Increase density in order to better utilize existing infrastructure and community resources and to support public transit and neighborhood retail and commercial services.
  - (g) Provide a means for commercial and industrial sites to have a resident caretaker or security officer.

**20.68.030 Accessory dwelling units – Decision type.**

An ADU permit is a Type I action and shall be reviewed and considered in accordance with the procedures for such actions as set forth in Subtitle II of this title.

**20.68.040 Accessory dwelling units – Administration.**

The planning director shall have the authority to develop and implement procedures to administer and enforce this chapter.

**20.68.050 Accessory dwelling units – Property ownership.**

For the purposes of this chapter, “property owner” and “homeowner” shall mean the owner of a property according to the title of record, or the beneficiary of a legal trust or guardianship.

**20.68.060 Accessory dwelling units – Commercial and industrial development – Code applicability.**

The following subsections of this chapter do not apply to the construction or establishment of an ADU that is accessory to a commercial or industrial use:

- (1) POMC 20.68.100(1) and (4).
- (2) POMC 20.68.110(9) and (10).

**20.68.070 Accessory dwelling units – Application procedures.**

(1) Procedures. Any property owner seeking to establish an ADU shall apply for approval in accordance with the following procedures:

(a) Application. Prior to installation of an ADU, the property owner shall apply for an ADU permit. A complete application shall include a properly completed application form, floor and structural plans for modification, a site plan if detached structures or an addition are proposed, and fees as prescribed in subsection (1)(b) of this section.

(b) Fees. Upon sale of the property, the new property owner shall be required to sign a new affidavit and to register the ADU, paying the applicable fee in accordance with the city’s adopted fee schedule. If new or upgraded water or sewer connections are required, water and/or sewer connection fees shall be required in accordance with POMC Title 13.

(c) Accessory Dwelling Unit Agreement. The owner of any property containing an ADU shall record with the Kitsap County auditor an accessory dwelling unit agreement and notice to title for the ADU. Such agreement and notice shall be approved by the planning director, on a form approved by the city council, and shall include as a minimum: (i) the legal description of the property which has been permitted for the ADU; (ii) affirmation that the owner shall occupy either the main building or the ADU (unless the ADU is within a commercial or industrial development), and that the property owner agrees to all requirements provided in this chapter; and (iii) the conditions necessary to apply the restrictions and limitations contained in this section.

The property owner shall submit proof that the agreement and notice to title have been recorded prior to issuance of an ADU permit. The ADU agreement and notice to title shall run with the land as long as the ADU is maintained on the property. The property owner may, at any time, apply to the planning director for a termination of the ADU agreement. Such termination shall be granted upon proof that the ADU no longer exists on the



property and that a notice to title has been recorded which states that the ADU has been removed.

(d) Permit. Upon receipt of a complete application, application fees, proof of recorded accessory dwelling unit agreement, and approval of any necessary building or other permits, an ADU permit shall be issued.

**20.68.080 Inspection.**

The city shall inspect the property to confirm that minimum and maximum size limits, required parking and design standards, and all applicable building, health, safety, energy, and electrical code standards are met.

**20.68.090 Violations.**

A violation of this chapter regarding provision of ownership shall be governed by POMC 20.68.100(4), and a violation of provision of legalization of nonconforming ADUs shall be governed by POMC 20.68.100(8). Violations of any other city permit or code requirements shall be governed by Chapter 20.02 POMC.

**20.68.100 General requirements.**

ADUs shall be subject to the following requirements, which shall not be subject to a variance:

- (1) ADU permits may only be issued for a legal lot of record zoned for single-family use containing not more than one single-family dwelling.
- (2) Number of ADUs per Lot. No more than one ADU, whether an accessory apartment (attached dwelling) or a backyard cottage dwelling, shall be permitted on one lot.
- (3) Occupancy. The maximum number of occupants in any ADU shall be four persons. Maximum occupancy may be further limited by Section 1004 (Occupant Load) of the International Building Code.
- (4) Composition. The ADU shall include facilities for cooking, living, sanitation, and sleeping.
- (5) Ownership and Occupancy. The property owner must maintain his or her occupancy in the main residence or the ADU. For the purposes of this chapter, "occupancy" means that the property owner, as reflected in title records, makes his or her legal residence at the site, as evidenced by property tax, voter registration, vehicle registration, or similar means, and actually resides at the site more than six months out of any given year, and at no time rents both units. Owners shall record a notice on title, as approved by the city, which attests to their occupancy and attests that, at no time, shall they rent both units. Falsely attesting owner-residency shall be a gross misdemeanor subject to a fine not to exceed \$5,000, including all statutory costs, assessments, and fees. In addition, ADUs shall not be subdivided or otherwise segregated in ownership from the main building. Nothing in this chapter shall be interpreted as prohibiting a property owner from renting out a room or rooms in their legal residence of occupancy (main residence or ADU) to another

resident or resident, or from collecting rent from a roommate, as long as the property owner continues to maintain occupancy according to the terms of this subsection.

(6) Parking. No off-street parking is required for the ADU; provided, that the minimum required off-street parking per Chapter 20.124 POMC for the primary use (single-family residence, commercial or industrial development) is met on the lot or if on-street parking is provided on both sides of the street(s) abutting the lot. One parking stall shall be provided per ADU if either of the preceding conditions is not satisfied. If additional ADU parking is provided, parking for a commercial or industrial ADU shall be located in the rear portion of the lot and shall not be accessed from the front if suitable access to the rear is available, such as an abutting right-of-way that is or can practicably be developed. Driveways shall comply with the vehicular access and driveway standards in the city's development guidelines.

(7) Home Businesses and Occupations. Home businesses and occupations shall be allowed, subject to existing regulations. However, if both the main residence and the ADU contain home businesses, only one of the two is permitted to receive customers on the premises.

(8) Short-Term Rental. The use of an ADU as a short-term rental shall be allowed, subject to compliance with the vacation rental and bed and breakfast regulations in POMC 20.39.345.

(9) Legalization of Nonconforming ADUs. Existing ADUs that are made nonconforming by this ordinance, or ADUs legally existing prior to the enactment of these requirements, may be maintained as a legal nonconforming use in accordance with Chapter 20.54 POMC.

**20.68.110 Bulk, location and design requirements.**

(1) In commercial or industrial developments, detached ADUs are not allowed, and the ADU shall be located on or above the second floor of the building in which it is located.

(2) For attached ADUs, the lot must meet the minimum lot dimensional and size requirements of the applicable zoning designation. Attached ADUs that do not increase the building envelope of an existing residential structure are exempt from this requirement.

(3) Size. For detached ADUs, refer to POMC 20.32.030, Backyard Cottage. For an attached ADU that is accessory to a detached residential dwelling, the ADU shall not exceed 40 percent of the total square footage of the residential dwelling and the ADU combined, after modification or construction, or 1,000 square feet, whichever is greater. For an attached ADU that is accessory to a commercial or industrial use, the ADU shall not exceed 1,000 square feet.

(4) Height. For a detached ADU, refer to POMC 20.32.030, Backyard Cottage. For an attached ADU that is accessory to a commercial or industrial use, refer to the appropriate building type in Chapter 20.32 POMC.

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(5) Location. A detached ADU shall be permitted as a second dwelling unit accessory to a detached dwelling unit and shall be located in the rear yard, in accordance with POMC 20.32.030, Backyard Cottage. An accessory ADU shall be permitted within a detached residential dwelling, or within a commercial or industrial building.

(6) Setbacks and Lot Coverage. For a detached ADU, refer to POMC 20.32.030, Backyard Cottage. For an attached ADU that is accessory to a commercial or industrial use, refer to the appropriate building type in Chapter 20.32 POMC. The calculation of lot coverage shall include all buildings on the lot or site, including the ADU, the primary single-family dwelling (for residential properties), and accessory buildings. Existing and future accessory buildings, including an ADU, must meet required setbacks for the relevant zone and building type.

(7) Design – Attached ADUs. An attached ADU shall be designed to maintain the architectural design, style, appearance, and character of the main building as a single-family residence. If an attached ADU extends beyond the current footprint or existing height of the main building, such an addition must be consistent with the existing facade, roof pitch, siding, and windows. Any exterior modification or addition to a single-family residence shall comply with the design standards in Chapter 20.139 POMC. Additionally, only one entrance is permitted to be located in the front facade of the dwelling. If a separate outside entrance is necessary for an attached ADU, it must be located either off the rear or side of the main building. Such entrance must not be visible from the same view of the building which encompasses the main entrance to the building and must provide a measure of visual privacy.

(8) Design – Attached ADUs Associated with a Commercial or Industrial Development. The ADU shall be part of an overall site and building design that complies with the requirements of Chapter 20.127 POMC (Design Standards), and shall be reviewed in conjunction with the underlying land use or building permit.

(9) Design – Detached ADUs. A detached ADU shall be designed to complement the architectural design, style, appearance, and character of the main building by utilizing complementary colors and finish materials, window styles, and roof design to the main building. The entrance door to a detached ADU shall not face the same property line as the entrance door to the main building except when the entrance door to the ADU is located behind the rear wall of the main building. The detached ADU shall also be subject to the requirements of POMC 20.139, Residential Design Standards.

(10) Walkways. For ADUs with a separate exterior entrance, a pedestrian walkway shall be provided between the ADU and the nearest sidewalk, or where no sidewalk exists, the nearest street right-of-way. The walkway shall be composed of materials that are distinct from any adjacent vehicle driving or parking surfaces. The walkway may function as a shared pedestrian/vehicle space; provided, that it is constructed of distinct materials, is located along an exterior edge of a driving surface, and vehicles are not permitted to park on the walkway so that pedestrian use is hindered or prevented.

**SECTION 3. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause or phrase of this ordinance.

**SECTION 4. Corrections.** Upon the approval of the city attorney, the city clerk and/or code publisher is authorized to make any necessary technical corrections to this ordinance, including but not limited to the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

**SECTION 5. Effective Date.** This ordinance shall be published in the official newspaper of the city and shall take full force and effect five (5) days after the date of publication. A summary of this ordinance in the form of the ordinance title may be published in lieu of publishing the ordinance in its entirety.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this 11<sup>th</sup> day of August 2020.

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

ATTEST:

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

APPROVED AS TO FORM:

Sponsored by:

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

\_\_\_\_\_  
Fred Chang, Councilmember

PUBLISHED:

EFFECTIVE DATE:



**City of Port Orchard**

216 Prospect Street, Port Orchard, WA 98366  
(360) 876-4407 • FAX (360) 895-9029

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**Agenda Staff Report**

Agenda Item No.:	<u>Business Item 7C</u>	Meeting Date:	<u>August 11, 2020</u>
Subject:	<u>Approval of Amending Personnel</u>	Prepared by:	<u>Debbie Lund</u>
	<u>Policy 4.2 and Adopt Personnel Policy</u>		<u>HR Coordinator</u>
	<u>4.8 Related to Telecommuting</u>	Atty Routing No.:	<u>HR – Matter 8</u>
		Atty Review Date:	<u>August 4, 2020</u>

**Summary:** Telecommuting was first introduced to some City employees as part of the COVID-19 response and the Governor’s Stay Home order. To this day, some employees continue to telecommute on a full-time basis, while others have returned to a combination of telecommute and work in the office, and still others have returned to the office on a full-time basis. While under this current emergency pandemic situation, broader telecommuting options are warranted and available for employees and department directors to accommodate health, childcare, and other COVID-related factors.

In anticipation of the eventual “return to normal business” staff is recommending that the City adopt a telecommuting policy. This policy would establish parameters for telecommuting and categories of telecommuting arrangements. Under the proposed policy “routine” telecommuting is permitted for up to two days a week. Employees telecommuting on a “temporary” basis could do so for more than two days a week, but for a limited duration.

The proposed policy addresses other relevant issues for telecommuting arrangements, such as pre-approval and oversight, equipment, supplies, and liability issues. The proposed policy also requires the development of an application form, which includes the requirement that the employee and/or supervisor provide a statement of the business needs for the arrangement and a description of the work to be completed while telecommuting.

City Council, via Resolution No. 007-11, authorizes the Mayor to make *amendments* to existing City personnel policies. As a new policy, Personnel Policy 4.8 is being brought to council for consideration. Personnel Policy 4.2 requires a slight revision to support telecommuting, and that amendment is included with this proposal as well.

This policy is proposed for non-union employees only. Representatives of the unions were alerted to this policy on July 29, 2020, as a courtesy.

**Recommendation:** Adopt the policy as presented.

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

**Motion for consideration:** I move to amend personnel policy 4.2 and adopt personnel policy 4.8 related to Telecommuting and authorize the Mayor to implement the policies as presented.

**Fiscal Impact:** None.

**Alternatives:** Provide alternative direction to staff.

**Attachments:** Proposed personnel policies 4.2 and 4.8.

## 4.2 ATTENDANCE

Punctual and consistent attendance is a condition of employment and critical to the efficient operation of the City. Each employee is responsible for maintaining an accurate record of his/her attendance.

All employees are expected to report to work as scheduled, give their best efforts, and perform productive work for the City during their scheduled work shifts. Physical attendance at the City on a regular and consistent basis is considered an essential function of the job for all City employees. Depending upon the position and the business needs of the department some employees may apply to work from home in accordance with the City's Telecommuting Policy. The flow of City business and services to the public, including our public safety responsibilities, depend on reliable employees to attend to their assigned duties on a regular basis. This means that each employee is responsible for being present every scheduled workday at the correct time, fully able and ready to work.

Absences from work, late arrivals and early departures must be approved by a supervisor (or a designee) for all hourly (non-exempt) employees. Employees are required to report any such changes to their supervisor as soon as possible and no later than 30 minutes before the start of their shift, or when the change is to occur. In situations where an employee is unable to report the need for time off in advance, the employee must notify his or her supervisor as early as possible if they are unable to report to work at a scheduled or expected time. Only approved reported absences will be excused.

Tardiness for work includes any failure to report to or be ready for work at the employee's designated starting time for non-exempt employees. Absences during the work day, or handling personal business during working hours, or neglecting work duties during working hours will all be treated similarly. Excessive or chronic unauthorized absences or tardiness (as determined in the City's discretion) will result in appropriate disciplinary action, up to and including termination of employment.

An employee who is absent without proper authorization or notification may be considered to have voluntarily abandoned their job and their employment may be terminated.

## New Section 4.8

### 4.8 TELECOMMUTING

#### **Purpose:**

Telecommuting is a mutually agreed upon arrangement between the employee and supervisor, and subject to the approval of the Department Director and the Mayor. Telecommuting is not an entitlement and in no way changes the terms and conditions of employment. Telecommuting is only viable in cases where the employee and their supervisor mutually agree that the characteristics of the job and work style of the employee are well suited to an alternative work location. Telecommuting may be appropriate for some employees and some duties, but may not necessarily be viable for every employee or all of their duties.

The City recognizes the value of telecommuting to adequately staff departments to meet the needs of the citizens under certain circumstances. For example, telecommuting may be used when insufficient workstations are available, and the need to share workstations (or place them closer together) may increase the potential for staff working in close proximity to spread of contagious illness. The City also recognizes the potential benefits that may come from allowing an employee to work from home when that employee is experiencing temporary or longer-term extenuating personal circumstances, where a viable amount of work may more easily be performed away from City premises (this falls outside of ADA- and FMLA-related accommodations).

In accordance with the purpose of this policy and the terms contained herein, the City includes telecommuting as a work option in management-approved circumstances, for certain positions. When appropriately applied, telecommuting may allow a more effective use of workspace, improve productivity for certain jobs/employees, help attract and retain a diverse and talented workforce, and aid in reducing stress on employees in a variety of ways, including a reduction in commuting trips to and from work during high volume traffic times as part of the City's Commute Trip Reduction efforts.

**This policy does not replace nor supersede employee rights in ADA- or FMLA-related circumstances or other federal and state laws.** This policy is in addition to any telework arrangements as part of the City's response to a proclamation of emergency or disaster due to a pandemic.

For the purpose of this section "telecommuting" is a work option in which the employee works from home (or other approved location) for either a portion of the work week or for the entire work week, for a specified duration.

#### A. **Requests:**

A request for telecommuting may be generated by either the City or the employee.

1. **At the City's Request or Direction** – the City may request or direct an employee to telecommute for reasons including, but not limited to, emergency conditions and



workspace constraints. When possible, the City will seek for the telecommuting arrangement to be by mutual agreement. In this case, no special action is required by the employee, other than to fill out a Telecommuting Application which is available from Human Resources.

2. **At the Employee's Request** – an eligible employee may request of his/her supervisor the ability to telecommute by completing a Telecommuting Application. Telecommuting is not an entitlement. To be eligible, an employee must be
  - a) In a non-represented (non-union) position,
  - b) An employee of the City for at least three (3) months, and
  - c) Not been subject to a Performance Improvement Plan, employment investigation that resulted in disciplinary action, or any other disciplinary action involving a written reprimand or greater, either currently or in the previous 12-month period prior to the telecommuting request, subject to the Mayor's discretion.
3. It is strongly suggested that the employee confer with their supervisor before proceeding with the request, in order that the appropriate criteria may be established and provided as part of the formal request. The completed Telecommuting Application shall be signed by the employee and routed for the noted managerial signatures. The requesting employee's supervisor will respond to the employee's request to telecommute within five (5) working days of the request by either advancing the request to the next level or discussing with the employee the reasons why the request is not approved.
4. When telecommuting is requested by the employee, the City will consider the request utilizing the following criteria and factors:
  - a) The needs of the position, department, and the City;
  - b) The employee's past and present levels of performance, including trust, dependability, self-initiative, self-sufficiency and the ability to work unsupervised;
  - c) The employee's attendance record;
  - d) Whether the employee's department will be adequately staffed to meet minimum customer service demands;
  - e) Whether the employee can participate (even through remote means) in necessary meetings and communications, including email, during regular City hours;
  - f) Whether the performance of the employee's duties is dependent upon the location of their workplace; and
  - g) Whether assigned employee tasks are capable of progress monitoring and demonstration on a daily or weekly basis.
5. The Mayor or designee reserves and retains the discretion to waive or modify eligibility criteria and factors depending on individual circumstances.

6. Exempt employees do not need to complete a Telecommuting Application for intermittent, irregular telecommuting arrangements that have been approved by their Department Director. Exempt employees directed to, or requesting to, telecommute for periods of three (3) or more consecutive working days or more than three (3) days in a calendar month must apply for the telecommuting arrangement by completing a Telecommuting Application and obtaining the necessary approvals.

**B. Types of Telecommuting Arrangements:**

The City may authorize two different telecommuting arrangements—Temporary Telecommuting and Routine Telecommuting:

1. **Temporary Telecommuting** – Temporary telecommuting may be granted when the employee is working on a specific project requiring uninterrupted focus or as a result of a temporary need or situation, as determined by the Mayor or designee (e.g., contagion/pandemic mitigation; recuperation from surgery). The following are the two types of temporary telecommuting:
  - a) **Temporary Short-term Telecommuting** – Applies to situations expected to be short-term in nature (e.g., two weeks or less), including inclement weather that would make commuting dangerous when City Hall remains open or for a work project of limited duration that requires the employee to have uninterrupted focus. Supervisors may informally approve telecommuting in advance of these situations, particularly in anticipation of inclement weather or knowledge of a targeted work project.

Temporary short-term telecommuting situations do not require submission of a Telecommuting Application if the completion of the application will unnecessarily prevent the employee from working. In those situations, an email (whenever practical) prior to commencement of the arrangement from the supervisor, Department Director, Mayor or Mayor’s designed, will suffice.
  - b) **Temporary Medium-term Telecommuting** – Applies to situations not intended to last as long as a regular work schedule, but longer than two (2) weeks and up to three (3) months, including but not limited to, a longer-term work project requiring uninterrupted focus, emergency mitigation, or recuperation from surgery. Temporary medium-term telecommuting requires management approval through completion of a Telecommuting Application.
2. **Routine Long-term Telecommuting** – Routine long-term telecommuting is a continuous telecommuting request intended as the normal work schedule without an anticipated end date. Routine long-term telecommuting requires management approval through completion of a Telecommuting Application. Routine long-term telecommuting arrangements will be evaluated at least annually. Additionally, either party, the employee or the City, may revoke or revise the arrangement at any time by providing the other party with thirty (30) days written notice.

Employees requesting a routine long-term telecommuting arrangement and who work an approved alternative work schedule (e.g. 9/80 or 4/10's, or other arrangement) will be limited to one (1) day of telecommuting per week. Employees requesting a long-term telecommuting arrangement who do not work an alternative work schedule will be limited to two (2) days of telecommuting per week. Exceptions to this may be approved on a case-by-case basis by the Mayor upon the recommendation of the Department Director.

### C. Telecommuting Application

1. The Telecommuting Application is available from Human Resources and will contain, at a minimum, the following items:
  - a) Statement of the business need that necessitates the telecommuting arrangement,
  - b) Description of how adequate coverage will be provided on-site,
  - c) Description of the specific work duties and expectation of deliverables that will be accomplished during the period of telecommuting,
  - d) Work schedule including days of week, and for non-exempt employees, the number of hours a day, and starting and ending time each day,
  - e) Requirement for communication with the IT department, a minimum of two weeks in advance, to discuss equipment and software licensing needs, and
  - f) Signature and approval routing for the following individuals: the employee, the supervisor, the Department Director, the Mayor or designee.

The completed, signed, and approved Telecommuting Application will be provided to Human Resources.

2. The Telecommuting Application will also contain the following Conditions of Telecommuting to which the participating employee must agree.
  - a) **Duties and Responsibilities.** The duties, obligations, and responsibilities of an employee who telecommutes shall remain the same as the employee's duties, obligations, and responsibilities prior to telecommuting.
  - b) **Availability.** Telecommuters must have access to sufficient internet service (if required) and be available by telephone, computer, or other electronic communication during the agreed-upon telecommuter work schedule.
  - c) **City Policies.** The City of Port Orchard's personnel policies remain in effect for telecommuting work schedules, and telecommuters will adhering to them accordingly, regardless of their work location.
  - d) **Leave.** Leave use on a planned telecommute day will be administered under the same provisions as leave used from the regular work site.
  - e) **Childcare.** Telecommuting is not designed to be a replacement for appropriate childcare or family care. Although a telecommuter's schedule may be modified to accommodate childcare or family care needs, the focus of the arrangement

- must remain on job performance and meeting business demands.
- f) **Terms of Employment.** Salary level and benefits will not change as a result of an approved Telecommuting Application.
  - g) **Outside Employment.** Telecommuter will not conduct unauthorized outside employment during their agreed-to City telecommuting hours.
  - h) **Visitors.** Telecommuter will not have City vendors, contractors, or customers visit the telecommuter at their alternate work site.
  - i) **Security.** Telecommuters will take all precautions necessary to secure proprietary information at their alternate work site and prevent unauthorized access to any City information or system from their home.
  - j) **Overtime.** For non-exempt employees covered under the Fair Labor Standards Act, any hours beyond their normal 40-hour weekly work schedule must be authorized in advance by the employee's direct supervisor.
  - k) **Public Records Laws.** Equipment used for government business purposes but owned by the telecommuter may be subject to the Public Records Act, Chapter 42.56 RCW, and may be inspected as necessary. Any records produced during telecommuting are also subject to the Washington State Records Retention Schedule, Chapter 40.14 RCW.
  - l) **Liability.** If City equipment is stolen or damaged while at the telecommuter's alternate work site, the telecommuter or the telecommuter's homeowner's or renter's insurance will be responsible for the loss. The City is not liable, and the telecommuter agrees to hold the City harmless, for damage to telecommuter's real or personal property caused by or arising from an employee's telecommuting arrangement.
  - m) **Safety.** Telecommute attestation that the alternate work site provides a safe and healthful work environment, including proper ergonomics. The telecommuter shall act in a responsible manner to avoid injury. The telecommuter understands that failure to take proper health and safety precautions in the alternate work site may result in termination of the Telecommuting Work Schedule Agreement approval.
  - n) **Workplace Injuries.** Injuries sustained by the telecommuter while at their alternate work site and in conjunction with his or her regular work duties are normally covered by Workers' Compensation. Telecommuting employees are responsible for promptly notifying their supervisor and the personnel manager of such injuries in the same manner as if the injury occurred at a work location on the City's premises. The City is not liable for any injuries sustained by family members or other visitors to a telecommuter's alternate work location. Telecommuters remain liable and will agree to hold the City harmless for injuries to third parties and/or members of the employees' families on employees' premises. The City is not liable, and telecommuters will agree to hold the City harmless, for damage to employees' real or personal property caused by or arising from an employee's telecommuting arrangement.
  - o) **Home Office.** The telecommuter will establish an appropriate work environment for work purposes. The City will not be responsible for costs associated with setup or maintenance of the telecommuter's alternate work environment, such as remodeling, furniture, or lighting, nor for repairs or

modifications to the alternate work environment. Employees will cover all utility costs incurred while telecommuting, including, but not limited to, any potential long-distance phone or fax charges.

- p) **Office Supplies.** Office supplies, such as pens, pencils, paper, etc., for use by the telecommuter only for the performance of City business at their alternate work site shall be provided by the City.
- q) **Equipment.** If an employee utilizes a laptop at their City worksite, they may transport it to their alternate work site and utilize that in the performance of their City-assigned work. A receipt for City property must be completed prior to the transport of City equipment offsite. If the employee does not have a laptop, they may be assigned a City-owned laptop for the duration of their telecommuting, if one is available.

There may be times where the needed equipment presents an unbudgeted or duplicative cost or requires support that the City cannot provide. If the City cannot provide or support the needed equipment, the telecommuter may be approved to use their own equipment to perform City business while telecommuting. However, the use of a personal computer should be avoided and only as a last resort. If needing to use a personal computer for telecommuting purposes, the telecommuter must:

- i. acquire the prior approval of their Department Director; and
- ii. always access and store City files and documents through remote control of a City workstation via the City's VPN (Virtual Private Network) or other means; and
- iii. never store any City documents on their personal computer; and
- iv. contact City I.T. staff for any questions related to appropriate work methods.

If approved to use their personal computer for telecommuting purposes, the telecommuter is responsible for the purchase, modification, repair and maintenance of the equipment and software used for telecommuting. The telecommuter shall only use properly licensed software for City business. In the event of delay in repair or replacement of equipment used to complete telecommuting assignments, or any other circumstance under which it would be impossible for an employee to effectively telecommute, the employee will return to their City workstation until a functioning alternate work site is restored.

- r) **Taxes.** Telecommuters agree to be responsible for their own compliance with tax laws. The City is not responsible for substantiating an employee's claim for tax deductions for operating a home office. If a telecommuter has questions concerning whether home office expenses are tax deductible, that telecommuter should seek advice from their tax consultant.
- s) **Termination.** Acknowledgement that failure to abide by these conditions may result in immediate termination of the telecommuting arrangement (without the

thirty (30) day notice provided for in the case of routine long-term telecommuting) and, if warranted, disciplinary action up to and including termination of employment.

#### **D. Evaluation and Maintenance**

The telecommuting Work Schedule Agreement must be successfully maintained between the telecommuter and supervisor through, at a minimum:

1. A bulleted list of **weekly** major work items to be addressed and submitted by the telecommuter to the supervisor for approval; and
2. Follow-up **weekly** emails from the telecommuter to the supervisor listing accomplishments and/or progress for that week.

The above requirements may be altered or expanded upon by the supervisor as the supervisor deems appropriate to adequately evaluate the telecommuter's work output or address changing circumstances. Evidence of such weekly reports may be requested at any time by the Department Director or Mayor.