



City of Port Orchard Council Meeting Agenda

December 14, 2021

6:30 p.m.

Mayor:

Rob Putaansuu
Administrative Official

Councilmembers:

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

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

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

Scott Diener
Land Use Committee
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, 3rd Floor
216 Prospect Street
Port Orchard, WA 98366

Contact us:

(360) 876-4407
cityhall@cityofportorchard.us

The City is conducting its public meetings remotely to prevent the spread of COVID. The City is providing 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/83858813636>

Zoom Webinar ID: 838 5881 3636

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

Guiding Principles

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

1. CALL TO ORDER

A. Pledge of Allegiance

2. 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. If you are attending remotely via telephone, enter *9 from your keypad to raise your hand.)*

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. Adoption of an Ordinance Approving a Contract with the Washington State Transportation Improvement Board for the Expanded Bethel Road/Lincoln Avenue Roundabout Project (Dorsey) **Page 4**

D. Approval of Amendment No. 2 to Contract No. 036-20 with Krazan and Associates for On-Call Professional Materials Testing, Inspection and Geotechnical Services (Dorsey) **Page 15**

E. Approval of an Interlocal Agreement No. KC-562-21 with Kitsap County Public Works Regarding Traffic Signal Repair and Maintenance (Dorsey) **Page 19**

- F. Adoption of a Resolution Approving the Purchase of an Electric City Parks Vehicle for the Equipment Rental and Revolving Fund No. 500 (Dorsey) **Page 29**
- G. Approval of the Purchase of Equipment for the Equipment Rental and Revolving Fund No. 500 (M. Brown) **Page 38**
- H. Approval of a Contract with Washington State Parks and Recreation Commission Subrecipient Grant Agreement for a Federal Financial Assistant Grant (M. Brown) **Page 45**
- I. Approval of the November 16, 2021, Work Study Meeting Minutes **Page 110**
- J. Approval of the November 23, 2021, City Council Meeting Minutes **Page 115**

5. PRESENTATION

6. PUBLIC HEARING

- A. Public Hearing on a Petition to Vacate City Right-of-Way, the Northeast Portion of Unopened Depot Street – Request to Strike (Rinearson) **Page 121**

7. BUSINESS ITEMS

- A. Adoption of a Resolution Repealing Resolution No. 082-21, and Setting a January 11, 2022 for a Public Hearing on a Petition to Vacate City Right-of-Way, the Northeast Portion of Unopened Depot Street (Rinearson) **Page 122**
- B. Adoption of an Ordinance Adopting the 2021 Port Orchard Municipal Code Title 20 “Housekeeping” Amendments (Bond) **Page 135**
- C. Adoption of an Ordinance Adopting the McCormick Village Subarea Plan and Overlay District Development Regulations (Bond) **Page 192**
- D. Adoption of an Ordinance Relating to Benefits for Non-Represented Employees, Repealing Ordinance Nos. 010-19, 026-19, 045-19, and Amending Resolution No. 003-09 (Lund) **Page 249**
- E. Adoption of an Ordinance Establishing a Personal Vehicle Allowance for the Mayor of \$500 per Month (Archer) **Page 277**
- F. Adoption of an Ordinance Repealing Ordinance No. 632 and Amending Port Orchard Municipal Code Chapter 2.28 Relating to Employment Definitions and Describing Various Forms of Employee Leaves (Lund) **Page 281**
- G. Adoption of an Ordinance Amending Port Orchard Municipal Code Chapter 9.60 Park Rules (Bond) **Page 292**
- H. Adoption of a Resolution Adopting the 2022 City Council Meeting Schedule (Rinearson) **Page 315**
- I. Adoption of a Resolution Adopting the 2022 Legislative Agenda (Rinearson) **Page 317**
- J. Adoption of a Resolution Approving a Contract with Herrera Environmental Consultants, Inc. for the 2021 Stormwater and Watershed Comprehensive Plan-Phase 1 and Documenting Procurement Procedures (Dorsey) **Page 321**
- K. Adoption of a Resolution Approving an Interlocal Agreement with South Kitsap Fire and Rescue for Fire Prevention Services (Archer) **Page 349**

8. DISCUSSION ITEMS (No Action to be Taken)

- A. Continued: Veterans Park

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. If you are attending remotely via telephone, enter *9 from your keypad to raise your hand.)*

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. CITY COUNCIL GOOD OF THE ORDER

15. ADJOURNMENT

COMMITTEE MEETINGS

	Date & Time	Location
Economic Development and Tourism	December 13, 2021; 9:30am – 2 nd Monday of each month	Remote Access
Utilities	December 14, 2021; 5:00pm – 2 nd Tuesday of each month	Remote Access
Finance	December 21, 2021; 5:00pm	Remote Access
Transportation	January 25, 2022; 5:00pm – 4 th Tuesday of each month	Remote Access
Festival of Chimes & Lights	TBD	Remote Access
Land Use	TBD	Remote Access
Lodging Tax Advisory	TBD	Remote Access
Sewer Advisory	February 16, 2022; 6:30pm	Remote Access
Outside Agency Committees	Varies	Varies

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

Agenda Staff Report

Agenda Item No.:	<u>Consent Agenda 4C</u>	Meeting Date:	<u>December 14, 2021</u>
Subject:	<u>Adoption of an Ordinance Approving a</u>	Prepared by:	<u>Mark Dorsey, P.E.</u>
	<u>Contract with the Washington State</u>		<u>Public Works Director</u>
	<u>Transportation Improvement Board for</u>	Atty Routing No:	<u>366922-0009</u>
	<u>the Expanded Bethel Road/Lincoln Avenue</u>	Atty Review Date:	<u>December 8, 2021</u>
	<u>Roundabout Project</u>		

Summary: By the August 13, 2021 application deadline for the Washington State Transportation Improvement Board’s (TIB) 2022 Urban Arterial Program, the City’s Public Works Department applied for additional grant funding to expand the Bethel Road - Lincoln Avenue Roundabout Project to include a Compact Roundabout at the Lincoln Avenue - Mitchell Road Intersection. On November 23, 2021, the City of Port Orchard Public Works Department was officially notified by the TIB that the City was successful in obtaining a \$1,170,000 grant award through the TIB’s 2022 Urban Arterial Program for the now expanded Bethel Road - Lincoln Avenue Roundabout Project with a summary of the terms and conditions as follows:

Max. Grant Amount:	\$1,170,000
Time of Performance	10-Years
Funds Source	Motor Vehicle Fuel Tax

By this action the Council would authorize the acceptance of the grant funding; Project expenditures will be submitted for separate Council approval in accordance with the City’s procurement policies.

Relationship to Comprehensive Plan: Chapter 8 – Transportation

Recommendation: Staff recommends that the City Council adopt Ordinance No. 001-22, thereby authorizing the Mayor to execute Contract No. C008-22 (TIB Contract No. 8-2-153(003)-1) with the Washington State Transportation Improvement Board for the expand the Bethel Road - Lincoln Avenue Roundabout Project in the grant amount of \$1,170,000.

Motion for Consideration: I move to adopt Ordinance No. 001-22, authorizing the Mayor to execute Contract No. C008-22 with the Washington State Transportation Improvement Board for the Bethel Road - Lincoln Avenue Roundabout Project, in the amount of \$1,170,000.

Fiscal Impact: This grant award is added to the already-budgeted local funding of \$1.3M and the \$1.5M HSIP Grant.

Alternative: Refuse Grant

Attachments: Ordinance No. 001-22
TIB Award Letter (dated 11/23/2021)
TIB Agreement No. 8-2-153(003)-1
TIB Project Funding Status Form

ORDINANCE NO. 001-22

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ACCEPTING THE TERMS AND CONDITIONS FOR CONTRACT NO. C008-22 WITH THE WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD (TIB) FOR THE EXPANDED BETHEL ROAD - LINCOLN AVENUE ROUNDABOUT PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, by the August 13, 2021, application deadline for the Washington State Transportation Improvement Board's (TIB) 2022 Urban Arterial Program, the City's Public Works Department applied for additional grant funding to expand the Bethel Road - Lincoln Avenue Roundabout Project to include a compact roundabout at the Lincoln Avenue - Mitchell Road Intersection; and

WHEREAS, on November 23, 2021, the City of Port Orchard Public Works Department was officially notified by the TIB that the City was awarded a \$1,170,000 grant through the TIB's 2022 Urban Arterial Program for the expanded Bethel Road - Lincoln Avenue Roundabout Project; and

WHEREAS, the TIB provided Contract No. C008-22 (TIB Agreement No. 8-2-153(003)-1 with the City of Port Orchard) to memorialize the award and set forth the terms and conditions upon which the grant is awarded, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference; and

WHEREAS, the Port Orchard City Council has determined it to be in the best interest of the City to enter into Contract No. C008-22 with the Washington State Transportation Improvement Board and accept the grant on the terms and conditions stated therein for the Bethel-Lincoln Avenue Roundabout Project; now, therefore,

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

SECTION 1. The City Council hereby authorizes the Mayor's execution of Contract No. C008-22 with the Washington State Transportation Improvement Board (TIB Agreement No. 8-2-153(003)-1) for the expanded Bethel Road - Lincoln Avenue Roundabout Project. .

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 14th day of December 2021.

Robert Putaansuu, Mayor

ATTEST:

SPONSOR:

Brandy Rinearson, MMC, City Clerk

Cindy Lucarelli, Councilmember

APPROVED AS TO FORM:

Charlotte Archer, City Attorney

PUBLISHED:

EFFECTIVE DATE:



Washington State Transportation Improvement Board

November 23, 2021

TIB Members

Chair
Councilmember Sam Low
Snohomish County

Vice Chair
Mayor Glenn Johnson
City of Pullman

Amy Asher
Mason Transit Authority

Aaron Butters, P.E.
HW Lochner Inc.

Susan Carter
Hopelink

Barbara Chamberlain
WSDOT

Elizabeth Chamberlain
City of Walla Walla

Chad Coles, P.E.
Spokane County

Mike Dahlem, P.E.
City of Sumner

Commissioner Al French
Spokane County

Commissioner Scott Hutsell
Lincoln County

John Klekotka, P.E.
Port of Everett

David Ramsay
Feet First

Les Reardanz
Whatcom Transportation Authority

Steve Roark, P.E.
WSDOT

Ruth Robertson
Budget Assistant of the Governor

Peter Rogalsky, P.E.
City of Richland

Councilmember Jan Schuette
City of Arlington

Jennifer Walker
Thurston County

Jane Wall
County Road Administration Board

Mr. Mark Dorsey, P.E.
Public Works Director
City of Port Orchard
216 Prospect Street
Port Orchard, WA 98366-5304

Dear Mr. Dorsey:

Congratulations! We are pleased to announce the selection of your project, Bethel Avenue, Bethel Rd, Lincoln Ave SE, Mitchell Rd SE, TIB project number 8-2-153(003)-1.

TIB is awarding 38.8575% of approved eligible project costs with a maximum grant of \$1,170,000.

Before any work is allowed on this project, you must:

- Verify the information on the Project Funding Status Form, revise if necessary, and then sign and scan;
- Submit the section of your adopted Six Year Transportation Improvement Plan listing this project;
- Sign and scan one copy of the Fuel Tax Grant Distribution Agreement; and
- Return the above items to TIB;

You may only incur reimbursable expenses after you receive approval from TIB.

In accordance with RCW 47.26.084, you must certify full funding by November 19, 2022 or the grant may be terminated. Grants may also be rescinded due to unreasonable project delay as described in WAC 479-05-211.

If you have questions, please contact Chris Langhoff, TIB Project Engineer, at (360) 586-1157 or e-mail ChrisL@TIB.wa.gov.

Sincerely,

Ashley Probart
Executive Director

Enclosures

Ashley Probart
Executive Director

P.O. Box 40901
Olympia, WA 98504-0901
Phone: 360-586-1140
Fax: 360-586-1165



Project Funding Status Form

Agency Name: **PORT ORCHARD**
Project Name: **Bethel Avenue**
Bethel Rd, Lincoln Ave SE, Mitchell Rd SE

TIB Project Number: **8-2-153(003)-1**

Verify the information below and revise if necessary.

Return to: Transportation Improvement Board • PO Box 40901 • Olympia, WA 98504-0901

PROJECT SCHEDULE

Target Dates		
Construction Approval	Contract Bid Award	Contract Completion

PROJECT FUNDING PARTNERS

List additional funding partners and amount.

Funding Partners	Amount	Revised Funding
PORT ORCHARD	1,700,000	
WSDOT	0	
State City Safety Program	1,500,000	
TOTAL LOCAL FUNDS	3,200,000	

Signatures are required from two different agency officials. Return the originally signed form to the TIB office.

Mayor or Public Works Director

Signature

Date

Printed or Typed Name

Title

Financial Officer

Signature

Date

Printed or Typed Name

Title



City of Port Orchard
8-2-153(003)-1
Bethel Avenue
Bethel Rd, Lincoln Ave SE, Mitchell Rd SE

STATE OF WASHINGTON
TRANSPORTATION IMPROVEMENT BOARD
AND
City of Port Orchard
AGREEMENT

THIS GRANT AGREEMENT (hereinafter "Agreement") for the Bethel Avenue, Bethel Rd, Lincoln Ave SE, Mitchell Rd SE (hereinafter "Project") is entered into by the WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD (hereinafter "TIB") and City of Port Orchard, a political subdivision of the State of Washington (hereinafter "RECIPIENT").

1.0 PURPOSE

For the project specified above, TIB shall pay 38.8575 percent of approved eligible project costs up to the amount of \$1,170,000, pursuant to terms contained in the RECIPIENT'S Grant Application, supporting documentation, chapter 47.26 RCW, title 479 WAC, and the terms and conditions listed below.

2.0 SCOPE AND BUDGET

The Project Scope and Budget are initially described in RECIPIENT'S Grant Application and incorporated by reference into this Agreement. Scope and Budget will be further developed and refined, but not substantially altered during the Design, Bid Authorization and Construction Phases. Any material alterations to the original Project Scope or Budget as initially described in the Grant Application must be authorized by TIB in advance by written amendment.

3.0 PROJECT DOCUMENTATION

TIB requires RECIPIENT to make reasonable progress and submit timely Project documentation as applicable throughout the Project. Upon RECIPIENT'S submission of each Project document to TIB, the terms contained in the document will be incorporated by reference into the Agreement. Required documents include, but are not limited to the following:

- a) Project Funding Status Form
- b) Bid Authorization Form with plans and engineers estimate
- c) Award Updated Cost Estimate
- d) Bid Tabulations
- e) Contract Completion Updated Cost Estimate with final summary of quantities
- f) Project Accounting History

4.0 BILLING AND PAYMENT

The local agency shall submit progress billings as project costs are incurred to enable TIB to maintain accurate budgeting and fund management. Payment requests may be submitted as



often as the RECIPIENT deems necessary, but shall be submitted at least quarterly if billable amounts are greater than \$50,000. If progress billings are not submitted, large payments may be delayed or scheduled in a payment plan.

5.0 TERM OF AGREEMENT

This Agreement shall be effective upon execution by TIB and shall continue through closeout of the grant or until terminated as provided herein, but shall not exceed 10 years unless amended by the Parties.

6.0 AMENDMENTS

This Agreement may be amended by mutual agreement of the Parties. Such amendments shall not be binding unless they are in writing and signed by persons authorized to bind each of the Parties.

7.0 ASSIGNMENT

The RECIPIENT shall not assign or transfer its rights, benefits, or obligations under this Agreement without the prior written consent of TIB. The RECIPIENT is deemed to consent to assignment of this Agreement by TIB to a successor entity. Such consent shall not constitute a waiver of the RECIPIENT's other rights under this Agreement.

8.0 GOVERNANCE & VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington and venue of any action brought hereunder shall be in the Superior Court for Thurston County.

9.0 DEFAULT AND TERMINATION

9.1 NON-COMPLIANCE

- a) In the event TIB determines, in its sole discretion, the RECIPIENT has failed to comply with the terms and conditions of this Agreement, TIB shall notify the RECIPIENT, in writing, of the non-compliance.
- b) In response to the notice, RECIPIENT shall provide a written response within 10 business days of receipt of TIB's notice of non-compliance, which should include either a detailed plan to correct the non-compliance, a request to amend the Project, or a denial accompanied by supporting details.
- c) TIB will provide 30 days for RECIPIENT to make reasonable progress toward compliance pursuant to its plan to correct or implement its amendment to the Project.
- d) Should RECIPIENT dispute non-compliance, TIB will investigate the dispute and may withhold further payments or prohibit the RECIPIENT from incurring additional reimbursable costs during the investigation.

9.2 DEFAULT

RECIPIENT may be considered in default if TIB determines, in its sole discretion, that:



- a) RECIPIENT is not making reasonable progress toward correction and compliance.
- b) TIB denies the RECIPIENT's request to amend the Project.
- c) After investigation TIB confirms RECIPIENT'S non-compliance.

TIB reserves the right to order RECIPIENT to immediately stop work on the Project and TIB may stop Project payments until the requested corrections have been made or the Agreement has been terminated.

9.3 TERMINATION

a) In the event of default by the RECIPIENT as determined pursuant to Section 9.2, TIB shall serve RECIPIENT with a written notice of termination of this Agreement, which shall be served in person, by email or by certified letter. Upon service of notice of termination, the RECIPIENT shall immediately stop work and/or take such action as may be directed by TIB.

b) In the event of default and/or termination by either PARTY, the RECIPIENT may be liable for damages as authorized by law including, but not limited to, repayment of grant funds.

c) The rights and remedies of TIB provided in the AGREEMENT are not exclusive and are in addition to any other rights and remedies provided by law.

9.4 TERMINATION FOR NECESSITY

TIB may, with ten (10) days written notice, terminate this Agreement, in whole or in part, because funds are no longer available for the purpose of meeting TIB's obligations. If this Agreement is so terminated, TIB shall be liable only for payment required under this Agreement for performance rendered or costs incurred prior to the effective date of termination.

10.0 USE OF TIB GRANT FUNDS

TIB grant funds come from Motor Vehicle Fuel Tax revenue. Any use of these funds for anything other than highway or roadway system improvements is prohibited and shall subject the RECIPIENT to the terms, conditions and remedies set forth in Section 9. If Right of Way is purchased using TIB funds, and some or all of the Right of Way is subsequently sold, proceeds from the sale must be deposited into the RECIPIENT's motor vehicle fund and used for a motor vehicle purpose.

11.0 INCREASE OR DECREASE IN TIB GRANT FUNDS

At Bid Award and Contract Completion, RECIPIENT may request an increase in the maximum payable TIB funds for the specific project. Requests must be made in writing and will be considered by TIB and awarded at the sole discretion of TIB. All increase requests must be made pursuant to WAC 479-05-202 and/or WAC 479-01-060. If an increase is denied, the recipient shall be liable for all costs incurred in excess of the maximum amount payable by TIB. In the event that final costs related to the specific project are less than the initial grant award, TIB funds will be decreased and/or refunded to TIB in a manner that maintains the intended ratio between TIB funds and total project costs, as described in Section 1.0 of this Agreement.



12.0 INDEPENDENT CAPACITY

The RECIPIENT shall be deemed an independent contractor for all purposes and the employees of the RECIPIENT or any of its contractors, subcontractors, and employees thereof shall not in any manner be deemed employees of TIB.

13.0 INDEMNIFICATION AND HOLD HARMLESS

The PARTIES agree to the following:

Each of the PARTIES, shall protect, defend, indemnify, and save harmless the other PARTY, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from, that PARTY's own negligent acts or omissions which may arise in connection with its performance under this Agreement. No PARTY will be required to indemnify, defend, or save harmless the other PARTY if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other PARTY. Where such claims, suits, or actions result from the concurrent negligence of the PARTIES, the indemnity provisions provided herein shall be valid and enforceable only to the extent of a PARTY's own negligence. Each of the PARTIES agrees that its obligations under this subparagraph extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the PARTIES, by mutual negotiation, hereby waives, with respect to the other PARTY only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provision of Title 51 RCW. In any action to enforce the provisions of the Section, the prevailing PARTY shall be entitled to recover its reasonable attorney's fees and costs incurred from the other PARTY. The obligations of this Section shall survive termination of this Agreement.

14.0 DISPUTE RESOLUTION

- a) The PARTIES shall make good faith efforts to quickly and collaboratively resolve any dispute arising under or in connection with this AGREEMENT. The dispute resolution process outlined in this Section applies to disputes arising under or in connection with the terms of this AGREEMENT.
- b) Informal Resolution. The PARTIES shall use their best efforts to resolve disputes promptly and at the lowest organizational level.
- c) In the event that the PARTIES are unable to resolve the dispute, the PARTIES shall submit the matter to non-binding mediation facilitated by a mutually agreed upon mediator. The PARTIES shall share equally in the cost of the mediator.
- d) Each PARTY agrees to compromise to the fullest extent possible in resolving the dispute in order to avoid delays or additional incurred cost to the Project.
- e) The PARTIES agree that they shall have no right to seek relief in a court of law until and unless the Dispute Resolution process has been exhausted.



15.0 ENTIRE AGREEMENT

This Agreement, together with the RECIPIENT'S Grant Application, the provisions of chapter 47.26 Revised Code of Washington, the provisions of title 479 Washington Administrative Code, and TIB Policies, constitutes the entire agreement between the PARTIES and supersedes all previous written or oral agreements between the PARTIES.

16.0 RECORDS MAINTENANCE

The RECIPIENT shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. RECIPIENT shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Agreement shall be subject at all reasonable times to inspection, review or audit by TIB personnel duly authorized by TIB, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

Approved as to Form
Attorney General

By:

Signature on file

Guy Bowman
Assistant Attorney General

Lead Agency

Transportation Improvement Board

Chief Executive Officer Date

Executive Director Date

Print Name

Print Name



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.:	<u>Consent Agenda 4D</u>	Meeting Date:	<u>December 14, 2021</u>
Subject:	<u>Approval of Amendment No. 2 to</u>	Prepared by:	<u>Mark Dorsey, P.E.</u>
	<u>Contract No. 036-20 with Krazan and</u>		<u>Public Works Director</u>
	<u>and Associates for On-Call Professional</u>	Atty Routing No.:	<u>366922-0009 – PW</u>
	<u>Materials Testing, Inspection and</u>	Atty Review Date:	<u>December 9, 2021</u>
	<u>Geotechnical Services</u>		

Summary: On March 16, 2020, the Port Orchard City Council approved Contract No. C036-20 with Krazan and Associates for On-Call Professional Materials Testing, Inspections and Geotechnical Services in an amount of \$15,000. On April 27th, 2021, Council approved Amendment No. 1 to Contract No. C036-20 for additional services needed to support inspection of development projects and City improvement projects. Budget authority was available for these services in 2021. Amendment No. 1 increased Contract No. C036-20 by \$15,000 to a total of \$30,000.

For 2022, the City has identified additional services needed to support inspection of development projects and City improvement projects. These additional services are connected to and within the scope of the original on-call procurement process, and budget authority is available for these services in 2022. Krazan and Associates and the City have conferred and prepared amendment No. 2 to the contract for these additional services. Before the Council for approval is Amendment No. 2 to the contract that would add these services and the not to exceed amount of the on-call services contract C036-20 would be increased by \$15,000 to a total, not to exceed of \$45,000

Recommendation: Staff recommends the Council authorize the Mayor to execute Amendment No. 2 to Contract No. C036-20 with Krazan and Associates for On-Call Professional Materials Testing, Inspection and Geotechnical services in the amount of \$15,000.00, for a total amended contract amount of \$45,000.00.

Relationship to Comprehensive Plan: N/A

Motion for Consideration: I move to authorize the Mayor to execute Amendment No. 2 to Contract No.C036-20 with Krazan and Associates in the amount of \$15,000.00, for a total amended contract amount of \$45,000.00

Fiscal Impact: Included in 2022 budget.

Attachments: Amendment No. 2
COPO Amendment Authorization

Amendment No. 2 to Contract No. 036-20
CITY OF PORT ORCHARD AGREEMENT WITH
Krazan & Associates

THIS SECOND AMENDMENT to Contract No.036-20 (“Amendment”) is made effective as of the 21st day of December 2021, by and between the City of Port Orchard (“City), a municipal corporation, organized under the laws of the State of Washington, and Krazan and Associates (“Consultant”), a corporation organized under the laws of the State of Washington, located and doing business at 1230 NW Fill Hill Rd #A, Poulsbo WA, 98370.

WHEREAS, on March 16, 2020, the City executed an Agreement for on-call professional materials testing, inspection, and geotechnical services with Krazan Associates, Inc, (“Underlying Agreement”); and

WHEREAS, Section 4 (Compensation) of the Underlying Agreement provides that compensation for these services shall be on a “time and materials not to exceed” basis for services for all Task Orders shall not exceed \$15,000; and

WHEREAS; on April 27, 2021 amendment No. 1 to the Underlying Agreement was approved for additional services and associated fee increase needed to support inspection of development project and City Improvement projects increase the contract from \$15,000 to \$30,000; and

WHEREAS, continued services for on-call professional materials testing, inspection, and geotechnical services are needed and new budget authority is available for 2022; and

WHEREAS, the Consultant and the City have conferred and developed an associated fee increasing the amount of the contract from \$30,000 to \$45,000; and

WHEREAS, the parties wish to memorialize their agreement and so extend the Underlying Agreement;

NOW, THEREFORE, in consideration of the mutual benefits accruing, it is agreed by and between the parties thereto as follows:

1. The Underlying Agreement between the parties, incorporated by this reference as if herein set forth, is amended in, but only in, the following respect:

A. Amended Section 4. Compensation. Compensation under this Agreement will be on a “time and materials, not to exceed” basis. Compensation for services shall not exceed \$45,000.00 (inclusive of all compensation paid after execution of the Agreement but prior to this Amendment), without written authorization and will be based on the list of hourly billing rates and reimbursable expenses set forth in Exhibit A, attached hereto and incorporated herein by this reference.

B. Amended Section 5. Payment.

A. This Agreement does not guarantee any amount of work for the Consultant. Task Orders will be developed as determined by the City and as provided for in this Agreement. The City

shall pay the Consultant an amount based on time and materials, not to exceed Forty-Five Thousand Dollars (\$45,000.00) for the services described in Section 1 herein. This is the maximum amount to be paid under this Agreement for the work described in this Agreement and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section 3 herein before reaching the maximum amount.

C. Amended Section 1. Services by Consultant, and Exhibit A to the Agreement. Exhibit A to this Amendment shall be added to the Agreement to include the additional services that will be performed consistent with this Amendment and the Underlying Agreement. A copy of the new Exhibit A is attached hereto as Attachment 1.

3. In all other respects, the Underlying Agreement between the parties shall remain in full force and effect, amended as set forth herein, but only as set forth herein.

IN WITNESS WHEREOF, the parties have executed this Amendment on the day and year set forth above.

CITY OF PORT ORCHARD,
WASHINGTON

Krazan and Associates, Inc

Robert Putaansuu
Mayor

Wes Mahan
Operations Manager

ATTEST/AUTHENTICATED:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

Charlotte Archer, City Attorney

CITY OF PORT ORCHARD

Authorization for Amendment No. 2

Date: <u>December 14, 2021</u> Project: <u>On Call professional material testing, Inspection & Geotechnical Services</u> Contract / Job # <u>C036-20</u>	Contractor: <u>Krazan & Associates, Inc</u> <u>1230 NW Finn Hill Rd #A</u> <u>Poulsbo, WA 98370</u>
---	--

This amendment increases the contract by \$15,000 from \$30,000 to \$45,000 to provide additional on-call professional material testing, inspections and geotechnical services to support inspection of development and City Improvement projects.

Contract History					
	Amount	Sales Tax	Total	Date	Appvd by
Original Contract	\$15,000.00	\$0.00	\$15,000.00	23-Mar-21	Council
Amendment 1	\$15,000.00	\$0.00	\$15,000.00	15-Nov-21	Council
Amendment 2	\$15,000.00	\$0.00	\$15,000.00	14-Dec-21	Council
Total Contract	\$45,000.00	\$0.00	\$45,000.00		

I have reviewed the Change Order information above and certify that to the best of my knowledge descriptions and costs are true and accurate.

 Contractor Approval Signature

 Printed Name & Title

 Public Works Director/City Engineer

MARK R. DORSEY, P.E.

 Printed Name

Change Orders that do not exceed 10%, with a maximum of \$50,000, of either legally authorized budget limit or contract amount established by City Council can be approved by the Public Works Director.

Approved: _____
 Mayor

Change Orders that do not exceed 10%, with a maximum of \$100,000, of either legally authorized budget limit or contract amount established by City Council are to be approved by the Mayor.

Attest: _____
 City Clerk

Change Orders over \$100,000 or exceed a total of 10% require Council Action.

 Council Approval Date



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

Agenda Staff Report

Agenda Item No.:	<u>Consent Agenda 4E</u>	Meeting Date:	<u>December 14, 2021</u>
Subject:	<u>Approval of an Interlocal Agreement</u>	Prepared by:	<u>Mark Dorsey, P.E.</u>
	<u>No. KC-562-21 with Kitsap County Public</u>		<u>Public Works Director</u>
	<u>Works Regarding Traffic Signal Repair and</u>	Atty Routing No:	<u>366922.0009-PW</u>
	<u>Maintenance</u>	Atty Review Date:	<u>December 8, 2021</u>

Summary: In 2010, after years of traffic signal repair and maintenance performed by the City of Bremerton, the City of Port Orchard entered into an Interlocal Agreement (ILA) with the Kitsap County Public Works Department for continued Traffic Signal/Intersection Street Light Repair and Maintenance. On March 26, 2019, in response to the intersection modifications associated with the Tremont Street Widening Project, an updated ILA was executed by the parties (City Contract No. C030-19). In 2021, the County provided the City with an updated ILA to cover the continued repair and maintenance work, with a term ending in 2024 (with an option to extend.)

On September 28, 2021, the City Council authorized the Mayor to execute the new ILA (City Contract No. C092-21.) The Mayor executed the ILA and it was sent to the County for signature. On November 1, 2021, the County notified staff that the County required a change to the County’s draft ILA. That change was a modification of Section 7, Indemnification, as follows (change shown in strikethrough/underline):

~~Each party, to the extent of its own negligence, shall defend, indemnify and hold the other party, its officers, officials, employees, and agents harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorney fees, arising out of or in connection with the indemnitor's performance of this Agreement. Neither party assumes responsibility to the other party for the consequences of any act or omission of any person, firm or corporation not a party to this Agreement. The COUNTY accepts no responsibility for the performance or suitability of any good or service to be provided by third party vendors.~~

To the fullest extent allowed by law, the City shall defend, indemnify and hold harmless at the City’s sole expense Kitsap County, its elected and appointed officials, officers, employees and agents, from and against any and all claims, actions, demands, losses, damages, liabilities and costs, including but not limited to, attorney fees and litigation costs, arising from or in connection with this Agreement, whether the demand, loss or claim is due to the negligence of the County, its elected and appointed officials, officers, employees, agents, or third parties, except that the City shall not be liable for injury or damages caused by the sole negligence or willful misconduct of Kitsap County, its elected or appointed officials, officers, employees of agents. Each party agrees to notify the other party within two weekdays of any claims made related to this Agreement.

The new ILA (City Contract No. 092-21-B) requires review and approval by the City Council. This would serve to replace for ILA (City Contract No. 092-21) previously approved of by the City Council, which the County is refusing to execute absent the above change to the indemnification provision.

If authorized, the ILA would become effective on January 1, 2022, for a two (2) year term plus two (2) one-year options to renew. For financial consideration, a monthly fee of \$385.80 for each signal shall be paid, along with Time and Materials compensation for the repair, maintenance, and replacement of all other Traffic Control Devices from a \$7,500.00 Reserve Fund (to be replenished as needed.)

Relationship to Comprehensive Plan: Chapter 8 – Transportation.

Recommendation: Staff recommends the Council approve Contract No. C092-21-B, authorizing the Mayor to execute the amended Kitsap County Interlocal Agreement No. KC-562-21 with Kitsap County Public Works.

Motion for Consideration: I move to approve Contract No. C092-21-B and authorize the Mayor to execute the Interlocal Agreement No. KC-562-21 with Kitsap County Public Works traffic signal repair, maintenance and replacement.

Fiscal Impact: Budgeted item within the approved 2021-2022 Biennial Budget.

Alternatives: None.

Attachments: Interlocal Agreement No. KC-562-21 (City Contract No. 092-21-B)
City Attorney memo on indemnification issue (sent separately)

**INTERLOCAL AGREEMENT KC-562-21 BETWEEN
KITSAP COUNTY AND THE CITY OF PORT ORCHARD (Contract No. 092-21-B)
FOR
REIMBURSABLE WORK PERFORMED BY
KITSAP COUNTY PUBLIC WORKS**

This Interlocal Agreement is made and entered into pursuant to the provisions of Chapter 39.34 RCW by and between Kitsap County (hereinafter the "COUNTY") and the City of Port Orchard (hereinafter the "CITY"), collectively the "Parties."

RECITALS

- A. WHEREAS the City of Port Orchard owns and operates electric streetlights, street light systems, traffic signals, traffic control devices and flashers situated within the City of Port Orchard;
- B. WHEREAS, Kitsap County has personnel skilled in maintaining streetlights, street light systems, traffic signals, traffic control devices, and flashers, and Kitsap County wants to provide maintenance services to the street lighting and traffic control equipment owned and operated by the City of Port Orchard;

AGREEMENT

NOW, THEREFORE in consideration for the foregoing recitals, which are incorporated herein by reference, and the mutual promises and covenants, contained herein, it is hereby agreed as follows:

Section 1. PURPOSE.

This Agreement continues the longstanding cooperation between the Parties whereby the COUNTY will provide maintenance services for traffic signals, as identified in Exhibit A, (hereinafter "Traffic Signals"), incorporated in full by this reference. The COUNTY will repair radar speed signs, lighted crosswalk and warning flashers located in the CITY, (hereinafter "Traffic Control Devices") as identified in EXHIBIT B and incorporated in full by this reference. The COUNTY will repair the Traffic Control Devices on a time and materials basis and only when expressly requested by the CITY. The Parties may amend the number and locations of Traffic Signals and Traffic Control Devices from time to time and may revise the Exhibits on an annual basis.

Section 2. TERM.

This Agreement shall become effective on October 1, 2021 for a two (2) year term ending September 30, 2023, with two one-year options to renew following prior notice and written consent of the parties.

Section 3. CONSIDERATION.

Commencing October 1, 2021, the CITY shall pay the COUNTY three hundred eighty-five dollars and eighty cents (\$385.80) per month for each Traffic Signal. Such payment

shall apply to the first year of this Agreement and is payable to the COUNTY in quarterly installments due thirty (30) days after receipt of an invoice from the COUNTY ("Base Year"). The CITY shall pay the COUNTY on a time and materials basis for repair of Traffic Control Devices.

In the event the CITY adds additional Traffic Signals requiring maintenance, the CITY shall pay the sum of three hundred eighty-five dollars and 80 cents (\$385.80) per month per Traffic Signal which shall be paid quarterly thirty (30) days after receipt of an invoice and pro-rated to the date of activation.

At the beginning of each successive year thereafter, all charges shall automatically adjust in an amount equal to the percentage change in the "all items" category of the Consumer Price Index for All Urban Consumers ("CPI-U") as published by the Bureau of Labor Statistics of the U.S. Department of Labor for the Seattle-Tacoma-Bellevue metropolitan statistical area for the month of June. If at any time during the term of this Agreement the practice of computing the CPI-U is abandoned or altered by the U.S. Department of Labor, this Agreement shall be revised by mutual agreement of the parties to identify a substitute standard.

Section 4. SERVICES PROVIDED.

- A. This Agreement shall cover the annual maintenance of all Traffic Signals described in the Agreement. In addition, the CITY shall create a reserve which shall be administered by the COUNTY in the amount of seven thousand five hundred dollars (\$7,500.00) (the "Reserve"). The Reserve shall be used to cover the cost of time and materials for the repairs not included in the annual maintenance. The CITY shall replenish the Reserve immediately upon receipt of notice from the COUNTY that the Reserve has become exhausted such that the Reserve is restored to \$7,500.00. Once the Reserve has been exhausted, the CITY shall pay additional cost on a time and materials basis for work requested by the CITY. The CITY shall be required to replace any major piece of equipment with a cost of over \$1,000.00, and upon the CITY's request, the COUNTY will assist the CITY in the ordering and acquisition of such replacement equipment.
- B. The COUNTY shall provide annual maintenance of the Traffic Signals listed in EXHIBIT A. The annual maintenance will consist of a complete inspection of the traffic signal, conflict monitor testing, cleaning the cabinet and electronic components, and complete overhead inspection and cleaning. The COUNTY will perform a monthly visual operation analysis of the signal covered by the contract to detect any malfunctions and failures.
- C. Annual maintenance does not include signal coordination and timing, locates or consulting services.
- D. The CITY may provide LED modules to change out lamps or outdated LEDs at the CITY's sole expense. The COUNTY will provide labor at no extra cost while performing retrofit heads to LEDs, but conversion replacement LEDs shall be conducted at the CITY's expense.
- E. The COUNTY shall coordinate and inspect the replacement and installation of failed traffic signal loops by a contractor when requested to do so by the CITY.

This is part of the COUNTY's role as consultant and will be charged against the Reserve.

- F. The COUNTY may provide services to the CITY as a construction management consultant for the purpose of assisting in the design and inspection of new traffic signal and lighting systems. Consulting services are not considered annual maintenance and shall be charged against the Reserve.
- G. In the event the repair Reserve has been exhausted, and the COUNTY provides services before the Reserve is replenished, the CITY shall reimburse the COUNTY on a time and materials basis.

Section 5. EQUIPMENT.

The COUNTY shall provide services described in Section 4 for the street lighting, and traffic signal equipment located within the CITY. The equipment includes and is limited to:

- A. Traffic Signal Controllers
- B. Load Switches
- C. Detection Equipment
- D. Conflict Monitor Units
- E. Pre-exemption Equipment
- F. Auxiliary Cabinet Wiring
- G. Traffic Signal Loops
- H. Traffic Signal Circuit Wiring
- I. Signal Heads, Pedestrian Heads, LEDs
- J. Street Lighting Equipment
- K. Street Light Circuit Wiring
- L. Traffic Signal Timing; install and maintain City provided plans from data provided by City.
- M. Flashers, school flashers, and fire station flashers.

Section 6. TIME OF SERVICE.

The COUNTY shall provide additional coverage 24 hours a day, 7 days a week for all Traffic Signal failures and malfunctions, and Traffic Control Devices, including and not limited to damage caused to traffic signals by traffic accidents and weather conditions. The CITY shall have the option at the CITY's sole expense to secure services from another agency for emergency response situations if the COUNTY is unable to respond in a timely manner. Failures, malfunctions and damages shall not be considered annual maintenance and will be charged against the Reserve.

Section 7. INDEMNIFICATION.

To the fullest extent allowed by law, the City shall defend, indemnify and hold harmless at the City's sole expense Kitsap County, its elected and appointed officials, officers, employees and agents, from and against any and all claims, actions, demands, losses, damages, liabilities and costs, including but not limited to, attorney fees and litigation costs, arising from or in connection with this Agreement, whether the demand, loss or claim is due to the negligence of the County, its elected and appointed officials, officers, employees, agents, or third parties, except that the City shall not be liable for injury or

damages caused by the sole negligence or willful misconduct of Kitsap County, its elected or appointed officials, officers, employees of agents.

Each party agrees to notify the other party within two weekdays of any claims made related to this Agreement.

The indemnification provision shall survive the expiration or termination of this Agreement.

Section 8. TERMINATION.

This Agreement may be terminated by either party, with or without cause, with sixty (60) days prior written notice to the other.

Section 9. GENERAL PROVISIONS.

9.1 Governing Law and Attorney's Fees.

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Any judicial action to resolve disputes arising out of this Agreement shall be brought in Kitsap County Superior Court. In the event of litigation to enforce any of the terms or provisions herein, each party shall pay all its own costs and attorney's fees.

9.2 Amendment.

This Agreement may be amended from time to time as deemed appropriate by the Parties, provided, any such amendment shall become effective only after it has been adopted in writing by the authorized representatives of the Parties.

9.3 Entire Agreement.

This Agreement contains the entire understanding of the Parties and supersedes any other agreement or understanding between the Parties relating to the subject matter of this Agreement.

9.4 Compliance with Laws.

The Parties shall comply with all applicable rules and regulations pertaining to them in connection with the matters covered herein.

9.5 Severability.

The provisions of this Agreement are severable. Any term or condition of this Agreement or application thereof deemed to be illegal, invalid or unenforceable, in whole or in part, shall not affect any other term or condition of the Agreement and the Parties' rights and obligations will be construed and enforced as if the Agreement did not contain the particular provision.

9.6 Implied Contract Terms.

Each provision of law and any terms required by law to be in the Agreement are made a part of the Agreement as if fully stated in it.

9.7 Assignment.

The rights or obligations under this Agreement, and any claims arising thereunder, are not assignable or delegable, in whole or in part, by any party to this Agreement.

9.8 Waiver.

A failure by any party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party.

9.9 Headings.

Headings of this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

9.10 Recording.

This Agreement shall be recorded with the Kitsap County Auditor's Office in compliance with RCW 39.34.040.

9.11 Further Acts.

Each party shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement.

9.12 Counterparts.

This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, with each counterpart deemed an original.

9.13 Authorization.

Each person signing below warrants that they have full power and authority to execute this Agreement on behalf of the party for whom they sign.

9.14 No Third-Party Beneficiary.

No provision of this Agreement is intended to, nor shall it be construed to, create any third-party beneficiary or provide any rights or benefits to any person or entity other than the COUNTY and the CITY.

9.15 Administration; No Separate Entity Created.

The CITY Public Works Director shall serve as the administrator of this Agreement. No separate legal entity is formed by this Agreement.

9.16 Ownership and Disposition of Property.

Each party shall retain ownership of all real and personal property used in connection with this Agreement.

9.17 No Employment Relationship Created.

The parties agree that nothing in this Agreement shall be construed to create an employment relationship between any party and any employee, agent, representative or contractor of the other party.

Section 10. NOTICE.

All communications and payments hereunder may be delivered or mailed. If mailed, they shall be sent to the Parties at the addresses listed below by registered or 1st class mail, or by personal service, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereafter specified in writing.

City of Port Orchard:
City Hall
216 Prospect Street
Port Orchard, WA 98366

County:
Jeff Shea
614 Division Street MS-26
Port Orchard, WA 98366

Executed this _____ day of _____, 2022.

APPROVED:

**BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY**

CITY OF PORT ORCHARD
ROBERT PUTAANSUU, Mayor

EDWARD E. WOLFE, Chair

Brandy Rinearson, MMC, City Clerk

CHARLOTTE GARRIDO, Commissioner

ROBERT GELDER, Commissioner

ATTEST:

Dana Daniels, Clerk of the Board

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Charlotte A. Archer, City Attorney

Elizabeth Doran, Deputy Prosecuting Attorney

EXHIBIT A
TRAFFIC SIGNAL INVENTORY

LOCATION	#
Tremont & Sidney	1
Tremont & Port Orchard Blvd.	1
Tremont & Pottery (Flasher Controlled Roundabout)	1
Sidney & Sedgwick	1
Bethel & Lund	1
Bethel & Wal-Mart	1

EXHIBIT B

TRAFFIC CONTROL DEVICES

SOLAR POWERED SPEED RADAR SIGNS	#
SW Sedgwick Rd Speed Limit Radar Sign	1
McCormick Woods Dr. SW Speed Limit Radar Sign	1
SE Lund Ave Speed Limit Radar Sign	1
Beach Dr E Speed Limit Radar Sign	1

FLASHERS	#
Sidney Glen Elementary School Flashers	2
South Kitsap High School Flashers	2
Cedar Heights Junior High School Flashers	4

RECTANGULAR RAPID FLASHING BEACONS (RRFB)	#
Tremont St W between S. Kitsap Blvd & Pottery Ave	3



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.: Consent Agenda 4F
Subject: Adoption of a Resolution Approving the
Purchase of an Electric City Parks Vehicle
for the Equipment Rental and Revolving
Fund No. 500

Meeting Date: December 14, 2021
Prepared by: Mark Dorsey, P.E.
Public Works Director
Atty Routing No.: 366922-0009 – PW
Atty Review Date: December 8, 2021

Summary: In an effort to improve maintenance operations of the City Parks and lessen the City’s carbon footprint, staff researched and found an electric vehicle, MAX-EV 15-4 wheel LSV with right hand drive, meeting the requirements of the City. The City is a member of the purchasing cooperative Sourcewell, formally known as the National Joint Power Alliance (NJPA), a Minnesota Public Agency. On June 22, 2021, Public Works Department staff identified Westward Industries as an approved vendor through Sourcewell (Contract No. 122220-WWI) for supplying equipment, products, or services. On November 5, 2021, MC Electric Vehicles, the local distributor for Westward Industries, provided a quote of \$40,080.00 (plus applicable tax) for a total purchase price of \$42,198.44, consistent with Sourcewell Contract No. 122220-WWI. Staff then reviewed the procurement process utilized by Sourcewell for this Contract to confirm the procurement requirements were met, and obtained the necessary documentation regarding procurement. On November 5, 2021, the City’s Public Works Department completed the Interlocal Agreement Purchase Checklist for Sourcewell.

Funding for this purchase was authorized during the 2021-2022 Mid-Biennial review process for the Equipment Rental and Revolving Fund No. 500. The proposed purchase is within budgeted authority. The City Council has approved procurement policies which require City Council authorization for purchasing items costing \$35,000 or more. The purchase order attached as Exhibit A is for the purchase of a vehicle in an amount that exceeds the \$35,000 authorization limit. The Port Orchard City Council, at the 2015 recommendation of the State Auditor's Office, wishes to document their selection/procurement process as described herein for this purchase by Resolution.

Recommendation: Staff recommends adopting Resolution No. 078-21 to approve the purchase of an electric vehicle from MC Electric Vehicles in the amount of \$42,198.44 (applicable WSST included) through the NJPA-Sourcewell roster for an addition to the Fleet of the Equipment Rental and Revolving Fund No. 500.

Relationship to Comprehensive Plan: Chapter 4- Parks

Motion for consideration: I move to adopt Resolution No. 078-21, thereby approving the purchase of an electric vehicle from MC Electric vehicles in the amount of \$42,198.44.

Fiscal Impact: The purchase of this electric vehicle was approved during the 2021-2022 Mid-Biennial budget review process.

Alternatives: Do not approve resolution and provide alternative guidance.

Attachments: Resolution, Exhibit A- Vendor quote & procurement documentation.

RESOLUTION NO. 078-21

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, APPROVING THE PURCHASE OF AN ELECTRIC VEHICLE FOR THE EQUIPMENT RENTAL AND REVOLVING FUND AND DOCUMENTING PROCUREMENT PROCEDURES.

WHEREAS, to improve maintenance operations of the City Parks and lessen the City's carbon footprint, staff researched and found an electric vehicle, MAX-EV 15-4 wheel LSV with right hand drive, meeting the requirements of the City; and

WHEREAS, the City is a member of the purchasing cooperative Sourcewell, formally known as the National Joint Power Alliance (NJPA), a Minnesota Public Agency; and

WHEREAS, on June 22, 2021, Public Works Department staff identified Westward Industries as an approved vendor through Sourcewell (Contract No. 122220-WWI) for supplying equipment, products, or services; and

WHEREAS, on November 5, 2021, MC Electric Vehicles, the local distributor for Westward Industries, provided a quote of \$40,080.00 (plus applicable tax) for a total purchase price of \$42,198.44, and Staff then reviewed the procurement process utilized by Sourcewell for this Contract to confirm the price was consistent with Sourcewell Contract No. 122220-WWI, procurement requirements were met by Sourcewell, and Staff obtained the necessary documentation regarding procurement; and

WHEREAS, on November 5, 2021, the City's Public Works Department completed the Interlocal Agreement Purchase Checklist for Sourcewell; and

WHEREAS, funding for this purchase was authorized during the 2021-2022 Mid Biennial review process for the Equipment Rental and Revolving Fund No. 500; and

WHEREAS, the proposed purchase is within budgeted authority; and

WHEREAS, the City Council has approved procurement policies which require City Council authorization for purchasing items costing \$35,000 or more; and

WHEREAS, MC Electric Vehicles quote attached as Exhibit A is for the purchase of a vehicle in an amount that exceeds the \$35,000 authorization limit; and

WHEREAS, the Port Orchard City Council, at the 2015 recommendation of the State Auditor's Office, wishes to document their selection/procurement process as described herein for this purchase by Resolution; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

THAT: It is the intent of the Port Orchard City Council that the recitals set forth above are hereby adopted and incorporated as findings in support of this Resolution.

THAT: The City Council approves the purchase of the vehicle listed in the documents attached hereto in Exhibit A. The Mayor or his designee is authorized to take action consistent with this authorization.

THAT: The Resolution shall take full force and effect upon passage and signatures hereon.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the City Clerk in authentication of such passage on this 14th day of December 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

Exhibit A



MAX-EV 15kw - LSV/NEV

2021 Tier 1 Dealer Vehicle & Options Order Form.
Sourcewell Bld Award now necessitates more customer auditing information.
Must be submitted along with distributors PO
Page 1 of 2

Was Sourcewell used for this customer sale?

Form with 'No' and 'Yes' checkboxes, 'Yes' is checked.

MANDATORY: Attach customer PO with customers Sourcewell member number

Empty rectangular box

Distributor Name:

Name of person submitting: JIM JOHNSON
Name of person authorizing: JIM JOHNSON
Contact Email: jim@mcelectricvehicles.com
Contact PH #: (206)328-1750
Sales Representative Name:

PO#

Ship to Address (if not on PO): 216 PROSPECT STREET, PORT ORCHARD, WA 98366

Bill to Address if different (if not on PO):

Customer Contact Info (mandatory for sourcewell and warranty)

Customer/Municipality Name: CITY OF PORT ORCHARD
Users group contact Name: TONY LANG
Address: 216 PROSPECT STREET, PORT ORCHARD, WA 98366
Users title (eg parking enforcement mgr): OPERATIONS MANAGER
Users email: tlang@cityofportorchard.us
Users ph #: (360)535-2490

or

Fleet/Procurement (acquisition, service):

Fleet contact name:
Fleet contact email:
Fleet contact ph #:

General Order Notes

Notes: The MAX.EV does not include a charging station or power cord.
Our J1772 adaptor works with nearly all charging stations.
*Many factors determine range including terrain, climate, and operator driving. Range is estimated without heat or AC.
Costs and Margins are based on an engaged dealer sales transaction, otherwise total margin is limited to 15% (LPR is flat \$1000)
LPR cameras and Telematics systems are available, Inquire.
All prices quoted are in US \$. F.O.B.: Winnipeg, Manitoba Canada, Applicable taxes or freight are extra. Quote expires in 60 days.
Check with factory for lead time. Typically anywhere from 60 to 150 days from PO
1% Sourcewell MSRP discount for orders over 10 units
It is recommended that dealers sell on-site service as a separate program to pay for travel time.

Any Additional notes on this order?

Large empty rectangular box for additional notes

page 2 below



MAX-EV 15kw - LSV/NEV
Effective: October 1, 2021

2021 Tier 1 Dealer Vehicle & Options Order Form.
Sourcewell Bid Award now necessitates more customer auditing information.
Must be submitted along with distributors PO

Optional Equipment	Part #	Qty.	Total	MSRP	Total
Standard Vehicle					
White MAX - 15kw-72v Range 70 - 80 Miles*			\$ -	\$ 26,500.00	\$ -
Sourcewell White MAX - 15kw-72v Range 70 - 80 Miles*	122220-WWI	1	\$ -	\$ 25,440.00	\$ 25,440.00
Black MAX - 15kw-72v Range 70 - 80 Miles*			\$ -	\$ 26,500.00	\$ -
Sourcewell Black MAX - 15kw-72v Range 70 - 80 Miles*	122220-WWI		\$ -	\$ 25,440.00	\$ -
Doors and Drive					
Hard Hinged Doors	8-831-050P	1	\$ -	\$ 2,350.00	\$ 2,350.00
Rear Cab Wrapper & Sliding Rear Window (to enclose cab)	8-809-090P	1	\$ -	\$ 850.00	\$ 850.00
Right Hand Drive	8-800-002P	1	\$ -	\$ 1,495.00	\$ 1,495.00
Bed Configuration					
62"x50" Flat Bed - INCLUDED					
60"x48" Flat Bed w/ fold down sides/gate	8-827-021P	1	\$ -	\$ 675.00	\$ 675.00
Tool Box - Industrial metal with two doors	8-012-001P		\$ -	\$ 995.00	\$ -
Ladder Rack	8-071-001P		\$ -	\$ 995.00	\$ -
Tow Hitch mounting bracket	8-802-001P		\$ -	\$ 425.00	\$ -
Van body - Incl 1 rear door	8-827-028P		\$ -	\$ 2,950.00	\$ -
Add window (fill separate form)	601-845-001P		\$ -	\$ 150.00	\$ -
Add door (fill separate form)	8-827-029P		\$ -	\$ 350.00	\$ -
Tilt bed lift actuator	8-827-050P		\$ -	\$ 1,295.00	\$ -
Upgraded payload suspension - See specs	8-513-002P		\$ -	\$ 1,495.00	\$ -
Comfort and Convenience					
Electric Heat & blower fan	8-819-003P	1	\$ -	\$ 750.00	\$ 750.00
Air Conditioning, must include heat & blower fan	8-820-124P	1	\$ -	\$ 2,575.00	\$ 2,575.00
Power assist steering	8-422-022P		\$ -	\$ 1,165.00	\$ -
Power assist Brakes with Regen (recommended for heavy loads)	8-614-009P		\$ -	\$ 495.00	\$ -
Bluetooth Radio, Speakers, Incl' Inner Ceiling liner	8-817-009P		\$ -	\$ 675.00	\$ -
Rear parking safety sensors with audible alarm	6-880-009P			\$ 495.00	
Inside Cab Rear view Mirror	8-880-006P	1	\$ -	\$ 150.00	\$ 150.00
Inside cab ceiling light	6-940-001P	1	\$ -	\$ 150.00	\$ 150.00
Inside cab fan - for extra cooling	601-940-005P	1	\$ -	\$ 175.00	\$ 175.00
Rubber Floor Mat	8-061-002P	1	\$ -	\$ 165.00	\$ 165.00
Extra set of keys	8-002-002P	1	\$ -	\$ 35.00	\$ 35.00
Electrical					
Back up Alarm	1-96-003P		\$ -	\$ 195.00	\$ -
Hella LED Amber Roof light Installed (need pre wire)	7-944-003P	1	\$ -	\$ 695.00	\$ 695.00
Pre wired hook up for a Roof Light Bar	6-86-120-02P	1	\$ -	\$ 150.00	\$ 150.00
J 1772 - 2 in 1 Portable charging cord 120V/220V	7-965-003P			\$ 699.00	
J 1772 -Portable charging cord 220V	7-965-006P		\$ -	\$ 349.00	\$ -
J 1772 -Portable charging cord 120V	7-990-013P		\$ -	\$ 349.00	\$ -
EV Diagnostic tool kit	7-990-003p	1	\$ -	\$ 1,250.00	\$ 1,250.00
Miscellaneous					
Alloy rim upgrade	8-601-001P		\$ -	\$ 1,295.00	\$ -
Spare Tire & Jack kit	6-020-004P	1	\$ -	\$ 295.00	\$ 295.00
Winter grip - traction radial tire option - set of 4	601-600-006P		\$ -	\$ 645.00	\$ -
Nerf bar (front bumper)	8-807-024P	1	\$ -	\$ 385.00	\$ 385.00
Service manual	8-010-001P	1	\$ -	\$ 495.00	\$ 495.00
Sub Total Excluding Freight and PDI			\$ -		\$ 38,080.00
Estimated Freight and PDI Cost/Retail \$					\$ 2,000.00
Any other equipment quote install needed? If ye: please list items below.					
Has equipment been placed on order?					
				\$ -	\$ 40,080.00
Add: Washington State Sales Tax @10.55% on (\$40,080 - \$20,000)					\$ 7,118.44
Authorized Name and Signature: <i>A.T.Z.</i>				Date: 11/15/2021	\$42,198.44

Tony Lang

To: Tony Lang
Subject: RE: Max-EV Quote

From: Jim <jim@mcelectricvehicles.com>
Sent: Friday, November 5, 2021 11:51 AM
To: Tony Lang <tlang@cityofportorchard.us>
Cc: 'Suk Chan' <suk@mcelectricvehicles.com>; 'Chris Franz' <chris@wwi-go4.com>
Subject: RE: Max-EV Quote

Good day Tony—

I have attached your requested updated quote for the 15 kw lithium MAX 4 with right hand drive and options. The Sourcewell contract was renewed on October 1 and increased prices.

The base price for this vehicle is \$26,500 and your Sourcewell discount at 4% is \$1,060.00—as shown on the quote sheet as net \$25,440.00

Please add your Sourcewell member number with your purchase order to us.

The factory has been shipping to us in relatively short time periods during these supply chain problems so , after we receive your PO , we can give you an estimated delivery date.

The first \$20,000 is sales tax exempt from WSST. The sales tax charge is based on our dealership location in Seattle. This vehicle can be charged at any J1772 charge location.

We will deliver and train at your destination in Port Orchard—we can also provide licensing for you, if desired, at an additional charge.

We look forward to working with you.

Thanks

Sincerely,

Jim Johnson

Founder/Manager

MCEV Co., LLC

DBA: M C Electric Vehicles

Website: www.mcelectricvehicles.com

email: jim@mcelectricvehicles.com

Phone: 206-328-1750/ cell--206-730-9457

2401 Airportway S , SEATTLE,WA 98134



Official
CERTIFICATE OF MEMBERSHIP

City of Port Orchard
Member #26305

This certificate entitles the entity named above the opportunity to purchase off of nationally, competitively bid contracts. The entity will save time by using pre-bid contracts, save money by leveraged volume pricing and obtain quality products from nationally acclaimed vendors.

Contract No. 075-14




Duff Erholtz, Membership Manager

Competitively Bid National Cooperative Contract Solutions

CITY OF PORT ORCHARD
PURCHASES THROUGH INTERLOCAL AGREEMENTS

City Contract No.: C075-14

Interlocal Agreement with the Host Agency (government agency or Purchasing Co-Op name): Sourcewell

Item Description: Max-EV 15; 4 wheel LSV

Do you have an Interlocal agreement signed with the Contract (host) Agency?

- If yes, where is it filed: Clerk's
- If no, get a mutually signed Agreement in place before you continue.

Sourcewell Contract No. #: 122220-WWI

If you have an Office of State Procurement (OSP) contract number you may skip the remainder of this test because the OSP contracts comply with remaining requirements and retain the documentation on hand for SAO to review in the OSP offices.

Is this a technology contract? No

- If yes, do your own rules allow for technology contracts to be negotiated?
- If your own rules allow for negotiated IT contracts, you can skip this test.

Is this a services contract? No

- If yes, do your own rules allow services to be negotiated?
- If your own rules allow for negotiated services, you can skip the remainder of the test.

Are you using this as only one of multiple quotes, for a small purchase? No

- If yes, you can skip the remainder of the test. Your purchase will not mandate the sealed bid rules.

Checklist for Required Compliance

Is the Host agency a public agency ¹ ?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	If Yes, what state laws apply to Host Agency:
Does the host agency have a requirement to run a newspaper ad in their local paper and did they comply	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Federal and State contract rules usually don't require a newspaper ad. For others, attach the ad or place into the file
Did they list on the public agency's website?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	If Yes, state when and the address, and proof of date, address shall be attached or placed into the file. If No, you cannot use the bid.
Did the bid & award comply with the Host agency's state procurement laws?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	If Yes, obtain documentation to support answer from Host Agency. If No, you cannot use the bid.

¹ RCW 39.34.020 (1), "public agency" means any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi municipal corporations, special purpose districts, and local service districts; any agency of the state government; any agency of the United States; any Indian tribe recognized as such by the federal government; and any political subdivision of another state



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.: Consent Agenda 4G
Subject: Approval of the Purchase of Equipment for
the Equipment Rental and Revolving Fund
No. 500

Meeting Date: December 14, 2021
Prepared by: Donna Main
Deputy Chief of Police
Atty Routing No.: N/A
Atty Review Date: N/A

Summary: The City Council adopted the 2021-2022 Biennial Budget, which included \$709,000 for the purchase of vehicles and equipment for the Equipment Rental and Revolving Fund 500.

The City’s Procurement Policies require City Council approval for purchases costing \$35,000 or more.

The equipment listed in the proposed resolution is within the limits of the Biennial Budget and meets the City’s fleet standardization policies.

The proposed Resolution is to provide the City Council’s approval of the vehicle purchases in accordance with the procurement procedures established by the City Council.

Recommendation: Staff recommends approving the Resolution as proposed.

Relationship to Comprehensive Plan: N/A

Motion for consideration: “I move to approve the purchase of vehicles and equipment in accordance with the City’s fleet standardization policies and the 2021-2022 Biennial Budget.

Fiscal Impact: Estimate Cost: ~\$ 56,000

Alternatives: Do not approve resolution and provide alternative guidance.

Attachment: Vehicle documentation.

Donna Main

From: NOREPLY@des.wa.gov
Sent: Wednesday, November 17, 2021 12:40 PM
To: Donna Main
Cc: noreply@des.wa.gov
Subject: Vehicle Quote - 2021-11-292 - PORT ORCHARD, CITY OF - 21802

Vehicle Quote Number: 2021-11-292 [Create Purchase Request](#) [View organization purchase requests](#)

This is a **quote** only. You must create a purchase request to order this vehicle(s)

Contract & Dealer Information

Contract #: 05916	Dealer Contact: Marie Tellinghiusen
Dealer: Bud Clary Ford/Hyundai (W403)	Dealer Phone: (360) 423-4321 Ext: 7187
700 7th Avenue / PO Box 127	Dealer Email: ford.orders@budclary.com
Longview WA 98632	

Organization Information

Organization: PORT ORCHARD, CITY OF - 21802
Email: dmain@cityofportorchard.us
Quote Notes:
Vehicle Location: PORT ORCHARD

Color Options & Qty

Agate Black (UM) - 1

Tax Exempt: N

Vehicle Options

Order Code	Option Description	Qty	Unit Price	Ext. Price
2022-0521-001	2022 Ford Police Interceptor AWD Pursuit-Rated Utility/SUV (K8A/500A)	1	\$33,676.00	\$33,676.00
2022-0521-012	Alternative Hybrid (HEV) Engine System [318 HP (combined system HP), 285 HP (gas engine) @ 6500 RPM, 260 lb.-ft. Torque @ 4000 RPM] (6840# GVWR, 1670 # Payload, 5000# Towing Capacity, 7.4in Ground Clearance) [Includes 3.3L V6 Direct-Injection Hybrid Engine System, Lithium-Ion Battery Pack (does not intrude into the cargo area), police calibrated high-performance regenerative braking system, DC/DC converter 220-Amp (in lieu of alternator), H7 AGM Battery - 800 CCA / 80-Amp, 19-Gallon Fuel Tank, 8-Year/100,000-Mile Hybrid Unique Component Warranty] (Not compatible with 3.0L V6 EcoBoost option) (99W/44B)	1	\$3,325.00	\$3,325.00
2022-0521-015	Front Headlamp Lighting Solution [Includes Pre-wire for Grille LED Lights, Siren and Speaker #60A; LED Low Beam/High Beam Headlamp, Wig-Wag function and Red/Blue/White LED side warning lights (driver side White/Red, passenger side White/Blue); Wiring, LED lights are included; Controller not included] (Included with Ready for the Road Package) (When ordered as a stand-alone option, recommend also ordering Ultimate Wiring Package #67U) (66A)	1	\$892.00	\$892.00
2022-0521-016	Rear Lighting Solution [Includes two (2) backlit flashing linear high-intensity LED lights (driver side red/passenger side blue) mounted to inside liftgate glass; two (2) backlit flashing linear high-intensity LED lights (driver side red/passenger side blue) installed on inside lip of liftgate (lights activate when liftgate is open); LED lights only; Wiring and controller not included] (Included with Ready for the Road Package #67H) (When ordered as a stand-alone option, recommend also ordering Ultimate Wiring Package #67U) (66C)	1	\$454.00	\$454.00

2022-0521-017	Tail Lamp/Housing Only (Includes pre-existing holes with standard twist lock sealed capability) (does not include LED strobe) (Not available with Tail Lamp Lighting Solution #66B or Ready for the Road Package #67H) (86T)	1	\$60.00	\$60.00
2022-0521-019	Police Wire Harness Connector Kit - Front/Rear (For connectivity to Ford PI Package Solutions) [FRONT includes two (2) male 4-pin connectors for siren, five (5) female 4-pin connectors for lighting/siren/speaker, one (1) 4-pin IP connector for speakers, one (1) 4-pin IP connector for siren controller connectivity, one (1) 8-pin sealed connector, one (1) 14-pin IP connector] [REAR includes one (1) 2-pin connector for rear lighting, one (1) 2-pin connector, six (6) female 4-pin connectors, six (6) male 4-pin connectors, one (1) 10-pin connector] (67V)	1	\$185.00	\$185.00
2022-0521-020	Front Warning Auxiliary LED Light (Driver side - Red / Passenger side - Blue) (Located below head lamps, above bumper fascia) (Must also order Pre-Wiring for Grille Lamp, Siren and Speaker #60A) (21L)	1	\$548.00	\$548.00
2022-0521-021	Side Marker LED, Sideview Mirrors (Driver side - Red / Passenger side - Blue) (Located on backside of exterior mirror housing) (LED lights only. Wiring and controller are not included.) (Must also order Pre-wiring for grille lamp, siren and speaker #60A) (63B)	1	\$289.00	\$289.00
2022-0521-022	Rear Quarter Glass Side Marker LED Lights (Driver side - Red / Passenger side - Blue) (63L)	1	\$574.00	\$574.00
2022-0521-023	Front Interior Visor Light Bar (LED) (Super low-profile warning LED light bar fully integrated into the top of the windshield near the headliner. Fully programmable. Red/Red or Blue/Blue operation. White Take Down and Scene capabilities.) (96W)	1	\$1,141.00	\$1,141.00
2022-0521-026	Interior Upgrade (Includes 1st/2nd row carpeting, carpeted floor mats, rear cloth seats, center floor console w/ cupholders) (Also includes SYNC3: enhanced voice recognition communications and entertainment system, 4.2in color LCD screen in center-stack smart display, AppLink, 911 Assist) (retains column shifter) (deletes standard console mounting plate between front seats) (Not available with Ready for the Road #67H, Ultimate Wiring #67U or Rear Console Plate #85R) (May be combined with Front Visor/Rear Spoiler Light options) (65U)	1	\$389.00	\$389.00
2022-0521-028	Pre-Wiring for Grille LED Lights, Siren and Speaker (60A)	1	\$50.00	\$50.00
2022-0521-029	Siren/Speaker 100 Watt (includes bracket & pigtail) (18X)	1	\$314.00	\$314.00
2022-0521-031	Switchable Red/White Lighting in Cargo Area (deletes 3rd row map light) (17T)	1	\$50.00	\$50.00
2022-0521-034	Police Engine Idle Feature (when activated, allows the key to be removed from ignition while vehicle remains idling, which allows driver to leave the engine running and prevents vehicle from unauthorized use when driver is outside of the vehicle) (47A)	1	\$259.00	\$259.00
2022-0521-035	Badge Delete (deletes Police Interceptor badging on rear liftgate and Interceptor badging on front hood when ordered with EcoBoost engine) (16D)	1	\$0.00	\$0.00
2022-0521-036	BLIS Blind Spot Monitoring with Cross-Traffic Alert (Includes manual fold-away heated mirrors) (55B/54Z)	1	\$543.00	\$543.00
2022-0521-043	Reverse Sensing System (76R)	1	\$275.00	\$275.00
2022-0521-044	Perimeter Anti-Theft Alarm (activated by hood, door or liftgate - when unauthorized entry occurs, system will flash the headlamps, parking lamps and sound the horn) (Must also order Remote Keyless Entry #55F) (Not available with Fleet Keyed Alike option) (593)	1	\$119.00	\$119.00
2022-0521-046	Pre-Collision Assist with Pedestrian Detection (Includes Forward Collision Warning and Automatic Emergency Braking and unique disable switch for Law Enforcement use) (Not available with Front Interior Visor Lightbar #96W) (76P)	1	\$144.00	\$144.00
2022-0521-048	Remote Keyless Entry with Four (4) FOBs/Transmitters (includes Liftgate Release Button) (Does not include Keyless Entry Door Keypad) (If ordered with Fleet Keyed Alike option, fobs are unique and are not fobbed-alike) (55F)	1	\$339.00	\$339.00

2022-0521-057 Wheel covers (18in full face wheel covers) (65L)	1	\$60.00	\$60.00
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Quote Totals

	Total Vehicles:	1
	Sub Total:	\$43,686.00
	8.4 % Sales Tax:	\$3,669.62
	Quote Total:	\$47,355.62



ER&R

**Replacement or Addition
Purchase Request**

RCW 43.19.648 – Requires all local governments to convert their vehicle fleets to electricity or biofuel. Local governments are required to transition all vehicles to electricity or biofuels to the extent practicable. WAC 194-29-030 provides further guidance regarding this issue. If it is not practical for local governments to use electricity or biofuel for police, fire or emergency response vehicles, including utility vehicles frequently used for emergency response, it is encouraged to consider alternate fuels and vehicle technologies to displace gasoline and diesel fuel use.

Please attach the quote for vehicle / equipment.

Description of item: 2022 Ford Interceptor Alternative HYBRID AWD pursuit-rated Utility/SUV							
Procurement method: State Government contract							
Department							
Water	Sewer	Storm	Street	Public Works	DCD	Police	Admin
						X	
Addition or Replacement							
	Addition to Fleet - Please state business case for addition:						
X	Replacement Vehicle / Equipment being replaced: ?						
Fleet Standardization							
X	Requested Vehicle / Equipment follows fleet standardization						
	Requested Vehicle / Equipment DOES NOT follow Standardization. List items that are not fleet standard and reason for addition.						

	Requested Vehicle / Equipment does not have a standard
Cost	
X	Fleet standard cost \$47,355.62
X	Additional cost for consideration and business case: Needed police equipment; radio, siren, additional emergency lights, antenna, secure storage box, opticom, up-fitting, license-registration. \$7695.
	TOTAL \$55,050.62

STANDARDS FOR VEHICLES

Police Department Standard Vehicle

<u>Model</u>	<u>Chassis</u>	<u>Drive Train</u>	<u>Color</u>	<u>Graphics</u>	<u>Accessories</u>
Ford	Sedans	Automatic	Black	City Decal	Lights
	SUV	2WD		Vehicle Number	Radios
		4WD			Antennas
		AWD			

Public Works and Planning Standard Truck

<u>Model</u>	<u>Chassis</u>	<u>Cab Size</u>	<u>Drive Train</u>	<u>Color</u>	<u>Graphics</u>	<u>Accessories</u>
Ford	1/2 Ton	Regular	Automatic	White	City Logo	Lights
	3/4 Ton	Extended	2WD		Truck Number	Radios
	1 Ton	Crew Cab	4WD			Antennas
						Tool Boxes

Administration and Planning Standard Vehicle

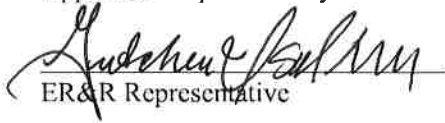
<u>Type</u>	<u>Chassis</u>	<u>Drive Train</u>	<u>Color</u>	<u>Graphics</u>	<u>Accessories</u>
Electric	Sedans	Automatic	White	City Logo	Lights
Biofuel	SUV	2WD		Vehicle Number	Radios
		4WD			Antennas
		AWD			

I have reviewed the vehicles / equipment listed above and request approval for purchase.


Department Director

Date 11/23/2021

Approved for purchase by:


ER&R Representative

11/23/21
Date



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.: Consent Agenda 4H
Subject: Approval of a Contract with Washington
State Parks and Recreation Commission
Subrecipient Grant Agreement for a
Federal Financial Assistant Grant

Meeting Date: December 14, 2021
Prepared by: Matt Brown
Chief of Police
Atty Routing No.: N/A
Atty Review Date: N/A

Summary: Historically, the City has been an active partner with the Washington State Parks and Recreation Commission as the police department provides marine safety on Sinclair Inlet and other area waterways. The Marine Patrol Unit launches emergency operations for search and rescue, provides community education, and delivers other enforcement services with a team of six marine officers and two vessels. In 2021, the unit responded to vessels/persons in distress, illegal moorage, navigational hazards, and derelict and sinking vessels.

The annual agreement captures the obligations of both the police department and the commission in the awarding of funds for recreational boating enforcement and education. The agreement also sets forth the deliverables under the Federal Financial Assistance Grant. The Port Orchard Police Department’s Marine Patrol Unit has historically made all the yearly deliverables.

The 2022 grant funds of \$9,601.09 are anticipated to cover roughly 15% of the Marine Patrol Unit budget.

Recommendation: Staff recommends the Council authorize the Mayor to sign the Washington State Parks and Recreation Commission Subrecipient Agreement Federal Financial Assistance Grant.

Relationship to Comprehensive Plan: N/A

Motion for consideration: I move to authorize the Mayor to sign the Washington State Parks and Recreation Commission Subrecipient Agreement Federal Financial Assistance Grant.

Fiscal Impact: Additional revenue to fund the City’s successful marine safety program.

Alternatives: Not authorize the agreement and provide additional guidance.

Attachments: Washington State Parks and Recreation Commission Subrecipient Agreement Federal Financial Assistance Grant.



WASHINGTON STATE PARKS AND RECREATION COMMISSION
SUBRECIPIENT GRANT AGREEMENT
FEDERAL FINANCIAL ASSISTANCE GRANT



Agreement No. MLE 123-130

This Agreement is between the State of Washington, Washington State Parks and Recreation Commission (WSPRC) acting by and through its Marine Law Enforcement Program (“MLE or “Recipient”) and **Port Orchard Police Department** (“Subrecipient”), each a “Party” and, together, the “Parties”.

SECTION 1: AUTHORITY

Per 2 Code of Federal Regulations 200 (2CFR200), WSPRC has determined this to be a “Subrecipient” relationship under 2 CFR 200.330. This subrecipient agreement is authorized by 2 CFR 200 and 50 CFR 80. MLE is authorized to provide grants for recreational boating enforcement and education activities and has sufficient grant funds available within its current biennial budget and has authorized expenditure on the Subrecipient’s Project as defined below, and the Subrecipient agrees to comply with 2 CFR 200, MLE rules and other MLE adopted policies and procedures, and this Subrecipient Grant Agreement.

SECTION 2: PURPOSE

The purpose of this Agreement is to set forth the obligations of both Parties in the awarding of funds for recreational boating enforcement and education and to set forth the deliverables under the Federal Financial Assistance Grant, hereinafter called the “Project.”

SECTION 3: COURTESY INFORMATION & REMINDER

Very important information is located throughout this document. The onus is on the Subrecipient to read the entire document which may include Attachments, Exhibits, or other information incorporated by reference.

Experience has shown that the following information seems to have the most interest for the Subrecipient. As such, MLE is providing this nonexclusive list but cautions that other important information does not appear in the Courtesy List.

- **Term:** See *Section 5.1 – Term*
- **Project Completion:** See *Section 5.2 – Project Completion*
- **Subrecipient’s Authorized Representative:** See *Section 6.2 – Subrecipient’s Authorized Representative.*
- **Project completion date:** See *Section 7.1.1 – Project Timeline*
- **Reimbursement Total:** See *Section 8.3.c [not titled].*
- **Grant Funds:** See *Section 9.2 – Grant Funds.*
- **Accident Report:** See *Section 12.7 – Accident Report*
- **Information required for Federal Subawards (2 CFR §200.331(A) (1)):** See *Exhibit B*
- **Subrecipient’s Completed FFA Grant Application:** See *Attachment A.*
- **Subrecipient’s Completed Budget Form:** See *Attachment B.*

SECTION 4: DEFINITIONS

- 4.1 Attachment:** A document provided by the Subrecipient (application, budget plan, etc.) that is also made part of this agreement and incorporated by reference. See also Exhibit.
- 4.2 MLE:** The federally funded Marine Law Enforcement Program administered by Washington State Parks and Recreation Commission (WSPRC). For purposes of this agreement MLE represents the State of Washington. If MLE ceases to exist or is no longer the state program designated to administer this federal program, then references to MLE will be understood to be the State of Washington.
- 4.3 Equipment.** Equipment means tangible personal property having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.
- 4.4 Exhibit:** A document provided by the MLE Program that is also a part of this agreement and incorporated by reference. See also Attachment.
- 4.5 RBS Officer:** Recreational Boating Safety Officer is a fully commissioned law enforcement officer in Washington State and has the authority to enforce the laws of the state of Washington and local ordinances. The RBS Officer must have attended the Washington state Basic Marine Law Enforcement Academy or an equivalent recognized by MLE.
- 4.6 Boating Safety Inspection:** A full inspection for all safety equipment, vessel registration when required and mandatory boater education compliance when required. The results of the inspection shall be documented through Washington states Statewide Electronic Collision and Ticket Online Records (SECTOR). This may be done at the time of the inspection or when SECTOR is available to the RBS Officer.
- 4.7 Law Enforcement Vessel:** A vessel used by a law enforcement agency and shall be equipped with proper markings showing it to be an official law enforcement vessel.
- 4.8 Recreational Vessel:** Defined in federal regulation 50 CFR 85.11 as a vessel owned and operated primarily for pleasure; or a vessel leased, rented, or chartered to another for recreational use.
- 4.9 Subrecipient:** A Non-Federal entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. In this agreement, the subrecipient is the successful applicant with whom Washington MLE awards a Federal Financial Assistance Grant (See 2 CFR 200.93).
- 4.10 Subrecipient Grant Agreement:** Also known as a subaward. Defined in federal regulation as “an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract (See 2 CFR 200.92).

-
- 4.11 Small agency:** An agency which services a jurisdiction with a population below 30,000 people as determined by the latest U.S. Census.
- 4.12 Medium agency:** An agency which services a jurisdiction with a population of 30,000 or more and below 100,000 people as determined by the latest U.S. Census.
- 4.13 Large agency:** An agency which services a jurisdiction of over 100,000 people as determined by the latest U.S. Census.
- 4.14 Boating Safety Program approval:** means that the county or local jurisdiction has entered into an agreement with state parks to develop and maintain a boating safety program meeting minimum requirements established by state parks.

SECTION 5: EFFECTIVE DATE AND DURATION

- 5.1 Term.** This Agreement is effective on the date of the last signature and terminates on **September 30, 2022**, or the date of final payment issuance, whichever is later, unless terminated earlier in accordance with *Section 22 - Termination*. See also, *Section 12.3 Useful Life*.
- 5.2 Project Completion.** Final billing for the Project shall be submitted to MLE on or before **October 15, 2022**. Unless approved in writing, MLE shall not be obligated to disburse any payments after this date.
- 5.3 Closeout.** (See 2 CFR § 200.343) MLE will closeout this award under this Agreement when it determines that all applicable administrative actions and all required work of this Agreement have been completed by the Subrecipient.

SECTION 6: AUTHORIZED REPRESENTATIVES

- 6.1** WSPRC MLE Program Authorized Representative is:

Matthew M. Stowers, Marine Law Enforcement Coordinator
Washington State Parks - Boating Program
1111 Israel Road SW
Tumwater, WA 98501-6512
Matt.Stowers@parks.wa.gov

Backup:
Rob Sendak, Boating Program Manager
Washington State Parks - Boating Program
1111 Israel Road SW
Tumwater, WA 98501-6512
Rob.Sendak@PARKS.WA.GOV

6.2 Subrecipient's Authorized Representative is:

Chief Matt Brown
Port Orchard Police Department
546 Bay Street
Port Orchard, WA 98366-5339
mbrown@cityofportorchard.us
(360) 876-1700

6.3 A Party may designate a new Authorized Representative by written notice to the other Party.

SECTION 7: RESPONSIBILITIES OF EACH PARTY

7.1 Responsibilities of Subrecipient:

This project itself is the sole responsibility of Subrecipient. MLE undertakes no responsibilities to Subrecipient, or to any third party, other than as expressly set out in this document. Subrecipient shall be solely responsible for the design, development, implementation, achievement of deliverables and reporting of the project, as those phases are applicable to this project, and solely responsible for any claim or suit of any nature by any third party related in any way to the project.

7.1.1 Project Timeline. The Subrecipient is responsible for maintaining the project timeline for all dates and activities outlined as the Subrecipient's responsibility as identified in the Subrecipient's FFA Grant Application Attachment "A".

The Subrecipient shall complete the approved project no later than **September 30, 2022** as a term of the acceptance of this grant award. The project timeline cannot be extended under the scope of this agreement.

MLE staff shall monitor the activities conducted under the scope of this project on a quarterly basis. Work will be considered complete, only when the following conditions are met:

- The activities described in the Scope of Work and this grant document have been achieved.
- All request for reimbursements have been submitted.
- All reporting through the MLE Statement of Activity Reporting system (SOAR) and SECTOR have been completed
- Appropriate proof of completion has been provided to MLE

If the work is not satisfactorily completed, Subrecipient will be in breach and MLE may, at its discretion, rescind the grant and require repayment of any grant funds already disbursed.

7.1.2 Design Preparation. The Subrecipient shall design a project that will have a reasonably likelihood of positively impacting the reduction of boating accidents, boating injuries, and boating fatalities. Such design shall include applicable items on the Checklist for Plans and Specifications as provided in the Subrecipient's MLE Grant Application (Attachment "A").

7.1.3 Purchase. The Subrecipient shall make no purchases in excess of \$2,500.00 without prior written authorization by MLE. All purchases must be in the furtherance of recreational boating safety and must adhere to the guidelines set out in the in the Allowable Costs and Expenditures for State Vessel Registration Fees and Federal Assistance Grants manual. (Attachment "C").

7.1.4 Periodic Inspections. Subrecipient hereby grants to the Recipient, or its authorized representative, a right, equal in time to six years from the date of the last signature on this document, to enter upon Subrecipient's property as deemed necessary by the Recipient for inspection documents and any equipment. These periodic inspections are intended to ensure continued compliant use of the awarded funds toward recreational boating safety enforcement and education. materials, products, and workmanship to the original approved plans and specifications. These inspections require a 30-day advance notification to the Subrecipient of such inspection or access.

7.1.5 Commercial and Other Uses.

- a. For purposes of this *Section 7 – Responsibilities of Each Party*, Commercial Use means any activity on or affecting the Project that was not described in the Subrecipient's proposal, or not approved in writing by MLE, where the Subrecipient:
 1. has financial profit as a goal,
 2. charges any fees or receives any benefit to provide services, supplies or goods, or
 3. allows third parties to charge any fees or receive any benefit to provide services, supplies or goods.
- b. Subrecipient must restrict use of the Project funds to only recreational boats boating safety enforcement and education.

7.1.6 Publications & Advertising. The Subrecipient shall include the following statement if publishing any report, news release or publication regarding this project: *"Partial funding was through the Washington State Parks and Recreation Commission Marine Law Enforcement Program, and in cooperation with U.S. Recreational Boating Safety Act."*

7.1.7 Project Sign. The Subrecipient may post in a conspicuous location on the vessel, a sign identifying WSPRC, may, Federal Agency's and specific federal grant program's participation in the Project.

The Subrecipient shall include the following statement if publishing any report, news release or publication regarding this project: *"Partial funding for this project was provided by the Washington State Parks Marine Law Enforcement Program. This program is funded by the U.S. C.G. through the Sport Fish Restoration and Boating Trust Fund, which*

is financed by your purchase of motorboat fuels and fishing equipment.”

7.1.8 Public Access to Project. During the term of this Agreement the Subrecipient shall allow open and unencumbered public access to the Project to all persons without regard to race, color, religious or political beliefs, sex, national origin, or place of primary residence.

7.1.9 Payments. Subrecipient agrees to:

- a. Make payment promptly as due to all contractors, subcontractors, vendors or any other persons supplying labor or materials for the Project;
- b. All employers, including Subrecipient that employ subject workers shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for exemption. Subrecipient shall require and ensure that each of its subcontractors complies with these requirements (unless inapplicable as a matter of federal law); and
- c. Not permit any lien or claim to be filed or prosecuted against WSPRC, due to any construction or maintenance activities at the Project.

7.1.10 Alternative Dispute Resolution. The Parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

7.1.11 Indemnification by Subrecipient's Contractors. For purposes of this Section 7.1.11 – *Indemnification by Subrecipient's Contractors* the term “contractor” means actors downstream of the Subrecipient whether it be a contractor, a subcontractor, or downstream subrecipient of the Subrecipient. The Subrecipient shall take all reasonable steps to cause its contractor(s) to indemnify, defend, save and hold harmless the State of Washington and its officers, employees and agents (“Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Subrecipient's contractor or any of the officers, agents, employees or subcontractors of the contractor (“Claims”). It is the specific intention of the Parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the

7.2 Responsibility of Marine Law Enforcement Program (MLE):

7.2.1 MLE shall pay Subrecipient as described in *Sections 8 – Conditions to Disbursement and Section 9 – Reimbursement and Payment Terms*.

SECTION 8: CONDITIONS TO DISBURSEMENT

8.1 Eligible project expenses include only those items from the list below that are in your approved project budget:

8.1.1 Grant funds may be used only for activities under WAC 352-65-040, the ten elements necessary to accomplish the Recreational Boating Safety (RBS) mission.

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- 8.1.2 RBS salaries to include time, salaries, benefits and wages for officers or deputies who possess a Washington State Peace Officers Certification, are fully commissioned to enforce the laws of Washington state and who have completed an RBS courses acceptable to State Parks (BMLE or equal).
 - 8.1.3 Time, salaries, benefits and wages for officers or deputies who possess a Washington State Peace Officers Certification, are fully commissioned to enforce the laws of Washington state, and who have not completed a BMLE course is acceptable **ONLY** when working with an RBS trained officer **AND** when the agency has a written "two-officer policy for officers on marine patrol for the purpose of officer safety.
 - 8.1.4 Providing instructors for the *Adventures in Boating* course that qualifies graduates for the required mandatory boater education card. Cost may include classroom supplies, light refreshments, other goods and services necessary to promote and teach classes, and officer salaries, benefits and wages. Officer salaries will only be reimbursed for those officers who have successfully completed State Parks *Adventures in Boating Instructor Training Class* and are listed on our files.
 - 8.1.5 RBS training as outlined in the Allowable Costs and Expenditures for State Vessel Registration Fees and Federal Assistance Grants (Attachment "C")
 - 8.1.6 RBS Equipment as outlined in the Allowable Costs and Expenditures for State Vessel Registration Fees and Federal Assistance Grants (Attachment "C"). Any equipment expenditures over two thousand two hundred and fifty dollars (\$2,250.00) must receive authorization from state parks prior to purchase.
 - 8.1.7 Educational publications which promote RBS education that are already prepared or the creation, design and printing of publications
 - 8.1.8 Promotion of Adventures in Boating classes, including presentation materials, light refreshments and room rental for classes.
 - 8.1.9 Other items as deemed by MLE to be necessary to complete the project
 - 8.1.10 Support of the Basic Marine Law Enforcement Academy by agencies who provided MLE recognized instructors

8.2 Non-Allowable Costs and Expenditures.

- 8.2.1 Bullet proof vests are beneficial, however, equipment of this nature is not essential for meeting the established criteria in WAC 352-65-040 nor is it related to the performance of the RBS program mission and is considered a local agency responsibility to purchase.
- 8.2.2 Equipment used in recover operations (dive equipment, etc.) while being used in an RBS search or investigation mode are 100% eligible. Once this equipment is used for recovery operations it must be prorated between RBS missions and recovery missions.
- 8.2.3 Handheld or portable night vision, FLIR or thermal imaging devices are a 100% allowable expense while in RBS patrol, search or investigation mode. Once this equipment is used for recovery operations it must be prorated. Permanently mounted and electrically wired FLIR and thermal imaging devices are 100% allowable expenses.

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- 8.2.4 Homeland Security missions (weapons, etc.), or any other equipment determined as unrelated by the boating program is not an allowable expense.
- 8.2.5 Firefighting equipment is not an allowable expense.
- 8.2.6 Any equipment or vehicles not 100% dedicated to the RBS mission must be prorated, documenting the amount of time the equipment or vehicle was dedicated to the program.
- 8.2.7 Operating costs for law enforcement vessels boats (staff, fuel, fluids, repairs, maintenance) or operating costs for boats used to service floating restrooms (staff, fuel, fluids)
- 8.2.8 Documented staff or contract labor associated with routine custodial and non-routine maintenance and repairs, the cost of that person operating or maintaining the system.
- 8.2.9 Other items as deemed by MLE to be necessary to complete the project

8.3 Conditions Precedent to Any Reimbursement. MLE shall not be obligated to disburse any of the grant funds to reimburse the Subrecipient for Project costs hereunder unless MLE has received from the Subrecipient:

- a. Prior to Project plans, specifications, and cost estimate(s), statement of work, request for proposal or other documentation for the Project, documents must be in form and substance satisfactory to MLE;
- b. Reimbursement Requests must be submitted on the approved MLE Grant Reimbursement form along with all supporting documentation. Reimbursements shall be prorated between the Parties based on the percentage of their respective cash or in-kind contributions as set forth in *Section 7 – Responsibilities of Each Party* and *Section 9 – Reimbursement and Payment Terms*.

Supporting documents must:

- Be numbered in the upper right corner and correspond to the “Document #” column on your Reimbursement Request Form
- Be dated. The date of the invoice must be within the period of performance of this award
- Have Subrecipient’s business name clearly identified
- Clearly identify the cost and the amount paid & show zero-balance due

If a receipt, invoice, or statement includes expenses not related to the MLE project, those costs must be highlighted and noted as “ineligible costs”.

- c. MLE will reimburse Subrecipient for eligible activities only after MLE has accepted the work as complete—expenditure as an allowable cost and all proper documents have been submitted with the reimbursement request. Reimbursement requests must be submitted on a quarter basis and during the quarter that the expenditure has taken place. Reimbursement from MLE shall not exceed fifty percent (50%) of the total project cost from eligible grant expenses. Total reimbursement under this grant agreement shall not exceed the award amount of **\$9,601.09**.

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- d. MLE will reimburse Subrecipient up to an additional \$5,000.00 who supply a recognized BMLE instructor for 80 hours. For instructor services less than 80 hours, a sum of \$500.00 per day will be awarded. The additional award is available for use commencing on June 1, 2022.
 - e. The Subrecipient may not exceed the approved budget which was proposed by the Subrecipient as part of the Subrecipient's Subrecipient Grant Application that was accepted by MLE. The Subrecipient's budget is attached to this agreement (Attachment "B"). If the Subrecipient would like to change the allocations of funds to the original budget, a budget amendment request must be sent in writing via email to MLE in advance of the expense being incurred.
 - f. If a boat, a vehicle, or equipment is used partially for other purposes, costs must be pro-rated for that portion of their use that is for Recreational Boating Safety Act purposes.

8.4 Conditions Precedent to Partial Progress Payment(s). MLE shall not be obligated to make partial progress reimbursement payment(s) hereunder until the appropriate supporting documentation and reimbursement form has been submitted no less than on a quarterly basis of the percentage of Project completion has have been received, reviewed and approved by MLE. In no event shall MLE disburse more than fifty percent (50%) of the amount indicated in *Section 9.2 – Grant Funds* as progress payments.

8.5 Conditions Precedent to Final Payment. MLE shall not be obligated to make final payment hereunder until the following have been completed or supplied:

- a. Supporting documentation in form and content determined by MLE, has been received reviewed and approved by MLE; and
- b. Subrecipient provides summary of work achieved pursuant to the SOW as provided with the grant application to MLE with funding the Project; and
- c. Inspection and approval of the Project by MLE Program staff.

SECTION 9: REIMBURSEMENT AND PAYMENT TERMS

9.1 Federal Fund Approval. MLE has received a grant from the United States Department of Homeland Security, United States Coast Guard as described pursuant to 2 CFR 200.331 on Exhibit B. In accordance with 2 CFR 200.330, MLE's determination is that the other party to this contract is a subrecipient and is therefore a subrecipient of federal funds.

9.2 Grant Funds. Upon approval by its governing body or bodies, MLE shall provide federal grant funds in the amount of **\$9,601.09** to the Subrecipient to fund the Project.

9.3 Match. The Subrecipient shall contribute at least twenty-five (25%) of the total project cost as cost sharing or non-federal match as described in the approved project budget. Such cost sharing or match may be provided as cash costs or in-kind services provided such services are reasonable and necessary for grant purposes. Vessel Registration Fees cannot be used as match. These are non-reimbursable items. Allowability of any cost

sharing or match shall be determined in accordance with 50 CFR Part 85; and 2 CFR Part 200 as applicable and as adopted in regulation by 2 CFR 1402.100.

The Subrecipient shall maintain records that adequately document the valuation of non-federal match/in-kind services in accordance with 50 CFR Part 85; and 2 CFR Part 200 as applicable and as adopted in regulation by 2 CFR 1402.100. The Subrecipient shall submit a summary of the valuation to MLE. Further instruction on adequate valuation of match expenses can be provided by contacting the Marine Law Enforcement Coordinator or the Program Manager.

9.3.1 Matching Cash Funds. The Subrecipient shall contribute the total sum of **\$2,400.27** in cash or in-kind match. It is understood that match cannot be from another federal source and are non-reimbursable costs. In addition, **Vessel Registration Fee funds cannot be used as match**; however, in-kind match as reported in the VRF Expenditure Report can.

9.3.2 Matching Non-cash Resources. Non-cash resources, in-kind; match is allowable under the FFA grant. Any expenditure the subrecipient incurs in support of their recreational boating safety program can be used as non-cash match.

9.4 Allowable Costs. All costs charged by the Subrecipient must be eligible, necessary, and reasonable for performing the tasks outlined in the approved project work plan. The costs, including match, must be incurred during the period of performance of the project and submitted for reimbursement during the quarter which the costs are incurred. The costs also must be allowable and well documented, in conformance with specific federal requirements (50 CFR Part 85; and 2 CFR Part 200 as applicable and as adopted in regulation by 2 CFR 1402.100.

9.5 Payments. After the Subrecipient awards the contract for the Project, and activities commence, MLE shall, upon receipt of the Subrecipient's request for reimbursement and appropriate documentation all in form and substance satisfactory to MLE, disburse funds to the Subrecipient in accordance with *Section 8 - Conditions to Disbursement*.

Subrecipient may request reimbursements no less than on a quarterly basis and during the quarter for which the expenditures have been incurred for project expenses. Reimbursement shall take place after Subrecipient submits a properly completed Reimbursement Request Form (provided by MLE), along with required supporting documentation. Requests shall only be allowed when requested on the proper forms provided by MLE, reference this agreement number and accompanied with appropriate supporting documentation.

Subrecipient shall be reimbursed for the actual project costs incurred, up to the total reimbursement amount defined above as long as grant funds remain available. Accounting procedures must provide for accurate and timely recording of receipt of funds by source, expenditures made from such funds, and of unexpended balances. Controls must be established which are adequate to ensure that expenditures are for allowable purposes and that documentation is readily available to verify that such charges are accurate. The burden of proof lies with the subrecipient to provide clear information as to the expense and form of payment.

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- 9.6 Cost Overruns.** Cost overruns are the responsibility of Subrecipient and must be borne by Subrecipient.
- 9.7 Overpayment.** In the event that the aggregate amount of MLE's interim progress payments to the Subrecipient exceeds the allowable reimbursable costs of the Subrecipient for the Project, the Subrecipient agrees to refund to MLE the amount paid in excess of such allowable expenses within thirty (30) days of **September 30, 2022**.
- 9.8 Offset or Reduction.** The Subrecipient agrees that payment(s) made by MLE under this Agreement shall be subject to offset or reduction for any amounts previously paid hereunder that are found by MLE not to constitute allowable costs under this Agreement based on the results of an audit examination. If such disallowed amount exceeds the payment(s), the Subrecipient shall pay MLE the amount of such excess within 30 days after written notice of disallowed costs is provided by MLE.
- 9.8.1 Entertainment Costs.** In accordance with 2 CFR 200, the cost of amusement, diversion, social activities, ceremonials, and costs relating thereto, such as meals, lodging, rentals, transportation, gratuities and alcoholic beverages are not allowable expenses.
- 9.8.2 Prior Costs.** MLE will not reimburse Subrecipient for any costs incurred prior to the effective date of this agreement **October 1, 2021**.

SECTION 10: REPRESENTATIONS AND WARRANTIES

Subrecipient represents and warrants to MLE that:

- 10.1** Subrecipient is a law enforcement agency, duly organized and validly existing. Subrecipient has the power and authority to enter into and perform this Agreement.
- 10.2** The making and performance by Subrecipient of this Agreement (a) have been duly authorized by Subrecipient, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Subrecipient's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Subrecipient is party or by which Subrecipient may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Subrecipient of this Agreement, other than those that have already been obtained.
- 10.3** This Agreement has been duly executed and delivered by Subrecipient and constitutes a legal, valid and binding obligation of Subrecipient enforceable in accordance with its terms.
- 10.4** Subrecipient has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and Subrecipient will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade or profession; and

10.5 Subrecipient shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement. The representations and warranties set forth in this *Section 10- Representation and Warranties* are in addition to, and not in lieu of, any other representations or warranties provided by Subrecipient.

SECTION 11: GOVERNING LAW AND CONSENT TO JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between MLE or any other agency or department of the State of Washington, or both, and Subrecipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Superior Court for Thurston County, State of Washington; provided, however, if a Claim MUST be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the Western District of Washington. In no event shall this *Section 11 – Governing Law and Consent to Jurisdiction* be construed as a waiver by the State of Washington of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. SUBRECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

SECTION 12: EQUIPMENT: OWNERSHIP, MAINTENANCE, USEFUL LIFE & DISPOSAL

12.1 Ownership Of Equipment. Except as otherwise provided herein, Subrecipient shall retain ownership of equipment purchased pursuant to the terms of the grant. Subrecipient may not, during the term of the grant, transfer or convey its ownership interest in the equipment. Subrecipient shall not at any time during the term of the grant convert any facility equipment which was acquired pursuant to the grant to a use other than those for which the assistance was originally approved.

Equipment purchased with Recreational Boating Safety Act funds shall be used only for the purpose for which it was purchased and no other purpose, whether or not the Subrecipient continues to be supported by Recreational Boating Safety Act grant funds.

Observed/reported incidents of unauthorized use of MLE equipment shall be addressed by the following:

- 1) Any observed/reported incident of unauthorized use of MLE funded vessels will be followed-up by MLE communication with the Subrecipient. MLE may conduct site visits or contact area boaters for supplemental information as necessary.
- 2) In those instances where the MLE determines that an unauthorized use of a MLE funded vessel has occurred, the MLE will provide written notification to the operator of its determination with a warning that continued misuse or abuse of MLE-funded vessels and equipment may result in:
 - a) the removal of misused equipment from the facility; and/or
 - b) an assessment against the operator for reimbursement of the federal contribution against the current market value of the vessel.

12.2 Title. Title to equipment purchased under this Agreement shall vest in the Subrecipient. If the Subrecipient determines that it cannot use the equipment for the stated grant purposes at any point prior to the end of the equipment's useful life, but after the end of this award period and any extensions thereof, the Subrecipient shall inform MLE in writing within 30 days of such determination. Such equipment shall be transferred by the Subrecipient to a third party approved by MLE for use for grant purposes in accordance with applicable provisions of state and federal law. Should the equipment not be transferred to another state parks RBS approved law enforcement agency in accordance with this provision, the equipment shall either be returned to MLE for use for grant purposes, or it shall be disposed in accordance with 50 CFR Part 85; and 2 CFR Part 200.

12.3 Useful Life. Beyond the acquisition grant period of performance and throughout the duration of the equipment's useful life, the equipment must continue to be used in the program or project for which it was acquired, as Recreational Boating Safety Act Program. When no longer needed for the original program or project, equipment may be used in other activities in the following order of priority:

- a. Activities supported under a Federal award from the Federal awarding agency which funded the original program or project; then
- b. Activities under Federal awards from other Federal awarding agencies; then
- c. Any activities consistent with the administration of the Washington State Parks and Recreation Commission.

12.4 Special Survivorship Note: Ownership is not absolute. Regardless of agreement's expiration, anything tangible, intangible, or intellectual property that was purchased or created from federal funds or funded with federal funds maintains federal and state MLE entanglements, requirements, or conditions (conditional ownership) unless/until released by the MLE or federal government in writing. While other conditions may apply, typically a release would occur upon the MLE or federal government being completely satisfied that the item in question has reached the end of its useful life which is usually a dollar value. Determination of value is solely at the discretion of the MLE or federal government. Should professional appraisal services be needed to determine value, these costs shall be borne by the Subrecipient. Selection of an appraisal services firm is subject to the written approval of the MLE or federal government.

12.5 Use and Maintenance. The Subrecipient shall operate and maintain the equipment, purchased, constructed, installed, renovated, operated, repaired, or maintained with MLE grant funds to function as intended for the full period of their useful life and in a manner that provides adequate service, promotes use, and protects public health. Such conditions include:

12.5.1 Subrecipient shall operate and maintain grant funded equipment in accordance with all applicable Federal, State and local laws, orders, regulations and permits.

12.5.2 Operation shall include having trained personnel available to facilitate operation of the equipment and a schedule for maintenance.

12.5.3 Law Enforcement vessels shall be operated by trained personnel with a valid State of Washington Boater Education Card or equivalent and be a graduate of state parks Basic Marine Law Enforcement Academy or equivalent.

12.5.4 Law Enforcement vessels shall be equipped with all federally required safety equipment

and provide and ensure appropriate personal flotation devices are worn at all times when on the vessel or dock.

12.5.5 All law enforcement vessels shall have a routine schedule for maintenance.

12.5.6 As a condition of receiving the grant funds, Subrecipient shall actively maintain the vessel for the **full design life** of the equipment provided from this grant.

12.5.7 Subrecipient shall be responsible for all operation, maintenance, and repair of all vessels and equipment provided from this grant.

12.6 Equipment Replacement.

When original or replacement equipment acquired under this award is no longer needed or the Subrecipient is no longer able to support the RBS mission and the disposition occurs during the grant period, disposition of the equipment shall be made as follows:

- The equipment may be transferred at no cost to another law enforcement agency with a state parks approved marine law enforcement program (e.g., city or county law enforcement agency) if such equipment will remain in use and be dedicated to the MLE program. The conditions for such transfer shall be stipulated by the MLE and shall include the same requirements as those imposed in the original grant. Any cash or in-kind match paid when the equipment was originally purchased will be forfeited in total.
- If the equipment cannot be transferred to another law enforcement agency with a state approved marine law enforcement program, it must be sold at the discretion of the MLE, and the Subrecipient shall pay MLE the proceeds of the sale or the fair market value of the equipment, whichever is the greatest.

12.6.1 Equipment Breakdown

In the event an equipment breakdown occurs during the grant period, Subrecipient shall notify MLE within ten (10) working days of breakdown. The equipment must be repaired and fully operational within thirty (30) working days after the breakdown where the breakdown can be remedied with normal expected repairs for one thousand dollars (\$1000) or less. For repairs greater than one thousand dollars (\$1000) the equipment must be fully operational within sixty (60) days after the breakdown. A written report for all breakdowns must be submitted via email to MLE within two (2) weeks of the breakdown describing the problem(s), repair(s), and the cost(s).

A failure to notify MLE of an equipment breakdown and plan for repairs may result in the withholding of grant funds.

12.7 Accident Report

Subrecipients or Subrecipient's staff involved in an accident must remain at the scene and assist any other vessel or person involved, if possible, without endangering their safety, their own vessel or the people aboard.

SECTION 13: OWNERSHIP OF WORK PRODUCT

13.1 As used in this Section 13 – Ownership of Work Product and elsewhere in this Agreement, the following terms have the meanings set forth below:

13.1.1 Project Ownership. MLE acknowledges and agrees that the Project is the exclusive property of the Subrecipient. MLE is neither responsible nor liable in any manner for the construction, operation or maintenance of the Project.

13.1.2 Special Survivorship Note: Ownership is not absolute. Regardless of agreement's expiration, anything tangible, intangible, or intellectual property that was purchased or created from federal funds or funded with federal funds maintains federal and state MLE entanglements, requirements, or conditions (conditional ownership), unless/until released by MLE or federal government in writing. While other conditions may apply, typically a release would occur upon the MLE or federal government being completely satisfied that the item in question has reached the end of its useful life which is usually a dollar value. Determination of value is solely at the discretion of the MLE or federal government. Should professional appraisal services be needed to determine value, these costs shall be borne by the Subrecipient. Selection of an appraisal services firm is subject to the written approval of the MLE or federal government.

SECTION 14: NO DUPLICATE PAYMENT

The Subrecipient shall not be compensated for, or receive any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Washington, including, but not limited to the Washington State Parks Recreation Commission, or the United States of America or any other party.

SECTION 15: CONTRIBUTION ON THIRD PARTY CLAIMS

15.1 If any third party makes any claim or brings any action, suit or proceeding alleging against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third-Party Claim, and to defend a Third-Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this *Section 15 – Contribution on Third Party Claims* and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third-Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this *Section 13 – Ownership of Work Product* with respect to the Third-Party Claim.

15.2 With respect to a Third Party Claim for which MLE is jointly liable with Subrecipient (or would be if joined in the Third Party Claim), MLE shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Subrecipient in such proportion as is appropriate to reflect the relative fault of MLE on the one hand and of Subrecipient on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of MLE on the one hand and of Subrecipient on the other hand shall be determined

by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. MLE's contribution amount in any instance is capped to the same extent it would have been capped under Washington law if the State had sole liability in the proceeding.

- 15.3** With respect to a Third Party Claim for which Subrecipient is jointly liable with MLE (or would be if joined in the Third Party Claim), Subrecipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by MLE in such proportion as is appropriate to reflect the relative fault of Subrecipient on the one hand and of MLE on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Subrecipient on the one hand and of MLE on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Subrecipient's contribution amount in any instance is capped to the same extent it would have been capped under Washington law if it had sole liability in the proceeding.

SECTION 16: SUBRECIPIENT DEFAULT

Subrecipient will be in default under this Agreement upon the occurrence of any of the following events:

- 16.1** Subrecipient fails to perform, observe or discharge any of its covenants, agreements or obligations under this Agreement;
- 16.2** Any representation, warranty or statement made by Subrecipient in this Agreement or in any documents or reports relied upon by MLE to measure the delivery of services, the expenditure of funds or the performance by Subrecipient is untrue in any material respect when made;
- 16.3** Subrecipient (a) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) is adjudicated a bankrupt or insolvent, (e) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (g) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (h) takes any action for the purpose of effecting any of the foregoing; or
- 16.4** A proceeding or case is commenced, without the application or consent of Subrecipient, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts of Subrecipient, (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of Subrecipient or of all or any substantial part of its assets, or (c) similar relief in respect to Subrecipient under any law relating to

bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against Subrecipient is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

SECTION 17: INDEMNIFICATION

Subrecipient shall hold harmless, save harmless, indemnify, and defend at the Subrecipient's expense the State of Washington, Commission, its officers, employees, successors and assigns against any and all damages and/or losses arising out of Subrecipient's use of, or presence or activity in, the facilities, including those arising out of the use or operation of equipment or facilities or as a result of the conduct of Subrecipient's programs, or from the conduct of Subrecipient's employees or agents, or damages or vandalism to facilities by third-parties, contracted or participating in Subrecipient's programs, events or activities.

SECTION 18: LIABILITY INSURANCE

18.1 LIABILITY INSURANCE—If required in the special terms and conditions subrecipient shall obtain and keep in force during the term of this Agreement, a combined single limit bodily injury and property damage insurance policy in the minimum amount of \$1,000,000 naming Washington State Parks Commission as an additional insured against any liability arising out of Subrecipient's or its agents, employees, or assigns. Subrecipient shall provide to Commission, a certificate evidencing such insurance coverage and shall provide 30 days written notice prior to any changes in the amount or cancellation of said policy.

- Subrecipient shall buy and maintain property insurance covering all real property and fixtures, equipment, and tenant improvements and betterments. Such insurance shall be written on an all-risks basis and, at a minimum, cover the perils insured under ISO special causes of loss Form CP 10 30, and cover the full replacement cost of the property insured. Such insurance may have commercially reasonable deductibles.
- Any coinsurance requirement in the policy shall be waived.
- State shall be included as an insured and a loss payee under the property insurance policy.

18.2 AUTOMOBILE INSURANCE-- Subrecipient shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of "Any Auto." Business auto coverage shall be written on ISO form CA 00 01, or substitute liability form providing equivalent coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage. Subrecipient waives all rights against State for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

18.3 INDUSTRIAL INSURANCE COVERAGE-- Subrecipient shall provide or purchase industrial insurance coverage for themselves their employees as required by Labor and Industries prior to performing work under this Agreement. Commission will not be

responsible for payment of industrial premiums or for any other claim or benefit for Subrecipient, or any subcontractor or employee of Subrecipient, which might arise under the industrial insurance laws during the performance of duties and services under this agreement. Subrecipient, its employees and agents performing under this contract, are not employees of Commission.

- 18.4** CERTIFICATE OF INSURANCE / NAMING WASHINGTON STATE AS ADDITIONAL INSURED: A current Certificate of Insurance must be submitted with the grant application form. The certificate must name Washington State Parks and Recreation Commission as an additional insured, and the Certificate Holder and contain a provision that the insurance will not be canceled for any reason except after thirty (30) days written notice. Facilities must be insured by carriers licensed in or eligible to do business in Washington, and must maintain applicable Commercial General Liability, Automobile Liability, and Worker's Compensation coverage. Government entities will need to include a letter from their Chief Financial Officer stating if they are self-insured or provide a certificate of insurance as stated below."

SECTION 19: REMEDIES

- 19.1** In the event Subrecipient is in default under *Section 16 – Subrecipient Default* MLE may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under *Section 22 - Termination*, (b) reducing or withholding payment for work or Work Product that Subrecipient has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring Subrecipient to perform, at Subrecipient's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments under *Section 20 – Recovery of Overpayments* (which is in addition to the remedies provided in *Section 9.7 - Overpayment*), of this Agreement or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and MLE may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.
- 19.2** In the event MLE terminates this Agreement under *Section 22.1 – Termination for Convenience*, *Section 22.2 Termination for Inefficiency*, *Section 22.3 – Termination Because of Non-Appropriation or Project Ineligibility*, or *Section 22.4 – Termination for Default*, Subrecipient's sole monetary remedy will be (a) for work compensable at a stated rate, a claim for unpaid invoices for work completed and accepted by MLE, for work completed and accepted by MLE within any limits set forth in this Agreement but not yet invoiced, for authorized expenses incurred, less any claims MLE has against Subrecipient, and (b) for deliverable-based work, a claim for the sum designated for completing the deliverable multiplied by the percentage of work completed on the deliverable and accepted by MLE, for authorized expenses incurred, less previous amounts paid for the deliverable and any claims that MLE has against Subrecipient. In no event will MLE be liable to Subrecipient for any expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to Subrecipient exceed the amount due to Subrecipient under this *Section 19.2*, Subrecipient shall promptly pay any excess to MLE.

SECTION 20: RECOVERY OF OVERPAYMENTS

In addition to the remedies provided in *Section 9.7 - Overpayment*, if payments to Subrecipient under this Agreement, or any other agreement between MLE and Subrecipient, exceed the amount to which Subrecipient is entitled, MLE will not reimburse any further claims. In addition, MLE will require repayment of any over payments as reflected in Section 9.7 of this agreement. MLE may, after notifying Subrecipient in writing, withhold from payments due Subrecipient under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

SECTION 21: LIABILITY

THE SUBRECIPIENT SHALL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION, EXPIRATION, OR SUSPENSION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

SECTION 22: TERMINATION

- 22.1 Termination for Convenience.** The Subrecipient may terminate this Agreement at any time upon thirty (30) days prior written notice to MLE; provided, however, that the Subrecipient shall, within thirty (30) days of such termination, reimburse MLE for all funds contributed by MLE to the Project; provided further that until the Subrecipient has fully reimbursed MLE for such funds, the Subrecipient shall comply with the terms hereof. Delinquent payments shall bear interest at the rate of 12 percent (12%) per annum, if such rate shall exceed the maximum rate allowed by law, then as such maximum rate, and shall be payable on demand. After ninety (90) days MLE may turn any delinquent debt over for collection.
- 22.2 Termination Because of Inefficiency.** Use of federal funds demands good stewardship. MLE in an ongoing basis will be monitoring the performance of the subrecipient through the subrecipient's reporting into the MLE Statement of Activity Reporting system. If in MLE's opinion, these metrics demonstrate poor stewardship the Agreement will be terminated. If feasible, MLE may work with the Subrecipient and give the Subrecipient an opportunity to improve the metrics to what MLE believes is a healthy metric.
- 22.3 Termination Because of Non-Appropriation or Project Ineligibility.** MLE, as provided in *Section 33 - Force Majeure*, may modify or terminate this Agreement and at any time upon 30 days prior written notice to the Subrecipient, may modify or terminate this Agreement if:
- a. MLE fails to receive funding or allotments, appropriations, limitations, or other expenditure authority at levels sufficient to pay for the allowable costs of the Project to be funded hereunder or should any state law, regulation or guideline be modified, changed or interpreted in such a way that the Project, or any portion of the Project, is no longer eligible for facility grant funds.

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- b. In the event insufficient funds are appropriated for the payments under this Agreement and the Subrecipient has no other lawfully available funds, then the Subrecipient may terminate this Agreement at the end of its current federal fiscal year, with no further liability to MLE. The Subrecipient shall deliver written notice to MLE of such termination no later than 30 days from the determination by the Subrecipient of the event of non-appropriation. MLE shall pay for all authorized Project costs expended up to the date of written notice of termination.

22.4 Termination for Default. MLE, at any time upon 30 days prior written notice of default to the Subrecipient, may modify or terminate this Agreement if:

- a. The design and implementation, of the Project is not pursued with due diligence; or
- b. The Project is not permissible under federal, state, or local law; or
- c. The Subrecipient, does not abide by the nondiscrimination and affirmative action provisions of this Agreement; or
- d. The Subrecipient, without the prior written approval of MLE uses the funds provided by MLE hereunder to pursue any project other than the Project described in the final project approved by MLE; or
- e. During the term of this Agreement, the Subrecipient fails to perform any obligation or requirement of this Agreement.
- f. The Subrecipient defaults under any other agreement between the Parties.

22.5 Rights and Remedies.

- a. The Subrecipient shall, within 30 days of its receipt of a notice of default, reimburse MLE for all funds contributed by MLE to the Project. Further, MLE shall have any and all rights and remedies available at law or in equity.
- b. In the event that Subrecipient has materially failed to comply with this Agreement and such non-compliance has resulted in the Federal Funding Agency terminating MLE's grant or cause or requires MLE to return funds to the Federal Funding Agency, Subrecipient will return to MLE an amount equal to the funds which MLE is not reimbursed for or is required to return to Federal Funding Agency.

SECTION 23: NONAPPROPRIATION

MLE's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon MLE receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow MLE, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement.

SECTION 24: AMENDMENTS

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties.

This agreement may be amended only by mutual agreement of the parties in writing. Formal written amendment of the contract is required for changing the terms and conditions specifically stated in the original agreement and any prior amendments, including but not limited to:

- Budget revisions
- Scope of work
- Change in due dates
- Extensions of the period of performance
- Any other revisions determined material by MLE

SECTION 25: NOTICE

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address or to such other addresses as either Party may indicate pursuant to this *Section 24 - Amendments*. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered.

SECTION 26: SURVIVAL

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under *Section 11 – Governing Law and Consent to Jurisdiction*, *Section 13 – Ownership of Work Product*, *Section 20 – Recovery of Overpayments*, *Section 21 – Limitation of Liability*, and *Section 26 - Survival* hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

SECTION 27: SEVERABILITY

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

SECTION 28: COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

SECTION 29: COMPLIANCE WITH LAW

29.1 Compliance with Law Generally. Subrecipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to Subrecipient and the Agreement.

29.2 Penalty of Perjury. By its execution of this Agreement, Subrecipient certifies under penalty of perjury under the laws of the state of Washington the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Agreement.

29.3 Tax Compliance. Subrecipient has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state. Subrecipient shall, throughout the duration of this Agreement and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this *Section 29.3 – Tax Compliance*, “tax laws” includes: (i) All tax laws of this state; (ii) Any tax provisions imposed by a political subdivision of this state that applied to Subrecipient, to Subrecipient’s property, operations, receipts, or income, or to Subrecipient’s performance of or compensation for any work performed by Subrecipient; (iii) Any tax provisions imposed by a political subdivision of this state that applied to Subrecipient, or to goods, services, or property, whether tangible or intangible, provided by Subrecipient; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Any failure to comply with the provisions of this *Section 29 – Compliance With Law* constitutes a material breach of this Agreement. Any failure to comply with Subrecipient’s certifications shall constitute a material breach of this Agreement. Any failure to comply shall entitle MLE to terminate this Agreement, to pursue and recover any and all damages that arise from the breach and the termination of this Agreement, and to pursue any or all of the remedies available under this Agreement, at law, or in equity, including but not limited to:

- 29.3.1** Termination of this Agreement, in whole or in part, this is in addition to any remedies available under *Section 22 - Termination*.
- 29.3.2** Offsetting against any amount owed to Subrecipient, and withholding of amounts otherwise due and owing to Subrecipient, in an amount equal to State’s setoff right, without penalty; and
- 29.3.3** Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. MLE may recover any and all damages suffered as the result of Subrecipient’s breach of this Agreement, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Services and applications.

The state of Washington may take any and all actions permitted by law relative to the collection of taxes due to the state of Washington or a political subdivision, including (i) garnishing the Subrecipient’s compensation under this Agreement or (ii) exercising a right of setoff against Subrecipient’s compensation under this Agreement for any amounts that may be due and unpaid to the state of Washington.

These remedies are cumulative to the extent the remedies are not inconsistent, and MLE may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

SECTION 30: INDEPENDENT CONTRACTORS

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Subrecipient is not an officer, employee, or agent of the state of Washington.

SECTION 31: PERSONS NOT TO BENEFIT

No member of or delegate to Congress, resident commissioner, officer, agent or employee of the United States of America, member of the Washington Legislative Assembly, elected official of the state of Washington, or official, agent, or employee of the state of Washington, or elected member, officer, agent, or employee of any political subdivision, municipality or municipal corporation of the state of Washington shall be admitted to any share or part of this Agreement or derive any financial benefit that may arise therefrom.

SECTION 32: INTENDED BENEFICIARIES

MLE and Subrecipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

SECTION 33: FORCE MAJEURE

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. MLE may terminate this Agreement upon written notice to Subrecipient after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

SECTION 34: ASSIGNMENT AND SUCCESSORS IN INTEREST

Subrecipient may not assign or transfer its interest in this Agreement and any attempt by Subrecipient to assign or transfer its interest in this Agreement will be void and of no force or effect.— The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors. Any sub grant entered into under this Agreement shall contain terms and conditions substantially similar to this Agreement, including Federal provisions contained in Exhibit A and the sub grant shall:

- a. If the contract is not to a unit of Washington State government, the contract shall require the Subrecipient to indemnify, defend, save and hold harmless the state of Washington and its officers, employees, and agents (“indemnitee”) from and against any and all claims, actions, liabilities, damages, losses or expenses arising from a tort, caused or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Subrecipient’s contractor or any of the officers, agents, employees or subcontractors of the contractor (“claims”). It is the specific intentions

of the parties that the Indemnitee shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.

SECTION 35: SUBCONTRACTS & SUB-AWARDS

Subrecipient shall not, without MLE's prior written consent, enter into any subcontracts or follow-on sub-recipient sub-awards (work carried out by parties other than the Subrecipient) for any of the work required of Subrecipient under this Agreement. Subrecipient's consent to any contract, subcontract, sub-award will not relieve Subrecipient of any of its duties or obligations under this Agreement.

SECTION 36: TIME IS OF THE ESSENCE

Time is of the essence in Subrecipient's performance of its obligations under this Agreement.

SECTION 37: MERGER AND WAIVER

This Agreement and all Exhibits and Attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given.

Failure by MLE to insist upon the strict performance of any provision of this agreement shall not affect MLE's right to require strict performance of the same provision in the future or any other provision. Failure by MLE to exercise any right based upon a breach, or acceptance by MLE of performance during such breach, shall not constitute a waiver of any of its rights or remedies with respect to such breach.

EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

SECTION 38: RECORDS MAINTENANCE AND ACCESS

Subrecipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Subrecipient shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Subrecipient, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document Subrecipient's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Subrecipient, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Subrecipient acknowledges and agrees that Washington State Parks and Recreation Commission and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Subrecipient shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable

law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

SECTION 39: HEADINGS

The headings and captions to sections or subsections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

SECTION 40: INCORPORATION BY REFERENCES AND ORDER OF PRECEDENCE

The table below reflects the documents that are incorporated by reference (whether attached or not) and the order of precedence should there be a conflict between the parts of document or other documents incorporated by reference. The lower the number, the higher the precedence. Where two or more documents address a point or concept but are not in conflict, they should be read as supplemental, additive, and/or cumulative.

Precedence	Document
1 (highest)	United State of America Laws or Rules AND Washington State Laws and Rules
2	Amendments to any of the documents listed below shall control over the earlier version of that same document or earlier amendment to that same document.
3	EXHIBIT A - FEDERAL COMPLIANCE TERMS
4	EXHIBIT B - INFORMATION REQUIRED BY 2 CFR §200.331(A) (1)
5	EXHIBIT C – 2 CFR 200, Appendix II - TERMS
6	ATTACHMENT A - SUBRECIPIENT'S MLE GRANT APPLICATION & BUDGET FORM
7	ATTACHMENT B - SUBRECIPIENT'S COMPLETED BUDGET FORM
8	ATTACHMENT C – ALLOWABLE COSTS & EXPENDITURES FOR STATE VESSEL REGISTRATION FEES AND FEDERAL ASSISTANCE GRANTS
9	ATTACHMENT D – VESSEL REGISTRATION FEE PROGRAM GUIDANCE FOR MARINE LAW ENFORCEMENT PROGRAMS

SECTION 41: SIGNATURES

This Agreement, which includes incorporated documents, is executed by the persons signing below who warrant under penalty of perjury under the laws of the State of Washington that they have read and understood the document and find it to be legal, valid, and a binding obligation, enforceable according to its terms, and have the authority to execute the contract.

Port Orchard Police Department 546 Bay Street Port Orchard, WA 98366-5339	Washington State Parks and Recreation Commission PO Box 42650 Olympia, WA 98504-2650
Print:	Print:
Sign:	Sign:
Title:	Title: Contracts, Grants, Procurement Manager
Email:	Email: ContractsAndProcurement@parks.wa.gov
Date:	Date:
Place:	Place: Tumwater, WA

EXHIBIT A: FEDERAL COMPLIANCE TERMS

I. Grant Subrecipient Compliance Requirements:

- A. Subrecipient is responsible to ensure compliance with the federal implementing regulations for (Clean Vessel Act 50 CFR Part 85 or Boating Infrastructure Grant Program 50 CFR Part 86).
- B. Subrecipient to comply with Assurances – Construction Programs (Standard Form 424D)
- C. Pursuant to 2 CFR Part 170, MLE will enter grant information into the Federal Funding Accountability and Transparency Act (FFATA).

II. Federal Terms and Conditions:

Subrecipient is responsible to comply with the following Federal Terms and Conditions, as applicable:

- A. Uniform Administrative Requirements, 2 CFR Part 200, Subparts A through D or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B
- B. including but not limited to the following:

- 1. Property Standards. 2 CFR 200.313, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, which generally describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal funds.

- 2. Contract Provisions. The contract provisions listed in 2 CFR Part 200, Appendix II, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, that are hereby incorporated into this Exhibit. These are, to the extent applicable, obligations of Subrecipient, and Subrecipient shall also include these contract provisions in its contracts with non-Federal entities.

- 3. Audits. Subrecipient shall comply, and require all subcontractors to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law. If Subrecipient expends \$750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, Subrecipient shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to MLE within 30 days of completion.

- B. Cost Principles 2 CFR Part 200, Subpart E
- C. Central Service Cost Allocation Plans Appendix V to Part 200
- D. Indirect Cost Proposals Appendix VII to Part 200
- E. Audit Requirements 2 CFR Part 200, Subpart F

F. Federal Non-discrimination Statutes. Subrecipient is responsible to comply with all federal statutes relating to non-discrimination, including but not limited to: Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; Title IX of the Education Amendments of 1972 (20 USC §§ 1681-1683; 1685-1686) which prohibits discrimination on the basis of gender; Section 504 of the Rehabilitation Act of 1973 (29 USC § 794) which prohibits discrimination on the basis of handicaps; Age Discrimination Act of 1975 (42 USC §§ 6101-6107) which prohibits discrimination on the basis of age; Drug Abuse Office and Treatment Act of 1972 (PL 92-255) which prohibits discrimination on the basis of drug abuse; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616) regarding non-discrimination on basis of alcohol abuse or alcoholism; Sections 523 and 527 of the Public Health Services Act of 1912 as amended (42 USC §§ 290 dd-3 and 290 ee-3) regarding confidentiality of alcohol and drug abuse patient records; Title VIII of the Civil Rights Act of 1968 (42 USC §§ 3601 et seq.) regarding nondiscrimination in the sale, rental or financing of housing; any other nondiscrimination provisions of the specific statutes under which this agreement is being made; and the requirements of any other nondiscrimination statute(s) which apply to the federal financial assistance award received by MLE.

G. Eligible Workers. Subrecipient shall ensure that all employees complete the I-9 Form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 USC 1324a). Subrecipient shall comply with regulations regarding certification and retention of the completed forms.

H. To the extent applicable to this award, Subrecipient is responsible to comply with

1. National Environmental Policy Act; E.O. 11514 (which requires the Subrecipient to comply with environmental standards which may be prescribed pursuant to institution of environmental quality control measures under the National Environmental Policy Act of 1969 (42 USC Chapter 55, [Pub. L. 91-190]) and Executive Order 11514.
2. E.O. 11990: Protection of Wetlands (which requires the Subrecipient to comply with environmental standards for the protection of wetlands)
3. E.O. 11988: Floodplain Management; E.O. 11988 (which requires the Subrecipient to comply with environmental standards for the evaluation of flood hazards in floodplains)
4. Coastal Zone Management Act (which requires Subrecipient to ensure that the work performed will not violate State management programs developed under the Coastal Zone Management Act of 1972) (16 USC Chapter 33, Sections 1451 et seq.).'
5. Wild and Scenic Rivers Act (which requires the Subrecipient to protect components or potential components of the national wild and scenic rivers

system). (16 USC Chapter 28, Sections 1271 et seq.)

6. Historic Preservation Act, E.O. 11593 (which requires Subrecipient to assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 USC 470), E.O. 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 USC Sec. 469a-1 et seq.).

7. Endangered Species Act (which requires the Subrecipient to comply with environmental standards for the protection of endangered species) 16 USC Chapter 35, Sections 1531ff [Pub. L. 93-205]).

8. Marine Mammal Protection Act (which Requires permits and reports for research projects that will involve the taking or importation of protected marine mammals or marine mammal products) (16 U.S.C. Chapter 31, Subchapter I, Sections 1361ff).

I. Other Requirements (USFWS specific)

1. Universal Identifier and Central Contractor Registration 2 CFR Part 25

2. Reporting Sub-awards and Executive Compensation 2 CFR Part 170

3. Award Term for Trafficking in Persons (applicable to private entity subrecipients) 2 CFR Part 175

4. Government-wide Debarment and Suspension (Non-procurement) 2 CFR Part 1400

5. Requirements for Drug-Free Workplace (Financial Assistance) 2 CFR Part 1401

6. 43 CFR 18 New Restrictions on Lobbying: Submission of an application also represents the applicant's certification of the statements in 43 CFR Part 18, Appendix A, Certification Regarding Lobbying.

7. 41 U.S.C. 4712 Enhancement of Recipient and Subrecipient Employee Whistleblower Protection:

a. This award, related sub-awards, and related contracts over the simplified acquisition threshold and all employees working on this award, related sub-awards and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies established at 41 USC 4712b. Subrecipient, Subrecipient's contractor, or Subrecipient's sub-recipient(s) (however many levels), and their contractors award contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.

c. The Subrecipient shall insert this clause, including this paragraph (c), in all sub awards and in contracts over the simplified acquisition threshold

related to this award.

8. Prohibition on Members of Congress Making Contracts with Federal Government: No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this award, or to any benefit that may arise therefrom; this provision shall not be construed to extend to an award made to a corporation for the public's general benefit 41 USC § 6306.

9. Federal Leadership on Reducing Text Messaging while Driving: Subrecipients are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in Section 3(a) of the Order Executive Order 13513.

EXHIBIT B: INFORMATION REQUIRED BY 2 CFR §200.331(A) (1)

Federal Award Identification:

- (i) Subrecipient name (which must match registered name in DUNS): **Port Orchard Police Department**
- (ii) Subrecipient's DUNS number: 081932790
- (iii) Federal Award Identification Number (FAIN): 3321FAS21053
- (iv) Federal Award Date: 10/1/2021
- (v) Sub-award Period of Performance Start and End Date: From 10/1/2021 to 9/30/2022
- (vi) Total Amount of Federal Funds Obligated by this Agreement: **\$9,601.09**
- (vii) Total Amount of Federal Award committed to the Subrecipient by the pass-through entity: **\$9,601.09**
- (viii) Federal award project description: Marine Law Enforcement Federal Financial Assistance Grant
- (ix) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity:
 - (a) Name of Federal awarding agency: United States Coast Guard
 - (b) Name of pass-through entity: Washington State Parks and Recreation Commission
 - (c) Contact information for awarding official of the pass-through entity:
boatingprogram@parks.wa.gov
- (x) CFDA Number and Name: Federal Boat Safety Act 92-75
- (xi) Is Award R&D? No
- (xii) Indirect cost rate for the Federal award: NA %

**For the purposes of this Attachment, the term "pass-through entity" refers to Washington MLE Grant Program.*

EXHIBIT C: 2 CFR 200, APPENDIX II - TERMS

Provisions for Non-Federal Entity Contracts Under Federal Awards (current as of 20200717)

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited

from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See § 200.322 Procurement of recovered materials.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014

Intergovernmental Agreement

ATTACHMENT "A": SUBRECIPIENT'S FFA GRANT APPLICATION

ATTACHMENT "B": SUBRECIPIENT'S COMPLETED BUDGET FORM

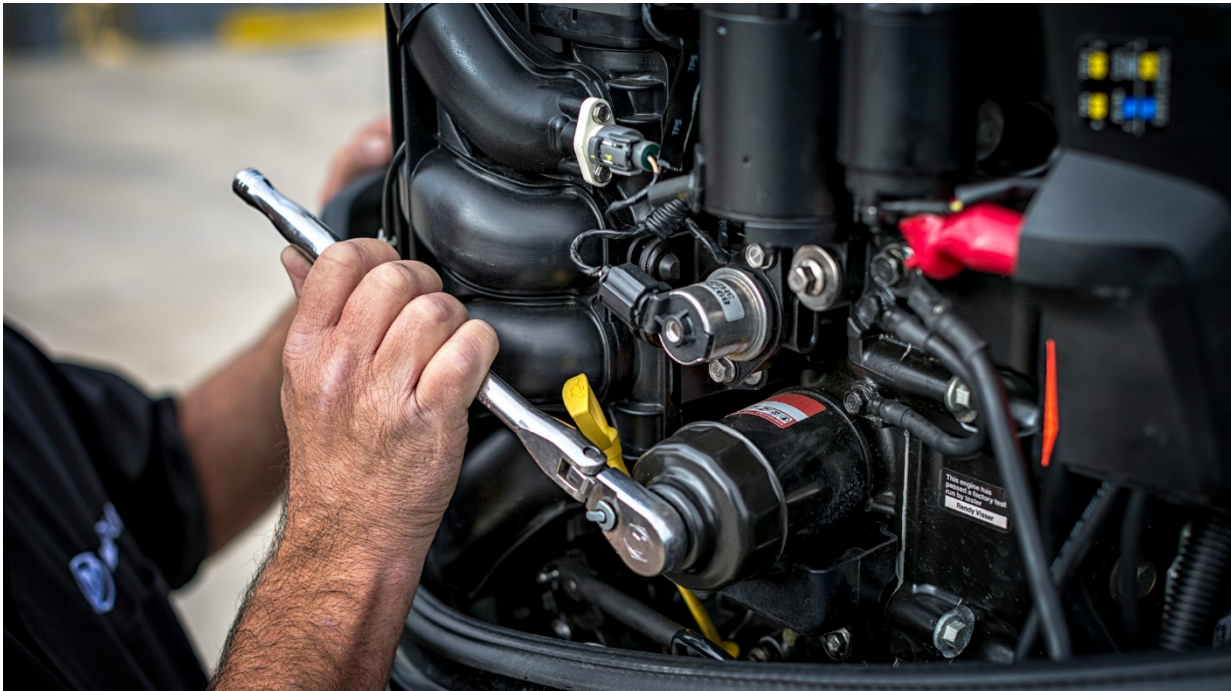
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ATTACHMENT C – ALLOWABLE COSTS & EXPENDITURES FOR STATE VESSEL REGISTRATION FEES & FEDERAL ASSISTANCE GRANTS



Allowable Costs & Expenditures For State Vessel Registration Fees & Federal Assistance Grants

Updated June 2021



Intergovernmental Agreement

Contents

<u>VESSEL REGISTRATION FEES & GRANT FUNDING</u>	39
<u>UNIT COST APPROVAL</u>	39
<u>COST PRORATION</u>	39
<u>ADMINISTRATIVE COSTS</u>	39
<u>ALLOWABLE EXPENDITURES</u>	39
<u>RBS SALARIES</u>	39
<u>RBS EDUCATION AND INSTRUCTION</u>	40
<u>RBS TRAINING</u>	40
<u>RBS EQUIPMENT:</u>	41
<u>PATROL VESSELS</u>	41
<u>ASSOCIATED EQUIPMENT FOR PATROL VESSELS</u>	42
<u>PATROL VESSEL TRAILERS</u>	43
<u>BOAT EQUIPMENT</u>	44
<u>NAVIGATION AIDS & BUOYS</u>	44
<u>EDUCATION</u>	44
<u>NON-ALLOWABLE COSTS AND EXPENDITURES</u>	45

Intergovernmental Agreement

VESSEL REGISTRATION FEES & GRANT FUNDING

Any item not listed below must be reviewed and found acceptable by the Washington State Parks Boating Program (Boating Program) before it is considered a valid Recreational Boating Safety (RBS) expenditure.

UNIT COST APPROVAL

Items with a unit cost of \$5,000 or more under the VRF funds and \$2500 or more under the FFA grant must have the prior written approval of Washington State Parks and Recreation Commission Marine Law Enforcement (MLE) Coordinator.

COST PRORATION

If a cost benefits both your RBS program and other work of your agency, the cost should be allocated to the RBS Program based on the proportional benefit to the program. The costs may be allocated using any reasonable documented method.

ADMINISTRATIVE COSTS

Agencies that receive Vessel Registration Fees (VRF) are not allowed to charge flat administrative costs for the administration of the VRF funds as is often done with federal grants. However, agencies may charge the salaries and benefits costs of actual hours worked by staff associated with the administration of their dedicated VRF account.

Agencies that receive federal assistance grants from the Boating Program are allowed to charge indirect (administrative) costs for those funds. If the agency has a federally negotiated indirect cost rate, they are permitted to charge that against the total salaries + benefits charged to the federal assistance grants. They must first provide a copy of their current rate agreement to Parks. If not, then they may charge a *de minimus* flat rate of 10% or elect not to charge indirect at all (2 CFR 200.414(f)).

ALLOWABLE EXPENDITURES

Grant funds may be used only for activities under WAC 352-65-040, the ten elements necessary to accomplish the Recreational Boating Safety (RBS) mission. If it is unclear if an expense meets these criteria, contact State Parks at (360) 902-8845 or cheri.peel@parks.wa.gov to discuss the item before proceeding.

Allowable expenses include but are not limited to:

- **RBS SALARIES**
 - Time, salaries, benefits and wages for officers or deputies who possess a Washington State Peace Officers Certification, are fully commissioned to enforce the laws of Washington State and who have completed an RBS course acceptable to State Parks (BMLE or equal).

Intergovernmental Agreement

- Time, salaries, benefits and wages for officers or deputies who possess a Washington State Peace Officers Certification, are fully commissioned to enforce the laws of Washington State, and who have not completed a BMLE course is acceptable ONLY when working with an RBS trained officer AND when the agency has a written 'two-officer' policy for officers on marine patrol for the purpose of officer safety.

- **RBS EDUCATION AND INSTRUCTION**

Providing instructors for the *Adventures in Boating* course that qualifies graduates for the required mandatory boater education card. Costs may include classroom supplies, light refreshments, other goods and services necessary to promote and teach classes, and officer salaries, benefits and wages. Officer salaries will only be reimbursed for those officers who have successfully completed a State Parks *Adventures in Boating* Instructor Training class and are listed on our files.

Life jackets (USCG approved only) for the state *Adventures in Boating* course and other RBS presentations, such as: throw rings or cushions for loaners and the cost to print only the agency's name or RBS safety messages.

- **RBS TRAINING**

Grant or VRF funds can be used to pay for full-time and reserve officers who are fully commissioned to enforce the laws of the State of Washington to attend training provided by the Boating Program or courses approved by the Boating Program.

Note: Approval from State Parks is mandatory if an officer or deputy is applying for a non-Washington RBS course. Examples of approved courses include:

- MLE Instructor Meeting
- Basic Marine Law Enforcement/Boat Crew Member or equivalent (BMLE)
- Boat Operator Search and Rescue (BOSAR)
- Boating Under the Influence – Basic (BUI-Basic)
- Boating Under the Influence-Advanced (BUI-Adv)
- Personal Watercraft for Law Enforcement (PWCLE)
- Enhanced Vessel Operator Course (EVOC)
- Fall Marine Law Enforcement Conference
- Boating Accident Investigation-Level 1
- Officer Water Survival
- Boater Education Instructor Training (BEIT)
- Designated Education Officer Training (DEOT)

Intergovernmental Agreement

- Adventures in Boating Instructor Training
- RBS Related Local In-Service Training
- Other USCG training courses with prior approval
- Other NASBLA training courses with prior approval

Per Diem travel expenses at **state per diem rate** in effect for the destination RBS training, conferences, and meetings. Cost is prorated for percentage of travel /per diem for RBS purposes /missions only.

RBS EQUIPMENT

Allowable expenses may include the purchase, maintenance and operation of patrol boats and patrol boat equipment to perform the RBS mission as defined in WAC 352-65-040 only. **Any purchase exceeding \$5,000 under the VRF funds must receive prior approval from the Boating Program. Any purchases exceeding \$2,500 under the FFA grant must receive prior approval from the Boating Program.** All decisions by the Boating Program for equipment purchases are final.

PATROL VESSELS

- Motors and hardware
- Props
- Trailers and maintenance of trailers (repair, tires, winch, cables, power take-off)
- Patrol vessel and engine drive system repairs
- Repair and replacement of equipment on boat (includes de-watering pumps which can also be used as fire-fighting equipment)
- Tow vehicles (dedicated for 100% RBS use, or prorated for the percentage of time used for RBS activities)
- Hitch assemblies and installation cost for tow vehicles that are dedicated for 100% RBS use, or prorated for the percentage of time used for RBS activities
- Anti-freeze fluid
- Batteries and fluid; maintenance and replacement
- Costs related to the maintenance and repair of the vessel
- Costs related to marking and identifying patrol vessels as government owned, which includes painting, decals and cost of removal and application
- Vessel electrical system repairs and replacement
 - Electronic devices: parts and labor for maintenance, repairs to maintain, or replacement when devices fail, or are no longer serviceable, or when upgrades are required to meet customary and current standards for law enforcement work

Intergovernmental Agreement

- Devices dedicated to the program such as agency & VHF radios
- Radar units
- Sirens
- Blue lighting equipment
- Hailers
- Global positioning system (GPS) units
- Personal breath testers (PBT)
- Cell phones used 100% RBS only, or prorated for a percentage of time used on boat
- Battery chargers and computers dedicated to program use
- Includes brackets and fittings for installation and use
- Fluids for hydraulic system
- Fuel, fuel additives and filters; associated disposal fees
- Gear oil for lower units
- Glass replacement and costs to install, associated disposal fees
- Grease and lubricants
- Oil and oil filters; associated disposal fees
- Parts and labor for regular scheduled maintenance and scheduled replacement
- Parts for replacement on the vessel when failure occurs or when damaged and labor, which includes engine, lower unit and cooling system repairs and replacement
- Vessel canvas tops and side covers; includes repairs and replacement of canvas/vinyl/plastic material and framing structures
- Vessel hull and structural repairs/replacement of railings, pilot house, decks, cleats, ladders, swim platforms, Sampson posts, fittings, towing equipment, davits, anchors, chain, and associated hardware and fittings

ASSOCIATED EQUIPMENT FOR PATROL VESSELS

- Cost of emergency response and rescue equipment repair, replacement and maintenance, including: stretchers, first aid/first responder kits and materials, fire suppression equipment and supplies.
- Cost of fees related to cell phone charges, annual registration charges, renewal fees, and insurance are prorated for percentage of time used performing RBS missions.
- Cost of haul-outs and associated costs with cleaning and maintenance of hull, fixtures and drive systems, and associated disposal fees.
- Costs related to moorage, including cost of water/electricity associated with maintenance and moorage.

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- Cost of required safety equipment on the vessel when replacement, repair, or regular maintenance is needed to meet state/federal regulations and maintain USCG standards. For example:
 - Life jackets, replacement parts (clips, hooks, CO2 cartridges and re-arm kits) and stenciling/screening of agency name or law enforcement
 - Exposures suits
 - Fire extinguishers/extinguishing systems
 - Visual distress signals
 - Navigation lights
 - Sounding devices
 - Ventilation systems
 - Backfire flame arrestor
- Cost of replacement, repair, or regular maintenance of equipment used during operation and moorage. For example:
 - Fenders
 - Lines for towing and mooring
 - Chafing gear
 - Boat hooks
 - Towing equipment
 - Bilge pumps
 - Batteries
 - Navigation charts
 - Piloting equipment
 - Helm fixtures and seats
 - Logbooks
 - Depth sounders & radar, does not include FLIR systems
 - Portable fuel tanks and hoses

PATROL VESSEL TRAILERS

- Costs related to maintenance and repair of patrol vessel trailer(s)
- Cost of tires and wheels, including: installation, repair, and balancing; associated disposal fees
- Electrical system maintenance, repair and replacement
- Hitch and ball repair or replacement
- Hydraulic or electric brake system maintenance, repair and replacement
- Oil, grease and lubricants, and associated disposal fees

Intergovernmental Agreement

- Winch maintenance, repair and replacement

BOAT EQUIPMENT

- Anchors
- Line for towing and mooring
- Chain or shackles and attachment hardware
- Carabineers
- Boat hooks
- Fire extinguishers (only USCG approved)
- Fenders
- Depth finders
- Radar units, does not include FLIR systems
- Radios and computers, dedicated for 100% RBS use or prorated for the percentage of time used for RBS activities
- Lines for tie up
- Light bars – blue lights only (no red, white or yellow lights)
- Search lights dedicated for 100% RBS use or prorated for the percentage of time used for RBS activities
- FLIR System (mounted on and wired to the vessel)
- sirens
- Cost of installation and servicing of electronic components
- Canvas and siding for weather protection
- Haul out for cleaning/painting/servicing patrol vessels
- First-aid kits dedicated for 100% RBS use or prorated for the percentage of time used for RBS activities
- Rescue throw bags for use on boats only

NAVIGATION AIDS & BUOYS

- Navigation signs & markers (to meet RCW 79A.60.500 and WAC 352)
- Decals for buoys
- Chain
- Cable and connectors
- Weights
- Equipment to maintain buoys and signs to remain effective

EDUCATION

Intergovernmental Agreement

- Publications to promote RBS education that are already prepared or the creation, design and printing of publications
- Education equipment related to required boating safety equipment for recreational boats
- Promotion of *Adventures in Boating* classes (including presentation materials, light refreshments and room rental for classes)

NON-ALLOWABLE COSTS AND EXPENDITURES

- Bullet proof vests are beneficial, however equipment of this nature is not essential for meeting the established criteria in WAC 352-65-040 nor is it related to the performance of an RBS program mission and is considered a local agency responsibility to purchase.
- Equipment used in recovery operations (dive equipment, etc.) while being used in an RBS search or investigation mode are 100% eligible. Once this equipment is used for recovery operations it must be prorated between RBS missions and recovery missions.
- Handheld or portable night vision, FLIR or thermal imaging devices are a 100% allowable expense while in RBS patrol, search or investigation mode. Once this equipment is used for recovery operations it must be prorated. Permanently mounted and electrically wired FLIR and thermal Imaging devices are 100% allowable expenses.
- Homeland security missions (weapons, etc.), or any other equipment determined as unrelated by the Boating Program is not an allowable expense.
- Firefighting equipment is not an allowable expense.

Intergovernmental Agreement

EXHIBIT D – VESSEL REGISTRATION FEE PROGRAM GUIDANCE FOR MARINE LAW ENFORCEMENT PROGRAMS

Intergovernmental Agreement



Vessel Registration Fee Program Guidance for Marine Law Enforcement Programs

Updated January 2021



Introduction

The purpose of the Vessel Registration Fee (VRF) program is to focus local jurisdiction marine programs on injury prevention activities around recreational boating safety. These activities include enforcing [RCW 79A.60: Regulation of Recreational Vessels](#) and providing emergency response to boating accidents. Each marine patrol unit should strive to serve and protect the lives and property of Washington's recreational boaters. All VRF Funds are awarded based on the potential success and ability of the local agency to provide such service to the boating community. Recreational Boating Safety (RBS) programs are evaluated using the criteria published in this document, as well as its ability to meet the requirements and assurances of [WAC 352-65: Boating Safety Program Approval](#).

This guidance document is intended to help local marine law enforcement programs understand the minimum qualifications and requirements to receive vessel registration fees. The document has been laid out to explain this as simply as possible. The beginning section provides a brief list of the qualifications and requirements, and the remainder of the document explains each component in more depth.

The Washington State Parks Boating Program (State Parks) has established different operational goals for agencies dependent on the population within their jurisdiction (based on 2019 census data).

- **Small Agencies** – Under 30,000 population
- **Medium Agencies** – Population between 30,000 and 100,00
- **Large Agencies** – Populations exceed 100,000.

Intergovernmental Agreement

State Parks Boating Program Contacts

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Intergovernmental Agreement

Table of Contents

<u>Introduction</u>	48
<u>State Parks Boating Program Contacts</u>	49
<u>Overview of Agency Eligibility Requirements and Qualifications</u>	51
<u>Summary of Required Documents and Due Dates</u>	52
<u>Administrative and Financial Requirements</u>	53
<u>Annual Agreement – The A-299 Application Form</u>	53
<u>Designated Marine Lead / Conference Attendance / Surveys</u>	53
<u>Reporting Recreational Boating Activities and Financial Data</u>	54
<u>SOAR – Summary of Activity Reports</u>	54
<u>Vessel Registration Fee Expenditure Report</u>	54
<u>Supporting Financial Documents</u>	54
<u>Dedicated Account / Limitations on the Use of Funds / Accountability</u>	54
<u>Links to local ordinances</u>	55
<u>Operational Requirements</u>	55
<u>Officer / Deputy Qualifications / Training / Training Currency</u>	55
<u>Vessels and Equipment</u>	56
<u>Boating Accident Reporting</u>	57
<u>Boater Assistance</u>	58
<u>Boat Patrol (Boat Log Hours)</u>	58
<u>Minimum Patrol Hour Goals Based on Agency Size</u>	59
<u>Enforcement</u>	59
<u>Boating Safety Inspections</u>	60
<u>Suggested Written Inspections – Minimum Goals</u>	60
<u>Boating Safety Education / Designated Education Officer / Deputy</u>	60
<u>Education and Outreach Tactics and Suggested Goals</u>	61
<u>Waterway Marking</u>	63
<u>Accountability</u>	63
<u>Audits</u>	63
<u>Compliance</u>	64

Overview of Agency Eligibility Requirements and Qualifications

Only counties or local public agencies having jurisdiction over waters used for recreational boating and possessing the authority to enforce the Revised Code of Washington and the Washington Administrative Code are eligible to apply to receive vessel registration fees. Participating agencies must:

Administrative & Financial Requirements

1. Sign an annual agreement with State Parks.
2. Designate a “Marine Lead”: A single point of contact that oversees the day-to-day program operations, commits to attend the annual marine law enforcement conference, and responds to surveys sent by State Parks.
3. Designate a “Marine Supervisor”: A single point of contact that has administrative authority over the marine program for the agency.
4. Report recreational boating safety activities and certain financial data to State Parks.
5. Place all vessel registration fees into a dedicated account, agree to spend them only on eligible expenses and agree to accountability requirements.
6. Provide digital links to all local ordinances regulating recreational boating.

Operational Requirements

7. Employ Officers / Deputies commissioned to enforce Washington state law.
8. Send all marine Officers / Deputies through the Washington State Parks Basic Marine Law Enforcement Academy.
9. Maintain annual training qualification currency for each participating Officer / Deputy.
10. Provide the appropriate vessels and equipment to carry out the operational requirements.
11. Report all boating accidents that occur within the jurisdiction (that meet minimum criteria) pursuant to RCW 79A.60.200, RCW 79A.60.220 and WAC 352-70.
12. Respond and provide assistance to boaters for on-water emergencies, complaints, and accidents.
13. Commit to a minimum number of hours patrolling the waters used by recreational boaters during peak boating season.
14. Actively enforce Washington’s boating safety laws and regulations.
15. Conduct vessel safety inspections for recreational boaters.
16. Provide a boating safety education and outreach program and designate at least one Officer / Deputy to receive the Adventures in Boating Instructor training and to manage the program.
17. Place and maintain aids to navigation as legislated by local ordinances.

Intergovernmental Agreement

Summary of Required Documents and Due Dates

Document Name	Form Number	Date Due
Request for Boating Program Approval	A-299 / Web form	15 Oct each year
Federal Financial Assistance Grant Application (If applying)	A-300/Web form	15 Oct each year
B.O.A.T Currency Report	Web form	15 Oct each year
Summary of Activity Report (SOAR)	Web form	Quarterly *
Boating Accident Report (BAR)	A-440	10 days following accident
Boating Accident Investigation Report (BAIR)	A-425 (Rev 08/2009)	10 days following accident / fatality meeting report criteria
Washington State Vessel Inspection	P&R A-274	Quarterly*
VRF Expenditure Report	Web form	1 Nov each year
Financial System Report	Agency generated	1 Nov each year
VRF Fund Balance Report	Agency generated	1 Nov each year
Boating Safety Surveys	N/A	Varies

** Document is due quarterly and must be submitted by the 15th of the month following the last month of the quarter (1st Qtr-04/15, 2nd Qtr-07/15, 3rd Qtr-10/15, 4th Qtr. 01/16).*

Administrative & Financial Requirements

Annual Agreement – The A-299 Application Form

Each agency is required sign an agreement with State Parks by submitting a complete A-299 application form. The A-299 contains several informational fields that must be filled out completely to be considered and aids in the continued approval of the agency's program. These forms are due each year by October 15. Agencies must provide information on their current staff, training, an inventory of vessels, and the anticipated patrol schedule. The form also defines the specific requirements your agency is committing to in exchange for vessel registration fees. This form, and instructions on how to fill it out, is located at <http://mle.parks.wa.gov/>.

Designated Marine Lead / Conference Attendance / Surveys

Each agency has a unique and different operational environment that offer a variety of solutions to ensure Marine Law Enforcement (MLE) unit operations, enforcement, fiscal and administrative functions are conducted according to best practices. Some agencies may have a Lieutenant serving the MLE Unit Supervisor and crew member conducting vessel operations and patrols. Other agencies may have a Sergeant as a supervisor and different crew member conducting vessel operations.

Recognizing this, State Parks requires each agency to designate a "Marine Lead", which is the person responsible for the day-to-day operations of its marine program and acts as the point-of-contact with State Parks on all issues and matters related to that agency's MLE unit. While the Sheriff or Chief of Police is ultimately responsible for ensuring their agency is meeting all the program requirements, the Marine Lead is the person implementing their guidance and communicating that to other Marine Unit members, State Parks, and the public.

The Marine Lead is responsible to:

- Ensure all required reports are completed and submitted to State Parks within due date guidelines.
- Submit personnel names to attend training courses and conferences.
- Attend the annual fall conference.
- Ensure that B.O.A.T. Currency training is conducted and reported to State Parks.
- Utilize Marine SECTOR within their agency.
- Communicate with State Parks on all matters and issues which may arise around recreational boating safety and marine law enforcement.
- Respond to surveys from State Parks.

State Parks also requires the agency to designate a "Marine Supervisor", which is the person with administrative supervision of the agency's MLE program.

Intergovernmental Agreement

Reporting Recreational Boating Activities and Financial Data

SOAR – Summary of Activity Reports

A Summary of Activities Report (SOAR) form must be submitted at least quarterly to State Parks. However, agencies are invited to report activities daily, weekly, or monthly. This form, and instructions on how to fill it out, is located at <http://mle.parks.wa.gov/>.

Vessel Registration Fee Expenditure Report

This annual report form must be submitted by October 15 each year to State Parks. The form fulfills the requirements of **WAC 352-65-040(9)** which requires each participating agency to submit an annual account of program expenditures showing the amount of vessel registration fees received, spent, and remaining in their dedicated account. They must also show the amount of “local spending” on recreational boating safety activities. “Local spending” is the amount agencies spend on the RBS mission and cannot come from other grant sources. Local spending is required because [RCW 88.02.650](#) specifies that “[VRF] Funds may not supplant local funds used for boating safety programs”. This form, and instructions on how to fill it out, is located at <http://mle.parks.wa.gov/>.

Supporting Financial Documents

Every Vessel Registration Fee (VRF) Expenditure Report must be accompanied with the following reports:

- **Financial System Report**: A report from the agency financial system (not Excel) showing a dedicated account for the deposit of state VRF funds received from the Office of State Treasurer (Enclosure 4).
- **VRF Fund Balance Report**: A report showing the fund balance of the dedicated account (Enclosure 5). The VRF fund balance on this system-generated report should match the bottom line on the VRF report (“Total Remaining Balance of State VRF funds for Fiscal Year”).

Dedicated Account / Limitations on the Use of Funds / Accountability

Participating agencies must deposit VRF funds allocated by the state treasurer, under RCW 88.02.650, into an account dedicated solely for boating safety purposes, which include all activities or expenditures identified in this section. See the document “Allowable Costs & Expenditures for State Vessel Registration Fees & Federal Assistance Grants” for a thorough explanation of eligible expenses located at <http://mle.parks.wa.gov/>.

Vessel Registration Fees are intended to increase the education and enforcement efforts of local agencies and stimulate greater local participation in boating safety. They cannot be used to fund any activities except those that are part of the recreational boating safety mission.

Intergovernmental Agreement

Agencies may charge actual, direct administrative costs to the VRF account - such as staff hours it takes to fill out forms, or to maintain the dedicated account - but may not charge administrative fees based on an estimated percentage.

Participating agencies must maintain accurate annual records of activities and expenditures of their boating safety programs. Those records must be provided to State Parks consistent with their agreement, or upon request. The agency must also permit State Parks to audit the use of funds in accordance with generally accepted audit practices and standards.

Links to local ordinances

When the local jurisdiction adopts ordinances governing recreational boating, the ordinances must be at least as restrictive, but may be more restrictive than Washington state boating laws and regulations. Participating agencies must submit a web link to all such ordinances to State Parks using the designated field in the A-299 Form.

Operational Requirements

Officer / Deputy Qualifications / Training / Training Currency

Participating agencies must provide Officers / Deputies with law enforcement certificates from the Criminal Justice Training Commission which authorizes them to enforce all boating laws and regulations. All Officers / Deputies must maintain a current Washington State Peace Officers Certification.

Participating agencies are responsible for acquiring the required training for all RBS Officers / Deputies. Washington State Parks provides two or more Basic Marine Law Enforcement Academies each year to help agencies fulfill this requirement. These courses are provided at no charge. They are taught in the spring - usually one in Western Washington and one in Eastern Washington. Officers / Deputies may attend other basic boating safety training, if approved by State Parks. Those approved courses are the Federal Law Enforcement Training Center's (FLETC), Marine Law Enforcement Training Program (MLETP), or National Association of Boating Law Administrator's (NASBLA) Boat Crewman course (BCM).

Such training must be acquired within one year of initiating a new boating safety program and within one year for each newly assigned boating safety Officer / Deputy.

Washington State Parks' Marine Law Enforcement Training Academy is accredited through the NASBLA's Boat Operation and Training (BOAT) Program. As a term of accreditation, State Parks must ensure that all active marine Officers / Deputies maintain proficiency in basic RBS skills. This is important because these skills are perishable but critical to operate in a marine environment. All agencies must submit a BOAT Currency Requirements Report Form for all active personnel listed in the A-299. These reports are

Intergovernmental Agreement

submitted at least annually with the A-299 but may be updated throughout the year. This form, and instructions on how to fill it out, is located at <http://mle.parks.wa.gov/>.

Agencies which have not completed all currency training tasks required may submit a statement of explanation and attach it to the A-299 form. State Parks recognizes that many different circumstances could prevent training from being completed (wildfires, maintenance issues, staffing shortfalls, etc.). Each circumstance will be evaluated on its own merits.

Agencies are required to list any additional training courses their personnel have completed on the A-299 web form. This helps State Parks in maintaining an up-to-date database of marine law enforcement capabilities across the state and helps identify training subjects and courses that are needed, but not offered within the state.

Vessels and Equipment

Agencies must supply the necessary boating safety patrol equipment, including vessels capable of serving the minimum requirements outlined in this guidance. Patrol vessels must be properly marked and properly equipped as provided in chapter 88.02 RCW and chapter 352-60 WAC. Agencies are also required to provide State Parks with an inventory of all vessels along with details for how they are equipped each year by filling out the A-299 form. Information required on that form includes:

- **Vessels:** State Parks requires the following data on each vessel:
 - Vessel name
 - Manufacturer
 - Radio equipped (Y/N): Radio equipped means the vessel has an agency **radio installed or “hardwired”**. Non-radio equipped boats are vessels that do not have radios installed. Portable radios may be carried on these boats, but they would be considered non-radio equipped. Examples include personal watercraft, drift boats, Jon boats, kayaks, and inflatable rafts (motorized or non-motorized).
 - SECTOR equipped (Y/N): SECTOR equipped boats are the patrol vessels in your agency that are SECTOR equipped with a computer or tablet plus printer and scanner (**installed or “hardwired” to include portable cased units**). Non-SECTOR equipped boats are vessels that do not have a computer, tablet, printer installed or if these are not carried aboard as a cased kit.
 - Model
 - Length
 - Propulsion type
 - Horsepower
 - Year
 - Funds used to purchase the vessel (local, state, or federal)
 - Percent of time employed for the RBS mission.

Intergovernmental Agreement

NOTE: Vessels purchased with state or federal dollars must be sold at the end of their useful life, consistent with the local agency's policies and procedures. Once a vessel is sold it should be removed from the Patrol Vessel list as quickly as possible. **If the agency is selling a vessel that was purchased with federal grant dollars provided by State Parks, you must notify State Parks 60 days in advance of the sale date.**

- **Vehicles** (trucks, cars, SUVs, ATVs): The number of other patrol vehicles assigned to the marine services unit **and the percentage they are used for RBS activities.**
 - Vehicle type
 - Manufacturer
 - SECTOR/Radio equipped
 - Model
 - Year
 - Funds used for purchase.
 - Percent of time employed for the RBS mission.

- **Aircraft:** The number of aircraft in your agency **and the percentage they are used for RBS activities.**
 - Aircraft type
 - Manufacturer
 - SECTOR/Radio equipped
 - Model
 - Year
 - Funds used for purchase.
 - Percent of time employed for the RBS mission.

- **Equipment valued at \$5000.00** (i.e., engines, electronics, etc.): Agencies are required to update their inventory of durable items defined as having a cost or value of \$5000.00 or more. Only items listed under "allowable expenses" are permitted (see "Allowable Expense Guidance" document for full details).
 - Type of equipment
 - Manufacturer
 - Model
 - Year
 - Funds used for purchase (local, state, federal)

Boating Accident Reporting

Participating agencies are required to submit accident reports to State Parks in compliance with RCW 79A.60.200, RCW 79A.60.220 and WAC 352-70.

Intergovernmental Agreement

For any boating accident resulting in a death or injury requiring hospitalization, each participating agency must:

- Notify State Parks **within 48 hours** of becoming aware it.
- Fill out and submit a complete Boating Accident Investigation Report (BAIR – form number A-425) within ten days of the occurrence.
- Include the results of any other investigation conducted by the agency.
- Submit any coroner's reports concerning the death of any person resulting from the boating accident, within one week of completion.

Participating agencies must also submit a Boating Accident Report (BAR – form number A-440) within **10 days** of the occurrence to State Parks for any boating accident:

- Resulting in a death, OR
- An injury requiring hospitalization, OR
- Damage to any vessel or property of two thousand dollars or more, OR
- A vessel is a complete loss, OR
- A person disappears from the vessel under circumstances that indicate death.

Boater Assistance

The local municipality will have the ability to respond or coordinate response to boating emergencies which occur within their jurisdiction. Furthermore, agencies must document each occurrence and report it to State Parks through the Summary of Activity Report (SOAR) at least quarterly using the following definitions:

- **Search and Rescue/Recovery** – Search and rescue (SAR) is defined as a water-borne response (including aircraft) involving a person or vessel **in peril**. Agencies should only report SAR cases on the Summary of Activity Report (SOAR) that were assigned a case number by their agency or a USCG MISLE Case ID Number and an Urgent Marine Information Broadcast (UMIB) initiated by the USCG. Agencies should not report assists (defined below) as SAR cases.
- **Assist** – An "Assist" is defined as aid where there is no immediate danger to the vessel or its occupants. This includes vessels involved in boating accidents, disabled, aground, out of fuel, or otherwise unable to reach a safe mooring under their own power. Assistance may include providing a tow, jump start, re-floating, re-righting, fuel, repair, repair parts, assisting persons in the water, etc. This does NOT include the salvage of a vessel once abandoned or commercial vessels. Report the number of vessels assisted and the number of persons assisted on the SOAR report.

Boat Patrol (Boat Log Hours)

Boat patrol (Boat Log Hours) are those hours that the patrol vessel was actually on the water patrolling. Participating agencies must submit a patrol schedule (with the A-299) that demonstrates they are patrolling waters within their jurisdiction during peak recreational hours. They must also patrol a

Intergovernmental Agreement

minimum number of hours per year. See the note below.

Minimum Patrol Hour Goals Based on Agency Size

- Small agencies - 133 hours
- Medium agencies - 255 hours
- Large agencies - 436 hours

NOTE: State Parks recognizes that Washington State experiences a diverse boating season. Various areas of the state have increased boating activities due to recreation fishing, hunting and pleasure crafting. Because of its diverse landscapes and seasons, State Parks acknowledges that the traditional peak boating season remains during the time between Memorial Day and Labor Day but is not exclusive to that time frame. State Parks has collected data for patrol hours performed by all participating over a period of years and has established the average boat log hours for agencies based on jurisdiction population size according to the U.S. Census. Patrol hours can be a combination of Boat Log and Ramp-side hours.



Patrol hours is considered a critical metric. It is used by State Parks to determine if an agency is complying with the minimum requirements. Failing to achieve the minimum number of hours of patrol (based on size) could be a factor in determining ineligibility for vessel registration fees.

Example patrol schedule

Boat Patrol Schedule							
	Mon	Tue	Wed	Thur	Fri	Sat	Sun
Patrol Hours							
# of Officers / Deputies							
# of Vessels							
Patrol Season Beginning Date				Patrol Season Ending Date			

Enforcement

Participating agencies must enforce safety equipment, vessel operation, noise level, navigation, harbor improvements (as authorized and placed through local ordinances), and registration laws as specified in Title 88 RCW, and as specified in local codes or ordinances. Agencies must also document and report the numbers of warnings and citations they issue for each type of boating violation in the Summary of Activity Report – **except those issued through SECTOR.**

Intergovernmental Agreement

State Parks recommends zero tolerance policy in the enforcement of mandatory boater education card carriage, life jacket wear/carriage, boating under the influence and rules of the road violations. Officers / Deputies should strongly consider issuing citations for violations of these laws in all circumstances.

The SECTOR system should be used to issue boating citations and warnings. State Parks will no longer accept mailed-in paper inspection forms, although State Parks will continue to provide paper inspection forms to agencies for internal use.

Boating Safety Inspections

Participating agencies must complete written boating safety inspections during enforcement and informational contacts when considered safe and appropriate to document boater compliance with state boating laws. State Parks will provide boating safety inspection forms. Copies of the completed inspections must be submitted to State Parks for statistical purposes. Inspections conducted in SECTOR do not have to be reported to State Parks.

NOTE: We will not accept paper inspection forms after January 1, 2019. All inspections must be submitted using SECTOR.

State Parks has calculated suggested minimum goals for the number of boating safety inspections an agency performs in a boating season based on size.

Suggested Written Inspections – Minimum Goals

- Small, 92
- Medium, 283
- Large, 372

Boating Safety Education / Designated Education Officer / Deputy

Participating agencies must have a boating safety education and information program. At a minimum, they must designate an Officer / Deputy, trained by State Parks, to coordinate the activities of boating safety education instructors, act as liaison to boating education organizations and to coordinate:

- Boating safety presentations, which may include presentations to primary and secondary school children, boating organizations, or youth groups.
- Boating safety instruction meaning a public course of instruction using the Adventures in Boating materials from State Parks, or other state or nationally recognized curriculum approved by State Parks.
- Distribution of boating safety information, including materials provided by State Parks, to boating and outdoor recreation organizations, the boating public, public agencies, and local media.

Intergovernmental Agreement

NOTES

- Any Officers / Deputies designated as Certified Boating Education Instructors must be listed as Instructors qualified for the Adventures in Boating course by the State Parks Education and Outreach coordinator.
- State Parks considers education and outreach activities a key component of preventing boating injuries and fatalities. Classroom instruction, school presentations and participation in community events, Dealer and Rental site visits, and effective use of media are crucial to preventing boating accidents and fatalities. Agencies are not required to engage in all education and outreach activities described below but should pursue a mix of tactics appropriate for their area of operation.

Education and Outreach Tactics and Suggested Goals

- **Education Classes:** Classroom instruction of the Adventures in Boating course sanctioned by Washington State Parks that qualifies passing students to obtain a Mandatory Boater Education Card.
 - Small = 15 students, 1 Class
 - Medium = 20 students, 1 Class
 - Large = 50 students, 1 Class
- **Boating Safety Presentations to Groups:** Presentations to various groups such as yacht clubs, kayak clubs, anglers, and any groups that use boats on the water.
 - Small = 10 hours
 - Medium = 15 hours
 - Large = 25 hours
- **Boating Safety Presentations to Schools:** Presentations to local public and or private schools K-12, and colleges / universities.
 - Small = 10 hours
 - Medium = 15 hours
 - Large = 25 hours
- **Vessel Rental Site Visits:** Visits to local vessel rental sites intended to ensure employees and renters are following guidance on the Motor Vessel Rental Safety Checklist. These can also be site visits to businesses that rent out kayaks, canoes, stand-up paddleboards, or other small non-motorized craft. The intent of visits in this case is to emphasize basic safety behaviors such as encouraging renters to always wear a life jacket and encouraging boating in low hazard areas.
 - Small = 2
 - Medium = 4

Intergovernmental Agreement

- Large = 6
- **Participation in Community Events:** Events like county fairs, parades, and night outs that reach large numbers of community members. A qualified event requires face-to-face interaction with community members. Participation in regattas, races, or opening days where there is little or no face-to-face interaction between Officers / Deputies and community members does not count as a “Community Event”. Also, maintaining a screen line or security area at an on-water event does not count for reporting event hours on the SOAR.
 - Small = 40 hours
 - Medium = 150 hours
 - Large = 275 hours
- **Vessel Dealer Site Visits:** Visits to vessel dealerships and brokers to ensure they are following dealer registration laws, educate them on any safety issues with type of vessels they sell, and checks that required safety equipment is on board during test rides and sea trials. Dealers should also be encouraged to remind their customers of the mandatory boater education requirement.
 - Small = 5
 - Medium = 10
 - Large = 15
- **Professional Prevention Partners (Safe Kids, Power Squadron, USCG Auxiliary, etc.):** Engaging partners can multiply the effectiveness of a marine law enforcement program’s by increasing their area of influence and leveraging the resources of partners. Partnering activities include meetings, conference calls, event participation, and actual on-water time. Agencies should report the hours that Prevention Partners spend conducting RBS activities.
 - Small = 1
 - Medium = 3
 - Large = 5

Media Contacts: (This section only applies to Federal Financial Assistant Grant recipients). The intent is for agencies to distribute recreational boating safety content through their own social media channels, the social media channels of their partners, or the news media.

- **Owned Media:** This is the number of hours spent on this activity and the number of posts or articles distributed through communication channels that are owned and managed by the agency like the agency website, social media channels (Facebook, Twitter), newsletters, etc.
 - Small = 4
 - Medium = 8
 - Large = 16
- **Earned Media:** This is the number of hours spent on this activity and the number of articles broadcast through media channels that are not managed by the agency. Examples include

Intergovernmental Agreement

stories in the newspaper, radio, and television. Agencies should also count the number of recreational boating safety posts on the social media channels of partner organizations when the agency can show that the posts are the result of interaction with that partner.

- Small = 4
- Medium = 8
- Large = 16

Campaigns: See SOAR for reporting requirements. Goals for all agencies, regardless of size, is participation in these campaigns. The State Parks Recreational Boating Safety communications staff will distribute content to all agencies for each of the campaigns making participation quick and simple. These campaigns can have a powerful impact if all agencies participate.

- Operation Dry Water campaign is a national campaign focused on the deterrence of boating under the influence. Participation in this campaign is mandatory for all agencies that receive a federal assistance grant. It is a combination of emphasis patrols and media the weekend before the Fourth of July.
- Spring Aboard Campaign was a national campaign but is now a state campaign designed to encourage all boaters to take a recreational boating safety class. It occurs in late March.
- National Safe Boating Week is a nationally observed week focused on encouraging all boaters to wear their lifejackets and other best practices for optimal safety. In addition to media posts, agencies are encouraged to participate in “Wear IT” events. This campaign is sponsored by the National Safe Boating Council.
- Safe Paddling Week is a campaign sponsored by the Washington State Parks Recreational Boating Safety Program. The purpose of the week is to elevate awareness around basic paddling safety behaviors such as always wearing a PFD, obtaining training, etc.

Waterway Marking

Participating agencies should report the total number of Aids to Navigation (ATONs) that they are responsible for within their jurisdiction on the SOAR. Do not count ATON’s emplaced / maintained by the USCG, Corps of Engineers or other Federal agencies. The county or local jurisdiction will use only those waterway markers which conform to the uniform state waterway marking system as identified, found in chapter 352-66 WAC.

Accountability

Audits

All agencies will be audited on a periodic rotating basis. When your agency is slated for an audit, the State Parks Marine Law Enforcement Coordinator will contact your agency to schedule a time. You will

Intergovernmental Agreement

be sent a list of documents and questions that you will need to prepare before the audit. Audits are a review of the performance and accomplishments to measure and evaluate compliance with the terms of the agreement with State Parks.

Compliance

If it is determined that a participating agency is not in compliance with the minimum requirements of the agreement, the State Parks Marine Law Enforcement Coordinator will notify the agency through a Non-Compliance Warning Letter and cite the wording of the agreement. The letter will request the agency responds with a plan to remedy the deficiency per **WAC 352-64-060 (3)**: Revocation of approval ***“Those counties or local jurisdictions unable to demonstrate compliance with minimum approval requirements will have forty-five days to submit a plan satisfactory to state parks to remedy the deficiencies. If, after forty-five days, a county or local jurisdiction is unable to demonstrate its ability to meet minimum requirements, state parks may revoke the program approval after the county or local jurisdiction has had an opportunity for a hearing under chapter 34.05 RCW, the Administrative Procedure Act.”***



**City of Port Orchard
Council Meeting Minutes
Work Study Session Meeting of November 16, 2021**

CALL TO ORDER AND ROLL CALL

Mayor Pro-Tem Ashby called the meeting to order at 6:30 p.m.

Roll call was taken by the City Clerk as follows:

Mayor Pro-Tem 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
Councilmember Rosapepe	Present via Remote Access
Mayor Putaansuu	Absent

Staff present via remote access: Community Development Director Bond, Public Works Director Dorsey, Assistant City Engineer Hammer, Finance Director Crocker, HR Manager Lund, City Clerk Rinearson, and Deputy City Clerk Floyd.

The meeting is also streaming live on YouTube.

Pledge of Allegiance

Mayor Pro-Tem Ashby led the audience and Council in the Pledge of Allegiance.

DISCUSSION ITEMS

1. Transportation Update

Chris Hammer, Assistant City Engineer, provided a presentation which included a brief video about streets and transportation systems; City roadway network, existing street functional classification; planning tools; Transportation Committee work; challenges; mind map; 2021/2022 work plan with the Bay Street Pedestrian Pathway, Bethel & Lincoln intersection project, Bethel Phase 1, and Old Clifton Road projects; preservation projects and activities; planning; and transportation funding analysis.

Additional discussion was held regarding funding for the citywide LED upgrades; work on Bethel Road, infrastructure money and federal dollars; clarifications on grind and patch, chip seal and crack seal; ADA Transition Plan; shovel ready projects; current workload and capacities; and an update on the Gorst Coalition.

Council Direction: No direction was given to staff.

2. 2021 Comprehensive Plan Amendments

Community Development Director Bond noted the application must be filed by the end of January of every year. We can amend our comprehensive plan once a year. There are some exceptions which include sub-area plans.

The City initiated and received several amendments to the Comprehensive Plan by the deadline of January 31, 2021. The following amendments were approved to be placed on the docket by the City Council:

City-Initiated Text Amendments

- Capital Facilities Element. To include a new policy regarding the development of the South Kitsap Community Events Center (SKCEC).
- Utilities Element. This element has been amended with updated tables for the Sewer System Capital Improvement Plan and the Water System Capital Improvement Plan.
- Appendix B (Plans Adopted by Reference). Appendix B has been updated to include the 2016 City Hall Space Analysis, as well as updates to the City's Capital Facilities Plan, Water System Plan, Sanitary Sewer Plan, and 6 Year/20 Year Transportation Improvement Plan (TIP). The 2017 Blackjack Creek Watershed Assessment and Protection & Restoration Plan has replaced the 1987 Blackjack Creek Comprehensive Management Plan.
- 6-Year TIP. The updated 2021 TIP will extend 6-year funded transportation projects on the TIP to 2022-2027 and adopt a long-range (2028-2041) unfunded TIP.

He Site-Specific (Land Use Map) Amendment

- A private-party amendment to the Comprehensive Plan land use map was submitted by He Development LLC, to request that a 1.94-acre parcel located at 1932 SE Salmonberry Rd be redesignated/rezoned from Residential Low Density/R1 to Residential Medium Density/R3. The intent of the request is to provide a driveway access and parking for a proposed multifamily development on an adjoining Commercial Corridor-zoned property to the south.

Mr. Bond also explained an error that was pointed out to him. The 660-zone reservoir that is in the Council's packet this evening is 2.2 million dollars, but we had amended that value in the CFC rate study to be 2.85 million dollars. This will be corrected when it comes back from the Planning Commission.

A brief discussion was held regarding parks and recreation grants, and military centers/bases in Port Orchard.

Council Direction: No direction was given to staff.

3. McCormick Urban Village Subarea Plan and Overlay District Regulations

Community Development Director Bond noted we are trying to identify areas of concentrated growth and activity in the City where we want to focus investment. One of the centers identified is

the McCormick Center. It was noted this is a priority for City Council to have some amount of commercial development to create a destination on the west side of the freeway that would give residents of McCormick Woods options for dining or gatherings.

The work on the plan began in early 2021. The City partnered with McCormick Communities whom hired consultants to help with the concept planning and developing graphics in the draft plan. The City then provided outreach to the public in terms of surveys, public hearings, and draft development regulations.

Mr. Bond noted there is the sub-area plan, as well as the overly district to implement the plan and spoke to the details of each, including showing graphics and maps, road name changes, commercial gathering space, shared streets, large plazas, outdoor seating, compact single-family homes, on-street parking, and backyard cottages and carriage houses.

Additional discussion was held regarding the design concept, mixed-use zoning, road standards, changes to the sub-area plan, entry monument signage, transit, transportation improvements, Old Clifton walkway, public feedback, parking, form-based zoning, continued public hearing with the Planning Commission, and relationship to the Comprehensive Plan.

Council Direction: No direction was given to staff.

4. 2021 POMC Title 20 “Housekeeping” Amendments

Community Development Director Bond said every year, we bring forward an ordinance for housekeeping where we to go clean up code issues that have been caught over the years. Examples would be incorrect headings or minor inconsistencies in code.

Some of these amendments include amending the permit type tables, an inconsistency concerning cottage court standards, code interpretation regarding vertical or horizontal units, incorrectly labeled headings, language regarding expiration of a rezone, word deletion from the heading of one of the preliminary plat chapters, and change in landscape code concerning the size of street trees.

Council Direction: No direction was given to staff.

5. Vaccination Incentives for Employees

Mayor Pro-Tem Ashby explained earlier this year, we passed an incentive which would allow all vaccinated employees to get a day off once the percentage of vaccinated employees reached 90%. This is effective now and would sunset the end of December.

HR Manager Lund noted this discussion was brought up by Councilmember Clauson to consider financially incentivizing employees to be vaccinated.

Councilmember Clauson said a directive provided in the President’s mandate is to allow employees who elect to get vaccinated, time to go get vaccinated. Also, if someone has a negative reaction to the vaccination, leave would be provided for that employee to recuperate. Our current incentive allows a day off, but only when 90% of the City’s employees are vaccinated. He does not think that

is a good approach as 90% is a high amount. He spoke to what Kitsap Transit and Kitsap County are currently doing for their incentives. He would like the City to consider something similar.

Additional discussion was held regarding other jurisdictions incentives and employees; who the incentive is valid for; making the incentive retro-active; employees who already made their decision with or without the incentive; number of employees currently vaccinated at the City; immunity measurement test; modifying the percentage of employees who are required to be vaccinated; organizations who have lost employees due to vaccinated requirements; and employee issues with vaccinated requirements.

Council Direction: Council directed HR Manager Lund to investigate the immunity test and remove the percentage on our current incentive program.

6. Potential Revisions to City Fireworks Regulations

Development Director Bond said this topic has been discussed by the Land Use Committee, who wanted the Council's direction on the future of fireworks including discharge and sale of fireworks within City limits.

As chair of the Land Use Committee, Councilmember Rosapepe explained they had discussions with the South Kitsap Fire & Rescue chief and police chief. Anything we do would take a year before it goes into effect. He noted there are certain areas that ban fireworks during the 4th of July. We also receive information about what happens downtown on the 4th with the combination of private fireworks and the fireworks display. This year, the display was moved to the following weekend.

Councilmember Chang said there are 4 options, and the one that was presented at a high level was if we want to ban the sale and discharge of private fireworks in the City. He explained his concerns about a ban.

Councilmember Diener noted that moving the fireworks display to another weekend resulted in a saner approach to fireworks. By banning the sale of fireworks, you will have people going outside the City to purchase their fireworks, but there will also be people who abide by the restrictions. He mentioned that fireworks have become more dangerous.

Continued discussion was held regarding if the City should ban fireworks; keeping the commercial display on the 4th; fireworks environmental impact to the shoreline and water; fireworks displays by other cities; responsibilities of inspection of fireworks displays and stands; current weather conditions; City costs; and support of a ban for the sale and use of fireworks.

Council Direction: Council directed Community Development Director Bond to start looking into the process of a ban on the sale and the use of fireworks within City limits beginning 2023, and to place this item on a work study meeting for further discussion with the police chief, fire chief, and fire marshal. Also, to involve the public to voice their approval or concerns.

7. Report on Comments by Constituents

Councilmember Diener noted during his campaign, he knocked on an estimated 1,720 doors, including businesses. He told the people he would report back to the Council what he heard, so the people would know their concerns are being heard. The most mentioned issues were traffic, wanting new development downtown, and homelessness. Most of the people were not unhappy about the current state of the City; however, many people choose not to be involved, or they only come out for particular issues. For the most part, people indicated they know how to get involved.

Additionally, he mentioned people asked about additional growth in the City; County's jail protocol; managing speeding drivers; various pathways including the Bay Street Pedestrian Pathway; budgeting; tree retention; sign permit costs; busy intersections; senior assistance programs for utilities; lower property tax; Council support of the school development; and miscellaneous traffic and road issues.

Council discussed these topics noting we need to continue getting information out to the public to help stop misinformation. Also discussed the role of social media; going back to holding regular or hybrid meetings; election requirements for someone to run within City limits; and public testimony.

Council Direction: Council would like the discussion of public testimony and responses to be brought forward at a work study meeting or Council retreat.

GOOD OF THE ORDER

Councilmember Lucarelli reported there are only 3 trees left to sponsor for the downtown tree decorating contest.

Councilmember Rosapepe noted the Council tree is scheduled to be decorated on Saturday.

Public Works Director Dorsey said the City Hall tree is coming tomorrow.

In response to Councilmember Cucciardi, City Clerk Rinearson said a quorum notice will be published for the Council tree decoration on Saturday.

Mayor Pro-Tem Ashby reported the Kitsap Regional Coordinating Council legislative reception is December 2.

ADJOURNMENT

The meeting adjourned at 9:15 p.m. No other action was taken. Audio/Visual was successful.

Brandy Rinearson, MMC, City Clerk

Bek Ashby, Mayor Pro-Tem



**City of Port Orchard
Council Meeting Minutes
Regular Meeting of November 23, 2021**

1. CALL TO ORDER AND ROLL CALL

Mayor Putaansuu called the meeting to order at 6:33 p.m.

Roll call was taken by the City Clerk as follows:

Mayor Pro-Tem 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
Councilmember Rosapepe	Present via Remote Access
Mayor Putaansuu	Present via Remote Access

Staff present via remote access: Finance Director Crocker, Police Chief Brown, Deputy Chief Main, Utilities Manager Brown, Community Development Director Bond, HR Manager Lund, City Attorney Robertson, City Clerk Rinearson and Deputy City Clerk Floyd.

The meeting is also streaming live on YouTube.

A. PLEDGE OF ALLEGIANCE

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

2. APPROVAL OF AGENDA

Councilmember Chang stated he received a call from Commissioner Charlotte Garrido. She does not have internet access and will not be able to attend this evening's discussion.

MOTION: By Councilmember Ashby, seconded by Councilmember Clauson, to approve the agenda as published.

The motion carried.

3. CITIZENS COMMENTS

There were no citizen comments.

4. CONSENT AGENDA

- A. Approval of Voucher Nos. 83064 through 83067 and 83072 through 83146 including bank drafts in the amount of \$281,115.33 and EFT's in the amount of \$*64,458.80 totaling \$345,874.13.
- B. Approval of Payroll Check Nos. 83068 through 83071 including bank drafts and EFT's in the amount of \$147,247.47 and Direct Deposits in the amount of \$206,072.09 totaling \$353,319.56.

MOTION: By Councilmember Ashby, seconded by Councilmember Rosapepe, 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. Adoption of an Ordinance Amending the 2021-2022 Biennial Budget

MOTION: By Councilmember Clauson, seconded by Councilmember Cucciardi, to adopt an ordinance, amending Ordinance No. 035-20, as amended by Ordinance No. 015-21, and by Ordinance No.032-21, and by Ordinance No.050-21, the 2021-2022 Biennial Budget for the City of Port Orchard.

The motion carried.

(Ordinance No. 056-21)

B. Adoption of an Ordinance Clarifying the Authority of Certain Officials to Write Civil Infractions Relating to Traffic Enforcement

MAIN MOTION: By Councilmember Diener, seconded by Councilmember Lucarelli, to adopt an Ordinance, clarifying the authority of certain officials to write civil infractions relating to traffic enforcement.

Councilmember Ashby said page 2 of the ordinance refers to Bay Street and asked the Council if it should be referred to as State Route 166 instead.

A brief discussion was held regarding this change.

AMENDED MOTION: By Councilmember Ashby, seconded by Councilmember Rosapepe, to amend Section 3 to add State Route 166 in parenthesis so it now reads *Bay Street (State Route 166)*.

The amended motion carried.

The main motion carried.

(Ordinance No. 057-21)

C. Adoption of an Ordinance Amending Port Orchard Municipal Code Chapter 13.04 (Water and Sewer) Regarding Water and Sewer Capital Facility Charges

MOTION: By Councilmember Lucarelli, seconded by Councilmember Rosapepe, to adopt an Ordinance amending POMC Sections 13.04.025, 13.04.030, 13.04.043 and 13.044, regarding amendments to the City's water and sewer capital facility charges.

The motion carried.

(Ordinance No. 058-21)

D. Adoption of a Resolution Supporting the DWSRF 2021 Construction Loan Application for the Development of Well #11 in the McCormick Woods Water System

MOTION: By Councilmember Lucarelli, seconded by Councilmember Clauson, to adopt a resolution thereby supporting the 2021 Drinking Water State Revolving Fund Loan Application for the Development of Well #11 in the McCormick Woods Water System Project, as a requirement of obtain a low interest loan.

The motion carried.

(Resolution No. 079-21)

E. Adoption of a Resolution Accepting the 580 Zone Reservoir and Establishing the Certified Construction Costs in Accordance with Contract No. 003-07

MOTION: By Councilmember Rosapepe, seconded by Councilmember Clauson, to adopt Resolution No. 071-21, thereby accepting the 580 Zone Reservoir and establishing the Certified Construction Costs for the Project in the amount of \$2,789,915.

The motion carried.

F. Adoption of a Resolution Confirming Appointment of Tim Drury as Municipal Judge and Authorization of Judicial Employment Agreement

MOTION: By Councilmember Clauson, seconded by Councilmember Ashby, to adopt a resolution, confirming the Mayor's appointment of Tim Drury as municipal judge and authorizing the Mayor to execute a judicial employment agreement.

The motion carried.

(Resolution No. 080-21 and Contract No. 007-22)

G. Adoption of a Resolution Amending Resolution No. 060-21, Authorizing an Additional One-Time Personal Holiday for Employees Fully Vaccinated Against the COVID-19 Virus

MAIN MOTION: By Councilmember Clauson, seconded by Councilmember Cucciardi, to adopt a resolution, amending Resolution 060-21 providing for a one-time additional personal holiday for employees who are fully vaccinated against COVID-19 as of December 31, 2021.

Council briefly discussed the percentage of vaccinated employees and if employees who were not yet fully vaccinated could receive the day off.

Councilmember Cucciardi said considering this conversation, he would like to extend the date to January 31, 2022.

AMENDED MOTION: By Councilmember Cucciardi, seconded by Councilmember Clauson, to extend the deadline to achieve the fully vaccinated status to January 31, 2022.

The amended motion failed. Councilmembers Diener, Chang, Lucarelli, Ashby and Rosapepe voted no.

**The main motion carried.
(Resolution No. 081-21)**

H. Adoption of a Resolution Fixing the Date of a Public Hearing on a Petition to Vacate City Right-of-Way, the Northeast Portion of Unopened Depot Street

MOTION: By Councilmember Chang, seconded by Councilmember Rosapepe, to adopt a resolution, setting a Public Hearing for December 14, 2021, at 6:30 PM, on a petition from Stanley Smith and Alice Vasquez-Smith of ISB Holdings, LLC to vacate a portion of unopened right-of-way, Depot Street.

**The motion carried.
(Resolution No. 082-21)**

I. Approval of the November 9, 2021, City Council Meeting Minutes

MOTION: By Councilmember Diener, seconded by Councilmember Lucarelli, to approve the regular meeting minutes of November 9, 2021.

The motion carried. Councilmember Clauson abstained.

8. DISCUSSION ITEMS (No Action to be Taken)

A. Veterans Park

Mayor Putaansuu said he is disappointed Commissioner Garrido could not be here tonight. He introduced Deputy Chief Donna Main and Randy Screws, General Manager of the West Sound Utility District, whom have been involved in this issue.

Councilmember Diener noted he is a Kitsap County employee but does not believe he has a conflict of interest. He said if anyone would like him to recuse himself, he will.

No one voiced concerns.

Discussion was held regarding public health and safety of the homeless issue at Veterans Park including 20 thousand pounds of garbage that have been removed from the park, code compliance, asking the County to provide trash receptacles and sanitation facilities, the municipal well located in the park, neighborhood impacts, putting up a chain link fence, environmental damage, sani-cans, Boise decision related to homelessness, close proximity of a salmon stream and wetlands, some of the individuals who stay in the park can be confrontational and aggressive, on-going crime, extremely unsanitary conditions, blocking access roads with shopping carts, debris, and a vehicle, West Sound Utility District staff safety, laws regarding arresting someone for criminal activity, Kitsap County policies regarding homelessness, noting something needs to be done sooner than later, Kitsap County's Mile Hill Road shelter, and how being unhoused and not a criminal issue.

Also, it was explained that Veterans Park is a Kitsap County Park, not a City park.

Council Direction: Keep this discussion as an on-going Council meeting item until a solution is found and schedule a special meeting as soon as possible and invite the County Commissioners.

B. Holiday Light Tour

In response to City Clerk Rinearson, Council noted they will not be vanpooling this year to look at lights and decorations around the City. Instead, the City can post on social media and the website and ask people to send in photos of their decorated neighborhood and houses.

Council Direction: Council directed staff to notice solicitation of holiday light photos and to have them displayed on the City's website and Facebook.

9. REPORTS OF COUNCIL COMMITTEES

Councilmember Cucciardi reported the Economic and Development Committee is scheduled to meet December 13th.

Councilmember Lucarelli reported the Utilities Committee is scheduled to meet December 14th. She also reported on the November 22nd Festival of Chimes and Lights meeting.

Councilmember Rosapepe reported on the November 17th Land Use Committee meeting.

Councilmember Clauson reported on the November 16th Finance Committee meeting.

10. REPORT OF MAYOR

The Mayor reported on the following:

- Received 1.2 million from Transportation Improvement Board for the second roundabout for the Lincoln and Bethel project;
- Derelict boats; and
- Sewer Treatment Plant award.

11. REPORT OF DEPARTMENT HEADS

City Attorney Robertson said she will work with City Attorney Archer to make sure everyone is fully briefed on options and legal parameters for enforcement activities at Veterans Memorial Park.

Police Chief Brown reported the Port Orchard Police Department was awarded their state accreditation. He also spoke to jail standards, monthly crime statistic report, staffing updates, and new legislation.

Mayor Putaansuu briefly spoke about current staffing.

Councilmember Diener spoke to legislation.

12. CITIZEN COMMENTS

There were no citizen comments.

13. GOOD OF THE ORDER

In response to Councilmember Diener, Mayor Putaansuu spoke about staffing for the Community Development Department. He also acknowledged Councilmember Ashby for filling in for the last 2 weeks as the Mayor Pro-Tem.

Councilmember Rosapepe noted Saturday is Shop Small Saturday.

14. EXECUTIVE SESSION

There was no executive session.

15. ADJOURNMENT

The meeting adjourned at 8:56 p.m. No other action was taken. Audio/Visual was successful.

Brandy Rinearson, MMC, City Clerk

Robert Putaansuu, Mayor



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.:	<u>Public Hearing 6A</u>	Meeting Date:	<u>December 14, 2021</u>
Subject:	<u>Public Hearing on a Petition to Vacate</u>	Prepared by:	<u>Brandy Rinearson, MMC</u>
	<u>City Right-of-Way, the Northeast</u>		<u>City Clerk</u>
	<u>Portion of Unopened Depot Street –</u>	Atty Routing No.:	<u>366922-0005 - Clerk</u>
	<u>Request to Strike</u>	Atty Review Date:	<u>12.10.2021</u>

Summary: On November 23, 2021, the City Council adopted Resolution No. 082-21, setting the date and time of a hearing on a petition to vacate a portion of the City’s right-of-way, Depot Street for tonight’s meeting.

When preparing for the notices for the hearing, it was discovered that due to a calculation error there was an insufficient amount of time for staff to prepare the noticing and posting to meet the requirements of the Port Orchard Municipal Code, which requires public notice of the hearing no less than 20 days in advance of the hearing.

Later on tonight’s agenda for the City Council’s consideration is a resolution re-setting the public hearing for January 11, 2022. Staff is asking the Council not to hold this public hearing this evening.

Recommendation: Staff recommends not holding the public hearing.

Relationship to Comprehensive Plan: N/A

Fiscal Impact: N/A

Alternatives: None.

Attachments: None.



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.: <u>Business Item 7A</u> Subject: <u>Adoption of a Resolution Repealing</u> <u>Resolution No. 082-21, and Setting a</u> <u>January 11, 2022 for a Public Hearing on</u> <u>a Petition to Vacate City Right-of-Way,</u> <u>the Northeast Portion of Unopened</u> <u>Depot Street</u>	Meeting Date: <u>December 14, 2021</u> Prepared by: <u>Brandy Rinearson, MMC</u> <u>City Clerk</u> Atty Routing No.: <u>366922-0005 - Clerk</u> Atty Review Date: <u>12.10.2021</u>
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Summary: On November 23, 2021, the City Council adopted Resolution No. 082-21, setting the date and time of hearing on the petition to vacate a portion of the City’s right-of-way, Depot Street. That Resolution set the hearing for December 14, 2021, which, at the time of the Resolution’s adoption, was at least 20 days from the date of the adopted Resolution.

When preparing for the notices for the hearing, it was discovered that due to a calculation error there was an insufficient amount of time for staff to prepare the noticing and posting to meet the requirements of the Port Orchard Municipal Code, which requires public notice of the hearing no less than 20 days in advance of the hearing. Staff is asking the Council to repeal Resolution No. 082-21 and set a January 11, 2022, as the new public hearing date. Staff has spoken with the Petitioners and they have no concerns with the new public hearing date.

As a reminder, petitioners Stanley Smith and Alice Vasquez-Smith of ISB Holdings, LLC, owners of 1636 Bay Street, Kitsap County Tax Parcel No. 4027-002-001-0006, submitted a petition to vacate City right-of-way (ROW). The ROW is an unopened portion of Depot Street, is directly adjacent to the Petitioners’ parcel to the northeast and is approximately 2,000 square feet in total area. The Petitioners are joined in their petition by Stanley Smith and Alice Vasquez-Smith of ASD Sound Investments, LLC, the owner of 1626 Bay Street, Kitsap County Tax Parcel No. 4027-003-008-0403, the parcel directly northwest of the portion of unopened Depot Street proposed for vacation.

The Clerk received a complete application conforming with the requirements of Port Orchard Municipal Code chapter 12.08, including Section 12.08.010. This item went before the Land Use Committee at its October 21, 2021, meeting. The Public Works Director supports the vacation, as the City has no current or future plans to open this portion of Depot Street. The Land Use Committee recommends approval of the vacation.

Chapter 35.79 RCW requires the City to adopt a resolution setting the date and time of a Public Hearing to hear and determine the petition to vacate the City’s right-of-way. Staff is seeking direction from the Council as to when they want to hold a public hearing to vacate the proposed City right-of-way.

Staff is requesting the Council to reschedule the public hearing to January 11, 2022. This will give staff sufficient time to meet the posting and noticing requirements, as well as setting the public hearing time line pursuant to POMC 12.08.010(3).

Recommendation: Staff recommends the Council adopt a Resolution repealing Resolution No. 082-21 and setting a new date and time of hearing on the petition to vacate a portion of the City's right-of-way, Depot Street as described above. The hearing is to be held on Tuesday, January 11, 2022, at the regular Council meeting held at 6:30 PM and directing the proper posting of notices of the hearing.

Relationship to Comprehensive Plan: N/A

Motion for consideration: I move to adopt a Resolution repealing Resolution No. 082-21 and setting a new Public Hearing for January 11, 2022, at 6:30 PM, on a petition from Stanley Smith and Alice Vasquez-Smith of ISB Holdings, LLC to vacate a portion of unopened right-of-way, Depot Street.

Fiscal Impact: N/A

Alternatives: None.

Attachments: Resolution, Street Vacation Petition with adjacent property owners' signatures, and new legal description.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, REPEALING RESOLUTION NO. 082-21 AND SETTING A JANUARY 11, 2022 FOR A PUBLIC HEARING ON A PETITION TO VACATE CITY RIGHT-OF-WAY, THE NORTHEAST PORTION OF UNOPENED DEPOT STREET

WHEREAS, on November 23, 2021, the City Council adopted Resolution 082-21, setting the date and time of a hearing on the petition to vacate a portion of the City's right-of-way, Depot Street; and

WHEREAS, when preparing the required public notices of the hearing, it was discovered that, due to a calculation error, there was an insufficient amount of time for staff to prepare the noticing and posting to meet the requirements of the Port Orchard Municipal Code, which requires public notice of the hearing no less than 20 days in advance of the hearing; and

WHEREAS, by this Resolution Council would repeal Resolution No. 082-21, in its entirety and set a new public hearing date for the petition to vacate; and

WHEREAS, the petitioners, Stanley Smith and Alice Vasquez-Smith of ISB Holdings, LLC, submitted a petition to vacate a portion of unopened City right-of-way, a portion of Depot Street; and

WHEREAS, the petitioners own the parcel at 1636 Bay Street, Kitsap County Tax Parcel No. 4027-002-001-0006, located directly to the northeast of the proposed portion of unopened right-of-way proposed for vacation, and are joined by the owner of the parcel at 1626 Bay Street, Kitsap County Tax Parcel No. 4027-003-008-0403, located directly to the northwest of the portion of unopened right-of-way; and

WHEREAS, the petitioners have submitted an application, copy attached hereto as Exhibit A and incorporated herein by this reference, which meets the requirements set out in Port Orchard Municipal Code (POMC) 12.08.010, and have paid the applicable fees required by the City; and

WHEREAS, the petitioners constitute the owners of more than two-thirds (2/3) of the property abutting the area proposed for vacation pursuant to RCW 35.79.010; and

WHEREAS, the petitioners have requested that proceedings be had hereon for the vacation of said portion of the city right-of-way in the manner prescribed by RCW 35.79; and

WHEREAS, the proposed area for vacation is approximately 2,000 square feet, legally described as follows and depicted in the survey contained in Exhibit A hereto:

*Government Lot 2 (NW ¼) Section 25, Township 24 North, Range 1
East, W.M. in the City of Port Orchard, Kitsap County, Washington*

WHEREAS, the street vacation is requested to reflect existing structures in the unopened right of way, so that the petitioners will maintain as private property; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

THAT: It is the intent of the Port Orchard City Council that the recitals set forth above are hereby adopted and incorporated as findings in support of this Resolution.

THAT: Resolution No. 082-21 is hereby repealed in its entirety.

THAT: A Public Hearing upon said proposed street vacation shall be held via the online platform zoom and by telephone on Tuesday, January 11, 2022, at 6:30 p.m., at which hearing all persons interested in said street vacation are invited to appear telephonically or via the zoom platform. Access information including the telephone number and zoom information shall be included in the notices required herein.

THAT: The City Clerk is directed to post notice of the petition in three of the most public places in the city and a like notice in a conspicuous place on the street sought to be vacated, pursuant to RCW 35.79.020. The Clerk shall also post the notice on the City's website.

THAT: The Resolution shall take full force and effect upon passage and signatures hereon.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the City Clerk in authentication of such passage on this 14th day of December 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk



City of Port Orchard
 City Clerk's Office
 216 Prospect Street, Port Orchard, WA 98366
 (360) 876-4407 • FAX (360) 895-9029 • cityhall@cityofportorchard.us
 www.cityofportorchard.us

RECEIVED

OCT 07 2021

CITY OF PORT ORCHARD
 CITY CLERKS OFFICE

**PETITION TO VACATE CITY RIGHT-OF-WAY
 APPLICATION**

(POMC 12.08 / Resolution No. 030-17)

This document is considered a public record and is subject to public disclosure laws in Chapter 42.56 RCW.

FSB Holdings, LLC

Property Owner's Name(s): _____

P.O. Box 69 Manchester WA 98353

Mailing Address: _____

Street City State Zip

Contact Information: *(360) 265-4844 Stanaliced@wavecable.com*

Phone Email

Address of Requested Vacation: *1636 Bay Street*

Street or nearest cross street

Parcel Number of Requested Vacation: *4027-002-001-0006*

1. The undersigned, owner of real property abutting upon that public street/alley described below, does hereby petition the City of Port Orchard to vacate said street/alley, described as follows (you may attach a separate sheet containing the legal description):

Legal description of the requested right-of-way prepared by a licensed surveyor:

See attached

all situated in the City of Port Orchard, County of Kitsap, State of Washington; declares that this petition is supported by the signatures of the owners of more than two-thirds of the real property abutting the requested vacation area; and requests that said City Council by Resolution fix a time and place when this petition shall be heard and determined by that authority, which time shall not be more than sixty (60) days nor less than twenty (20) days after passage of such Resolution (RCW 35.79.010)

2. State the proposed use of the vacated right-of-way: *Add to existing property.*

3. Provide a map of the proposed right-of-way area to be vacated with the following information:
 - a. Approximate width of the area to be vacated
 - b. Approximate length of the area to be vacated
 - c. Approximate total square footage of the area to be vacated

I/We declare under penalty of perjury under the laws of the State of Washington that the foregoing information and attached documentation is true and correct, and that I/We are the true and correct owner(s) of real property abutting the requested vacation of City right-of-way.

ISB Holdings, LLC

Steph W. Little Manager
Signature of Applicant

Oct. 7, 2021
Date

ISB Holdings, LLC Manager
Signature of Applicant

10/7/21
Date

When submitting this application, please make sure the following requirements are completed and documents are submitted:

- Support for Vacation of City Right-of-Way Petition form(s) signed by the owners of real property abutting upon the part of the street or alley sought to be vacated (these owners must, along with the Petitioner, constitute the owners of at least two-thirds of the real property abutting such area);
- New legal description to include the requested right-of-way;
- Documentation supporting the fair market value of the street or alley sought to be vacated, if applicable;
- Documentation supporting the application of the Non-User Statute, if applicable;
- Dimensions of area proposed to be vacated;
- Map of the proposed right-of-way to be vacated outlined or highlighted;
- Application processing fee of \$120; and
- \$500 appraisal fee refundable deposit (Petitioner shall pay the actual cost of the appraisal, upon Council approval).

FOR CITY CLERK'S OFFICE USE ONLY

\$120 Vacation Fee Received Yes ___ No Receipt No.: _____

\$500 Vacation Appraisal Fee (Refundable Deposit) Received ___ Yes ___ No Receipt No.: _____

Support for Vacation Petition By Abutting Property Owners form(s) Received Yes ___ No

Public Hearing Date: _____

Notices Posted by: _____ Date of Noticing: _____

Approved by the City Council ___ Yes ___ No



City of Port Orchard
 City Clerk's Office
 216 Prospect Street, Port Orchard, WA 98366
 (360) 876-4407 • FAX (360) 895-9029 • cityhall@cityofportorchard.us
 www.cityofportorchard.us

**SUPPORT FOR VACATION OF RIGHT-OF-WAY
 PETITION BY ABUTTING PROPERTY OWNERS**

This document is considered a public record and is subject to public disclosure laws in Chapter 42.56 RCW.

ISB Holdings, LLC

Property Owner Seeking Vacation (Petitioner): _____
 First and Last Name

Contact Information: (360) 265-4844 Stanaliced@wavecable.com
 Phone Email

Street or Nearest Cross Street of Requested Vacation: Bay St.

Parcel Number of Requested Vacation: 4027-002-001-0006

Signatures of owners of real property abutting requested vacation of right-of-way area (Note: all persons who have an ownership interest must sign this document. This includes co-owner(s) and/or spouses, or corporate officers authorized by the corporation.

By signing, I/We declare under penalty of perjury under the laws of the State of Washington that:

- I/We are the true and correct owner(s) of real property abutting the street or alley sought to be vacated.
- I/We understand that I/We may see an increase on my/our tax assessment if this vacation of right-of-way petition is approved.
- I/We understand I/We may be required to pay for a portion of the vacated right-of-way.

Stanley Smith
 First and Last Name (Printed) of Property Owner/Corporate Officer
 Managing Member No. 1

ISB Holdings, LLC
 Name of Corporation (if applicable)

Stanley W. Smith Manager
 (Signature and/or Title)

Alice Vasquez-Smith
 First and Last Name (Printed) of Property Owner/Corporate Officer
 Managing Member No. 2

ISB Holdings LLC
 Name of Corporation (if applicable)

[Signature] Manager
 (Signature and/or Title)

11028 & 11030 Bay St. _____
 Property Address Tax Parcel Number

Mailing Address: P.O. Box 69 Manchester, WA 98353
 Street City State Zip

Contact Information: (360) 769-9012 Stanaliced@wavecable.com
 Phone Email

Exhibit A

Page 1 of 2

Legal Description of Road to be Vacated

Gov't Lot 2 (NW ¼) of Sec. 25, T. 24 N, R. 1 E, W.M.

Vacation of Depot Street

Depot Street, Plat of Annapolis, according to the Plat thereof, recorded in Volume 1 of Plats, Pages 64 and 64, in Kitsap County.

Except that portion vacated in Commissioner's Journal Volume 4, Page 18, November 4, 1912.

Contains 2,000 square feet.



ibs legal.docx

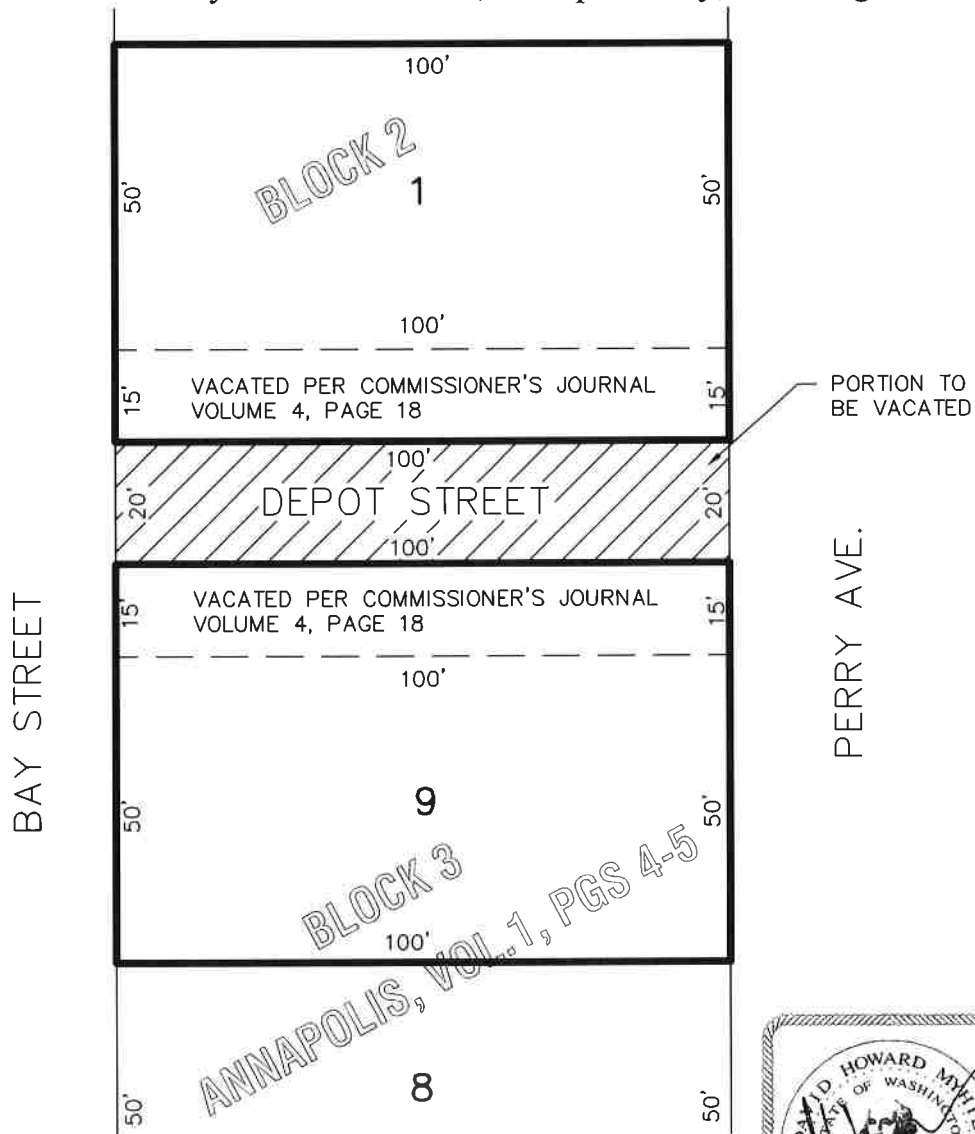
Written by _____
Checked by _____

Page 1 of 1

Exhibit A

Page 2 of 2

Portion of Government Lot 2 (NW 1/4) Section 25, Township
24 North, Range 1 East, W.M.
in the City of Port Orchard, Kitsap County, Washington



\\server-host\NLO Survey\Projects\11810 Smith\11810 Smith.dwg

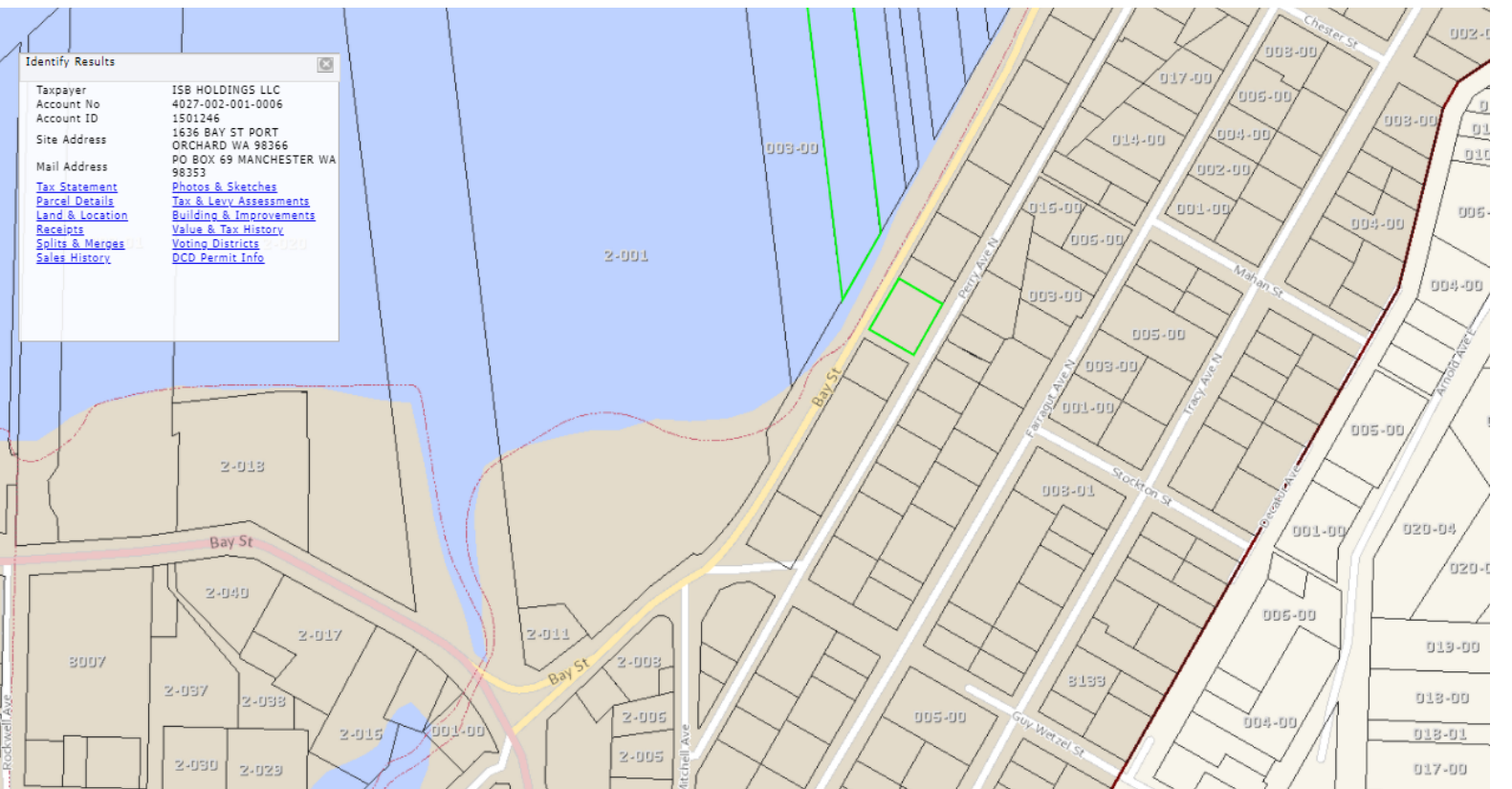
N.L. Olson & Associates, Inc.
Engineering, Planning and Surveying

(360) 895-2350 or (360) 876-2284

2453 Bethel Avenue, P.O. Box 637, Port Orchard, WA 98366



JOB NO.: 11808



Its for 1626 bay st



V. P. 6

For vacation of Part of Mitchell Ave and part of Prospect Court see Com Journal Vol. 3 Page 176.

For vacation of South Crescent Street see Commissioners Journal Vol. 4 Page 283 Oct 8th 1918 J. M. Peterson, Co. Aud.

For Vacation of North Crescent Street see Commissioners Journal Vol. 4, Page 233 May 7, 1918. J. M. Peterson, Co. Aud.

For Vacation of part of Mitchell Road through part of Annapolis see Page 481 Vol. 3 of Commissioners Journal J. M. Peterson County Auditor

For vacation of part of North Bay Street see Commissioners Journal Vol. 3 Page 465 J. M. Peterson County Auditor

For vacation of part of Depot Street see Commissioners Journal Vol. 4 Page 18. J. M. Peterson, Co. Aud.

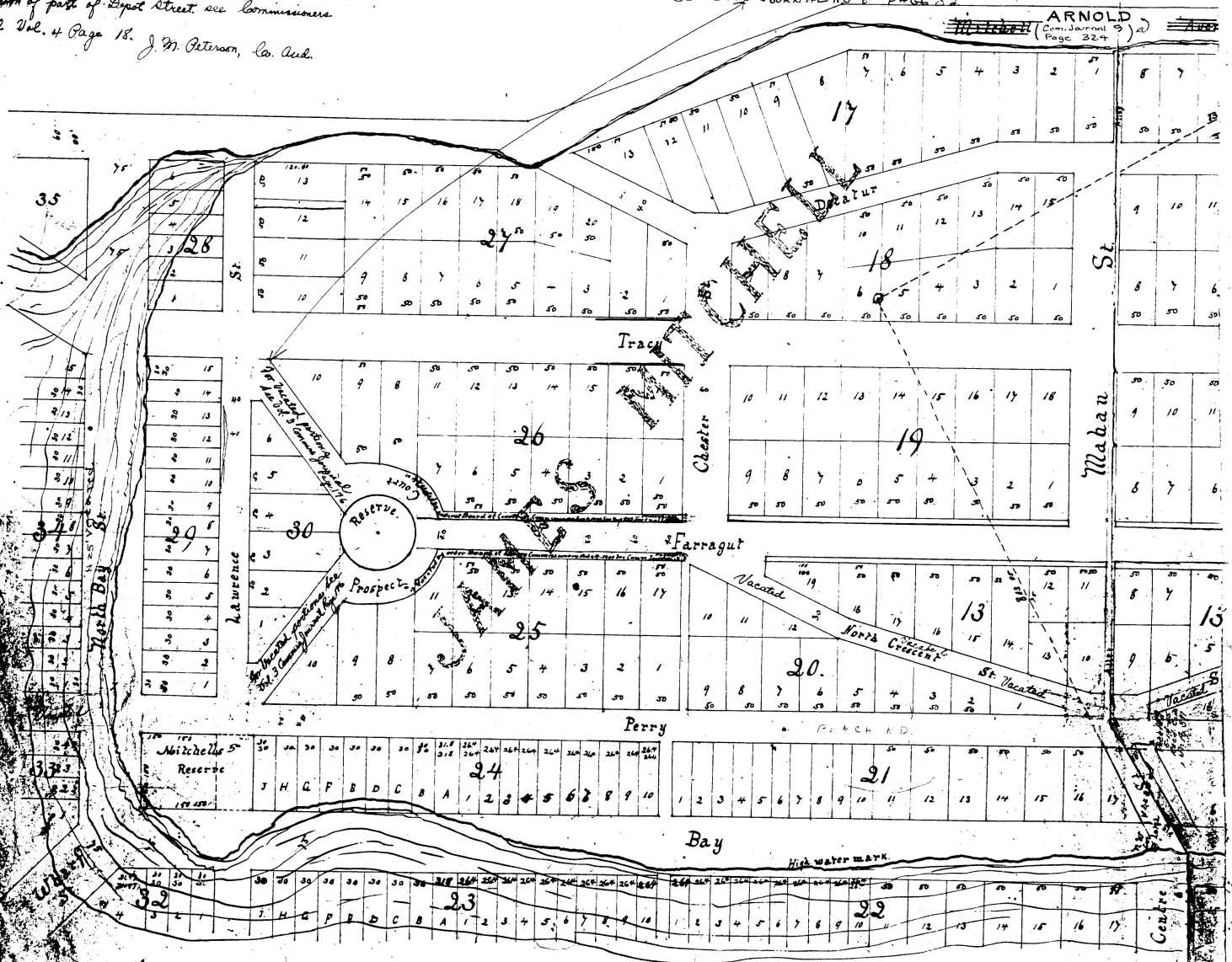
For vacation of 10 foot strip fronting Blocks 13, 14 & 19 Farragut Avenue, see Com Journal Vol. 4, Page 239 J. M. Peterson, County Auditor

Annapolis Kitsap County Washington

For Vacation of Center Street see Com. Journal Vol. 5, Page 3 J. M. Peterson County Auditor

For Vacation of street between Blocks 53 & 54 Vacated by Cause No. 19352, April 2, 1945

FOR VACATION PORTION OF PROSPECT ST. NOVEMBER 16, 1959 SEE COM. JOURNAL NO 8 - PAGE 52



ARNOLD
Com. Journal Page 327

Description.

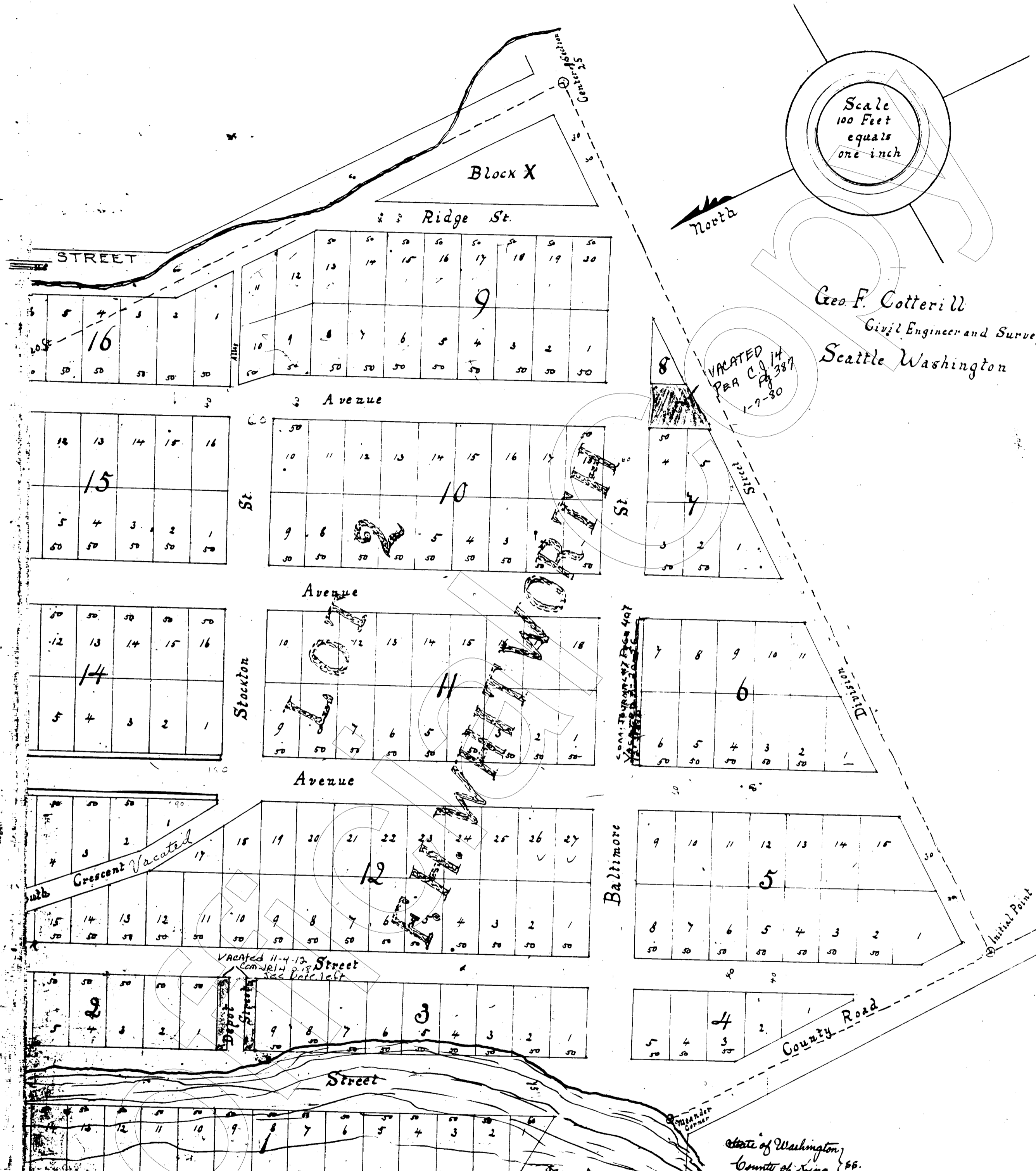
This Plat of Annapolis, Kitsap County State of Washington covers all of said parts of Lots 3 and 4, and the lot of 2 1/2" all in Section 25 Sp. 24 in Kitsap Co. Washington. Initial point is the southwest corner of lot 2 of said Section 25 which front East of the 1/2" section part, between sections 25 and 26 in said Sp. 24. The southwest corner of Block 5 of Annapolis is 80 feet North of and 30 feet East of said point.

Vacation.

Know all men by these presents: That we John Mitchell and Elizabeth Mitchell, his wife and F. H. Whitworth and Ada J. Whitworth, his wife are the owners of the land embraced in the accompanying description, and that we have this day plotted the same as Annapolis, Kitsap County, State of Washington, and we do hereby dedicate to the use of the Public forever, all the Avenue Streets and Allys shown on said plat. In testimony whereof we have hereunto set our hands and seals this 5th day of June, A. D. 1890

In presence of
 John Andrew } for signature of
 Henry Mitchell } Mitchell & wife
 Mary C. Myers } witness to signature of
 C. S. Osborne } Whitworth and wife

John Mitchell (Seal)
 Elizabeth Mitchell (Seal)
 F. H. Whitworth (Seal)
 Ada J. Whitworth (Seal)



Geo. F. Cotterill
Civil Engineer and Surveyor
Seattle Washington

VACATED
PER C.O. 14
p. 387
1-7-30

Acknowledgment.

State of Washington }
County of Kitsap }

On this 3rd day of June before me John Anslow a Justice of the Peace personally appeared John Mitchell and Elizabeth Mitchell, his wife, known to me to be the parties named in and who executed the accompanying dedication and Plat, and upon examination by me each of said persons did for himself and herself acknowledge this to be their free act and deed for the uses and purposes therein mentioned.
Witness my hand and official seal the day and date above named.

John Anslow
Justice of the Peace
Kitsap Co. for the State of Washington
Post Orchard Rainier, residing at Sidney.

State of Washington }
County of King }

On this 3rd day of June A.D. 1890 before me Eben S. Osborne, a Notary Public, personally appeared F. H. Whitworth and Ada J. Whitworth, his wife, known to be the parties named in and who executed the accompanying dedication and Plat and upon examination by me each of said persons did for himself and herself acknowledge this to be their free act and deed for the uses and purposes therein mentioned.
Witness my hand and official seal the day and date above named.

Eben S. Osborne
Notary Public for the State of Washington
Residing at Seattle

Filed for Record at request of F. H. Whitworth Aug 16 - 1890 at 4 - 5 a. m.
Recorded Aug 28 - 1890 at 9 a. m.

Thomas Ross Auditor
By J. W. Hoffman Deputy



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 Adopting
the 2021 Port Orchard Municipal Code Title
20 "Housekeeping" Amendments

Meeting Date: December 14, 2021
Prepared by: Nick Bond, AICP
DCD Director
Atty Routing No.: N/A
Atty Review Date: N/A

Summary: DCD staff continually tracks errors, inconsistencies, outdated references, and omissions in Title 20 POMC (Unified Land Use and Development Code), and gathers these into one corrections ordinance each year – generally known as the annual Title 20 “housekeeping ordinance”. The ordinance is provided in clean format, and an explanatory document is also provided that lists each correction in numerical order, in redline strikeout/underline format, with explanations at the head of each change.

The Planning Commission held a public hearing on the housekeeping amendments at their November 3, 2021 meeting, and voted unanimously to recommend that the City Council approve the ordinance as presented. The City Council reviewed the housekeeping amendments at the November 16 work-study meeting, and directed staff to bring an ordinance for approval at the December 14 Council meeting.

Relationship to Comprehensive Plan: N/A

Alternatives. Revise the proposed 2021 POMC Title 20 housekeeping amendments; do not adopt the 2021 POMC Title 20 housekeeping amendments.

Recommendation: Approve an ordinance adopting the 2021 Title 20 POMC housekeeping amendments, as presented.

Motion for Consideration: “I move to adopt an ordinance adopting the 2021 Title 20 POMC housekeeping amendments, as presented.”

Fiscal Impact: None.

Attachments: Ordinance; Explanatory Document w/Section-by-Section Code Revisions.

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ADOPTING MINOR REVISIONS AND CORRECTIONS TO TITLE 20 OF THE PORT ORCHARD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

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

WHEREAS, since the adoption of ordinance 019-17, on an annual basis the City has docketed, considered and adopted amendments to Title 20, to correct minor errors and internal conflicts and to clarify development regulations, pursuant to Chapter 20.06.020(7); and

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

WHEREAS, on October 8, 2021, the City submitted to the Department of Commerce a request for expedited review of the proposed minor revisions and corrections to Title 20, pursuant to RCW 36.70A.106(3)(b); and

WHEREAS, on October 14, 2021, the City's SEPA official issued a determination of non-significance for the proposed adoption of minor revisions and corrections to Title 20, and there have been no appeals; and

WHEREAS, on November 17, 2021, the City Council's Land Use committee reviewed the proposed minor revisions and corrections to Title 20, and directed staff to bring an ordinance to the full Council for review; and

WHEREAS, on November 2, 2021, the Planning Commission held a duly-noticed public hearing on the proposed adoption of minor revisions and corrections to Title 20, and no public testimony was received, and the Planning Commission recommended approval of the proposed adoption; and

WHEREAS, the City Council, after careful consideration of the recommendation from the Planning Commission, all public comment, and the Ordinance, finds that this Ordinance is consistent with the City's Comprehensive Plan and development regulations, the Growth Management Act, Chapter 36.70A RCW, and that the amendments herein are in the best interests of the residents of the City and further advance the public health, safety and welfare; now, therefore,

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

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

SECTION 2. Table 20.22.020 is revised to read as follows:

Table 20.22.020 – Permit Review Type Classifications

Type I	Type II	Type III	Type IV	Type V
Director Decision	Director Decision	HE Decision	City Council Decision	City Council Decision
Judicial Appeal	HE Appeal	Judicial Appeal	Judicial Appeal	GMHB Appeal
Building Permit ¹ (Subtitle X of this title)	Short Plat, Preliminary, Alteration of Preliminary, Alteration of Final, Vacation of Final (Chapters 20.86 and 20.96 POMC)	Preliminary Plat, Preliminary Plat Major Modifications, Alteration of Final, Vacation of Final (Chapters 20.88 and 20.96 POMC)	Final Plat (Chapter 20.90 POMC)	Development Agreement (Chapter 20.26 POMC)
Binding Site Plan, Final (Chapter 20.94 POMC)			Site-Specific Rezone without Comprehensive Plan Amendment (Chapter 20.42 POMC)	Comprehensive Plan Amendment – Land Use Map Amendment, Text Amendment (Chapter 20.04 POMC)
Preliminary Plat – Minor Modifications (Chapter 20.88 POMC)	Temporary Use Permit (Chapter 20.58 POMC)	Variance (Chapter 20.28 POMC)		
Minor Land Disturbing Activity Permit (Chapter 20.140 POMC and POMC 20.150.100)	Binding Site Plan – Preliminary, Alteration of Preliminary, Alteration of Final, Vacation of Final (Chapter 20.94 POMC)	Conditional Use Permit (Chapter 20.50 POMC)		Legislative Zoning Map Amendment (Chapter 20.06 POMC)
Boundary Line Adjustment (Chapter 20.84 POMC)	Stormwater Drainage Permit (Chapter 20.150 POMC)	Shoreline Substantial Development Permit, Conditional Use Permit, and Nonadministrative Variance (Chapter 20.164 POMC)		POMC Title 20 Code Amendment (Chapter 20.06 POMC)
Code Interpretation (Chapter 20.10 POMC)	Sign Permit (if SEPA required) (Chapter 20.132 POMC)	Planned Residential Developments		Annexations ²
Legal Nonconforming Permit (Chapter 20.54 POMC)	Shoreline Substantial Development Permit,	Final Plat – Alteration or Vacation (Chapter 20.96 POMC)		

Table 20.22.020 – Permit Review Type Classifications

Type I Director Decision Judicial Appeal	Type II Director Decision HE Appeal	Type III HE Decision Judicial Appeal	Type IV City Council Decision Judicial Appeal	Type V City Council Decision GMHB Appeal
Short Plat, Final (Chapter 20.86 POMC) Sign Permit (if SEPA not required) (Chapter 20.132 POMC) Master Sign Plan	Administrative (Chapter 20.164 POMC) Sign Variance (Chapter 20.132 POMC)	View Protection Overlay District (VPOD) Variance (POMC 20.38.860) Flood Damage Prevention Variance (POMC 20.170) Flood Damage Prevention Appeal (POMC 20.170)		
Shoreline Permit Exemption (Chapter 20.164 POMC) Temporary Use Permit, Extension (Chapter 20.58 POMC)	Major Land Disturbing Activity Permit (Chapter 20.140 POMC and POMC 20.150.100) Variance – Administrative (Chapter 20.28 POMC)			

Untyped review and decision actions: preapplication meeting (Chapter 20.24 POMC), design review board review and recommendation (POMC 20.127.030), tax exemption for multifamily development (Chapter 3.48 POMC), capacity reservation certificate (Chapter 20.180 POMC), public works design variation, right-of-way permit (Chapter 12.04 POMC), street use permit (Chapter 12.24 POMC), water/sewer connection permit (Chapter 13.04 POMC).

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

² A development agreement that is consolidated with a Type I, II, III, or IV project permit application may be appealed pursuant to Chapter 36.70C RCW.

SECTION 3. Section 20.32.015 is revised to read as follows:

20.32.015 Building Type Zoning Matrix

(1) Building Type Zoning Matrix Key.

(a) Permitted Building Type (P). Indicates a building type is permitted in the zone.

(b) Building Type Not Permitted (--). Indicates a building type is not permitted in the zone.

Building Type	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF
Detached House	P	P	P	--	--	P	P	--	P	--	--	--	P	--	--	--	--	--	--	--	--
Backyard Cottage	P	P	P	--	--	P	P	--	P	--	--	--	P	--	--	--	--	--	--	--	--
Cottage Court	P	P	P	--	--	P	--	P	P	--	--	--	--	--	--	--	--	--	--	--	--
Duplex: Side-by-Side	--	P	P	--	--	--	--	--	P	--	--	--	P	--	--	--	--	--	--	--	--
Duplex: Back-to-Back	--	P	P	--	--	--	--	--	P	--	--	--	P	--	--	--	--	--	--	--	--
Attached House	--	P	P	--	--	--	--	--	P	--	--	--	P	--	--	--	--	--	--	--	--
Fourplex	--	--	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	--	--	--	--
Townhouse	--	P*	P	P	P	--	--	P	P	P	--	P	P	--	--	--	--	--	--	--	--
Apartment	--	--	P	P	P	--	--	--	--	P	--	P	--	--	--	--	--	--	--	--	--
Live-Work	--	--	--	--	--	--	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--
Shopfront House	--	--	--	--	--	--	--	P	P	P	P	P	P	P	--	--	--	--	--	--	--
Single-Story Shopfront	--	--	--	--	--	--	--	--	--	P	P	P	--	P	P	--	--	--	--	--	--
Mixed Use Shopfront	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	--	--	--	--
General Building	--	--	--	--	--	--	--	--	--	P	--	P	P	P	P	P	P	P	P	P	P
Manufactured or Mobile Home Park	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Accessory Building	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

* See restriction in POMC 20.32.090.

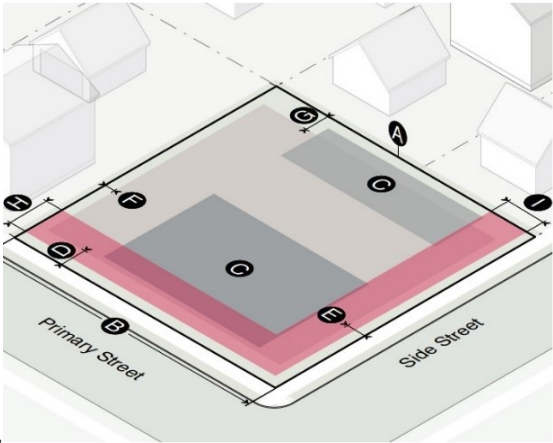
SECTION 4. Section 20.32.080 is revised to read as follows:

20.32.080 Fourplex.



(1) Definition. A building type that accommodates three to four dwelling units vertically or horizontally integrated.

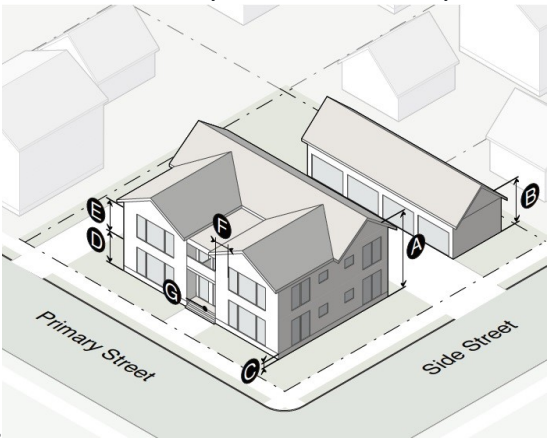
(2) Districts where allowed: R3, R4, R5, NMU.



- (3) Lot and Placement.
 - (a) Minimum lot area: 7,000 square feet.
 - (b) Minimum lot width: 60 feet.
 - (c) Maximum lot coverage: set by district.
 - (d) Primary street setback: set by district.
 - (e) Side street setback: set by district.
 - (f) Side interior setback: set by district.
 - (g) Rear setback: set by district.

- (4) Dwellings allowed per lot: minimum three, maximum four.

- (5) Build-to Zone (BTZ).
 - (a) Building facade in primary street BTZ: set by district.
 - (b) Building facade in secondary street BTZ: set by district.



- (6) Height and Form.
 - (a) Maximum principal building height: three stories/35 feet.
 - (b) Maximum accessory structure height: 24 feet.
 - (c) Minimum ground floor elevation: two feet.

- (d) Minimum ground floor transparency: 20 percent.
- (e) Minimum upper floor transparency: 20 percent.
- (f) Maximum blank wall area: 15 feet.
- (g) Pedestrian Access.
 - (i) Entrance facing primary street: required.
- (h) Building Elements Allowed.
 - (i) Awning/Canopy. See POMC 20.122.020.
 - (ii) Balcony. See POMC 20.122.030.
 - (iii) Porch. See POMC 20.122.060.
 - (iv) Stoop. See POMC 20.122.070.
- (i) Parking Location.
 - (i) Front/corner yard restrictions: Parking not allowed in front/corner yards.
 - (ii) Garage door restrictions.

SECTION 5. Section 20.32.100 is revised to read as follows:

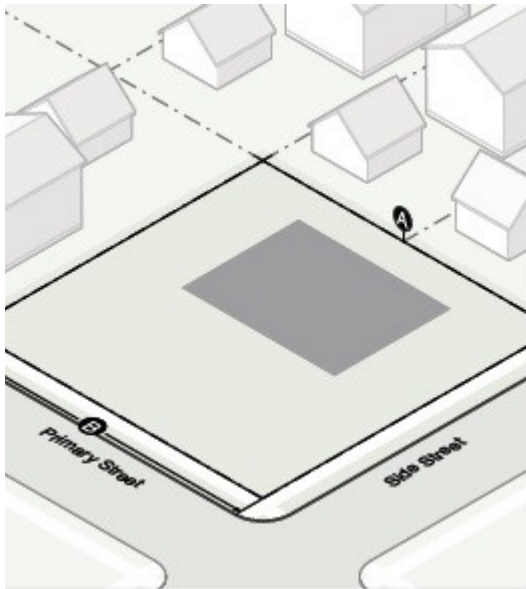
20.32.100 Apartment.

- (1) Definition. A building type that accommodates five or more dwelling units vertically and/or horizontally integrated.

SECTION 6. Section 20.37.030 is revised to read as follows:

20.37.030 Public Facilities.

- (1) Intent. The public facilities district is intended to provide for public facility uses that serve the city and which may not readily assimilate into other zoning districts. The public facilities district may be applied in any area of the city regardless of comprehensive plan designation. The public facilities district intends to accommodate buildings of a public nature such as police, fire or EMS stations and government offices.
- (2) Building Types Allowed. Building types are not applicable in the public facilities district.
- (3) Lot Dimensions.
 - (a) Minimum lot size: 7,000 square feet.
 - (b) Minimum lot width: 70 feet.
- (4) Maximum hard surface coverage is 95 percent.



Public Facilities Lot Dimensions

(5) Building Setbacks (from Ground Level up to 40 Feet).

(a) Primary street: 10 feet minimum (may be reduced on designated storefront and varied streets, see Chapter 20.127 POMC).

(b) Side street: 10 feet minimum (may be reduced on designated storefront and varied streets, see Chapter 20.127 POMC).

(c) Side Interior.

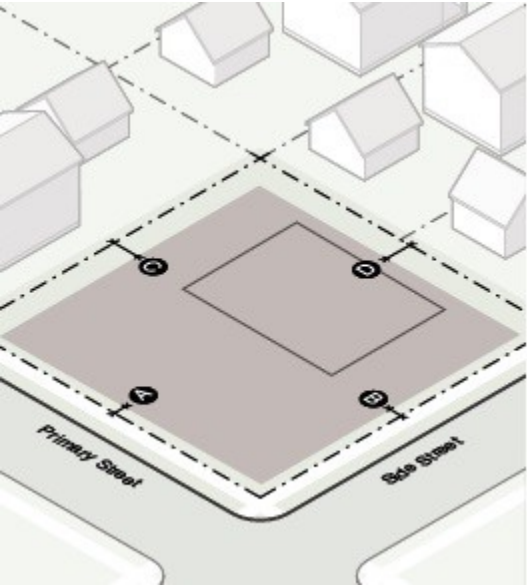
(i) Side interior abutting nonresidential: five feet minimum.

(ii) Side interior abutting residential: 20 feet minimum.

(d) Rear.

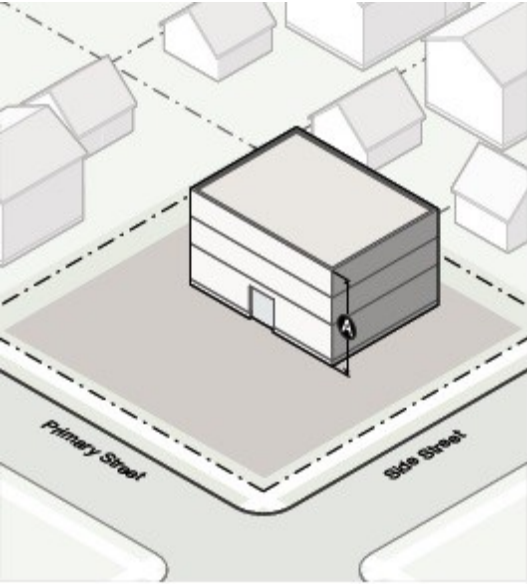
(i) Abutting nonresidential: five feet minimum.

(ii) Rear abutting residential: 20 feet minimum.



Public Facilities Building Placement

- (6) Building Height.
 - (a) All buildings and structures: five stories/85 feet maximum (it is recognized that public buildings may have higher per story heights than other building types hence the 85-foot height limit).



Public Facilities Building Height

SECTION 7. Table 20.39.040 is revised to read as follows:

20.39.040 Use table.

(Gray shading separates categories into residential, commercial and industrial, and civic/parks)

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards	
Residential Uses																							
All household living, as listed below:																							
Single-family detached (including new manufactured homes)	P	P	P	--	--	P	P		P	--	--	--	P	--	--	--	--	--	--	--	--	--	20.39.100
Designated manufactured home, manufactured or mobile home (except for new designated manufactured homes)	--	--	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	20.39.100
New designated manufactured home	P	P	P	--	--	P	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	--	20.39.100
Two-family	--	P	P	--	--	P	--	P	P	--	--	--	P	--	--	--	--	--	--	--	--	--	20.39.100
Single-family attached (2 units)	--	P	P	--	--	P	--	P	P	--	--	--	P	--	--	--	--	--	--	--	--	--	20.39.100
Single-family attached (3 or 4 units)	--	P	P	P	P	P	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--	--	20.39.100
Single-family attached (5 or 6 units)	--	--	P	P	P	P	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--	--	20.39.100
Multifamily (3 or 4 units)	--	--	P	P	P	--	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--	--	20.39.100
Multifamily (5 or more units)	--	--	P	P	P	--	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--	--	20.39.100
Manufactured or mobile home park	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	20.39.100
Boarding house	--	--	--	C	C	--	--	--	C	--	--	P	C	--	--	--	--	--	--	--	--	--	
Congregate living facilities	--	--	C	C	C	--	--	--	C	--	--	P	C	--	--	--	--	--	--	--	--	--	
Lodging house	--	--	C	C	C	--	--	--	C	--	--	P	C	--	--	--	--	--	--	--	--	--	

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
Group home (up to 8 residents), except as follows:	P	P	P	P	P	P	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	20.39.100
Adult family home	P	P	P	--	--	P	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	20.39.100
All group living (9 or more residents)	--	--	--	C	C	--	--	P	C	P	C	--	P	P	--	--	--	--	--	--	--	20.39.110
Social services facilities	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	--	20.39.120
Secured high risk social services facilities	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	--	--	--	--	20.39.122
Public Uses																						
All civic uses, as listed below:																						
Community college, university, trade or technical school (8,000 square feet or less)	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	--	20.39.240
Community college, university, trade or technical school (more than 8,000 square feet)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	--	C	--	C	20.39.240
Club or lodge	--	--	--	--	--	--	--	--	--	P	--	P	P	P	--	--	--	--	P	--	--	20.39.240
Public use	--	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	P	P	P	P	20.39.240
Museum, library	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	--	--	--	P	20.39.240
Place of worship	C	C	C	C	C	--	--	--	--	P	--	P	P	P	--	--	--	--	P	--	--	20.39.240
School (K-12)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	20.39.240
Jail or detention center	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	--	C	20.39.240
Transit park and ride lot	--	--	C	C	C	--	--	C	C	P	C	C	--	P	P	P	P	P	P	--	P	20.39.220
Transfer station	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	P	20.39.230
Transit bus base	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	P	20.39.210
All open space and park uses, as listed below:																						
Cemetery	C	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	20.39.250
Golf course	C	C	C	--	--	C	--	--	--	--	--	--	--	C	--	--	--	--	--	P	P	20.39.250
Park, recreation field	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	--	--	--	P	P	20.39.250

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards	
All utilities, as listed below:																							
Minor utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	20.39.260
Major utilities	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	P		20.39.260
Wireless telecommunication facilities, as listed below:																							
Amateur radio operator tower	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	20.39.270
Small cell wireless telecommunication facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	20.39.270
Wireless telecommunication tower (excludes small cell facilities)	C	C	C	C	C	C	--	C	C	C	C	C	C	C	C	C	C	C	C	--	C		20.39.270
Commercial Uses																							
All day care, as listed below:																							
Family day care (6 children or fewer)	P	P	P	--	--	P	P	--	--	--	--	--	P	--	--	--	--	--	--	--	--	--	20.39.305
Group day care (mini day care) (7 to 12)	C	C	C	--	--	C	C	C	P	P	--	P	P	P	--	--	--	--	--	--	--	--	20.39.305
Day care center (13 or more)	--	--	--	--	--	--	--	C	C	C	--	P	C	P	P	--	--	--	--	--	--	--	20.39.305
All indoor recreation, except as listed below:	--	--	--	--	--	--	--	--	C	P	C	P	--	P	P	--	--	--	--	C	--		
Shooting range	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	--	--	--	C	20.39.315
Special event facility	--	--	--	--	--	--	--	--	--	C	C	C	C	C	C	C	C	--	C	C	C		20.39.315
Commercial entertainment, except as follows:	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	P	--	--	--	--	--		
Adult entertainment	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	--	--	--		20.39.320
All outdoor recreation, except as listed below:	--	--	--	--	--	--	--	--	C	C	C	P	--	P	P	--	--	--	--	C	C		
Campground, travel trailer park, RV park (does not include mobile home park)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C		20.39.340
Horse stable, riding academy, equestrian center	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C		20.39.340
Shooting range	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	20.39.340
Marina (upland areas)	--	--	--	--	--	--	--	--	--	--	C	C	--	C	C	C	C	C	C	C	C		20.39.385

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards	
All overnight lodging, as listed below:																							
Level 1: Vacation rentals or similar short-term house/room rentals	P	P	P	P	P	P	P	P	P	P	P	P	P	--	--	--	--	--	--	--	--	--	20.39.345
Level 2: Bed and breakfast (up to 7 rooms)	C	C	C	--	--	C	C	--	P	--	--	--	P	--	--	--	--	--	--	--	--	--	20.39.345
Level 3: Motel	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	--	--	--	--	20.39.345
Level 4: Hotel	--	--	--	--	--	--	--	--	--	P	P	P	--	P	P	--	--	--	--	--	--	--	20.39.345
All medical, except as listed below:	--	--	--	--	--	--	--	--	--	C	C	P	P	P	P	P	--	--	--	--	P	--	
Hospital	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	--	--	--	--	C	--	20.39.325
All office, except as listed below:	--	--	--	--	--	--	--	C	C	P	P	P	P	P	P	P	--	--	--	--	--	--	
Bail bonds	--	--	--	--	--	--	--	--	--	C	C	C	C	P	P	--	--	--	--	--	--	--	20.39.335
Surface parking: commercial parking, commuter lease parking or park and ride, remote parking	--	--	--	--	--	--	--	--	--	C	C	P	P	P	P	P	P	--	P	--	C	--	20.39.350
Commercial parking garage – standalone	--	--	--	--	--	--	--	--	--	C	C	C	C	P	P	P	--	--	--	--	C	--	20.39.350
Electric vehicle charging stations	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
All personal service, except as listed below:	--	--	--	--	--	--	--	C	C	P	C	P	P	P	P	C	--	--	--	--	--	--	
Funeral home	--	--	--	--	--	--	--	--	--	P	--	P	P	P	P	--	--	--	--	--	--	--	20.39.355
Crematorium	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	--	--	--	20.39.355
Animal shelter or adoption center	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	C	C	--	C	--	20.39.200
Indoor animal care	--	--	--	--	--	--	--	--	C	P	--	P	--	P	P	P	--	--	--	--	--	--	20.39.360
Outdoor animal care	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	--	--	--	--	--	20.39.365
Business services	--	--	--	--	--	--	--	C	P	P	P	P	P	P	P	P	--	--	C	--	--	--	20.39.380
Conference center	--	--	--	--	--	--	--	--	--	--	C	C	C	C	C	--	--	--	C	--	C	--	20.39.310
All restaurants except as listed below:	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	--	--	--	--	--	--	--	

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
Food truck	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	--	--	P	--	--	20.39.370
All retail sales, as listed below:																						
Retail establishment (up to 5,000 gross floor area)	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	--	--	P	--	--	20.39.375
Retail establishment (5,001 - 15,000 gross floor area)	--	--	--	--	--	--	--	--	P	P	P	--	--	P	P	P	--	--	--	--	--	20.39.375
Retail establishment (15,001 - 50,000 gross floor area)	--	--	--	--	--	--	--	--	--	--	--	P	--	P	P	P	--	--	--	--	--	20.39.375
Retail establishment (over 50,000 gross floor area)	--	--	--	--	--	--	--	--	--	--	--	--	--	C	P	P	--	--	--	--	--	20.39.375
Fireworks sales in accordance with Chapter 5.60 POMC	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	--	--	
Recreational marijuana sales	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	P	--	--	--	--	20.64; 20.39.375
Convenience store with fuel pumps	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	--	--	--	--	20.39.375
Convenience store without fuel pumps	--	--	--	--	--	--	--	--	C	C	C	--	--	P	P	P	--	--	--	--	--	20.39.375
Fuel station, including fuel pumps and fuel sales, without convenience store	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	P	--	--	--	--	
Automobile service station	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	P	--	--	--	--	20.39.300
All vehicle and tool/construction equipment sales and rental, as listed below:																						
Light vehicle and light tool or construction equipment sales and rental	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	--	20.39.375
Heavy vehicle and heavy tool or construction equipment sales and rental	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	20.39.375
All vehicle service and repair, as listed below:																						
Car wash	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	--	--	20.39.440

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards	
Vehicle service and repair, minor	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	--	20.39.440	
Vehicle service and repair, major	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	--	20.39.440
Vehicle service and repair, commercial vehicle	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	--	20.39.440
Industrial Uses																							
All heavy industrial	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--	--	20.39.400
All light manufacturing, except as listed below:	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	--	
Commercial laundry, dry cleaning or carpet cleaning facility	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	--	20.39.410
Brewery, distillery under 5,000 square feet	--	--	--	--	--	--	--	--	--	--	P	P	--	--	P	--	--	--	--	--	--	--	
Brewery, distillery 5,001 – 15,000 square feet	--	--	--	--	--	--	--	--	--	--	C	C	--	C	P	P	--	--	--	--	--	--	
Brewery, distillery over 15,000 square feet	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	--	
Craft shop	--	--	--	--	--	--	--	P	P	P	P	P	--	P	P	P	P	P	--	--	--	--	20.39.410
Food and beverage processing, boutique (area used for processing less than 3,000 square feet)	--	--	--	--	--	--	--	P	P	P	P	P	--	P	P	P	P	P	--	--	--	--	20.39.410
Food and beverage processing, industrial	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	--	20.39.410
Recreational marijuana production and processing	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	--	20.64; 20.39.410
All research and development	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	--	--	--	--	20.39.420
Resource extraction – mining, dredging, raw mineral processing, except:	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	--	--	20.39.430
Timber harvesting in the absence of concurrent development	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
Sand and gravel mining	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	--	--	--	--	

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
Stockpiling of sand, gravel or other aggregate materials	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--		C	P	--	--	P	20.39.430
Sheet metal, welding, machine shop, tool and equipment manufacturing, vehicle painting facility	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	P	P	P	--	--	P	20.39.410
All warehouse, storage and distribution, as listed below:	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	C	--	--	--	
Enclosed storage	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	20.39.450
Self-service storage, mini-warehouse	--	--	--	--	--	--	--	--	--	C	--	--	--	C	C	C	--	--	--	--	--	20.39.460
Storage yard	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	P	P	--	--	P	20.39.470
All waste-related service, including wastewater treatment facilities, decant facilities and recycling centers	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	P	20.39.480
Agricultural Uses																						
All agriculture, as listed below:																						
Agricultural processing, excluding marijuana processing	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	P	P	--	--	--	20.39.500
Community garden	P	P	P	P	P	P	--	P	P	P	--	--	--	--	--	--	--	--	--	P	P	20.39.500
Nursery	--	--	--	--	--	--	P	--	--	--	--	--	--	P	P	P	P	--	--	--	--	20.39.500
Winery	--	--	--	--	--	--	C	--	--	C	C	C	--	P	P	P	P	--	--	--	--	20.39.500
Accessory Uses																						
Accessory uses not otherwise listed below, as determined by the administrator:																						
Accessory dwelling units, as listed below:																						
Accessory apartment (attached dwelling)	P	P	P	--	--	P	P	--	--	--	--	--	P	--	--	--	--	--	--	--	--	20.39.600 , 20.68

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/ Standards
Backyard cottage dwelling	P	P	P	--	--	P	P	--	--	--	--	--	P	--	--	--	--	--	--	--	--	20.39.600
Drive-through facility	--	--	--	--	--	--	--	--	--	C	--	--	--	P	P	P	P	--	--	--	--	20.39.610
Home occupation	P	P	P	P	P	P	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	20.39.615
Home business	P	P	P	--	--	P	P	--	--	--	--	--	P	--	--	--	--	--	--	--	--	20.39.620
Livestock keeping	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	20.39.625
Outdoor display	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	--	--	--	20.39.630
Outdoor storage as listed below:																						
Low-impact	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	20.39.635
High-impact	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	20.39.635
Self-storage as accessory use to apartment building	--	--	--	P	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	20.39.640
Vehicle service and repair, accessory to a residential use	P	P	--	--	--	P	P	--	--	--	--	--	--	P	P	--	--	--	--	--	--	20.39.645
Park as accessory use to residential development	P	P	P	P	P	P	--	P	P	P	P	P	P	--	--	--	--	--	--	--	--	
Medical marijuana cooperative	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	--	--	--	--	20.64; 20.39.100

Key: P = Permitted Use C = Conditional Use -- = Use Not Permitted

SECTION 8. Section 20.42.050 is repealed in its entirety.

SECTION 9. Section 20.80.040 is revised to read as follows:

20.80.040 Applicability.

- (1) The provisions of this subtitle shall apply to all lot line adjustments and the division of any land within the corporate limits of the city of Port Orchard for sale, lease, transfer, or building development into two or more parcels, except as expressly stated in this subtitle.
- (2) Land use review procedures provided in Subtitle II (Permitting and Development Approval) of this title shall apply in addition to applicable provisions within this subtitle.

(3) No person, firm, or corporation proposing to make, or having made, any division of land as described above within the city limits shall enter any contract for the sale of, or shall offer to sell, any part of the division without having first obtained its approval as a short plat, subdivision plat, or binding site plan in accordance with this subtitle, unless such agreement for sale complies with RCW.

(4) All contiguous land shall be included in a plat application. Multiple applications or applications and/or exemptions shall not be utilized as a substitute for comprehensive subdividing in accordance with the requirements of this subtitle. The applicant shall certify that she/he has included all contiguous land in a plat application and that she/he does not own or otherwise have a legal interest in ownership of contiguous parcels.

(5) Any land being divided into nine or fewer parcels, lots, tracts, or sites shall conform to the short plat provisions of this subtitle. Nothing in this subtitle shall prevent a landowner who has short-platted a parcel into fewer than nine lots from filing a short plat within a five-year period to create up to a total of nine lots within the boundary of the original short plat. Any land being divided into ten or more parcels, lots, tracts, or sites for any purpose, and any land which has been divided under the short plat process within five years, shall conform to the provisions of the preliminary and final plat procedures of this subtitle. The only exception to this provision shall be those lands being subdivided through the binding site plan procedures of this subtitle.

SECTION 10. Section 20.88.070 is revised to read as follows:

20.88.070 Preliminary plat – Effect of approval.

(1) Approval of the preliminary subdivision by the city shall constitute direction to the applicant to develop construction plans and specifications for the required public facilities, in strict conformance with the approved preliminary subdivision, the street and utility standards adopted by the city, the city's design and construction standards, and any special conditions imposed on the approval.

(2) Permission shall not be granted for installation of required public facilities until all construction plans and specifications have been approved in writing by the city engineer, pursuant to Chapter 20.98 POMC.

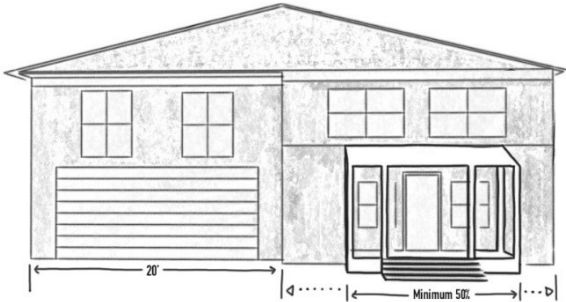
SECTION 11. Section 20.122.060 is revised to read as follows:

20.122.060 Porch.

A raised structure attached to a building, forming a covered entrance to a doorway.



A raised structure attached to a building, forming a covered entrance to a doorway.



The 50 percent porch width shall be measured to include the habitable ground floor portion of the detached house only.



The 50 percent porch width shall be measured to include the habitable ground floor portion of the detached house only.

- (1) A front porch must be at least six feet deep (not including the steps). A portion of the porch may be less than six feet deep; provided, that the front door is recessed by at least six feet.
- (2) A front porch must be contiguous, with a width not less than 50 percent of the building facade from which it projects. For the purposes of this section, the front building facade shall not include that portion of the house containing an attached side-by-side garage.
- (3) A front porch must be roofed and may be screened, but cannot be fully enclosed.
- (4) A front porch may extend up to nine feet, including the steps, into a required front setback; provided, that such extension is at least three feet from the vertical plane of any lot line.
- (5) A front porch may not encroach into the public right-of-way.

SECTION 12. Section 20.124.120 is revised to read as follows:

20.124.120 Internal road circulation standards.

Internal access roads to off-street parking areas shall conform with or exceed the surfacing and design requirements of the most recent adopted edition of the Port Orchard Public Works engineering standards and specifications

SECTION 13. Section 20.128.050(2)(b)(i) is revised to read as follows:

20.128.050(2)(b)(i) Tree Standards and Guidelines.

(1) Native Plant Species. New landscaping materials shall include species native to the region or hardy, waterwise, and noninvasive species appropriate in the climatic conditions of the region (decorative annuals are an exception). Generally acceptable plant materials must be those identified as hardy in Zone 8b as described in United States

Department of Agriculture's Plant Hardiness Zone Map. The selection of plant species should include consideration of soil type and depth, the amount of maintenance required, spacing, exposure to sun and wind, the slope and contours of the site, compatibility with existing native vegetation preserved on the site, water conservation where needed, and the impact of landscaping on visibility of the site for purposes of public safety and surveillance.

(2) Tree Standards and Guidelines.

(a) Tree heights may be called for within this chapter or elsewhere within this title:

- (i) Large Tree. Capable of growing 35 feet high or greater under normal growing conditions.
- (ii) Medium Tree. Capable of growing over 15 feet high and less than 35 feet high under normal growing conditions.
- (iii) Small Tree. Capable of growing up to 15 feet high under normal growing conditions.

(b) Unless otherwise noted herein, required trees shall meet the following standards at the time of planting:

- (i) Required deciduous trees shall be fully branched, have a dominant leader branch, have a minimum caliper of one and one-half inches (as measured six inches above the root ball), and a minimum height of six feet at the time of planting as measured from the top of the leader branch to the top of the root ball.
- (ii) Required evergreen trees shall be fully branched and a minimum of six feet in height, measured from the treetop to the ground, at the time of planting.
- (iii) Required trees of any species within parking areas shall be a minimum caliper of one-and-one-half inches (as measured 24 inches above the root ball) and a minimum height of 10 feet at the time of planting.

(3) Shrub Standard. Shrubs, except for ornamental grasses, shall be a minimum of one-gallon size at the time of planting.

(4) Ground Cover Standards and Guidelines.

(a) Ground covers shall be planted and spaced to result in total coverage of the required landscape area within three years as follows, or as per recommendations by Washington State licensed landscape architect, Washington-certified professional horticulturalist (CPH), or other qualified individual. Ground cover plants other than turf forming grasses must be planted in triangular spacing at the following rates:

(i) Four-inch pots at 18 inches on center.

(ii) One gallon or greater sized containers at 24 inches on center.

(iii) Alternative plant spacing may be appropriate depending on the specific plants.

When applicable, plant spacing information must be included with permit application submittals from published sources, such as the Sunset Western Garden Book, from Internet sources, or from cut sheets provided by a nursery. Such sources must be identified for verification purposes.

(b) Grass is acceptable as ground cover in landscaped areas, but generally not preferred for water conservation and maintenance purposes (lawn areas designed as play areas are an exception).

(c) Ground cover areas shall contain at least two inches of composted organic material at finished grade.

(5) Tree and Plant Diversity.

(a) If there are more than eight required trees, no more than 40 percent of them may be of one species.

(b) If there are more than 24 required trees, no more than 20 percent of them may be of one species.

(c) If there are more than 24 required shrubs, no more than 75 percent of them may be of one species.

(6) Soil Augmentation and Mulching.

(a) Existing soils shall be augmented with a two-inch layer of fully composted organic material tilled a minimum of six inches deep prior to initial planting.

(b) Landscape areas shall be covered with at least two inches of mulch to minimize evaporation. Mulch shall consist of organic materials such as bark chips and wood grindings or yard waste, sawdust, and/or manure that is fully composted. Washed rock may also be used as a mulch.

(7) Landscape Installation Standards.

(a) All required landscaping shall be in-ground, except when in raised planters. Plant materials shall be installed to current nursery industry standards.

(b) Plant materials shall be properly supported to ensure survival. Support devices such as guy wires or stakes shall not interfere with vehicular or pedestrian movement. Where support is necessary, stakes, guy wires or other measures shall be removed as soon as the plant can support itself.

(c) Existing trees and plant materials to be retained shall be protected during construction. Protection measures may include silt fencing, chain link fencing, or other sturdy fencing placed at the dripline of trees to be retained. Grading, topsoil storage, construction material storage, vehicles, and equipment shall not be allowed within the dripline of trees to be retained.

(d) Installation of landscaping materials must take into consideration access to utility vaults, pedestals, and other public and private utility facilities.

(e) Trees and major shrubs at mature size should avoid interference with windows, decks, pedestrian walkways or other travelled ways, or lighting.

SECTION 14. Section 20.139.020 is revised to read as follows:

(1) The following provisions apply to detached houses, side-by-side duplexes, and back-to-back duplexes:

(a) Where lots front on a public street, and where vehicular access is from the street, garages or carports shall be set back at least five feet behind the ground floor front wall of the occupied portion of a house or front edge of an unenclosed porch.

Exceptions:

(i) Garages may project up to six feet closer to the street than the ground floor front wall of the occupied portion of a structure or front edge of an unenclosed porch, provided it is set back at least 18 feet from the property line or sidewalk edge (when sidewalks are present) and incorporates at least two of the design/detail features below. Garages placed flush with the ground floor front wall (or between zero and five feet behind the front wall) of the occupied portion of the house shall incorporate at least one of the design/detail features below:

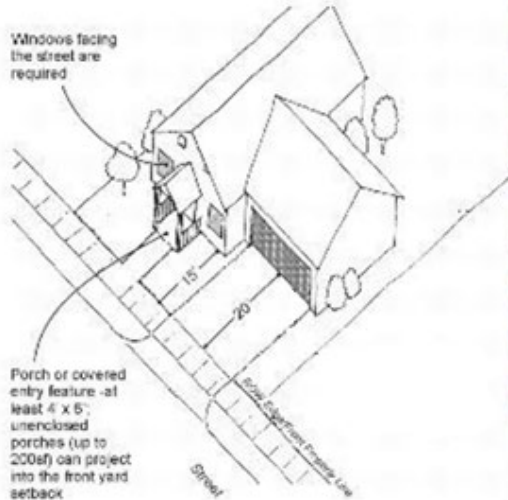
(A) A decorative trellis or arbor over the entire garage face, above and surrounding the garage door.

(B) A balcony that extends out over the garage and includes columns.

(C) Two separate doors for two-car garages instead of one large door.

(D) Decorative windows on the garage door.

(E) Decorative details on the garage door. Standard squares on a garage door will not qualify as a decorative detail. Traditional visible hinges and handles (functional or decorative), and other construction methods creating depth and texture on a garage door surface are acceptable forms of decorative details.



Examples of decorative details are shown in Figure 2.

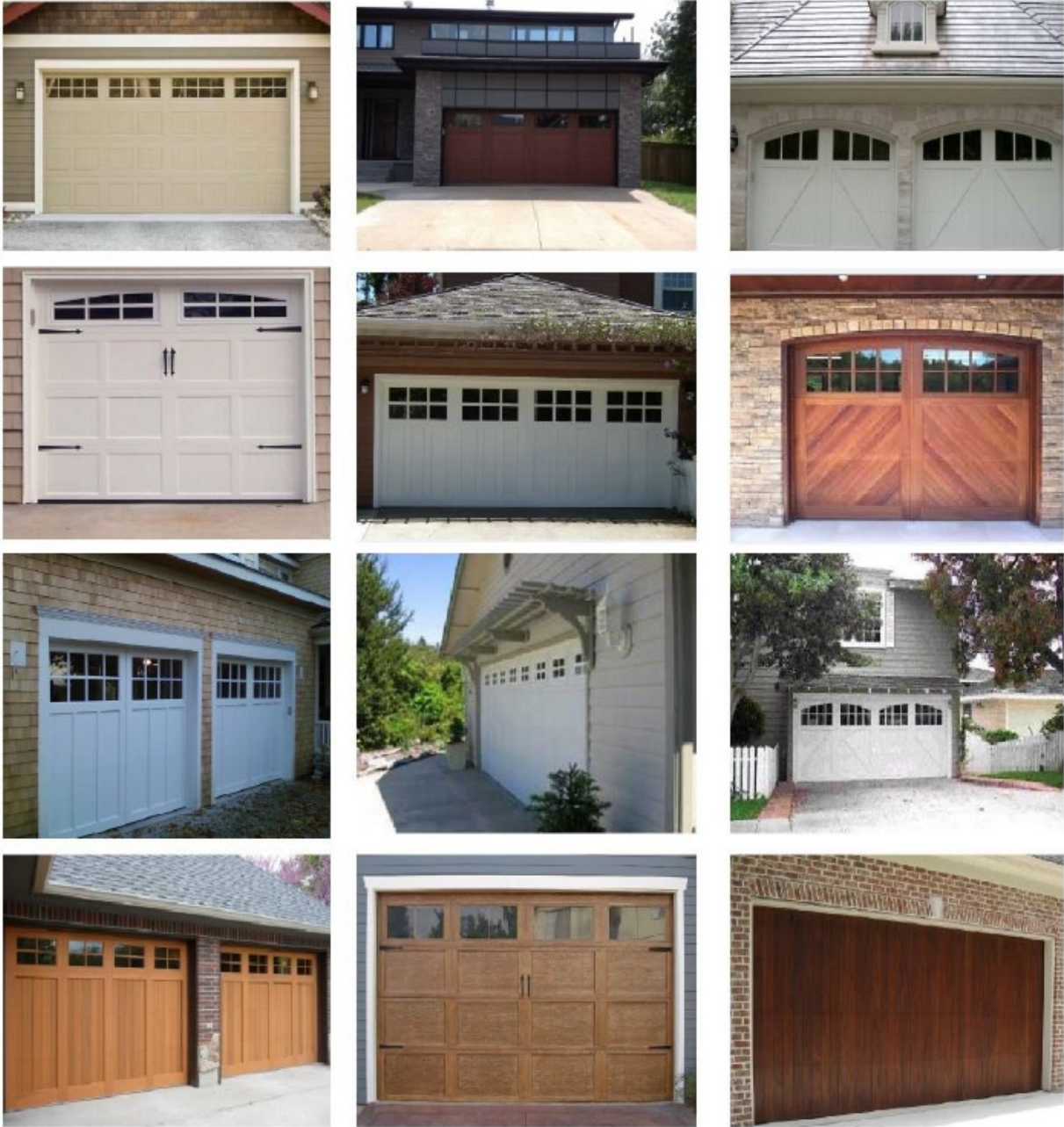
(F) A garage door color (other than white) that matches or complements the color of the house.

(G) Other design techniques that effectively deemphasize the garage, as determined by the director.

(ii) Garages may be placed closer to the street than the front wall of the house or front edge of an unenclosed porch, provided the garage door faces an interior lot line and features (a) window(s) facing the street, so that it appears to be habitable.

(iii) Where lots abut an alley, the garage or off-street parking area shall take access from the alley, unless precluded by steep topography. This requirement shall not apply to unopened alleys.

Figure 1. Garage placement/frontage standards and design



SECTION 15. 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 16. 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 17. 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 14th day of December 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

SPONSOR:

Charlotte A. Archer, City Attorney

Scott Diener, Councilmember

PUBLISHED:

EFFECTIVE DATE:

4rt5TITLE 20 POMC
PROPOSED “HOUSEKEEPING” CORRECTIONS – 2021
 SHOWN AS **RED STRIKEOUT/UNDERLINE**, PER SECTION EXCERPT
 Explanations for changes are listed in *italic blue* before each change

1. Adds Flood Damage Prevention Variance and Appeal to the permit types in Table 20.22.020 – Permit Review Type Classifications.

Table 20.22.020 – Permit Review Type Classifications

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

Table 20.22.020 – Permit Review Type Classifications

Type I Director Decision Judicial Appeal	Type II Director Decision HE Appeal	Type III HE Decision Judicial Appeal	Type IV City Council Decision Judicial Appeal	Type V City Council Decision GMHB Appeal
Boundary Line Adjustment (Chapter 20.84 POMC) Code Interpretation (Chapter 20.10 POMC) Legal Nonconforming Permit (Chapter 20.54 POMC) Short Plat, Final (Chapter 20.86 POMC) Sign Permit (if SEPA not required) (Chapter 20.132 POMC) Master Sign Plan	Sign Permit (if SEPA required) (Chapter 20.132 POMC) Shoreline Substantial Development Permit, Administrative (Chapter 20.164 POMC) Sign Variance (Chapter 20.132 POMC)	Planned Residential Developments Final Plat – Alteration or Vacation (Chapter 20.96 POMC) View Protection Overlay District (VPOD) Variance (POMC 20.38.860) Flood Damage Prevention Variance (POMC 20.170) Flood Damage Prevention Appeal (POMC 20.170)		POMC Title 20 Code Amendment (Chapter 20.06 POMC) Annexations ²
Shoreline Permit Exemption (Chapter 20.164 POMC)	Major Land Disturbing Activity Permit (Chapter 20.140 POMC and POMC 20.150.100)			

Table 20.22.020 – Permit Review Type Classifications

Type I	Type II	Type III	Type IV	Type V
Director Decision	Director Decision	HE Decision	City Council Decision	City Council Decision
Judicial Appeal	HE Appeal	Judicial Appeal	Judicial Appeal	GMHB Appeal
Temporary Use Permit, Extension (Chapter 20.58 POMC)	Variance – Administrative (Chapter 20.28 POMC)			

Untyped review and decision actions: preapplication meeting (Chapter 20.24 POMC), design review board review and recommendation (POMC 20.127.030), tax exemption for multifamily development (Chapter 3.48 POMC), capacity reservation certificate (Chapter 20.180 POMC), public works design variation, right-of-way permit (Chapter 12.04 POMC), street use permit (Chapter 12.24 POMC), water/sewer connection permit (Chapter 13.04 POMC).

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

² A development agreement that is consolidated with a Type I, II, III, or IV project permit application may be appealed pursuant to Chapter 36.70C RCW.

2. In the building type zoning matrix in POMC 20.32.015, the Cottage Court building type is added to the list of permitted building types in the Residential Mixed Use (RMU) zoning district, for consistency with POMC 20.32.040(2) (Cottage Court standards).

20.32.015 Building Type Zoning Matrix

(1) Building Type Zoning Matrix Key.

(a) Permitted Building Type (P). Indicates a building type is permitted in the zone.

(b) Building Type Not Permitted (--). Indicates a building type is not permitted in the zone.

Building Type	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF
Detached House	P	P	P	--	--	P	P	--	P	--	--	--	P	--	--	--	--	--	--	--	--
Backyard Cottage	P	P	P	--	--	P	P	--	P	--	--	--	P	--	--	--	--	--	--	--	--
Cottage Court	P	P	P	--	--	P	--	P--	P	--	--	--	--	--	--	--	--	--	--	--	--
Duplex: Side-by-Side	--	P	P	--	--	--	--	--	P	--	--	--	P	--	--	--	--	--	--	--	--
Duplex: Back-to-Back	--	P	P	--	--	--	--	--	P	--	--	--	P	--	--	--	--	--	--	--	--
Attached House	--	P	P	--	--	--	--	--	P	--	--	--	P	--	--	--	--	--	--	--	--
Fourplex	--	--	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	--	--	--	--
Townhouse	--	P*	P	P	P	--	--	P	P	P	--	P	P	--	--	--	--	--	--	--	--
Apartment	--	--	P	P	P	--	--	--	--	P	--	P	--	--	--	--	--	--	--	--	--
Live-Work	--	--	--	--	--	--	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--
Shopfront House	--	--	--	--	--	--	--	P	P	P	P	P	P	P	--	--	--	--	--	--	--
Single-Story Shopfront	--	--	--	--	--	--	--	--	--	P	P	P	--	P	P	--	--	--	--	--	--
Mixed Use Shopfront	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	--	--	--	--
General Building	--	--	--	--	--	--	--	--	--	P	--	P	P	P	P	P	P	P	P	P	P
Manufactured or Mobile Home Park	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Accessory Building	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

* See restriction in POMC 20.32.090.

3. Revises POMC 20.32.080 (Fourplex) to require a minimum lot width of 60 feet for a fourplex residential building, for consistency with POMC 20.34 (Residential Districts), which requires a minimum lot width of 60 feet for a fourplex in those zones that allow them.

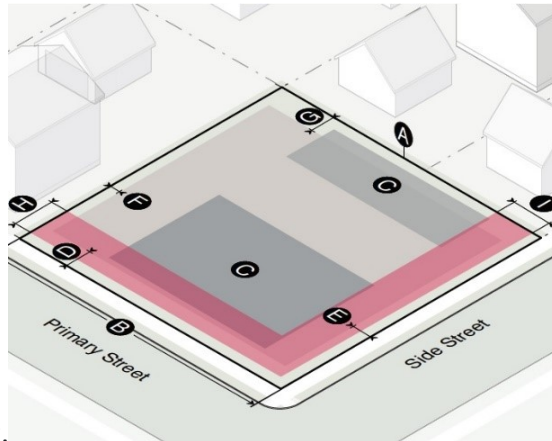
20.32.080 Fourplex.





(1) Definition. A building type that accommodates three to four dwelling units vertically or horizontally integrated.

(2) Districts where allowed: R3, R4, R5, NMU.



(3) Lot and Placement.

- (a) Minimum lot area: 7,000 square feet.
- (b) Minimum lot width: ~~60~~65 feet.
- (c) Maximum lot coverage: set by district.
- (d) Primary street setback: set by district.
- (e) Side street setback: set by district.
- (f) Side interior setback: set by district.
- (g) Rear setback: set by district.

- (4) Dwellings allowed per lot: minimum three, maximum four.
- (5) Build-to Zone (BTZ).
 - (a) Building facade in primary street BTZ: set by district.
 - (b) Building facade in secondary street BTZ: set by district.



- (6) Height and Form.
 - (a) Maximum principal building height: three stories/35 feet.
 - (b) Maximum accessory structure height: 24 feet.
 - (c) Minimum ground floor elevation: two feet.
 - (d) Minimum ground floor transparency: 20 percent.
 - (e) Minimum upper floor transparency: 20 percent.
 - (f) Maximum blank wall area: 15 feet.
 - (g) Pedestrian Access.
 - (i) Entrance facing primary street: required.
 - (h) Building Elements Allowed.
 - (i) Awning/Canopy. See POMC 20.122.020.
 - (ii) Balcony. See POMC 20.122.030.
 - (iii) Porch. See POMC 20.122.060.
 - (iv) Stoop. See POMC 20.122.070.
 - (i) Parking Location.
 - (i) Front/corner yard restrictions: Parking not allowed in front/corner yards.
 - (ii) Garage door restrictions.

4. Incorporates Director’s Interpretation LU21-01 into POMC Title 20, in accordance with the requirements of POMC 20.10.040(5)(b) (Director’s Decision – Time Limitation).

20.32.100 Apartment.

(1) Definition. A building type that accommodates five or more dwelling units vertically and or horizontally integrated.

5. Removes reference in the Public Facilities (PF) zone definition to “primary buildings” (buildings are not broken down into primary and accessory in the PF zone). Corrects outdated reference to “mixed designation” street with current reference of “varied” street. Corrects labels under illustrative drawings to correctly reflect the PF zone.

20.37.030 Public Facilities.

(1) Intent. The public facilities district is intended to provide for public facility uses that serve the city and which may not readily assimilate into other zoning districts. The public facilities district may be applied in any area of the city regardless of comprehensive plan designation. The public facilities district intends to accommodate buildings of a public nature such as police, fire or EMS stations and government offices.

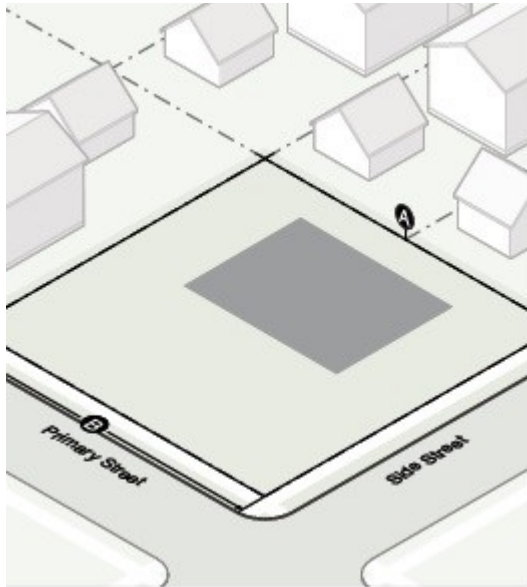
(2) Building Types Allowed. Building types are not applicable in the public facilities district.

(3) Lot Dimensions.

(a) Minimum lot size: 7,000 square feet.

(b) Minimum lot width: 70 feet.

(4) Maximum hard surface coverage is 95 percent.



Public Facilities~~Civic and Institutional~~ Lot Dimensions

(5) ~~Principal~~ Building Setbacks (from Ground Level up to 40 Feet).

(a) Primary street: 10 feet minimum (may be reduced on designated storefront and ~~varied~~~~mixed~~~~designation~~ streets, see Chapter 20.127 POMC).

(b) Side street: 10 feet minimum (may be reduced on designated storefront and ~~varied~~~~mixed~~~~designation~~ streets, see Chapter 20.127 POMC).

(c) Side Interior.

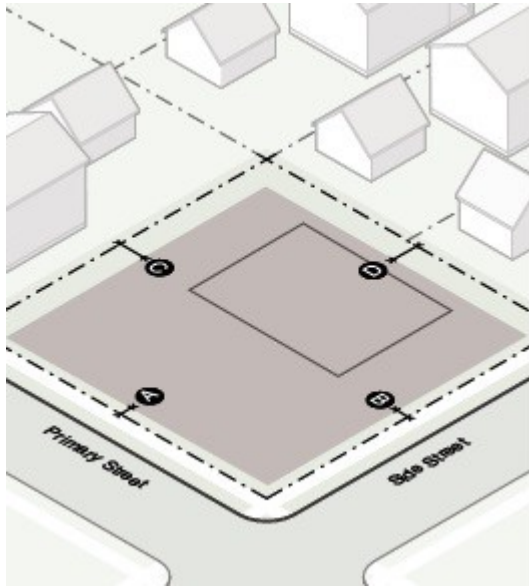
(i) Side interior abutting nonresidential: five feet minimum.

(ii) Side interior abutting residential: 20 feet minimum.

(d) Rear.

(i) Abutting nonresidential: five feet minimum.

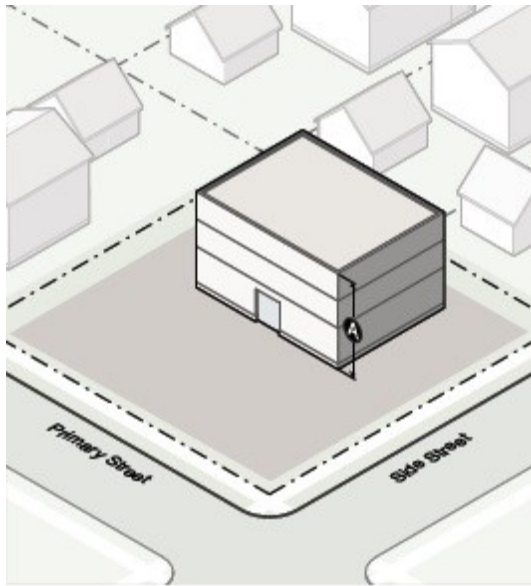
(ii) Rear abutting residential: 20 feet minimum.



Public Facilities~~Civic and Institutional~~ Building Placement

(6) Building Height.

(a) All buildings and structures: five stories/85 feet maximum (it is recognized that public buildings may have higher per story heights than other building types hence the 85-foot height limit).



Public Facilities~~Civic and Institutional~~ Building Height

6. The Use Table in Chapter 20.39.040 has been updated with corrected “Definition/Standards” links in the far-right column, reflecting previous code changes. “Animal Shelter or Adoption Center” has been relocated to its correct place. “Food Bank” had been added to clarify that it is a permitted use.

20.39.040 Use table.

(Gray shading separates categories into residential, commercial and industrial, and civic/parks)

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/Standards
Residential Uses																						
All household living, as listed below:																						
Single-family detached (including new manufactured homes)	P	P	P	--	--	P	P		P	--	--	--	P	--	--	--	--	--	--	--	--	20.39.100-615

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/Standards
Designated manufactured home, manufactured or mobile home (except for new designated manufactured homes)	--	--	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	<u>20.39.1600</u> -615
New designated manufactured home	P	P	P	--	--	P	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	<u>20.39.100</u>
Two-family	--	P	P	--	--	P	--	P	P	--	--	--	P	--	--	--	--	--	--	--	--	<u>20.39.1600</u> -615
Single-family attached (2 units)	--	P	P	--	--	P	--	P	P	--	--	--	P	--	--	--	--	--	--	--	--	<u>20.39.1600</u> -615
Single-family attached (3 or 4 units)	--	P	P	P	P	P	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--	<u>20.39.1600</u> -615
Single-family attached (5 or 6 units)	--	--	P	P	P	P	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--	<u>20.39.1600</u> -615
Multifamily (3 or 4 units)	--	--	P	P	P	--	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--	<u>20.39.1600</u> -615
Multifamily (5 or more units)	--	--	P	P	P	--	--	P	P	P	P	P	P	P	--	P	--	--	--	--	--	<u>20.39.1600</u> -615
Manufactured or mobile home park	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	<u>20.39.1600</u> -615
Boarding house	--	--	--	C	C	--	--	--	C	--	--	P	C	--	--	--	--	--	--	--	--	
Congregate living facilities	--	--	C	C	C	--	--	--	C	--	--	P	C	--	--	--	--	--	--	--	--	
Lodging house	--	--	C	C	C	--	--	--	C	--	--	P	C	--	--	--	--	--	--	--	--	
Group home (up to 8 residents), except as follows:	P	P	P	P	P	P	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	<u>20.39.1600</u> -615
Adult family home	P	P	P	--	--	P	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	<u>20.39.100</u>
All group living (9 or more residents)	--	--	--	C	C	--	--	P	C	P	C	--	P	P	--	--	--	--	--	--	--	<u>20.39.1610</u>
Social services facilities	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	--	<u>20.39.120615</u>
Secured high risk social services facilities	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	--	--	--	--	<u>20.39.122</u>
Public Uses																						
All civic uses, as listed below:																						
Community college, university, trade or technical school (8,000 square feet or less)	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	--	<u>20.39.240</u>
Community college, university, trade or technical school (more than 8,000 square feet)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	--	C	--	C	<u>20.39.240</u>
Club or lodge	--	--	--	--	--	--	--	--	--	P	--	P	P	P	--	--	--	--	P	--	--	<u>20.39.240</u>

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/Standards	
Public use	--	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	P	P	P	P	P	20.39.240
Museum, library	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	--	--	--	--	P	20.39.240
Place of worship	C	C	C	C	C	--	--	--	--	P	--	P	P	P	--	--	--	--	P	--	--	--	20.39.240
School (K-12)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	--	20.39.240
Jail or detention center	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	--	C	--	20.39.240
Transit park and ride lot	--	--	C	C	C	--	--	C	C	P	C	C	--	P	P	P	P	P	P	--	P	--	20.39.220
Transfer station	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--	P	20.39.230
Transit bus base	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	P	20.39.210
All open space and park uses, as listed below:																							
Cemetery	C	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--	20.39.250410
Golf course	C	C	C	--	--	C	--	--	--	--	--	--	--	C	--	--	--	--	--	P	P	--	20.39.250410
Park, recreation field	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	--	--	--	P	P	--	20.39.250410
Animal shelter or adoption center	--	--	--	--	--	--	--	--	--	--	--	--	--	€	€	€	€	€	€	€	€	€	20.39.200
All utilities, as listed below:																							
Minor utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	20.39.260415
Major utilities	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	P	--	20.39.260415
Wireless telecommunication facilities, as listed below:																							
Amateur radio operator tower	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	20.39.270
Small cell wireless telecommunication facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	20.39.270
Wireless telecommunication tower (excludes small cell facilities)	C	C	C	C	C	C	--	C	C	C	C	C	C	C	C	C	C	C	C	--	C	--	20.39.270
Commercial Uses																							
All day care, as listed below:																							
Family day care (6 children or fewer)	P	P	P	--	--	P	P	--	--	--	--	--	P	--	--	--	--	--	--	--	--	--	20.39.3505

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/Standards
Group day care (mini day care) (7 to 12)	C	C	C	--	--	C	C	C	P	P	--	P	P	P	--	--	--	--	--	--	--	20.39.3505
Day care center (13 or more)	--	--	--	--	--	--	--	C	C	C	--	P	C	P	P	--	--	--	--	--	--	20.39.3505
All indoor recreation, except as listed below:	--	--	--	--	--	--	--	--	C	P	C	P	--	P	P	--	--	--	--	C	--	
Shooting range	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	--	--	C	20.39.315540
Special event facility	--	--	--	--	--	--	--	--	--	C	C	C	C	C	C	C	C	--	C	C	C	20.39.315540
Commercial entertainment, except as follows:	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	P	--	--	--	--	--	
Adult entertainment	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	--	--	--	20.39.320515
All outdoor recreation, except as listed below:	--	--	--	--	--	--	--	--	C	C	C	P	--	P	P	--	--	--	--	C	C	
Campground, travel trailer park, RV park (does not include mobile home park)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	20.39.340530
Horse stable, riding academy, equestrian center	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	20.39.340530
Shooting range	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	20.39.340530
Marina (upland areas)	--	--	--	--	--	--	--	--	--	--	C	C	--	C	C	C	C	C	C	C	C	20.39.385575
All overnight lodging, as listed below:																						
Level 1: Vacation rentals or similar short-term house/room rentals	P	P	P	P	P	P	P	P	P	P	P	P	P	--	--	--	--	--	--	--	--	20.39.345535
Level 2: Bed and breakfast (up to 7 rooms)	C	C	C	--	--	C	C	--	P	--	--	--	P	--	--	--	--	--	--	--	--	20.39.345535
Level 3: Motel	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	--	--	--	20.39.345535
Level 4: Hotel	--	--	--	--	--	--	--	--	--	P	P	P	--	P	P	--	--	--	--	--	--	20.39.345535
All medical, except as listed below:	--	--	--	--	--	--	--	--	--	C	C	P	P	P	P	P	--	--	--	--	P	
Hospital	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	--	--	--	--	C	20.39.325520
All office, except as listed below:	--	--	--	--	--	--	--	C	C	P	P	P	P	P	P	P	--	--	--	--	--	
Bail bonds	--	--	--	--	--	--	--	--	--	C	C	C	C	P	P	--	--	--	--	--	--	20.39.335525
Surface parking: commercial parking, commuter lease parking or park and ride, remote parking	--	--	--	--	--	--	--	--	--	C	C	P	P	P	P	P	--	P	--	--	C	20.39.350
Commercial parking garage – standalone	--	--	--	--	--	--	--	--	--	C	C	C	C	P	P	P	--	--	--	--	C	20.39.350

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/Standards	
Electric vehicle charging stations	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	20.12
All personal service, except as listed below:	--	--	--	--	--	--	--	C	C	P	C	P	P	P	P	C	--	--	--	--	--	--	
Funeral home	--	--	--	--	--	--	--	--	--	P	--	P	P	P	P	--	--	--	--	--	--	--	20.39.355545
Crematorium	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	--	--	--	20.39.355545
<u>Animal shelter or adoption center</u>	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	C	C	--	--	C	20.39.200
Indoor animal care	--	--	--	--	--	--	--	--	C	P	--	P	--	P	P	P	--	--	--	--	--	--	20.39.360550
Outdoor animal care	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	--	--	--	--	--	20.39.365555
Business services	--	--	--	--	--	--	--	C	P	P	P	P	P	P	P	P	--	--	C	--	--	--	20.39.380570
Conference center	--	--	--	--	--	--	--	--	--	--	C	C	C	C	C	--	--	--	C	--	C	--	20.39.310
<u>Food bank</u>	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	--	--	P	--	--	--	
All restaurants except as listed below:	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	--	--	--	--	--	--	--	
Food truck	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	--	--	P	--	--	--	20.39.370562
All retail sales, as listed below:																							
Retail establishment (up to 5,000 gross floor area)	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	--	--	P	--	--	--	20.39.375565
Retail establishment (5,001 – 15,000 gross floor area)	--	--	--	--	--	--	--	--	--	P	P	P	--	P	P	P	--	--	--	--	--	--	20.39.375565
Retail establishment (15,001 – 50,000 gross floor area)	--	--	--	--	--	--	--	--	--	--	--	P	--	P	P	P	--	--	--	--	--	--	20.39.375565
Retail establishment (over 50,000 gross floor area)	--	--	--	--	--	--	--	--	--	--	--	--	--	C	P	P	--	--	--	--	--	--	20.39.375565
Fireworks sales in accordance with Chapter 5.60 POMC	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	--	--	--	
Recreational marijuana sales	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	P	--	--	--	--	--	20.64; 20.39.375
Convenience store with fuel pumps	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	--	--	--	--	--	20.39.375565
Convenience store without fuel pumps	--	--	--	--	--	--	--	--	C	C	C	--	--	P	P	P	--	--	--	--	--	--	20.39.375565
Fuel station, including fuel pumps and fuel sales, without convenience store	--	--	--	--	--	--	--	--	--		--	--	--	--	C	--	P	--	--	--	--	--	

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/Standards
Automobile service station	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	P	--	--	--	--	20.39.300
All vehicle and tool/construction equipment sales and rental, as listed below:																						
Light vehicle and light tool or construction equipment sales and rental	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	--	20.39.375565
Heavy vehicle and heavy tool or construction equipment sales and rental	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	20.39.375565
All vehicle service and repair, as listed below:																						
Car wash	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	--	20.39.440625
Vehicle service and repair, minor	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	20.39.440640
Vehicle service and repair, major	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	20.39.440645
Vehicle service and repair, commercial vehicle	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	20.39.440650
Industrial Uses																						
All heavy industrial	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	--	20.39.400605
All light manufacturing, except as listed below:	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	
Commercial laundry, dry cleaning or carpet cleaning facility	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	20.39.4610
Brewery, distillery under 5,000 square feet	--	--	--	--	--	--	--	--	--	--	P	P	--	--	P	--	--	--	--	--	--	
Brewery, distillery 5,001 – 15,000 square feet	--	--	--	--	--	--	--	--	--	--	C	C	--	C	P	P	--	--	--	--	--	
Brewery, distillery over 15,000 square feet	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	
Craft shop	--	--	--	--	--	--	--	P	P	P	P	P	--	P	P	P	P	P	--	--	--	20.39.4610
Food and beverage processing, boutique (area used for processing less than 3,000 square feet)	--	--	--	--	--	--	--	P	P	P	P	P	--	P	P	P	P	P	--	--	--	20.39.4610
Food and beverage processing, industrial	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	--	--	--	20.39.4610
Recreational marijuana production <u>and processing</u>	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	--	20.64; 20.39.410
All research and development	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	--	--	--	20.39.420615

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/Standards
Resource extraction – mining, dredging, raw mineral processing, except:	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	--	20.39.430620
Timber harvesting in the absence of concurrent development	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
Sand and gravel mining	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	--	--	--	
Stockpiling of sand, gravel or other aggregate materials	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	P	--	--	P	20.39.430620
Sheet metal, welding, machine shop, tool and equipment manufacturing, vehicle painting facility	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	P	P	P	--	--	P	20.39.4610
All warehouse, storage and distribution, as listed below:	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	C	C	C	--	--	--	
Enclosed storage	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	20.39.450655
Self-service storage, mini-warehouse	--	--	--	--	--	--	--	--	--	C	--	--	--	C	C	C	--	--	--	--	--	20.39.460655
Storage yard	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	C	P	P	--	--	P	20.39.470
All waste-related service, including wastewater treatment facilities, decant facilities and recycling centers	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	P	20.39.480660
Recreational marijuana processing	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	--	20.64
Agricultural Uses																						
All agriculture, as listed below:																						
Agricultural processing, excluding marijuana processing	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	C	P	P	--	--	--	20.39.500
Community garden	P	P	P	P	P	P	--	P	P	P	--	--	--	--	--	--	--	--	--	P	P	20.39.500
Nursery	--	--	--	--	--	--	P	--	--	--	--	--	--	P	P	P	P	--	--	--	--	20.39.500
Winery	--	--	--	--	--	--	C	--	--	C	C	C	--	P	P	P	P	--	--	--	--	20.39.500
Accessory Uses																						
Accessory uses not otherwise listed below, as determined by the administrator:																						

Use Category Specific Use	R1	R2	R3	R4	R5	R6	GB	RMU	NMU	CMU	DMU	GMU	BPMU	CC	CH	IF	LI	HI	CI	PR	PF	Definition/Standards	
Accessory dwelling units, as listed below:																							
Accessory apartment (attached dwelling)	P	P	P	--	--	P	P	--	--	--	--	--	P	--	--	--	--	--	--	--	--	--	<u>20.39.600</u> , 20.68
Backyard cottage dwelling	P	P	P	--	--	P	P	--	--	--	--	--	P	--	--	--	--	--	--	--	--	--	<u>20.39.600</u>
Drive-through facility	--	--	--	--	--	--	--	--	--	C	--	--	--	P	P	P	P	--	--	--	--	--	<u>20.39.610</u>
Home occupation	P	P	P	P	P	P	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	--	<u>20.39.615</u>
Home business	P	P	P	--	--	P	P	--	--	--	--	--	P	--	--	--	--	--	--	--	--	--	<u>20.39.620</u>
Livestock keeping	P	P	P	--	--	--	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	<u>20.39.625</u>
Outdoor display	--	--	--	--	--	--	--	--	--	P	P	P	P	P	P	P	P	P	--	--	--	--	<u>20.39.630</u>
Outdoor storage as listed below:																							
Low-impact	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	--	<u>20.39.635</u>
High-impact	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	--	<u>20.39.635</u>
Self-storage as accessory use to apartment building	--	--	--	P	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	<u>20.39.640</u>
Vehicle service and repair, accessory to a residential use	P	P	--	--	--	P	P	--	--	--	--	--	--	P	P	--	--	--	--	--	--	--	<u>20.39.645</u>
Park as accessory use to residential development	P	P	P	P	P	P	--	P	P	P	P	P	P	--	--	--	--	--	--	--	--	--	
Medical marijuana cooperative	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	--	--	--	--	--	20.64; <u>20.39.100</u>

Key: P = Permitted Use C = Conditional Use -- = Use Not Permitted

7. On the advice of the City Attorney, POMC 20.42.050 is repealed. Site-specific rezones should not require a property owner to submit a development permit application within a certain time period, or otherwise specify an end date for the approval.

~~20.42.050 Expiration.~~

~~(1) A site-specific rezone approval with or without a development agreement shall expire three years from the effective date of the approval, unless:~~

~~(a) If, prior to the end of the three-year period, an application determined to be complete is filed for a building permit and/or site development activity permit that is subsequently issued; or~~

~~(b) Another time for expiration is specified in the final decision of the city council or development agreement.~~

~~(2) Upon expiration of a site specific rezone, the city council shall promptly pass an ordinance to amend the official land use map so that the zoning designation in effect immediately prior to the site specific rezone approval is reinstated for the subject property, except as otherwise expressly provided in the original ordinance adopting the site specific rezone.~~

8. In 2019, the City amended the subdivision requirements in POMC 20.80 to allow nine-lot short plats (previously, short plats were limited to four lots). POMC 20.80.040(5) (Subdivisions – General Provisions – Applicability) has been updated to reflect this change.

20.80.040 Applicability.

(1) The provisions of this subtitle shall apply to all lot line adjustments and the division of any land within the corporate limits of the city of Port Orchard for sale, lease, transfer, or building development into two or more parcels, except as expressly stated in this subtitle.

(2) Land use review procedures provided in Subtitle II (Permitting and Development Approval) of this title shall apply in addition to applicable provisions within this subtitle.

(3) No person, firm, or corporation proposing to make, or having made, any division of land as described above within the city limits shall enter any contract for the sale of, or shall offer to sell, any part of the division without having first obtained its approval as a short plat, subdivision plat, or binding site plan in accordance with this subtitle, unless such agreement for sale complies with RCW.

(4) All contiguous land shall be included in a plat application. Multiple applications or applications and/or exemptions shall not be utilized as a substitute for comprehensive subdividing in accordance with the requirements of this subtitle. The applicant shall certify that she/he has included all contiguous land in a plat application and that she/he does not own or otherwise have a legal interest in ownership of contiguous parcels.

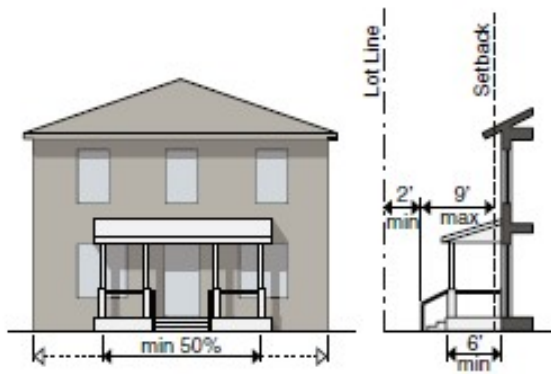
(5) Any land being divided into ~~ninefour~~ or fewer parcels, lots, tracts, or sites shall conform to the short plat provisions of this subtitle. Nothing in this subtitle shall prevent a landowner who has short-platted a parcel into fewer than ~~ninefour~~ lots from filing a short plat within a five-year period to create up to a total of ~~ninefour~~ lots within the boundary of the original short plat. Any land being divided into ~~tenfive~~ or more parcels, lots, tracts, or sites for any purpose, and any land which has been divided under the short plat process within five years, shall conform to the provisions of the preliminary and final plat procedures of this subtitle. The only exception to this provision shall be those lands being subdivided through the binding site plan procedures of this subtitle.

9. Correction to the title of POMC 20.88.070 removes reference to preliminary plat expiration, as this section does not address expiration.

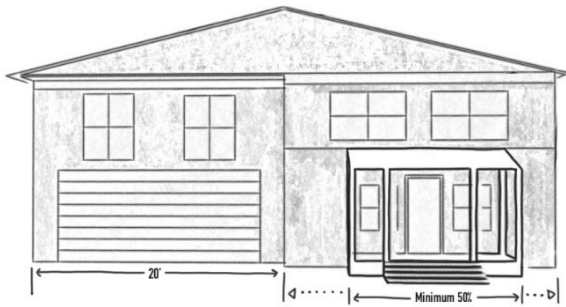
20.88.070 Preliminary plat – Effect of approval—~~Expiration.~~

- (1) Approval of the preliminary subdivision by the city shall constitute direction to the applicant to develop construction plans and specifications for the required public facilities, in strict conformance with the approved preliminary subdivision, the street and utility standards adopted by the city, the city’s design and construction standards, and any special conditions imposed on the approval.
 - (2) Permission shall not be granted for installation of required public facilities until all construction plans and specifications have been approved in writing by the city engineer, pursuant to Chapter 20.98 POMC.
-

10. In POMC 20.122.060, the graphic illustration for a porch conflicts with the text in 20.122.060(4), regarding the required setback for a porch from a lot line. The illustration has been corrected to show that a minimum setback of three feet is required.



A raised structure attached to a building, forming a covered entrance to a doorway.



The 50 percent porch width shall be measured to include the habitable ground floor portion of the detached house only.



The 50 percent porch width shall be measured to include the habitable ground floor portion of the detached house only.

- (1) A front porch must be at least six feet deep (not including the steps). A portion of the porch may be less than six feet deep; provided, that the front door is recessed by at least six feet.
- (2) A front porch must be contiguous, with a width not less than 50 percent of the building facade from which it projects. For the purposes of this section, the front building facade shall not include that portion of the house containing an attached side-by-side garage.
- (3) A front porch must be roofed and may be screened, but cannot be fully enclosed.

(4) A front porch may extend up to nine feet, including the steps, into a required front setback; provided, that such extension is at least three feet from the vertical plane of any lot line.

(5) A front porch may not encroach into the public right-of-way.

11. The terminology used in POMC 20.124.120 to refer to the City’s road design standards has been revised to reflect the current terminology of the Public Works Department.

20.124.120 Internal road circulation standards.

Internal access roads to off-street parking areas shall conform with or exceed the surfacing and design requirements of the most recent adopted edition of the Port Orchard Public Works engineering standards and specifications~~Design Standards Manual~~.

12. Revises the standard in POMC 20.128.050(2)(b)(i) for required deciduous trees at the time of planting to be consistent with the American Nursery Stock Standard Z-60.1.

20.128.050(2)(b)(i) Tree Standards and Guidelines.

(1) Native Plant Species. New landscaping materials shall include species native to the region or hardy, waterwise, and noninvasive species appropriate in the climatic conditions of the region (decorative annuals are an exception). Generally acceptable plant materials must be those identified as hardy in Zone 8b as described in United States

Department of Agriculture’s Plant Hardiness Zone Map. The selection of plant species should include consideration of soil type and depth, the amount of maintenance required, spacing, exposure to sun and wind, the slope and contours of the site, compatibility with existing native vegetation preserved on the site, water conservation where needed, and the impact of landscaping on visibility of the site for purposes of public safety and surveillance.

(2) Tree Standards and Guidelines.

(a) Tree heights may be called for within this chapter or elsewhere within this title:

- (i) Large Tree. Capable of growing 35 feet high or greater under normal growing conditions.
- (ii) Medium Tree. Capable of growing over 15 feet high and less than 35 feet high under normal growing conditions.
- (iii) Small Tree. Capable of growing up to 15 feet high under normal growing conditions.

(b) Unless otherwise noted herein, required trees shall meet the following standards at the time of planting:

- (i) Required deciduous trees shall be fully branched, have a dominant leader branch, have a minimum caliper of one and one-half inches (as measured ~~six~~24 inches above the root ball), and a minimum height of six feet at the time of planting as measured from the top of the leader branch to the top of the root ball.
- (ii) Required evergreen trees shall be fully branched and a minimum of six feet in height, measured from the treetop to the ground, at the time of planting.
- (iii) Required trees of any species within parking areas shall be a minimum caliper of one-and-one-half inches (as measured 24 inches above the root ball) and a minimum height of 10 feet at the time of planting.

(3) Shrub Standard. Shrubs, except for ornamental grasses, shall be a minimum of one-gallon size at the time of planting.

(4) Ground Cover Standards and Guidelines.

(a) Ground covers shall be planted and spaced to result in total coverage of the required landscape area within three years as follows, or as per recommendations by Washington State licensed landscape architect, Washington-certified professional horticulturalist (CPH), or other qualified individual. Ground cover plants other than turf forming grasses must be planted in triangular spacing at the following rates:

- (i) Four-inch pots at 18 inches on center.
- (ii) One gallon or greater sized containers at 24 inches on center.
- (iii) Alternative plant spacing may be appropriate depending on the specific plants. When applicable, plant spacing information must be included with permit application submittals from published sources, such as the Sunset Western Garden Book, from Internet sources, or from cut sheets provided by a nursery. Such sources must be identified for verification purposes.

(b) Grass is acceptable as ground cover in landscaped areas, but generally not preferred for water conservation and maintenance purposes (lawn areas designed as play areas are an exception).

(c) Ground cover areas shall contain at least two inches of composted organic material at finished grade.

(5) Tree and Plant Diversity.

- (a) If there are more than eight required trees, no more than 40 percent of them may be of one species.
- (b) If there are more than 24 required trees, no more than 20 percent of them may be of one species.
- (c) If there are more than 24 required shrubs, no more than 75 percent of them may be of one species.

(6) Soil Augmentation and Mulching.

- (a) Existing soils shall be augmented with a two-inch layer of fully composted organic material tilled a minimum of six inches deep prior to initial planting.
- (b) Landscape areas shall be covered with at least two inches of mulch to minimize evaporation. Mulch shall consist of organic materials such as bark chips and wood grindings or yard waste, sawdust, and/or manure that is fully composted. Washed rock may also be used as a mulch.

(7) Landscape Installation Standards.

- (a) All required landscaping shall be in-ground, except when in raised planters. Plant materials shall be installed to current nursery industry standards.
- (b) Plant materials shall be properly supported to ensure survival. Support devices such as guy wires or stakes shall not interfere with vehicular or pedestrian movement. Where support is necessary, stakes, guy wires or other measures shall be removed as soon as the plant can support itself.
- (c) Existing trees and plant materials to be retained shall be protected during construction. Protection measures may include silt fencing, chain link fencing, or other sturdy fencing placed at the dripline of trees to be retained. Grading, topsoil storage, construction material storage, vehicles, and equipment shall not be allowed within the dripline of trees to be retained.
- (d) Installation of landscaping materials must take into consideration access to utility vaults, pedestals, and other public and private utility facilities.
- (e) Trees and major shrubs at mature size should avoid interference with windows, decks, pedestrian walkways or other travelled ways, or lighting.

13. Previous code changes to the City's residential design standards (POMC 20.39) removed the requirement for garages to occupy no more than 50% of the ground level façade. A note in a graphic illustration in POMC 20.139.020 with this requirement was not removed, and has been corrected.

(1) The following provisions apply to detached houses, side-by-side duplexes, and back-to-back duplexes:

(a) Where lots front on a public street, and where vehicular access is from the street, garages or carports shall be set back at least five feet behind the ground floor front wall of the occupied portion of a house or front edge of an unenclosed porch.

Exceptions:

(i) Garages may project up to six feet closer to the street than the ground floor front wall of the occupied portion of a structure or front edge of an unenclosed porch, provided it is set back at least 18 feet from the property line or sidewalk edge (when sidewalks are present) and incorporates at least two of the design/detail features below. Garages placed flush with the ground floor front wall (or between zero and five feet behind the front wall) of the occupied portion of the house shall incorporate at least one of the design/detail features below:

(A) A decorative trellis or arbor over the entire garage face, above and surrounding the garage door.

(B) A balcony that extends out over the garage and includes columns.

(C) Two separate doors for two-car garages instead of one large door.

(D) Decorative windows on the garage door.

(E) Decorative details on the garage door. Standard squares on a garage door will not qualify as a decorative detail.

Traditional visible hinges and handles (functional or decorative), and other construction methods creating depth and texture on a garage door surface are acceptable forms of decorative details. Examples of decorative details are shown in Figure 2.

(F) A garage door color (other than white) that matches or complements the color of the house.

(G) Other design techniques that effectively deemphasize the garage, as determined by the director.

(ii) Garages may be placed closer to the street than the front wall of the house or front edge of an unenclosed porch, provided the garage door faces an interior lot line and features (a) window(s) facing the street, so that it appears to be habitable.

(iii) Where lots abut an alley, the garage or off-street parking area shall take access from the alley, unless precluded by steep topography. This requirement shall not apply to unopened alleys.

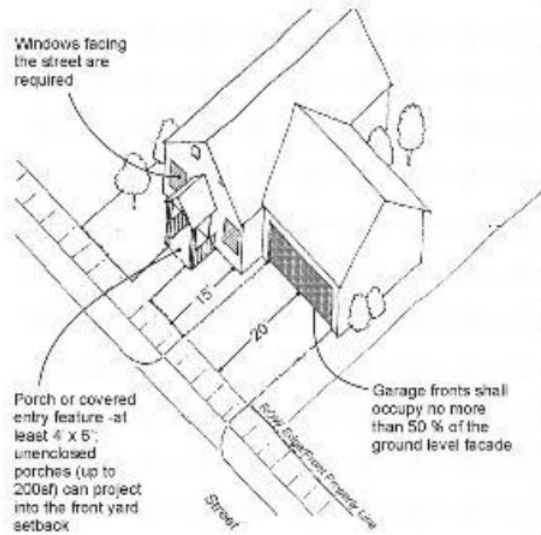


Figure 1. Garage placement/frontage standards and design

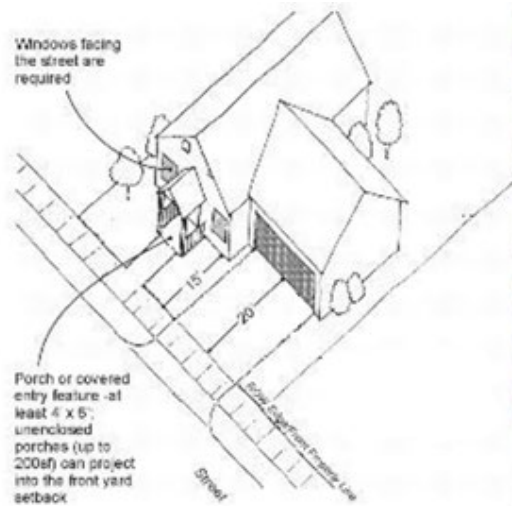




Figure 2. Garage design/detail examples.





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 7C
Subject: Adoption of an Ordinance Adopting the
McCormick Village Subarea Plan and
Overlay District Development Regulations

Meeting Date: December 14, 2021
Prepared by: Nicholas Bond, AICP
Development Director
Atty Routing No: N/A
Atty Review Date: N/A

Summary: The City’s Comprehensive Plan Land Use Element directs the City to develop a subarea plan for the portion of the McCormick Woods master planned community known as the McCormick Woods Local Center (of which the Urban Village is a part). The intent of the local center, and the Subarea Plan, is to create a mixed-use area with residential and commercial uses, where residents have convenient and efficient access to goods and services with less reliance on automobile transportation.

To implement the Subarea Plan, an overlay district is proposed with code provisions amending Chapter 20.38 POMC (Overlay Districts) to promote the development of a compact urban neighborhood with a variety of housing types in a mix of buildings while accommodating a range of land uses within the McCormick Woods Urban Village.

The Planning Commission opened a public hearing on the subarea plan and overlay district regulations at its November 2, 2021 meeting, and continued the hearing at its December 7, 2021 meeting. At the December 7 meeting, the Planning Commission voted 3-0 with two abstentions to recommend that the City Council approve the subarea plan and overlay district regulations. The City Council considered the subarea plan and overlay district regulations at its November 16 work study meeting and directed staff to bring the plan and regulations to the full Council after the Planning Commission had concluded the public hearing and made its recommendation.

Relationship to the Comprehensive Plan:

Land Use Element, Section 2.7.5.9 McCormick Woods Local Center: The McCormick Woods/Old Clifton Mixed Use Center includes a portion of the McCormick Woods master planned community, the recently developed city park McCormick Village Park, the site a future South Kitsap High School (an additional high school), recreational facilities including trails and a golf course, and areas zoned for multifamily and commercial development. The area is not presently served by Kitsap Transit. The City should work to develop a sub area plan for this area prior to the next periodic comprehensive plan update.

Policy CN-4: Provide commercial services that serve the population of the Center, surrounding neighborhoods, the city, and the region (dependent on the suitability of the scale of each Center).

Policy CN-6: Balance objectives for accommodating growth, encouraging compatibility, promoting housing affordability, and offering a wide range of housing types.

Policy CN-7: Provide access to parks and public pedestrian spaces by creating them within each Center or by creating connections to existing public and open spaces.

Policy CN-8: During subarea planning for Centers, develop an implementation plan that addresses how the City will meet Center goals through appropriate land use designations, annexation, development of capital facilities and utilities, and related measures.

Recommendation: City staff recommends that the City Council approve an ordinance adopting the McCormick Village Subarea Plan as Appendix D to the City's Comprehensive Plan and adopt the amendments to the development regulations to implement the subarea plan, as presented.

Motion for consideration: "I move to adopt an ordinance adopting the McCormick Village Subarea Plan as Appendix D to the City's Comprehensive Plan and adopting the development regulations to implement the subarea plan as presented."

Fiscal Impact: None.

Alternatives: Revise the proposed subarea plan and overlay district development regulations; do not adopt the subarea plan and development regulations.

Attachments: Ordinance and McCormick Village Subarea Plan.

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ADOPTING THE MCCORMICK URBAN VILLAGE SUBAREA PLAN; ADOPTING AN AMENDMENT TO THE CITY COMPREHENSIVE PLAN PURSUANT TO RCW 36.70A.130(2)(a)(i); ADOPTING AMENDMENTS TO THE LAND USE ELEMENT OF THE CITY COMPREHENSIVE PLAN; ADOPTING AN AMENDMENT TO THE CITY'S LAND USE MAP; ADOPTING AN AMENDMENT TO THE CITY ZONING MAP; ADOPTING AMENDMENTS TO CHAPTER 20.38 OF THE PORT ORCHARD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, with the passage of the Washington State Growth Management Act in 1990 (GMA), Chapter 36.70A RCW, local governments are required to adopt and maintain a comprehensive plan; and

WHEREAS, in June 1995, the City Council adopted a Comprehensive Plan for the City of Port Orchard and its urban growth area pursuant to the requirements set forth in the GMA; and

WHEREAS, the City of Port Orchard completed its most recent periodic update of its comprehensive plan in June 2016, as required by the GMA; and

WHEREAS, the area known as the McCormick Woods/Old Clifton Mixed Use Center (McCormick Woods Local Center) is a designated Local Center in the comprehensive plan, and Section 2.7.5.9 of the comprehensive plan directs the city to develop a subarea plan for the McCormick Woods Local Center prior to the next periodic update, and the City has prepared the McCormick Urban Village Subarea Plan ("Subarea Plan") to satisfy this requirement; and

WHEREAS, the City most recently adopted annual amendments to the City's Comprehensive Plan pursuant to RCW 36.70A.470 and 36.70A.106 on July 14, 2020; and

WHEREAS, RCW 36.70A.130(2)(a)(i) allows the initial adoption of a subarea plan outside of the annual amendment process if the plan clarifies, supplements or implements jurisdiction-wide comprehensive plan policies, and the cumulative impacts of the plan are addressed by appropriate environmental review under chapter 43.21C RCW; and

WHEREAS, an update to the City Zoning Map has been prepared to provide consistency

between the Map and the zoning changes provided in the Subarea Plan, and

WHEREAS, amendments to Chapter 20.38 of the Port Orchard Municipal Code (POMC) have been prepared to provide appropriate development regulations for the McCormick Urban Village subarea, to provide consistency between the POMC and the Subarea Plan, and to implement the Subarea Plan, per the requirements of RCW 36.70A.040(3); and

WHEREAS, on October 20 and November 5, 2021, the City submitted the Subarea Plan, and the amendments to the Zoning Map and to Chapter 20.38 POMC, to the Department of Commerce along with a 60-day request for review; and

WHEREAS, on November 8, 2021, the City's SEPA official issued a determination of non-significance for the Subarea Plan and the amendments to the Zoning Map and to Chapter 20.38 POMC, and there have been no appeals; and

WHEREAS, on November 2, 2021 and December 7, 2021, the City's Planning Commission held a duly-noticed public hearing on the Subarea Plan and the proposed amendments to the Zoning Map and to Chapter 20.38, and the Planning Commission recommended approval of the proposed revisions;

WHEREAS, on November 16, 2021, the City Council reviewed the Subarea Plan and the amendments to the Zoning Map and to Chapter 20.38 POMC at its work-study meeting, and recommended that they be forwarded to City Council for approval following the conclusion of the Planning Commission public hearing and receipt of public testimony; and

WHEREAS, the City Council, after careful consideration of the recommendation from the Planning Commission, all public comment, and the Ordinance, finds that this Ordinance is consistent with the City's Comprehensive Plan and development regulations, the Growth Management Act, and Chapter 36.70A RCW, and that the amendments herein to the City's Comprehensive Plan, Zoning Map, and Chapter 20.38 POMC are in the best interests of the residents of the City; 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. Adoption of the McCormick Urban Village Subarea Plan. The McCormick Urban Village Subarea Plan is hereby adopted as Appendix D of the City of Port Orchard Comprehensive Plan. (Exhibit 1)

SECTION 3. Amendment to Section 2.5 of the Land Use Element of the City Comprehensive Plan. Section 2.5 (Overlay Districts) is hereby amended to read as follows:

2.5 Overlay Districts

The city's development regulations include land use overlay districts which are applied in parts of the city, as summarized below.

- Downtown Height Overlay District (DHOD)
- Self-Storage Overlay District (SSOD)
- Ruby Creek Overlay District (RCOD)
- View Protection Overlay District (VPOD)
- McCormick Urban Village Overlay District (MVOD)

Port Orchard's overlay districts accomplish varying objectives including implementing subarea plans, providing regulations for the development in centers, regulating specific uses, and determining building heights. The creation of a new overlay district may be appropriate as the City continues to develop subarea plans under the Centers approach to growth.

SECTION 4. Amendment to Section 2.7.3 of the Land Use Element of the City Comprehensive Plan. Section 2.7.3 (Designated Centers – Existing and Planned) is hereby amended to read as follows:

2.7.3 Designated Centers (Existing and Planned)

The following centers have been designated in the City's comprehensive plan by center type:

Regional Centers. The City has no designated regional centers at this time. Downtown Port Orchard was evaluated as part of the Downtown Subarea Planning Process as a candidate for regional center designation but achieving the PSRC requirement for 45 activity units per acre was determined to be too large of a change to Downtown Port Orchard. As Downtown continues to grow and evolve, its candidacy as a regional center should be revisited in the future.

Manufacturing Industrial Centers. The City has no designated Manufacturing Industrial Centers currently. The City's only industrial park is too small to be considered either a Manufacturing Industrial Center or a Countywide Center. Port Orchard is served by the nearby Puget Sound Industrial Center – Bremerton.

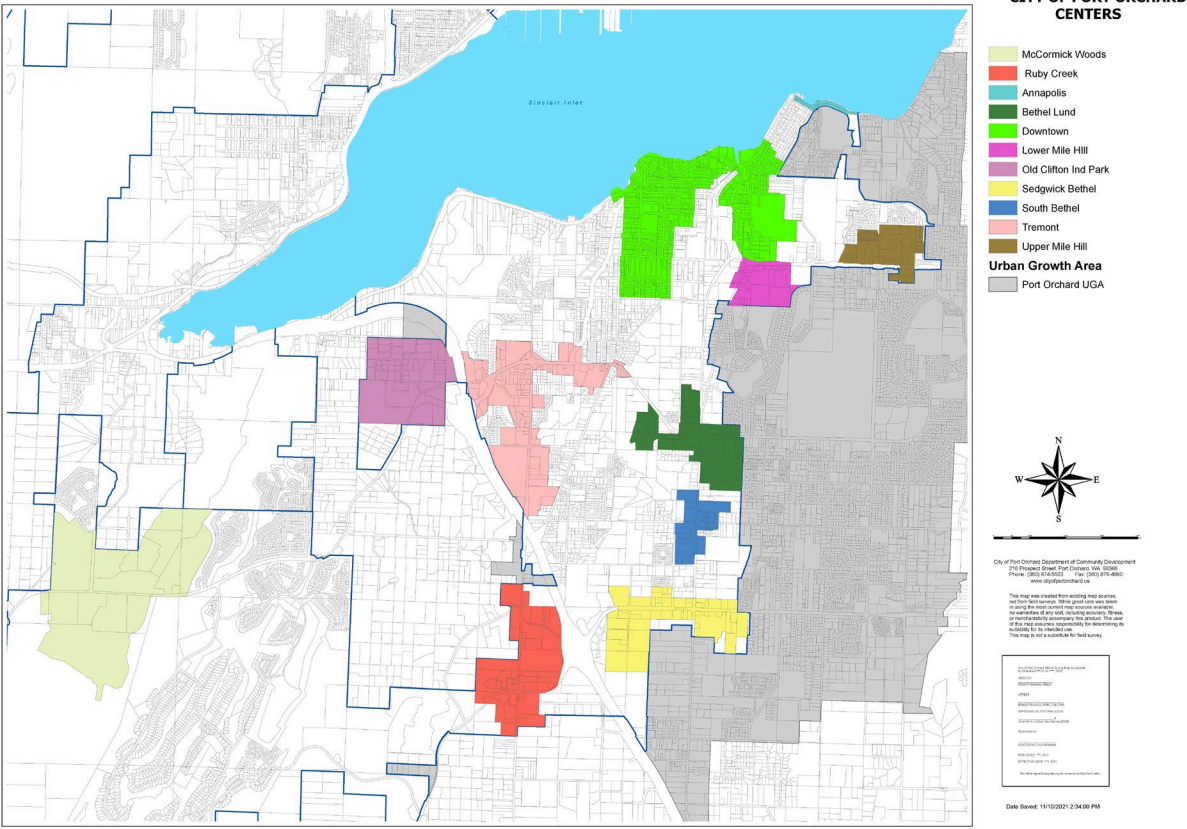
Countywide Centers. The City has 7 designated Countywide Centers. Not all of these Countywide Centers meet the minimum activity units per acre threshold per the PSRC Regional Centers Criteria for Countywide Centers (8 activity units per acre). The City intends that these Countywide Centers which don't presently meet the activity unit threshold set by PSRC will meet that threshold in the future. These centers may temporarily be recognized as candidate countywide centers or local centers until the activity unit threshold is met. The City's designated Countywide Centers are as follows:

1. Downtown Port Orchard
2. Tremont Center
3. Lower Mile Hill
4. Upper Mile Hill
5. Sedgwick Bethel
6. Bethel Lund
7. Sedgwick Sidney (Ruby Creek Neighborhood)

Local Centers. The City has designated the following local centers:

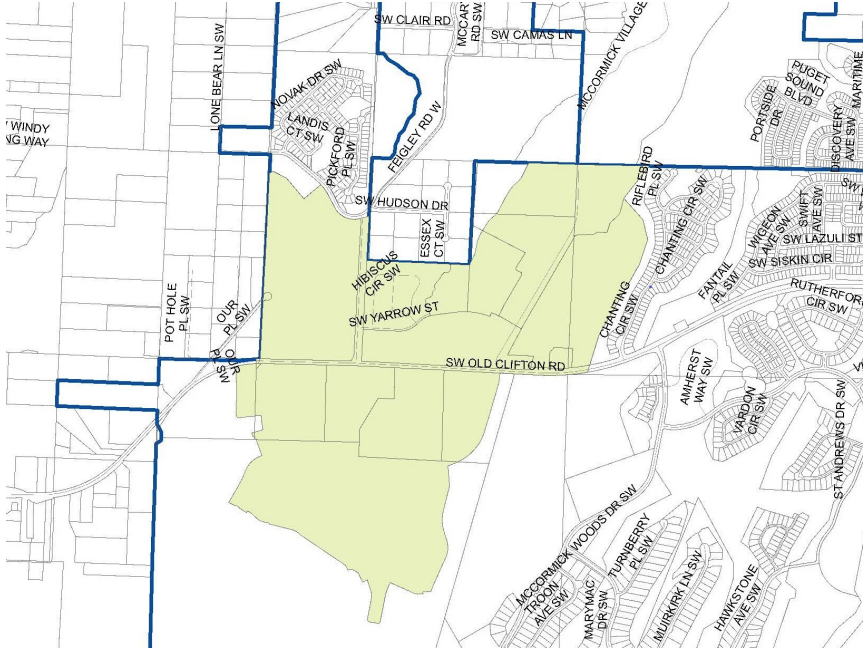
1. Annapolis
2. Old Clifton Industrial Park
3. McCormick Village
4. Bethel South Center (Salmonberry)

Military Installations. The City has no military installations within the City Limits.



SECTION 5. Amendment to Section 2.7.5.9 of the Land Use Element of the City Comprehensive Plan. Section 2.7.5.9 (McCormick Woods Local Center) is hereby amended to read as follows:

See Appendix D to the Comprehensive Plan – McCormick Urban Village Subarea Plan.



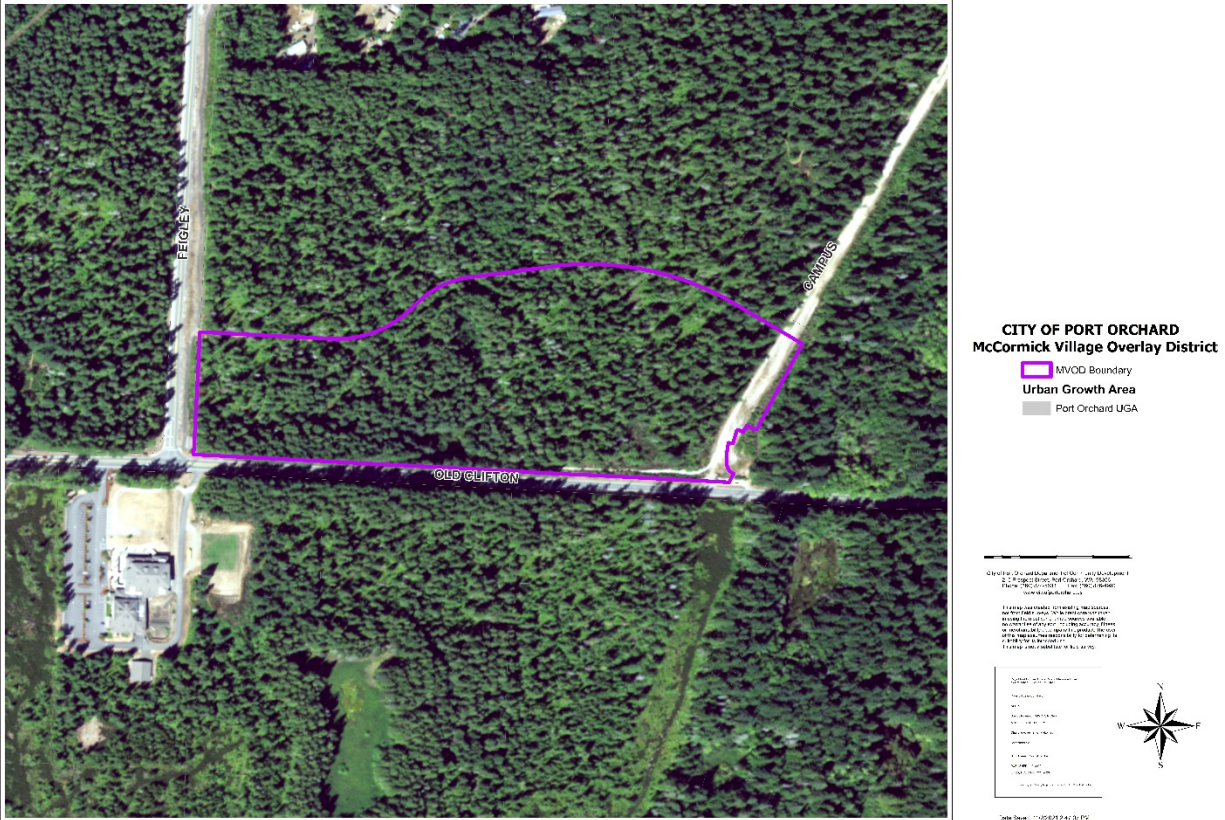
SECTION 6. Adoption of Amended City of Port Orchard Land Use Map. The City of Port Orchard Land Use Map is hereby adopted, as amended (Exhibit 2).

SECTION 7. Adoption of Amended City of Port Orchard Zoning Map. The City of Port Orchard Zoning Map is hereby adopted, as amended (Exhibit 3).

SECTION 8. Adoption of McCormick Urban Village Overlay District and Development Regulations. The following new sections are hereby added to Chapter 20.38 POMC (Overlay Districts):

20.38.200 McCormick Village Overlay District (MVOD) boundary.
A McCormick Village Overlay District (MVOD) is hereby established within the neighborhood core of the McCormick Village subarea as illustrated in Figure 20.38.200.

Figure 20.38.200: The MVOD Boundary



20.38.205 Purpose.

The purpose of the McCormick Village Overlay District (MVOD) is to implement the McCormick Urban Village Subarea Plan and enable compact, walkable urban development within the subarea’s neighborhood core.

20.38.210 Applicability.

The standards of the MVOD shall apply to lands within the MVOD neighborhood core boundary as shown in POMC Figure 20.38.200.

20.38.215 Conflicts.

Where a conflict exists between this chapter and other chapters, this chapter shall control.

20.38.220 MVOD Land Use

Use. Properties within the MVOD are subject to the land use regulations described in POMC 20.39 consistent with the property’s zoning designation on the adopted City of Port Orchard Zoning Map.

20.38.225 MVOD Building Types.

- 1) No new building may be erected within the MVOD except in conformance with this section.
- 2) Building Types. Building types only as listed below, and as described in POMC 20.38.230, shall be permitted within the MVOD. Additional standards for specific building types within the MVOD as described in POMC 20.38.230 are required. Structures shall comply with the development standards described in the particular building type description and dimensional standards regardless of zoning designation unless otherwise noted.
- 3) MVOD Building Type Zoning Matrix Key.
 - (a) Permitted Building Type (P). Indicates a building type is permitted in the zoning designation.
 - (b) Building Type Not Permitted (--). Indicates a building type is not permitted in the zoning designation.

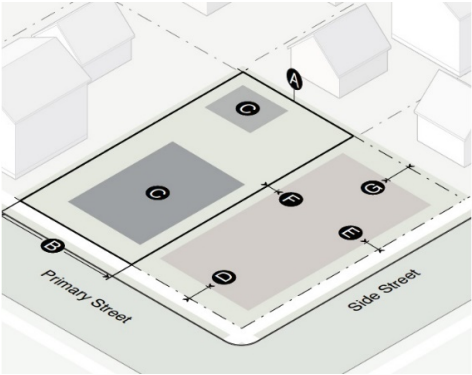
Building Types	Zoning Designation		
	Residential 3	Neighborhood Mixed Use	Commercial Mixed Use
Detached House	P	P	--
Backyard Cottage	P	P	--
Carriage House	P	P	P
Paseo House	P	P	--
Duplex: Side-by Side	P	P	--
Attached House	P	P	--
Townhouse	P	P	P
Apartment	P	P	P
Forecourt Apartment	P	P	P
Live-Work	--	P	P
Single-Story Shopfront	--	--	P
Mixed-use Shopfront	--	--	P
Accessory Building	P	P	P

20.38.230 MVOD Building Type Standards.

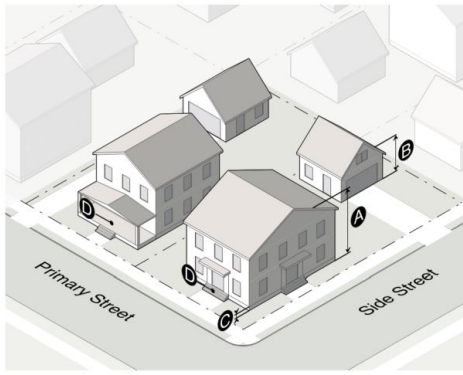
(1) **Detached House:** A detached house is a building type that accommodates one principal/primary dwelling unit on an individual lot with yards on all sides. Detached houses shall meet the following standards.

(a) Lot and Placement:

Lot and Placement



Height and Form



Lot		
Area (sq. ft.)	2,500. min / 5,000 max.	A
Width (ft.)	25 min / 50 max	B
Detached Houses per lot	1 max	

Height		
Principal Building	35 ft. 25 ft. within 20 ft of alley	A
Accessory Structure	15 feet. Other than carriage house or backyard cottage	B
Ground floor elevation	18 in. min	C

Coverage		
Lot coverage	Set by district	C

Pedestrian Access	
Entrance facing primary street	Required

Building and Structure Setbacks		
Primary street	5 feet min / 15 ft. max	D
Side street	5 ft. min	E
Side interior	3 ft. min	F
Rear	5 ft. min	G

Building Elements. At least one of the following is required:	
Balcony	See POMC 20.38.240(b)
Porch	See POMC 20.38.240(e)
Stoop	See POMC 20.35.240(f)

Build-to-Zone (BTZ)	
Building façade in primary street	Does not apply
Building façade in side street	Does not apply

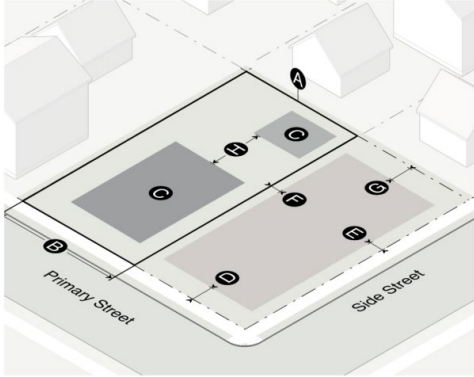
Parking Location	
Front/corner yard	Prohibited
Vehicular access	Via alley only

(2) **Backyard Cottage:** A small self-contained accessory dwelling located on the same lot as a detached house or townhouse but physically separated, for use as a complete, independent living facility, with provisions for cooking, sanitation and sleeping. Backyard cottages may accommodate off-street ground floor parking.

(a): A backyard cottage is permitted in conjunction with a detached house. See the standards for detached houses and accessory structures (including backyard cottages) in 20.38.230(1) above.

(b) Lot and Placement:

Lot and Placement



Height and Form



Lot		
Area	Set by principal building type	A
Width	Set by principal building type	B
Accessory Dwelling units per Lot	1 Max	

Height		
Backyard Cottage	25 feet max	A

Coverage		
Lot coverage	Set by district	

Pedestrian Access		
Entrance facing primary street	See POMC 20.38.270	

Building and Structure Setbacks		
Primary street	Behind the front wall of the principal building.	D
Side street	5 ft. min	E
Side interior	0 ft. min	F
Rear	5 ft. min., 0 feet from alley	G
Building Separation	10 ft.	H

Building Elements Allowed		
Balcony	See POMC 20.38.240(b)	
Porch	See POMC 20.38.240(e)	
Stoop	See POMC 20.35.240(f)	

Build-to-Zone (BTZ)		
Building façade in primary street	Does not apply	

Parking Location		
Front/corner yard	Prohibited	
Additional on-site parking	See POMC 20.68	
Vehicular access	Via alley only	

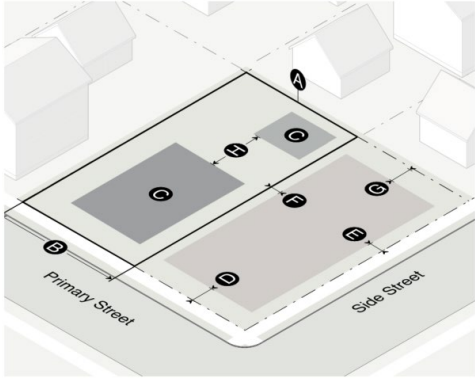
Building façade in side street	Does not apply
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(3) Carriage House: An accessory structure self-contained accessory dwelling located on the same site as a paseo house, townhouse, apartment, or forecourt apartment, but physically separated, for use as a complete, independent living facility, with provisions for cooking, sanitation and sleeping. Carriage House dwelling units are located above enclosed ground-level off-street parking facilities, or common facilities including, but not limited to, laundry, recreation space or other uses commonly associated with residential development for the associated on-site dwellings.

(a): A carriage house is permitted in conjunction with a paseo house, townhouse, apartment, or forecourt apartment.

(b) Lot and Placement:

Lot and Placement



Height and Form



Lot		
Area	Set by principal building type	A
Width	Set by principal building type	B
Accessory Dwelling units per Lot	1 min / 2max	

Height		
Carriage House	35 feet max	A

Coverage		
Lot coverage	Set by district C	

Pedestrian Access		
Entrance facing primary street	See POMC 20.68	

Building and Structure Setbacks		
Primary street	Behind the rear wall of the principal building.	D
Side street	5 ft. min	E
Side interior	0 ft. min	F
Rear	5 ft. min., 0 feet from alley	G
Building Separation	10 ft.	H

Building Elements Allowed		
Balcony	See POMC 20.38.240(b)	
Porch	See POMC 20.38.240(e)	
Stoop	See POMC 20.35.240(f)	

Parking Location		
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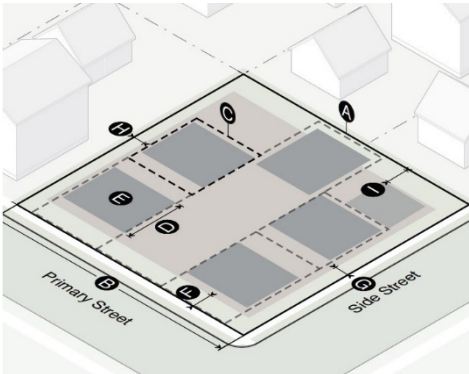
Build-to-Zone (BTZ)	
Building façade in primary street	Does not apply
Building façade in side street	Does not apply

Front/corner yard	Prohibited
Additional on-site parking	See POMC 20.38.270
Vehicular access	Via alley only

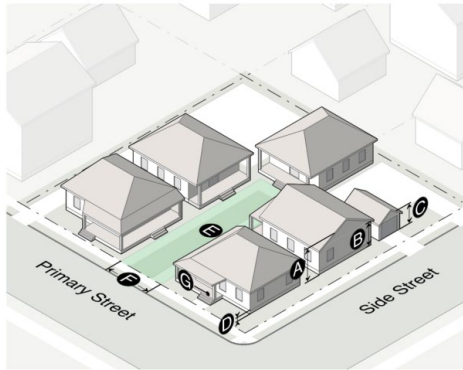
(4) **Paseo House:** A series of small, typically detached, single story single-family residential buildings oriented around a small, shared courtyard perpendicular to the primary street. The units to the rear of the Lot, oriented perpendicular to the primary street, may be larger and attached. The rear building may accommodate residential uses, off-street parking and shared facilities space normally associated with detached houses such as laundry facilities or storage space. plus up to two (2) optional dwellings above an associated detached garage structure served by an alley. The units may be on individual lots or clustered on a single site.

(a) Lot and Placement:

Lot and Placement



Height and Form



Site		
Area (sq. ft.)	16,000min	A
Width/depth (ft)	110 min	B
Dwelling units per site	5 min /10 max.	

Height		
Principal Building	30 ft. max	A
Building wall plate height	Does not apply	B
Accessory Structure	30 ft.	C
Ground floor elevation	18 in. min.	D

Lot		
Area	1,200 sq. ft. min	C
Width	20 ft. min	D
Coverage		

Courtyard		
Area	1,000 sq. ft. min	E
Width	15 ft. min	F
Additional Courtyard area per dwelling unit beyond 5 units	500 sq. ft	

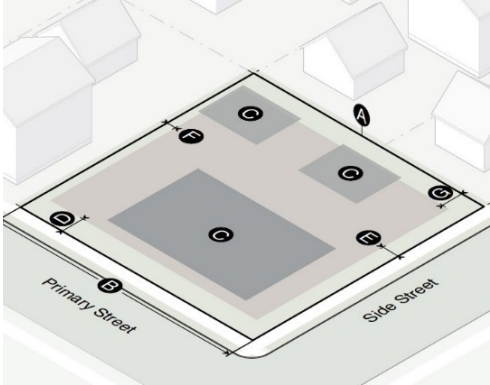
Lot coverage	Set by district	
Principal building footprint (sq ft)	600 min / 1,200 max	E
Building and Structure Setbacks		
Primary street	5 ft min	F
Side street	5 ft. min	G
Side interior	5 ft. min	H
Rear / Alley	5 ft. / 0 ft.	I
Minimum separation of Paseo units (ft)	10 min	
Build-to-Zone (BTZ)		
Building façade in primary street	Does not apply	
Building façade in side street	Does not apply	

Courtyard cannot be parked or driven upon, except for emergency access and permitted temporary events		
Pedestrian Access		
Entrance facing Courtyard	Required for units abutting courtyard	G
Building Elements. At least one of the following is required:		
Balcony	See POMC 20.38.240(b)	
Porch	See POMC 20.38.240(e)	
Stoop	See POMC 20.35.240(f)	
Parking Location		
Front/corner yard	Prohibited	
Vehicular Access	Via alley only	

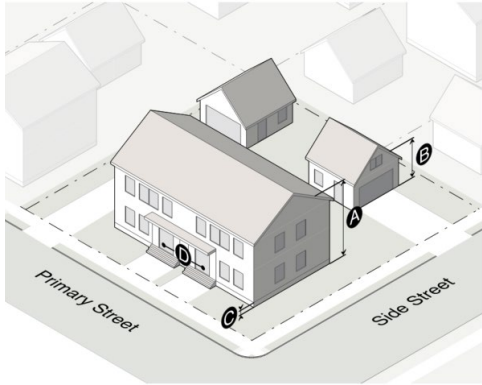
(5) **Duplex, Side by side.** A building type that accommodates two dwelling units on an individual lot separated vertically side by side that share a common wall.

(a) Lot and Placement:

Lot and Placement



Height and Form



Lot		
Area (sq. ft.)	5,000 min / 6,500 max	A
Width (ft.)	40 ft. min	B
Dwelling units per site	2 min / 2 max	

Height		
Principal Building	35 ft.	A
Accessory Structure	25 ft.	B
Ground floor elevation	18 in. min	C

Coverage		
Lot coverage	Set by district	C

Pedestrian Access		
Entrance facing primary street	Required	D

Building and Structure Setbacks		
Primary street	5 ft. min / 15 ft. max	D
Side street	5 ft. min	E
Side interior	5 ft. min	F
Rear / Alley	5 ft. min / 0 ft.	G

Building Elements. At least one of the following is required:	
Balcony	See POMC 20.38.240(b)
Porch	See POMC 20.38.240(e)
Stoop	See POMC 20.35.240(f)

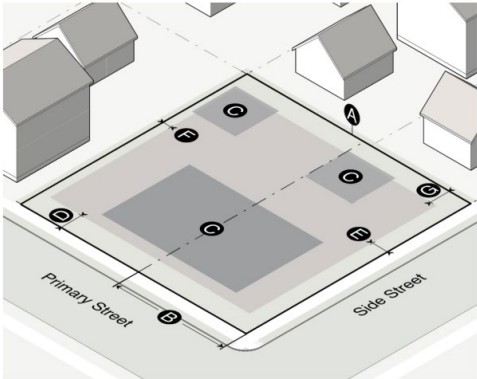
Build-to-Zone (BTZ)	
Building façade in primary street	Does not apply
Building façade in side street	Does not apply

Parking Location	
Front/corner yard	Prohibited
Vehicular Access	Via alley only

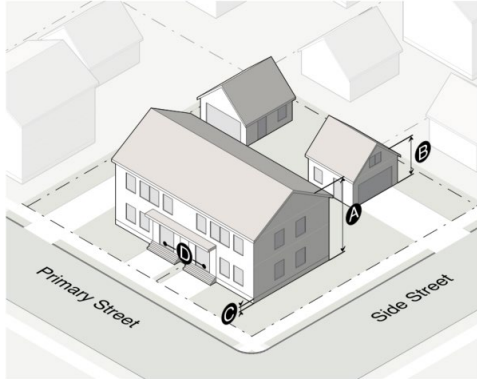
(6) **Attached House:** A building type that accommodates two attached dwelling units located on two separate lots that share a common wall along a lot line. An attached house may require a subdivision or short subdivision.

(a) Lot and Placement:

Lot and Placement



Height and Form



Lot		
Area	2,500 min / 3,250 max	A
Width	20 min / 35 ft. max	B
Dwelling units per site	1 min / 1 max. 1 ADU	

Height		
Principal Building	35 ft.	A
Accessory Structure	25 ft.	B
Ground floor elevation	18 in. min	C

Coverage		
Lot coverage	Set by district	C

Pedestrian Access		
Entrance facing primary street	Required	D

Building and Structure Setbacks		
Primary street	5 ft. min / 15 ft. max	D
Side street	5 ft. min	E

Building Elements. At least one of the following is required:	
Balcony	See POMC 20.38.240(b)
Porch	See POMC 20.38.240(e)

Side interior	5 ft	F
Rear / alley	5 ft. min / 0 ft.	G

Stoop	See POMC 20.35.240(f)
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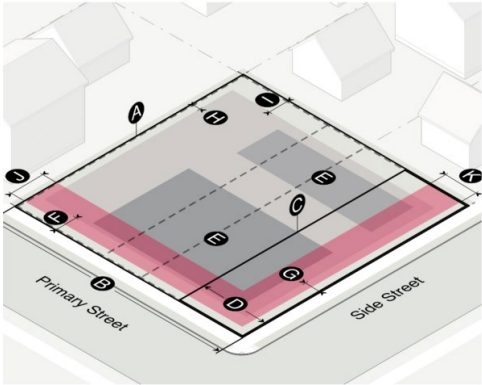
Build-to-Zone (BTZ)		
Building façade in primary street	Does not apply	
Building façade in side street	Does not apply	

Parking Location	
Front/corner yard	Prohibited
Vehicular Access	Via alley only

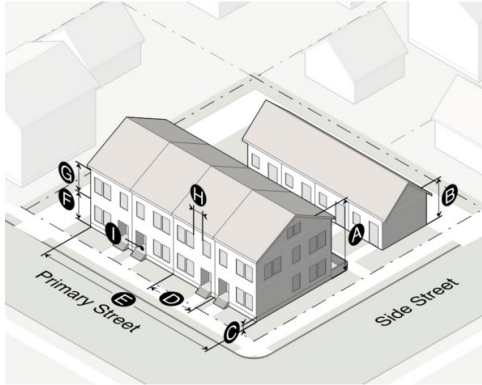
(7) **Townhouse.** A building type that accommodates three or more dwelling units where each unit is separated vertically by a common side wall and located on its own lot. Units cannot be vertically mixed. A subdivision or short subdivision may be required to construct townhome units.

(a) Lot and Placement:

Lot and Placement



Height and Form



Site		
Site area (sf)	Not applicable.	A
Site width (ft)	Not Applicable.	B
Dwelling units per site	3 min, not to exceed 6.	

Height		
Principal Building (Stories)	3	A
Accessory structure (ft)	24	B
Ground floor elevation (in)	18 min	C

Lot		
Area (sq. ft.)	N/A	C
Width (ft)	16 min / 40 max	D
Dwelling units per Lot	1 min / 1 max	

Building Dimensions		
Unit width (ft)	20 min	D
Number of units permitted in a row	6 max	E

Coverage		
Lot coverage	Set by district	E

Transparency		
Ground story	20% min	F
Upper story	20% min	G
Blank wall width	15 ft. max	H

Building and Structure Setbacks

Primary street (ft)	5 min	F
Side street (ft)	5 min	G
Side interior (ft)	0 between townhomes, 3 feet from adjacent townhouse sites.	H
Rear / Alley (ft)	5 ft. / 0 ft. min	I

Build-to Zone (BTZ)		
Building façade in primary street	Set by district	J
Building façade in side street	Set by district	K

Pedestrian Access	
Entrance facing primary street (each ground floor unit)	Required

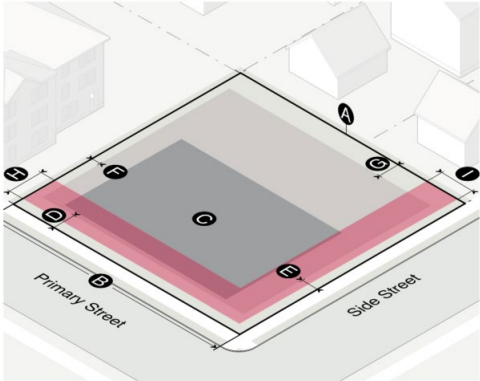
Building Elements. One of the following is required:	
Awning/Canopy	See POMC 20.38.240(a)
Balcony	See POMC 20.38.240(b)
Porch	See POMC 20.38.240(e)
Stoop	See POMC 20.35.240(f)

Parking Location	
Front/corner yard	Prohibited
Vehicular Access	Via alley only

(8) **Apartment.** A building type on its own lot that accommodates five or more dwelling units vertically and/or horizontally integrated.

(a) Lot and Placement:

Lot and Placement



Height and Form



Lot		
Area (sf.)	N/A	A
Width (ft)	N/A	B
Dwelling units per site	5 min / no max	

Coverage		
Lot coverage	Set by district	C

Height		
All buildings and structures (ft)	40 max. 25 max within 20' of alley	A
Ground floor elevation (ft)	0 min	B

Building Dimensions		
Length	120 ft max	C

Building and Structure Setbacks		
Primary street (ft)	3 min / 15 max	D
Side street (ft)	5 min	E
Side interior (ft)	5 min	F
Rear / Alley (ft)	5 / 0 min	G

Build-to-Zone (BTZ)**		
Building façade in primary street	70% min	H
Building façade in side street	30% min	I

**Does not apply to McCormick Village Drive or Old Clifton

Transparency*		
Ground Story	25%	D
Upper Story	25%	E
Blank wall width (ft)	15 max	F

*Applies to each street and/or plaza-facing façade.

Pedestrian Access		
Entrance facing primary street	Required	G
Entrance spacing along primary street	100 ft. max	H

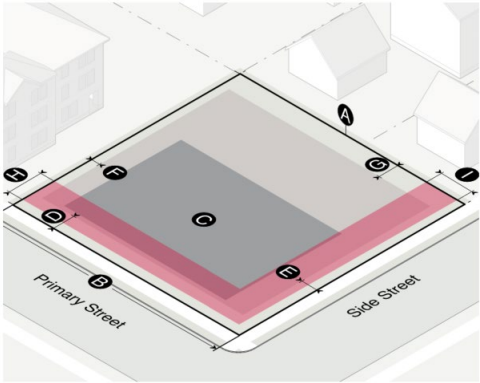
Building Elements. At least one of the following is required:	
Awning/canopy	See POMC 20.38.240(a)
Balcony	See POMC 20.38.240(b)
Forecourt	See POMC 20.38.240(c)
Porch	See POMC 20.38.240(e)
Stoop	See POMC 20.35.240(f)

Parking Location	
Front/corner yard	Prohibited
Vehicular access	Via alley only

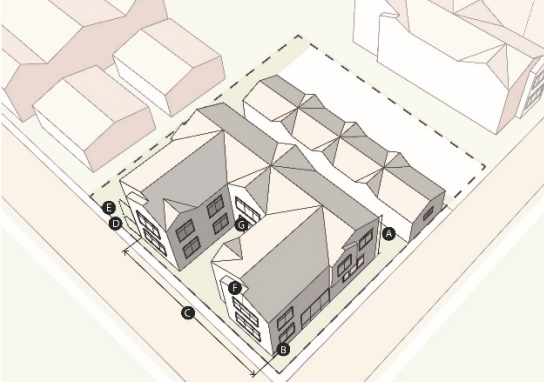
(9) **Forecourt Apartment.** A building type, on its own lot, that accommodates at least five (5) multifamily dwellings in the primary building plus up to two (2) optional dwellings above an associated detached garage structure served by an alley. Forecourt apartments shall feature a forecourt as described in POMC 20.38.240(c) along the primary street.

(a) Lot and Placement:

Lot and Placement



Height and Form



Lot		
Area (sq. ft.)	N/A	A
Width (ft)	N/A	B
Dwelling units per Lot	5 min /10 max.	

Coverage		
Lot coverage	Set by district	C

Building and Structure Setbacks		
Primary street (ft)	3 min	D
Side street (ft)	5 min	E
Side interior (ft)	5 min	F
Rear / Alley (ft)	5 / 0 min	G
Separation between structures (ft)	10 min	

Build-to-Zone		
Building façade in primary street	70% min	H
Building façade in side street	30% min	I

Height		
All buildings and structures (ft)	40 max. 25 max within 20' of alley	A
Ground floor elevation (ft)	0 min	B

Building Dimensions		
Length (ft)	100 max	C

Transparency*		
Ground Story	25%	D
Upper Story	25%	E
Blank wall width (ft)	15	F

*Applies to each street and/or plaza-facing façade.

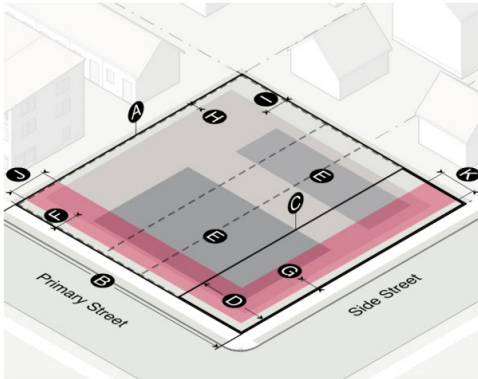
Pedestrian Access		
Entrance facing forecourt	Required	G

Parking Location		
Front/corner yard	Prohibited	
Vehicular access	Via alley only	

(10) **Live-Work.** A building type that allows for residential and nonresidential uses in the same physical space. Units may be vertically or horizontally mixed.

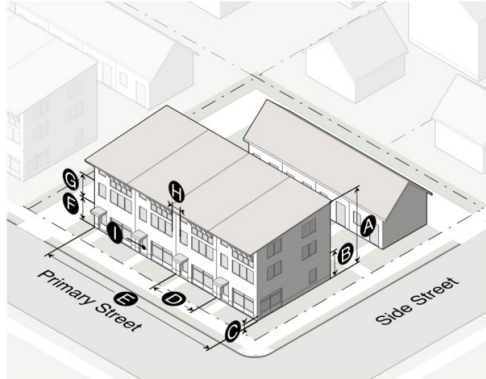
(a) Lot and Placement:

Lot and Placement



Site

Height and Form



Height

Site area (sq. ft.)	3,000 min	A
Site width (ft)	40 min	B
Live/Work units per lot	3 min / no max	

Lot		
Area (sq. ft.)	N/A	C
Width (ft)	N/A	D

Coverage		
Lot coverage	Set by district	E

Building and Structure Setbacks		
Primary street (ft)	0 min / 10 max	F
Side street (ft)	10 min	G
Side interior (ft)	5 min	H
Rear / Alley (ft)	5 / 0 min	I

Build-to Zone (BTZ)		
Building façade in primary street	Set by district	J
Building façade in side street	Set by district	K

All buildings and structures	40 max. 25 max within 20' of alley	A
Ground story height (ft)	12 min	B
Ground floor elevation (ft)	0 min	C

Building Dimensions		
Unit width (ft)	15 min	D
Maximum building width (ft)	120 max	E

Transparency*		
Ground story	25%	F
Upper story	25%	G
Blank wall width (ft)	15 max	H

*Applies to each street and/or plaza-facing façade.

Pedestrian Access	
Entrance facing primary street (each ground floor unit)	Required

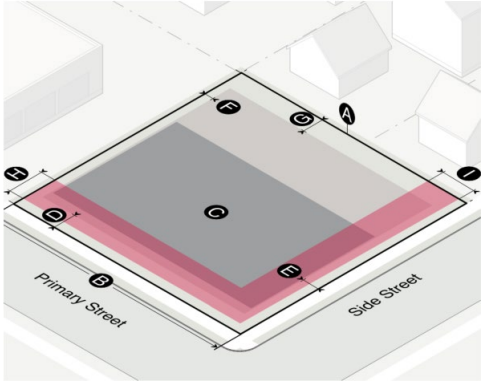
Building Elements; At least one of the following is required:	
Awning/Canopy	See POMC 20.38.240(a)
Balcony	See POMC 20.38.240(b)
Porch	See POMC 20.38.240(e)
Stoop	See POMC 20.35.240(f)

Parking Location	
Front/corner yard	Prohibited
Vehicular access	Via alley only

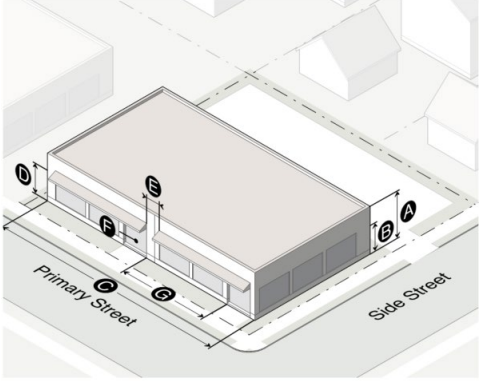
(11) Single-story Shopfront. A single-story building type that typically accommodates retail or commercial uses.

(a) Lot and Placement:

Lot and Placement



Height and Form



Lot		
Area (sq. ft.)	N/A	A
Width (ft.)	N/A	B

Coverage		
Lot coverage	Set by district	C

Building and Structure Setbacks		
Primary street (ft.)	0 min	D
Side street (ft.)	0 min	E
Side interior (ft.)	0 min	F
Rear (ft.)	0 min	G

Build-to-Zone (BTZ)		
Building façade in primary street	70%	H
Building façade in side street	30%	I

Height		
All buildings and structures (ft)	24 max	A
Ground story height (ft)	12 min	B

Building Dimensions		
Length (ft)	150 max	C

Transparency*		
Ground story	60%	D
Blank wall width (ft)	15 max	E

*Applies to each street and/or plaza-facing façade.

Pedestrian Access		
Entrance facing primary street	Required	F
Entrance facing secondary street when present	Required	
Entrance spacing (primary street) (ft)	50 max	G
Building footprint 20,000 + sq. ft. (ft)	75 max	

Building Elements; At least one of the following is required:	
Awning/Canopy	See POMC 20.38.240(a)
Forecourt	See POMC 20.38.240(c)
Gallery	See POMC 20.35.240(d)

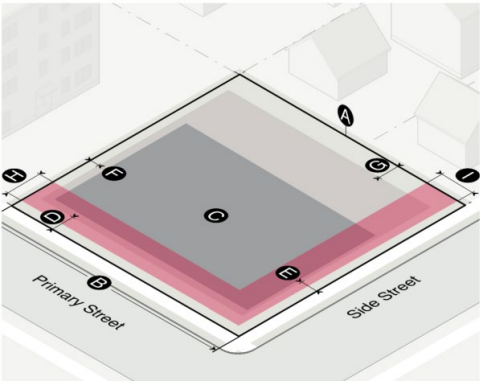
Parking Location		
Front yard	Prohibited	

(12) Mixed-Use Shopfront

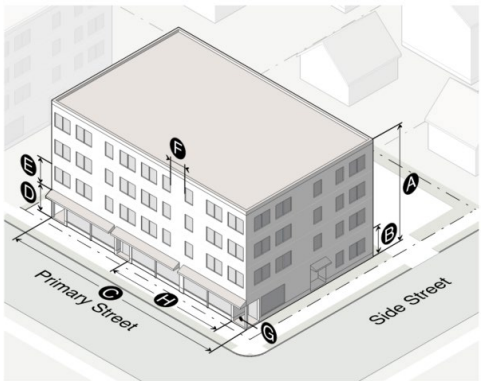
(1) Definition. A building type that typically accommodates ground floor retail, office or commercial uses with upper-story residential or office uses.

(a) Lot and Placement:

Lot and Placement



Height and Form



Lot		
Area (sq. ft.)	N/A	A
Width (ft.)	N/A	B

Height		
All buildings and structures (ft)	40 max	A
Ground story height (ft)	12 min	B

Coverage		
Lot coverage	Set by district	C

Building Dimensions		
Length (ft)	120 max	C

Building and Structure Setbacks		
Primary street (ft)	0 min	D
Side street (ft)	0 min	E
Side interior(ft)	0 min	F
Rear	0 min	G

Transparency*		
Ground story	60% min	D
Upper story	25% min	E
Blank wall width (ft)	15 max	F

*Applies to each street and/or plaza-facing façade.

Build-to-Zone (BTZ)*		
Building façade in primary street	70% min	H
Building façade in side street	30% min	I

Pedestrian Access		
Entrance facing primary street	Required	G
Entrance spacing along primary street (ft)	50 max	H

Building Elements; At least one of the following is required:	
Awning/Canopy	See POMC 20.38.240(a)
Forecourt	See POMC 20.38.240(c)

Gallery	See POMC 20.35.240(d)
Parking Location	
Front/corner yard	Prohibited

20.38.235 Detached Accessory Dwelling Units

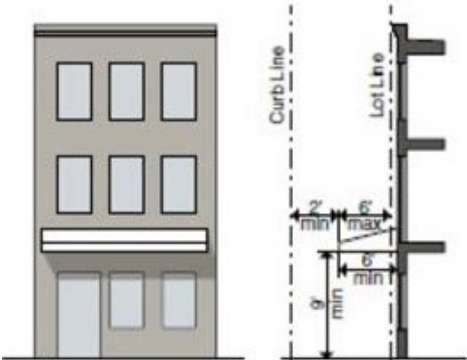
Accessory Dwelling Units within the MVOD shall comply with the requirements of POMC 20.68 except POMC 20.68.100(5).

20.38.240 MVOD Building Elements

(1) The following standards are intended to supplement POMC 20.38.230 and ensure that certain building elements, when added to a street-facing facade, are of sufficient size to be both usable and functional and be architecturally compatible with the building they are attached to. The proposed building shall incorporate at least one of the allowed building elements provided in the specific building type development standards in POMC 20.38.230.

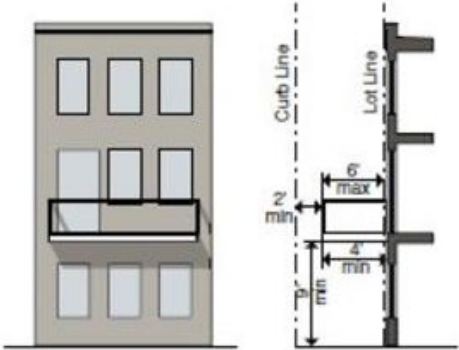
(a) Awning and canopy. A wall-mounted, cantilevered structure providing shade and cover from the weather for a sidewalk.

- (i) An awning/canopy must be a minimum of nine feet clear height above the sidewalk and must have a minimum depth of six feet.
- (ii) An awning/canopy may extend into a primary or side street setback.
- (iii) An awning/canopy may encroach up to six feet into the public right-of-way but must be at least two feet inside the curb line or edge of pavement, whichever is greater.



(b) Balcony. A platform projecting from the wall of an upper story of a building with a railing along its outer edge, often with access from a door or window.

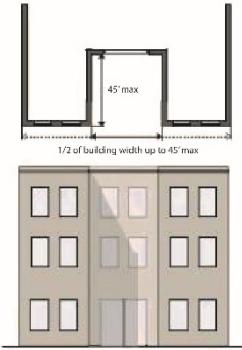
- (i) A balcony must be at least four feet deep.
- (ii) A balcony must have a clear height above the sidewalk of at least nine feet.
- (iii) A balcony may be covered and screened but cannot be fully enclosed.
- (iv) A balcony may extend into a primary or side street setback.
- (v) A balcony may encroach up to six feet into the public right-of-way but must be at least two feet inside the curb line or edge of pavement, whichever is greater.



(c) Forecourt. An open area at grade, or within 30 inches of grade, that serves as an open space, plaza or outdoor dining area.

(i) A forecourt must be no more than one-half of the width of the building face, and in no case more than 45 feet in width.

- (ii) The depth of the forecourt may exceed the general width. A forecourt may be no more than 45 feet in depth.
- (iii) A maximum of one forecourt is permitted per lot.
- (iv) A forecourt meeting the above requirements is considered part of the building for the purpose of measuring the build-to zone.
- (v) A forecourt shall be improved to meet the minimum requirements of pedestrian-oriented space as described in POMC 20.127.350(4).



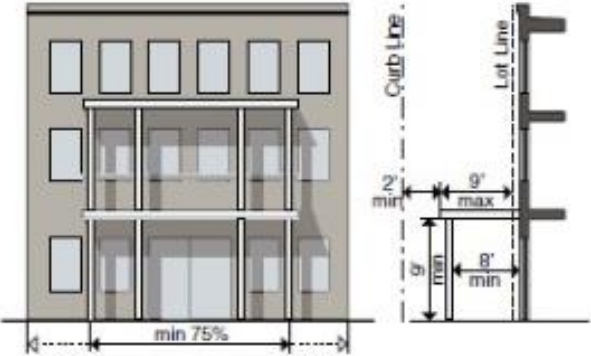
(d) Gallery. A covered passage extending along the outside wall of a building supported by arches or columns that is open on three sides.

(i) A gallery must have a clear depth from the support columns to the building's facade of at least eight feet and a clear height above the sidewalk of at least nine feet.

(ii) A gallery must be contiguous and extend over at least 75 percent of the width of the building facade from which it projects.

(iii) A gallery may extend into a primary or side street setback.

(iv) A gallery may encroach up to nine feet into the public right-of-way but must be at least two feet inside the curb line or edge of pavement, whichever is greater.



(e) Porch. A raised structure attached to a building, forming a covered entrance to a doorway.

(i) A front porch must be at least six feet deep (not including the steps). A portion of the porch, not to exceed 25% of the porch's width, may be less than six feet deep; provided, that the front door is recessed by at least six feet.

(ii) A front porch must be contiguous, with a width not less than 50 percent of the building facade from which it projects.

(iii) A front porch must be roofed and may be screened, but cannot be fully enclosed.

(iv) A front porch may extend up to nine feet, including the steps, into a required front setback; provided, that such extension is at least three feet from the vertical plane of any lot line.



(v) A front porch may not encroach into the public right-of-way.

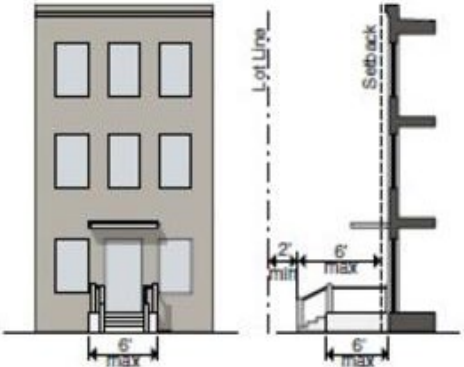
(f) Stoop. A small raised platform that serves as an entrance to a building.

(i) A stoop must be no more than six feet deep (not including the steps) and six feet wide.

(ii) A stoop may be covered but cannot be fully enclosed.

(iii) A stoop may extend up to six feet, including the steps, into a required setback; provided, that such extension is at least two feet from the vertical plane of any lot line.

(iv) A stoop may not encroach into the public right-of-way.



20.38.245 MVOD Sign Code

- 1) Permanent signs within the MVOD shall comply with the requirements of POMC 20.132 except POMC 20.132.040(7).
- 2) Up to two (2) subdivision freestanding entryway monument signs may be permitted in the subarea within 200 feet of the intersection of McCormick Village Drive and Old Clifton Road. Subdivision freestanding entryway monument signs shall not exceed 200 square feet per sign nor 6 feet in height and shall be allowed in addition to other freestanding signs under POMC 20.132.210 and shall be exempt signage for the purposes of calculating aggregate signage allowance limits in POMC 20.132.050 (4) (b) (i).

20.38.250 Lot and Road Layout.

- 1) Resultant Lot and Road layouts shall meet the minimum standards described in POMC 20.100 except that the minimum roadway network connectivity index described in POMC 20.100.020 shall be 1.7 or greater.
- 2) All residential uses shall be provided vehicular access via an alley. Residential driveways shall not be permitted via primary streets.
- 3) Sight triangle at intersections shall be preserved subject to review and approval by the City Engineer or designee prior to the issuance of a building permit.

20.38.260 Road Standards.

(1) Compact, walkable urban environments require a different road standard than what is typical of historic automobile-oriented development and which may differ than the adopted Public Works Engineering Standards and Specifications (PWESS). The City Engineer may approve deviations to the PWESS provided the applicant adequately demonstrates that the alternative design satisfies the following criteria:

- a) The deviation results in a safe design for all road users;
- b) The deviation provides the same or greater level of functionality;
- c) The deviation does not create an adverse impact to the environment; and,
- d) The deviation results in a design which provides at least the same level of maintainability.

20.38.270 Off-street Parking Standards.

- 1) Off-street parking requirements within the MVOD shall meet the minimum standards described in POMC 20.124, except that for residential uses POMC 20.124.140 shall not apply.
 - a) Vehicle parking minimum quantities for residential uses within the MVOD shall be provided in accordance with Table 20.38.270 below.

Table 20.38.270

Land Use	Unit of Measure	Minimum Parking Requirement
Single-family detached (including manufactured homes, mobile homes)	Per dwelling	1 available space within 1000 ft of site
Backyard Cottage	Per dwelling	N/A
Carriage House	Per dwelling	1 available space within 1000 ft of site
Two-family	Per dwelling	1 available space within 1000 ft of site
Single-family attached houses (2 units)	Per dwelling	1 available space within 1000 ft of site
Multifamily:		
Studio – Three plus bedroom	Per dwelling	1 on-site space
Multifamily Accessory Dwelling Unit	Per dwelling	1 available space within 1000 ft of site
Boarding house	Per bedroom	0.5
Congregate living facilities	Per bedroom	
Lodging house		
Group home (up to 8 residents), except as follows:	Per bedroom	0.5

Adult family home	Per adult family home	2
All group living (9 or more residents)	Per bed	0.5
All social service	Per bed/per 300 sq ft office	0.5 per bed and 1 per 300 sq ft office

20.38.280 Tree Canopy Standards

- 1) Development within the MVOD shall not be subject to the Significant Tree Standards described in POMC 20.129. Development within the MVOD shall be subject to the standards described herein.
- (2) Tree canopy requirements shall apply to new development within the MVOD. The following activities are exempt from the tree canopy requirements of this section:
 - (a) Removal of any hazardous, dead or diseased trees, and as necessary to remedy an immediate threat to person or property as determined by a letter from a qualified arborist;
 - (b) Construction or maintenance of public or private road network elements, and public or private utilities including utility easements not related to development.
 - (c) Construction or maintenance of public parks and trails, and
 - (d) Pruning and maintenance of trees.
- (3) All significant trees within any perimeter landscaping requirement, critical area protection areas and required buffers shall be retained, except for trees exempted by subsection (2) of this section.
- (4) Development shall meet a minimum 25% tree canopy coverage except as provided in subsections (6) and (9) of this section. On sites that do not meet this requirement through existing tree canopy or where an applicant removes the existing tree canopy, new plantings shall be planted pursuant to sections (6) through (8) and subsection (7) of this section. For sites requiring new plantings to attain the required tree canopy percentage, tree canopy coverage requirements shall be calculated according to projected growth at 20 years maturity consistent with Table 1.
 - (a) Tree canopy shall include all evergreen and deciduous trees six feet in height or greater, excluding invasive species or noxious weeds, within the gross site area.

(b) Existing or planted tree canopy may include street trees and may be located within perimeter landscaping, site landscaping, critical area protection areas and required buffers, and open space tracts or easements.

(4) Site tree canopy shall be measured according to Table 20.38.280. Calculation of existing and new tree canopy shall be submitted in writing by a qualified landscape designer, arborist, or a licensed land surveyor.

Table 20.38.280 Measuring Tree Canopy

Existing Canopy		New Canopy
Option 1 Tree Survey	Option 2 Aerial Estimation	20-Year Canopy Calculation
<ul style="list-style-type: none"> • Measure average canopy radius (r) for each tree to be retained • Calculate existing canopy area using the formula: $CA = \pi r^2$ • Total the sum of tree canopy areas and divide by gross site area to obtain canopy coverage percentage 	<ul style="list-style-type: none"> • Obtain aerial imagery of site • Measure site boundaries • Measure canopies of individual trees or stand area using leading edges as the forest boundary • Divide total canopy measurement by the gross site area to obtain canopy coverage percentage 	<p>For each proposed species:</p> <ul style="list-style-type: none"> • Calculate radius (r) of canopy at 20 years maturity • Calculate canopy coverage using the formula: $CA = \pi r^2$ • Multiply by the proposed quantity to be planted to obtain total species canopy area • Total the sum of species canopy area for all proposed species and divide by gross site area to obtain 20-year canopy coverage percentage

Existing Canopy New Canopy

Option 1 Tree Survey Option 2 Aerial Estimation 20-Year Canopy Calculation

- Measure average canopy radius (r) for each tree to be retained
- Calculate existing canopy area using the formula: $CA = \pi r^2$

- Total the sum of tree canopy areas and divide by gross site area to obtain canopy coverage percentage
- Obtain aerial imagery of site
- Measure site boundaries
- Measure canopies of individual trees or stand area using leading edges as the forest boundary
- Divide total canopy measurement by the gross site area to obtain canopy coverage percentage for each proposed species:
 - Calculate radius (r) of canopy at 20 years maturity
 - Calculate canopy coverage using the formula: $CA = \pi r^2$
 - Multiply by the proposed quantity to be planted to obtain total species canopy area
 - Total the sum of species canopy area for all proposed species and divide by gross site area to obtain 20-year canopy coverage percentage

(6) To assist in the preservation and retention of significant trees and existing tree canopy outside of critical area protection areas and required buffers and perimeter landscaping, the applicant may utilize the following credits:

(a) Individual significant trees retained on site shall be counted at 125 percent of their actual canopy area.

(b) For clusters or stands of five or more trees, each tree shall be counted at 150 percent of its actual canopy area.

(c) For clusters or stands of five or more significant trees, each tree shall be counted at 200 percent of its actual canopy area.

(d) Retained trees located within no more than 20 feet of a rain garden or a bio-swale on site shall be counted at 150 percent of their actual canopy area.

(7) In addition to the requirements of sections (6) through (8), trees planted to meet tree canopy requirements shall meet the following criteria:

(a) Sites must be planted or replanted with a minimum of 50 percent evergreen species, except:

(i) The evergreen portion of the required planting mix may be reduced to 37.5 percent when the deciduous mix contains exclusively indigenous species to the Puget Sound region, not including Alder; and

(ii) Sites obtaining tree canopy requirements solely through street trees are exempt from the requirement to include evergreen species in the planting mix;

(b) Sites requiring planting or replanting of tree canopy must plant no more than 30 percent of trees from the same species and no more than 60 percent of trees from the same taxonomic family.

(c) Replacement trees shall be planted in locations appropriate to the species' growth habit and horticultural requirements.

(d) When preparing the landscaping plan, applicants are encouraged to meet the tree canopy requirement by conserving existing tree canopy including significant trees and other vegetation located on the site and place new plantings in protected areas (such as street trees, perimeter landscaping, open spaces and critical area protection areas and required buffers) at healthy spacing densities before placing trees within individual lots or yards; and

(e) Replacement trees shall be located in such a manner to minimize damage to trees or structures on the project site and on properties adjoining the project site.

(8) The following tree protection measures shall be taken during clearing or construction:

(a) Tree protective fencing shall be installed along the outer edge of the drip line surrounding the trees retained in order to protect the trees during any land disturbance activities, and fencing shall not be moved to facilitate grading or other construction activity within the protected area;

(b) Tree protective fencing shall be a minimum height of three feet, visible and of durable construction; orange polyethylene laminar fencing is acceptable; and

(c) Signs must be posted on the fence reading "Tree Protection Area."

(9) An applicant may reduce the tree canopy requirements by no more than five percent through a landscape modification when all of the following criteria are met:

(a) The applicant demonstrates in writing that they have made a good faith effort to comply with the tree canopy requirements within the physical constraints of the site by:

(i) Retaining as much of the tree canopy as possible on site consistent with best management practices for maintaining the health of trees; or

(ii) Replanting as much of the tree canopy as possible on site consistent with best management practices for maintaining the health of trees;

(b) The applicant proposes to plant additional understory vegetation or ground cover area, excluding lawn cover, invasive species or noxious weeds, to fulfill the remaining canopy requirement not met by retention or replanting of tree canopy; and

(c) When critical areas protection area buffers exist on site and those buffers are not highly functioning, the applicant proposes to enhance the buffers by removing invasive species and noxious weeds and/or planting vegetation indigenous to the Pacific Northwest, spaced for maximum survivability.

(10) Retained significant trees, trees planted as replacements for significant trees, and trees planted to meet requirements in subsection (3) of this section may not be removed except when determined in writing by a certified arborist to constitute a hazard.

(11) Any significant trees identified in a landscape plan to be retained and subsequently damaged or removed during site development shall be replaced at a rate of three trees for each one damaged or removed significant tree.

SECTION 9. 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 10. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

SECTION 11. 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 14th day of December 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

SPONSOR:

Charlotte A. Archer, City Attorney

Scott Diener, Council Member

PUBLISHED:
EFFECTIVE DATE:

- EXHIBITS:
- 1. McCormick Urban Village Subarea Plan
 - 2. Amended City Land Use Map
 - 3. Amended City Zoning Map



CITY OF PORT ORCHARD, WA
McCORMICK VILLAGE
SUBAREA PLAN

Acknowledgements

Mayor

Robert Putaansuu

City Council Members

Bek Ashby
John Clauson
Fred Chang
Cindy Lucarelli
Scott Diener
Jay Rosapepe
Shawn Cucciardi

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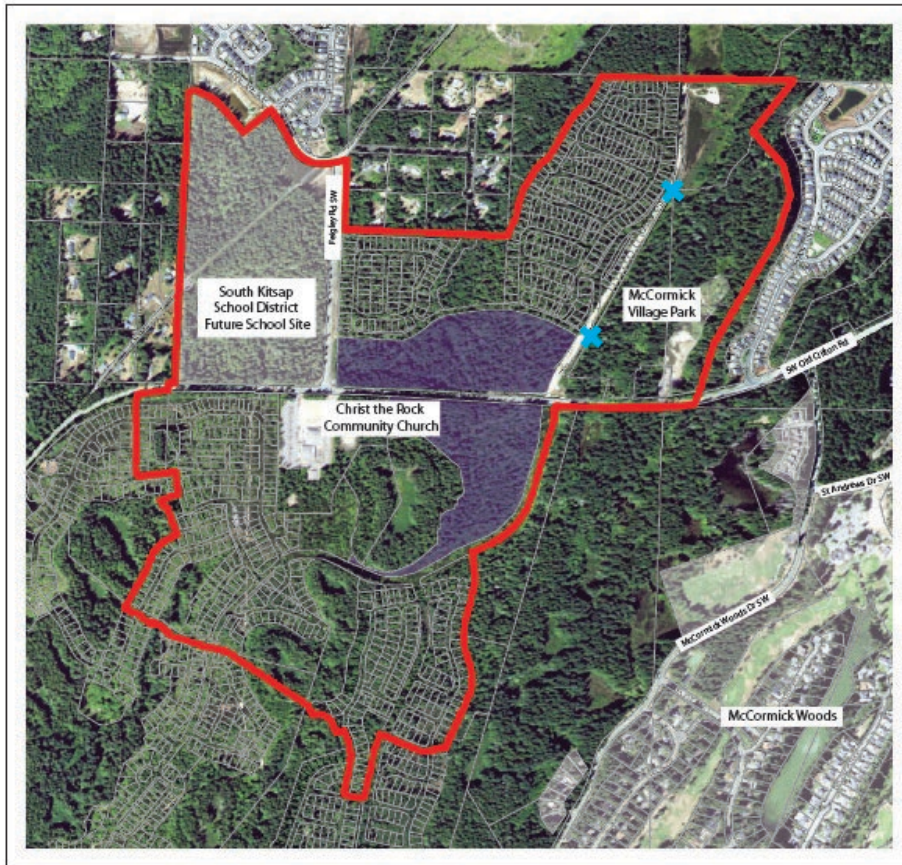
Swift Design Group
Dahlin Design Group
(Graphics and renderings)

Chapter 1. Introduction.

1.1 Overview. In 2016, the City of Port Orchard completed its periodic update to the Comprehensive Plan. The 2016 Comprehensive Plan included for the first time, a “centers” approach to planning (See section 2.7 of the Port Orchard Comprehensive Plan). The centers approach to planning is provided in Vision 2050, the regional plan completed by the Puget Sound Regional Council (PSRC), and in the Countywide Planning Policies adopted by all jurisdictions in Kitsap County. In 2016, Port Orchard identified center locations, but did not have the resources to complete subarea plans for each center at that time, and instead identified goals for subarea planning to be completed in the future. This subarea plan is the result of that goal and aims to create a cohesive plan for the subarea plan boundary as depicted in Figure 1.

The greater McCormick area of Port Orchard was based on a master plan that dates to the early 1980s. A series of approvals and plans have been adopted and implemented since that time and numerous project phases have been constructed. In 2003 and prior to annexation into the City of Port Orchard, Kitsap County approved a subarea plan for the McCormick area (ULID6 Subarea Plan) that included a McCormick Village commercial core. In 2009, the City of Port Orchard annexed this area into the City and became responsible for implementing previous plans and approvals, but was not bound by the ULID6 Subarea Plan. The City provided commercial zoning consistent with the County’s 2003 plan but did not prepare any sort of coordinated master plan at that time. In 2015, the land and development approvals in the McCormick area were sold to new owners and those owners resumed development activity after several years of inactivity related to the great recession. The resumed development activity initially focused on single family residential areas. As of the end of 2020, more than 1,000 lots had been created and developed within and in the vicinity of the subarea. Up to this point, the commercial village portion of the project has not been realized. This plan is intended to facilitate the permitting and build-out of the McCormick Village Neighborhood Core, including the commercial village as shown on Figure 2. The plan recognizes and refers to other previous but not yet constructed subdivisions (McCormick Woods, McCormick West, McCormick North); however, due to previous agreements and the vesting associated with those agreements, the plan is not intended to influence new development in those areas. Some previously entitled single family lots are shown in Figure 2.

The creation of this plan was a joint effort between McCormick Communities, LLC (the Developer) and the City of Port Orchard. McCormick Communities hired a consultant to develop conceptual plans for the subarea. After several iterations of this concept plan, the City agreed to consider the creation and adoption of a subarea plan to guide future development in the subarea. Early concepts fell short of the mark in terms of meeting the intent of existing City codes and policies. The preferred alternative met the intent of the City’s plans and policies and was sufficiently innovative to warrant consideration as an amendment to the City’s Comprehensive Plan.



McCormick Village Subarea



Figure 1 (above): The McCormick Village Subarea. The area outlined in red is the boundary of the subarea plan and the McCormick Village Center. The area shown in purple is the McCormick Village Neighborhood Core. Previously entitled but not yet recorded single family lots are shown in areas of McCormick Trails (McCormick West) and in McCormick Village (McCormick North) in gray outline.



Figure 2 (above). The Neighborhood Core Concept Plan. The preferred concept includes a neighborhood commercial core as was sought by the City’s elected officials consistent with the original concept plans. Neighborhood connectivity and walkability were priorities for the concept as was providing a variety of housing types, especially missing middle housing types, consistent with the City’s Comprehensive Plan.

1.2 Local Center. This plan is intended to show how the center will comply with the PSRC requirements for a local center. The center includes some existing development and entitlements in addition to the smaller neighborhood core which is unentitled. The neighborhood core (boundary shown on Figure 1 in purple) is a smaller portion of the center and is what is being “planned,” meaning that aside from a few existing development agreements, this area must go through a land use (subdivision) entitlement process. The areas outside of the subarea but within the center are within walking distance (approximately .25-.75 miles) of the commercial core and support the viability of the commercial core. These areas are not being “planned” at this time as the areas are not intended to change because of previously approved entitlements.

1.3 Public Outreach. In May 2021, the City of Port Orchard collaborated with the Developer to conduct public outreach. Initial outreach consisted of an online (Zoom) meeting with the Developer and the McCormick Woods HOA that was attended by more than 50 neighborhood residents. A similar meeting was held with the Planning Commission on June 1, 2021. At the same time, the City conducted a survey of residents in the McCormick Woods communities that had very high levels of participation. In the community survey, the area residents provided very clear direction (see Appendix A). This feedback has been synthesized into a list of goals for the subarea plan as follows:

1. Provide opportunities to shop, dine, meet, and gather.
2. Support the development of an assortment of businesses with an emphasis on restaurants and bars, coffee shops, retail, and grocery uses.
3. Ensure that the commercial village is small scale, containing approximately 10-20 storefronts and 20,000+/- square feet of commercial space.
4. Connect the commercial village to surrounding neighborhoods with trails, sidewalks, and bike lanes.
5. Ensure that the commercial village is designed and landscaped to fit into its natural surroundings.
6. Utilize green building techniques and materials in the commercial village.
7. Provide small plazas, outdoor gathering spaces, and opportunities for outdoor dining in the commercial village.
8. Ensure that the urban village is pedestrian oriented with streetscape amenities such as pedestrian scale lighting, benches, landscaping, and street trees, and ensure that sidewalk and trail connections are provided to adjacent existing and future neighborhoods.
9. Protect streams and wetlands and their buffers.
10. Preserve existing trees where possible and ensure the establishment of long-term tree canopy throughout the subarea.
11. Provide pocket parks to supplement the amenities provided at McCormick Village Park.
12. Design the commercial village to complement the future western entrance to McCormick Village Park as envisioned in the McCormick Village Park Master Plan.
13. Ensure that Old Clifton Road is improved as a multi-modal corridor, providing connections to McCormick Woods, the Ridge, McCormick Meadows, and McCormick West, accommodating non-motorized users, and improving safety and accessibility.
14. Work with Kitsap Transit to provide transit service to this area.
15. Ensure that adequate parking is provided to serve the commercial core.
16. Continue to support and partner with the South Kitsap School District to develop the schools at the site to the northwest of Feigley Road and Old Clifton Road.

Chapter 2. Vision and Preferred Alternative.

2.1 Vision. The McCormick Village subarea is a thriving and attractive walkable neighborhood providing an assortment of goods and services, a variety of housing types, and convenient access to employment via Kitsap Transit and its proximity to SR-16 and SR-160. Residents within the subarea and surrounding neighborhoods can reach a new commercial district containing shops, restaurants, and other businesses, as well the future school sites to the northwest of the intersection of Old Clifton Road and Feigley Road, using a robust network of sidewalks, trails, and bike lanes that connect throughout the subarea and to adjacent neighborhoods.

The McCormick Village Subarea commercial core consists of walkable shopfronts along a new woonerf street, which is a street designed for low vehicle speeds where vehicles and pedestrians share the travel way. The commercial core is located adjacent to a new western entrance to McCormick Village Park which serves as an anchor to the commercial district. Natural environmental features are protected, and parks and recreation amenities are provided in and around the subarea. The landscaping installed within the subarea is extensive and has been designed to be an extension of the surrounding forests and to make extensive use of native trees and plants. This landscape is complemented by a mix of classic and modern Northwest architecture, defined by an extensive use of natural materials and finishes.

Figure 3. An example of a proposed woonerf street.



The residential portion of the subarea is compact and walkable. Primary residential access streets have sidewalks separated by landscape strips while secondary local access streets are shared residential woonerfs. Vehicle access to housing units is via alleys to the maximum extent possible, to ensure continuous uninterrupted on-street parking and attractive facades dominated by windows and front porches.

2.2 Preferred Alternative. The preferred alternative (see Figure 2) visually depicts development that is consistent with the vision described in Section 2.1.

Figure 4. The following graphic is a rendering of the east portions of the neighborhood core viewed from the north. The commercial areas are located on the left side of the rendering.



2.3 Center Designation: Local Center.

The McCormick Village Center is currently designated as a local center as described in the PSRC Regional Centers Framework. As a designated local center, the McCormick Village Center is an active crossroads in Port Orchard that is a gathering place, community hub, and focal point for services. It is likely that this local center will grow to become a countywide center under the Framework. However, the center currently does not have the requirements of an existing activity unit density of 10 units per acre and a minimum mix of uses including at least 20% housing and 20% employment. As planned, the subarea:

1. Will include an estimated 1,646 activity units (jobs plus housing units) at roughly 5 activity units per acre; and
2. Will provide a mix of residential and employment uses. The center is planned to consist of 77% residential and 23% commercial at full buildout; and
3. Has capacity for additional growth. The center has capacity for an estimated 3,200 additional persons and 361 additional permanent jobs at full buildout; and
4. The center is supported by multimodal transportation (including pedestrian, bicycle, transit (planned), and automobile).

Chapter 3. Land Use

3.1 Introduction. The McCormick Village subarea measures 378 acres in land area. This area includes the 40-acre McCormick Village Park, the 57-acre future South Kitsap School District school site, and a 5-acre church property. The remaining 276 areas are public right of way (ROW), and land controlled by McCormick Communities which has previously been approved for development or is intended for development. Additionally, there are several areas of wetlands and the headwaters of Anderson Creek, all of which are protected critical areas and are off limits to development.

To facilitate development of the Neighborhood Core as shown in Figure 2, amendments to the City’s land use map and development regulations are required. These amendments include:

1. Amending the land use map in the Comprehensive Plan.
2. Amending the official City zoning map.
3. Creating an overlay district to allow for deviations from the City’s development regulations and public works road standards.

The Land Use Map in the Comprehensive Plan is being amended to refine the commercial area locations within the subarea to correspond to the development concept shown in Figure 2. The existing and proposed land use map designations are shown in Figure 5 below:

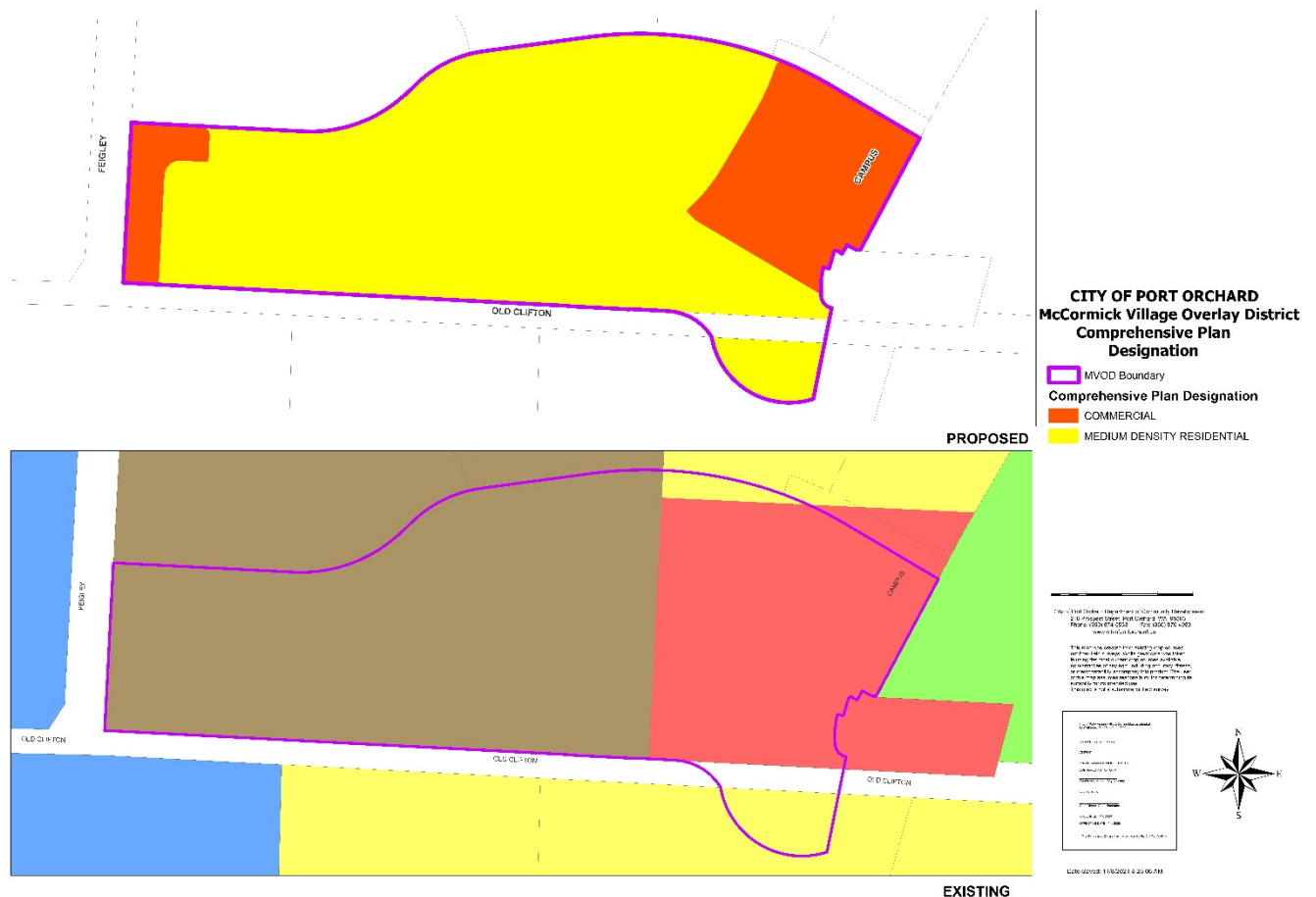


Figure 5. Land use designations before and after subarea plan adoption.

The Zoning Map as adopted in POMC 20.31 is being amended to refine the commercial area locations within the subarea to correspond to the development concept shown in figure 2. The existing and proposed zoning designations are shown in figure 6 below:



Figure 6. Zoning before and after subarea plan adoption.

A McCormick Village Overlay District is proposed for adoption in conjunction with this subarea plan. This overlay district seeks to allow several deviations to the City's current standards and includes the following:

1. Land Uses
2. Building Types
3. Accessory Dwelling Unit Standards
4. Building Elements
5. Lot and Road Layout
6. Road Standards.
7. Off-street Parking Standards.

8. Significant Tree/Tree Canopy Standard.

3.2 Population and Employment.

As of the end of 2020, the McCormick Urban Village Center contained a regional park and a church, no homes, and only a few jobs. Development of the first housing units in the subarea began in 2021 and is accelerating rapidly. McCormick Communities desires to begin development of the Neighborhood Core in 2022.

Based on existing entitlements and the plans shown in Figure 2, when developed the subarea is expected to contain 1,271 housing units and 375 jobs. Planned jobs and housing are shown in Table 1 below. The actual amount of development may vary from the estimate below.

Planning Area	Jobs	Housing Units
McCormick Village Commercial Core	67	0
McCormick Village Core	0	388
McCormick Village SF Areas (north of SW Yarrow Street)	0	322
McCormick Trails SF Areas	0	361
McCormick Trails MF	3	200
Future School Site	275	0
Fire Station	10	0
Church	20	0
Total	375	1271
Percent Job/Housing	23%	77%

3.3 Land Use Goals for the Urban Village Subarea (these goals are in addition to existing goals found in other sections of the Comprehensive Plan):

Goal MVLU-1: Implement the McCormick Urban Village Subarea Concept Plan as shown in Figure 2.

Policy MVLU-1: Allow uses, building types, and site design generally consistent with Figure 2 in the McCormick Urban Village Subarea Overlay District.

Goal MVLU-2: Encourage the development of a McCormick Urban Village Central Business District along a new woonerf street accessed via Campus Parkway.

Policy MVLU-2: Provide storefront uses on the ground floor in the form of a “Main Street” along a woonerf street as shown in Figures 2 and 3. Regulations for the McCormick Urban Village Overlay District shall ensure that buildings line the new woonerf street without landscape setbacks and with pedestrian entrances oriented towards the street.

Figure 7: Block Frontage Map for McCormick Urban Village.



Policy MVLU-3: Require a build-to-zone along the storefront area shown in Figure 7 in accordance with the CMU zoning designations, as shown on the Zoning Map (Figure 5) but provide exceptions for public plazas and significant street corners.

Goal MVLU-4: Ensure that development in the McCormick Urban Village is attractive and provides variety and visual interest.

Policy MVLU-4: Designate high visibility street corners, as defined in the City’s design guidelines (POMC 20.127.250) in strategic locations along the new woonerf street and establish requirements in

these locations to accentuate building or plaza design with special design features.

Policy MVLU-5: Require façade articulation when any proposed building exceeds 120 feet in length.

Policy MVLU-6: Ensure that there is at least 60% facade transparency on the ground floor of single-story shopfront and mixed-use shopfront buildings with a façade facing a woonerf street.

Chapter 4. Housing.

4.1 Introduction. Home construction within the subarea plan boundary commenced in 2021 for areas previously entitled. As indicated in the Land Use chapter, the subarea is planned to include 1,271 housing units at full buildout. According to the Washington State Office of Financial Management, multifamily projects containing 5 or more units in Port Orchard contain on average 2.09 persons per household, whereas detached houses contain 2.68 persons per household. Based on these persons per household estimates, the center should house about 3,200 residents at full buildout.

4.2 Goals and Policies. (Additional goals and policies beyond those already in the Comprehensive Plan)

Goal MVH-1: Provide for a mix of housing types, including but not limited to detached houses, backyard cottages, carriage houses, paseo houses, duplexes, attached houses, townhomes, apartments, forecourt apartments, and live-work units.

Policy MVH-1: Ensure that the development regulations allow the development of the building types described in Goal MVH-1, pursuant to the Zoning Map in Figure 6.

Goal MVH-2: Provide owner-occupied and/or rental housing serving a mix of income levels.

Policy MVH-2: Offer 12-year multifamily tax exemptions throughout the subarea in support of affordable housing.

Chapter 5 Economic Development.

5.1 Introduction. The McCormick Urban Village subarea is currently mostly undeveloped. Employment opportunities within the subarea will include the existing city park, the McCormick Woods HOA, the existing church, a future fire station, the future school sites, home businesses, and temporary construction jobs related to the buildout of the subarea. The employment assumption for new commercial square footage in the center is one job per 300 square feet, as the expected uses would be retail, restaurant, and bars, which have a higher number of jobs per square foot of space compared other commercial uses. Approximately 20,000 square feet of commercial space is planned within the neighborhood core. It is expected that future schools and a new fire station located in the center would employ approximately 285 people. The total expected employment for the center at buildout is 375 jobs, excluding home businesses.

The McCormick Village Plan envisions the establishment of a new central business district adjacent to Campus Parkway along a new woonerf street. This new central business district is intended to take the form of a “Main Street” with shopfronts on the ground floor abutting this new woonerf, featuring wide sidewalks and a shared street. Parking is to be provided on-street along the woonerf, with supplemental parking behind or below these shopfronts, or as on-street parking in the planned neighborhood. It is critical to the success of a new business district to ensure that there are enough dwellings within walking distance to support these

businesses. This will lower parking demands and increase activity in the area. Ultimately, this commercial district will be supported by a full center buildout of 1,271 housing units containing approximately 3,200 residents. Other residential areas just beyond the center boundary, along with nonmotorized improvements, transit, on- and off-street parking, gathering spaces, McCormick Village Park, and an active streetscape will all contribute to a vibrant business district.

5.2 Goals and Policies.

Goal MVED-1: Provide zoning for ground floor shopfront development and retail, service, restaurant, and other compatible uses along a new woonerf street.

Policy MVED-1. Require ground floor shopfront development along a new woonerf street running perpendicular to Campus Parkway, through either single-story shopfront or mixed-use shopfront building types.

Policy MVED-2. Allow residential uses above shopfront development where shopfront development is required.

Policy MVED-3. Allow urban plazas in areas where shopfront development is required.

Goal MVED-2: Ensure that uses which are not compatible with building a walkable neighborhood center are prohibited.

Policy MVED-4. Prohibit drive through businesses, gas stations, storage facilities, and other commercial uses that are unlikely to contribute to a walkable neighborhood center.

Chapter 6 Parks.

6.1 Introduction. It is critical to consider the availability of parks and recreational amenities when planning centers. Parks provide a gathering place for neighborhood residents, and recreational facilities contribute to public health and provide connections within the neighborhood. In 2016, the City completed construction on phase 2 of the McCormick Village Park, a regional park adjacent to the neighborhood core. This park, including phase 3 construction as identified in the McCormick Village Park Master Plan, will continue to function as a centerpiece for the neighborhood and will be complemented by the new neighborhood core.

The preferred alternative includes multiple pocket parks to be constructed within the subarea. These pocket parks and plazas are consistent with existing City code requirements for usable open space associated with multifamily development.

Goal MVP-1: Encourage the development of new pocket parks throughout the neighborhood.

Policy MVP-1: Allow public pocket parks to satisfy the requirements of POMC 20.127.350 for all development in the subarea.

Goal MVP-2: Encourage the development of public plazas and other gathering spaces in the commercial neighborhood core.

Policy MVP-2: Designate significant street corners on the block frontage standard maps as shown in Figure 7, to encourage the development of public gathering spaces in the central business district.

Goal MVP-3: Provide public and private sidewalks, pathways, and bike lanes within the center.

Policy MVP-3: Provide bicycle lanes on Old Clifton Road through the center.

Policy MVP-4: Ensure that sidewalks are constructed along all public and private roads within the center.

Chapter 7 Utilities.

7.1 Introduction. The McCormick Woods subarea and center is served by City of Port Orchard water, City of Bremerton water, City of Port Orchard sanitary sewer and stormwater, Puget Sound Energy (electric and gas), Xfinity, Wave, Century Link, and KPUD (cable, phone, and/or internet). In terms of the utility services provided by the City of Port Orchard, some upgrades to the City of Port Orchard and City of Bremerton water systems are needed in support of subarea development. The Developer should coordinate with the City of Bremerton for water system requirements. In the City of Port Orchard, additional water storage (the 660 reservoir) and wells 11 and 12 are needed to support the buildout of the subarea and center.

Goal MVU-1: Ensure that adequate fire flow is available to support development in the McCormick Urban Village subarea.

Policy MVU-1: Provide employment and population assumptions for the subarea to the City of Bremerton for inclusion in the next Bremerton water system plan update.

Goal MVU-2: Ensure that adequate stormwater facilities exist to serve the public streets and sidewalks in the McCormick Village Center.

Policy MVU-2: Build low impact development (LID) stormwater facilities within the center where practical, to manage stormwater created by new public and private streets.



Figure 8: Low Impact Development Stormwater Management Techniques Incorporated into Street Design. This sort of design is encouraged in the McCormick Village Subarea.

Goal MVU-3: Ensure that telecommunication facilities are adequate to support 21st century users.

Policy MVU-3: Ensure that KPUD has access to trenches as roads and utilities are installed.

Policy MVU-4: Provide for integration of 5G wireless facilities in the streetscape in the subarea.

Chapter 8 Transportation.

8.1 Introduction. The McCormick Village Subarea is established along the Old Clifton Road corridor between

Campus Parkway and Feigley Road. The Old Clifton corridor provides an important link between SR-16 and SR-3 and allows some motorists to bypass congestion in Gorst. At the present time, Kitsap Transit does not provide bus service in the area, but with future development this could change. Kitsap Transit plans for future transit service once an area has grown enough to justify deployment of that service.

Old Clifton Road is identified as a Collector A street according to the City’s street classifications. Pursuant to the City’s Public Works and Engineering Standards, Old Clifton Road is planned to be improved as a complete street through the center, although pedestrian connectivity could be rerouted to parallel road networks through some sections, including through the subarea.

To achieve countywide center requirements, several conceptual road sections specific to the subarea have been created to improve walkability. While conceptually approved, the roads are still subject to a road deviation approval process to deviate from the city’s standard road sections. The proposed conceptual sections proposed in the center provide widened sidewalks, bicycle lanes, and low impact development landscape treatments. The woonerf section “Village Lane” in the core of the center is designed to slow traffic, facilitating a safe walking and shopping environment as well as on-street parking. Finally, nearly all residential development in the subarea is served by alleys to ensure an attractive streetscape that encourages walking. The proposed conceptual subarea road section drawings are shown in Figures 9, 10, 11, and 12.

Figure 9: Main Collector.

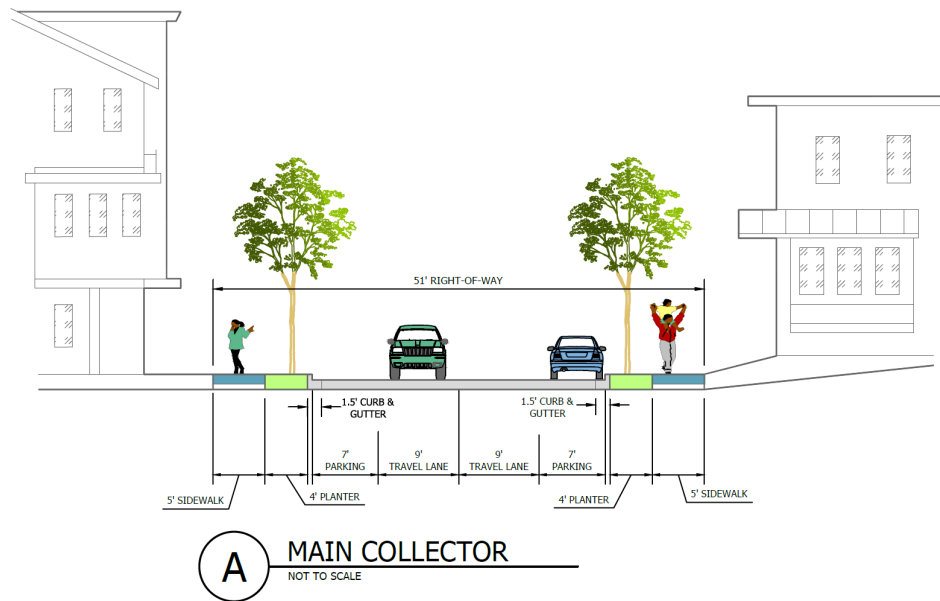
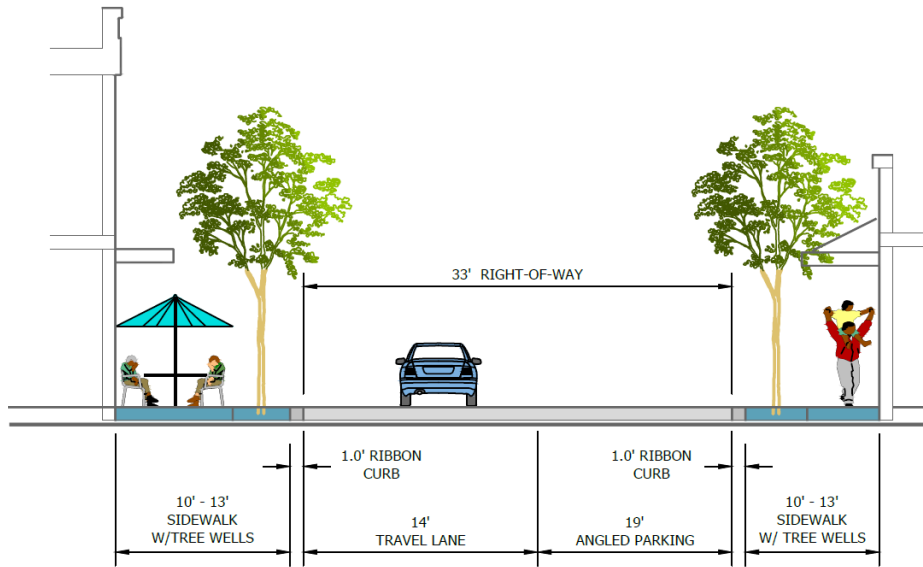
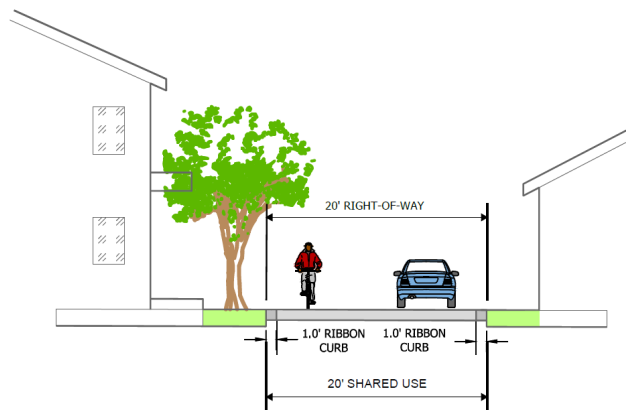


Figure 10: Village Lane.



B VILLAGE LANE (ONE-WAY)
 NOT TO SCALE PRIVATE

Figure 11: Woonerf (residential).



C WOONERF (ONE-WAY)
 NOT TO SCALE

Figure 12: Alley

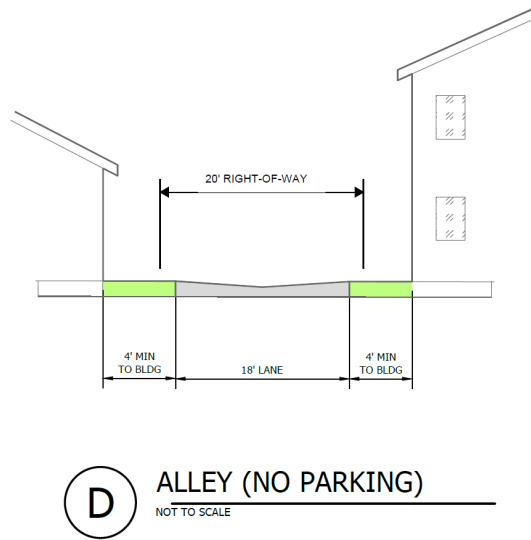


Figure 13: Proposed Location of Road Sections



The development of the McCormick properties is subject to a development agreement for transportation, approved on February 9, 2021. This agreement has provided concurrency approval and limits the extent of any offsite transportation improvements that might be required. However, since some portions of the subarea remain unentitled, the contents of this plan related to onsite transportation improvements would apply to future development.

Goal MVT-1: Develop local access roads in the subarea in accordance with Figures 9-12 above. Serve the central neighborhood core with a woonerf street. Provide vehicular parking for most residential units via alleys.

Policy MVT-1: Provide pedestrian crossings at regular intervals on local access streets through the

subarea.

Policy MVT-2: Provide on street parking on most local access streets within the subarea.

Policy MVT-3: Design roads in the subarea to encourage reduced vehicle speed and increased pedestrian safety.

Policy MVT-4: Integrate urban low impact development stormwater management features in roadway designs, including landscaped infiltration galleries between on-street parking lanes and sidewalks. Ensure that infiltration galleries allow ample opportunities for access between parking areas and sidewalks. (See Figure 8.)

Goal MVT-2: Provide connectivity between the subarea and McCormick West, McCormick Woods, McCormick North, McCormick Village Park, the future school sites on Feigley, and other destinations within the western portions of Port Orchard.

Policy MVT-5: The City should develop a corridor plan for Old Clifton Road from Anderson Hill Road to the western City limits (west of Feigley).

Goal MVT-3: Provide for flexibility in parking quantity standards.

Policy MVT-6: Include alternative parking ratios in the overlay district as it applies to the commercial core to recognize the peak parking demands of all uses, and the ability for on-street parking to be shared between residential and non-residential uses.

Policy MVT-7: Expand the McCormick Woods Golf Cart zone in areas south of Old Clifton Road.

Goal MVT-4: Encourage the development of storefronts along a new woonerf street as shown in Figure 10.

Policy MVT-8: Designate a new woonerf street as “storefront block frontage” in the city’s design standards (POMC 20.127) and require a build-to-zone along this frontage.

Policy MVT-9: Remove block frontage standards in other areas of the subarea.

Goal MVT-5: Support the establishment of transit service in the subarea and center.

Policy MVT-10: Require the installation of transit pads during permitting and construction in consultation with Kitsap Transit.

Goal MVT-6: Support bicycle infrastructure and provide bicycle amenities in the subarea.

Policy MVT-11: Provide bike lanes or grade separated pathways running east/west and north/south through the subarea.

Policy MVT-12: Ensure that bicycle parking is provided in the subarea consistent with POMC 20.124.

Goal MVT-7: Provide pedestrian infrastructure throughout the subarea.

Policy MVT-13: Ensure that existing and proposed streets in the subarea are constructed with sidewalks on both sides of the street except for woonerfs and alleys and include landscape strips to provide pedestrian vehicle separation.

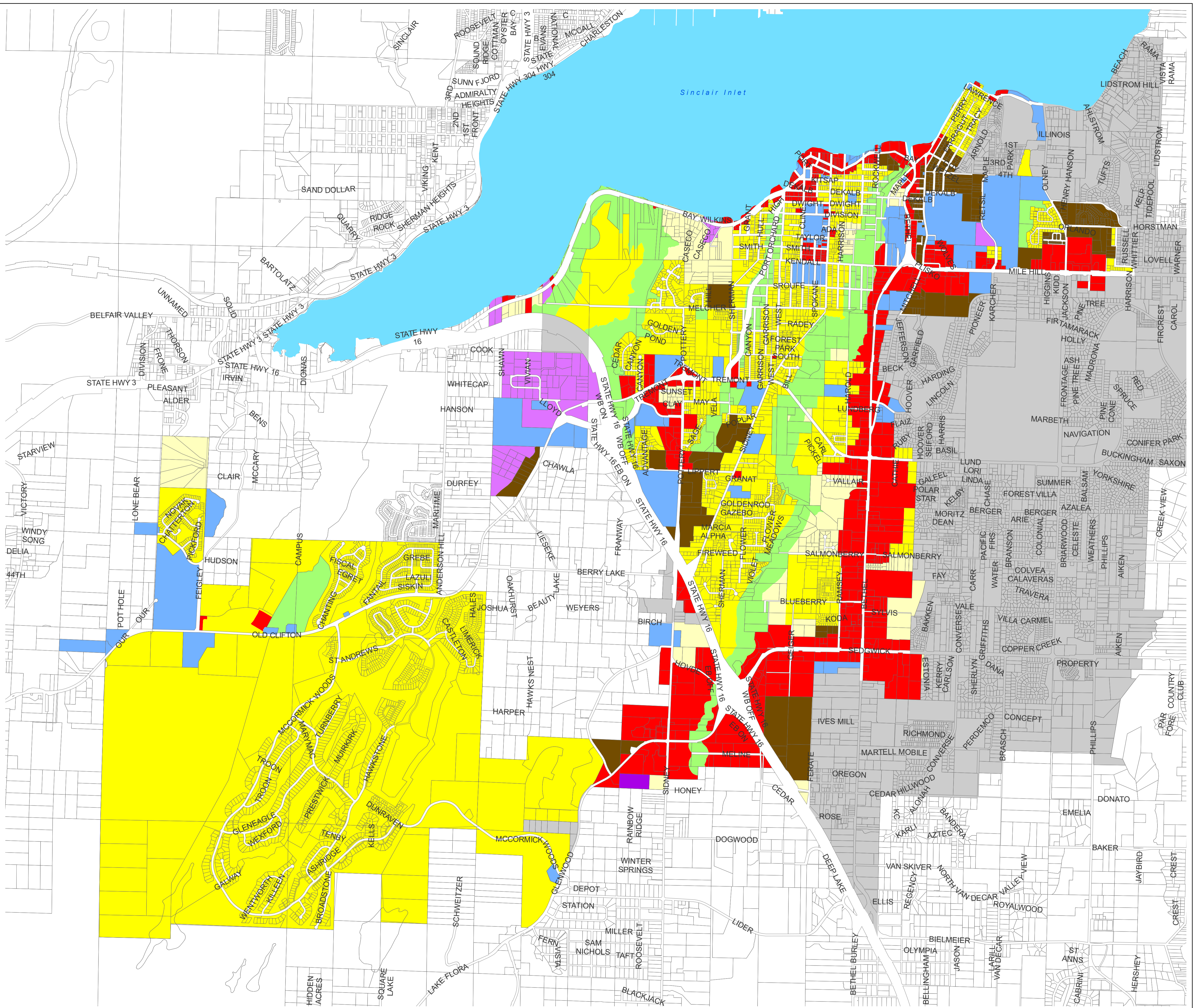
Policy MVT-14: Provide pedestrian connectivity throughout the subarea.

Goal MVT-8: Provide safe multimodal access to the future school site on Feigley Road.

Policy MVT-15: Ensure that sidewalks are provided between the subarea and the future school site on Feigley. Consider adding pedestrian crossings at SW Yarrow Street and Feigley Road when the school develops.

Goal MVT-9: Ensure that new electrical service is installed underground within the subarea.

Policy MVT-16: Undergrounding of powerline distribution and service should be required through the subarea.



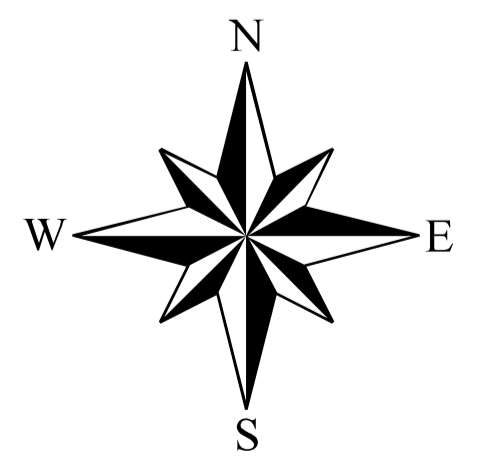
CITY OF PORT ORCHARD 2021 COMPREHENSIVE PLAN MAP

- Greenbelt
- Light Density Residential
- Medium Density Residential
- High Density Residential
- Commercial
- Urban Industrial
- Public and Community Spaces

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

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City of Port Orchard Official Zoning Map as adopted by Ordinance 07-29 on 11/17/2020.
 Robert Potansnow, Mayor
 ATTEST:
 Brandy Rineason, MMC, City Clerk
 APPROVED AS TO FORM:
 Charlotte A. Archer, City Attorney
 Sponsored by:
 Scott Danner, Councilmember
 PUBLISHED: 11/23/2021
 EFFECTIVE DATE: 11/23/2021
The official signed Zoning Map may be viewed at the City Clerk's office.

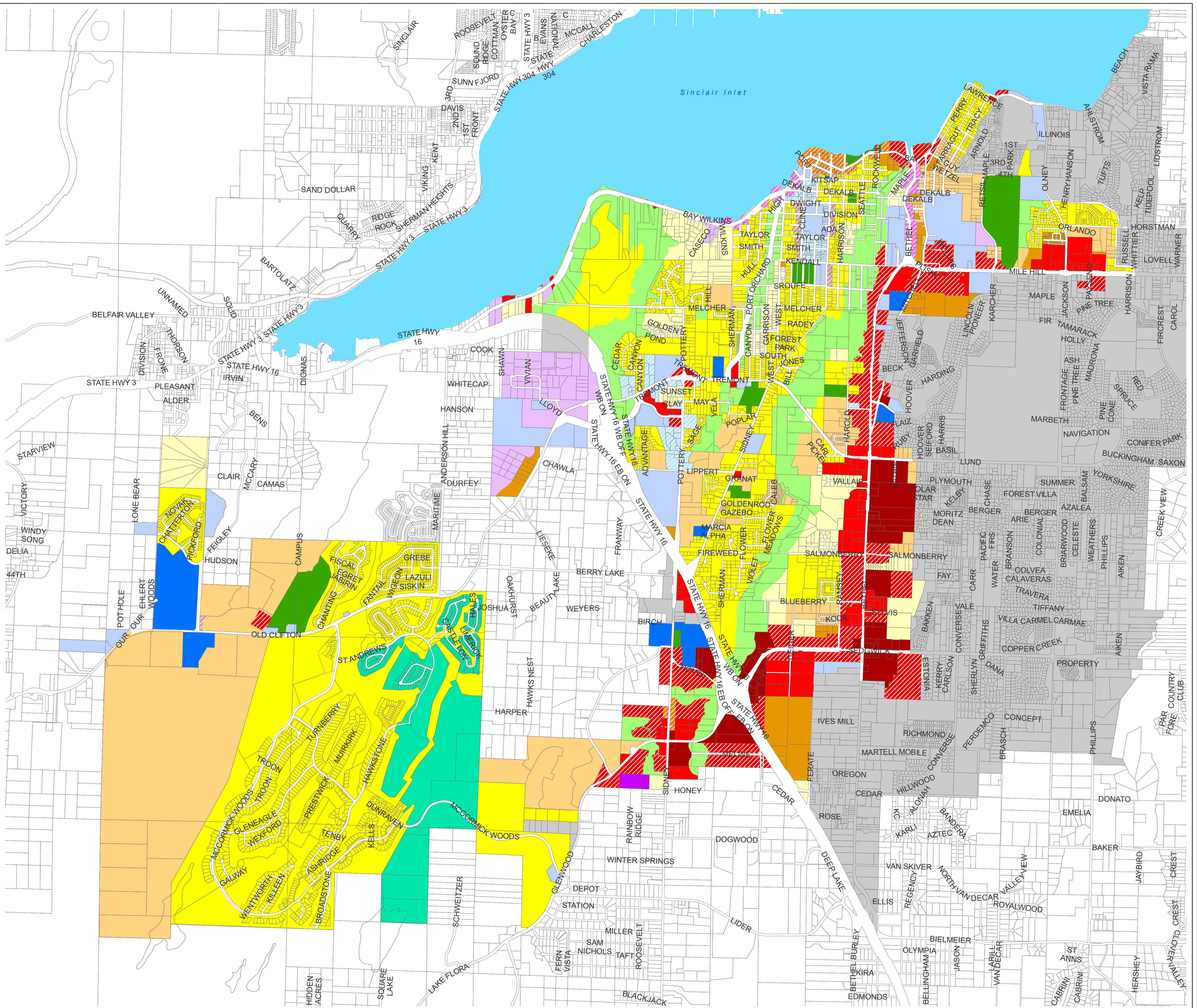


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CITY OF PORT ORCHARD 2021 ZONING MAP

- Zoning Designation**
- Greenbelt
 - Residential 1
 - Residential 2
 - Residential 3
 - Residential 4
 - Residential 6
 - Neighborhood mixed use (NMU)
 - Business professional mixed use (BPMU)
 - Commercial mixed use (CMU)
 - Downtown mixed use (DMU)
 - Gateway mixed use (GMU)
 - Commercial corridor (CC)
 - Commercial heavy (CH)
 - Industrial flex (IF)
 - Light industrial (LI)
 - Civic and institutional (CI)
 - Parks and recreation (PR)
 - Public facilities (PF)



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City of Port Orchard Official Zoning Map as adopted by Ordinance 07-20 on 07-20-2020.

Robert Putnam, Mayor

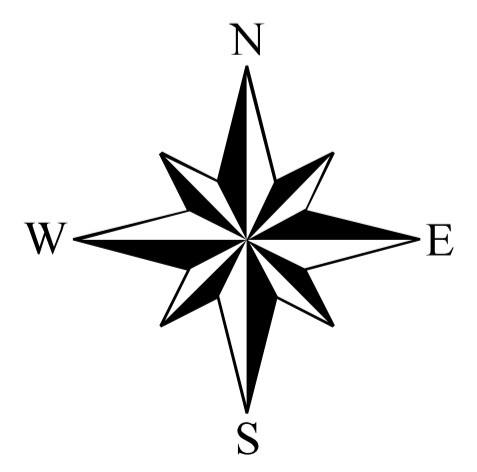
ATTEST:
 Brandy Rieunser, MMC, City Clerk
 APPROVED AS TO FORM

Charlotte A. Archer, City Attorney

Sponsored by:
 Scott Diener, Councilmember

PUBLISHED: 11/23/2020
 EFFECTIVE DATE: 11/23/2020

The official signed Zoning Map may be viewed at the City Clerk's office.





City of Port Orchard

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

Agenda Staff Report

Agenda Item No.:	<u>Business Item 7D</u>	Meeting Date:	<u>December 14, 2021</u>
Subject:	<u>Adoption of an Ordinance Relating to</u>	Prepared by:	<u>Debbie Lund</u>
	<u>Benefits for Non-Represented</u>		<u>HR Manager</u>
	<u>Employees, Repealing Ordinance Nos.</u>	Atty Routing No.:	<u>366922-0008 – HR</u>
	<u>010-19, 026-19, 045-19, and Amending</u>	Atty Review Date:	<u>December 8, 2021</u>
	<u>Resolution No. 003-09</u>		

Summary: From time to time, the City reviews its benefits offerings to its employees. As a matter of policy and pursuant to RCW 35A.34.180, the benefits offered are set by the City Council via Ordinance, and the existing Ordinances setting those benefits establish offerings through the calendar year 2021. The Ordinance being presented to you tonight would continue current benefit offerings on the same terms as provided in 2021 to non-represented employees, with the following exceptions:

- 1) The City’s HRA contribution for those employees enrolled on the AWC HealthFirst® 250 Plan increases by \$35 per month (from \$20 to \$55) for an employee who has only one dependent enrolled on the plan, and by \$45 per month (from \$30 to \$75) for an employee who has 2 dependent children enrolled on the plan. (This change is projected to affect 1 non-represented employee.)
- 2) The City’s HRA contribution for those employees enrolled on the AWC Kaiser Permanente 200 Plan increases by \$30 per month (from \$30 to \$60) for an employee who has only one dependent enrolled on the plan, and by \$35 per month (from \$30 to \$65) for an employee who has 2 dependent children enrolled on the plan. (This change is project to have no effect on any current non-represented employees.)
- 3) The City’s HRA contributions for those employees enrolled on the AWC Kaiser Permanente High Deductible Medical Plan will see monthly decreased from \$25 to \$100 per month depending upon the employee’s family members enrolled on the plan. (This change is projected to affect 2 non-represented employees.)
- 4) Removes the HRA contribution level for “Employee plus 3 dependents” as AWC does not differentiate when the number of dependents exceeds two. (This change is projected to affect 1 non-represented employee, who will actually receive a greater benefit under the “2 plus dependents” category.)

These changes to HRA contributions are designed to:

- 1) Ensure that the City does not pay more for those employees enrolled on the high deductible medical plans, compared to the more traditional plans, and
- 2) To pay an equal dollar amount for additional dependents regardless of whether or not that additional enrollee is a spouse or child.

Additionally, Appendix A of the Ordinance presented for your consideration identifies all current insurance offerings for non-represented City employees.

Recommendation: Staff recommends adoption of an Ordinance authorizing certain benefits for non-represented employees, effective January 1, 2022.

Relationship to Comprehensive Plan: None.

Motion for consideration: I move to adopt an Ordinance establishing certain employee benefits for non-represented employees.

Fiscal Impact: The fiscal impact is consistent with the 2021-2022 biennial budget.

Alternatives: Not approve this request and provide alternative guidance.

Attachment: Ordinance and Exhibit A thereto

Courtesy copies of repealed/amended legislation: Ordinance No. 010-19, Ordinance No. 026-19, Ordinance No. 045-19 and Resolution 003-09

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON,
RELATING TO BENEFITS FOR NON-REPRESENTED EMPLOYEES;
REPEALING ORDINANCE NOS. 010-19, 026-19 AND 045-19;
AMENDING RESOLUTION 003-09; PROVIDING FOR SEVERABILITY
AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.**

WHEREAS, the City of Port Orchard has established certain employment benefits for non-represented employees; and

WHEREAS, pursuant to RCW 35A.34.180, the City Council may, by ordinance, modify the wages, hours and conditions of employment including benefits, of its employees; and

WHEREAS, by Ordinance No. 010-19, later revised by Ordinance No. 026-19 and Ordinance No. 045-19, the City Council established benefits for non-represented employees; and

WHEREAS, the City's Personnel Policies manual, as adopted by the City Council and amended by the Mayor pursuant to a delegation of authority from the City Council, includes provisions duplicated in Ordinance Nos. 026-19, 045-19, and 010-19; and

WHEREAS, existing benefits provided to the Mayor were established by Resolution 003-09; and

WHEREAS, the City Council deems it in the best interest of the City and City employees to periodically review and update employment wages and benefits, and, in so doing, has determined it is appropriate to adjust certain benefits; and

WHEREAS, the City Council continues to recognize the importance of a healthy workforce and encourages all employees to participate in the City's wellness efforts; and

WHEREAS, the City Council recognizes that insurance needs of each employee vary from employee to employee; and

WHEREAS, the various insurance programs offered to non-represented employees are at the discretion of the City Council; and

WHEREAS, the City Council desires to continue to have all employees share in the cost of the more expensive medical insurance programs; and

WHEREAS, the City Council finds it appropriate to pay the full cost of the high deductible medical plan offerings when an employee chooses such coverage; and

WHEREAS, the City Council desires to continue to assist employees with a portion of their

out-of-pocket expenses related to their health care costs by contributing to an HRA VEBA account on behalf of the employee; and

WHEREAS, the City Council desires to establish benefits consistent with the findings herein for non-represented employees, including the Mayor; now, therefore,

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

SECTION 1. Repealer. Ordinance Nos. 010-19, 026-19, and 045-19, as amended, are hereby repealed upon the effective date of this ordinance.

SECTION 2. Repealer. Sections 1, 2 and 4 of Resolution No. 003-09 are hereby repealed. The Mayor's salary is set in accordance with the City's biennial budget, and the Mayor's benefits are set by this Ordinance.

SECTION 3. All employees covered by this Ordinance shall be classified and compensated in accordance with the City's biennial budget.

SECTION 4. Effective January 1, 2022, non-union employees, including the Mayor, will be eligible for the benefits listed in Appendix A attached hereto and incorporated herein by this reference.

SECTION 5. This ordinance shall not change or limit other benefits not listed that covered employees currently have through their employment with the City.

SECTION 6. Savings Clause. The ordinances and portions of resolution which are repealed by this Ordinance remain in force and effect until the effective date of this Ordinance. Such repeals must not be construed as affecting any existing right acquired under the ordinances and resolution repealed or amended, nor as affecting any proceeding instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor the administrative action taken thereunder. Notwithstanding the foregoing actions, obligations under such ordinances in effect on the effective date of this Ordinance continue in full force and effect, and no liability thereunder, civil or criminal, is in any way modified. Further, it is not the intention of these actions to reenact any ordinances or parts of ordinances previously repealed or amended, unless this Ordinance specifically states such intent to reenact such repealed or amended ordinances.

SECTION 7. 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 8. Publication. This Ordinance shall be published by an approved summary consisting of the title.

SECTION 9. Effective Date. This Ordinance shall take effect and be in full force and effect on January 1, 2022, 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 14th day of December 2021.

Robert Putansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

SPONSORED BY:

Charlotte A. Archer, City Attorney

John Clauson, Councilmember

PUBLISHED:

EFFECTIVE DATE:

APPENDIX "A"

Part 1: Programs Offered

Dental Insurance Programs offered

1. AWC Delta Dental of Washington Plan A
2. AWC Delta Dental of Washington Orthodontia Rider Plan II

Vision Insurance Program offered

1. AWC Vision Services Plan \$10 Copay Plan

Medical Insurance Programs Offered by the City of Port Orchard

1. AWC HealthFirst® 250
2. AWC Kaiser Permanente 200
3. AWC Regence High Deductible Health Plan
4. AWC Kaiser Permanente High Deductible Health Plan

Part 2: Employee Cost Share

A. Full-time employees (as defined in personnel policy):

Insurance	City Share	Employee Share
Dental	100%	0%
Vision	100%	0%
Medical – HealthFirst® 250 or Kaiser 200	90%	10%
Medical – High Deductible Plan	100%	0%

B. Part-time employees (as defined in personnel policy)

Insurance	City Share	Employee Share
Dental	n/a	n/a
Vision	n/a	n/a
Medical-employee only	50%*	50%
Medical-spouse/dependents	0%	100%

** City pays 50% only if employee agrees to 50% payroll deduction for one of the medical programs identified in Part 1 of this Appendix*

C. Payroll will calculate the applicable portion of the employee’s share of premiums and may use applicable rounding to create even deductions for all applicable pay periods.

- D. An employee choosing to enroll on a high deductible medical plan, if they qualify and attest to their eligibility for such an account, will be able to make a contribution to a Health Savings Account (HSA) via payroll deduction to a vendor chosen by the City.

Part 3: City’s Contributions to HRA VEBA

For those full-time, eligible employees (as defined in personnel policy) who are offered and enroll in one of the medical plans offered in Part 1 of this Appendix, the City shall contribute the monthly amounts as established below:

	HealthFirst® 250	Regence High Deductible	Kaiser 200	Kaiser High Deductible
Employee Only	35.00	100.00	30.00	50.00
Employee/Spouse	55.00	200.00	60.00	100.00
Employee/Spouse/1 Dependent	75.00	300.00	65.00	150.00
Employee/Spouse/2 (or more) Dependents	80.00	400.00	80.00	200.00
Employee + 1 Dependent	55.00	200.00	60.00	100.00
Employee + 2 (or more) Dependents	75.00	300.00	65.00	150.00

Part 4: Well City Incentive Program

For those eligible employees who are offered and enroll in medical insurance plan identified in Part 1 of this Appendix.

The City participates in the AWC Well City Wellness Program. Each year AWC awards a discount off medical premiums for cities that participate and receive the Wellness Award. The City encourages employees to participate in wellness activity throughout the year to promote health and wellness. Those employees who are enrolled on an AWC medical insurance plan through the City as of December 31 of the year for which the Well City award is based will be eligible for a wellness incentive bonus to be deposited to their established HRA VEBA account. (For example, an employee enrolled in AWC medical insurance on December 31, 2021, is eligible for the incentive paid in 2022 provided that the City earns the Well City Award.)

The City shall deposit \$100 for each eligible employee as described above on an annual basis. Well City Incentive payments will be paid to employees who remain employed on the day the payment is paid.

ORDINANCE NO. 010-19

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ESTABLISHING A COLA INCREASE EFFECTIVE MARCH 17, 2019, AND CHANGING BENEFITS OFFERED FOR NON-UNION REPRESENTED EMPLOYEES CLASSIFIED AS FLSA NON-EXEMPT AND CLASSIFIED AS FLSA EXECUTIVE EXEMPT EFFECTIVE APRIL 2019; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orchard has established certain employment benefits for non-union employees; and

WHEREAS, the City Council deems it in the best interest of the City and City employees to periodically review and update employment wages and benefits, and, in so doing, has determined it is appropriate to adjust the established rates of pay for non-union employees by providing a cost of living adjustment and to adjust certain benefits; now, therefore,

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

SECTION 1. All employees covered by this Ordinance shall be classified and compensated in accordance with the City's biennial budget.

SECTION 2. Effective March 17, 2019 the rates of pay for all Non-Union Represented Employees classified as FLSA Non-Exempt and Executive Exempt shall be increased by one and five hundredths percent (1.05%).

SECTION 3. Effective April payroll, all benefits listed in Appendix A, attached, will be adjusted for all Non-Union Represented Employees classified as FLSA Non-Exempt and Executive Exempt only.

SECTION 4. This ordinance shall not change or limit other benefits not listed that covered employees currently have though their employment with the City.

SECTION 5. 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 6. Publication. This Ordinance shall be published by an approved summary consisting of the title.

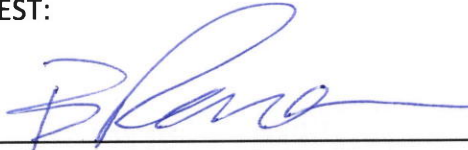
SECTION 7. Effective Date. This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

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 26th day of February 2019.



Robert Putaansuu, Mayor

ATTEST:



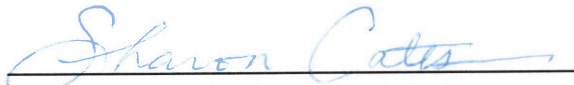
Brandy Rinearson, MMC, City Clerk

SPONSOR:



Shawn Cucciardi, Councilmember

APPROVED AS TO FORM:



Sharon Cates, City Attorney



PUBLISHED: March 8, 2019
EFFECTIVE DATE: March 13, 2019

APPENDIX "A"

NON-UNION REPRESENTED EMPLOYEES CLASSIFIED AS FLSA NON-EXEMPT AND CLASSIFIED AS FLSA EXECUTIVE EXEMPT

Medical Benefits:

MEDICAL BENEFITS FOR PART-TIME EMPLOYEES -Part-time employees, the Employer will pay 50% of the medical insurance premium as specified above for the employee only if the employee elects to pay 50% of the premium by payroll deduction. The employee may elect to purchase medical insurance coverage for their spouse and/or dependents at their own expense by payroll deduction.

If an eligible full-time employee elects to waive the Employer medical coverage as provided and the related insurance companies involved allow for such practice, the employee shall be compensated Five hundred dollars (\$500) as a contribution to be determined as either a cash payment or a contribution to a HRA/VEBA account per month through the payroll process as a cost savings incentive. This cost savings incentive is only payable for those full months where the employee elects to waive coverage. Employees who participate may not be eligible to return to medical coverage until open enrollment periods as outlined by the insurance carrier. An eligible employee, for purposes of this paragraph, means a full-time employee.

Enrollment and eligibility for the Medical Incentive Program is subject to the total program max limit set at 12 participants city wide for the AWC sponsored health plans for 2019. Each year thereafter the City will determine the total program max limit and adjust appropriately.

Employees currently in the program will continue to remain unless they opt out. In the event, in an open enrollment period, the number of potential enrollees exceeds the available capacity, there will be a lottery for the available spots. Participants will not be unenrolled from their medical plan for the Medical Cost Savings until the City has verified that the employee is eligible to participate in the Medical Incentive Cost Savings program.

HRA/VEBA:

For those full-time eligible employees who are offered and enroll in the AWC Health First 250 or Kaiser Permanente plans:

The employer shall establish and enroll employees in an HRA/VEBA account starting with their first covered month. The employee shall be responsible for all fees charged by HRA/VEBA for his/her respective account. The employer shall deposit for those employees that meet the criteria above, on a monthly basis, amounts as established below:

VEBA Contributions per month			
	2019	2020	2021
Health First 250			
Employee Only	\$ 15	\$ 25	\$ 35
Emp/Spouse	\$ 25	\$ 40	\$ 55
Employee Spouse /1 Dependent	\$ 35	\$ 55	\$ 75
Employee Spouse/ 2 Dependent +	\$ 40	\$ 60	\$ 80
Employee and 1 Dependent	\$ -	\$ 10	\$ 20
Employee and 2 Dependents	\$ -	\$ 15	\$ 30
Employee and 3 Dependents	\$ -	\$ 15	\$ 30
Kaiser Permanente \$20 Co-Pay/\$200 Deductible			
Employee Only	\$ 20	\$ 25	\$ 30
Emp/Spouse	\$ 35	\$ 45	\$ 60
Employee Spouse /1 Dependent	\$ 35	\$ 50	\$ 65
Employee Spouse/ 2 Dependent +	\$ 40	\$ 60	\$ 80
Employee and 1 Dependent	\$ 10	\$ 20	\$ 30
Employee and 2 Dependents	\$ 10	\$ 20	\$ 30
Employee and 3 Dependents	\$ -	\$ 10	\$ 20

Well City Incentive Program:

For those full-time eligible employees who are offered and enroll in the AWC Health First 250 or Kaiser Permanente plans:

The City participates in the AWC Well City Wellness Program. Each year AWC awards a discount off medical premiums for cities that participate and receive the Wellness Award. The City encourages employees to participate in wellness activity throughout the year to promote health and wellness. Those employees who are enrolled in the AWC Health First 250 or Kaiser Permanente plans during January 1st of the awarded year will be eligible for a wellness incentive bonus to be deposited to their established HRA/VEBA accounts. If an employee doesn't have an HRA/VEBA account already established, the employer shall establish and enroll said employee in an HRA/VEBA of the City's choosing. The employee shall be responsible for all fees charged by HRA/VEBA for his/her respective account.

The employer shall deposit \$100 for each eligible employee as described above on an annual basis.

Employee Premiums for AWC Health First 250 and Kaiser Permanente

Full-time employees shall be responsible for paying a portion of the total monthly premium for the subject medical plan by payroll deduction. The employees' share of the monthly premium shall be based on a numeric percentage of the total cost of the monthly premium for the subject plan (including the cost to insure dependents, if applicable).

The monthly dollar amount employees are required to pay for each of the subject medical plans will be calculated using the employee premium percentage (as represented by the table) multiplied by the medical premium per year:

The City reserves the right to increase the employee's share of the cost for health insurance as determined appropriate in its discretion.

AWC Health First 250	2019 Employee Premium \$/Month	2019 Employee Premium %	2020 Employee Premium %	2021 Employee Premium %
Employee only	\$59.46	8%	9%	10%
Employee and Spouse	\$119.41	8%	9%	10%
Employee and Spouse and 1 Dependent	\$148.95	8%	9%	10%
Employee and Spouse and 2 Dependent +	\$173.37	8%	9%	10%
Employee and 1 Dependent	\$88.99	8%	9%	10%
Employee and 2 Dependents	\$113.41	8%	9%	10%
Employee and 3 Dependents	\$113.41	8%	9%	10%

Kaiser Permanente \$20 copay/\$200 deductible	2019 Employee Premium \$/Month	2019 Employee Premium %	2020 Employee Premium %	2021 Employee Premium %
Employee only	\$48.62	8%	9%	10%
Employee and Spouse	\$96.44	8%	9%	10%
Employee and Spouse and 1 Dependent	\$120.84	8%	9%	10%
Employee and Spouse and 2 Dependent +	\$145.23	8%	9%	10%
Employee and 1 Dependent	\$73.02	8%	9%	10%
Employee and 2 Dependents	\$97.42	8%	9%	10%
Employee and 3 Dependents	\$97.42	8%	9%	10%

**NOTICE OF CITY OF PORT ORCHARD
ORDINANCE**

The following is a summary of an Ordinance approved by the Port Orchard City Council at their regular Council meeting held February 27, 2019.

ORDINANCE NO. 010-19

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON,
ESTABLISHING A COLA INCREASE EFFECTIVE MARCH 17, 2019, AND
CHANGING BENEFITS OFFERED FOR NON-UNION REPRESENTED
EMPLOYEES CLASSIFIED AS FLSA NON-EXEMPT AND CLASSIFIED AS
FLSA EXECUTIVE EXEMPT EFFECTIVE APRIL 2019; PROVIDING FOR
SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.**

Copies of Ordinance No. 010-19 are available for review at the office of the City Clerk of the City of Port Orchard. Upon written request, a statement of the full text of the Ordinance will be mailed to any interested person without charge. Thirty days after publication, copies of Ordinance No. 010-19 will be provided at a nominal charge.

City of Port Orchard

Brandy Rinearson
City Clerk

Published: Friday, March 8, 2019

ORDINANCE NO. 026-19

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, REVISING ORDINANCE NO. 010-19 AND CLARIFYING BENEFITS OFFERED FOR NON-UNION EMPLOYEES; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orchard has established certain employment benefits for non-union employees; and

WHEREAS, the City Council recognizes the importance of a healthy workforce and encourages all employees to participate in the City's wellness efforts; and

WHEREAS, the Well City incentive benefit, adopted as Appendix "A" of Ordinance No. 010-19 excluded part-time employees; and

WHEREAS, Section 2 and the title of Appendix "A" of Ordinance No. 010-19 inadvertently excluded FLSA Exempt employees under classifications other than "Executive"; and

WHEREAS, the City Council has determined that Appendix "A" of Ordinance No. 010-19 would benefit from some clarification; now, therefore,

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

SECTION 1. Section 2 of Ordinance No. 010-19 shall be revised for clarification of intent to read: Effective March 17, 2019 the rates of pay for all non-union employees shall be increased by one and five hundredths percent (1.05%).

SECTION 2. Section 3 of Ordinance No. 010-19 is repealed and all benefits listed in Appendix A, attached, will be effective for all non-union employees upon the effective date of this ordinance as provided for in Section 6.

SECTION 3. This ordinance shall not change or limit other benefits not listed that covered employees currently have through their employment with the City.

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 23 day of July 2019.



Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

SPONSOR:

John Clauson, Councilmember

APPROVED AS TO FORM:

Sharon Cates, City Attorney

PUBLISHED: August 2, 2019

EFFECTIVE DATE: August 7, 2019

APPENDIX "A"

NON-UNION EMPLOYEES

Medical Benefits:

MEDICAL BENEFITS FOR PART-TIME EMPLOYEES -Part-time employees, as defined in personnel policies, the Employer will pay 50% of the medical insurance premium for the employee only if the employee elects to pay 50% of the premium by payroll deduction. The employee may elect to purchase medical insurance coverage for their spouse and/or dependents at their own expense by payroll deduction.

If an eligible full-time employee, as defined in personnel policies, elects to waive the Employer medical coverage as provided for in the City's personnel policies, the employee shall be compensated Five hundred dollars (\$500) as a contribution to be determined as either a cash payment or a contribution to a HRA/VEBA account per month (as determined by the applicable affected group) through the payroll process as a cost savings incentive. This cost savings incentive is only payable for those full months where the employee elects to waive coverage. Employees who participate may not be eligible to return to medical coverage until open enrollment periods as outlined by the insurance carrier. An eligible employee, for purposes of this paragraph, means a full-time employee.

Enrollment and eligibility for the Medical Incentive Program is subject to the total program max limit set at 12 participants city wide for the AWC sponsored health plans for 2019. Each year thereafter the City will determine the total program max limit and adjust appropriately.

Employees currently in the program will continue to remain unless they opt out. In the event, in an open enrollment period, the number of potential enrollees exceeds the available capacity, there will be a lottery for the available spots. Participants will not be unenrolled from their medical plan for the Medical Cost Savings until the City has verified that the employee is eligible to participate in the Medical Incentive Cost Savings program.

HRA VEBA:

For those full-time, as defined in personnel policies, eligible employees who are offered and enroll in the AWC Health First 250 or Kaiser Permanente plans:

The employer shall establish and enroll employees in an HRA/VEBA account starting with their first covered month. The employee shall be responsible for all fees charged by HRA/VEBA for his/her respective account. The employer shall deposit for those employees that meet the criteria above, on a monthly basis, amounts as established below:

VEBA Contributions per month			
Health First 250	2019	2020	2021
Employee Only	\$15	\$25	\$35
Emp/Spouse	\$25	\$40	\$55
Employee Spouse / 1 Dependent	\$35	\$55	\$75
Employee Spouse / 2 Dependent +	\$40	\$60	\$80
Employee and 1 Dependent	0	\$10	\$20
Employee and 2 Dependents	0	\$15	\$30
Employee and 3 Dependents	0	\$15	\$30

Kaiser Permanente \$20 Co-pay/\$200 Deductible	2019	2020	2021
Employee Only	\$20	\$25	\$30
Emp/Spouse	\$35	\$45	\$60
Employee Spouse / 1 Dependent	\$35	\$50	\$65
Employee Spouse / 2 Dependent +	\$40	\$60	\$80
Employee and 1 Dependent	\$10	\$20	\$30
Employee and 2 Dependents	\$10	\$20	\$30
Employee and 3 Dependents	0	\$10	\$20

Well City Incentive Program:

For those eligible employees who are offered and enroll in the AWC Health First 250 or Kaiser Permanente plans:

The City participates in the AWC Well City Wellness Program. Each year AWC awards a discount off medical premiums for cities that participate and receive the Wellness Award. The City encourages employees to participate in wellness activity throughout the year to promote health and wellness. Those employees who are enrolled in the AWC Health First 250 or Kaiser Permanente plans during January 1st of the awarded year will be eligible for a wellness incentive bonus to be deposited to their established HRA/VEBA accounts. If an employee doesn't have an HRA/VEBA account already established, the employer shall establish and enroll said employee in an HRA/VEBA of the City's choosing. The employee shall be responsible for all fees charged by HRA/VEBA for his/her respective account.

The employer shall deposit \$100 for each eligible employee as described above on an annual basis.

Employee Premiums for AWC Health First 250 and Kaiser Permanente

Full-time employees as defined in the City’s personnel policies shall be responsible for paying a portion of the total monthly premium for the subject medical plan by payroll deduction. The employees’ share of the monthly premium shall be based on a numeric percentage of the total cost of the monthly premium for the subject plan (including the cost to insure dependents, if applicable).

The monthly dollar amount employees are required to pay for each of the subject medical plans will be calculated using the employee premium percentage (as represented by the table) multiplied by the medical premium per year:

The City reserves the right to increase the employee’s share of the cost for health insurance as determined appropriate in its discretion.

AWC Health First 250	2019 Employee Premium \$/Month	2019 Employee Premium %	2020 Employee Premium %	2021 Employee Premium %
Employee only	\$59.46	8%	9%	10%
Employee and Spouse	\$119.41	8%	9%	10%
Employee and Spouse and 1 Dependent	\$148.95	8%	9%	10%
Employee and Spouse and 2 Dependent +	\$173.37	8%	9%	10%
Employee and 1 Dependent	\$88.99	8%	9%	10%
Employee and 2 Dependents	\$113.41	8%	9%	10%
Employee and 3 Dependents	\$113.41	8%	9%	10%

Kaiser Permanente \$20 copay/\$200 deductible	2019 Employee Premium \$/Month	2019 Employee Premium %	2020 Employee Premium %	2021 Employee Premium %
Employee only	\$48.62	8%	9%	10%
Employee and Spouse	\$96.44	8%	9%	10%
Employee and Spouse and 1 Dependent	\$120.84	8%	9%	10%
Employee and Spouse and 2 Dependent +	\$145.23	8%	9%	10%
Employee and 1 Dependent	\$73.02	8%	9%	10%
Employee and 2 Dependents	\$97.42	8%	9%	10%
Employee and 3 Dependents	\$97.42	8%	9%	10%

Employees working less than 30 hours a week will share in the cost of their insurance in accordance with the City’s personnel policies.

**NOTICE OF CITY OF PORT ORCHARD
ORDINANCE**

The following is a summary of an Ordinance approved by the Port Orchard City Council at their regular Council meeting held July 23, 2019.

ORDINANCE NO. 026-19

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON,
REVISING ORDINANCE NO. 010-19 AND CLARIFYING BENEFITS
OFFERED FOR NON-UNION EMPLOYEES; PROVIDING FOR
SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE
DATE.**

Copies of Ordinance No. 026-19 are available for review at the office of the City Clerk of the City of Port Orchard. Upon written request, a statement of the full text of the Ordinance will be mailed to any interested person without charge. Thirty days after publication, copies of Ordinance No. 026-19 will be provided at a nominal charge.

City of Port Orchard

Brandy Rinearson
City Clerk

Published: Friday, August 2, 2019

ORDINANCE NO. 045-19

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, PROVIDING ADDITIONAL BENEFITS OFFERED FOR NON-UNION EMPLOYEES; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orchard has established certain employment benefits for non-union employees; and

WHEREAS, the City Council recognizes the importance of a healthy workforce and encourages all employees to participate in the City's wellness efforts; and

WHEREAS, the City recognizes that the insurance needs of each employee vary from employee to employee; and

WHEREAS, the Association of Washington Cities (AWC) offered a high deductible medical insurance option under both Regence and Kaiser Permanente plans; and

WHEREAS, the City Council has determined offering the high deductible plan option to non-union employees is in the City's best interest; now, therefore,

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

SECTION 1. Effective January 1, 2020, non-union represented employees will be eligible to enroll on the AWC Regence High Deductible Medical Plan or the AWC Kaiser Permanente High Deductible Medical Plan.

SECTION 2. Effective January 1, 2020, employees choosing to enroll on a high deductible medical plan will receive benefits as provided for in Appendix A, attached.

SECTION 3. The benefits provided under Ordinance No. 026-19, Appendix A, related to the part-time employees as defined in personnel policies will remain in effect, requiring a larger employee share of the medical insurance premium even if an employee selects one of the high deductible medical plans offered by the City.


SECTION 4. This ordinance shall not change or limit other benefits not listed that covered employees currently have through their employment with the City, including but not limited to those provided in Ordinance No. 010-19 and Ordinance No. 026-19.

SECTION 5. 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 6. Publication. This Ordinance shall be published by an approved summary consisting of the title.

SECTION 7. 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 22nd day of October 2019.




Robert Putaansuu, Mayor

ATTEST:


Brandy Rinearson, MMC, City Clerk

SPONSOR:


John Clauson, Councilmember

APPROVED AS TO FORM:


Sharon Cates, City Attorney



PUBLISHED: November 1, 2019
EFFECTIVE DATE: November 6, 2019

APPENDIX A

For those full-time eligible employees, as defined in personnel policies, who are offered and enrolled in the AWC Regence High Deductible medical plan or the AWC Kaiser Permanente High Deductible medical plan:

The employer shall establish and enroll employees in an HRA VEBA account starting with their first covered month. The employee shall be responsible for all fees charged by HRA VEBA for his/her respective account. The employer shall deposit for those employees that meet the criteria above, on a monthly basis, amounts as established below.

HRA VEBA Contributions per month		
Regence High Deductible Medical Plan	2020	2021
Employee Only	\$100	\$100
Emp/Spouse	\$200	\$200
Employee Spouse / 1 Dependent	\$300	\$300
Employee Spouse / 2 Dependent +	\$400	\$400
Employee and 1 Dependent	\$200	\$200
Employee and 2 Dependents	\$300	\$300
Employee and 3 Dependents	\$300	\$300

Kaiser Permanente High Deductible Medical Plan	2020	2021
Employee Only	\$65	\$65
Emp/Spouse	\$150	\$150
Employee Spouse / 1 Dependent	\$180	\$180
Employee Spouse / 2 Dependent +	\$215	\$215
Employee and 1 Dependent	\$100	\$100
Employee and 2 Dependents	\$125	\$125
Employee and 3 Dependents	\$115	\$115

Well City Incentive Program:

For those eligible employees who are offered and enroll in the AWC Regence High Deductible medical plan or the AWC Kaiser Permanente High Deductible medical plan:

The City participates in the AWC Well City Wellness Program. Each year AWC awards a discount off medical premiums for cities that participate and receive the Wellness Award. The City encourages employees to participate in wellness activity throughout the year to promote health and wellness. Those employees who are enrolled in the AWC Regence High Deductible medical plan or the AWC Kaiser Permanente High Deductible medical plans during January 1st of the awarded year will be eligible for a wellness incentive bonus to be deposited to their established HRA VEBA accounts. If an employee doesn't have an HRA VEBA account already established, the employer shall establish and enroll said employee in an HRA VEBA of the City's choosing. The employee shall be responsible for all fees charged by HRA VEBA for his/her respective account.

The employer shall deposit \$100 for each eligible employee as described above on an annual basis.

Employee Premiums for AWC Regence and Kaiser Permanente High Deductible Medical Plans

Full-time employees, as defined in the City's personnel policies, who choose to enroll on one of high deductible medical plans offered by the City will not be required to pay a portion of the insurance premium toward such coverage. The employee, if they qualify and attest to their eligibility for such an account, will be able to make a payroll deduction contribution into a Health Savings Account (HSA) offered by a vendor chosen by the City.

Employees working less than 30 hours a week will share in the cost of their insurance in accordance with the City's personnel policies.

AWC Regence Medical Plans

Proposal to add High Deductible

HealthFirst 250	# Enrolled	Employee Share	City Share	HRA VEBA	Total Cost To City	Employee Share	AWC Regence HDHP	HRA VEBA	Total Cost To City	Monthly Savings to City
Employee Only	6	66.89	676.34	25.00	701.34	0	516.83	100.00	616.83	84.51
Employee/Spouse	12	134.34	1,358.35	40.00	1,398.35	0	1,040.03	200.00	1,240.03	158.32
EE/Sp/1 Dep	6	167.57	1,694.33	55.00	1,749.33	0	1,302.38	300.00	1,602.38	146.95
EE/Sp/2 Dep	12	195.04	1,972.09	60.00	2,032.09	0	1,517.18	400.00	1,917.18	114.91
EE + 1 Dep	3	100.12	1,012.32	10.00	1,022.32	0	779.18	200.00	979.18	43.14
EE + 2 Dep	2	127.59	1,290.08	15.00	1,305.08	0	993.98	300.00	1,293.98	11.10
EE + 3 Dep	TBD	127.59	1,290.08	15.00	1,305.08	0	993.98	300.00	1,293.98	11.10

AWC Kaiser Medical Plans

Proposal to add High Deductible

Kaiser 200	# Enrolled	Employee Share	City Share	HRA VEBA	Total Cost To City	Employee Share	AWC Kaiser HDHP	HRA VEBA	Total Cost To City	Monthly Savings (Cost) to City	City Savings over Health First 250
Employee Only	5	59.63	602.88	25.00	627.88	0	551.21	65.00	616.21	11.66	85.13
Employee/Spouse	2	118.26	1,195.70	45.00	1,240.70	0	1,091.36	150.00	1,241.36	(0.67)	156.99
EE/Sp/1 Dep	1	148.17	1,498.21	50.00	1,548.21	0	1,367.38	180.00	1,547.38	0.82	201.95
EE/Sp/2 Dep	5	178.09	1,800.72	60.00	1,860.72	0	1,643.40	215.00	1,858.40	2.31	173.68
EE + 1 Dep	1	89.54	905.39	20.00	925.39	0	827.23	100.00	927.23	(1.85)	95.09
EE + 2 Dep	1	119.46	1,207.90	20.00	1,227.90	0	1,103.25	125.00	1,228.25	(0.36)	76.83
EE + 3 Dep	TBD	119.46	1,207.90	10.00	1,217.90	0	1,103.25	115.00	1,218.25	(0.36)	86.83

Qualifying Employees enrolled on a High Deductible Health Plan could open a Health Savings Account (HSA) for individual contributions up to IRS Maximum (\$3,550 individual, \$7,100 family, plus over age 55 catch up of \$1,000 in 2020)

2020 Kaiser Premiums are approximate. AWC has announced percentage increase but not actual 2020 calculations for Kaiser.

**NOTICE OF CITY OF PORT ORCHARD
ORDINANCE**

The following is a summary of an Ordinance approved by the Port Orchard City Council at their regular Council meeting held October 22, 2019.

ORDINANCE NO. 045-19

**AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON,
PROVIDING ADDITIONAL BENEFITS OFFERED FOR NON-UNION
EMPLOYEES; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND
SETTING AN EFFECTIVE DATE.**

Copies of Ordinance No. 045-19 are available for review at the office of the City Clerk of the City of Port Orchard. Upon written request, a statement of the full text of the Ordinance will be mailed to any interested person without charge. Thirty days after publication, copies of Ordinance No. 045-19 will be provided at a nominal charge.

City of Port Orchard

Brandy Rinearson
City Clerk

Published: Friday, November 1, 2019

Introduced by: HR Coordinator
Requested by: HR Coordinator
Drafted by: HR Coordinator
Introduced: January 27, 2009
Adopted: January 27, 2009

RESOLUTION NO. 003-09

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON,
ESTABLISHING CERTAIN EMPLOYEE BENEFITS FOR A NON UNION
REPRESENTED FULL TIME MAYOR CLASSIFIED AS FLSA EXEMPT**

WHEREAS, the City has designated categories of employees as either exempt or not-exempt for purposes of federal and state wage and hour laws. Not-exempt employees are entitled to overtime pay under the specific provisions of federal and state laws. Exempt staff is excluded from specific provisions of federal and state wage and hour laws, and

WHEREAS, it is the desire of the City to provide certain employment benefits to the full-time, non-union Mayor, hereinafter referred to as "Mayor"; and

WHEREAS, the City Council deems it in the best interest of the City and city employees to document such employment benefits, now therefore,

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, HEREBY
RESOLVES AS FOLLOWS:**

SECTION 1. SALARY PAY

1. Effective December 21, 2008 the rate of pay set forth by the City shall be \$29.88 an hour or \$2,390.40 bi-weekly salary. This hourly rate of pay will be reviewed again in June 2009 and may be changed based on the City's incoming revenue.

SECTION 2: HEALTH AND WELFARE

1. Medical Coverage – for full-time Mayor (effective January 1, 2009), the Employer will provide health insurance coverage through the Association of Washington Cities Plan B, administered by Regence BlueShield or Group Health Co-Pay Plan 1 for Mayor, spouse, and qualified dependents.
2. Dental Coverage – for full-time Mayor, the Employer shall provide dental insurance coverage through the Association of Washington Cities, Plan A, administered by Washington Dental Service or equivalent plans, for the Mayor, spouse, and qualified dependents.

3. Vision Coverage – for full-time Mayor, the Employer shall provide vision insurance coverage through the Association of Washington Cities, Vision Service Plan or equivalent plans, for the Mayor, spouse, and qualified dependents.
4. The Employer shall also have the right to purchase or provide access to equal coverage through another insurer or self-insure these benefits.
5. Mayor shall pay each month a portion of the above premiums as follows:

AWC Regence Plan:

Employee Only.....	\$30.00
One Dependent.....	\$62.00
Two Dependents.....	\$76.00
Three or More Dependents....	\$89.00

Group Health Plan:

Employee Only.....	\$20.00
One Dependent.....	\$44.00
Two Dependents.....	\$61.00
Three or More Dependents....	\$75.00

6. The employer shall self insure or purchase a \$50,000 life insurance policy for the Mayor (subscriber) only.
7. In order to be eligible to receive health and welfare benefits, the Mayor must meet the minimum hours of work per month, if any, required by the plan provider.

SECTION 3. VACATIONS

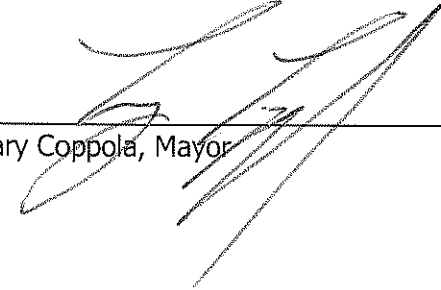
1. The Mayor would not receive a leave bank (vacation, sick, personal holidays) to use; however, he/she would be paid an annual salary and would be on the City's payroll regardless of the times not worked that are spent away from the office for personal reasons (i.e. vacation and/or sick).

SECTION 4. HOLIDAYS


1. The Mayor shall be entitled to observe the following holidays with pay: the first day of January, commonly called New Year's Day; the third Monday in January to honor Martin Luther King; the third Monday of February, being celebrated as President's Day; the last Monday of May, commonly known as Memorial Day; the fourth day of July, being the anniversary of the Declaration of Independence; the first Monday in September, to be known as Labor Day, the eleventh day of November, to be known as Veteran's Day; the fourth Thursday of November, to be known as Thanksgiving Day; the day after Thanksgiving; the twenty-fifth day of December, commonly called Christmas Day.
2. Whenever any legal holiday falls upon a Sunday, the following Monday shall be a legal holiday.
3. Whenever a legal holiday falls on a Saturday, another day will be designated by executive order by the Mayor, or he may designate two (2) days with a portion of the employees observing one (1) day and the remainder the other day, to permit continued operation of vital functions.

SECTION 5. If any section, subsection, paragraph, sentence, clause, or phrase of this resolution is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this resolution.

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 27th day of January 2009.



Lary Coppola, Mayor

ATTEST:


Patricia J. Kirkpatrick, City Clerk



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.:	<u>Business Item 7E</u>	Meeting Date:	<u>December 14, 2021</u>
Subject:	<u>Adoption of an Ordinance Establishing a Personal Vehicle Allowance for the Mayor of \$500 per Month</u>	Prepared by:	<u>Charlotte Archer City Attorney</u>
		Atty Routing No.:	<u>366922-0008 – HR</u>
		Atty Review Date:	<u>December 8, 2021</u>

Summary: The Mayor frequently utilizes a personal vehicle for City business. This includes frequent, and often lengthy, trips for outreach to the community, attendance of meetings with regional partners, offering testimony to state legislators and agencies, and lobbying efforts on behalf of the City, and trips other similar public purposes. A personal vehicle allowance serves to reimburse the Mayor for the actual costs of vehicle use and maintenance due to the use of a personal vehicle for these approved public purposes.

By state statute, the Council sets and may modify the Mayor's compensation, and also maintains control over amounts paid to employees in reimbursement for use of personal vehicles. See RCW 35A.12.070; RCW 42.24.090. Pursuant to these authorities, a proposal to establish a \$500 monthly vehicle allowance for the Mayor is before the City Council for consideration. \$500 is estimated as a reasonable amount to offset the costs associated with necessary travel for a public purpose and is consistent with similar policies at neighboring public agencies in the County.

Recommendation: Staff recommends adoption of an Ordinance authorizing a \$500 monthly personal vehicle allowance for the Mayor, effective January 1, 2022.

Relationship to Comprehensive Plan: None.

Motion for consideration: I move to adopt an Ordinance establishing a \$500 monthly personal vehicle allowance for the Mayor.

Fiscal Impact: The fiscal impact is consistent with the 2021-2022 biennial budget.

Alternatives: Not approve this request and provide alternative guidance.

Attachment: Ordinance and Exhibit A (proposed policy) thereto.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO BENEFITS FOR MAYOR; ESTABLISHING A PERSONAL VEHICLE ALLOWANCE FOR MAYOR OF \$500 PER MONTH; PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orchard maintains policies regarding employee benefits and reimbursement of expenses incurred in the performance of City business; and

WHEREAS, pursuant to RCW 35A.12.070, the City Council shall fix and may revise by ordinance the compensation attaching to the office of Mayor; and

WHEREAS, pursuant to RCW 42.24.090, the City Council may prescribe amounts to be paid to the Mayor in reimbursement for the Mayor's use of a personal vehicle in connection with officially assigned duties and other travel for approved public purposes; and

WHEREAS, the City's Personnel Policies manual, as adopted by the City Council and amended by the Mayor pursuant to a delegation of authority from the City Council, includes provisions governing the use of vehicles for City business and reimbursement for expenses related thereto; and

WHEREAS, due to the extensive travel required of the Mayor in effectuation of the role of Mayor for the City of Port Orchard, including but not limited to participation in regional organizations on behalf of the City and community outreach, the City Council finds it in the best interest of the City to provide a vehicle allowance to the Mayor for the use of a personal vehicle for these approved public purposes; and

WHEREAS, the City Council finds the amount of \$500 per month to be an amount commensurate with the actual expenses incurred in mileage and vehicle maintenance for these purposes; now, therefore,

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

SECTION 1. Effective January 1, 2022, the Mayor shall receive a monthly personal vehicle use allowance of \$500. The City Council adopts new personnel policy 9.8(O), *Automobile Allowance for Mayor*, to govern this allowance, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference.

SECTION 2. This ordinance shall not change or limit other benefits not listed herein that are afforded to the Mayor through their employment with the City.

SECTION 3. 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 4. Publication. This Ordinance shall be published by an approved summary consisting of the title.

SECTION 5. Effective Date. This ordinance shall be in full force and effect five (5) days after publication as required 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 14th day of December 2021.

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:

9.8 EMPLOYEE REIMBURSEMENT OF EXPENSES

O. Automobile Allowance for Mayor

Subject to available fund balances, the Mayor is authorized to receive a \$500.00 monthly vehicle allowance, in addition to the salary specified in the City's budget or an amount that is provided for in an employment contract. Forms accepting the vehicle allowance must be on file with Human Resources prior to issuance of the allowance.

The role of Mayor requires frequent travel to effectuate the duties of the position. This allowance is in lieu of reimbursement for expenses incurred due to the Mayor's frequent use of a personal vehicle for City business purposes.



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.:	<u>Business Item 7F</u>	Meeting Date:	<u>December 14, 2021</u>
Subject:	<u>Adoption of an Ordinance Repealing</u>	Prepared by:	<u>Debbie Lund</u>
	<u>Ordinance No. 632 and Amending Port</u>		<u>HR Manager</u>
	<u>Orchard Municipal Code Chapter 2.28</u>	Atty Routing No.:	<u>366922-0008 - HR</u>
	<u>Relating to Employment Definitions and</u>	Atty Review Date:	<u>December 9, 2021</u>
	<u>Describing Various Forms of Employee</u>		
	<u>Leaves</u>		

Summary: The Port Orchard City Council has been passing Ordinances relating to employee definitions and leave types since at least 1956. The then-applicable rules were codified as Port Orchard Municipal Code Chapter 2.28 in 1998. The City Council adopted an overhaul of its personnel policy manual in 2010, including policies pertaining to hours of work and leave. While the Council retained its authority to adopt new policies, the Council delegated authority to the Mayor to amend existing personnel policies in 2011, to streamline the processes.

Staff is proposing modifications to the language of POMC 2.28 to:

- 1) clarify for the reader the location of the applicable types of leaves,
- 2) provide a definition for the term “appointive authority” used in POMC 2.28,
- 3) enhance the definition of “full-time employee” used in POMC 2.28, and
- 4) provide for payment of overtime when an employee is paid for more than 40 hours in a work week, not just 40 hours worked in a week.

Recommendation: Staff recommends the Council approve the Ordinance as presented.

Relationship to Comprehensive Plan: n/a

Motion for consideration: I move to adopt Ordinance No. xx-21 which repeals Ordinance 632 and amends Chapter 2.28 of the Port Orchard Municipal Code related to employment definitions and describing various forms of employee leaves.

Fiscal Impact: None

Alternatives: Not approve this request and provide alternative guidance.

Attachments: Ordinance; Ordinance 632; red-lined version of Chapter 2.28 POMC (for information only).

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, REPEALING ORDINANCE 632, AND AMENDING CHAPTER 2.28 POMC, WHICH PROVIDES EMPLOYMENT DEFINITIONS AND DESCRIBES EMPLOYEE VACATIONS AND OTHER FORMS OF LEAVE PROVIDING FOR SEVERABILITY AND PUBLICATION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, on August 27, 1956, the City Council passed Ordinance 632 which created definitions related to employment and established various types of leave programs; and

WHEREAS, from time to time, including May 16, 1963, November 22, 1965, January 25, 1971, April 23, 1973, December 22, 1975, July 9, 1976, and August 27, 1979, the subjects contained within Ordinance 632 were amended; and

WHEREAS, earlier ordinances related to these subjects were repealed by the City Council via Ordinance 1467 on August 14, 1989, and

WHEREAS, Ordinance 632 was inadvertently left off the list of earlier ordinances repealed by the passage of Ordinance 1467, but was constructively repealed; and

WHEREAS, on October 26, 1998, the City Council approved Ordinance 1740 which repealed Ordinance 1467, and codified those subjects as Chapter 2.28 of the Port Orchard Municipal Code (POMC); and

WHEREAS, on October 12, 2010, the City Council adopted via Resolution 034-10 a personnel policies and procedures manual; and

WHEREAS, new personnel policies added to the manual are approved by the City Council; and

WHEREAS, on February 8, 2011, the City Council adopted Resolution 007-11 delegating authority to the Mayor to amend existing City personnel policies and procedures in the manual; and

WHEREAS, City personnel policies and procedures contain references to vacation and other types of leaves also referenced at POMC Ch. 2.28; and

WHEREAS, staff prepared the amendments to POMC Ch. 2.28 in an effort to avoid any potential confusion between the adopted City personnel policies and the POMC, and to clarify the location of the prescribed benefits; and

WHEREAS, in order to aid in the processing of payroll and other related employment issues, this ordinance would alter the definition of “full-time employee” in the Code and a definition of appointive authority is proposed for addition to the municipal code; and

WHEREAS, in an effort to automate payroll processes and streamline timesheet review, this ordinance would change the application of overtime allowing for the determination of overtime to be 40 hours of paid time in a workweek, not necessarily 40 hours of “work” or “service performed” before overtime would be paid, allowing for a benefit greater than that required by the Fair Labor Standards Act (FLSA); and

WHEREAS, these amendments would align POMC Ch. 2.28 with existing Personnel Policy 3.2 wherein the Mayor has delegated authority to department directors to hire and terminate staff within each of the director’s respective departments; and

WHEREAS, the City Council finds adoption of these amendments to be in the best interest of the City, its employees and residents; now, therefore,

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

SECTION 1. Repealer. Ordinance 632 is hereby repealed.

SECTION 2. Amendment. Port Orchard Municipal Code Chapter 2.28 is hereby amended to read as follows:

2.28.010 Definitions. In construing the provisions of this chapter, the following definitions shall apply:

- (1) “Appointing authority” shall be the Mayor or designee.
- (2) A “full-time employee” is any person employed by the city who is scheduled to work forty (40) hours per week on a year-round basis;
- (3) A “part-time employee” is any person employed by the city for 20 or more hours but less than 40 hours per week but on a continuing basis;
- (4) An “intermittent temporary employee” is any person employed by the city for not to exceed six months duration and shall not be entitled to the benefits of this chapter. An “intermittent temporary employee” will be considered “full-time” or “part-time” (subdivision (1) or (2)) when his continuous service exceeds six months.

2.28.020 Accumulation of sick leave and vacation leave. All full-time and part-time employees shall be allowed to accumulate sick leave and vacation leave to the maximum amount as prescribed by personnel policy or labor agreement approved for their position classification.

2.28.030 Sick leave. All full-time and part-time employees shall be entitled to sick leave at a rate prescribed by the personnel policy or labor agreement approved for their position classification.

2.28.040 Vacation leave. All full-time and part-time employees shall earn vacation leave at a rate prescribed by the personnel policy or labor agreement approved for their position classification.

2.28.050 Holiday leave. All full-time and part-time employees shall be entitled to holidays as designated by the personnel policy or labor agreement approved for their position classification.

2.28.060 Overtime. Hours paid in excess of 40 hours per week will be compensated at one and one-half times the regular hourly rate, unless otherwise prescribed by personnel policy or labor agreement approved for their position classification.

2.28.070 Bereavement leave. All full-time and part-time employees shall be allowed to bereavement leave as prescribed by personnel policy or labor agreement approved for their position classification.

2.28.080 Civil leave. Civil leave may be allowed by the director of a department to permit any employee to serve as a member of the jury, or to exercise his/her other civil duties in compliance with state or federal statutes as prescribed by personnel policy or labor agreement approved for their position classification.

2.28.090 Military leave. All full-time and part-time employees may be granted military leave in compliance with state and federal statutes, as prescribed by personnel policy or labor agreement approved for their position classification.

2.28.100 Leave without pay. All full-time and part-time employees may be granted leave without pay at the discretion of the department director, or appointing authority, as prescribed personnel policy or labor agreement approved for their position classification.

2.28.110 Unauthorized absence. Unauthorized absence from duty for three consecutive working days shall constitute grounds for dismissal upon recommendation of the department director or the appointing authority.

2.28.120 State laws applicable. Nothing contained in this chapter shall be construed as an attempt to modify in any way the laws of the state of Washington relating to police relief and pension and/or the existing rules and regulations of the civil service commission pertaining to leaves of absence from the police department.

SECTION 3. Savings Clause. The ordinances and portions of resolution which are repealed by this Ordinance remain in force and effect until the effective date of this Ordinance. Such repeals must not be construed as affecting any existing right acquired under the ordinances and resolution repealed or amended, nor as affecting any proceeding instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor the administrative action taken thereunder. Notwithstanding the foregoing actions, obligations under such ordinances in effect on the effective date of this Ordinance continue in full force and effect, and no liability thereunder, civil or criminal, is in any way modified. Further, it is not the intention of these actions to reenact any ordinances or parts of ordinances previously repealed or amended, unless this Ordinance specifically states such intent to reenact such repealed or amended ordinances.

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 on January 1, 2022, 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 14th day of December 2021.

Robert Putansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

SPONSOR:

Charlotte A. Archer, City Attorney

John Clauson, Councilmember

PUBLISHED:

EFFECTIVE DATE:

ORIGINAL

ORDINANCE NO. 632

AN ORDINANCE RELATING TO HOLIDAYS, VACATIONS
AND SICK LEAVE FOR EMPLOYEES OF THE TOWN OF
PORT ORCHARD

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF PORT ORCHARD AS FOLLOWS:

Section 1. Definitions: In construing the provisions of the ordinance, the following definitions shall apply:

A. A full time employee means any persons employed by the Town of Port Orchard who devotes his full time to his job during working hours, on a year round basis.

B. A part time employee means any person employed by the Town of Port Orchard who devotes only a part of his time during working hours to the service for the Town or who spends full time during working hours for the Town, but is hired on the basis of less than year round work.

C. Saturdays, if worked, shall be considered to be a working day.

D. Holidays shall be observed as defined by Washington State Law, RCW 1.16.050 which reads as follows: "Legal Holidays. The following are legal holidays: Sunday; the first day of January, commonly called New Year's Day; the twenty-second day of February, being the anniversary of the birth of George Washington; the thirtieth day of May, commonly known as Memorial Day; the fourth day of July, being the anniversary of the Declaration of Independence; the first Monday in September, to be known as Labor Day; the eleventh day of November, to be known as Veterans' Day; the twenty-fifth day of December, commonly called Christmas Day; and any day designated by public proclamation of the chief executive of the state as a legal holiday, or as a day of thanksgiving.

E. Anything herein to the contrary notwithstanding, a department head shall have the right and authority to require one or more of the employees in his department to work on a holiday as herein defined. In such event, such employee or employees shall have the next succeeding day as a holiday.

Whenever any legal holiday, other than Sunday, falls upon a Sunday, the following Monday shall be a legal holiday. (1927 c 51 § 1; RRS § 61. Prior: 1988 p 107 § 1.)

Section 2. Vacations:

A. Each full time employee, after completing six calendar months of continuous employment, shall be entitled to vacation with pay as follows: One day per month, but not to exceed one calendar week. One additional day for each additional calendar month for service in excess of six months, providing, however, that no vacation shall exceed four calendar weeks.

B. For employees entitled to twelve working days or two calendar weeks' vacation, at least 6 consecutive of the twelve (or one calendar week) must be taken at one time, and remaining calendar week or 6 or less may be taken a day or more at a time, subject to approval of the department head.

C. Any full time employee who will have completed six calendar months or more of continuous employment shall receive upon leaving the employ of the Town vacation pay for any portion of vacation earned, but not taken, provided, however, that the pay shall not exceed twelve days or two calendar weeks' pay for any period of service.

D. Vacations may be taken at such time or times by eligible employees during the year as may be authorized by the head of the department of the Town in which they are employed.

E. Holidays observed during an employee's vacation period shall not be counted as vacation leave taken.

F. The vacation pay of all employees who are employed on a daily wage scale shall be paid on the same schedule for the vacation period as employee would have been paid for a regular week of work without overtime.

Section 3. Sick Leaves

A. All full time employees of the Town of Port Orchard shall be entitled to sick leave pay when they are incapacitated for the performance of their duties by reason of sickness or injury, or when through exposure to contagious diseases, the presence of the employee would jeopardize the health of others. Such sick leave shall be at the rate of one day for each calendar month of employment, and if not used, shall accumulate to a maximum of thirty working days.

B. Sick leave and vacation time shall be accumulated and recorded on a calendar year basis.

C. Sickness shall be reported at the beginning of any period of illness to the immediate supervisor, and within three days after returning to work, the employee shall give a written statement, explaining the nature of his sickness and submit a formal request for approval of leave so taken, which request, when approved by the department head, shall be filed in personnel file kept in the office of the department head.

D. A doctor's certificate will be furnished at the discretion of the department head when the sick leave extends over a period of three days.

E. Part time employees shall not be entitled to sick leave.

F. Employees shall be allowed up to three days emergency leave for death in the immediate family, upon approval and authorization of the department head. Immediate family shall include, however, only a father, mother, spouse or children of the employee.

G. Any employee found to have abused the sick leave privilege by falsification or misrepresentation may thereupon be subject to dismissal upon recommendation of the department head and at the discretion of the Town Council.

H. In case of injury or illness which is covered by industrial insurance, the amount of insurance payments will be deducted from the next regular pay received by the employee.

I. At the option of the employee, sickness in excess of the maximum number of days accrued may be charged to unused vacation.

Section 4. Civil Leaves

Any necessary leave may be allowed by the head of the department to permit any employee to serve as a member of the jury, or to exercise his other civil duties. Each employee who is granted such leave, and who, for the performance of the civil duties involved, received any compensation, shall be paid by the Town for the time he is absent, only in the amount of excess of his regular salary over the compensation so received.

Section 5. Military Leaves:

Leave not to exceed fourteen calendar days in any period of twelve consecutive months, over and above annual vacation shall be allowed any employee who is a member of any duly established National Guard or Reserve Corps unit. The employee will be paid for the period of the leave, less the amount of the base pay received by him for his active duty training, and proof of the amount and receipt of the base pay for such service shall be made in such manner and upon such certificate as the State Auditor of the State of Washington shall require.

Section 6. General

A. No leave without pay will be granted an employee until the employee

has first taken advantage of all his usable earned vacation credits, and such leave will not be granted for the purpose of the employee's gaining personal advantage or profit.

B. Unauthorized absence from duty for three consecutive working days shall constitute grounds for dismissal upon recommendation of the department head at the discretion of the Town Council.

Section 7.

Nothing contained in this ordinance shall be construed as an attempt to in any way modify the laws of the State of Washington relating to Firemen's Relief and Pensions and Police Relief and Pensions, and/or the existing rules and regulations of the Civil Service Commission pertaining to vacation and sick leave of the Police Department and the Fire Department.

Section 8.

This ordinance shall be in full force and effect 5 days from and after its passage, approval and publication in the official newspaper of the Town of Port Orchard.

PASSED AND APPROVED this ^{27th}~~28th~~ day of ^{August}~~July~~, 1956.

C. H. LARGIS *Port Allen*
Mayor

Attest:

[Signature]
TOWN CLERK

Approved as to form:

DEWEY N. PURDINE
Town Attorney

Informational attachment only
to show the proposed changes to Port Orchard Municipal Code 2.28

2.28.010 Definitions. In construing the provisions of this chapter, the following definitions shall apply:

(1) ~~“Appointing authority” shall be the Mayor or designee.~~

(1)(2) ~~A “full-time employee” is any person employed by the city who devotes his full time to his job during working hours on a yearly basis scheduled to work forty (40) hours per week on a year-round basis;~~

(2)(3) ~~A “part-time employee” is any person employed by the city for 20 or more hours but less than 40 hours per week but on a continuing basis;~~

(3)(4) ~~An “intermittent temporary employee” is any person employed by the city for not to exceed six months duration and shall not be entitled to the benefits of this chapter. An “intermittent temporary employee” will be considered “full-time” or “part-time” (subdivision (1) or (2)) when his continuous service exceeds six months.~~

2.28.020 Accumulation of sick leave and vacation leave. All full-time and part-time employees shall be allowed to accumulate sick leave and vacation leave to the maximum amount as prescribed by ~~city resolution~~ personnel policy or labor agreement approved for their position classification.

2.28.030 Sick leave. All full-time and part-time employees shall be entitled to sick leave at a rate prescribed by the ~~city resolution~~ personnel policy or labor agreement approved for their position classification.

2.28.040 Vacation leave. All full-time and part-time employees shall earn vacation leave at a rate prescribed by the ~~city resolution~~ personnel policy or labor agreement approved for their position classification.

2.28.050 Holiday leave. All full-time and part-time employees shall be entitled to holidays as designated by the ~~city resolution~~ personnel policy or labor agreement approved for their position classification.

2.28.060 Overtime. ~~Services performed~~ Hours paid in excess of 40 hours per week will be compensated at one and one-half times the regular hourly rate, unless otherwise prescribed by ~~city resolution~~ personnel policy or labor agreement approved for their

position classification.

2.28.070 Bereavement leave. All full-time and part-time employees shall be allowed to bereavement leave as prescribed by ~~city resolution,~~ personnel policy or labor agreement approved for their position classification.

2.28.080 Civil leave. Civil leave may be allowed by the director of a department to permit any employee to serve as a member of the jury, or to exercise his/her other civil duties in compliance with state or federal statutes as prescribed by ~~city resolution,~~ personnel policy or labor agreement approved for their position classification.

2.28.090 Military leave. All full-time and part-time employees may be granted military leave in compliance with state and federal statutes, as prescribed by ~~city resolution,~~ personnel policy or labor agreement approved for their position classification.

2.28.100 Leave without pay. All full-time and part-time employees may be granted leave without pay at the discretion of the department director, ~~subject to the approval of the~~ or appointing authority, as prescribed ~~by city resolution,~~ personnel policy or labor agreement approved for their position classification.

2.28.110 Unauthorized absence. Unauthorized absence from duty for three consecutive working days shall constitute grounds for dismissal upon recommendation of the department ~~director head at the discretion of~~ or the appointing authority.

2.28.120 State laws applicable. Nothing contained in this chapter shall be construed as an attempt to modify in any way the laws of the state of Washington relating to police relief and pension and/or the existing rules and regulations of the civil service commission pertaining to leaves of absence from the police department.



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 7G
 Subject: Adoption of an Ordinance Amending
Port Orchard Municipal Code Chapter 9.60
Park Rules

Meeting Date: December 14, 2021
 Prepared by: Nicholas Bond, AICP
DCD Director
 Atty Routing No.: Matter 11-Development
 Atty Review Date: November 24, 2021

Summary: In 2020, the City commenced a parks plan update. During this process, the City reviewed hundreds of comments about parks in and around Port Orchard, including concerns about public health and safety in certain parks. In 2021, the Public Works Department was tasked with posting updated park rules signage in some City parks to address public health and safety issues. As part of this process to update park rules signage, questions were raised regarding the enforceability of some of the proposed rules. This led to a legal review of POMC 9.60 and the identification of some recent case law that potentially impacted the City’s ability to enforce some of its adopted rules as well as some other general cleanup of the park rules ordinance.

The Police Chief, Public Works Director, and the DCD Director worked with the City Attorney to draft the updated park rules ordinance. The proposed park rules were then reviewed by the Land Use Committee at their November meeting which led to additional revisions to the proposed ordinance. The proposed revisions are shown in the attached redline copy of the ordinance and include the following:

- Adding a new section to POMC 9.60 clarifying that the chapter is an exercise of police power.
- Amending the definitions of “Camping,” “Park,” and “Projectile Weapon.”
- Adding definitions of “Air or Gas Weapon,” “director,” and “firearm.”
- Amending POMC 9.60.030 clarifying park hours.
- Clarifying that 9.60.040 Damage to Park property includes trails and walkways and makes it a violation to damage lighting systems, irrigation system, landscaping, and vegetation.
- Amending 9.60 Animals to allow the director to post areas as off limits to dogs and cats and prohibiting anyone from allowing dogs or cats to disturb wildlife in a city park.
- Amending 9.60.070 to further clarify restrictions on firearms, weapons, fireworks, and explosives in parks and allowing the director to condition special events involving firearms, weapons, fireworks, and explosives.
- Adding a new section to the parks code prohibiting unpermitted sound amplification equipment and adding reference to our nuisance code concerning the use of sound amplification equipment in parks.
- Expanding the prohibition on camping within parks.
- Adding a new section concerning trespassing in parks.
- Adding a new section allowing the director to post rules.
- Amending the POMC 9.60.150 concerning noncompliance and ejection from park to allow the director to order the expulsion of persons from a park under certain conditions.

- Clarifying the Penalty for Violations section of POMC 9.60.160 to reference new code sections being created.

Relationship to Comprehensive Plan: N/A

Recommendation: Staff recommends approval of the park rules ordinance as presented.

Motion for consideration: "I move to adopt an ordinance amending POMC 9.60 as presented."

Fiscal Impact: None.

Alternatives: Do not approve the amendments.

Attachments: Ordinance, Redline Copy of Ordinance.

ORDINANCE NO. *-21**

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON; RELATING TO PARK RULES; AMENDING CHAPTER 9.60 OF THE PORT ORCHARD MUNICIPAL CODE TO ADD THREE NEW SECTIONS: 9.60.005 (POLICE POWERS), 9.60.125 (SOUND AMPLIFICATION), 9.60.135 (TRESPASSING), AND 9.60.145 (DIRECTOR TO POST RULES); AMENDING THE FOLLOIWNNG SECTIONS OF THE PORT ORCHARD MUNICIPAL CODE: 9.60.010 TO ADD NEW DEFINITIONS, 9.60.030 REGARDING PARK HOURS, 9.60.040 REGARDING DAMAGE TO PARK PROPERTY, 9.60.060 REGULATING ANIMALS IN PARKS, 9.60.070 REGARDING FIREARM USE, WEAPONS, FIREWORKS AND EXPLOSIVES IN PARKS, 9.60.130 REGULATING CAMPING IN PARKS, 9.60.150 REGARDING NON-COMPLIANCE AND EJECTION FROM PARKS, 9.60.160 REGARDING VIOLATIONS OF PARKS RULES AND PENALTIES; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Port Orchard has a park system which is for the health, welfare and benefit of the general public; and

WHEREAS, the City is currently engaged in updating its Parks Plan; and

WHEREAS, as part of the Parks Plan update the Public Works Director undertook review of the City's Parks Rules Chapter 9.60 of the Port Orchard Municipal Code; and

WHEREAS, there are some provisions of Chapter 9.60 POMC which need updating consistent with current law and/or should be amended to ensure continued public enjoyment of all parks properties; and

WHEREAS, the City Council considered this Ordinance at its regular council meeting on _____, 2021; and

WHEREAS, the City Council deems it in the public interest to adopt this Ordinance;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DOES

HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The recitals set forth in this ordinance are hereby incorporated as if fully set forth herein.

SECTION 2. A new section 9.60.005 is hereby added to the Port Orchard Municipal Code to read as follows:

9.60.005 Police Power.

This chapter is declared to be an exercise of the police power of the city; its provisions shall be liberally construed for the preservation and protection of the natural environment, public peace, health, safety, and welfare.

SECTION 3. Section 9.60.010 of the Port Orchard Municipal Code is hereby amended to read as follows:

9.60.010 Definitions.

Whenever used in this chapter, the following terms shall be defined as follows:

~~“Air or gas weapon” means any air pistol or air rifle, designed to propel a BB, brass BB, pellet, paintball or other projectile by the discharge of compressed air, carbon dioxide or other gas.~~

~~(1)~~ “Alcoholic beverages” or “liquor” includes the four varieties of liquor defined as alcohol, spirits, wine, and beer; all fermented, spirituous, vinous, or malt liquor; and all other intoxicating beverages; and every liquor, solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine, or beer. A liquor, semisolid, solid, or other substance that contains more

than one percent alcohol by weight is conclusively deemed to be intoxicating.

~~(2)~~ “Boat” or “watercraft” means any floating vessel whether propelled or not.

~~(3)~~ “Camping” means erecting a tent or shelter or arranging bedding or both for the purpose of remaining overnight, or parking a trailer, camper, RV, van, or other vehicle for the purpose of remaining overnight. Indicia of camping include but are not limited to: tents or other temporary shelters, bedding, storage of personal belongings, and use or storage of cooking equipment.

“Director” means the public works director.

~~(4)~~ “Facility” or “facilities” means a park building, park structure, or park area operated by the city.

“Firearm” means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder.

~~(5)~~ “Motor vehicle” means a self-propelled device capable of being moved upon a street and in which persons or property may be transported, and shall include, but shall not be limited to, automobiles, trucks, motorcycles, motor scooters, recreational vehicles, utility vehicles, vans, and jeeps or similar type four-wheel drive vehicles, but shall exclude motorized wheelchairs.

~~(6)~~ “Park” is a park, playground, beach, activity center, recreation center, or any other area in the city owned by or ~~used~~ under the management and control of ~~by~~ the city and devoted to active or passive recreation for the general public. “Park” also includes all bodies of water located within parks, tidelands, and parking areas associated with parks.

~~(7)~~ “Person” means all natural persons, firms, partnerships, corporations, clubs and all associations or combinations of persons whenever acting for themselves or by an agent, servant or employee.

“Projectile weapon” means a weapon that is designed for the purpose launching projectiles without the use of compressed air or gun powder. Projectile weapons include bows, crossbows, and slingshots. For the purposes of this chapter, projectile weapons do not include anything meeting the definition of “firearm.”

~~(8)~~ "Trail" means any path or track designed for use by pedestrians, bicycles, or equestrians; and which is not of sufficient width, nor graded or paved with concrete, asphalt, gravel, or similar substance, so designed as to permit its use by standard passenger automobiles, or other right-of-way specifically designated and posted for non-vehicular use.

SECTION 4. Section 9.60.030 of the Port Orchard Municipal Code is hereby amended to

read as follows:

9.60.030 Hours.

(1) Unless otherwise posted, parks shall be open to the public every day of the year from dawn to dusk. This means that, unless otherwise posted, parks shall close one-half hour after sunset and reopen one-half hour before sunrise. Any section or part of any park may be declared closed to the public by the director ~~of public works~~ at any time and for any interval of time, either temporarily or at regular times and intervals (daily or otherwise) and either entirely or merely to certain uses, as the director ~~of public works~~ shall find reasonably necessary. The public will be notified of any changes in hours by the posting of a sign (temporary or otherwise) at the park's main entrance.

(2) It is unlawful to be in a park, or leave a vehicle unattended in a park, after closing time.

(3) This section does not apply to scheduled parks department events or to dedicated roads and sidewalks used for transportation which are not designated as closed.

SECTION 5. Section 9.60.040 of the Port Orchard Municipal Code is hereby amended to

read as follows:

9.60.040 Damage to park property.

(1) It is a violation of this chapter for any person to remove, damage, destroy, mutilate, or deface any structure, or any part of any structure, or any fixture therein or attached thereto; or to remove, damage, destroy, mutilate, or deface any monument, statue, vase, fountain, wall, fence, railing, vehicle, bench, lighting system or sprinkling system, trail, walkway or any other property lawfully located within a city park.

~~(2) It is a violation of this chapter for any person to remove, damage, cut, destroy, mutilate, or deface any shrub, tree, fern, plant, flower, or any vegetation located on property owned or leased by the city without the express written permission of the director or designee. lighting system or sprinkling system, or any other property lawfully located within a city park.~~

SECTION 6. Section 9.60.060 of the Port Orchard Municipal Code is hereby amended to

read as follows:

9.60.060 Animals.

(1) No animals shall be allowed in any city park other than dogs or cats. ~~It is unlawful for any person to~~ ~~It is a violation of this chapter for any person to~~ allow or permit any dog or cat to run at large at any park, or to permit any dog or cat with or without a leash, except service animals or dogs used by public law enforcement agencies and under control of a law enforcement officer, to enter any public beach, swimming or wading area, pond, fountain, stream or organized athletic areas thereon, except in areas specifically designated by the ~~public works~~ director for the exercising of dogs and cats. It is also unlawful for any person to permit any dog or cat enter any area which the director or designee has posted as a place prohibited to animals. It is further unlawful for any person to permit any dog or cat, whether on or off leash, to disturb or harass any park users or other pets. Any person with a dog or cat in his possession in any park shall be responsible for both the conduct of the animal and shall also be responsible to ~~have removed~~ from the park any feces deposited by such animal.

(2) It is a violation of this chapter for any person in any park, in any manner, to tease, annoy, disturb, molest, catch, injure or kill, feed or throw any stone or missile of any kind at, or strike with any stick or weapon any animal, bird or fowl; or to catch any fish or feed any fowl except at those places as may be so designated for the catching of fish or the feeding of fowl by the public works director. It is further unlawful for any person to permit any dog or cat to molest or disturb wildlife in any city park or the nest or breeding place for such wildlife.

SECTION 7. Section 9.60.070 of the Port Orchard Municipal Code is hereby amended to

read as follows:

9.60.070 Firearms, weapons, fireworks, and explosives.

~~It is a violation of this chapter to~~ No person except duly authorized law enforcement personnel shall possess a projectile weapon, fireworks, explosive device, or air or gas weapon in a city park. No person shall discharge shoot, fire, or explode ~~any firearms, across, in, or into any city of Port Orchard park area a firearm, projectile weapon, BB gun, air or gas weapon, rockets, fireworks, or explosive of any kind, or any device capable of injuring or killing any person or animal, or damaging or destroying any public or private property.~~ This section shall not apply where the director or designee has authorized in writing a special recreational activity or apply to law enforcement officials acting in official capacity. The director may condition special recreational activity as necessary in order to protect the public health, safety, and welfare, including requiring cleanup and restoration be completed following such activity. Furthermore, this section will not apply where the possession and/or discharge of a personal protection spray is expressly authorized under RCW 9.91.160, as adopted or hereinafter amended.

~~or to shoot or fire any air gun, bows and arrows, BB gun, or to use any slingshot or other propelling device wherein the applied human energy is artificially aided, directed or added to, in any park, except in recreational areas as may be designated for the activity in question by the public works director and/or law enforcement officials acting in an official capacity.~~

SECTION 8. A new Section 9.60.125 is hereby added to the Port Orchard Municipal Code

to read as follows:

9.60.125 Sound amplification equipment prohibited.

(1) It is unlawful for any person to use, operate, or play or permit to be used, operated, or played in any park any radio, tape player, CD player, MP3 player, television, musical instrument, record player, speaker, or any other machine or device producing or reproducing sound at a volume that is audible at a distance over 30 feet therefrom, except pursuant to a permit issued by the director or designee.

(2) Subject to park availability, the director or designee will grant or grant with conditions a permit for an exception to subsection

(1) of this section if the use of the sound amplification equipment:

- A. will not constitute a public nuisance under POMC 9.24.050;
- B. will not endanger the public health or safety;
- C. will not endanger public property; and
- D. is associated with an event that is open to the general public.

(3) Violations of subsection (1) of this section and violations of permits issued pursuant to subsection (2) of this section shall be considered a public disturbance noise infraction under POMC 9.24.050 and enforced as set forth therein.

SECTION 9. Section 9.60.130 of the Port Orchard Municipal Code is hereby amended to

read as follows:

9.60.130 Camping prohibited.

(1) It is a violation of this chapter to camp in any park except in places set aside for such purposes and ~~so designated by signs posted for such purposes by the director or designee, or by permit issued by the director or designee.~~

(2) A person is guilty of unlawful camping if he or she uses park property, as defined in this chapter, as a temporary or permanent place of dwelling, lodging, residence, or living accommodation.

(3) Indicia of camping includes but is not limited to: tent or other temporary shelter, including use of RV, van, or trailer, bedding, storage of personal belongings, and use or storage of cooking equipment.

(4) Unlawful camping is a misdemeanor.

(5) A person is not guilty of unlawful camping if, at the time the person is on public property, there is no available overnight shelter. "Available overnight shelter" means a public or private shelter, with available overnight space, open to individuals experiencing homelessness, at no charge. If the person is unable to utilize an available overnight shelter due to voluntary actions such as intoxication, drug use, unruly or assaultive behavior, or violation of shelter rules, the overnight shelter space shall still be considered available for the purposes of this section.

SECTION 10. A new Section 9.60.135 is hereby added to the Port Orchard Municipal

Code to read as follows:

9.60.135 Trespassing

It is unlawful for any person except an authorized city employee in the performance of his/her duties, or other person duly authorized pursuant to law, to enter or go upon any area which has been designated and posted by the director or designee as a "No Admittance" or "No Trespassing" area, or to enter a park during any time during which the park is posted as being closed to the public.

SECTION 11. A new Section 9.60.145 is hereby added to the Port Orchard Municipal

Code to read as follows:

9.60.145 Director to post rules.

The director shall have the power and the authority to establish rules applicable to the various city park properties to carry out the purposes of this chapter and to regulate the use of parks, regulate conduct in parks, and designate restricted areas in parks. Such rules shall be in effect and shall be enforceable when such rules are posted at or near the main entrance to the park. Park users

shall comply with rules as posted. It shall be unlawful to violate or fail to comply with any park rule or regulation duly posted by the director or designee.

SECTION 12. Section 9.60.150 of the Port Orchard Municipal Code is hereby amended

to read as follows:

9.60.150 Noncompliance and ejection from park.

(1) It is unlawful to violate or fail to comply with any park rule or regulation duly posted by the director ~~of public works~~, and the superintendent or any park attendant shall have the authority to eject from a park any person acting in violation of this chapter.

(2) The director or designee or authorized agent may order the expulsion of any person from any or all parks for a period of one to seven days if he or she observes such person:

- A. Using abusive or disruptive language and behaving in such a manner so as to disrupt or threaten to disrupt a park facility or program or which interferes with others' use of the park facility or participation in such program;
- B. Using tobacco or cannabis products in an unauthorized area or facility;
- C. Causing injury or risk of injury to another person or persons;
- D. Causing damage or risk of damage to city property; or
- E. Violating any provision of this chapter.

(3) The director or designee or authorized agent may order the expulsion of any persons from any or all parks for a period of seven days to one year if such person:

- A. Has been expelled from a park two or more times in any 30-day period;
- B. Caused injury to another person;
- C. Sells, possesses or uses illegal drugs or alcohol;
- D. Violates any applicable local, state, or federal law relating to the possession or use of weapons; or

E. Commits more than one violation of this chapter in any 30-day period.

(4) Any order of expulsion under this section shall be in writing and shall be personally served or sent by certified mail to the person expelled at his or her last known address.

(5) Any person who enters a park during a period during which he or she has been expelled under this section is guilty of a misdemeanor.

SECTION 13. Section 9.60.160 of the Port Orchard Municipal Code is hereby amended

to read as follows:

9.60.160 Penalty for violations.

The police department shall have the authority to enforce this chapter. Violations of POMC 9.60.040, 9.60.050, 9.60.060, 9.60.070, 9.60.080, and 9.60.090; violations of POMC 9.60.100 relating to alcohol and tobacco; and violations of POMC 9.60.110, 9.60.120, 9.60.125, 9.60.130, 9.60.135, 9.60.140 and 9.60.150 shall be subject to the civil infraction procedures in Chapter 7.80 RCW and be subject to the monetary penalties for a class 3 civil infraction as provided in RCW 7.80.120(1)(c). Violations of POMC 9.60.100 relating any controlled substance as defined by Chapter 69.50 RCW is subject to enforcement as provided in Chapters 9.14 and 9.57 POMC.

SECTION 14. Conflict. In the event of a conflict between this Ordinance or any mitigation measures imposed thereto, and any Ordinance or regulation of the City, the provisions of this Ordinance shall control, except that the provisions of the City's critical areas code, shoreline master program or any International Building Code shall supersede.

SECTION 15. 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 16. 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 17. 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 _____ day of _____, 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

Sponsored by:

Charlotte A. Archer, City Attorney

_____, Council Member

PUBLISHED:

EFFECTIVE DATE:

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON; RELATING TO PARK RULES; AMENDING CHAPTER 9.60 OF THE PORT ORCHARD MUNICIPAL CODE TO ADD THREE NEW SECTIONS: 9.60.005 (POLICE POWERS), 9.60.125 (SOUND AMPLIFICATION), 9.60.135 (TRESPASSING), AND 9.60.145 (DIRECTOR TO POST RULES); AMENDING THE FOLLOIWNNG SECTIONS OF THE PORT ORCHARD MUNICIPAL CODE: 9.60.010 TO ADD NEW DEFINITIONS, 9.60.030 REGARDING PARK HOURS, 9.60.040 REGARDING DAMAGE TO PARK PROPERTY, 9.60.060 REGULATING ANIMALS IN PARKS, 9.60.070 REGARDING FIREARM USE, WEAPONS, FIREWORKS AND EXPLOSIVES IN PARKS, 9.60.130 REGULATING CAMPING IN PARKS, 9.60.150 REGARDING NON-COMPLIANCE AND EJECTION FROM PARKS, 9.60.160 REGARDING VIOLATIONS OF PARKS RULES AND PENALTIES; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Port Orchard has a park system which is for the health, welfare and benefit of the general public; and

WHEREAS, the City is currently engaged in updating its Parks Plan; and

WHEREAS, as part of the Parks Plan update the Public Works Director undertook review of the City's Parks Rules Chapter 9.60 of the Port Orchard Municipal Code; and

WHEREAS, there are some provisions of Chapter 9.60 POMC which need updating consistent with current law and/or should be amended to ensure continued public enjoyment of all parks properties; and

WHEREAS, the City Council considered this Ordinance at its regular council meeting on December 14 2021; and

WHEREAS, the City Council deems it in the public interest to adopt this Ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The recitals set forth in this ordinance are hereby incorporated as if fully set forth herein.

SECTION 2. A new section 9.60.005 is hereby added to the Port Orchard Municipal Code to read as follows:

9.60.005 Police Power.

This chapter is declared to be an exercise of the police power of the city; its provisions shall be liberally construed for the preservation and protection of the natural environment, public peace, health, safety, and welfare.

SECTION 3. Section 9.60.010 of the Port Orchard Municipal Code is hereby amended to read as follows:

9.60.010 Definitions.

Whenever used in this chapter, the following terms shall be defined as follows:

“Air or gas weapon” means any air pistol or air rifle, designed to propel a BB, brass BB, pellet, paint ball or other projectile by the discharge of compressed air, carbon dioxide or other gas.

“Alcoholic beverages” or “liquor” includes the four varieties of liquor defined as alcohol, spirits, wine, and beer; all fermented, spirituous, vinous, or malt liquor; and all other intoxicating beverages; and every liquor, solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine, or beer. A liquor, semisolid, solid, or other substance that contains more than one percent alcohol by weight is conclusively deemed to be intoxicating.

“Boat” or “watercraft” means any floating vessel whether propelled or not.

“Camping” means erecting a tent or shelter or arranging bedding or both for the purpose of remaining overnight, or parking a trailer, camper, RV, van, or other vehicle for the purpose of remaining overnight. Indicia of camping include but are not limited to: tents or other temporary shelters, bedding, storage of personal belongings, and use or storage of cooking equipment.

“Director” means the public works director.

“Facility” or “facilities” means a park building, park structure, or park area operated by the city.

“Firearm” means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder.

“Motor vehicle” means a self-propelled device capable of being moved upon a street and in which persons or property may be transported, and shall include, but shall not be limited to, automobiles, trucks, motorcycles, motor scooters, recreational vehicles, utility vehicles, vans, and jeeps or similar type four-wheel drive vehicles, but shall exclude motorized wheelchairs.

“Park” is a park, playground, beach, activity center, recreation center, or any other area in the city owned by or under the management and control of the city and devoted to active or passive recreation for the general public. “Park” also includes all bodies of water located within parks, tidelands, and parking areas associated with parks.

“Person” means all natural persons, firms, partnerships, corporations, clubs and all associations or combinations of persons whenever acting for themselves or by an agent, servant or employee.

“Projectile weapon” means a weapon that is designed for the purpose launching projectiles without the use of compressed air or gun powder. Projectile weapons include bows, crossbows, and slingshots. For the purposes of this chapter, projectile weapons do not include anything meeting the definition of “firearm.”

“Trail” means any path or track designed for use by pedestrians, bicycles, or equestrians; and which is not of sufficient width, nor graded or paved with concrete, asphalt, gravel, or similar substance, so designed as to permit its use by standard passenger automobiles, or other right-of-way specifically designated and posted for non-vehicular use.

SECTION 4. Section 9.60.030 of the Port Orchard Municipal Code is hereby amended to read as follows:

9.60.030 Hours.

(1) Unless otherwise posted, parks shall be open to the public every day of the year from dawn to dusk. This means that, unless otherwise posted, parks shall close one-half hour after sunset and reopen one-half hour before sunrise. Any section or part of any park may be declared closed to the public by the director at any time and for any interval of time, either temporarily or at regular times and intervals (daily or otherwise) and either entirely or merely to certain uses, as the director shall find reasonably necessary. The public will be notified of any changes in hours by the posting of a sign (temporary or otherwise) at the park's main entrance.

(2) It is unlawful to be in a park, or leave a vehicle unattended in a park, after closing time.

(3) This section does not apply to scheduled parks department events or to dedicated roads and sidewalks used for transportation which are not designated as closed.

SECTION 5. Section 9.60.040 of the Port Orchard Municipal Code is hereby amended to read as follows:

9.60.040 Damage to park property.

(1) It is a violation of this chapter for any person to remove, damage, destroy, mutilate, or deface any structure, or any part of any structure, or any fixture therein or attached thereto; or to remove, damage, destroy, mutilate, or deface any monument, statue, vase, fountain, wall, fence, railing, vehicle, bench, lighting system, sprinkling system, trail, walkway or any other property lawfully located within a city park.

(2) It is a violation of this chapter for any person to remove, damage, cut, destroy, mutilate, or deface any shrub, tree, fern, plant, flower, or any vegetation located on property owned or leased by the city without the express written permission of the director or designee.

SECTION 6. Section 9.60.060 of the Port Orchard Municipal Code is hereby amended to read as follows:

9.60.060 Animals.

(1) No animals shall be allowed in any city park other than dogs or cats. It is unlawful for any person to allow or permit any dog or cat to run at large at any park, or to permit any dog or cat with or without a leash, except service animals or dogs used by public law enforcement agencies and under control of a law enforcement officer, to enter any public beach, swimming or wading area, pond, fountain, stream or organized athletic areas thereon, except in areas specifically designated by the director for the exercising of dogs and cats. It is also unlawful for any person to permit any dog or cat enter any area which the director or designee has posted as a place prohibited to animals. It is further unlawful for any person to permit any dog or cat, whether on or off leash, to disturb or harass any park users or other pets. Any person with a dog or cat in his possession in any park shall be responsible for both the conduct of the animal and shall also be responsible to remove from the park any feces deposited by such animal.

(2) It is a violation of this chapter for any person in any park, in any manner, to tease, annoy, disturb, molest, catch, injure or kill, feed or throw any stone or missile of any kind at, or strike with any stick or weapon any animal, bird or fowl; or to catch any fish or feed any fowl except at those places as may be so designated for the catching of fish or the feeding of fowl by the public works director. It is further unlawful for any person to permit any dog or cat to molest or disturb wildlife in any city park or the nest or breeding place for such wildlife.

SECTION 7. Section 9.60.070 of the Port Orchard Municipal Code is hereby amended to read as follows:

9.60.070 Firearms, weapons, fireworks, and explosives.

No person except duly authorized law enforcement personnel shall possess a projectile weapon, fireworks, explosive device, or air or gas weapon in a city park. No person shall discharge shoot,

fire, or explode across, in, or into any city of Port Orchard park area a firearm, projectile weapon, BB gun, air or gas weapon, rockets, fireworks, or explosive of any kind, or any device capable of injuring or killing any person or animal, or damaging or destroying any public or private property. This section shall not apply where the director or designee has authorized in writing a special recreational activity or apply to law enforcement officials acting in official capacity. The director may condition special recreational activity as necessary in order to protect the public health, safety, and welfare, including requiring cleanup and restoration be completed following such activity. Furthermore, this section will not apply where the possession and/or discharge of a personal protection spray is expressly authorized under RCW 9.91.160, as adopted or hereinafter amended.

SECTION 8. A new Section 9.60.125 is hereby added to the Port Orchard Municipal Code

to read as follows:

9.60.125 Sound amplification equipment prohibited.

(1) It is unlawful for any person to use, operate, or play or permit to be used, operated, or played in any park any radio, tape player, CD player, MP3 player, television, musical instrument, record player, speaker, or any other machine or device producing or reproducing sound at a volume that is audible at a distance over 30 feet therefrom, except pursuant to a permit issued by the director or designee.

(2) Subject to park availability, the director or designee will grant or grant with conditions a permit for an exception to subsection

(1) of this section if the use of the sound amplification equipment:

- A. will not constitute a public nuisance under POMC 9.24.050;
- B. will not endanger the public health or safety;
- C. will not endanger public property; and
- D. is associated with an event that is open to the general public.

(3) Violations of subsection (1) of this section and violations of permits issued pursuant to subsection (2) of this section shall be considered a public disturbance noise infraction under POMC 9.24.050 and enforced as set forth therein.

SECTION 9. Section 9.60.130 of the Port Orchard Municipal Code is hereby amended to read as follows:

9.60.130 Camping prohibited.

(1) It is a violation of this chapter to camp in any park except in places set aside for such purposes and posted for such purposes by the director or designee, or by permit issued by the director or designee.

(2) A person is guilty of unlawful camping if he or she uses park property, as defined in this chapter, as a temporary or permanent place of dwelling, lodging, residence, or living accommodation.

(3) Indicia of camping includes but is not limited to: tent or other temporary shelter, including use of RV, van, or trailer, bedding, storage of personal belongings, and use or storage of cooking equipment.

(4) Unlawful camping is a misdemeanor.

(5) A person is not guilty of unlawful camping if, at the time the person is on public property, there is no available overnight shelter. "Available overnight shelter" means a public or private shelter, with available overnight space, open to individuals experiencing homelessness, at no charge. If the person is unable to utilize an available overnight shelter due to voluntary actions such as intoxication, drug use, unruly or assaultive behavior, or violation of shelter rules, the overnight shelter space shall still be considered available for the purposes of this section.

SECTION 10. A new Section 9.60.135 is hereby added to the Port Orchard Municipal Code to read as follows:

9.60.135 Trespassing

It is unlawful for any person except an authorized city employee in the performance of his/her duties, or other person duly

authorized pursuant to law, to enter or go upon any area which has been designated and posted by the director or designee as a “No Admittance” or “No Trespassing” area, or to enter a park during any time during which the park is posted as being closed to the public.

SECTION 11. A new Section 9.60.145 is hereby added to the Port Orchard Municipal

Code to read as follows:

9.60.145 Director to post rules.

The director shall have the power and the authority to establish rules applicable to the various city park properties to carry out the purposes of this chapter and to regulate the use of parks, regulate conduct in parks, and designate restricted areas in parks. Such rules shall be in effect and shall be enforceable when such rules are posted at or near the main entrance to the park. Park users shall comply with rules as posted. It shall be unlawful to violate or fail to comply with any park rule or regulation duly posted by the director or designee.

SECTION 12. Section 9.60.150 of the Port Orchard Municipal Code is hereby amended

to read as follows:

9.60.150 Noncompliance and ejection from park.

(1) It is unlawful to violate or fail to comply with any park rule or regulation duly posted by the director, and the superintendent or any park attendant shall have the authority to eject from a park any person acting in violation of this chapter.

(2) The director or designee or authorized agent may order the expulsion of any person from any or all parks for a period of one to seven days if he or she observes such person:

- A. Using abusive or disruptive language and behaving in such a manner so as to disrupt or threaten to disrupt a park facility or program or which interferes with others’ use of the park facility or participation in such program;
- B. Using tobacco or cannabis products in an unauthorized area or facility;

- C. Causing injury or risk of injury to another person or persons;
- D. Causing damage or risk of damage to city property; or
- E. Violating any provision of this chapter.

(3) The director or designee or authorized agent may order the expulsion of any persons from any or all parks for a period of seven days to one year if such person:

- A. Has been expelled from a park two or more times in any 30-day period;
- B. Caused injury to another person;
- C. Sells, possesses or uses illegal drugs or alcohol;
- D. Violates any applicable local, state, or federal law relating to the possession or use of weapons; or
- E. Commits more than one violation of this chapter in any 30-day period.

(4) Any order of expulsion under this section shall be in writing and shall be personally served or sent by certified mail to the person expelled at his or her last known address.

(5) Any person who enters a park during a period during which he or she has been expelled under this section is guilty of a misdemeanor.

SECTION 13. Section 9.60.160 of the Port Orchard Municipal Code is hereby amended

to read as follows:

9.60.160 Penalty for violations.

The police department shall have the authority to enforce this chapter. Violations of POMC 9.60.040, 9.60.050, 9.60.060, 9.60.070, 9.60.080, and 9.60.090; violations of POMC 9.60.100 relating to alcohol and tobacco; and violations of POMC 9.60.110, 9.60.120, 9.60.125, 9.60.130, 9.60.135, 9.60.140 and 9.60.150 shall be subject to the civil infraction procedures in Chapter 7.80 RCW and be subject to the monetary penalties for a class 3 civil infraction as provided in RCW 7.80.120(1)(c). Violations of POMC

9.60.100 relating any controlled substance as defined by Chapter 69.50 RCW is subject to enforcement as provided in Chapters 9.14 and 9.57 POMC.

SECTION 14. Conflict. In the event of a conflict between this Ordinance or any mitigation measures imposed thereto, and any Ordinance or regulation of the City, the provisions of this Ordinance shall control, except that the provisions of the City’s critical areas code, shoreline master program or any International Building Code shall supersede.

SECTION 15. 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 16. 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 17. 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 14th day of December 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

SPONSOR:

Charlotte A. Archer, City Attorney

Scott Diener, Councilmember

PUBLISHED:

EFFECTIVE DATE:

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON,
ADOPTING THE 2022 CITY COUNCIL MEETING SCHEDULE PURSUANT TO
POMC 2.04.010 MEETING TIME AND PLACE.**

WHEREAS, on July 11, 2017, City Council adopted Ordinance No. 026-17 which adopted the classification of non-charter code city for the City of Port Orchard; and

WHEREAS, on pursuant to Port Orchard Municipal Code 2.04.010 Meeting Time and Place the city council shall hold a minimum of one meeting per month. The city council shall determine the annual schedule for these meetings for the next calendar year no later than the last regular business meeting of the preceding calendar year; and

WHEREAS, City Council typically will meet for regular business meetings the 2nd and 4th Tuesday of each month, with a work study meeting the 3rd Tuesday of each month; and

WHEREAS, the meeting in August will only be held on the 2nd Tuesday, and the meeting in December will be the 2nd and 3rd Tuesday that month, and both meetings to be Regular Council meetings; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

THAT: The 2022 city council meeting calendar shall be adopted, and meetings shall be held on:

January	11 th , 18 th and 25 th
February	8 th , 15 th and 22 nd
March	8 th , 15 th and 22 nd
April	12 th , 19 th and 26 th
May	10 th , 17 th and 24 th
June	14 th , 21 st and 28 th
July	12 th , 19 th and 26 th
August	16 th
September	13 th , 20 th and 27 th
October	11 th , 18 th and 25 th
November	8 th , 15 th and 22 nd
December	13 th and 20 th

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the City Clerk in authentication of such passage this 14th day of December 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk



City of Port Orchard

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

Agenda Staff Report

Agenda Item No.:	<u>Business Item 71</u>	Meeting Date:	<u>December 14, 2021</u>
Subject:	<u>Adoption of a Resolution Adopting the 2022 Legislative Agenda</u>	Prepared by:	<u>Brandy Rinearson, MMC City Clerk</u>
		Atty Routing No:	<u>N/A</u>
		Atty Review Date:	<u>N/A</u>

Summary: In order to lay a foundation for success for legislative action and/or funding, it is crucial that the City adopt a legislative agenda with ample time for the Mayor, Councilmembers, and GTH-GA lobbyists to communicate with the City legislative delegation prior to the start of the session.

On October 26, 2021, Josh Weiss with Gordon Thomas Honeywell-Governmental Affairs, the City’s Lobbyist, provided the Council with a few subject areas that should be included in the City of Port Orchard’s 2022 legislative priorities. Discussion was held regarding Transportation Revenue, Transportation Benefit District (TBD) Funding, Foster Pilot Program, Police Reform, Homelessness, Newspaper Public Notice Requirements, and Derelict Vessel Funding.

A Legislative Agenda as been provided, listing the priorities for 2022.

Recommendation: Staff recommends adoption of a Resolution, adopting the 2022 Legislative Agenda, as presented.

Relationship to Comprehensive Plan: N/A

Motion for Consideration: I move to adopt a Resolution, thereby approving the 2022 Legislative Agenda, as presented.

Fiscal Impact: N/A

Alternatives: Do not adopt Resolution.

Attachments: Resolution and Legislative Priorities.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, ADOPTING
THE 2022 LEGISLATIVE AGENDA.**

WHEREAS, since 2011, the City has hired Gordon Thomas Honeywell Government Affairs to provide benefit to the citizens by having expertise and guidance of a lobbying firm that would assist the Mayor and staff in accomplishing the goals and objectives of the City to State legislators; and

WHEREAS, each year, the firm continues to advocate for important legislative priorities of the City; and

WHEREAS, on October 26, 2021, discussion was held expressing legislative priorities and are listed and attached as Exhibit A, now, therefore;

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, HEREBY RESOLVES
AS FOLLOWS:**

THAT: The City of Port Orchard hereby adopts the 2022 Legislative Agenda, attached as Exhibit A.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the City Clerk in authentication of such passage this 14th day of December 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk



CITY OF PORT ORCHARD

216 Prospect Street, Port Orchard, WA 98366
(360) 876-4407 • Fax: (360) 895-9029
cityhall@cityofportorchard.us
www.cityofportorchard.us

2022 Legislative Priorities

Transportation Revenue

Port Orchard supports the adoption of a robust transportation revenue package that includes funding for maintenance of state infrastructure, distributions to local governments, and new projects such as the **Gorst interchange** and Highway 16 congestion relief.

Sedgwick Road (State Route 160) and State Route 16, traverse the City and serve as both regional and local thoroughfares. The City continues to seek **\$6 million** for two compact roundabouts at the SR-16 and SR-160 interchanges in order to help mitigate congestion along these state routes.

Transportation Benefit District Funding

The Joint Transportation Committee's Statewide Transportation Needs Assessment has identified a gap of up to \$13 billion in City transportation funding. The City of Port Orchard is among those cities that have accepted the responsibility of raising local revenue through a Transportation Benefit District. We support legislation allowing the City to continue collecting TBD revenue for more than two 10-year periods.

Foster Pilot Program

The City of Port Orchard was chosen by the State for a water resource mitigation pilot project, which will inform a legislative task force on options for how to respond to the Foster decision. The outcomes of this pilot project, and ultimately the recommendations of the legislative task force, are of critical importance for the City and the state.

Police Reform

The City of Port Orchard is committed to advancing social and racial justice in our community. The City supports additional training and resources including expanded mental health intake facilities to keep our communities safe. However, the City believes there is a need to refine legislation enacted in 2021 to resolve unintended consequences, provide clarity to various police actions and equipment, restore police powers regarding the use of force to prevent someone from fleeing a lawful detention, and ensure the ability to conform to the duty to intervene.

Homelessness

We support additional State funding for housing, substance abuse, and mental health treatment so that local governments can address the needs of the homeless in our communities.

Newspaper Public Notice Requirements

Cities are currently required to publish all ordinances, resolutions, and public notices in print, contracting with a local newspaper to act as the city's official newspaper. This mandate is archaic, duplicative, and expensive for cities. The City is requesting the Legislature remove the requirement that the official newspaper be in print format.

Derelict Vessel Funding

The City requests enhanced funding for the Department of Natural Resources derelict vessel program. Current funding levels do not keep up with demand, threatening water transportation and our natural environment. DNR estimates that \$7.5 million/biennium is needed to adequately fund the need, though the current budget is approximately \$2.6 million/biennium. The City supports the agency's request for an additional \$5 million/biennium from the Watercraft Excise Tax.

The City of Port Orchard supports the Association of Washington Cities' legislative agenda.



City of Port Orchard

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Agenda Staff Report

Agenda Item No.: <u>Business Item 7J</u> Subject: <u>Adoption of a Resolution Approving a</u> <u>Contract with Herrera Environmental</u> <u>Consultants, Inc. for the 2021</u> <u>Stormwater and Watershed</u> <u>Comprehensive Plan-Phase 1 and</u> <u>Documenting Procurement Procedures</u>	Meeting Date: <u>December 14, 2021</u> Prepared by: <u>Mark Dorsey, P.E.</u> <u>Public Works Director</u> Atty Routing No.: <u>366922-0015 – Storm</u> Atty Review Date: <u>December 8, 2021</u>
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Summary: In January 2021, the City Council authorized the execution of Contract No. 001-21 with Herrera Environmental Consultants, Inc. for the 2021 Stormwater and Watersheds Comprehensive Plan – Phase I. Herrera was selected pursuant to the qualifications-based selection process described below. Herrera has completed the work for Phase 1, and has submitted a scope and budget for Phase 2 of the Project. Note: Phase 2 was included in the original qualifications-based selection process.

Reminder of previous procurement process:

On October 2nd and October 9th, 2020, the City’s Public Works Department published a Request for Qualifications (RFQ) for the 2020-2021 Stormwater and Watersheds Comprehensive Plan. By the October 23, 2020 deadline, two (2) Statements of Qualification (SOQ) were received. On October 27, 2020, Staff completed the Mandatory Bidder Responsibility Checklist for both firms. On November 16, 2020, Staff interviewed both firms, then scored and, based on the scoring selected Herrera Environmental Consultants, Inc. for the Project.

Recommendation: Staff recommends adoption of Resolution No. 005-22, thereby approving Contract No. 009-22 with Herrera Environmental Consultants, Inc. for the 2021 Stormwater and Watersheds Comprehensive Plan – Phase 2 in the amount of \$239,328, and documenting the Professional Services procurement procedures.

Relationship to Comprehensive Plan: Chapter 7.2 – City Managed Utilities

Motion for Consideration: I move to adopt Resolution No. 005-22, thereby approving Contract No. 009-22 with Herrera Environmental Consultants, Inc. for the 2021 Stormwater and Watersheds Comprehensive Plan – Phase 2 in the amount of \$239,328.

Alternatives: Do not approve.

Fiscal Impact: Funding provided (\$400K) within the current 2021-2022 Biennial Budget.

Attachments: Resolution No. 005-22, Contract No. 009-22, Ex. A – Scope of Work for Phase 2, and Ex. B – Cost for Phase 2.

RESOLUTION NO. 005-22

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE CONTRACT NO. 009-22 WITH HERRERA ENVIROMENTAL CONSULTANTS, INC. FOR THE 2021 STORMWATER AND WATERSHEDS COMPREHENSIVE PLAN – PHASE 2 AND DOCUMENTING PROFESSIONAL SERVICES PROCUREMENT PROCEDURES.

WHEREAS, on October 2 and October 9, 2020, the City of Port Orchard Public Works Department published a Request for Qualifications (RFQ) for the FY 2020-2021 Stormwater and Watersheds Comprehensive Plan; and

WHEREAS, by the October 23, 2020 deadline, the City’s Public Works Department only received two (2) Statements of Qualification (SOQ) from qualified firms; and

WHEREAS, on October 27, 2020, Staff completed the Mandatory Bidder Responsibility Checklist for the two (2) qualified firms and since there were only two (2) SOQ’s received, the City’s Public Works Department provided interview notifications to both firms; and

WHEREAS, on November 16, 2020, Staff interviewed the two (2) qualified firms, and upon interview scoring/ranking, the City’s Public Works Department selected Herrera Environmental Consultants, Inc. for the Project award and subsequently met to discuss, clarify and develop the Project Understanding (Scope, Budget and Timeline); and

WHEREAS, by Resolution No. 001-21, the City Council authorized the Mayor to execute Contract No. C001-21 with Herrera Environmental Consultants, Inc. for the 2021 Stormwater and Watersheds Comprehensive Plan – Phase I; and

WHEREAS, Herrera Environmental Consultants, Inc. has completed work on Phase 1 and has submitted a viable scope and budget for Phase 2 of the Project; and

WHEREAS, the Port Orchard City Council, at the 2015 recommendation of the State Auditor’s Office, wishes to document their consultant selection process as described above for this particular contract by Resolution; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

THAT: It is the intent of the Port Orchard City Council that the recitals set forth above are hereby adopted and incorporated as findings in support of this Resolution.

THAT: The City Council approves of and authorizes the Mayor to execute Contract No. 009-22 with Herrera Environmental Consultants, Inc. for the 2021 Stormwater and Watersheds Comprehensive Plan – Phase 2.

THAT: The Resolution shall take full force and effect upon passage and signatures hereon.

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 14th day of December 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

CITY OF PORT ORCHARD PROFESSIONAL SERVICES AGREEMENT

THIS Agreement is made effective as of the 1st day of January 2022, by and between the City of Port Orchard, a municipal corporation, organized under the laws of the State of Washington, whose address is:

CITY OF PORT ORCHARD, WASHINGTON (hereinafter the “CITY”)
216 Prospect Street
Port Orchard, Washington 98366

Contact: Mayor Robert Putaansuu Phone: 360.876.4407 Fax: 360.895.9029

And Herrera Environmental Consulting, Inc., a corporation, organized under the laws of the State of Washington, doing business at:

Herrera Environmental Consultants, Inc. (hereinafter the “CONSULTANT”)
2200 6th Ave Suite 110
Seattle, WA 98121

Contact: Matt Fontaine, P.E. Phone: 360-265-8031 Email: mfontaine@herrerainc.com
Associate Engineer

for professional services in connection with the following Project:

2021 Stormwater & Watersheds Comprehensive Plan – Phase 2

TERMS AND CONDITIONS

1. Services by Consultant.

A. The Consultant shall perform the services described in the Scope of Work attached to this Agreement as Exhibit "A." The services performed by the Consultant shall not exceed the Scope of Work without prior written authorization from the City. In performing such services, the Consultant shall at all times comply with all Federal, State, and local laws and regulations applicable to the performance of such services. The Consultant shall perform the services diligently and completely in accordance with professional standards of conduct and performance for Consultant’s profession.

B. The City may from time to time require changes or modifications in the Scope of Work. Such changes, including any decrease or increase in the amount of compensation, shall be agreed to by the parties and incorporated in written amendments to the Agreement.

2. Schedule of Work.

A. The Consultant shall perform the services described in the Scope of Work in accordance with the tasks identified within Exhibit “A, B & C” and the terms of this Agreement. If delays beyond the Consultant's reasonable control occur, the parties will negotiate in good faith to determine whether an extension is appropriate.

B. The Consultant is authorized to proceed with services upon receipt of a written Notice to Proceed.

3. **Terms.** This Agreement shall commence on **January 1, 2022** (“Commencement Date”) and shall terminate **December 31, 2022** unless extended or terminated in writing as provided herein. **The City reserves the right to offer two (2) one-year extensions prior to contract expiration to retain the selected company’s services.**

4. **Compensation.**

LUMP SUM. Compensation for these services shall be a Lump Sum of \$ _____.

TIME AND MATERIALS NOT TO EXCEED. Compensation for these services shall not exceed **\$239,328** without written authorization and will be based on the list of billing rates and reimbursable expenses attached hereto as Exhibit “B.”

TIME AND MATERIALS. Compensation for these services shall be on a time and materials basis according to the list of billing rates and reimbursable expenses attached hereto as Exhibit “_____.”

OTHER. _____

5. **Payment.**

A. The Consultant shall maintain time and expense records and provide them to the City monthly after services have been performed, along with monthly invoices in a format acceptable to the City for work performed to the date of the invoice.

B. All invoices shall be paid by City warrant within thirty (30) days of receipt of a proper invoice. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

C. The Consultant shall keep cost records and accounts pertaining to this Agreement available for inspection by City representatives for three (3) years after final payment unless a longer period is required by a third-party agreement. Copies shall be made available on request.

D. On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors, including, but not limited to, the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant’s business, pursuant to Revised Code of Washington (RCW) 51.08.195, as required by law, to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties, which is subject to Title 51 RCW, Industrial Insurance.

E. If the services rendered do not meet the requirements of the Agreement, the Consultant will correct or modify the work to comply with the Agreement. The City may withhold payment for such work until the work meets the requirements of the Agreement.

6. **Discrimination and Compliance with Laws**

A. The Consultant agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color,

national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

B. Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state and municipal laws, rules and regulations that are now effective or become applicable within the term(s) of this Agreement to the Consultant's business, equipment and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

C. The Consultant shall obtain a City of Port Orchard business license prior to commencing work pursuant to a written Notice to Proceed.

D. Violation of this Paragraph 6 shall be a material breach of this Agreement and grounds for cancellation, termination, or suspension of the Agreement by the City, in whole or in part, and may result in ineligibility for further work for the City.

7. Relationship of Parties. The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including but not limited to compensation, insurance, and unemployment insurance, are available from the City to the employees, agents, representatives or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

8. Suspension and Termination of Agreement

A. Termination without cause. This Agreement may be terminated by the City at any time for public convenience, for the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors.

B. Termination with cause. This Agreement may be terminated upon the default of the Consultant and the failure of the Consultant to cure such default within a reasonable time after receiving written notice of the default.

C. Rights Upon Termination.

1. *With or Without Cause.* Upon termination for any reason, all finished or unfinished documents, reports, or other material or work of the Consultant pursuant to this Agreement shall be submitted to the City, and the Consultant shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination, not to exceed the total compensation set forth herein. The Consultant shall not be entitled to any reallocation of cost, profit or overhead. The Consultant shall not in any event be entitled to anticipated profit on work

not performed because of such termination. The Consultant shall use its best efforts to minimize the compensation payable under this Agreement in the event of such termination. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

2. *Default.* If the Agreement is terminated for default, the Consultant shall not be entitled to receive any further payments under the Agreement until all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Consultant. The Consultant shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained, by the City by reason of such default.

D. Suspension. The City may suspend this Agreement, at its sole discretion. Any reimbursement for expenses incurred due to the suspension shall be limited to the Consultant's reasonable expenses, and shall be subject to verification. The Consultant shall resume performance of services under this Agreement without delay when the suspension period ends.

E. Notice of Termination or Suspension. If delivered to the Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date as stated in the City's notice of termination, whichever is later. Notice of suspension shall be given to the Consultant in writing upon one week's advance notice to the Consultant. Such notice shall indicate the anticipated period of suspension. Notice may also be delivered to the Consultant at the address set forth in Section 15 herein.

9. Standard of Care. The Consultant represents and warrants that it has the requisite training, skill and experience necessary to provide the services under this Agreement and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided by the Consultant under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances.

10. Ownership of Work Product.

A. All data, materials, reports, memoranda, and other documents developed under this Agreement whether finished or not shall become the property of the City, shall be forwarded to the City at its request and may be used by the City as it sees fit. Upon termination of this Agreement pursuant to paragraph 8 above, all finished or unfinished documents, reports, or other material or work of the Consultant pursuant to this Agreement shall be submitted to the City. Any reuse or modification of such documents, reports or other material or work of the Consultant for purposes other than those intended by the Consultant in its scope of services under this Agreement shall be at the City's risk.

B. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in the Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise. The Consultant is permitted to disclose any such information only to the extent required by law, subpoena or other court order.

11. Work Performed at the Consultant's Risk. The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents and sub-consultants in the performance of the work hereunder, and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

12. Indemnification. The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries or damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence. The provisions of this section shall survive the expiration or termination of this Agreement.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

13. Insurance. The Consultant shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance

Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named by endorsement as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Workers' Compensation Employer's Liability each accident \$1,000,000, Employer's Liability Disease each employee \$1,000,000, and Employer's Liability Disease – Policy Limit \$1,000,000.
4. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
2. The Consultant shall provide the City with written notice of any policy cancellation, within two business days of their receipt of such notice.
3. The City will not waive its right to subrogation against the Consultant. The Consultant's insurance shall be endorsed acknowledging that the City will not waive their right to subrogation. The Consultant's insurance shall be endorsed to waive the right of subrogation against the City, or any self-insurance, or insurance pool coverage maintained by the City.
4. If any coverage is written on a "claims made" basis, then a minimum of a three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided to the City.

D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

E. Verification of Coverage

The Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

14. Assigning or Subcontracting. The Consultant shall not assign, transfer, subcontract or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the City, which consent may be withheld in the sole discretion of the City.

15. Notice. Any notices required to be given by the City to the Consultant or by the Consultant to the City shall be in writing and delivered to the parties at the following addresses:

Robert Putaansuu
Mayor
216 Prospect Street
Port Orchard, WA 98366

Phone: 360.876.4407
Fax: 360.895.9029

CONSULTANT
Matt Fontaine, P.E. Associate Engineer
Herrera Environmental Consultants, Inc.
2200 6th Ave, Ste. 1100
Seattle, WA 98121

Phone: 360-265-8031

16. Resolution of Disputes and Governing Law.

A. Should any dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor, who shall determine the term or provision's true intent or meaning. The Mayor shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

B. If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the Mayor's decision on a disputed matter, jurisdiction of any resulting litigation shall be filed in Kitsap County Superior Court, Kitsap County, Washington.

C. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorneys' fees from the other party.

17. General Provisions.

A. Non-waiver of Breach. The failure of either party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein contained in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be in full force and effect.

B. Modification. No waiver, alteration, modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

C. Severability. The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

D. Entire Agreement. The written provisions of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, the Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and the Exhibits attached hereto, which may or may not have been dated prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

18. Title VI

The City of Port Orchard, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, must affirmatively insure that its contracts comply with these regulations.

Therefore, during the performance of this Agreement, the Consultant, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The Consultant will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. **Nondiscrimination:** The Consultant, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Consultant will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix A, attached hereto and incorporated herein by this reference, including employment practices when this Agreement covers any activity, project, or program set forth in Appendix B of 49 C.F.R. part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Consultant of the Consultant's obligations under this Agreement and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.
4. **Information and Reports:** The Consultant will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish the information, the Consultant will so certify to the City or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of the Consultant's noncompliance with the Non-discrimination provisions of this Agreement, the City will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 1. withholding payments to the Consultant under the Agreement until the contractor complies; and/or
 2. cancelling, terminating, or suspending the Agreement, in whole or in part.

6. **Incorporation of Provisions:** The Consultant will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Consultant will take action with respect to any subcontract or procurement as the City or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Consultant becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Consultant may request the City to enter into any litigation to protect the interests of the City. In addition, the Consultant may request the United States to enter into the litigation to protect the interests of the United States.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year set forth above.

CITY OF PORT ORCHARD,
WASHINGTON

CONSULTANT

By: _____
Robert Putaansuu, Mayor

By: _____
Theresa Wood, Vice President

ATTEST/AUTHENTICATE:

Name: _____

By: _____
Brandy Rinearson, MMC
City Clerk

Title: _____

APPROVED AS TO FORM:

By: _____
Charlotte A. Archer, City Attorney

APPENDIX A

During the performance of this Agreement, the Consultant, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 C.F.R. Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC§ 471, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

EXHIBIT A - SCOPE

CITY OF PORT ORCHARD STORMWATER AND WATERSHEDS COMPREHENSIVE PLAN – PHASE 2

In October 2021, the City of Port Orchard (the City) authorized Herrera Environmental Consultants, Inc. (Herrera) to prepare a scope of services and cost estimate to provide support for the Phase 2 of the City’s Stormwater and Watersheds Comprehensive Plan (SWCP). Phase 1 of this project was recently completed. This scope of services is for Phase 2. This scope of services includes a discussion of the activities, assumptions, deliverables, and City responsibilities associated with the project tasks:

- Task 8.0 – Stormwater Program Development.....2
- Task 9.0 – Stormwater Management Action Plan Ecology Permit Requirements.....3
- Task 10.0 - Capital Improvement Prioritization, Summary Sheets and Grant Application.....5
- Task 11.0 –Public Participation.....8
- Task 12.0 –Financial Analysis9
- Task 13.0 –Stormwater and Watersheds Comprehensive Plan and Adoption 12
- Task 14.0 –Project Management/Contract Administration..... 14
- Project Budget and Schedule 14

The Consultant team (Consultant) for this project includes Herrera, FCS GROUP, GeoEngineers, and Reid Middleton. AES Consulting, Inc (AES) and Applied Professional Services (APS) are also on the team to provide professional land survey and pipe inspection services if needed, though these tasks that not included in the scope of work at this time. All deliverables listed are electronic files and all meetings or workshops are online or on the phone unless otherwise noted. The City will provide consolidated comments on all draft deliverables.

Consultant’s services shall be limited to those expressly set forth herein. If the service is not specifically identified herein, it is expressly excluded. Consultant shall have no other obligations, duties, or responsibilities associated with the project except as expressly provided in this Agreement.

SCOPE OF SERVICES

TASK 8.0 – STORMWATER PROGRAM DEVELOPMENT

Consultant will work with the City to finalize the Stormwater and Watersheds Program goals and levels of service matrix. As part of this task, the consultant will develop an Asset Management Plan process and framework for stormwater. The process and framework will be developed in a manner that will enable the City to expand the program to other utilities after project completion.

Subtask 8.1 - Stormwater Management Program / Utility Levels of Service

Based upon City comments in Phase 1 following review of the City of Port Orchard Stormwater and Watersheds Program Evaluation and Recommendations report (staffing and funding recommendations for future program implementation), the consultant will revise the Program Goals and Levels of Service Matrix to create a final report. Any City comments on the final report will be integrated into the City of Port Orchard Stormwater and Watersheds Comprehensive Plan (see Task 14).

Assumptions

- Consultant will conduct a one-hour meeting to review the Goals and Levels of Service Matrix.
- The City will identify and invite appropriate staff to participate in each meeting.
- The City will review and provide consolidated feedback on all deliverables for this task.
- The level of service matrix will identify goals for each program area and the extent to which each goal will be achieved by each level of service.
- The financial analysis task will examine levels of service defined in this task.

Deliverables

- Draft and final meeting notes
- Draft and final Program Goals and Levels of Service Matrix

SCOPE OF SERVICES

TASK 9.0 – STORMWATER MANAGEMENT ACTION PLAN ECOLOGY PERMIT REQUIREMENTS

Consultant will conduct activities to complete the Stormwater Management Action Plan permit requirements for the receiving waters assessment (due to Ecology March 31, 2022), receiving water prioritization (due June 30, 2022, with submittal to Ecology March 31, 2023) and the Stormwater Management Action Plan (due to Ecology March 31, 2023).

The watershed inventory from Phase 1 will be revised to include basin analysis for a future development metric, a narrative of stormwater management influence, final heat maps, and final Watershed Inventory Process Technical Memorandum. These work products will complete the receiving waters conditions assessment (S5.C1.d.i).

To complete the prioritization requirement (S5.C1.d.ii), a scoring and ranking criteria system will be developed and applied to the receiving waters assessment to identify the receiving water and targeted beneficial use expected to restore or conserve most from future implementation of a Stormwater Management Action Plan (SMAP). The highest priority watershed will be subdivided into catchments (if needed) of 400-600 acres in size. Heat maps will be developed for the priority basin using GIS analysis for a selected combination of flow accumulation, stormwater generation, and water quality of 400-600-acre catchments. The receiving waters prioritization technical memorandum will document the process and reasoning for selection of the catchment for developing a SMAP.

The SMAP will be developed to include a description of stormwater facility retrofits, land management/development strategies identified, and targeted non-structural actions. Each action will have a project summary sheet describing the cost, expected benefit (i.e., pollutant reduction or flow control), timeline, schedule, and funding sources. The final plan will be reviewed with existing local long-range plans for alignment. Future assessment and feedback adaptive management strategies will be described. The SMAP will meet the Ecology SMAP requirement (S5.C.1.d.iii).

Subtask 9.1 – Receiving Waters Conditions Assessment

The receiving waters conditions assessment will be updated to include a two additional metrics for stormwater management influence 1) for future development based upon the City's Buildable Lands Report and zoning and 2) overburdened communities where the water quality issues and human health impacts overlap and can be addressed (at least partly) through stormwater management improvements. A narrative, based upon a meeting with City staff, will be documented as a technical memo summarizing stormwater influences, priority actions and receiving water benefits for each basin, as well as summarizing which basins will be advanced to prioritization. The draft technical memorandum and watershed inventory will be revised to

SCOPE OF SERVICES

include the new metrics and narrative and finalized following City comments as the Ecology submittal.

Subtask 9.2 – Receiving Waters Prioritization

Watershed ranking and prioritization criteria will be developed and finalized following review and comment from the City. Watersheds will be ranked and scored so that the top priority receiving water and watershed are preliminarily identified.

For the selected highest priority watershed, catchments will be identified using GIS. GIS analysis for priority characteristics of 400–600-acre catchments will visually identify areas of high priority for selection. Based upon discussion, consideration of proposed Capital Improvement Projects, planned projects, opportunities, operational BMPs, land management strategies, and receiving water benefits, the priority candidate catchment (400-600 acres in size) will be selected for stakeholder review. Overburdened community characteristics in the priority catchment will

Following approval by the City, a stakeholder and public process will be implemented as described in the Public Involvement task (Task 12.0).

A summary technical memorandum of the ranking criteria, prioritization and public process and results will be provided to the City for submittal to Ecology.

Subtask 9.3 – Stormwater Management Action Plan

The SMAP will be developed and include a description of up to 6 project summary sheets for identified stormwater facility retrofits, management/development strategies, and/or targeted non-structural actions. The plan will be reviewed for alignment with local long-range plans. A proposed implementation schedule and potential funding options will be included. Future assessment and feedback adaptive management strategies will be described. The final SMAP will satisfy the Ecology requirement.

Assumptions

- Four meetings with the City Project Manager.
- Consultant will provide to the City a revised draft, and final Technical memorandum summarizing the Receiving Waters Assessment process and the Watershed Inventory matrix.
- City will provide access to the overburdened communities data and StoryMap developed by Kitsap County.

SCOPE OF SERVICES

- Consultant will develop a draft ranking and prioritization matrix for receiving water prioritization, the City will review and comment, and Consultant will finalize the receiving water prioritization matrix.
- Consultant will develop a draft catchment scale GIS heat maps (up to two) of candidates in the top priority watershed, the City will review and comment. Consultant will finalize the catchment scale heat map(s).
- Consultant will identify 2 non-structural (programmatic) projects in the priority catchment. Structural project will be identified in the CIP Task.
- The City will review and provide consolidated feedback on all deliverables for this task.

Deliverables

- Draft and final watershed inventory matrix
- Revised draft and final Technical memorandum summarizing the receiving waters assessment process and the watershed Inventory matrix.
- Draft and final receiving water ranking/prioritization criteria matrix.
- Draft and final catchment delineation GIS heat map(s) in the top priority watershed.
- Draft and final receiving water prioritization methods and documentation technical memorandum.
- 2 summary sheets of non-structural projects in the priority catchment.
- Draft and final SMAP.
- Attend 1 City Council Meeting.

TASK 10.0 - CAPITAL IMPROVEMENT PRIORITIZATION, SUMMARY SHEETS AND GRANT APPLICATION

Consultant will develop CIP project documentation. The documentation and analysis related to each CIP project is listed in Exhibit A.1. Consultant will support the City in prioritizing the projects and creating a tiered CIP implementation and cost schedule for 2022-2042 for inclusion in the SWCP and financial analysis.

SCOPE OF SERVICES

Subtask 10.1 – CIP Project Development

Consultant will develop draft CIP summary sheet packages for each project. The packages will include a project summary sheet outlining the problem, proposed solution, and prioritization information. The documentation related to concept development, graphics, computer modeling, and cost estimating varies by project as described in Exhibit A.1. The City will provide a consolidated set of comments on the draft CIP summary sheet packages and the Consultant will lead two video calls with City staff to discuss comments and will then finalize the CIP project documentation.

Subtask 10.2 – Project Prioritization

CIP project prioritization helps ensure effective use of Stormwater Utility funding and the best possible service to the residents of the City. Consultant will develop a CIP project prioritization scheme for review by the City. Consultant will finalize the scheme and apply it to prioritize CIP projects using a prioritization matrix. Completing draft and final ranking of the projects in coordination with the City team. Consultant will lead a meeting with City staff to discuss comments on the prioritization.

Subtask 10.3 – Documentation

Consultant will summarize the Capital Improvement Program Plan, including the process used to develop and prioritize the project and an implementation schedule with multiple tiers of service, in the .

Assumptions

- The budget for this task assumes 10 project summary packages.
- The Consultant will update the CIP web map that defines the location of these known issues and provides an interface for collecting field assessment data.
- Consultant staff will spend a combined total of up to six days of field assessment.
- Field evaluation will be focused on a qualitative evaluation of important stormwater or natural features. Field measurements (e.g., pipe diameter, channel geometry) may be collected where features are readily accessible, such as in streams to define culvert geometry requirements. See Exhibit A-1.
- Professional land survey, pipe inspection services (e.g., CCTV inspection), water quality sampling, or flow measurements are excluded, but could be added by supplemental agreement.

SCOPE OF SERVICES

- The City will coordinate / provide right of entry where private property entry is required.
- Where significant vegetation removal is required for site access, the City will complete the vegetation removal prior to the field assessment.
- A City staff member and/or the City's project manager will be available to meet with Consultant staff to provide site access, background information, and general field support as needed.
- Streamflow frequency will be estimated using USGS StreamStats online flow frequency tool or similar when needed for conceptual design.
- Consultant will use analogous (top down) estimating as the default method for developing initial CIP cost estimates. Parametric (itemized) estimating may be prepared for priority projects if budget allows. Appropriate percentages will be applied for contingencies and allied costs (e.g., design, geotechnical, construction management, City project management).
- The City will review and provide consolidated feedback on all deliverables for this task.
- Project concept design drawings will primarily be developed in a plan view format in GIS.
- The CIP summary packages will be subject to one round of review and revision.
- All City review comments will be synthesized by the City project manager and consolidated into a single set of comments. City review comments will be provided within two weeks of project summary sheet and cost estimate submittal.
- Consultant will lead up to 5 meetings that are each up to 2 hours long during this task:
 - 2 meetings to discuss City comments on the draft prioritization results
 - 2 meetings to discuss City comments on the draft summary sheet packages
- Additional iterative CIP project summary sheet and cost refinement may be performed, as budget and schedule allow.

Deliverables

- Draft and final versions of up to 10 CIP project summary packages in pdf format.
- Final CIP location shapefile.
- Narrative on CIP prioritization process and CIP implementation schedule that includes multiple levels of service.

SCOPE OF SERVICES

TASK 11.0 –PUBLIC PARTICIPATION

The Public Involvement Plan from Phase 1 will be updated to reflect how the City conducts outreach and obtains feedback. Activities will include soliciting photos from local amateur photographers, outreach materials, and conduct a stakeholder workshop.

Consultant will prepare a PowerPoint presentation for the City to present the receiving waters assessment and receiving waters prioritization to foster community and stakeholder discussions. Consultant will organize and assist with one virtual or in-person workshop.

Assumptions

- Consultant will update and finalize the Public Participation Plan; City will review and comment.
- Consultant will coordinate with Kitsap Photography Guild soliciting and organizing.
- Consultant will plan and facilitate a Watershed Inventory and Prioritization workshop for external public and stakeholders (i.e., stakeholders who are not City departments)
-
- Consultant will create a PowerPoint slide show presenting the receiving water conditions assessment and receiving water prioritization, and overall goals of the Port Orchard Stormwater and Watersheds Comprehensive Plan.
- The City will provide an online meeting platform for all online meetings and/or post the presentation materials and PowerPoint video on the City website

Deliverables

- Draft and revised public participation plan (anticipated to be a living document through the project).
- Watershed Inventory and Prioritization presentation PowerPoint.
- Draft and final agenda and notes for the Watershed Inventory and Prioritization stakeholder meeting.

SCOPE OF SERVICES

TASK 12.0 – FINANCIAL ANALYSIS

Subtask 12.1 – Financial Task Initiation

Prepare an initial data request identifying financial, operational, and capital planning data pertinent to the performance of the analysis. Follow up with City staff as necessary for any additional items or clarifications. Call-in to a kickoff meeting with key City staff to review the financial task, methodology, timeline, expectations, and desired outcomes. Perform miscellaneous project set up activities, scheduling, work paper documentation, invoicing, and other miscellaneous project administration activities.

Deliverables

- Attend one (1) remote financial task kickoff meeting.
- Meeting notes documenting study schedule, goals, etc.
- Delivery of a request for information needed to perform the analysis.
- Monthly invoices to Herrera, Inc. with the level of effort and description of activity.

Subtask 12.2 – Revenue Requirements Analysis

The revenue requirement is defined as the total amount of rate revenue needed to meet an enterprise's financial obligations, including capital, operating, and policy-driven commitments. The results of the revenue requirement analysis will be the recommended percentage rate increases or decreases, as applied to the current rate structure needed to meet the obligations of the stormwater service.

Using an Excel spreadsheet model, and with the input of City and Consultant staff, Consultant will construct or adapt an analytical model to project operations and capital revenue requirements for up to a 10-year period. The planning horizon for the revenue requirements analysis can be scaled to match the planning horizon of the capital plan. The model will be constructed with user-friendliness in mind and will accommodate user-entry of key data and assumptions. The model will be flexible and stable enough to analyze multiple scenarios and/or levels of service.

Deliverables

- Develop baseline revenue requirement analysis (electronic [Excel]).
- Attend two (2) remote meetings with City staff to review baseline revenue requirement.

SCOPE OF SERVICES

- Single-family service rate comparison for up to six (6) jurisdictions chosen by City staff.

Subtask 12.3 – Service Level Matrix

Consultant will work with the City to define service levels for consideration and group the utility activities and CIP projects by program area and level. Often these service levels include “existing”, “future regulatory compliance”, “proactive”, and sometimes “comprehensive”. Consultant will estimate the costs of achieving each service level in each program service line. Consultant will use an Excel spreadsheet model to calculate rates for each service level, and compile results in a matrix format for communication to Council.

Deliverables

- Draft level of service matrix (electronic [Word / Excel]).
- Attend one (1) remote meeting with City staff to review level of service matrix.
- Revised level of service matrix for use in the revenue requirement (electronic [Word / Excel]).

Subtask 12.4 – Capital Facilities Charge (CFC)

CFCs are one-time fees, paid at the time of development, intended to recover a share of the cost of system capacity needed to serve growth. They serve two primary purposes:

- to provide equity between existing and new customers; and
- to provide a source of funding for system capital costs.

The CFC is an upfront charge imposed on growth and is primarily a charge on new development, although also applicable to expansion or densification of development when such actions increase requirements for utility system capacity.

This task will calculate a legally defensible charge for City Council’s consideration. A CFC benchmarking survey of up to six (6) jurisdictions in the region will be developed. Develop a draft CFC implementation ordinance for the City’s review.

Deliverables

- Calculation of CFC per equivalent service unit.
- Attend one (1) remote meeting with City staff to review CFC calculation.

SCOPE OF SERVICES

- Single-family CFC comparison for up to six (6) jurisdictions chosen by City staff.
- Draft code ordinance in aid of CFC implementation.

Subtask 12.5 – Documentation and Public Meetings

Prepare for and attend up to two (2) remote meetings with the City Council to present study results. Prepare a draft and final rate study report following the City Council meetings. The documentation will outline the rate study process for future reference, and it will include a recommended rate strategy, as well as an explanation of the rationale for recommendations.

Deliverables

- Draft and final PowerPoint presentations for City Council meetings.
- Attend and participate in two (2) remote City Council meetings.
- Spreadsheet Model – Provide a copy of the Excel spreadsheet model.
- Draft Report – Prepare a draft report that summarizes the findings, recommendations, and supporting materials for the analysis.
- Final Report – Prepare a final report with revisions based on City staff comments.

Assumptions

- Consultant will meet with City staff for a financial task kickoff meeting.
- Revenue requirement findings may be revised based on feedback from the City.
- Consultant will produce a draft level of service assessment for major utility activities and projects.
- Consultant will coordinate with City staff to estimate system capacity for incorporation into the CFC calculation.
- Consultant will meet with City staff up to four times to review and discuss the draft study results. Following these review meetings, Consultant will revise the analysis and finalize recommendations.
- Consultant will prepare for and meet with the City Council two times to present and discuss findings.

SCOPE OF SERVICES

- All meetings are assumed to be remote meetings (no travel). If restrictions on public gatherings ease during the study, we would be happy to attend onsite meetings, with a budget amendment to cover additional travel.
- The rate design and credit program will not change. Any necessary rate adjustments will be applied 'across-the-board' to the City's existing rate structure.

Summary of Deliverables

- Revenue requirements analysis and model in Excel spreadsheet
- Draft level of service matrix
- Revised level of service matrix for use in the financial analysis
- Final level of service matrix incorporating cost information from the financial analysis
- Single-family service charge and capital facilities charge comparison survey (up to six jurisdictions)
- Calculate a legally defensible stormwater capital facilities charge
- One project kickoff meeting
- Four City staff-level review meetings
- Two City Council meetings and presentation materials
- Draft financial analysis report
- Final financial analysis report
- Analytical model

TASK 13.0 – STORMWATER AND WATERSHEDS COMPREHENSIVE PLAN AND ADOPTION

Consultant will develop the SWCP using information developed in prior tasks. Consultant will produce an internal review draft, public review draft, council review draft, and final SWCP.

Consultant will begin with development of a working outline for the Plan that will help guide the development of the document. This outline will be tentatively approved by the City, understanding that minor adjustments may be made as the work progresses. During

SCOPE OF SERVICES

development of the outline Consultant will also discuss preferred document layout and formats, platform, and handling of appendices and links with City staff.

Consultant will prepare a style guide for the document that may be based on the City document style guide, or other City examples or preferences. The style guide will be subject to one round of review and revision by the City before incorporation into the SWCP.

Consultant will prepare a complete draft Stormwater and Watersheds Comprehensive Plan (Plan) according to the agreed upon outline. The draft Plan will include several chapters, graphics, performance measures, and recommendations organized by topic area (e.g., policies, NPDES Permit compliance, operations and maintenance, CIP projects, etc.), and will describe linkages to other City programs. The Internal Draft will be for internal City staff review only, prior to release to the public and stakeholders.

After internal review of the Internal Draft Plan has been completed, Consultant will address City comments on the Internal Draft Plan and develop an updated Public Review Draft Plan for broader review by the Planning Commission, stakeholders, and the public. Based on the input and comments received during the review process, the Public Review Draft Plan will be updated and finalized (Council Review Draft) prior to going through the Council Adoption process.

Consultant will make minor adjustments to the Council Review Draft and provide a final Stormwater and Watersheds Comprehensive Plan in electronic and paper format.

Assumptions

- The City will provide a consolidated set of comments on each draft.
- The Plan is anticipated to be 80 pages in length, have graphical/image-heavy style, and be developed using Adobe InDesign.
- Text for individual chapters may be provided for City review in word format; however, all complete drafts will be provided as pdfs.

Deliverables

- Draft and final plan outline, Microsoft Word format.
- Document style guide, pdf format.
- Internal Review Draft Plan, pdf format.
- Public Review Draft Plan, pdf format.
- Council Review Plan, pdf format.

SCOPE OF SERVICES

- Attendance at one City Council meeting
- Final Plan, pdf format; 5 paper copies

TASK 14.0 – PROJECT MANAGEMENT/CONTRACT ADMINISTRATION

Herrera will be responsible for ongoing management and contract administration of this project, including preparing monthly invoices, as well as coordination of work efforts with the City's project manager and subconsultants. Herrera's project manager and contract manager will have phone and e-mail contact with the City's project manager and other City representatives on an as-needed basis with regard to scope, schedule, budget, and invoicing issues.

This task also includes regular bi-weekly calls between the Herrera and City project manager. These calls are in addition to task-specific meetings outlined in previous tasks. Herrera will perform QA/QC of deliverables, including subconsultant deliverables.

Assumptions

- Check-ins will occur on the phone or video conference every two weeks, and may be conducted in person as needed and as budget allows
- Herrera and City will provide contact information for project manager back-up should primary contact(s) be unavailable.

Deliverables

- Monthly invoices
- Monthly progress reports

PROJECT BUDGET AND SCHEDULE

The estimated project Budget and Schedule are provided in Exhibits B and C respectively.

Herrera Environmental Consultants

12/1/2021

Cost Estimate for
Herrera Project No.

Port Orchard SW Comprehensive Plan Phase 2
20-07401-000



Task No.			8	9	10	11	12	13	14	Total
			Stormwater Program Development	Stormwater Management Action Plan Ecology Permit Requirements	Capital Improvement Prioritization, Summary Sheets and Grant Application	Public Participation	Financial Analysis	Stormwater and Watersheds Comprehensive Plan and Adoption	Project Management/ Contract Administration	
Herrera Labor based on: Burdened Labor Rates										
Staff	Title	2021 Burdened Labor Rates								
Ewbank, Mark	Vice President	\$269.88	0	1	0	0	0	0	0	1
Michaud, Joy	Scientist VI	\$251.99	2	9	0	2	0	7	0	20
Lenth, John	Vice President	\$269.88	0	0	0	0	0	2	0	2
Fontaine, Matthew	Engineer V	\$204.15	4	22	55	0	16	20	26	143
Fohn, Mindy	Scientist III	\$158.84	4	77	0	30	0	36	58	205
Dugopolski, Rebecca	Engineer V	\$207.26	6	0	0	0	0	34	0	40
Chechanover, Julianne	Engineer I	\$121.59	9	12	94	0	4	31	0	150
Wingrove, Katie	Engineer II	\$143.93	0	61	16	24	0	18	0	119
Schmidt, Jennifer	GIS Analyst V	\$193.25	0	3	4	0	0	0	0	7
Ode-Giles, Lauren	GIS Analyst II	\$98.87	0	0	10	0	0	0	0	10
Jackowich, Pam	Administrative Coordinat	\$123.03	8	4	0	0	0	28	0	40
Rudnick, Tracy	Project Accountant IV	\$125.43	0	0	0	0	0	0	16	16
Vayanos, Stacy	Landscape Architect III	\$125.33	0	0	0	8	0	40	0	48
Waggoner, Jonathan	Engineer III	\$178.58	0	0	36	0	0	0	0	36
Blaud, Brianna	Scientist III	\$143.93	0	0	29	0	0	0	0	29
Total Hours per Task			33	189	244	64	20	216	100	866
Subtotal Labor			\$5,278	\$30,571	\$37,325	\$9,726	\$3,753	\$33,970	\$16,527	\$137,150
Subtotal Herrera Labor			\$5,278	\$30,571	\$37,325	\$9,726	\$3,753	\$33,970	\$16,527	\$137,150
4%	Escalation on Herrera Labor in 2022		\$211	\$1,223	\$1,493	\$389	\$150	\$1,359	\$661	\$5,486
Escalated Subtotal Herrera Labor			\$5,489	\$31,794	\$38,818	\$10,115	\$3,903	\$35,329	\$17,189	\$142,636
Subconsultants										
Subconsultant										
Reid Middleton	\$0	\$0	\$30,000	\$0	\$0	\$0	\$0	\$0	\$0	\$30,000
FCS	\$0	\$0	\$0	\$0	\$48,410	\$0	\$0	\$0	\$0	\$48,410
GeoEngineers	\$0	\$0	\$15,000	\$0	\$0	\$0	\$0	\$0	\$0	\$15,000
3%		Fee on Subconsultants		\$0	\$0	\$1,350	\$0	\$1,452	\$0	\$2,802
Subtotal Subconsultant Cost			\$0	\$0	\$46,350	\$0	\$49,862	\$0	\$0	\$96,212
Travel and Per Diem (PD)										
Item	Unit	Date Updated:								
Auto Use	Mile	\$0.56	0	0	200	50	0	0	0	250
Subtotal Per Diem			\$0	\$0	\$112	\$28	\$0	\$0	\$0	\$140
Other Direct Costs (ODCs)										
Item	Unit	Date Updated:								
GPS unit (Arrow 100 w/ iPa)	Day	\$85.00	0	0	4	0	0	0	0	4
Subtotal ODCs			\$0	\$0	\$340	\$0	\$0	\$0	\$0	\$340
Subtotal Per Diem, Lab Costs, and ODCs			\$0	\$0	\$452	\$28	\$0	\$0	\$0	\$480
Grand Subtotal			\$5,489	\$31,794	\$85,620	\$10,143	\$53,765	\$35,329	\$17,189	\$239,328
Grand Total										\$239,328



City of Port Orchard

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Agenda Staff Report

Agenda Item No.:	<u>Business Item 7K</u>	Meeting Date:	<u>December 14, 2021</u>
Subject:	<u>Adoption of a Resolution Approving</u>	Prepared by:	<u>Charlotte Archer</u>
	<u>an Interlocal Agreement with South</u>		<u>City Attorney</u>
	<u>Kitsap Fire and Rescue for Fire</u>	Atty Routing No.:	<u>366922-0011 – DCD</u>
	<u>Prevention Services</u>	Atty Review Date:	<u>December 8, 2021</u>

Summary: The City of Port Orchard annexed to the Kitsap County Fire Protection District No. 7, otherwise known as South Kitsap Fire and Rescue (“SKFR”) in 2001. As a result SKFR provides fire protection services to the residents of the City, pursuant to Chapter 52.04 RCW and Port Orchard Municipal Code (“POMC”) Chapter 2.12.

In addition to fire protection services, since annexation SKFR has provided the City’s residents with additional services, including fire investigations, review services for special events, and building and property inspections under the International Fire Code (IFC). More recently, SKFR took on the role of reviewing certain permits for compliance with the IFC including site development plans and permits, land use permits, construction permits, and occupancy permits. These permit review services have been provided by SKFR in exchange for payment, pursuant to the existing Interlocal Agreement between the City and the SKFR.

In order to more adequately address the needs of the residents of Port Orchard, the City recently hired a Building Official with the necessary certifications to perform the aforementioned inspections and permit reviews in-house. Concurrently, SKFR notified the City that, beginning in 2022, SKFR will not have the staffing available to perform these services without a significant cost increase to the City. However, SKFR will maintain sufficient staffing to provide limited fire protection services to the City’s residents, at no cost. This ILA is unrelated to and in no way impacts the fire protection services (i.e., fire and emergency aid response) SKFR provides to the City’s residents.

The City and SKFR have negotiated the terms of an Interlocal Agreement to govern the fire prevention services SKFR has committed to continuing to provide at no cost, including but not limited to: fire investigations; burn permit issuance; special event permit review; public fire safety education; and hazardous materials emergency assistance. SKFR has also committed to providing on-call consultation on permit review for a fee. The ILA also contains provisions regarding Kitsap County Tax Parcel 052301-4-019-2004 (Future McCormick Park Fire Station Site) and the Fire Station 31 on Tremont Ave; these terms are unchanged from the existing ILA between the two agencies.

Recommendation: Staff recommends adoption of a Resolution, approving of an Interlocal Agreement with South Kitsap Fire and Rescue for Fire Prevention Services.

Relationship to Comprehensive Plan: N/A

Motion for consideration: I move to adopt a resolution, authorizing the Mayor to execute the Interlocal Agreement with South Kitsap Fire and Rescue for Fire Prevention Services

Fiscal Impact: N/A

Alternatives: Recommend alternative guidance.

Attachments: Resolution and Exhibit A (Interlocal Agreement for Fire Prevention Services)

RESOLUTION NO. ____

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT WITH SOUTH KITSAP FIRE AND RESCUE FOR FIRE PREVENTION SERVICES.

WHEREAS, the City annexed to the Kitsap County Fire Protection District No. 7, also known as South Kitsap Fire and Rescue (SKFR) in 2001, and SKFR provides fire protection to the City, pursuant to Chapter 52.04 RCW and Port Orchard Municipal Code (POMC) 2.12; and

WHEREAS, since the time of the annexation, the City and SKFR have worked together pursuant to the terms of interlocal agreements, the most recently enacted dated December 14, 2016, under which the responsibilities of the parties for fire prevention activities were clearly delineated; and

WHEREAS, the City adopted the International Fire Code (IFC), as amended by the City, as the official fire prevention code of the City of Port Orchard, and the City is obligated to enforce that code; and

WHEREAS, the City has fire investigation authority under RCW 43.44.050, and SKFR has the authority to, on behalf of the City, coordinate resources to conduct fire investigations to determine the origin and cause of fires within the City pursuant to RCW 43.44.050; and

WHEREAS, in recent years, SKFR had employed staff to provide the City with assistance with permit review, inspections and other fire prevention services, and the City paid SKFR for these services; and

WHEREAS, to meet the needs of the residents of Port Orchard, the City recently hired a Building Official with certification in the International Fire Code to perform permit review, inspections and other fire prevention services; and

WHEREAS, accordingly, SKFR will no longer perform these services pursuant to an agreement between the agencies, but will perform other fire prevention services, including burn permit review, special events consultation, and on-call permit review for special permits; and

WHEREAS, the City and SKFR both have the authority granted by the Interlocal Cooperation Act, Chapter 39.34 RCW to execute an Interlocal Agreement for services; and

WHEREAS, the City Council finds it is in the best interests of the City and its residents to execute an Interlocal Agreement with SKFR for certain fire prevention services, including fire investigations; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

THAT: It is the intent of the Port Orchard City Council that the recitals set forth above are hereby adopted and incorporated as findings in support of this Resolution.

THAT: The City Council approves of and authorizes the Mayor to execute the Interlocal Agreement with South Kitsap Fire and Rescue, attached hereto as Exhibit A and incorporated herein by this reference.

THAT: The Resolution shall take full force and effect upon passage and signatures hereon.

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 14th day of December 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF PORT ORCHARD
AND KITSAP COUNTY FIRE PROTECTION DISTRICT NO. 7 (SOUTH KITSAP FIRE
AND RESCUE) REGARDING FIRE PREVENTION DUTIES AND RESPONSIBILITIES**

Contract No. XX

THIS AGREEMENT (“Agreement”) is entered into between the City of Port Orchard (“the City”) and Kitsap County Fire Protection District No. 7, South Kitsap Fire and Rescue (“the District”) under the authority of the Interlocal Cooperation Act, RCW 39.34.

WHEREAS, the City annexed to the District in 2001, and the District provides fire protection to the City, pursuant to Chapter 52.04 RCW and Port Orchard Municipal Code (POMC) 2.12; and

WHEREAS, since the time of the annexation, the City and the District have worked together pursuant to the terms of interlocal agreements, the most recently enacted dated December 14, 2016, under which the responsibilities of the parties for fire prevention activities were clearly delineated (“2016 Interlocal Agreement”); and

WHEREAS, the City adopted the International Fire Code (IFC), as amended by the City, as the official fire prevention code of the City of Port Orchard, and the City is obligated to enforce that code; and

WHEREAS, the District is authorized, pursuant to RCW 52.12.031, to perform building and property inspections consistent with the IFC necessary to provide fire prevention services and pre-fire planning within the District; and

WHEREAS, the City has fire investigation authority under RCW 43.44.050; and

WHEREAS, the District has the ability to coordinate resources to conduct fire investigations to determine the origin and cause of fires within the City pursuant to RCW 43.44.050; and

WHEREAS, this Agreement is made pursuant to the authority granted by the Interlocal Cooperation Act, Chapter 39.34 RCW; and

WHEREAS, the District has agreed to perform the duties described herein within the City, the parties have come to a mutual understanding as to their responsibilities and wish to set forth that understanding in writing; NOW, THEREFORE,

THE PARTIES HERETO AGREE AS FOLLOWS:

1. Purpose of Agreement. The purpose of this agreement is to set forth the mutual understanding of the parties as to the District’s fire prevention duties and responsibilities within the City. This Agreement supersedes all previous agreements between the parties for these purposes.

2. District's Duties and Responsibilities. Within the City of Port Orchard, the District provides comprehensive fire suppression services, emergency medical services, and emergency hazardous substances response services. With respect to fire prevention services, review and inspection services and other services incidental to the protection and public safety of persons and property in the city of Port Orchard, the parties agree that the District will be responsible for providing the services listed below in the manner indicated.

2.1 Fire Investigations: The District agrees to provide for all fire investigations and reporting of investigations to the National Fire Incident Reporting System (NFIRS) on behalf of the City of Port Orchard, and shall ensure adequate personnel, resources and material appropriate to supply fire investigation services on an "on-call" status of twenty-four (24) hours per day are available. The term fire investigation services shall include but is not limited to: (i) acting as the on-scene agency responsible for the investigation; (ii) origin and cause determinations; (iii) documenting and recording the scene; (iv) identification, collection and preservation of evidence; (v) witness interviewing; (vi) assisting local law enforcement; (vii) preparation of initial and follow-up reports; and (viii) court appearances. The District will be authorized to use other authorized Public Agencies to conduct investigations, at the discretion of the District. In the event that outside resources are needed (e.g. ATF, FBI, KCSO, etc.) the District, or its authorized appointee, will be the point of contact in these circumstances. The District agrees to provide this service to the City of Port Orchard for no compensation. In the event, however, the current level of service associated with providing Fire Investigation shall ever significantly increase beyond the current level of service, or the District is no longer able provide this service pursuant to its current partnerships with other public agencies, the Parties agree to negotiate to determine the appropriate amount of compensation for the District to provide this service.

2.2 Permit Issuance: The District is responsible for the receipt of applications for and the issuance of the following:

2.2.1 Outdoor Burning: The District is responsible for issuing permits for outdoor burning, consistent with Chapter 52.12 RCW and the International Fire Code, and per the District's adopted procedures and rules governing these activities. The District will provide findings of fact and citations of applicable law to the applicant for any decision to condition or deny a fire code permit.

2.2.2 Special Burn Permits: The District will issue special burn permits and keep a record of all burn permits issued within the City boundaries. The District may establish a fee for this service and the District may collect said fee directly from the permittee.

2.3 Special Events, Carnivals and Circuses. Upon receipt of a complete application for a Special Event (defined at POMC 5.94.030) or Circus/Carnival (defined at POMC 5.32.020 and 5.32.030), the City shall provide the District with a copy of the application. Consistent with POMC 5.94.080 and 5.32.010, the District shall make a determination as to the need for on-site fire watch and/or emergency medical personnel for the event. In determining the need for personnel for the event, the District shall consider factors including but not limited to the location, number of anticipated participants and spectators, and type of event, including the application of appropriate codes and ordinances. If fire watch and/or emergency medical personnel for the event are deemed necessary by the District, the District shall notify the applicant, and the

applicant shall be responsible for securing fire watch/emergency medical personnel reasonably acceptable to the fire chief at the sole expense of the applicant, and shall prepay the expenses of such protection to the District. Only state-certified, licensed professional fire/emergency medical personnel shall be used for this purpose, preferably South Kitsap Fire and Rescue employees and equipment.

2.4 Consultation on Inspections. In order to serve the residents of Port Orchard, upon the City's request, if the District has personnel capable of providing an opinion, the District will provide an opinion to report on unusual, detailed or complex technical issues subject to the approval of the City. This includes, but is not limited to, inspection and permitting consultation on Knox Boxes, Fire Department Connections (FDC's), Emergency Responder Radio Coverage Systems, Marina Standpipe Identification Methods, Building Address Identification, and other similar systems.

The District may establish a reasonable hourly fee for these consultation services, identified on Exhibit A hereto.

2.5 Public Fire Safety Education: The District will continue its existing related public safety campaigns, messages, and programs. These include but are not limited to: juvenile fire setters, fire safety education in public and private schools, public appearances, public CPR training, and smoke detector programs.

2.6 Fire Code Enforcement: The District will notify in writing the City of Fire Code violations the District observes as soon as reasonable practicable of the observed non-compliance. Once notified by the District, the City is responsible for Fire Code enforcement.

2.7 Inspection Records. The District will provide the City access to all inspection records pertaining to fire and life safety inspections within the City in its possession. All existing City records shall be maintained per records retention rules as issued by the Washington State Archives Office.

2.8 Hazardous Materials Emergency Assistance Agreements. Consistent with POMC Chapter 2.14, the District shall serve as the incident command agency for all hazardous material incidents within the corporate limits of the city of Port Orchard. The fire district and the city of Port Orchard together and separately shall reserve the right to recover costs for incident response and incident cleanup, as outlined in RCW 4.24.314 for extraordinary cost incurred due to a hazardous materials incident in accordance with fee schedule as adopted by the Washington State Fire Services Resource Mobilization Plan.

3. Optional District Responsibilities: At the District's option, the District may perform the following additional functions:

3.1 Plan and Permit Review: The City will provide notice to the District of the following and the District is invited to provide comment as to compliance with the IFC and consideration of health, safety, and the general welfare of the residents of Port Orchard:

3.1.1 Site development plans and permits;

3.1.2 Land use permits;

3.1.3 Construction permits; and

3.1.4 Occupancy permits.

3.2 Meeting and Hearing Attendance: The City will invite the District to send a representative to attend the following:

3.2.1 Pre-application meetings, land use hearings, and pre-construction meetings; and

3.2.2 Operational and Technical Review – Construction / Development: The District will be invited by the City to provide personnel to attend meetings and give fire and life safety comments to operational review.

3.3 Provide input to the City on fire codes, policy, procedure, rules, and regulations as needed: The City will invite the District will provide input to the City on all items related to the IFC.

3.4 Adopt codes and ordinances related to fire safety: The City will provide notice of any proposed code and ordinance amendments/changes and will consider the input from the District, if any, when adopting City codes and ordinances related to fire safety.

4. Fire Station 31 on Tremont Ave. The parties have previously agreed to certain conditions on the use by the District of the real property known as Fire Station 31, located on Tremont Avenue in Port Orchard, Washington, and described more particularly in Exhibit A, attached hereto (hereinafter “Real Property”), which was conveyed by statutory warranty deed by the City to the District in 2002 with certain conditions subsequent included in the deed. The parties hereby confirm their agreement that, if the District ceases to use the Real Property for District purposes prior to January 2, 2027, the Real Property shall revert back to the City. In that event, the District shall convey the Real Property, and all improvements, back to the City for no consideration via a statutory warranty deed free of any liens or encumbrances created by or as a result of the actions of the District. “District purposes” means that the sole uses are for fire prevention, District administration, medical and/or fire protection services. The reversion of the Real Property shall have no effect on the District’s obligation to continue to provide the services set forth in this Agreement. For purposes of the condition subsequent, an attempted sale of the Real Property shall be deemed “ceasing to use” the Real Property for District purposes. Provided, however, if the purpose of the sale is to use the funds to build a new fire station within the city limits of Port Orchard, then the proceeds of such sale may be used for that purpose, and the condition subsequent referenced above shall be recorded against the new fire station property. In addition, the District will allow the use of the Real Property by the public according to the regulations it has established and will establish in the future for the use of District facilities by the public. Provided, there will be no charge to the City for the use of the facility for meetings scheduled. The District shall be solely responsible for adequately insuring the Real Property and all personal property contained therein according to the District’s practices and procedures for insuring its real and personal property throughout the remainder of its jurisdictional boundaries.

The District shall, at its cost and expense, comply with all applicable and valid laws, ordinances and regulations of Federal, State, County, Municipal or other lawful authority pertaining to its use and occupancy of the Real Property, including those related to environmental requirements and the handling of hazardous waste or materials. The District agrees that it will not dispose of or otherwise allow the release of any hazardous waste or materials in, on or under the Real Property, or any adjacent parcel, or in any improvements placed on the Real Property. The District shall indemnify, defend and hold the City harmless from and against any and all losses, suits, obligations, fines, penalties, judgments, claims, costs, damages and expenses of any kind asserted against the City, including attorneys' fees, response and other associated remedial costs that result from or arise in any way from the District's use of the Real Property. The District's obligations under this section shall survive the expiration or termination of this Agreement.

5. Future McCormick Park Fire Station Site. Until such time as it develops its new fire station on Parcel 052301-4-019-2004, the Fire District authorizes the City to make use of said parcel for purposes related to the development of the McCormick Village Park. In particular, the District will allow the City to use said parcel for all reasonable parking needs, construction activities, grading and other similar uses relating to the construction and use of McCormick Village Park. No consideration will be due from the City to the District for such uses.

City shall comply with all applicable and valid laws, ordinances and regulations of Federal, State, County, Municipal or other lawful authority pertaining to its use and occupancy of said parcel.

City further agrees that it shall not dispose of or otherwise allow the release of any hazardous waste or materials in, on or under said parcel, or any adjacent property, or in any improvements placed on the parcel. The City shall comply, at its cost and expense, with all environmental statutes, regulations, ordinances, and orders, decrees or judgments of any governmental authorities or courts having jurisdiction, relating to the use, collection, treatment, disposal, storage, control, removal or cleanup of hazardous waste or material in, on or under said parcel or any adjacent property or in any improvements placed on the parcel.

The City shall indemnify, defend and hold the District harmless from and against any and all losses, suits, obligation, fines, penalties, judgments, claims, costs, damages and expenses asserted against the District by third parties, including attorney's fees, response and other associated remedial costs, diminution of value and all loss and liability related to any and all personal injury, property damage or damage to natural resources arising out of or in any way related to the City's use of the parcel, including, but not limited to, environmental contamination or hazardous substances on or under the parcel or the improvements thereon and to the remediation thereof, and any and all cleanup, correction or any other remedial work with respect to any environmental contaminant which may be present upon the parcel, whether the performance of such work is required by any governmental agency, third party or undertaken pursuant to an order imposed by any court or governmental agency. The City's obligation under this section shall survive the expiration or termination of this Agreement. At a future date when the District develops this property for a fire station, the parties may agree to mutually amend this section of this agreement.

6. General Provisions: The duties herein establish the parties' mutual understanding of the duties and responsibilities the District is agreeing to perform on behalf of the City within the City. Nothing in the preceding list or in any other provision of this Agreement is intended to establish or acknowledge the existence of any duty or responsibility to any third party to perform any of the activities set forth herein. This agreement creates no rights in third parties.

6.1 Duration of Agreement. This Agreement shall take effect on January 1, 2022, and shall continue in full force and effect thereafter for five (5) years, unless or until terminated as provided in herein.

6.2 Termination. Either party may terminate this Agreement at any time by giving the other party sixty (60) days' written notice of the intent to terminate; PROVIDED that the provisions of Paragraphs 4, 5 and 6.3 shall survive the termination of this Agreement.

6.3 Insurance/Mutual Indemnification. Each party shall carry appropriate liability and property damage insurance to cover any loss occasioned by the negligent actions of the acting party during the performance of any obligation pursuant to this Agreement. Each party also agrees to indemnify, defend and hold harmless the other party and its elected and appointed officials, officers, employees and agents, from and against all claims, losses, damages, suits and expenses, including reasonable attorneys' fees and costs, to the extent they arise out of, or result from, the negligence or willful misconduct of the indemnitor or its elected or appointed officials, officers, employees or agents in the performance of this Agreement. Solely for purposes of this indemnification provision, each party waives the immunity it would otherwise enjoy under RCW Title 51 (Industrial Insurance) and acknowledges that this waiver was mutually negotiated by the parties.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the District and the City, its officers, officials, employees, and volunteers, the City's and/or District's liability hereunder shall be only to the extent of the City's and/or District's negligence. The provisions of this section shall survive the expiration or termination of this Agreement.

6.4 No Joint Entity or Property. No joint entity or enterprise is created by this Agreement and no property will be acquired by the parties under this Agreement and each party will retain independent title to any property acquired by that party and used in the performance of the duties and responsibilities provided herein.

6.5 Administration. This Agreement shall be administered by the City's Mayor and the District's Fire Chief.

6.6 Notice. Any notices to be given under this Agreement shall be delivered in person or mailed to the parties at the following addresses:

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

To the District: Chief Jeff Faucett
Kitsap County Fire Protection District No. 7 (SKFR)
1974 Fircrest Dr SE
Port Orchard, WA 98366

or to such other persons or addresses as may be provided, from time to time, by the parties. Notices given by mail shall be deemed received three (3) days after the same are placed in the U.S. Mail, postage prepaid, addressed as provided in this section.

6.7 Severability. In the event that any section, sentence, clause, or paragraph of this Agreement is held to be invalid by any court of competent jurisdiction, the remainder of this Agreement shall not be affected and shall remain in full force and effect.

6.8 No Waiver. Any party's failure to insist upon strict performance of another party's covenants or agreements, or to exercise any rights, shall not be deemed a waiver or relinquishment by such party, and such covenants, agreements and rights shall continue in full force and effect.

6.9 Compensation. The City shall pay the District for the services set out in Section 2.4, in accordance with the terms set out herein, set by the Washington State Fire Services Resource Mobilization Plan. The City shall have no payment obligation beyond the terms of this Agreement. Where payment is required from the City in accordance with the terms of this Agreement, District staff time shall be billed in one-tenth hour increments. The District shall provide the City with a written invoice for services rendered no later than sixty (60) days after the date on which the services were rendered, and the City agrees to remit payment within sixty (60) days of receipt of an invoice. All billing invoices and payments shall be delivered to the following:

To the City: Finance Department
City of Port Orchard
216 Prospect Street
Port Orchard, WA 98366

To the District: Chief Jeff Faucett
Kitsap County Fire Protection District No. 7 (SKFR)
1974 Fircrest Dr SE
Port Orchard, WA 98366

6.10 Records. Both parties shall maintain records to document obligations performed under this Agreement. Both parties shall have the right to review the other party's records with regard to the subject matter of this Agreement, upon reasonable notice and without fee.

6.11 Contingency. The obligations of the City in this Agreement are contingent on the availability of funds through local legislative appropriation and allocation in accordance with law. If funding is withdrawn, reduced, or limited in any way after the effective date of this Agreement, the City may terminate the contract under the terms of this Agreement.

6.12 Privileges and Immunities. All privileges and immunities from liability, exemption from ordinances, rules, laws, all pension, disability, workers compensation, and other benefits which apply to the activities of the District employees while performing their functions consistent with this Agreement within the territorial limits of the City of Port Orchard shall apply to the same degree and extent while they were engaged in the performance of any of their authorized functions and duties within the District.

6.13 Integrated Agreement. This Agreement constitutes the entire agreement and understanding between the parties regarding the subject matter hereof and may be modified only by a written instrument signed by both parties hereto, and duly authorized by the governing body for each party. There are no other verbal or other agreements that modify or affect this Agreement.

6.14 Cooperation / Disputes. The parties shall strive to cooperate with one another in all reasonable respects and at all reasonable times so the terms and spirit of this Agreement may be fully implemented for the benefit of both parties and their constituents.

6.15 Filing of Agreement. In order to carry out the requirements of RCW 39.34.040, the parties shall file a certified copy of this interlocal agreement with the Kitsap County Auditor or, alternatively, list the same by subject on each party's website before the same becomes effective.

6.16 Reasonable Interpretation. For the reason that both parties hereto have had ample opportunity to provide input for the preparation of this Agreement, it shall not be interpreted in favor of or against either party. Rather, it shall be provided with a reasonable interpretation to the end that its terms and intent may be fully and reasonably implemented.

CITY OF PORT ORCHARD

KITSAP COUNTY FIRE PROTECTION
DISTRICT NO. 7 (SKFR)

Mayor Rob Putaansuu
Date: _____

Chairman Miche Eslava
Date: _____

ATTEST/AUTHENTICATED:

APPROVED AS TO FORM:

Brandy Rinearson, MMC, City Clerk

Attorney for the District

APPROVED AS TO FORM:

Charlotte Archer, City Attorney

EXHIBIT A
Compensation Provisions for Services

Service	Payment	How Paid
Section 2.5: Expert Consultation on Inspections	Current Washington State Mobilization Rate (copy attached). (Note: District staff time shall be billed in one-tenth hour increments).	District to invoice City; City to invoice applicant/permittee
Section 2.10 Hazardous Materials Emergency Assistance Agreements.	Current Washington State Mobilization Rate. (Note: District staff time shall be billed in one-tenth hour increments).	District to invoice the property owner

Reference: Washington State Fire Services Resources Mobilization Plan:
<https://www.wsp.wa.gov/wp-content/uploads/2021/07/Mobe-Plan-v12.3.pdf>