ORINDANCE NO. 005-14

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AMENDING PORT ORCHARD MUNICIPAL CODE CHAPTERS 16.08, DEFINITIONS, AND 16.20, PROPERTY-SPECIFIC DESIGNATION – OVERLAY DISTRICTS, RELATING TO THE DOWNTOWN OVERLAY DISTRICT

WHEREAS, In April of 2013, the City Council requested that the Planning Commission study and make recommendations on changes to the Downtown Overlay District (DOD) regulations including: considering whether certain uses listed in SIC code 7299 should be prohibited, clarifying the definition of ground floor and second floor as it relates to uses on Bay Street, considering which uses may be accessed at ground level off of Bay Street, considering removing vague language contained in POMC 16.20.201 (2) (K), considering whether to list specific retail sales and services which are allowed directly in the code and moving that to the top of the list of permitted uses in the DOD, and considering whether uses which are restricted on Bay Street should also be restricted in other areas of the downtown; and

WHEREAS, the Planning Commission discussed these issues and developed proposed code revisions in meetings conducted in May, July, October, and November of 2013; and

WHEREAS, the Planning Commission limited its suggested amendments to removing ambiguous language and more clearly defining certain terms; and

WHEREAS, at the November 2013 meeting of the Planning Commission, staff was directed to send the draft ordinance as discussed and amended to the City Attorney for review and to schedule a public hearing on the proposed ordinance; and

WHEREAS, the city attorney has reviewed the proposed amendments; and

WHEREAS, a public hearing notice for a hearing before the Planning Commission was published on January 17, 2014; and
WHEREAS, interested parties concerning this proposal were notified of the public hearing on January 23, 2014; and

WHEREAS, the Planning Commission conducted a properly noticed public hearing on January 27, 2014; and

WHEREAS, the SEPA Official for the City of Port Orchard issued a Determination of Non-Significance (DNS) on the proposed ordinance on March 7, 2014; and

WHEREAS, the city submitted the proposal to the Department of Commerce along with a request for expedited review on March 26, 2014 and may not act on the proposal prior to April 22, 2014; and

WHEREAS, the Planning Commission found that the proposed amendments are consistent with the original intent of the DOD and that the amendments protect the public health, safety, and general welfare of the citizens of Port Orchard; and

WHEREAS, the Planning Commission also found that the proposed amendments are consistent with the goals and policies of the City’s Comprehensive Plan and with the Growth Management Act, Chapter 36.70A RCW; and

WHEREAS, the City Council has considered the recommendation of the Planning Commission and finds it to be consistent with the goals and policies of the City’s Comprehensive Plan and with the Growth Management Act, Chapter 36.70A RCW; now, therefore

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

SECTION 1. Chapter 16.08, Definitions, of the Port Orchard Municipal Code (POMC) is amended by adding a new section 299 to read:

16.08.299 Floor – Ground.
    “Floor – Ground” shall mean the ground floor of a building defined as the 3 dimensional interior building space which sits immediately above the basement, crawl space, or floor slab and below the ceiling or joists supporting a roof or second floor and which is nearest in floor elevation to the lowest street elevation located adjacent to the parcel on which the building is located. This includes any loft space.
**SECTION 2.** Chapter 16.08, Definitions, of the Port Orchard Municipal Code (POMC) is amended by adding a new section 301 to read:

**16.08.301 Floor – Second.**
“Floor – Second shall mean the second floor defined as the three-dimensional interior building space which sits above the ground floor and which is not a loft.

**SECTION 3.** Chapter 16.08, Definitions, of the Port Orchard Municipal Code (POMC) is amended by adding a new section 425 to read:

**16.08.425 Loft.**
“Loft” shall mean an upper interior space of a building typically consisting of an open unpartitioned floor area that is accessible from the ground floor and that is below the second floor or roof.

**SECTION 4.** Port Orchard Municipal Code section 16.20.201 is amended to read:

**16.20.201 DOD – Permitted uses.**
All uses listed below are permitted uses. No other uses shall be permitted in the central DOD, unless said use is accessory to the principal permitted use or uses. Uses within the east and west gateways may include uses allowed within the underlying zone or any of the central DOD uses.

(1) On lots that do not abut Bay Street the following are permitted uses:
- (a) Single-family attached dwellings.
- (b) Multifamily dwellings on or above the second floor, including but not limited to condominiums.
- (c) Amusement/entertainment including but not limited to theaters, bowling, amusement arcades; but excluding adult entertainment.
- (d) Barbers and beauticians.
- (e) Bed and breakfasts.
- (f) Boat dealers; provided no inventory shall be allowed on site.
- (g) Conference centers.
- (h) Daycare.
- (i) Dock.
- (j) Commercial recreation.
- (k) General business services.
- (l) Health services, including offices, patient clinics, and medical/dental laboratories.
- (m) Hotels and motels.
(n) Library.
(o) Liquor and wine stores.
(p) Marinas and marine supply.
(q) Museums.
(r) Parks.
(s) Parking lots and parking structures.
(t) Post office.
(u) Professional offices and services, including financial, accounting, and legal.
(v) Public agency offices.
(w) Retail sales and services listed as permitted uses in a commercial or mixed use zone in land use Tables 16.30.030 through 16.30.100, except for marijuana retailers, motor vehicle dealers, auto supply stores, gas stations, boat dealers, adult entertainment, and fuel dealers.
(x) Trails.
(y) Water transportation facilities.

(2) On lots that abut Bay Street the following are permitted uses:
(a) Single-family attached dwellings on or above the second floor.
(b) Multifamily dwellings on or above the second floor, including but not limited to condominiums.
(c) Amusement/entertainment including but not limited to theaters, bowling, amusement arcades; but excluding adult entertainment.
(d) Barbers and beauticians.
(e) Bed and breakfasts on or above the second floor.
(f) Boat dealers; provided no inventory shall be allowed on site.
(g) Conference centers.
(h) Daycares on or above the second floor.
(i) Dock.
(j) Commercial recreation.
(k) General business services as defined in SIC 7389, except bail bonds shall only be allowed on or above the second floor.
(l) Health services, including offices, patient clinics, and medical/dental laboratories on or above the second floor.
(m) Hotels and motels.
(n) Library.
(o) Liquor and wine stores.
(p) Marinas and marine supply.
(q) Museums.
(r) Parks.
(s) Parking lots and parking structures.
(t) Post office.
(u) Professional offices and services, including financial, accounting, and legal on or above the second floor
(v) Public agency offices on or above the second floor.
(w) Retail sales and services listed as permitted uses in a commercial or mixed use zone in land use Tables 16.30.030 through 16.30.100, except for marijuana retailers, motor vehicle dealers, auto supply stores, gas stations, boat dealers, adult entertainment, and fuel dealers.
(x) Trails.
(y) Water transportation facilities.
(z) Tattoo parlors shall only be allowed on or above the second floor.

SECTION 5. 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 6. This ordinance shall be in full force and effect five (5) days after posting and publication as required by law. A summary of this Ordinance may be published in lieu of the entire ordinance, as authorized by State Law.

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 13th day of May 2014.

Timothy C. Matthes, Mayor

ATTEST:

Brandy Kinearsen, CMC, City Clerk

APPROVED AS TO FORM: Sponsored by:

Gregory A. Jacoby, City Attorney

Rob Pataansuu, Councilmember
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 May 13, 2014.

ORDINANCE NO. 005-14

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Copies of Ordinance No. 005-14 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. 005-14 will be provided at a nominal charge.

City of Port Orchard

Brandy Rinearson
City Clerk

Publish: Port Orchard Independent
May 23, 2014